

A THOUSAND VOICES

*...To all those affected directly and indirectly
by the crimes of the Khmer Rouge...*



The picture was taken in the chest-pounding hall in Angkor Wat temple as looking from outside. The hall derives its name from its ability to amplify sound of a chest being pounded. In Cambodia people pound their chest when they want to show deep, unspeakable concerns. These are seven-grade students who were on a school trip to Siem Reap province. They were from Phnom Srok district, Battambang Province. Some of them saw Angkor Wat for the first time.

Photo by Kok-Thay Eng, Feb., 2009

QUESTIONS ON ADDITIONAL PROSECUTION POSTED BY THE CO-PROSECUTORS
AT THE EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA (ECCC)

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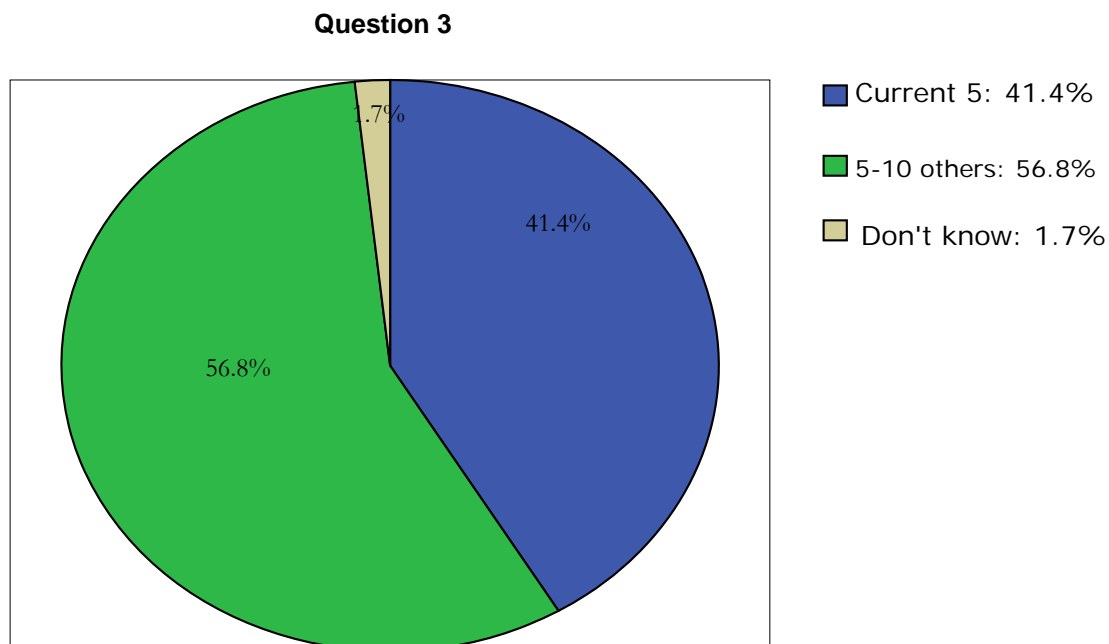
QUESTIONS ON ADDITIONAL PROSECUTIONS AS PROPOSED BY THE CO-PROSECUTORS OF THE EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA (ECCC)

A REPORT BY TERITH CHY

EXECUTIVE SUMMARY

This survey seeks to determine whether or not a sample of over 1000 respondents from all parts of Cambodia wish to see prosecutions of only the 5 Khmer Rouge leaders currently in detention at the Extraordinary Chambers in the Courts of Cambodia (ECCC) or the investigation of a further 5-10 leaders. The responses to this question are presented below:

Question 3 of the survey asked: "Do you think that the ECCC should only try the 5 alleged KR leaders and persons most responsible for crimes currently in custody or should they also try another 5-10 of subordinates?" Of the persons sampled, 41.4% responded that they do not wish to see further ECCC prosecutions beyond the five KR leaders currently in detention; 56.8% responded that they do wish to see trials of a further 5 to 10 individuals; and 1.7% responded that they do not have a view on the matter or would prefer not to express their views.



METHODOLOGY

This survey of public opinion seeks to incorporate the views of the Cambodian population into the ongoing discussions as to whether or not there should be additional ECCC prosecutions. Therefore, in planning this survey, the team carefully discussed the research methodology, including by whom and from whom opinions would be collected in order to ensure the reputability of the survey's results. For the purposes of this survey, the term "survivor" describes those who survived the horrors of the Khmer Rouge regime, including both victims and those formerly associated with the Khmer Rouge regime. In many cases, those formerly associated with the Khmer Rouge often consider themselves to be victims because they and/or their family members suffered harm, be it physical, emotional and/or psychological.¹ In addition, many former Khmer Rouge were recruited as children and were, therefore, deprived of their childhood.²

Although the Center reached out to individuals all across Cambodia in collecting public opinion, this survey is of limited scope as it sought to solicit the opinions of a limited sample of the population (1110 respondents³). As such, the survey results do not necessarily reflect the views of the entire Cambodian population of 14 million people, though they are likely to be indicative. This survey sought to solicit opinions from three groups most affected by the legacy of the Khmer Rouge.

The first group consisted of those individuals classified as "new people" or "17 April people" by the Khmer Rouge. These were city people. As the Khmer Rouge wanted to create a pure agrarian society in Cambodia, they considered city dwellers, those with education, professional and speakers of foreign languages to be "bad elements" and targeted them for elimination.⁴ These people enjoyed "few or no rights."⁵ Branding members of this group as parasites and imperialists, the Khmer Rouge evacuated them from their homes in the city and put them to work in the rice fields and other worksites in the countryside. There they were singled out for execution or died of exhaustion, malnutrition and/or disease.

¹ See, e.g., Mydans, Seth "'It Was Kill or Be Killed,' Says S-21 Warden," *Int'l Herald Tribune* 1 March 2009.

² Ea, Meng-try and Sim, Sorya, "Victims and Perpetrators? Testimony of Young Khmer Rouge Comrades," (Phnom Penh: Documentation Center of Cambodia, 2001), pp. 45-46.

³ Six people were surveyed in 185 districts.

⁴ Beang, Pivoine, and Cougill, Wynne, "Vanished: Stories from Cambodia's New People under Democratic Kampuchea," (Phnom Penh: Documentation Center of Cambodia, 2006), pp. vii – viii. The book tells of the stories of more than 50 city dwellers who were classified as "new people" or "17 April people."

⁵ *Id.*

The second group surveyed consisted of individuals classified as “base people.”⁶ This group primarily included those individuals formerly associated with the Khmer Rouge and/or those individuals with no familial ties to the Khmer Republic regime.⁷ Base people lived in rural areas under Khmer Rouge control prior to 17 April 1975, when the Khmer Rouge officially came to power.⁸ They were farmers and laborers and were called full-rights people.⁹

The last group consisted of individuals born after the Democratic Kampuchea regime aged between 20 and 30 years old. This group was included because the purpose of the Khmer Rouge Tribunal is to ensure justice for the future and to set an example for the younger generation of Cambodians. It is hoped that they will not follow in the steps of the Khmer Rouge leaders. They, therefore, could not be excluded from this study.

This survey seeks to empower survivors of the Khmer Rouge regime and the younger Cambodian generation by making their voices heard.¹⁰ Some victims have never had an opportunity to share their stories with the younger generation at all. For instance, Taing Kim, a survivor of rape during the Khmer Rouge regime,¹¹ has never disclosed what happened to her to her children and has not allowed them to see the documentary made about her.¹² As recently noted by DC-Cam Director, Youk Chhang, “There has been a long silence that has lasted for decades and kept alive by fear, pain, and politics.”¹³

⁶ See generally Cougill, Wynne et al., “Stilled Lives: Photographs of the Cambodian Genocide,” (Phnom Penh: Documentation Center of Cambodia, 2004).

⁷ The Khmer Republic existed from 1970-1975, after Prince Sihanouk was deposed by General Lon Nol, who then became head of state.

⁸ Dy, Khamboly, “A History of Democratic Kampuchea (1975-79),” (Phnom Penh: Documentation Center of Cambodia, 2007), p. 30.

⁹ See Kiernan, Ben (ed.) “Genocide and Democracy in Cambodia,” (New Haven: Yale University Southeast Asia Studies, 1993), pp. 13-14.

¹⁰ Gillison, Douglas, “DC-Cam Plans Survey on ECCC Prosecution,” *Cambodia Daily* 17-18 January, 2009, p. 11 (“It is important for the victims to be a party, a voice equal to the Cambodian and international sides [of the ECCC],” quoting Youk Chhang, DC-Cam Director).

¹¹ See generally Anderson, Katrina, “Turning Reconciliation on its Head: Responding to Sexual Violations Under Khmer Rouge,” *Seattle Journal for Social Justice*, Spring/Summer 2005.

¹² Keo Dacil, “A victim still remembers: catching up with Taing Kim,” DC-Cam, 9 April 2007 at <http://www.dccam.org/Survivors/Tang%20Kim%20follow-up.pdf> (last viewed 2 March 2009).

¹³ Chhang, Youk, “Silence Needs to be Broken,” *The Cambodia Daily, Letter to the Editor*, 2 March 2009. See also Sarada, Taing, “Play Aims for Khmer Rouge Reconciliation,” *Voice Of America (VOA-Khmer)*, 23 February 2009. See also Huy, Vannak, “Reconciliation on Stage,” *Radio Free Asia, (RFA-Khmer)* 4 March, 2009.

The methodology for the survey was to target district towns where the population is densest. Generally speaking, the inhabitants of district towns have better access to information and are, therefore, in the best position to express views on the ECCC dispute. All 43 DC-Cam staff members and volunteers were provided with background information about the issues raised in the questionnaire before they embarked on their field missions. Although all staff members possess a high level of education, their general knowledge of the Democratic Kampuchea period and their level of understanding of the ECCC Co-Prosecutors' disagreement varied. All interviewers were Khmer and could, therefore, converse with the respondents in their mother tongue. In most cases, the interviewers conducted outreach in their home provinces and were familiar with the target locations.

QUESTIONS ASKED

- 1) Have you heard about the ECCC? If so, how much do you know about it?
- 2) Do you think that former KR leaders should be tried by the ECCC? If "Yes," how strongly do you feel about this?
- 3) Do you think that the ECCC should only try the 5 KR leaders they have in custody or should they also try another 5-10 of the subordinates? How strongly do you feel about your answer?
- 4) Do you think the cost of the trials should be an important factor in the ECCC's decision on how many people to prosecute?
- 5) Do you think there would be public disorder or violence if the ECCC prosecuted more than the 5 already charged?
- 6) Do you think the ECCC should try the five people in custody before deciding whether to conduct additional prosecutions?
- 7) Do you think the ECCC will help bring justice sufficiently to Cambodia if only the 5 existing defendants are prosecuted?

BACKGROUND

The Extraordinary Chambers in the Courts of Cambodia (ECCC), more commonly known as the Khmer Rouge Tribunal, was established in 2006 to bring to trial senior leaders of Democratic Kampuchea and those most responsible for the crimes and serious violations of Cambodian penal law, international humanitarian law and custom, and international conventions recognized by Cambodia, during the period from 17 April 1975 to 6

January 1979.¹⁴ The ECCC was jointly established by the Royal Government of Cambodia and the United Nations. Thus far, five former Khmer Rouge leaders have been placed in provisional detention. To date, only one alleged perpetrator has been indicted and put on trial. The five individuals are: Kaing Geuk Eav a.k.a. Duch (former Chairman of S-21/Tuol Sleng Prison), Nuon Chea (former President of the National Assembly of Democratic Kampuchea), Khieu Samphan (former Head of State of Democratic Kampuchea), Ieng Sary (former Minister of Foreign Affairs), and Ieng Thirith (former Minister of Social Affairs).

After waiting for thirty years, on 17 February 2009, survivors finally witnessed the historic initial trial hearing at the ECCC. In a short time from now, Duch will be brought before Judges of the ECCC to answer for and defend through counsel his oversight of torture and confession extraction at Tuol Sleng Prison, codenamed "S-21" by the Khmer Rouge. It has taken three decades for the survivors to see the start of trials. These trials will, however, only seek to bring to account a small number of individuals alleged to be responsible for unspeakable suffering. Despite the progress made at the ECCC to date, many difficult questions remain unanswered, perhaps most notably: "Is it enough to try only the five persons currently in the custody of the ECCC for what happened?" At the moment, the tribunal is struggling to find an answer that appropriately takes into consideration the interests of victims and of justice.

Because the ECCC is a hybrid international/national court located in Cambodia, locals and, most importantly, victims, have an opportunity to experience involvement in and a level of ownership of the justice-seeking process.¹⁵ It was, however, foreseeable and perhaps inevitable that the international and national sides of the Office of the Co-Prosecutors would at times conflict. During the controversial ten-year-long negotiations for the tribunal between the United Nations (U.N.) and the Royal Government of Cambodia (RGC), the U.N. was adamant that the tribunal be established in a manner ensuring its ability to function independently, impartially and objectively.¹⁶ The tribunal's independence in issuing

¹⁴ Law on the Establishment of Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes committed during the Period of Democratic Kampuchea (hereinafter ECCC Law), Article 1. See also Agreement between the United Nations and the Royal Government of Cambodia Concerning the Prosecution under Cambodian Law of Crimes Committed during the Period of Democratic Kampuchea, Article 1.

¹⁵ For a detailed discussion of advantages of the ECCC established inside Cambodia, please see Chhang, Youk, "Universal Jurisdiction and the Problem of Impunity in Cambodia: The Khmer Rouge's Case," *Searching for the Truth no. 11* (November 2000): 28.

¹⁶ See Report of the Group of Experts for Cambodia established pursuant to General Assembly resolution 52/135, U.N. Doc. A/53/850, S/1999/231, Annex, 16 Mar. 1999; Heder, Stephen & Tittmore, Brian D., "Seven Candidates for Prosecution: Accountability

indictments proved to be one of the most controversial issues and caused significant delays in the negotiations. According to Dr. Stephen Heder, the U.N. delegation sought to ensure the accountability of all those believed to be responsible for the crimes of the Khmer Rouge, i.e. those deemed to be "senior leaders" and "those most responsible."¹⁷

After compromising by agreeing to establish a mixed national/international or "hybrid" tribunal,¹⁸ the United Nations sought to have an international majority on the bench, and a single U.N.-appointed international prosecutor.¹⁹ In putting forward this proposal, the U.N. sought to avoid disputes over the selection of individuals for investigation and indictment and to ensure that those indicted would be arrested.²⁰ The RGC maintained its firm negotiating stance on the structure of the tribunal, insisting that Cambodian personnel form the majority of the tribunal's staff and that there be two Co-Prosecutors and two Co-Investigating Judges. After considerable pressure from foreign governments, civil society and scholars, the U.N. finally agreed in 2003 to accept the RGC-proposed structure.²¹ This resulted in the establishment of a Cambodian-dominated tribunal.²² Had the U.N. not agreed to this structure, the current dispute would not have arisen. The ECCC as

for the Crimes of the Khmer Rouge," (Phnom Penh: Documentation Center of Cambodia, 2004), pp. i-viii.

¹⁷ *Id.*, pp. 11-26. See also Ambassador Thomas Hammarberg, "How the Khmer Rouge tribunal was agreed: discussions between the Cambodian government and the UN, Part I: March 1997- March 1999," available at http://www.dccam.org/Tribunal/Analysis/How_Khmer_Rouge_Tribunal.htm. For a list of members the Khmer Rouge's ruling body, the Standing Committee of the Central Committee of the Communist Party of Kampuchea (CPK), see Kiernan, Ben (ed.) "Genocide and Democracy in Cambodia," (New Heaven: Yale University Southeast Asia Studies, 1993), pp. 12-15. According to Kiernan, the Khmer Rouge's ruling body comprised 20 members, of whom only 4 are alive today. They are Nuon Chea, Ieng Sary, Khieu Samphan and Ieng Thirith. The rest were either purged or died of natural causes. Duch was not included in Kiernan's chart.

¹⁸ See Ciorciari, John D. (ed.), "The Khmer Rouge Tribunal," (Phnom Penh: Documentation Center of Cambodia, 2006), pp. 39-41.

¹⁹ United Nations, General Assembly, "Report of the Secretary General on Khmer Rouge Trials" (A/57/769), 31 March 2003; Also quoted in Heder, Stephen & Tittlemore, Brian D., "Seven Candidates for Prosecution: Accountability for the Crimes of the Khmer Rouge," (Phnom Penh: Documentation Center of Cambodia, 2004). See also Ciorciari, John D. (ed.), "The Khmer Rouge Tribunal," (Phnom Penh: Documentation Center of Cambodia, 2006), pp. 43-45.

²⁰ See Ciorciari, John D. (ed.), "The Khmer Rouge Tribunal," (Phnom Penh: Documentation Center of Cambodia, 2006), pp. 43-45.

²¹ *Id.* Agreement reached a deadlock when the UN insisted upon a structure that allows for the UN staff to form the majority of the tribunal staff and the RGC demanded to have its Cambodian staff to form the majority. This major deadlock was finally resolved when U.S senator John Kerry introduced the super-majority formula for judges to apply when deciding on the legality of the indictments.

²² *Id.*

established today has two Co-Prosecutors (international and national) and two Co-Investigating Judges (international and national).

Due to these parallel appointments, it was anticipated that the Co-Prosecutors might disagree as to whether or not to investigate certain individuals and negotiators envisaged the need for a dispute resolution mechanism. For this reason, the agreement between the U.N. and the RGC provides that the Pre-Trial Chamber of three Cambodian and two international judges is responsible for resolving prosecutorial disagreements. Likewise, Article 16 of the ECCC Law states that, "[a]ll indictments ... shall be the responsibility of the two Co-Prosecutors ... who shall work together to prepare indictments against suspects ..." In the event of disagreement, Article 20 new provides for the resolution of disputes. In order to halt an investigation, four out of five Pre-Trial Chamber judges must vote affirmatively to do so. If they do not, the investigation shall proceed. Article 20 new further provides that there are no appeals against the Pre-Trial Chamber decision.

THE DISPUTE ON FURTHER PROSECUTIONS

On 1 December 2008, the international Co-Prosecutor, Robert Petit, filed a statement of disagreement between the two Co-Prosecutors with the ECCC Pre-Trial Chamber.²³ Mr. Petit wishes to open judicial investigations into six more former Khmer Rouge individuals. He believes that: "(1) the crimes described in those submissions were committed; (2) these crimes are within the jurisdiction of this Court; and (3) they should be investigated by the Co-Investigating Judges."²⁴

The national Co Prosecutor, Ms. Chea Leang, does not support further prosecutions on three grounds: "(1) Cambodia's past instability^[25] and the continued need for national reconciliation; (2) the spirit of the agreement between the United Nations and the Government of Cambodia

²³ See Statement of the Co-Prosecutors dated 8 December 2008. The statement says in part:

On 1 December 2008, in accordance with Internal Rule 71(2) of this Court, the International Co-Prosecutor filed a Statement of Disagreement between the Co-Prosecutors and forwarded it to the Office of Administration for adjudication by the Pre-Trial Chamber. This disagreement rests upon the appropriateness of opening new judicial investigations into crimes committed in various locations throughout Cambodia by certain persons considered to be senior leaders of the Khmer Rouge or persons most responsible for crimes under that regime.

²⁴ See Statement of the Co-Prosecutors dated 5 January 2009.

²⁵ Regarding the stability of the country, see generally Mehta, Harish C. & Mehta, Julie B., "Hun Sen: Strongman of Cambodia" (Graham Brash Ltd., 1999).

("Agreement")^[26] and the spirit of the law that established this Court ("ECCC Law") [anticipating only a small number of trials]; and (3) the limited duration and budget of this Court."²⁷

Because the tribunal was for the benefit of Cambodians, it is imperative that the Judges of the Pre-Trial Chamber take into account the opinions of the Cambodian people as they seek to resolve the ongoing dispute between the Co-Prosecutors.²⁸ In order to include victims and other members of Cambodian society in this important discussion, the Documentation Center of Cambodia (DC-Cam) conducted this study. While hopeful that this survey may assist the Judges to a limited extent in their deliberations by educating them as to public opinion, the Documentation Center of Cambodia does not seek to influence the outcome in any way and recognizes that the Judges will reach a decision based upon legal theory and judicial discretion.

ARGUMENTS: DOES THE NUMBER MATTER AT ALL?

Youk Chhang, DC-Cam Director has said, "*Number* cannot define genocide justice for the people of Cambodia." However, the number of prosecutions pursued by the Co-Prosecutors has undeniable political implications. The dispute has thrown the perception of the independence and credibility of the tribunal into question. For the millions of lives lost to the regime, is it adequate to try only five? Is it enough to try 5 or 6 more? Would it be enough even if the tribunal were to try 5-10 more alleged perpetrators? Among the main "players" at the ECCC, opinion is split as to the optimal number of prosecutions. This section discusses the arguments that each of these actors makes in support of their respective positions.

This study does not argue for or against either of the Co-Prosecutors and does not discuss the relevant legal arguments. For discussion of the legal issues involved, please see: Joanna Geneve, "In the Matter of the Disagreement Between the Co-Prosecutors on the Issue of the Scope of Prosecutorial Discretion and the Standard of Pre-Trial Chamber Review to Solve a Prosecutorial Dispute," (March 2009), *available at* www.dccam.org.

²⁶ See generally Ambassador Thomas Hammarberg, "How the Khmer Rouge tribunal was agreed: discussions between the Cambodian government and the UN, Part I: March 1997-March 1999," *available at* http://www.dccam.org/Tribunal/Analysis/How_Khmer_Rouge_Tribunal.htm.

²⁷ *Id.*

²⁸ Corey-Boulet, Robbie, "Victims to have a say on whether KRT should try more suspects," *Phnom Penh Post*, 19 January 2009.

International Co-Prosecutor

In the statement of disagreement dated 5 January 2009, it was stated that the international Co-Prosecutor proposed to submit two new introductory submissions and an additional introductory submission. In these submissions – if filed – Mr. Petit would propose investigations of only a handful of additional suspects believed to be responsible for crimes within the jurisdiction of the tribunal. He claims that these new investigations would help to shed light on the truth of the history of the Khmer Rouge era. Contrary to the assertions of his Cambodian counterpart, Mr. Petit states that he does not believe that such further investigations would jeopardize the hard-earned peace and stability currently enjoyed in Cambodia after decades of civil war, bloodshed and unpredictable fluctuations in the political situation.

The international Co-Prosecutor based his decision to pursue investigations of additional suspects upon legal arguments and his interpretation of the ECCC's mandate.²⁹ He argues that preliminary evidence available to his Office suggests that more individuals should be held to account for the crimes perpetrated during the Khmer Rouge regime. He argues that the ECCC's mandate permits trials of further alleged perpetrators. Although the Co-Prosecutors' Office has not said how many this may be, Douglas Gillison of the Cambodia Daily has quoted an undisclosed ECCC source as saying that "as many as six additional suspects" have been identified by the international Co-Prosecutor.³⁰

The international Co-Prosecutor has warned the public not to jump to the conclusion that the Co-Prosecutors' disagreement is politically motivated. He has emphasized that, if facts do not suggest the political nature of the disagreement, then it must be a "legitimate difference of opinions."³¹ According to the Co-Prosecutor, the Pre-Trial Chamber will approach the matter in the same manner, resolving the dispute in accordance with its interpretation and application of the law and based upon available evidence.

National Co-Prosecutor

The national Co-Prosecutor, Ms. Chea Leang, does not believe that investigations into additional suspects should go forward. Ms. Chea

²⁹ Wilkins, Georgia, "Tribunal hit by row over new probes," *Phnom Penh Post*, 9 December 2008, p. 1.

³⁰ Gillison, Douglas, "In't Prosecutor Seeks Ruling on KR Suspects," *The Cambodia Daily*, 9 December 2008.

³¹ *Id.*

believes that the tribunal should not risk destabilizing the country³² and should instead focus its limited resources and attention on bringing to justice those already in detention. She argues that the tribunal can fulfill its mandate by trying these five alleged perpetrators only.

The national Co-Prosecutor's arguments center on an "interests of justice" analysis, taking into consideration Cambodia's fragile stability and the tribunal's limited resources and timeframe. Therefore, one of the survey's seven questions sought to determine whether the respondents believed that further prosecutions would negatively impact upon the country's stability and/or political situations.

Civil Society³³

Soon after news of the Co-Prosecutors' disagreement became public, various non-governmental organizations reacted strongly. The Cambodian Human Rights Action Committee (CHRAC), representing the voices of some 20 Cambodian non-governmental organizations (not including DC-Cam), issued a press statement urging the tribunal to investigate and prosecute more alleged perpetrators and called on the ECCC to act independently, which in their view means investigating additional suspects.³⁴ Others have suggested that the tribunal's credibility would be in placed in question if it does not proceed with the proposed investigations of additional suspects.³⁵ For example, Human Rights Watch has described the dispute as entirely political in nature and has accused the Government of attempting to block further investigations.³⁶

Scholars

In a Letter to the Editor published in the Phnom Penh Post on 8 January 2009, Professor David Scheffer, the former U.S. Ambassador-at-Large for War Crimes Issues who was involved in the ECCC negotiations, asserted that U.N. and U.S. negotiators did not set any limits on the potential number of accused during their negotiations with the government. He states that "it was no secret that some Cambodian officials desired a

³² Regarding the political situation in Cambodia, see generally Mehta, Harish C. & Mehta, Julie B., "Hun Sen: Strongman of Cambodia" (Graham Brash Ltd., 1999).

³³ The term "Civil Society" here is used to refer to views of some NGOs and is not intended to refer to the entire NGOs community.

³⁴ CHRAC statement, "Civil Society Calls for Investigation of Further Suspects by the ECCC," 14 January 2009.

³⁵ Wilkins, Georgia, "Tribunal hit by row over new probes," *Phnom Penh Post*, 9 December 2008, p. 1. See also Mydans, Seth, "Prosecutor's discord poses public test for ECCC," *The New York Times* (also published in *The Cambodia Daily*), 2 February 2009.

³⁶ "Cambodia: 30 years after fall of the Khmer Rouge, justice still elusive," *Human Rights Watch News*, 5 January 2009.

small number, which would exclude current government and military officials."³⁷ According to Scheffer, the negotiators spoke of indicting around fifteen or so defendants. This clearly contradicts the view espoused by the national Co-Prosecutor. Scheffer has predicted that, in order to conserve the credibility of the tribunal and its limited resources, this dispute will ultimately be resolved in favor of a smaller number of prosecutions.

Professor Beth Van Schaack of the University of Santa Clara School of Law and a legal advisor to DC-Cam, agrees with the views of the international Co-Prosecutor. She believes that trials of only the five currently detained leaders of the Khmer Rouge would be insufficient, given all the long effort, hundreds of millions of dollars, and time expended in establishing the tribunal.³⁸ She suggests that the Co-Prosecutors should expand their investigations beyond even the proposed six additional prosecutions. In her view, although the Standing Committee of the Khmer Rouge's Communist Party of Kampuchea (CPK) may have designed DK policies, it was the mid-level cadres within the organization who implemented them. Moreover, she notes that, since some places in the country suffered damage or suffering more than others, mid-level cadres must have held some discretion as to how policies were implemented. Therefore, individuals with a level of responsibility equivalent to that of Duch should also be held accountable when there is evidence against them.

Dr. Stephen Heder, after analyzing evidence and information available in the DC-Cam archives, has identified seven individuals for trial in his book "Seven Candidates for Prosecution: Accountability for the Crimes of the Khmer Rouge". These candidates include three individuals already in detention (Nuon Chea, Ieng Sary, and Khieu Samphan), in addition to Ta Mok and Kae Pok (Zone Secretaries) and Sou Met and Meah Mut (Military Division Chairmen). At the same time, Dr. Heder has emphasized that his limited list does not mean that there is only evidence available to prosecute these seven candidates.

In a public discussion on the subject of "The KRT: Is it Worth It and For Whom?," held in Phnom Penh on 17 November 2004, Dr. Heder spoke about those who, in his view, fall under the jurisdiction of the ECCC³⁹:

³⁷ Scheffer, David, "How many are too many defendants at the KRT?" *Phnom Penh Post*, 8 January 2009, Letter-to-Editor.

³⁸ Van Schaack, Beth, "Who Next?" at http://www.cambodiatribunal.org/index.php?option=com_content&view=article&id=48&phpMyAdmin=ou7lpwtyV9avP1XmRZP6FzDQzg3&Itemid=34.

³⁹ Public Discussion, "The KRT: Is it worth it and for whom?" *Searching for the Truth*, Special English Edition, Fourth Quarter 2004, pp. 31 – 41.

When the CPK was in power, its senior leadership comprised some 20-30 Central Committee members, and its corps of powerful cadre from the central down to the local level numbered perhaps 1,000 persons. Of the 1975 leadership and corps of cadre, many fewer than half survived the purges that began to devastate the Party in 1976 and proceeded in waves in 1977 and 1978. Quite a few of those who made it through to the end of the regime have since died. If the jurisdiction of the EC[CC] were to [extend] down to the district level, it seems to me likely that no more than a few hundred are still alive. The definition of "senior leaders" and "those most responsible" and the evidence will determine how many of these could be legally targeted for intense investigation. But my very rough guess is that no more than 60 cases would fit into these categories, including perhaps 10 senior leaders and 50 most responsible subordinates.

FINDINGS

Knowledge About the Khmer Rouge Tribunal

Each respondent was asked to evaluate their level of knowledge about the Court. Almost half of the respondents (44.2%) said that they had heard a little bit about the Khmer Rouge Tribunal and 26.8% felt that they had received a medium amount of the information about the tribunal. Only 11.6% of all the respondents said that they had heard a lot about the tribunal process. 17.3% told us that they never heard of the tribunal at all.

Khmer Rouge Tribunal	Percentage
Never heard	17.3%
Heard a little	44.2%
Heard medium amount	26.8%
Heard a lot	11.6%

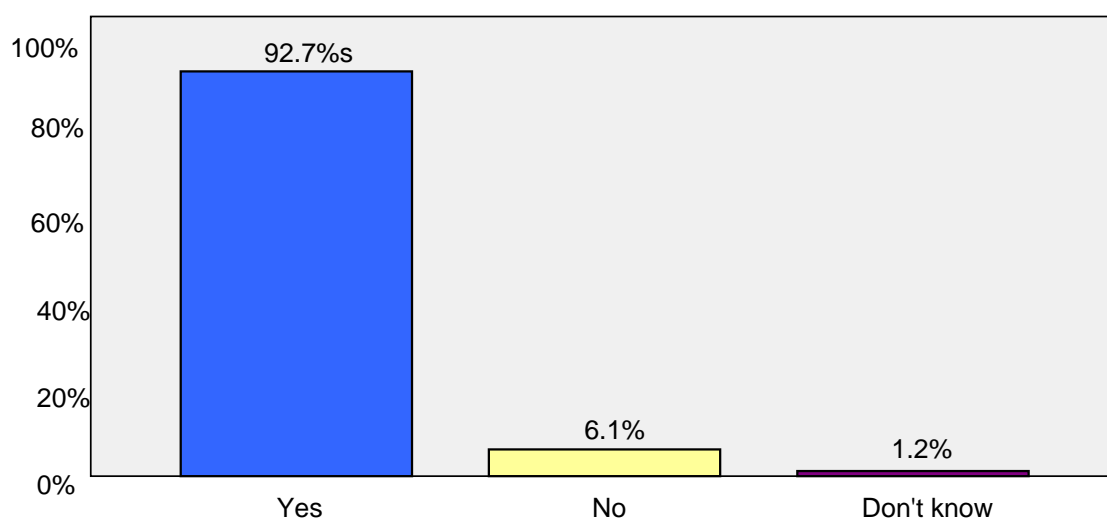
(Figure 1)

Support for the Khmer Rouge Tribunal

When asked if they think that Khmer Rouge leaders should be tried at all by the Khmer Rouge Tribunal, the very vast majority of respondents (92.7%) expressed strong support for the tribunal and only a small percentage of 6.1% expressed the opposite view (see Figure 2). This is consistent with previous surveys on support for the establishment of the Khmer Rouge Tribunal. In a 2008 study by the International Republican

Institute, 69% of respondents very much agreed with having trials of senior Khmer Rouge leaders.⁴⁰ In a previous survey conducted by DC-Cam amongst its magazine readers, 56.59% of the respondents indicated their desire to see Khmer Rouge leaders prosecuted.⁴¹ Another survey carried out in 2002 by the Center of Social Development similarly indicated that 68% of respondents wanted the Khmer Rouge leaders to be held responsible in a court of law.⁴²

Percentage



(Figure 2)

Number of Prosecutions

Respondents' opinions were divided on the question of the desired number of prosecutions of persons alleged to be responsible for the crimes of the Khmer Rouge. A little more than half of all respondents (56.8%) were of the view that more than the five alleged perpetrators currently in detention should be held accountable for the crimes. Less than half of all respondents (41.4%) wanted to see prosecuting of only the five individuals currently in custody.

⁴⁰ See Survey of Cambodian Public Opinion, International Republican Institute, January 27-February 26, 2008.

⁴¹ See Linton, Suzannah, "Reconciliation in Cambodia," (Phnom Penh: Documentation Center of Cambodia, 2004), pp. 142-147.

⁴² *The Khmer Rouge and national reconciliation: opinions from the Cambodians*, Phnom Penh: Center for Social Development, April 2002, p. 23, as quoted in Tom Fawthrop and Helen Jarvis, "Getting away with Genocide, Elusive Justice and the Khmer Rouge Tribunal," (University of New South Wales Press: 2005), p. 144.

Notably, 30% of all respondents were young Cambodians born after the collapse of the Khmer Rouge regime. Almost two thirds of this younger generation (67.5%) supported the view of the international Co-Prosecutor, perhaps indicating that the young generation has a different view of justice than their parents, the direct victims.

(Figure 3)

	Percentage
Existing 5	41.4%
5-10 others	56.8%
Don't know	1.7%

Funding

Many respondents considered funding to be an important factor in the development of the tribunal process. Given that funding has been a major problem since the ECCC's establishment,⁴³ this finding is not a surprise. State donors have been reluctant to fund the Cambodian side of the tribunal due to unresolved allegations of corruption and a lack of transparency. Time and again, the Cambodian side of the tribunal has appealed for more financial support and, at one point, staff had to work unpaid. At the time of writing this report, the national side of the tribunal again told the press that it is short of funding and would not be able to pay its staff in March 2009.⁴⁴

The study shows that 77.1% of the respondents believe the tribunal should balance the number of prosecutions with the availability of the funding.

(Figure 4)

	Percentage
Yes	77.1%
No	19.8%
Don't know	3.1%
Total	100%

Prioritizing the Existing Prosecutions

⁴³ See, e.g., KRouge Court Cannot Pay Cambodian Staff: Official," AFP, 2 March 2009; Gillison, Douglas, "Without UN, ECCC Reports on Graft Talks," *Cambodia Daily*, 3 February 2009.

⁴⁴ Neth, Pheaktra and Wilkins, Georgia, "Bankruptcy looms over Cambodian side of the tribunal," *Phnom Penh Post*, 20 February 2009, p. 2.

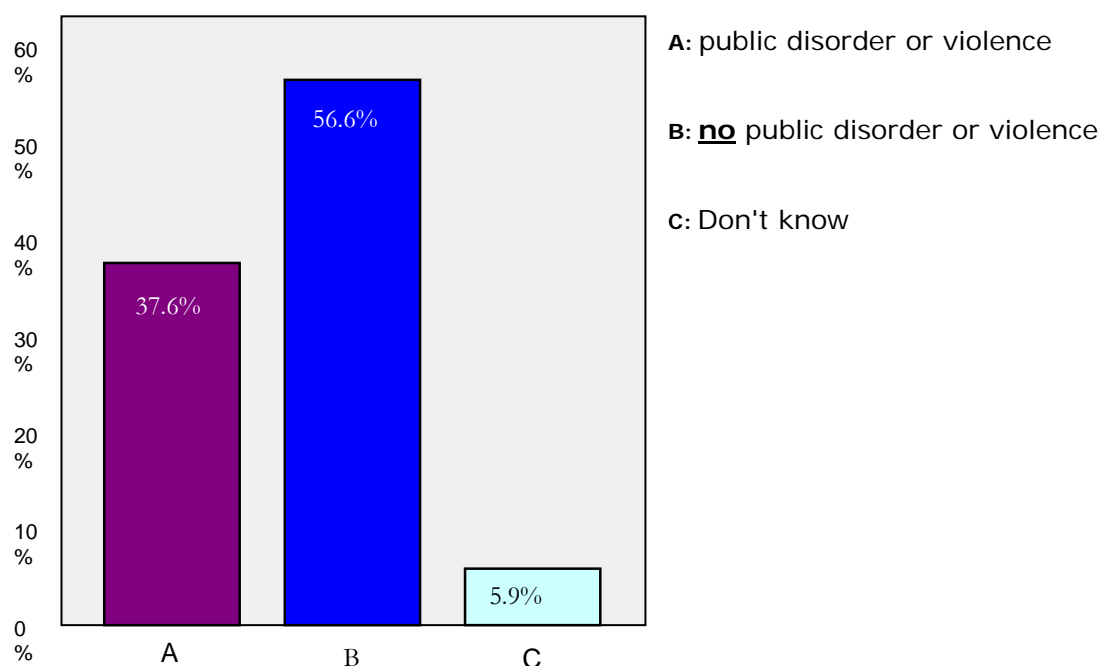
Public Order

The survey solicited respondents' views on public stability. As mentioned above, the national Co-Prosecutor has argued that additional prosecutions could jeopardize the country's peace and stability. More than half of the respondents (56.6%) did not believe that additional prosecutions would cause public disorder or violence in the country. Having said that, 37.6% of them did believe that further trials would cause public disorder,⁴⁵ and 5.9% did not have and/or simply did not want to express their views.

Although the majority of the respondents believed the Khmer Rouge would never be able to stage a comeback, some individuals expressed concern that additional prosecutions could cause public chaos or violence. Some respondents expressed concern to the author and DC-Cam staff that additional prosecutions or investigations could result in the implication of the former king and/or those currently holding high-ranking position, leading to a disruption in the peace.

(Figure 5)

Percentage



⁴⁵ Regarding fears of the Cambodian public, see Jansen, Geerteke, "Voices of Takéo: A pilot fear assessment with respect to possible witnesses of the Extraordinary Chambers in the Courts of Cambodia, (Documentation Center of Cambodia, July – October 2006).

A victim – and not the Documentation Center of Cambodia – initiated the question of whether to prioritize the prosecution of the five currently in custody before conducting additional investigations. This victim was interested in the process of the Khmer Rouge Tribunal and suggested this compromise as a way to move forward.⁴⁶ He suggested that the Co-Prosecutors should make the prosecutions of the current five detainees their first priority and should focus upon additional prosecutions later. His greatest concern was that the disagreement could result in longer delays and that those being tried and awaiting trials might escape trial due to old age or illness or, in the worst case scenario, death, before the Co-Prosecutors could prove their guilt or innocence.

This study shows that 4 out of every 5 respondents share the same concern of the abovementioned victim. Almost 80% of all respondents want the ECCC to prioritize prosecutions of the five current detainees and to decide whether to investigate additional suspects only after completion of the five trials. However, due to the limited duration and funding of the Court, this is likely not a politically feasible option.

(Figure 6)

Prioritizing Existing 5	Percentage
Yes	78.5%
No	19.6%
Don't know	1.9%
Total	100%

Level of Satisfaction

The final question asked of the respondents was whether they feel that justice can be achieved by bringing to justice only the five individuals now in custody.⁴⁷ The question resembles Question 3 regarding the desired number of prosecutions. However, this question was intended to elicit the respondents' level of satisfaction. Interestingly, the outcome was comparable. 53% of the respondents felt that adequate justice cannot be achieved if only the five detained "senior leaders" and "those most

⁴⁶ In a letter dated January 2009, Phy, Vanden, sent to DC-Cam a letter entitled "My view on the request of the international co-prosecutor's request to file charges against additional members of the Khmer Rouge." And in the letter, he suggests that the Khmer Rouge tribunal should prioritize the prosecution of the existing 5 suspects and should deal with the disagreement later.

⁴⁷ Regarding survivor satisfaction, see, e.g., *Preparing for Justice*, Directed by Pivoine Beang (2008), available at <http://www.dccam.org/Archives/Films/Films.htm>.

responsible" are tried. 44.3% believed that the tribunal may provide an adequate level of justice by trying only the five detained individuals.

	Percentage
sufficient	44.3%
not sufficient	53.0%
Don't know	2.7%
Total	100%

(Figure 7)

CONCLUSION

Many see the prosecutorial disagreement as merely a politically-motivated issue, an accusation the government has strongly denied. Recently, at a graduation ceremony on 24 February 2009 in Phnom Penh broadcast on Bayon TV, Prime Minister Hun Sen recalled his past successes. These include the collapse of the Khmer Rouge regime, the successful campaign against the return of the Khmer Rouge regime, the establishment of the Khmer Rouge Tribunal, and the capture of those currently prosecuted by the tribunal. In addition, he denounced those who still have doubts about the government's political will to bring Khmer Rouge leaders to justice, stating that the disagreement at the tribunal is an issue to be dealt with by the tribunal itself and claiming that it has nothing to do with his government. Words alone, however, will not erase people's doubts. Ultimately, regardless underlying nature of the dispute, it will be left to the judges of the Pre-Trial Chamber based upon their discretion and legal reasoning.

According to this survey, more than half of all 1110 respondents (56.8%) want the ECCC to try additional individuals believed to be responsible for the crimes of the Khmer Rouge era (see Figure 4). This finding was supported by a recent forum held in Banteay Meanchey, where a group of around 100 participants were asked if they want the ECCC to conduct investigations into additional suspects; the majority put their hands up in support of additional investigations.⁴⁸ Promisingly, this survey reveals that, generally speaking, people consider respect for the rule of law to be important. Cambodians demand an end to the long-standing legal

⁴⁸ La Yum, "Prosecution of more than 5 Khmer Rouge [suspects] shall be linked to Justice and Reconciliation," *Rasmei Kampuchea*, 04 March 2009, p. Kh 3.

impunity and call for prosecutions of additional suspects believed to be accountable for the crimes of the Khmer Rouge. In this regard, the exact number of prosecutions does not seem to matter. However, the survey also shows that people are concerned about available resources (see Figure 5) and the age and health of the detained Khmer Rouge leaders (see Figure 7). For instance, on 24 February 2009, AFP reported that Ieng Thirith, aged 76, informed judges of the ECCC during a hearing on her appeal against continued detention that her lawyer would speak on her behalf because she was "too weak."⁴⁹ Just two days later, on 26 February 2009, a hearing on 83-year-old Ieng Sary's appeal against his continued provisional detention had to be postponed to 2 April because he was too ill to attend the proceedings.⁵⁰ In addition Noun Chea is now 84 years old and Khieu Samphan 79 years old. Notably, one of the six suspects proposed by the international Co-Prosecutor has recently died prior to resolution of the disagreement between the Co-Prosecutors.⁵¹

With the exception of Duch, who has confessed to the commission of crimes taking place inside S-21, the remaining alleged perpetrators have never acknowledged any wrongdoing. Given the fact that trials are going to take time, and that perhaps some or all of them will appeal against convictions, it is quite possible that the trials may take a great deal more time, perhaps at least another three years. Again, given their age and fragile health, some of these alleged perpetrators may become too old or too unwell to stand trial or may even pass away.⁵² In light of these circumstances, the ECCC should take the concerns of the people as described in this report into serious consideration. The credibility of the tribunal may be placed in grave danger if any of the charged persons should be found too ill to stand trial or die before receiving their final judgment.

⁴⁹ See "Khmer Rouge first lady in Cambodian court tirade," *AFP*, 24 February 2009 at http://www.google.com/hostednews/afp/article/ALeqM5iVcMeOYD-XP5zQY_Jc0001uEjA (last viewed 27 February 2009).

⁵⁰ Gillison, Douglas, "Hearing adjourned until April 2 for ailing Ieng Sary," *The Cambodia Daily*, 27 February 2009, p. 24.

⁵¹ Gillison, Douglas and Prak, Chan Thul, "Time's Passage Takes Another KR Suspect," *The Cambodia Daily*, 14-15 February, 2009.

⁵² Victims are also dying while waiting for trials to begin. See Choung, Sophearith, "Victims Waiting for Justice," *Searching for the Truth*, February 2009.

TERITH CHY

Mr. Terith Chy is the Team Leader of the Victim Participation Project at the Documentation Center of Cambodia (DC-Cam). Since the Project's inception in early 2008, Mr. Chy has met with thousands of survivors of the Democratic Kampuchea regime all across Cambodia to update them on developments at the Extraordinary Chambers and to inform them of their right to participate in the proceedings. As of March 2009, he and his staff have assisted over 1500 survivors of the Democratic Kampuchea regime to submit accounts of their suffering under the regime to the ECCC Victims Unit.

Being Cambodian and working closely on a daily basis with survivors, Mr. Chy is uniquely well placed to initiate this survey of public opinion and to author this report.

Mr. Chy holds a Bachelor of Laws (LL.B.) degree from the Royal University of Law and Economics, a Bachelor of Arts (B.A.) degree from Norton University, and a Master of Laws (LL.M.) degree from the University of Hong Kong. He is a former Sohmen Human Rights Scholar and Fellow and has worked for the U.N. Office of the High Commissioner for Human Rights in Bangkok.

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I would also like to express my sincere thanks to Professor Suzannah Linton of the University of Hong Kong for her encouragement and guidance in conducting this survey.

Most of all, I would like to extend my gratitude to all respondents for the time that they kindly committed to answering our questionnaire.

DISCLAIMER

The findings expressed herein are solely the views of the respondents and do not reflect those of the Documentation Center of Cambodia (DC-Cam) or the author of this report.

APPENDIX

About the Team

Data Collected by DC-Cam Staff and Volunteers

Feb. 1 – Feb. 8, 2009

No	Name	Province	District	ID
1	Ly Sokchamroeun (Ms.)	Banteay Meanchey	Thmar Puork	1
			Svay Chek	2
			Phnom Srok	3
			Preah Net Preah	4
			Serey Sophorn	5
2	Ouch Pon	Banteay Meanchey and Battambang	O Chrov (<i>Chy Terith</i>)	6
			Mongkul Borei (<i>Chy Terith</i>)	7
			Malai (<i>Chy Terith</i>)	8
			Sampeou Loun	9
			Phnom Proek	10
3	Sar Seng Kea	Battambang and Pailin	Kam Rieng	11
			Sala Krao	12
			Pailin	13
			Ratanak Mondul	14
			Samlot	15
4	Meas Bunthan	Battambang	Sangke	16
			Battambang	17
			Bavel	18
			Thmar Kol	19
			Ek Phnom	20
5	Chhay Chhunly (Ms.) and Sophat – Volunteer	Battambang and Pursat	Keas Krala	21
			Mong Russei	22
			Banan	23
			Bakan	24
6	Sin Sothida (Ms.)	Pursat	Krakor	25
			Kandieng	26
			Phnom Kravanh	27
			Veal Veng	28
			Sampov Meas	29
7	Sirik Savina (Ms.)	Kampong Cham	Batheay	30
			Cheung Prey	31
			Prey Chhor (<i>Sophearith</i>)	32
			Kampong Siem (<i>Sophearith</i>)	33
			Chamkar Leu	34
8	Choung Sophearith and Sotheara –	Kampong Cham	Tbaung Khmum (<i>Sophearith</i>)	35
			O Reang Ov	36
			Ponhea Krek	37

	Volunteer		Dambe	38
			Memot	39
9	Kimsroy Sokvisal	Kampong Cham	Koh Sotin	40
			Kang Meas	41
			Kampong Cham Town	42
			Stung Trang	43
			Krauch Chhmar	44
10	Chea Phalla (Ms.) and Nith Thoronkearan (Ms.) -- Volunteer	Kampong Cham and Kandal	Srey Santhor	45
			Khsach Kandal	46
			Muk Kampoul	47
			Lvea Em	48
			Leuk Dek	49
11	Huy Sophorn (Ms.)	Kandal	Sa-ang	50
			Ta Khmao	51
			Koh Thom	52
			Kien Svay	53
			Kandal Stung	54
12	Khuoy Visal Mony	Kandal and Kampong Speu	Ang Snuol	55
			Ponhea Leu	56
			Samrong Torng	57
			Phnom Sruoch	58
			Thporng (<i>Marem</i>)	59
13	Tes Marem (Ms.)	Kampong Speu	Oral	60
			Chba Morn	61
			Odong	62
			Baseth	63
			Kong Pisey	64
14	Keu Saratt (Ms.) -- Volunteer	Kampong Chhnang	Kampong Tralach	65
			Samaki Meanchey	66
			Kampong Chhnang	67
			Toek Phos	68
15	Chheng Veng	Kampong Chhnang	Kampong Leng	69
			Chul Kiri	70
			Baribo (<i>Chy Terith</i>)	71
			Rolea Phiet	72
16	Rath Dara Pidor	Kampot and Kep	Kampong Trach	73
			Angkor Chey	74
			Banteay Meas	75
			Damnak Chang-Aer	76
			Kep	77
17	Sim Tina (Ms.) and Ly Romas (Ms.) -- Volunteers	Kampot	Chhouk	78
			Chum Kiri	79
			Dang Tung	80
			Kampong Bay	81

			Kamput	82
18	Hin Sotheany (Ms.)	Koh Kong	Thma Baing Koh Kong Kiri Sakor Mondul Seima Smach Meanchey	83 84 85 86 87
19	Kong Vanna	Koh Kong and Kampong Som	Kampong Seila Sre Ambel Botum Sakor Mittapheap Prey Nop Stung Hav	88 89 90 91 92 93
20	Kim Sovann Dany (Ms.) and Penh Sovannary (Ms.)	Phnom Penh	Chamkar Morn Dangkor Daun Penh (<i>Sovannary</i>) Meanchey 7 Makara (<i>Sovannary</i>) Russei Keo (<i>Sovannary</i>) Tuol Kork (<i>Sovannary</i>) Sen Sokh	94 95 96 97 98 99 100 101
21	Tat Leakhena (Ms.)	Takeo	Bati Samrong Prey Kabass Angkor Borei Treang	102 103 104 105 106
22	Ry Leakhena (Ms.)	Takeo	Borei Chulasa Koh Andet Daun Keo Kiri Vong Tram Kak	107 108 109 110 111
23	Eng Kok-Thay	Siem Reap	Angkor Chum Angkor Thom Banteay Srey Svay Leu Siem Reap	112 113 114 115 116
24	Sim Sopheak	Siem Reap	Kralanh Puok Prasat Bakong Srei Snam Varin	117 118 119 120 121
25	Path Piseth	Siem Reap and Kampong Thom	Sotr Nikum Chi Kreng Stung Stung Sen Kampong Svay	122 123 124 125 126

26	Men Pichet	Kampong Thom	Prasat Balang	127
			Prasat Sambo	128
			Santuk	129
			Sandan	130
			Baray	131
27	Vanthan P. Dara	Stung Treng	Sesan	132
			Siem Bauk	133
			Siem Pang	134
			Stung Treng	135
			Thala Barivat	136
28	Seng Kunthy (Ms.)	Ratanak Kiri	Ban Lung	137
			Kaun Mum	138
			Lum Phat	139
			Ba Keo	140
			O Ya Dav	141
29	Kith Serey	Ratanak Kiri	O Chum	142
			Andaung Meas	143
			Ta Veng	144
			Veun Sai	145
30	Kry Suy Hieng (Ms.)	Kratie	Chhlong	146
			Kratie PT	147
			Prek Prasap	148
			Sambuor	149
			Snuol	150
31	Sok Vannak	Mondul Kiri	Keo Seima	151
			Koh Nhek	152
			O Reang	153
			Pich Chenda	154
			Sen Monorom	155
32	Ouch Vannin	Otdar Meanchey	Anlong Veng	156
			Banteay Ampil	157
			Chong Kal	158
			Samrong	159
			Trapeang Prasat	160
33	Yin Nean	Prey Veng	Kampong Trabek (<i>Aun</i>)	161
			Peam Chor	162
			Peam Ro	163
			Peareang (<i>Thida</i>)	164
			Preah Sdech	165
34	Long Aun	Prey Veng	Prey Veng	166
			Sithor Kandal (<i>Thida</i>)	167
			Ba Phnom (<i>Nean</i>)	168
			Kampong Leav	169
			Kanh Chreach (<i>Thida</i>)	170
35	Pheng Pong-Rasy	Prey Veng	Kamchay Mear	171

	and Chea Thida (Ms.) -- Volunteer	and Svay Rieng	Mesang Romeas Hek Rumduol (<i>Bunthorn</i>)	172 173 174
36	Som Bunthorn	Svay Rieng	Chantrea Kampong Ro Svay Chrum Svay Rieng Svay Teap	175 176 177 178 179
37	Ser Sayana (Ms.)	Preah Vihear	Tbeng Meanchey Choam Khsan Chhep	180 181 182
38	Prak Keodara	Preah Vihear	Koulén Chey Sen Sangkum Thmei Rovieng	183 184 185 186

Targeted interviewees (6 persons per district):

2 Base people

2 New people

2 Children of both base and new people

STATEMENT OF THE CO-PROSECUTORS

5 January 2009

On 29 December 2008, the National Co-Prosecutor filed her Response with the Pre-Trial Chamber to the International Co-Prosecutor's Statement of Disagreement, which was filed on 1 December 2008. The disagreement concerns the appropriateness of opening new judicial investigations against certain additional suspects for crimes committed under the Khmer Rouge. The Statement of Disagreement and the Response contain reasons justifying the two Co-Prosecutors' positions in favor of charging or not charging these suspects.

The International Co-Prosecutor has proposed the filing of two new Introductory Submissions and one Supplementary Submission as, according to him, there are reasons to believe that (1) the crimes described in those submissions were committed, (2) these crimes are within the jurisdiction of this Court, and (3) they should be investigated by the Co-Investigating Judges. He believes that this last set of cases to be prosecuted by this Court would lead to a more comprehensive accounting of the crimes that were committed under the Democratic Kampuchea regime during 1975-79. He does not believe that such prosecutions would endanger Cambodia's peace and stability.

The National Co-Prosecutor believes that these investigations should not proceed on account of (1) Cambodia's past instability and the continued need for national reconciliation, (2) the spirit of the agreement between the United Nations and the Government of Cambodia ("Agreement") and the spirit of the law that established this Court ("ECCC Law"), and (3) the limited duration and budget of this Court. She feels that this Court should instead prioritize the trials of the five suspects already detained, especially when, according to her, the Agreement and the ECCC Law envisioned only a small number of trials. She maintains that this Court's mandate can be adequately fulfilled by the prosecution of the suspects already detained.

The Co-Prosecutors are issuing this statement pursuant to Internal Rule 54 to ensure that the public is duly informed of ongoing ECCC proceedings. They now await the determination of this disagreement by the Pre-Trial Chamber. This adjudicatory process is, by law, confidential. Notwithstanding this disagreement, the Co-Prosecutors have been and shall continue to work together, in all their cases, to ensure that justice is rendered to the victims of the Khmer Rouge.

End.

QUESTIONS ON ADDITIONAL PROSECUTION POSTED BY THE CO-PROSECUTORS AT THE EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA (ECCC)

"It is important for the victims to be a party, a voice equal to the Cambodian and International sides [of the ECCC]."

Youk Chhang, Director of Documentation Center of Cambodia

The Extraordinary Chambers in the Courts of Cambodia (ECCC) is a special tribunal with the mandate to try senior Khmer Rouge leaders and others deemed most responsible for serious crimes during the Democratic Kampuchea era (1975-1979). It began work in 2006 and is run jointly by the Cambodian government and the United Nations. It will only be in existence for a limited period of time. It has two prosecutors – one Cambodian and one international. The Co-prosecutors have charged and detained the top five surviving Khmer Rouge leaders. One of these will be tried in a few months. The other four are still being investigated and have not yet been indicted.

The international Co-Prosecutor wants the Court to investigate five to ten more people who were not as senior as the five now in custody, but who held leadership positions and are believed to have committed serious crimes. The national Co-Prosecutor opposes charging any more people, because she believes that the Court's limited time and financial resources should be devoted to bringing the five detained senior leaders to trial. She has also expressed concern that charging more than these five could lead to public disturbances and violence.

The following questions are designed to survey public opinions about additional prosecutions by the ECCC:

1) Have you heard about the ECCC? If so, how much do you know about it?

never heard heard a little heard medium amount
heard a lot

2) Do you think former KR leaders should be tried by the ECCC?

Yes, I do. No, I don't.

If "Yes", how strongly do you feel about this?

a little medium amount a lot

3) Do you think that the ECCC should only try the 5 KR leaders they have in custody or should they also try another 5-10 of the subordinates?

existing 5 5-10 others

How strongly do you feel about your answer?

a little medium amount a lot

4) Do you think the cost of the trials should be an important factor in the ECCC's decision on how many people to prosecute?

Yes

No

5) Do you think there would be public disorder or violence if the ECCC prosecuted more than the 5 already charged?

It would de-stabilize society.

It would not de-stabilize society.

6) Do you think the ECCC should try the five people in custody before deciding whether to conduct additional prosecutions?

Yes

No

7) Do you think the ECCC will help bring justice sufficiently to Cambodia if only the 5 existing defendants are prosecuted?

sufficient

not sufficient

End.

January 17, 2009.