

មជ្ឈមណ្ឌលឯកសារកម្ពុជា

Voices of Takéo

A pilot fear assessment with respect to possible witnesses of the Extraordinary Chambers
in the Courts of Cambodia

Project by Geerteke Jansen
Legal Associate of the Documentation Centre of Cambodia
July – October 2006
Cambodia

ស្វែងរកការពិត ដើម្បីការចងចាំនិងយុត្តិធម៌

Documentation Center of Cambodia
Searching for the Truth

DC-Cam • 66 Preah Sihanouk Blvd. • P.O.Box 1110 • Phnom Penh • Cambodia
Tel: (855-23) 211-875 • Fax: (855-23) 210-358 • dccam@online.com.kh • www.dccam.org

Content

Content	2
Chapter 1 Introduction	4
Chapter 2 Fear assessment in Takéo province	6
2.1 Takéo province	6
2.2 Interviewees from Takéo province	8
2.2.1 Victims	8
2.2.2 Khmer Rouge Cadres	10
2.2.3 Khmer Rouge Combatants and Security Personnel	10
2.2.4 Base people	11
2.3 Government representatives in Takéo Province	12
Chapter 3 Response regarding the Khmer Rouge Tribunal	14
3.1 Supporting the Extraordinary Chambers	14
3.2 Personal jurisdiction of the Extraordinary Chambers	16
3.3 Willingness and motives to be a witness	17
Chapter 4 The position of witnesses in Takéo	20
4.1 Factors of influence	20
4.2 Expected vulnerability of ECCC witnesses	20
4.2.1 Non-vulnerable position of witnesses	21
4.2.2 Vulnerable position of ECCC witnesses	22
4.3 Individual response	23
4.3.2 Willing to take a risk	25
4.4 Indicated threats	26
4.4.1 Threatening parties in Takéo province	26
4.4.1.1 Accused and their relatives	26
4.4.1.2 Present government officials	27
4.4.1.3 Former Khmer Rouge cadres on a lower level	27
4.4.1.4 Victims and survivors	28
4.4.2 Present supporters of the Khmer Rouge	29
4.4.4 Risks of revenge and reprisal	29
Chapter 5 Vulnerable witnesses	31
5.1 Witnesses of the defence	31
5.2 Members of the opposition party	32
5.3 Khmer Rouge involved and well-informed witnesses	32

Content

Chapter 6	Impact.....	34
6.1	Financial impact for the ECCC witnesses.....	34
6.2	Impact on the situation of ECCC witnesses	35
6.2.1	Personal living situation.....	35
6.2.2	Status in the communities	36
Chapter 7	Supportive and protective measures.....	38
7.1	Informative measures.....	38
7.2	Protective measures	39
7.2.1	Selection and pre-trial procedures	39
7.2.2	Measures with respect to the identity of the witnesses	40
7.2.3	Additional protective measures	41
7.3	Logistic and supportive measures.....	42
Chapter 8	Conclusions and suggestions	45
	Suggestions.....	46
ANNEX 1	Total List of Interviewees from Takéo province.....	Error! Bookmark not defined.
ANNEX 2	Summary of interviews with victims.....	Error! Bookmark not defined.
ANNEX 3	Summary of interviews with cadres, security personnel, combatants and base people	Error! Bookmark not defined.
ANNEX 4	Summary of interviews with official representatives	Error! Bookmark not defined.

Chapter 1 Introduction

On the 3rd of July 2006 Cambodian and international Judges and Co-Prosecutors of the Extraordinary Chambers in the Courts of Cambodia have been sworn in during a ceremony in the Royal Palace of Cambodia. The formal start of a fundamental process to the people of Cambodia who have been waiting many years for justice. Justice will be presented through the words of the judges, but the people of Cambodia can contribute to the process of finding these words. As in all international and hybrid tribunals one of the forms of evidence is a witness testimony. The words of witnesses are an essential asset to the legal process, while witnesses are the ones who can explain what happened and link the evidence to the alleged committers of the crimes. Unfortunately, the witness contribution to the healing process of Cambodia may have a dark side. Witnesses before international and hybrid tribunals often find themselves in vulnerable positions and there is no reason to believe that witnesses of the Extraordinary Chambers do not share the same vulnerability. Even so, the tragedy brought upon Cambodia and the sensitive character of the trials give reason to believe that witnesses should be supported with ultimate care.

It has appeared within DC-Cam that there is no clear understanding of the attitude in the Cambodian society towards those who may appear as a witness before the Extraordinary Chambers. Such an assessment is, however, important for the process of providing the witnesses the supportive or protective measures they need. This pilot fear assessment answers to the gap of information within DC-Cam. The objectives of the assessment are to understand the possible attitude within society towards witnesses, to assess the threats and risks regarding these individuals, to explicate the needs that the witnesses before the ECCC are likely to have and to formulate possible ways to respond to these needs.

In order to provide an adequate and coherent study, the assessment has focused on one province in Cambodia, Takéo province. This study presents the outcomes of twenty-nine interviews with inhabitants of Takéo province and eighteen official representatives of Takéo and government authorities. The interviewees have been questioned on their personal or professional opinion on the expected approach in society towards the people who may appear as a witness before the Extraordinary Chambers. The interviews touched upon the willingness of people to testify, the safe or unsafe position of witnesses, the financial consequences, the impact on their family situation and other issues possibly related to ECCC witnesses. Each chapter of this study provides an overview of the outcomes of the interviews. Based on these findings the last chapter provides suggestions DC-Cam to support the witnesses during their valuable contribution in the healing process of Cambodia.

Witnesses of the Extraordinary Chambers will form a valuable piece of the complicated puzzle that has to bring justice for Cambodia. They are those who have survived the Khmer Rouge regime and those who witnessed important events that provide links to the people who are most responsible. Their valuable position in the trials may have great consequences on their personal lives and it is important to support the witnesses in overcoming the possible obstacles. Only when one knows the fears and thoughts of the people involved and of their society, one can form a proper response. This pilot study gives insight in the fears and thoughts of the people in Takéo and hopefully it encourages parties involved to listen to their voices.

Chapter 2 Fear assessment in Takéo province

The threat assessment has taken place in Takéo province, a province known for its ideal performance under the Khmer Rouge Regime and its inhabitants representing a wide range of both victims and perpetrators. The focus on one part of Cambodia is based on the belief that is not feasible to present a coherent and thorough study on Cambodia as a whole in three months.

The pilot fear assessment is based on forty-seven interviews with inhabitants of Takéo, representatives of the local authorities in Takéo, members of the judiciary and representatives of the Ministry of Interior. Their history and the history of their province will be shortly explained in the following paragraphs.

2.1 Takéo province

Democratic Kampuchea was divided in six zones: the North, the East, the West, Northeast, Northwest and the Southwest zone. Present Takéo province was together with parts of present provinces Kandal, Kampot and Kampong Speu part of the Southwest Zone. This Zone was divided in four regions that were again divided in five or six districts and numbers of sub districts. Region thirteen of the Southwest Zone contained five districts and fifty sub districts that nowadays are part of Takéo province.

In 1976 the Southwest Zone received an Honorary Red Flag for its outstanding output of its paddy fields and the revolutionary commitment of its people. Pol Pot stated on the 17th Anniversary day that the comrade division commanders of the Southwest Zone succeeded in defeating many Lon Nol supporters and he regarded the Zone as the best.¹ The Southwest Zone has reached this position under direct leadership of its Secretary Ung Choeun, better known as Ta Mok or Ta 15. Ta Mok was born in Prakieb village, region 13 of the Southwest Zone. Especially this region became well known for its performance and services to the Communist Party of Kampuchea. Although it is hard to estimate the correct amount of victims, Mr. Meng-Try Ea stated in his book "The Chain of Terror" that at least 153.000 people died in four of the security centres of the Southwest Zone.

The security system of the Khmer Rouge in the Southwest Zone held in total 250 security centres at the sub district, district, regional and zone levels. The sub district centres were used to detent those who committed minor crimes and mostly served as places for temporary detention. In some occasions the imprisonment at the sub district level involved work at the labour sites of the Southwest Zone. People brought to these centres were interrogated but these sessions generally did not involve the use of serious violence or torture.² Prisoners at these centres were either released after a period of time or brought to the district re-education and occasionally the district security centres. The main

¹ Meng-Try Ea, "The Chain of Terror: The southwest Zone Security System", Documentation Series No. 7, Documentation Centre of Cambodia 2005, page 23.

² Ibidem, page 27.

reason of capturing people at sub district level was to verify whether people needed to be re-educated on the ideologies of Angkar.³

If the cadres at the sub district militia centres concluded that people did not improve their commitment, these persons were sent to one of the twenty-one district re-education centres. In these centres prisoners were imprisoned, more seriously interrogated and executed. Most of the people at these centres did not survive their imprisonment and died as a result of torture during the interrogations, illness, exhaustion, starvation or execution.⁴

In some occasions, prisoners of the district re-education centres were sent to the region security centres. The Southwest Zone held three of these centres where mostly Khmer Rouge cadres accused of conspiracy with Angkar's enemies were imprisoned. Similar to the prisoners in the district centres, most of the prisoners in the region security centres did not survive their imprisonment for the abovementioned causes.⁵

An important group of interviewees represents the people that have either been imprisoned or have been working at the Tram Kak District Re-education Centre, also known as the Kraing Tachan prison. This centre was one of few centres in the Southwest Zone where DC-Cam found documents. The majority of prisoners were Lon Nol soldiers, their families and other people who were suspected of being an enemy of Angkar.⁶ Prisoners at the Kraing Tachan prison were divided into two categories. The serious offenders were those involved in political matters and were considered as the dangerous type.⁷ The light offenders were the ones that committed offences as stealing rice, eating too much food or others ways of disobedience to Angkar.⁸ In order to reveal the true nature of the prisoners, guards used various means of torture that were similar to the methods used in prison S-21.⁹ Executions at the district centres of the Southwest Zone were performed on a grand scale and chances of survival for the prisoners were slim.¹⁰

The Southwest Zone Security Centre was under command of Ta Mok and was the centre at the top level of the Southwest Zone. Most of the prisoners in this centre were Khmer Rouge cadres who were accused of betraying Angkar. As there are no records or documents found that relate to this centre, it is difficult to estimate the number of people that have been killed here.¹¹

³ Ibidem, page 28.

⁴ Ibidem, pages 28-29.

⁵ Ibidem, pages 29.

⁶ Ibidem, pages 63 – 70.

⁷ Ibidem, page 69.

⁸ Ibidem, page 70.

⁹ Ibidem, page 73.

¹⁰ Ibidem, page 82.

¹¹ Ibidem, page 117.

2.2 Interviewees from Takéo province

As mentioned before, the inhabitants of Takéo province represent both victims and perpetrators. The fear assessment has answered these backgrounds by conducting interviews with victims, cadres, combatants, security personnel and base people. The interviewees who have not been involved with the Khmer Rouge organisation or have been imprisoned in one of the Khmer Rouge centres are referred to as victims in this report. Cadres are the interviewees who had positions of authority in the Khmer Rouge regime, either politically or by working in the bureaucracy.¹² Interviewees who held ranks in the Khmer Rouge army or worked as prison guards or security staff are referred to as combatants and security personnel. To conclude the term base people refers to the interviewees who lived in the liberated zones and formed the backbone of Cambodia's rural populace. Base people were often appointed as medical staff or as members of the workers units.¹³

The selection of interviewees is based on their personal history Democratic Kampuchea, their position within the structure of the Khmer Rouge and an estimation of their interest regarding the Khmer Rouge tribunal. The project lists of the DC-Cam Promoting Accountability team¹⁴, the Victims of Torture team¹⁵ and the Mapping team¹⁶ have been used to gather the necessary information on the personal background of possible interviewees. The following paragraphs present a short summary of the background of the interviewees and a list of the interviewees is provided in ANNEX A.

2.2.1 Victims

Interviewees 1, 2, 3, 5, 6 and 8 have been prisoners at the Tram Kak District Re-education centre. Both interviewee 1 and 2 have been imprisoned in Kraing Tachan for 23 months and performed supporting task as a cook or worker in the rice fields. Interviewee 1 is an old lady and did not seem to have a clear recollection of what happened in the Kraing Tachan prison. Her son, interviewee 2, had a better understanding of his experiences. Both interviewees were imprisoned for almost two years, during which interviewee 1 worked as a cook and interviewee 2 took care of the cattle and guard the animals on the rice fields every day. The reasons of their imprisonment have never been explained to them, but they suspect it to be related to the wealthy position of their husband and father. Interviewee 3 has been a village chief during the first years of Democratic Kampuchea and was imprisoned at Kraing Tachan after criticising the methods of Angkar and on the accusation of ethical offences with women living in his village. Interviewee 3 has a good perception of both sides of the history and remembered that almost all prisoners at Kraing Tachan were executed. The imprisonment of interviewee 5 was based on his position as a Lon Nol soldier prior to the Khmer Rouge Revolution. In addition, the Khmer Rouge suspected him to be a CIA agent. He stated to be imprisoned for eight

¹² This categorisation is parallel to the categories used by DC-Cam. See also "Stilled Lives. Photographs from the Cambodian Genocide", by Wynne Cougill in cooperation with Pivoine Pang, Chhayran Ra and Sopheak Sim, 2004, Documentation Centre of Cambodia, Introduction pages v-xii.

¹³ Ibidem page vi-vii.

¹⁴ DC-Cam List of the Khmer Rouge cadres in Takeo province investigated by PA team, reviewed by Chhayrann RA, May 24 2006.

¹⁵ DC-Cam List of people interviewed for "Victims of Torture" project in Tram Kak district of Takéo province, reviewed by Socheat Nhean.

¹⁶ DC-Cam List of Mapping Project 1995, 1997, 1999: Takéo Province.

months and was regularly interrogated and tortured. Interviewee 5 has undergone and witnessed the policies closely and mentioned that this experience has had a awful impact on his life up until now. Interviewee 6 stated to have been a prisoner in Kraing Tachan from 1975 – 1979. At that time he was a young boy and the prison guards allowed him more freedom than other prisoners. He has been a close witness of the methods of torture, the executions and other measures taken within Kraing Tachan prison. He remembered the names of the guards in detail but mentioned that some of them are possibly in hiding at the moment. To conclude, Interviewee 8 has been imprisoned in Kraing Tachan for six months as he was accused to be a capitalist. During his interview he informed us on the methods of torture and execution performed by the guards in Kraing Tachan. He also mentioned that this District Re-education Centre was divided in various sections throughout region 13.

Another group of interviewees are former Lon Nol agents. Interviewee 5 and F have both been a Lon Nol agent and their personal history during the Khmer Rouge years will be described in the other paragraphs. Interviewee 7 was married to a Lon Nol soldier and witnessed his execution by Khmer Rouge cadres. She managed to hide their marriage and was not arrested by the Khmer Rouge. During the years of Democratic Kampuchea interviewee 7 worked in a women's work unit. She remembers that some of the women in her unit were abused and some of them disappeared without a clear explanation.

Two interviewees of the fear assessment have been imprisoned in S-21. Interviewees 9 and 10 were sent to fight as a Khmer Rouge soldier near the border in Ratanak Kiri province but refused and managed to escape the Khmer Rouge on more occasions. In the end of 1976 interviewee 9 was arrested and sent to prison S-21 in Phnom Penh. He was imprisoned for almost one year and explained that he was often interrogated and tortured. He stated to have witnessed the methods and policies of the guars in S-21 closely but does not remember their names. Interviewee 9 was never informed on the exact grounds for his arrest. Interviewee 10 was arrested and imprisoned together with interviewee 9 and declared that he was imprisoned for three months.¹⁷ The Khmer Rouge accused him of being a CIA agent and interrogated him on several occasions.

Interviewee 4 was married to a wealthy man who was captured and killed by the Khmer Rouge. After his death she was sent to work in a women's work unit with other women whose husbands were killed by the Khmer Rouge. Many of her relatives have disappeared but interviewee 4 never witnessed certain methods of torture preformed.

¹⁷ Both interviewee 9 and interviewee 10 declared that they have been arrested and released together. It is important to note that their statements, especially regarding their period of imprisonment, do not comply with one another.

2.2.2 Khmer Rouge Cadres

As mentioned before the term cadres refers to the people who had positions of authority in the Khmer Rouge regime, either politically or by working in the bureaucracy. Interviewees B, C, J, P and R represent a group of cadres in this fear assessment. Interviewee B stated that he was a soldier of Sihanouk but did not reveal his specific position during the Khmer Rouge or his age. He seemed not willing to explain his personal involvement with the regime but answered the questions related to the threat assessment in great detail. Interviewee C was chief of commune within Democratic Kampuchea and explained some policies within his commune. During his appointment as commune chief interviewee C witnesses the arrests of several of his villagers. He was accused of ethnical offences but was never arrested. Interviewee J was trained in 1972 and 1973 to be a village chief and was educated on the directives of Angkar. Interviewee P was assigned as deputy chief of Sanlung commune in 1975 and worked most of the times as a farmer on the rice fields. During his years as a chief he met Ta Mok several times. Interviewee P remembers that many members of his cell died of starvation, disappeared or were executed. Interviewee R was staff of the Ministry of Foreign Affairs and worked at the Chinese and Korean Embassies during the years of Democratic Kampuchea. He was assigned as a driver and guard and joined various meetings between Khieu Sampan and foreign representatives.

2.2.3 Khmer Rouge Combatants and Security Personnel

Interviewees A, D, F, G, H, K and L worked at the Southwest District Re-education centre as guards or performed other duties. Interviewee A has been a messenger of Kraing Tachan prison since 1975 and operated between the prison and the chiefs of villages, sub districts and districts in the region. He stated that most of the prisoners in Kraing Tachan were killed and explained the basic structures of the prison. According to the research by Mr. Meng-Try Ea and based on the documents found by DC-Cam, interviewee D was Deputy Chief and Interrogator at Kraing Tachan prison.¹⁸ During his interview interviewee D did not clarify his position within the Kraing Tachan prison. Although he seemed to be well informed, he did not reveal any details about his personal history and the policies within the Kraing Tachan prison.¹⁹ Interviewee F declared that he was a Lon Nol agent and was captured by the Khmer Rouge. After his arrest he joined the Khmer Rouge, fought soldier and worked as a guard of Kraing Tachan prison since 1977. Interviewee F revealed the names of the other guards at Kraing Tachan and seemed to remember details of the prison policies. Interviewee G worked as a prison guard of Kraing Tachan from 1976 till 1978. He was appointed as a guard of the gates and stated that he was not involved or informed on the executions that took place in Kraing Tachan. According to the information of DC-Cam and statements of some of the interviewees, interviewee H has been a guard of the Kraing Tachan prison. He, however, rejected the request to conduct an interview with him for personal reasons.

¹⁸ Meng-Try Ea, *"The Chain of Terror: The southwest Zone Security System"*, Documentation Series No. 7, Documentation Centre of Cambodia 2005, page 62.

¹⁹ Interviewee D at first rejected the request for an interview. He allowed the interview on the condition that the interview was not recorded.

Interviewee L worked from 1975 till 1977 as a messenger of prison S-21 but did not explain his duties and work in great detail. After his work at Tuol Sleng he was sent to work in a working unit and in the final years he joined the Khmer Rouge army and fought against both White Khmer and the Vietnamese army in the jungle.

Interviewee K was trained as a soldier in 1973 and became chief of squad in the Khmer Rouge army. He fought two years but got injured in 1975. After his recovery interviewee K was sent to fight at the Thai border and became the chief of a platoon of thirty soldiers. It was his responsibility to arrest people within his platoon whom he thought to be a traitor or enemy of Angkar. Interviewee K also remembered that many soldiers were killed during the battles with the Thai and Vietnamese armies.

2.2.4 Base people

Interviewees E, I, M, N, O, Q and S represent the group of base people. The first category of base people includes the people who have been working as medical staff in one of the hospitals of Democratic Kampuchea. Interviewee E was assigned to work in Angponarey Pagoda and the P6 Hospital in Phnom Penh. During her assignment as medical staff interviewee E met Ieng Sary and Ta Mok a view times on their visits to the hospital. Although she knows now what happened during the years of the Khmer Rouge, she has never witnessed any killings or acts of torture. Interviewee M worked as a member of a workers unit from 1975 till 1977 after which she was assigned to work at the P1 Hospital in Phnom Penh. Although she never received medical education, she was assigned to treat the patients by her chief Menh, the daughter of Ieng Sary. After the Vietnamese invasion, the hospital was evacuated to the jungle in the Northwest Zone. Interviewee M has never witnessed acts of torture or executions. Interviewee N is the cousin of the former Chief of the Southwest Zone, Ta Mok and worked as medical staff in a hospital in Takéo provincial town. He was never educated as medical staff but was assigned to treat injured soldiers and other people. He met Pol Pot several times on his visits to the hospital and appeared to be in close contact with his uncle Ta Mok. Interviewee N explained that his medical unit and the patients were evacuated to the jungle after the Vietnamese invasion. Interviewee Q worked as medical staff for some years in various hospitals in Sra Nger, Angkanh and Phnom Penh. She received short medical education after which she was assigned to treat the injured Khmer Rouge soldiers. After the invasion of the Vietnamese interviewee Q was evacuated with all patients of the P6 hospital in Phnom Penh to Battambang and the jungle.

Interviewee O was member of the cooperative and was assigned to perform various tasks, such as building dams, working on the rice fields and taking care of the cattle. People who did not work hard enough were often accused of being an enemy of Angkar after which they were arrested and often killed. After the invasion of the Vietnamese all members of his cooperative were ordered to flee to the jungle where many people died of starvation. Interviewee S was member of a women's workers unit in various places, such as Srer Ambil and Posatt. Together with her co-members she was forced to work in harsh conditions and witnessed the arrest and execution of various people in her unit. Before the Vietnamese invasion interviewee S was forced to marry by a Khmer Rouge cadre but they separated after the Khmer Rouge were defeated.

2.3 Government representatives in Takéo Province

In order to assess the atmosphere within a certain society one must not only consult the inhabitants of that society. Governmental representatives and officials can give a valuable insight in a society, as they are the ones who are confronted with possible tensions on a daily basis. Moreover, they are ones that may have the responsibility to protect their citizens against certain threats. As part of the fear assessment various officials on village, sub district, provincial level, representatives of the police, representative of the judiciary and representatives of the Ministry of Interior have been interviewed. Their names and positions are listed below:

Representatives on village and sub district level in Takéo province

- Mr. Khien Chhann (M, 77 years old), chief of Toek Thla village. Interviewed on the 25th of August 2006.
- Ms. Som Pov (F, 61 years old), chief of Tram Kak sub district, Tram Kak district, Takéo province. Interviewed on the 25th of August 2006.
- Mr. Un Sim (M, 59 years old), chief of Rosey Thmey village. Interviewed on the 27th of August 2006 during the DC-Cam ECCC Tour.
- Mr. Yann Koy (M, 70 years old), chief of Tipatt village. Interviewed on the 27th of August 2006 during the DC-Cam ECCC Tour.
- Mr. Long Chan (M, 55 years old), chief of Ta Toeum village. Interviewed on the 27th of August 2006 during the DC-Cam ECCC Tour.

Representatives of provincial authorities Takéo

- Mr. Yous Nasy, Chief of Provincial Cabinet. Interviewed on the 3rd of October 2006.
- Mr. Vuth Phally, Chief Commander of the Takéo Provincial Police. Interviewed on the 3rd of October 2006.
- Mr. Chin Pok, Deputy Commander of the Takéo Provincial Police. Interviewed on the 3rd of October 2006.
- Mr. Suon Phon, Deputy Commissioner of the Criminal Unit of the Takéo Provincial Police. Interviewed on the 3rd of October 2006.
- Mr. Chey Sophal, Chief Prosecutor Takéo Province. Interviewed on the 4th of October 2006.
- Mr. Hean Rith, Deputy Prosecutor Takéo Province. Interviewed on the 4th of October 2006.

Representatives of the Cambodian Judiciary

- Mr. Hing Thirith, Judge of Phnom Penh Municipal Court. Interviewed on the 11th of July and the 15th of September 2006 at DC-Cam.
- Mr. Tith Sothy, Chief of the Takéo Provincial Court. Interviewed on the 4th of October 2006.
- Mr. Sok Lieng, Judge of the Takéo Provincial Court. Interviewed on the 4th of October 2006.

Representatives of the Ministry of Interior

- Mr. Mao Dara, Chief of the Office of Serious Crimes, Department of National Police, Ministry of Interior. Interviewed on the 26th of September 2006 at DC-Cam.
- Mr. Nun Samnang, Chief of Section, Department of National Police, Ministry of Interior. Interviewed on the 26th of September 2006 at DC-Cam.
- Ms. Ay Sokhema, Deputy Office Chief, Department of National Police, Ministry of Interior. Interviewed on the 26th of September 2006 at DC-Cam.
- Ms. Put Sao Sirana, Department of National Police, Ministry of Interior. Interviewed on the 26th of September 2006 at DC-Cam.

Chapter 3 Response regarding the Khmer Rouge Tribunal

Victims of the Khmer Rouge have often expressed their support for the tribunal and their hopes that it will find justice for their lost relatives and friends. As part of this assessment people have been asked as well to share their thoughts and ideas on the Khmer Rouge Tribunal. In order to provide a broader picture of the response in Takéo province this chapter includes the thoughts of the interviewees regarding the Extraordinary Chambers.

3.1 Supporting the Extraordinary Chambers

One of the first questions during the interviews was whether or not people are familiar with the Khmer Rouge Tribunal. In addition, the interviewees have been asked whether they support the tribunal and what the tribunal will bring for the people of Cambodia. The outcomes of the interviews show that the vast majority of the interviewees in Takéo province are familiar with the Khmer Rouge Tribunal and its purpose. Only two interviewees, both medical staff during Democratic Kampuchea, have never heard about the tribunal before their interview. The majority of the interviewees expressed their support for the tribunal and referred to the sufferings they have gone through as their primary reason. The outcomes and statistics of the interviews in this regard have been explicated in the following table.

Support for the ECCC

Considerations	Victims	Cadres	Combatants and Security	Base people	Total
Interviewees who are informed and support the ECCC ²⁰	8	4	6	2	20
Interviewees are not informed on the existence of the ECCC ²¹				2	2
Interviewees who do not support the ECCC ²²				1	2
Interviewees are not familiar but want to know more about the details of the ECCC law and the position of the witnesses ²³		1	1	1	3

With respect to the meaning of the tribunal for Cambodia various possibilities have been brought forward. The widely held conviction is that the Extraordinary Chambers will find justice, more specifically, retributive justice,²⁴ for the victims of Democratic Kampuchea. The people who have been interviewed have expressed their believes that the perpetrators must be punished for their deeds. The Chief Commander of the Takéo Provincial Police has stated in this respect that according to the Cambodian criminal law people who have committed crimes should be held responsible for their acts. In his opinion there is no reason why this should not apply for those who are responsible for the

²⁰ Brought forward by interviewees 1, 2, 3, 4, 5, 7, 8, 9, B, J, R, P, A, D, F, G, K, L, M and O.

²¹ Brought forward by interviewees E and Q.

²² Brought forward by interviewee N.

²³ Brought forward by interviewees P, D and M.

²⁴ Retributive justice focuses on punishing criminal offenders as opposed to restorative justice that focuses more on compensation and restoration after a crime has been committed.

crimes committed during Democratic Kampuchea.²⁵ A similar explanation was given by one of the survivors of the Kraing Tachan prison who stated that justice means that your acts will be judged within the Courts of Cambodia.²⁶ In total three victims, three cadres, one security guard and one of the base people have expressed their hopes and believe in retributive justice by the Khmer Rouge Tribunal. None of the interviewees have referred to possible restorative aspects of the tribunal.

The Extraordinary Chambers are often believed to have an important role in educating the younger and future generations of Cambodia. This possible asset of the Chambers to Cambodia has also been pointed out by some of the interviewees, as for instance the Chief of the Provincial Cabinet of Takéo.²⁷ In his interview he has explained that the prosecution of the most responsible leaders of the Khmer Rouge will show the leaders of the future that this horrendous manner of governing the country will no longer be tolerated. Moreover, it will take away the doubt of the younger generation that the tragedy has indeed been inflicted on their parents and grandparents. Another interviewee, one of the Kraing Tachan guards, confirmed the educating feature of the tribunal by recognising that the tribunal is essential in preventing genocide from happening again.²⁸

Besides references to the accountability process within Cambodia, a lot of interviewees referred to their individual and the national process of reconciliation. One of the S-21 survivors believes that reconciliation with the past can only be achieved when criminal law is applied.²⁹ His opinion was supported by one of the base people, who worked as medical staff under the Khmer Rouge. She stated in this respect that prosecuting the most responsible leaders may relief many victims from their pain and sufferings.³⁰

Significance of the ECCC

Considerations	Victims	Cadres	Combatants and Security	Base people	Total
ECCC will find justice for the people of Cambodia ³¹	3	3	1	1	8
ECCC is the only proper response to the crimes that have been committed and the people who have suffered ³²	2			1	3
Leaders must be held responsible for the crimes they have committed ³³	2				2
ECCC is valuable asset in reconciliation process of the Cambodian people ³⁴	1			1	2
ECCC is significant in educating the younger and next generation of			1		1

²⁵ Brought forward by official interviews VII, VIII and IX.

²⁶ Brought forward by interviewee 2.

²⁷ Brought forward by official VI.

²⁸ Brought forward by interviewee F.

²⁹ Brought forward by interviewee 8.

³⁰ Brought forward by interviewee S.

³¹ Brought forward by interviewee 2, 7, 9, B, P, C, A and M.

³² Brought forward by interviewee 5, 7 and O.

³³ Brought forward by interviewee 1 and 4.

³⁴ Brought forward by interviewee 9 and S.

Cambodia about the Khmer Rouge history. The process is significant in preventing genocide from ever happening again. ³⁵					
ECCC will have supportive influence on the development and political climate in Cambodia ³⁶			1		1

3.2 Personal jurisdiction of the Extraordinary Chambers

Article 1 and 2 of the ECCC law define the personal jurisdiction of the Extraordinary Chambers by stating that the only the senior leaders of Democratic Kampuchea and those who were most responsible for the crimes committed during the years of Democratic Kampuchea will be tried. The Khmer Rouge Tribunal lacks jurisdiction with respect to the lower cadres or other people who have committed crimes during the years of the regime. Although the matter of personal jurisdiction was not specifically questioned during the interviews, several interviewees have shared their opinion in this respect.

Four of the victims have declared that the tribunal should not only prosecute the senior leaders but also the lower cadres of the Khmer Rouge. One of the survivors of the Kraing Tachan prison stated that everybody has made a choice during the Khmer Rouge. If that choice has made somebody to commit serious crimes, than that person must face the consequences of these acts.³⁷ Another survivor of the Kraing Tachan prison has stated that reconciliation with the past cannot be achieved if only four or five people will be held responsible. The small number of convictions does not stand in the right proportion to the crimes that have been committed and will lack sufficient impact in the Cambodian society.³⁸

Personal jurisdiction of the ECCC

Considerations	Victims	Cadres	Combatants and Security	Base people	Total
Those who to be held accountable is up to ECCC ³⁹	2	1			3
Lower cadres must be prosecuted by the ECCC as well ⁴⁰	4				3
Only most responsible Khmer Rouge leaders must be prosecuted. (Lower cadres did not know the intention of their orders, acted out of fear for their own lives or were uneducated people) ⁴¹		1	5	4	10

³⁵ Brought forward by interviewee F.

³⁶ Brought forward by interviewee L.

³⁷ Brought forward by interviewee 1.

³⁸ Brought forward by interviewee 8.

³⁹ Brought forward by interviewees 3,9 and C.

⁴⁰ Brought forward by interviewees 1, 2, 5 and 8.

⁴¹ Brought forward by interviewees C, D, G, F, L, M, N, O and S.

In comparison to the victims point of view, a lot of the cadres, combatants, security personnel and base people have declared to support the limited personal jurisdiction of the tribunal. Some of these interviewees have stated that the lower cadres just followed the orders and have not been informed on the intentions of the Khmer Rouge policies.⁴² A former combatant and messenger of S-21 has stated in this regard that a broader jurisdiction is unfeasible. The interviewee stated that the people of Cambodia broadly supported the Khmer Rouge and everybody was involved in the revolution. If the Khmer Rouge Tribunal has the jurisdiction to bring lower cadres and less responsible people to trial, everybody would be convicted.⁴³

The outcomes of the interviews with respect to the personal jurisdiction of the Extraordinary Chambers clearly reflect the opinions of the victims on the one hand and the opinions on Khmer Rouge involved persons on the other hand. This discrepancy most probably originates in the fear of former lower cadres, security personnel and combatants that the trials have direct consequences for them as well.

3.3 Willingness and motives to be a witness

Twenty interviewees have declared to be willing to appear as a witness before the Extraordinary Chambers. Amongst them were nine victims⁴⁴, four cadres,⁴⁵ five combatants and security personnel⁴⁶ and two base people⁴⁷. Three interviewees have explained that they are not willing to be a witness and two of the interviewees will await a request by the Extraordinary Chambers before they make a decision in this matter.

Willingness to be a witness

Considerations	Victims	Cadres	Combatants and Security	Base people	Total
Willing to be a witness ⁴⁸	6	2	1	1	10
Willing but aware of possible threats ⁴⁹	2	2	4	1	9
Interviewees are only willing to be a witness if the government provides proper protection ⁵⁰	1				1
Not willing to be a witness ⁵¹	1			2	3
Interviewees have not decided yet ⁵²			1	1	2

⁴² See for instance remarks made by interviewee D.

⁴³ Brought forward by interviewee L.

⁴⁴ Brought forward by interviewees 1, 2, 3, 5, 6, 7, 8, 9 and 10.

⁴⁵ Brought forward by interviewees B, C, P, and J.

⁴⁶ Brought forward by interviewees A, F, G, K and L.

⁴⁷ Brought forward by interviewees E and S.

⁴⁸ Brought forward by interviewees 1, 2, 5, 7, 8, 10, B, P, G and S.

⁴⁹ Brought forward by interviewees 6, 9, J, C, A, F, K, L and E.

⁵⁰ Brought forward by interviewee 3.

⁵¹ Brought forward by interviewees 4, N and O.

⁵² Brought forward by interviewee D and Q.

The willingness and wishes of the interviewees to testify as a witness before the Extraordinary Chambers are based on a variety of reasons. Some interviewees feel it is their duty to contribute and want to help the tribunal in finding the truth and justice for the people of Cambodia.⁵³ In a similar context other interviewees expressed their wish to contribute to the process of reconciliation for themselves but also to the process within Cambodia. One of the survivors of Kraing Tachan and a former medical staff stated, for instance, that their testimony would release their pain and help them in dealing with their memories.⁵⁴ One of the victims explained that a testimony as a witness would finally give her an opportunity to ask the leaders of the Khmer Rouge why they killed so many people.⁵⁵ In some cases it has appeared that the hatred towards the Khmer Rouge regime is an important motivation for people.⁵⁶

Motives⁵⁷

Considerations	Victims	Cadres	Combatants and Security	Base people	Total
Willing because being a witness would be a personal contribution to the Khmer Rouge tribunal in finding the truth and justice ⁵⁸	3	1	2	1	7
Willing because being a witness will help personal process of reconciliation with the past ⁵⁹	1		1		2
Willing out of hatred towards the leaders of the Khmer Rouge Regime ⁶⁰	1	1			2
Willing out of support of the Khmer Rouge Tribunal ⁶¹		1			1
Willing because being a witness would grant the opportunity to ask the Khmer Rouge leaders why they have killed so many people ⁶²	1				1
Willing out of sense of duty as one of the victims to contribute, but will not volunteer as a witness ⁶³	1				1
Not willing because testimony as a witness does not comply with Buddhist believes ⁶⁴		1			1
Not willing because interviewee does not have valuable information as a witness ⁶⁵	1			1	2
Not willing out of fear to speak in public ⁶⁶				1	1
Not willing to be involved in the work of the				1	1

⁵³ Brought forward by interviewees 3 and 5.

⁵⁴ Brought forward by interviewees 5 and L.

⁵⁵ Brought forward by interviewee 7.

⁵⁶ Brought forward by interviewees 5 and 6.

⁵⁷ Interviewees 1, 2, 8, 10, B, A, E, F and C have not explained their reasons willingness to be a witness before the Extraordinary Chambers.

⁵⁸ Brought forward by interviewees 3, 5, 9, G, P, S and K.

⁵⁹ Brought forward by interviewees 5 and L.

⁶⁰ Brought forward by interviewees 5 and J.

⁶¹ Brought forward by interviewee J.

⁶² Brought forward by interviewee 7.

⁶³ Brought forward by interviewee 6.

⁶⁴ Brought forward by interviewee B.

⁶⁵ Brought forward by interviewees 5 and O.

⁶⁶ Brought forward by interviewee O.

ECCC ⁶⁷					
--------------------	--	--	--	--	--

A number of village chiefs have explained that their villagers are only informed on the general aspects of the tribunal. Therefore, it is difficult for them to assess whether his villagers are willing to appear as a witness.⁶⁸

The Chief commander of the Takéo provincial police and his staff explained that everybody in Cambodia who is older than thirty years has suffered under the reign of the Khmer Rouge. With the intention to show the meaning of his statement, the Chief Commander shared some of his personal experiences with the team. He added that his story is not unique but that it resembles the sufferings of most of the people in Cambodia. Anybody who has survived this regime and these agonies will be willing to appear as a witness and contribute in finding justice for all its victims, thus stated by the Chief Commander of police in Takéo province.⁶⁹ The Chief prosecutor in Takéo province seemed to have a similar point of view and stated that all Cambodians are victims and therefore willing to testify. The agonies they have gone through are probably the most important motivation to testify before the Chambers. According to the Takéo prosecutor it is, however, important to be aware that the personal involvement and the sensitive nature of the testimonies may influence the perspective of the witnesses. Judges should be alerted that the witnesses may be biased or exaggerate their testimonies.⁷⁰ The Deputy Prosecutor in Takéo and some of the village and commune chiefs have brought forward similar views.⁷¹

Most of the representatives seemed to believe that there is no lack of people who are willing to testify as a witness. The decision to be a witness, however, does not just depend on their enthusiasm. A judge from the municipal court in Phnom Penh has explained that witnesses may encounter various obstacles on their way to the Extraordinary Chambers. These possible obstacles will be discussed in the following chapters.

⁶⁷ Brought forward by interviewee N, the cousin of former Security Chief of the Southwest Zone Ta Mok.

⁶⁸ Brought forward by the chief of Ta Toeum village, Takéo province and the chief of Tipatt village, Takéo province.

⁶⁹ Brought forward by officials VII, VIII, IX.

⁷⁰ Brought forward by official X.

⁷¹ Brought forward by chief of Tram Kak sub district, chief of Toek Thla village and chief of Rosey Thmey village.

Chapter 4 The position of witnesses in Takéo

The primary objective of the threat assessment is to give insight in the attitude towards the people who may appear as a witness before the Extraordinary Chambers. The interviewees have been asked to share their views on the vulnerability of witnesses within their communities. This chapter presents an overview of the thoughts and remarks that have been brought forward by the interviewees and official representatives.

4.1 Factors of influence

Before discussing the possible threats and the societal attitude in Takéo province towards the witnesses of the ECCC, it is important to note the following. First of all, it has appeared that the topic of the assessment is quite sensitive. In most of the villages in Takéo province victims and perpetrators live side by side, work together in mutual aid teams on the rice fields or meet each other during other occasions in their community. Although the former adversaries may still be a long way from rebuilding mutual trust underneath, they have found ways to live in their shared community. Since the establishment of the Khmer Rouge Tribunal the personal backgrounds of the members of these communities come once again to the surface. NGO's, reporters, journalists and investigators are getting more interested in establishing the facts of what actually has happened during the years of Democratic Kampuchea. This increasing attention has an impressive impact on the minds of many Cambodians. It reminds the people once again about the past of their neighbours or raises questions regarding the possible consequences of the Khmer Rouge Tribunal. For some people it seems that the more or less secure lives they have built in the last years are in jeopardy, as nobody really can tell them what will happen. Most people in the provinces have been informed about the Khmer Rouge Tribunal, but only a few of them have learned about the exact content of the law. The lack of information raises questions as "Who will be prosecuted?" or "Is there a chance they will prosecute me or my neighbour after I have testified as a witness before the tribunal?" The aforementioned questions lead to insecurity and confirm the sensitive nature of the threat assessment. These matters have had some affect on the response during the interviews in Takéo province. It is therefore important to take into account that the answers of the interviewees may not always have been the whole truth, but most probably just the tip of a complicated iceberg.

In addition to the sensitive character of the fear assessment, it is important to realise that it is not part of Cambodian culture to express fears and feelings of distrust openly. Too direct and sudden questions may raise suspicion and in those cases chances are slim that people will share their honest opinion. During the threat assessment the questionnaires have been adjusted several times and a lot of effort has been put into finding the appropriate approach. Nevertheless, it is again important to note that it has been quite a challenge to unveil the exact attitude towards witnesses in Takéo province.

4.2 Expected vulnerability of ECCC witnesses

As stated in the previous paragraph, the willingness of people to appear as a witness may be influenced by various dynamics within their society. The eagerness to contribute to the healing

process of Cambodia may fade when one will put the safety of his family in jeopardy. It is therefore important to know how the society may respond to witnesses and what may take away the possible tensions or suspicion. Only by providing proper support it is possible to comfort the people and encourage them to contribute to the process of finding justice in Cambodia.

With respect to the position of ECCC witnesses eight interviewees expect that witnesses run certain risks and will not be safe in their communities. Six interviewees stated that witnesses will have nothing to fear and one interviewee did not refer to any matters of safety.

Position of the witnesses⁷²

Considerations	Victims	Cadres	Combatants and Security	Base people	Total
Interviewees who believe ECCC witnesses run certain risks and are not safe ⁷³	2	3	3		8
Interviewees who believe ECCC witnesses will have nothing to fear ⁷⁴	5				5
Interviewees who did not refer to possible threats or personal safety ⁷⁵				1	1

4.2.1 Non-vulnerable position of witnesses

With respect to the vulnerability of witnesses, five interviewees have expressed their beliefs that witnesses will have nothing to fear. These interviewees are all victims of the Khmer Rouge and declared to believe in the protection of the law in present-day Cambodia. Others have mentioned that the Khmer Rouge have lost the support of most of the people in Cambodia. One of the survivors of Kraing Tachan prison thinks that the organisation is demolished and that supporters will not dare to take revenge.⁷⁶

Some official representatives have brought similar views forward. The Chief of the Provincial Cabinet has explained that the Khmer Rouge Trials will not challenge the stability of the present Cambodian society. He expects that the people who will contribute to the trials as a witness will have nothing to fear and are perfectly safe in their communities.⁷⁷ The chief added that people in Cambodia are tired of warfare and just want to live in peace with one and other. Likewise the Deputy Prosecutor of Takéo province has declared that ECCC witnesses will not be vulnerable in their communities.⁷⁸ The Chief Commander of the Takéo Provincial Police has explained in this regard that present Cambodia is built

⁷² Interviewee N, one of the base people and a cousin of Ta Mok, stated that he did not have an idea about whether witnesses may be in danger. Interviewee E, did not have a clear idea whether ECCC witnesses will be safe or unsafe. Interviewees F, G, L, M, N did not share his opinion on whether witnesses are safe or unsafe. Interviewee S did not express her thought on the question whether witnesses are safe or unsafe. She did, however, mention that people are probably so angry about their sufferings that they will not care about their safety anymore.

⁷³ Brought forward by interviewees 3, 4, A, B, C, D, J and L. Interviewee B stated at first that it will not be in lines with Buddhist believes to take revenge, based on which people will have not so much to fear.

⁷⁴ Brought forward by interviewees 1, 2, 7, 8 and 10.

⁷⁵ Brought forward by interviewees O.

⁷⁶ Other considerations with respect to the position of the Khmer Rouge in present society will be discussed in paragraph 4.4.2.

⁷⁷ Brought forward by official VI.

⁷⁸ Brought forward by official XI.

on laws that prohibit any acts of revenge and protect the ECCC witnesses.⁷⁹ People who intimidate or threaten the witnesses of the ECCC will be punished based on these laws.

A number of the official representatives have referred to situation of Cambodia directly after the invasion by Vietnam. The Chief of the Takéo Provincial Court has explained that during those first years many survivors of Democratic Kampuchea have taken revenge on the lower Khmer Rouge cadres. The anger towards people who have been involved with the Khmer Rouge is gone and witness testimonies will most probably not stimulate new forms of aggression.⁸⁰

4.2.2 Vulnerable position of ECCC witnesses

Besides the abovementioned point of view eight interviewees expressed their concern that ECCC witnesses will be vulnerable in their communities. The Deputy chief and interrogator at Kraing Tachan prison expressed his serious concern about the ECCC witnesses and believes that they will be most vulnerable and confronted by serious threats.⁸¹ Another former Khmer Rouge cadre, who is presently a member of FUNCINPEC, referred to one of the DC-Cam ECCC tours on Monday the 26th of June 2006. The programme included a speech and explanation on the Extraordinary Chambers by a Member of Parliament, Mr. Maon Sophan. The interviewee recalled that most of his villagers were frightened by his presence and did not feel comfortable with his explanation. Their fearful response is a valuable indicator of the vulnerable position of the ECCC witnesses, thus stated by the former Khmer Rouge cadre.⁸²

Three representatives of the Ministry of Interior, the judge of the Phnom Penh Municipal Court and the judge of the Takéo Provincial Court expressed their concerns with respect to the witnesses as well. The judge from Phnom Penh has explained that the involvement in the Khmer Rouge trials as an ECCC witness will have an important impact on the personal living conditions of the people in question. Most people in Cambodia are dependent on their relationship with the chiefs of village and chiefs of commune. The local representatives often support the villagers by means of water supply, food supply and other ways of assistance. The Judge indicated that a great number of chiefs are still supporters of the Khmer Rouge. How would it be possible for people to testify against the leaders of the Khmer Rouge when those who they depend on are still firm believers of the Khmer Rouge policies? Thus rhetorically questioned by the Municipal Judge. He added that various government officials, amongst whom one minister in the ruling government, have been Khmer Rouge cadres during Democratic Kampuchea. It is not hard to imagine how witnesses will be affected when they reveal important information on these officials on the stand. The judge is, therefore, convinced that ECCC witnesses will be quite vulnerable.

A judge of the Takéo Provincial Court has supported the abovementioned views and explicitly stated that ECCC witnesses will not be safe. He explained that uneducated people are easily impressed and

⁷⁹ Brought forward by officials VII, VII and IX.

⁸⁰ Brought forward by official XIII.

⁸¹ Brought forward by interviewee D.

⁸² Brought forward by interviewee J.

pressured by rumours within their community. The increasing uncertainty about the Khmer Rouge trials will provoke tensions and witnesses must therefore receive high-level protection.⁸³ As mentioned before, the representatives of the Ministry of Interior have brought similar views forward. They believe that as long as people are not informed on the exact consequences of the witness testimonies, there will be a considerable chance of increasing tensions and witnesses will be vulnerable targets for acts of vengeance.⁸⁴

4.3 Individual response

Out of all interviewees in Takéo province, eleven interviewees have stated that they are not afraid to appear as a witness before the Extraordinary Chambers. Six victims, one cadre, one combatant and three base people support this approach. One of the former guards of the Kraing Tachan prison has stated that he is an old man now and is willing to find justice for the victims of the Khmer Rouge. Possible threats will not hurt him anymore and he is not afraid to face them.⁸⁵ Another interviewee, who has been the member of a women's unit, has stated that she cannot imagine how it would affect her safety if she appears as a witness. She will only tell the truth and does not understand how this may affect her personal safety.

In comparison with the eleven interviewees who stated not to be afraid, twelve interviewees expressed their fear to testify as a witness for the Khmer Rouge Tribunal.⁸⁶ Four victims, three Khmer Rouge cadres, four security personnel, combatants and one of the base people are part of this group.

Fear of being a witness

Considerations	Victims	Cadres	Combatants and Security	Base people	Total
Interviewees who are not afraid to appear as a witness of the ECCC ⁸⁷	6	1	1	3	11
Interviewees who are afraid to appear as a witness of the ECCC ⁸⁸	4	3	4	1	12

At a first glance the outcome presented above seem to represent an equal division of both approaches amongst the interviewees. A closer look, however, gives an interesting impression of the underlying dynamics.

As mentioned before four victims, three Khmer Rouge cadres, four security personnel, combatants and one of the base people have stated not to be afraid to testify.⁸⁹ Three victims have been

⁸³ Brought forward by interviewee XII.

⁸⁴ Brought forward by interviewees I, II, III, IV.

⁸⁵ Brought forward by interviewee G.

⁸⁶ The explanation for their fears will be discussed more in depth in the next paragraph.

⁸⁷ Brought forward by interviewees 1, 2, 4, 7, 8, 10, G, M, P, Q and S.

⁸⁸ Brought forward by interviewees 3, 5, 6, 9, A, C, E, F, J, K, L and R. Interviewee C has changes his statements on possible threats various times during the interview. On the one hand he stated that it would be unsafe but at the end of the interview he added that witnesses were perfectly safe. He seemed insecure about being a witness and declared that he did not make up his mind yet.

⁸⁹ Brought forward by interviewees 1, 2, 4, 7, 8, 10, G, M, P, Q and S.

imprisoned in Kraing Tachan prison, one has been imprisoned in prison S-21 and two other victims have been affected by Democratic Kampuchea in other ways. The former Khmer Rouge cadre was appointed as commune chief and the security guard of the Kraing Tachan prison claimed not to be appointed as a high ranking guard of the prison. The three base people who have declared that they are not afraid have been working as medical staff in the Khmer Rouge hospitals. Compared to other interviewees these people have not revealed a close association with the dreadful aspect of the Khmer Rouge policies. The victims have not claimed to be tortured; the former sub district chief mainly worked as a farmer; the security guard was appointed outside the prison and the medical staff performed their tasks at a lower level within the hospitals. This is not to show that their sufferings are less impressive than the sufferings of other interviewees, but it does resemble a certain level of involvement and awareness of the performed Khmer Rouge policies.

The interviewees who have expressed their fears are three prisoners of the Kraing Tachan prison, two guards of Kraing Tachan, one S-21 survivor, a S-21 messenger, a commune chief, a chief of cooperative, a Chief of Platoon in the army force of the Khmer Rouge, a staff member of the Ministry of Foreign Affairs and one medical staff. The first victim was a village chief in Democratic Kampuchea and claimed to be arrested for his criticism on the Khmer Rouge policies.⁹⁰ He indicated that the prison guards executed most of the prisoners in the Kraing Tachan prison and explained that he is a member of the opposition party FUNCINPEC. The second prisoner of the Kraing Tachan prison was imprisoned for reasons of his involvement with the Lon Nol regime. During his imprisonment he has undergone severe methods of torture and witnessed the execution of other prisoners from close by.⁹¹ The third prisoner of Kraing Tachan claimed to be imprisoned from 1975-1979. He revealed the names of the prison guards and expressed his concern about the fact that they live in the same communities or even just across the road. This interviewee is well aware of the personal involvement of the prison guards and the performed policies within the Kraing Tachan prison.⁹²

As mentioned before, two of the people who expressed their fears have been involved with the S-21 prison, either as a former prisoner or as a S-21 messenger. The former prisoner has undergone methods of torture through electric shocks during the interrogations. His fear of appearing as a witness for the ECCC is related to a case intimidation by one of the police officers of the Ministry of Interior. According to the S-21 survivor, the officer wanted to make sure that he would not reveal the Khmer Rouge involvement of certain members of the Cambodian People's Party.⁹³

The other interviewees who have expressed their fears have a close connection to the events that occurred within region 13 of the Southwest Zone. The Kraing Tachan prison guards claimed to be well aware or even involved in the execution of prisoners; some cadres have had a position of authority; others have been informed through their rank in the Khmer Rouge bureaucracy and one of interviewees is more aware of the Khmer Rouge military strategies.

⁹⁰ Interviewee 3.

⁹¹ Interviewee 5.

⁹² Interviewee 6.

⁹³ Interviewee 9.

In comparing the consideration on matters of safety one must not fail to notice the differences in the level of involvement and awareness of the performed Khmer Rouge policies amongst the interviewees. The analysis shows that people who are well aware of what happened or have witnessed dreadful policies from close by are more concerned about the consequences of their testimonies than the other interviewees.

4.3.2 Willing to take a risk

After comparing the outcomes of the questions whether people are willing and whether people are afraid to testify, it has appeared that fear will not withhold interviewees from testifying before the Extraordinary Chambers. The Chief of the Takéo Provincial Court shared his view that the victims of the Khmer Rouge want to speak as a witness in order to show they have courage and are proud, even if they feel they run certain risks. The only matters that may withhold them from being a witness are their Buddhist beliefs or financial considerations, thus stated by the judge from Takéo province.⁹⁴

Besides anger and courage, the age of the witnesses can fulfil an important factor in accepting certain risks. A former prison guard of Kraing Tachan has explained that he is of old age and does not have so much to lose. His wish to contribute to the healing process of Cambodia is far more important to him.⁹⁵ Two former prisoners of Kraing Tachan have expressed similar perspectives.⁹⁶ One of both, a member of FUNCINPEC, has declared that he is willing to take the risks in order to contribute to the trials and that he is not afraid to die.⁹⁷

A final important motive to accept the risks ECCC witnesses may run, originates from the hatred of some interviewees towards the Khmer Rouge leaders and their support for the Khmer Rouge Tribunal. One of the Khmer Rouge cadres has revealed this standpoint by stating that hatred towards the leaders is the most important reason for him to accept the risks he may run.⁹⁸

Individual response to possible vulnerability as a witness

Considerations	Victims	Cadres	Combatants and Security	Base people	Total
Interviewees are willing to accept possible threats while they are of an old age now ⁹⁹			1		1
Interviewees are willing to accept possible threats out of hatred towards the Khmer Rouge and support for the Khmer Rouge Tribunal ¹⁰⁰		1			1

⁹⁴ Brought forward by official XIII.

⁹⁵ Brought forward by interviewee G.

⁹⁶ Brought forward by interviewees 2 and 3.

⁹⁷ Interviewee 3.

⁹⁸ Brought forward by interviewee J.

⁹⁹ Brought forward by interviewee G.

¹⁰⁰ Brought forward by interviewee J.

Interviewees acknowledge threats but regard their contribution to justice and reconciliation more important ¹⁰¹	2				2
--	---	--	--	--	---

4.4 Indicated threats

The previous paragraph has shown that the witnesses of the Extraordinary Chambers can feel quite vulnerable. The important question in this respect is of course which risks and threats will be posed to them and by whom. The following paragraphs will present the expectations of the assessment interviewees in this regard.

4.4.1 Threatening parties in Takéo province

The interviewees in Takéo province and the government representatives have been asked to share opinion on who would pose the greatest threats to the people who will appear as a witness of the ECCC. The outcomes of the interviewees have indicated the following parties in Takéo and Cambodia: senior Khmer Rouge leaders, government officials, relatives of the accused, former lower Khmer Rouge cadres and victims. The views and concerns of the interviewees and official representatives will be clarified in the following paragraphs.

4.4.1.1 Accused and their relatives

During the assessment it has become clear that some of the interviewees expect pressure from the accused Khmer Rouge leaders or their relatives towards the witnesses. The interest of the leaders on trial in the evidence that will be brought forward by the witnesses is quite obvious, for the witnesses can reveal burdening and unburdening information. The interest of the relatives of the accused is clearly connected, as the outcomes of the trial can have an important impact on their lives as well.

One survivor of Kraing Tachan prison has stated that although he has faith in the present government, he fears the senior leaders of the Khmer Rouge. Unfortunately he has not explained his thoughts in detail.¹⁰²

With respect to the relatives of the leaders one former cadre, who worked at the Ministry of Foreign Affairs, has indicated that they may want take revenge if he reveals his experiences and knowledge as a witness of the Extraordinary Chambers.¹⁰³ Unfortunately he did not seem willing to explain his thoughts in great detail as well. A former guard of Kraing Tachan prison initially stated that he did not fear for his safety. In the course of the interview he changed his statement and expressed his concern that family members of the accused might want to take revenge. In this respect he did not indicate whether he really has information that may be burdening for the accused.¹⁰⁴ One of the Kraing Tachan survivors is afraid that family members of the persons on trial want to take revenge and even thinks that they would want to kill him after he has revealed his story before the KRT.¹⁰⁵

¹⁰¹ Brought forward by interviewees 2 and 3.

¹⁰² Brought forward by interviewee 3.

¹⁰³ Brought forward by interviewee R.

¹⁰⁴ Brought forward by interviewee F.

¹⁰⁵ Brought forward by interviewee 5.

The Chief Commander of the Takéo Provincial Police does not seem to agree with the abovementioned considerations. In his view there is no reason to fear the family members of the senior leaders who will be on trial.¹⁰⁶

4.4.1.2 Present government officials

A second group of people who have been brought forward as a possible threat to the ECCC witnesses is related to a quite sensitive topic in Cambodia: the Khmer Rouge involvement of high officials in the present government. Their alleged involvement may come once again to the surface when the prosecution and defence teams present their evidence before the Chambers. The interest of present government officials in the outcomes of the trials may challenge them to influence the witnesses and manipulate their testimonies in various manners.

In this respect two interviewees in Takéo have revealed their concerns. One of the former prison guards of Kraing Tachan has expressed his concern with respect to the present government. Although he has not explained his thoughts in detail, he seems to be worried that the government will pose a threat to him when he reveals the information that he has.¹⁰⁷ A S-21 survivor, who has been confronted with intimidation by a government official a few years ago, has revealed a similar concern. According to the former prisoner a representative of the Ministry of Interior intimidated him to assure he would not reveal the Khmer Rouge involvement of present members of the Cambodian People's Party.¹⁰⁸

The judge of the Municipal Court of Phnom Penh explained that most government officials and local authorities are members of the Cambodian People's Party. According to the judge many of these government officials still support the Khmer Rouge or have been involved with the Khmer Rouge during the years of the regime. The witnesses of the Extraordinary Chambers cannot rely on the government representatives and there may be even a risk of revenge. The representative of the judiciary did not explain his concern in further detail.¹⁰⁹

The suspicion of the involvement of present government officials has also brought to light during the interview with the Deputy Prosecutor of the Takéo Provincial Court. The official stated that only a few government representatives still support the ideas of the Khmer Rouge. This small amount of people will not form a threat to the witnesses.¹¹⁰

4.4.1.3 Former Khmer Rouge cadres on a lower level

In a number of interviews it has been indicated that those who have been involved in the Khmer Rouge killings on a lower level can form a significant threat for the witnesses of the Extraordinary

¹⁰⁶ Brought forward by official VII, VIII and IX.

¹⁰⁷ Brought forward by interviewee A.

¹⁰⁸ Brought forward by interviewee 9.

¹⁰⁹ Brought forward by official V.

¹¹⁰ Brought forward by official XI.

Chambers as well.¹¹¹ The messenger of S-21 has declared that he is more than willing to testify and explain about the horrors that occurred within the prison of the Khmer Rouge. He added, however, that he would not share this willingness with his community. Former Khmer Rouge cadres to whom his testimony may concern can get suspicious and may want to take preventive measures or revenge.¹¹² A survivor of the Kraing Tachan prison expressed his deep concerns with respect to his personal safety and the safety of his family. He lives in the same village and district as most of the Kraing Tachan prison guards and is afraid that his testimony invokes their suspicion. He is afraid that the prison guards or their families will take revenge if he appears as a witness and reveals the information he has before the Extraordinary Chambers.¹¹³

4.4.1.4 Victims and survivors

The arguments in the previous paragraph have also been presented the other way around. According to this line of reasoning victims may pose a threat as well to those who share their experiences before the tribunal. The Chief of the Provincial Cabinet pointed towards the position of the witnesses of the defence. Their testimonies may reveal their personal involvement in the crimes that occurred during the years of Democratic Kampuchea. Once victims and survivors are reminded of their sufferings and confronted by the involvement of witnesses herein, their resentment towards these witnesses may increase. In most extreme cases victims may still be willing to take revenge for their lost relatives and friends.¹¹⁴

The representatives of the Ministry of Interior have indicated as well that threats towards the ECCC witnesses may arise from victims and survivors. These people may want to take revenge on the lower cadres who have killed during the years of Democratic Kampuchea. Unfortunately the representatives have not explained their expectations in great detail.¹¹⁵

Threatening parties in Takéo province

Considerations	Victims	Cadres	Combatants and Security	Base people	Total
Witnesses will face acts of revenge and intimidation ¹¹⁶	3		1		4
Fear of reprisal by the senior Khmer Rouge leaders or their families ¹¹⁷	1	1	2		4
Fear of reprisal by former cadres or Khmer Rouge soldiers living in the same community ¹¹⁸	1		1		3
Present government officials form a threat towards the witnesses of the ECCC ¹¹⁹			1		1

¹¹¹See for instance the statements by interviewee L.

¹¹²Brought forward by interviewee L.

¹¹³Brought forward by interviewee 6.

¹¹⁴Brought forward by official VI.

¹¹⁵Brought forward by official III.

¹¹⁶The interviewees who expressed their fear of revenge of intimidation often did not specify who in their society would want to take revenge. Brought forward by interviewees 6, 8, 9 and K.

¹¹⁷Brought forward by interviewees 5, R, A and F.

¹¹⁸Brought forward by interviewees 6 and L.

¹¹⁹Brought forward by interviewee A.

No clarification on who would want to take revenge and how ¹²⁰	1		1		2
---	---	--	---	--	---

4.4.2 Present supporters of the Khmer Rouge

During the assessment the present position of the Khmer Rouge have been discussed from two standpoints. A number of interviewees have on the one hand stated that the Khmer Rouge still have a significant position within the present Cambodian society. On the other hand it has been stressed that the Khmer Rouge leaders will not pose any threat to the ECCC witnesses, while their organisation has been demolished. In this respect one of the survivors of Kraing Tachan has stated that the former Khmer Rouge leaders do not have the same position and power as they had during the DK period. Nowadays, the roles have reversed and the former Khmer Rouge leaders have to fear him when he will tell his story before the international tribunal.¹²¹ Likewise another Kraing Tachan survivor explained that the Khmer Rouge does have as much power as it used to have will not dare to take to revenge.¹²²

Amongst the official representatives several interviewees have asserted a similar point of view. The Chief Commander of the Takéo police explained that there is no reason to fear the senior leaders on trial or their relatives. The structure of the Khmer Rouge has been destroyed and the cadres who have survived do not have a leader anymore. Chances or revenge by Khmer Rouge supporters and former Khmer Rouge cadres are therefore slim. The Chief Prosecutor, the Deputy Prosecutors and Chief Judge of the Takéo Provincial Court revealed a similar point of view in this regard.¹²³ According to Chief Judge there are no conflicts of interests anymore in Cambodian society. Justice will be found based through democratic means.¹²⁴

Present position of the Khmer Rouge

Considerations	Victims	Cadres	Combatants and Security	Base people	Total
Khmer Rouge does not have power anymore in present Cambodian society ¹²⁵	2				2
Khmer Rouge has still a lot of power and is supported in present Cambodian society ¹²⁶			1	1	2

4.4.4 Risks of revenge and reprisal

In view of the sensitive character of this study, it will be no surprise that some of the interviewees have found it difficult to share their expectation on who will be the greatest threat to the witnesses of the Extraordinary Chambers. The tendency to secrecy and uncertainty in this regard has become clear

¹²⁰ Brought forward by interviewees 3 and K.

¹²¹ Brought forward by interviewee 2.

¹²² Brought forward by interviewee 8.

¹²³ Brought forward by official X and XI.

¹²⁴ Brought forward by official XIII.

¹²⁵ Brought forward by interviewees 1, 2 and 8.

¹²⁶ Brought forward by interviewees A and E.

in various ways. The Chief Prosecutor of the Takéo Court has stressed that it is impossible to predict who will pressure the witnesses before the processes have begun. The possible threats will come to the surface during the Khmer Rouge trials and depend for an important part on the testimony and position of the witnesses, for it has than appeared who is directly affected by the witness testimonies.

The most serious threat that has been brought forward during the assessment is the risk to be killed out of revenge. One of the victims who has been imprisoned in Kraing Tachan and was severely tortured, expressed his fear that the relatives of the persons on trial want to kill him after he has revealed his story before the KRT.¹²⁷ In a similar context a Kraing Tachan prisoner has brought forward that he is not afraid to die. As a member of FUNCINPEC he stated to be fully aware of the risks he may run.¹²⁸ Another FUNCINPEC member has pointed to the risk that people may be killed for reasons of their testimony. As a member of the opposition party, this former Chief of Cooperative, is aware of the threats regarding his personal safety. He has explained that ECCC witnesses may be confronted by sudden accidents, such as armed robberies and traffic accidents, as a cover up for the acts of revenge. He concluded by stated that is willing to testify even if this may lead to his death.¹²⁹

Possible threats and risks

Considerations	Victims	Cadres	Combatants and Security	Base people	Total
Witnesses face a risk of being killed ¹³⁰	2	2			4
Reprisals may be taken through for instance armed robberies or traffic accidents ¹³¹		1			1
Fear of revenge or other threats is based on previous cases of intimidation ¹³²	1				1

¹²⁷ Brought forward by interviewee 5.

¹²⁸ Brought forward by interviewee 3.

¹²⁹ Brought forward by interviewee J.

¹³⁰ Brought forward by interviewees 3, 5, B and J.

¹³¹ Brought forward by interviewee J.

¹³² Brought forward by interviewee 9.

Chapter 5 Vulnerable witnesses

As mentioned in the introduction, the purpose of the threat assessment is to learn more about the attitude towards the witnesses of the Extraordinary Chambers. The Khmer Rouge has affected the witnesses in different ways and all witnesses represent different manners of involvement with the regime. It is important to acknowledge that the societal attitude towards the witnesses may depend on these differences. The role of a witness within the trials, the position of a witness within the Khmer Rouge regime or for instance the position of a witness in present-day Cambodian society may influence the response of their communities and leave one witness more vulnerable than the other. This chapter presents an assessment of possible vulnerable witnesses as brought forward by the interviewees. The outcomes indicate the following groups of witnesses who may be more vulnerable than others: witnesses of the defence, members of the opposition parties and persons who have valuable information regarding the trials.

5.1 Witnesses of the defence

One group that has clearly been identified as a vulnerable group amongst the ECCC witnesses are the people who appear as the witnesses of the defence. During the threat assessment people have been questioned on their opinion regarding these witnesses. The outcome of this assessment is quite clear. Fifteen out of twenty-eight interviewees seemed not to be willing to share their opinion on this issue. Thirteen interviewees stated that nobody would support the Khmer Rouge leaders or expressed their disapproval towards the witnesses of the defence. Only one of the victims, a former prisoner of the Kraing Tachan prison, has expressed his belief that many people still support the Khmer Rouge and will be willing to testify on the part of the Khmer Rouge leaders.¹³³ This interviewee did not state to be willing to appear as witness of the defence himself.

A large majority of the people who have expressed their opinion in this regard expected that most people in Cambodia would not be willing to appear as witness of the defence.¹³⁴ The Deputy Prosecutor at the Provincial Court of Takéo explained that the sufferings of the people would restrain them from being such a witness.¹³⁵ Although the Chief of the Provincial Cabinet seems to be convinced that witnesses are completely safe, he suspected that in comparison with others the witnesses of the defence are most vulnerable. The survivors and victims may feel some resentment towards them once they are reminded of their experiences during the Khmer Rouge years.¹³⁶ An affirmative remark was made by one of the medical staffs. She has added that the Khmer Rouge was an awful regime and that she could not imagine why people would be willing to support the most responsible leaders of such a regime.¹³⁷ A security guard of Kraing Tachan has made the most far-reaching remark by stating that witnesses who support the accused on trial betray the nation.¹³⁸

¹³³ Brought forward by interviewee 5.

¹³⁴ Brought forward by interviewees 3, C, D and G.

¹³⁵ Brought forward by official XI.

¹³⁶ Brought forward by official VI.

¹³⁷ Brought forward by interviewee E.

¹³⁸ Brought forward by interviewee F.

Some official representatives have brought forward similar perceptions and expect that most people are not willing to appear as a witness of the defence. In this respect it has been stated by the representatives of the Ministry of Interior that witnesses of the defence will probably be hard to find, as nobody is willing to support the senior Khmer Rouge leaders on trial.¹³⁹ In addition the representatives have stated that the identity of the witnesses of the defence should be confidential. In order to protect their safety they should testify without revealing their identity, either in another room or by using microphones.

5.2 Members of the opposition party

A second vulnerable group brought forward by the interviewees include the witnesses who are also member of the political opposition parties Sam Rainsi and FUNCIPPEC. The Judge of the Phnom Penh Municipal Court has indicated that members of the opposition parties are more vulnerable as a witness than other witnesses.¹⁴⁰ The judge referred in this respect to the members of Sam Rainsi, but other interviewees have pointed towards the vulnerability of FUNCIPPEC supporters as well. Two interviewees, one survivor of Kraing Tachan and one former chief of cooperative, have based their statements on their experiences as a opposition member in Cambodia. Both have explained to be aware of the serious threats than can come to the surface once opposition members appear as a witness of the ECCC. They would increase their protective measures once they are requested to appear as a witness for the Extraordinary Chambers.¹⁴¹

5.3 Khmer Rouge involved and well-informed witnesses

In addition to the abovementioned vulnerable witnesses, the fear assessment has shown that the vulnerability may also cohere with the Khmer Rouge history of witnesses themselves. On the one hand it is possible that witnesses themselves have participated in the crimes that are to be judged by the Extraordinary Chambers. These witnesses may have had a higher or lower level position within the Khmer Rouge structures. On the other hand it is possible that people have valuable information because they have either witnessed the atrocities from close by or because they have been closely connected to the senior leaders of the Khmer Rouge.

The Khmer Rouge trials may have impact on the first category based on the following reasons. As the trials of the tribunal will be public and broadcasted throughout the whole country, people in Cambodia will learn who has been a killer during Democratic Kampuchea. The tribunal has jurisdiction regarding those who are most responsible and the senior leaders of the Khmer Rouge and therefore these killers will not be prosecuted. It has already been pointed out in paragraph 5.4.1.4 that victims may feel strong resentment towards these witnesses. The identity of the killers will be known, which emphasises their vulnerable position in the Cambodian society.¹⁴² In this respect the Chief of the

¹³⁹ Brought forward by official I.

¹⁴⁰ Brought forward by official V.

¹⁴¹ Brought forward by interviewees 3 and J.

¹⁴² Brought forward by officials I, II, III and IV.

Provincial Cabinet has pointed out that the disclosure of their history may lead to a discriminatory relationship within the community of the witnesses.¹⁴³

The vulnerability of the second category will be demonstrated on the basis of two examples. The first example in this regard refers to one of the Kraing Tachan survivors who has been imprisoned for more than three years. During his time at the prison he has closely witnessed the prison policies and the involvement of the prison guards who nowadays live in the same village or district. It is not difficult to imagine that the former prison guards have a certain interest in the testimony of the former prisoner, for he may reveal their involvement in the executions in Kraing Tachan.¹⁴⁴ The Judge of the Municipal Court in Phnom Penh has presented another example, which refers to the situation of two regions in Battambang province during Democratic Kampuchea. During those years the two regions have been governed in different ways. The Khmer Rouge ruling in the first region was far stricter than the ruling by the cadres in the other region. An important indicator in this regard is the fact that all teachers in the first region have been executed, whereas ninety percent of the teachers in the other region have survived. These differences in ruling show that lower Khmer Rouge cadres have followed superior orders in various ways. It also indicates that cadres have been involved in the crimes on various levels. Nowadays, some of these cadres fulfil positions within the local authority and in the ruling government.¹⁴⁵ Most of the people in Battambang are well aware of their Khmer Rouge backgrounds. It is not hard to imagine how witnesses can be affected once they reveal this information during the processes, thus stated by the Judge.¹⁴⁶

Both examples show that witnesses who either witnessed the atrocities from close by may become quite vulnerable once they reveal important information during their testimonies.

¹⁴³ Brought forward by official VI.

¹⁴⁴ Brought forward by interviewee 6.

¹⁴⁵ The official referred to the involved of one of the present ministers in Battambang province.

¹⁴⁶ Brought forward by official V.

Chapter 6 Impact

Most of the representatives seem to believe that there is no lack of people who are willing to testify as a witness. The decision to be a witness, however, does not just depend on their eagerness to contribute to the Khmer Rouge Trials. Witnesses may encounter various obstacles on their way to the Extraordinary Chambers. Some of the obstacles have already been discussed in the previous chapter, but those obstacles mainly involved the personal safety of the witnesses. This chapter will touch upon other obstacles that have been brought forward by the interviewees of the threat assessment.

6.1 Financial impact for the ECCC witnesses

One of the questions during the interviews has specifically been focussed on the anticipated financial impact for those who will appear as a witness for the Extraordinary Chambers. As most of the candidate witnesses live in the rural areas and provinces of Cambodia, it was assumed that their visits to Phnom Penh would have some financial consequences. In view hereof people have been asked whether they would need financial compensation for their visits to the Extraordinary Chambers.

Out of all interviewees who agreed with the interview, three victims and one former Khmer Rouge cadre have pointed out that they would not have sufficient means of their own to cover the costs. Four interviewees expect financial compensation not to be necessary as they have sufficient means of their own. In addition to these interviewees, eight other interviewees have attributed the financial impact to their loss of income, as it would be necessary for them to interrupt their work. Only one of them specifically expressed that he expects the tribunal to cover the costs, compared to four other interviewees who explained that they won't ask but will accept if financial compensation is offered. Most of the interviewees have not referred to the consequences if financial expenses will not be compensated.

Financial compensation

Considerations	Victims	Cadres	Combatants and Security	Base people	Total
Financial compensation is necessary as interviewee does not have sufficient resources to cover the costs ¹⁴⁷	3	1			4
Financial compensation is needed to cover the loss of income ¹⁴⁸		1	4	3	8
Interviewee expects the tribunal to cover the costs of the witnesses ¹⁴⁹				1	1
Financial compensation would not be necessary as interviewee can cover the financial costs ¹⁵⁰	3			1	4
Interviewee does not expect the tribunal to cover the costs of the witnesses ¹⁵¹		1	1		2

¹⁴⁷ Brought forward by interviewees 4, 5, 9 and B. Interviewee B did not refer to his own situation or preference, but explained that most people in Takéo province are poor and will need financial compensation.

¹⁴⁸ Brought forward by interviewees A, E, F, G, L, M, R and S.

¹⁴⁹ Brought forward by interviewee O.

¹⁵⁰ Brought forward by interviewees 1, 2, 8 and N.

Interviewee does not expect the tribunal to cover the costs but will accept financial compensation ¹⁵²	3			1	4
Interviewee prefers financial compensation but will not refuse to be a witness if compensation is not granted ¹⁵³		1			1

Interviewees 6, C and D did not share their opinion in this regard.

The outcomes of the interviews as explicated above do not present a convincing plea for financial compensation. The official representatives, however, regard financial compensation very important. Especially the Deputy Prosecutor of the Court in Takéo has emphasised the importance of financial compensation. He explained in this regard that people in Takéo province are poor and that the financial impact may be a grand obstacle for them to be a witness before the Extraordinary Chambers. In his career as a prosecutor he has often experienced that witnesses do not show up for they are not willing to spend any money for their testimony.¹⁵⁴

One of the Takéo judges has expressed similar views and shares similar experiences as a judge in Takéo province. He has learned that the financial impact often withholds people from being a witness in procedures for the courts. He also mentioned that witnesses may look for other ways to fund their expenses. In this respect the judge alerts the Extraordinary Chambers that these sponsors may try to influence their testimonies.¹⁵⁵ The vast majority of the official representatives have supported the view that financial compensation is essential.¹⁵⁶

6.2 Impact on the situation of ECCC witnesses

During the fear assessment interviewees have been questioned what impact their testimony would have on their personal living situations. Some interviewees have mentioned that their testimonies as a witness will affect their personal living conditions or their work as a farmer. In addition, some of the official representatives have addressed the possible impact on the status of witnesses within their communities.

6.2.1 Personal living situation

For most of the people in Cambodia it may be a problem to leave their homes for a couple of days in order to appear as a witness before the Khmer Rouge Tribunal. The vast majority of the Cambodians is farmer whose life depends on their daily efforts in their families and communities.

Eighteen of the interviewees in Takéo province have affirmed that being a witness of the Khmer Rouge Tribunal will affect their daily lives and personal living conditions. Nine of these witnesses, amongst whom two victims, two former cadres, two combatants and security personnel and three base people have attributed the impact to the interruption of their work. One of the S-21 survivors,

¹⁵¹ Brought forward by interviewees J and K.

¹⁵² Brought forward by interviewees 3, 7, 10 and Q.

¹⁵³ Brought forward by interviewee P.

¹⁵⁴ Brought forward by official XI.

¹⁵⁵ Brought forward by official XII.

¹⁵⁶ See also interview with official V and VI.

who is currently a village chief, has explained that his job entails great responsibility. It would be rather difficult for him to leave his village for a longer period of time.¹⁵⁷ Two former medical staff, who are farmers nowadays, have made it clear that there would be nobody to take care of their children, the animals and the required work on the rice fields.¹⁵⁸ In a similar context a former guard of the Kraing Tachan prison has pointed out that his family would not be protected during his absence.¹⁵⁹

Personal living situation

Considerations	Victims	Cadres	Combatants and Security	Base people	Total
Testimony as a witness will have impact on the family situation ¹⁶⁰ of the interviewee ¹⁶¹	1	4	2	2	9
Testimony as a witness will have impact on the work as a farmer ¹⁶² or in any other way ¹⁶³	2	2	2	3	9
Testimony as a witness will not have impact on the family situation of the interviewee ¹⁶⁴	5				5
Testimony as a witness will have impact on the secure situation of the family as the home and relatives will be unprotected ¹⁶⁵			1	1	2

Interviewees 3, 5, 9, B, K and Q did not share a specific opinion in this regard.

6.2.2 Status in the communities

Most of the official representatives have placed the possible impact in a broader picture. During their interviews it has mainly been considered whether the status of the witnesses in their communities will be affected. The Judge from the Municipal Court has expressed his deep concern which is addressed in paragraph 5.2. The Judge has explained that most people in Cambodia are dependent on their relationship with the chiefs of village and chiefs of commune. The local representatives often support the villagers by means of water supply, food supply and other ways of assistance. The Judge indicated that a great number of chiefs are still supporters of the Khmer Rouge. How would it be possible for people to testify against the leaders of the Khmer Rouge when those who they depend on are still firm believers of the Khmer Rouge policies?¹⁶⁶

¹⁵⁷ Brought forward by interviewee 10.

¹⁵⁸ Brought forward by interviewee E and M.

¹⁵⁹ Brought forward by interviewee F.

¹⁶⁰ The interviewees who have not specified their concerns have been grouped in this category.

¹⁶¹ Brought forward by interviewees 6, A, C, D, G, J, O, P and S.

¹⁶² This category refers to the interviewees who have stated that being a witness will have impact on their work as a farmer, as the cattle will be unattended and the work at the rice fields has to be stopped for a few days.

¹⁶³ Brought forward by interviewees 6, 10, C, E, F, I, L, M and R.

¹⁶⁴ Brought forward by interviewees 1, 2, 4, 7 and 8

¹⁶⁵ Brought forward by interviewees F and N.

¹⁶⁶ Brought forward by official V.

The representatives of the Ministry of Interior explained that people are willing but may find it difficult to share their history before the Extraordinary Chambers. In this respect they have pointed towards victims of rape for whom it may be more difficult to share their experiences in public. Another group that may find it more difficult to testify are the people that will appear as witnesses of the defence.¹⁶⁷

The outcomes of the interviews show that being a witness is expected to have important impact on the individual lives of the witnesses. Especially the official representatives have pointed out the ways in which the lives of witnesses may be affected. Based on these interviews financial support and possible obstacles in the community should play an important role in the creating proper ways of response and assistance. This will be further explained in the following chapter.

¹⁶⁷ Brought forward by officials I, II, III and IV.

Chapter 7 Supportive and protective measures

This fear assessment has been conducted in order to outline supportive measures that can be taken by DC-Cam and perhaps the Extraordinary Chambers and NGO's. The measures that have been proposed by the interviewees of the fear assessment can be categorised in protective, informative, logistic, supportive and financial measures.

7.1 Informative measures

Over the last years more and more outreach programmes have been initiated by DC-Cam and NGO's in Cambodia in order to inform the people in Cambodia about the tribunal that is dedicated to find justice for them and their lost relatives. The establishment and purpose of the Extraordinary Chambers have been explained to them in numerous booklets, pamphlets, through seminars, radio and television. As mentioned in the third chapter, these sources of information have reached the interviewees and most of them have been informed on the establishment of the Khmer Rouge Tribunal. It has appeared, however, that besides the basics regarding the tribunal people are not informed on relevant details. The vast majority is not familiar with the possible consequences of witness testimonies. The representatives of the Ministry of Interior, the Chief of Provincial Cabinet, the Chief Prosecutor of the Takéo Court, the Chief Commander of the Takéo Provincial Police, the Deputy Prosecutor of the Takéo Court and a Judge of the Takéo Provincial Court have emphasised the importance of this lack in information.

The representatives of the Ministry of Interior stated that inadequate knowledge on the possible consequences of being a witness will encourage uncertainty and tension within the society. An example brought forward in paragraph 6.3 may be used to enlighten this line of reasoning. The example referred to the vulnerable position of a former Kraing Tachan prisoner with respect to the former cadres who live in the same village and sub district. If the prisoner is requested to be a witness, the former cadres may feel threatened by his position as a witness. As long as the former lower cadres are not informed on the actual scope of the "most responsible", they will feel uncertain about the consequences of the testimony by the former prisoner can have.

Uncertainty will not only raise doubt and tension in society, it may also discourage the people to appear as. Another Ministry representative has explained in this regard that that it will be hard for people to measure the value of their testimony if they are not properly informed. People may think their testimony is useless and will therefore not be encouraged to interrupt their work. By being informed, people will gain confidence in the process and will be more willing to make certain sacrifices.¹⁶⁸ The Chief Prosecutor of the Takéo Court has explained that the Extraordinary Chambers have to inform the people in Cambodia about the objective of the tribunal in order to encourage them to speak out.¹⁶⁹ In addition to these views a Judge of the Municipal Court in Phnom Penh added that the people in Cambodia will not learn from the lessons of the tribunal if they are not properly

¹⁶⁸ Brought forward by officials I, II, III and IV.

¹⁶⁹ Brought forward by XI.

informed. The judge has added that the tribunal can only achieve the anticipated educational value if the people of Cambodia are enlightened about the proceedings.¹⁷⁰

With respect to the lack of information on the tribunal, the official representatives have emphasised the importance of outreach. The programmes that already exist are too limited in number and do not reach enough people throughout Cambodia. The officials have suggested that the programs should not only be intensified, but that they should include comprehensive information on the UN agreement and the ECCC law as well.¹⁷¹ One of the representatives of the Ministry of Interior has proposed to form a billboard, which explains the relevant details of the tribunal laws. These sources of information are easy to distribute in the provinces and can increase the level of outreach. The Chief of the Provincial Cabinet has suggested that more detailed and relevant information should be broadcasted by radio and television.¹⁷² Nowadays, most of the people who live in the rural areas of Cambodia have access to one of both media. A representative of the Ministry of Interior has referred in this regard to the short documentaries on HIV/AIDS and bird flue, successfully broadcasted by radio and television in Cambodia.¹⁷³

7.2 Protective measures

Even though most of the interviewees have expressed their wish to be a witness before the tribunal, many interviewees are aware that there may be some threats to their personal safety. For most of the interviewees it appeared to be difficult to explain why they were afraid and what they feared the most. It often occurred that interviewees have started the interview by saying there is nothing to fear and have concluded by saying they would not testify without sufficient safety measures by the government.¹⁷⁴ The interviewees have been questioned how DC-Cam or the Extraordinary Chambers could best support the witnesses and whether they had any suggestions for protective measures. As a result of the hesitance earlier described, only a few interviewees in Takéo suggested detailed measures. These suggestions and the suggestions of the official representatives will be described in the following paragraphs.

7.2.1 Selection and pre-trial procedures

In answer to the question whether the interviewees have any suggestions to support and protect the witnesses, only a few have referred to measures that have to be taken before they will appear before the Extraordinary Chambers. One of the former cadres stated for instance that the identity of the witnesses should be kept confidential from the moment a person is requested as a witness.¹⁷⁵

The Judge of the Municipal Court in Phnom Penh explained that the process of requesting witnesses should fulfil at least three requirements. First of all, the tribunal should carefully chose who they want

¹⁷⁰ Brought forward by official V.

¹⁷¹ Brought forward by officials I, II, III and IV.

¹⁷² Brought forward by officials I, II, III, IV and VI.

¹⁷³ Brought forward by officials I, II, III and IV.

¹⁷⁴ Interviewees C and F.

¹⁷⁵ Brought forward by interviewee B.

to request as a witness before their process has started. Once people are selected, the tribunal should provide them with a document confirming that the Extraordinary Chambers will provide protection for them and their families. A third requirement is that the document should include the declaration that the United Nations will provide a visa to one of their member states once it has appeared that the witness is in serious danger. The last proposal of the Judge is based on his presumption that witnesses who feel seriously threatened may want to flee from Cambodia. Most of the people, however, believe that this option will have far-reaching consequences and expect that the UNHCR will not assist them. The judge explained that this insecure prospect withholds people from testifying. The international relocation option as proposed by the Judge will in reality not be executed, but it will increase the confidence of the witnesses and encourage them to share their experiences on trial.¹⁷⁶

7.2.2 Measures with respect to the identity of the witnesses

The interviewees of the assessment have provided various suggestions to protect the witnesses during the trials. One of the most indicated measures is related to the confidentiality of the ECCC witnesses. One former cadre and three Khmer Rouge combatants and security personnel expressed their preference to be an anonymous witness.¹⁷⁷ A former guard at Kraing Tachan prison has explained that he is afraid that relatives of the Khmer Rouge leaders on trial will take revenge once they know his identity.¹⁷⁸ Another guard of the same prison explained that he would like to be anonymous, but that most of the people in his village already know about his role during the Khmer Rouge regime.¹⁷⁹ Three victims, one cadre and one of the base people have explained that they will not have a problem to reveal their identity in public.¹⁸⁰ One of the S-21 survivors explained in this regard that the fact that he has already been pressured indicates that people are familiar with his history anyway.¹⁸¹

Anonymity

Considerations	Victims	Cadres	Combatants and Security	Base people	Total
Preference to be anonymous witness ¹⁸²		1	3	1	5
No problem to make identity public ¹⁸³	3	1		1	5

With respect to the confidential identity of the ECCC witnesses the official representatives have expressed various views. The representatives of the Ministry of Interior have given a thorough explanation and indicated that witness protection must be divided in two phases, pre-trial and during the trial. One of them explained that it is important to maintain confidentiality on the witnesses in the first phase and that the Extraordinary Chambers cooperate with the local authorities to support them.

¹⁷⁶ Brought forward by official V.

¹⁷⁷ Brought forward by interviewees F, G, J, K, N and O.

¹⁷⁸ Brought forward by interviewee F.

¹⁷⁹ Brought forward by interviewee G.

¹⁸⁰ Brought forward by interviewees 7, 8, 9, B and M.

¹⁸¹ Interviewee 9.

¹⁸² Brought forward by interviewees F, G, J, K, N and O.

¹⁸³ Brought forward by interviewees 7, 8, 9, B and M.

After the prosecutor of the Extraordinary Chambers has decided who will appear as a witness, the prosecutor should request assistance of the police. Only the police and local authorities may be informed on the identity of the people and the information cannot be made public.¹⁸⁴ One of the representatives of the Ministry of Interior has stated in this regard that especially the identity of the witnesses of defence should be confidential. The Khmer Rouge Trials will be broadcasted throughout Cambodia and in order to protect their safety the identity should not be revealed to the public. In this regard it has been suggested to let the witnesses testify in another room or by using microphones.¹⁸⁵ The Judge from the Municipal Court in Phnom Penh explained in this regard that provisions regarding the anonymity of a witness have been provided in the Criminal Code of 1993.¹⁸⁶

Not all official representatives supported the view that witnesses should not reveal their identity for the public. In line of their believe that witnesses have nothing to fear, the Chief of the Provincial Cabinet, the Chief Commander of the Takéo Provincial Police and the Deputy Prosecutor Takéo Province explained that there is no reason for witnesses to keep their identity confidential.

7.2.3 Additional protective measures

During the interviews various measures have been brought forward that are relevant for different stages in the process. Some measures, such as those mentioned in the previous paragraph, have to be endorsed during the whole process of the Khmer Rouge Trials. Other measures are relevant to a certain stage, such as the trial or post-trial stages.

With respect to the trial stage a number of interviewees have brought forward valuable suggestions. An important measure in this respect refers to the housing arrangements of the witnesses. The representatives of the Ministry of Interior have stressed the importance of safe housing facilities.¹⁸⁷ In their opinion the ECCC witnesses cannot stay in Phnom Penh without protection. The police in Phnom Penh should accompany them during the trials and the safe housing provisions are important assets to their safety.

With respect to the safety measures after the trial it appeared to be more difficult for the interviewees and representatives to suggest protective measures. One of the representatives of the Ministry of Foreign Affairs explained that it the national police does not have enough resources to protect the witnesses the rest of their lives. The official did, however, point out that people should not forget the rule of present laws in Cambodia, as the laws will safeguard the position of the witnesses.¹⁸⁸ The Chief Commander of the Takéo Provincial Police stressed as well that the present Cambodian society is built on laws that prohibit any acts of revenge. Those who will intimidate or take revenge will be punished, so witnesses will have nothing to fear.¹⁸⁹ A final reference is made to the remarks of the Deputy

¹⁸⁴ Brought forward by officials I, II, III and IV. Supported by official X.

¹⁸⁵ Brought forward by interviewees I, II, III and IV. The reasons to believe that witnesses of the defence are more vulnerable have been explained in paragraph 5.2.

¹⁸⁶ Brought forward by official V.

¹⁸⁷ Brought forward by officials I, II, III and IV.

¹⁸⁸ Brought forward by officials I, II, III and IV.

¹⁸⁹ Brought forward by official VII, VIII and IX.

Prosecutor of Takéo. The Deputy has explained that the government will facilitate the process of the tribunal. All witnesses should realise that the current government has protected and supported them over the last years and there is no reason to doubt the abilities of the strong present government.¹⁹⁰

In comparison to the above explained confidence in the society, some representatives expressed their disbelief in the secure position of the ECCC witnesses after the trials. The Chief Prosecutor of Takéo province suggested that the military authorities on district level should assist the local authorities in protecting the witnesses after they have returned to their homes.¹⁹¹ One of the Takéo judges conformed this suggestion and stressed that the level of protection should be very high. According to the judge, the local authorities will not be capable to provide this level of protection and the district military police should assist. He has added that proper measure of protection can only be provided if the international community assists the Cambodian government.¹⁹²

7.3 Logistic and supportive measures

The purpose of this assessment is not only to give insight in the attitude of society towards witnesses, it is also to provide suggestion for DC-Cam, the Extraordinary Chambers and NGO's on how to support and assist the ECCC witnesses. It has appeared in the previous paragraph that the primary responsibility for the protection of the witnesses rests on the shoulders of the Extraordinary Chambers in cooperation with the Cambodian government. The role of DC-Cam and NGO's will become more apparent in this paragraph, which describes the logistic and supportive measures that have been suggested by the interviewees.

One of the measures brought forward by a number of interviewees refers to their preference to be accompanied on their trip to the Extraordinary Chambers in order to testify before the court. Seven interviewees indicated that they would like to be accompanied by their villagers. One of the interviewees expressed his wish to be accompanied by his son and three interviewees hope staff of DC-Cam can accompany them. A prisoner of the Kraing Tachan prison explained in this regard that the staff of DC-Cam is familiar with his history and personal situation. This would make him more comfortable and confident to appear as a witness of the Extraordinary Chambers.¹⁹³ A guard of the same prison has expressed a similar view and stressed that witnesses should be accompanied by someone who they trust and know.¹⁹⁴ The messenger of S-21 has expressed a similar view and stated that he would like to be accompanied by staff of the Extraordinary Chambers.¹⁹⁵

¹⁹⁰ Brought forward by official XI.

¹⁹¹ Brought forward by official X.

¹⁹² Brought forward by official XII.

¹⁹³ This consideration is brought forward by interviewee 5.

¹⁹⁴ This consideration is brought forward by interviewee F.

¹⁹⁵ This consideration is brought forward by interviewee L.

Assistance and support

Considerations	Victims	Cadres	Combatants and Security	Base people	Total
Interviewee prefers to be accompanied by some of his villagers ¹⁹⁶	4	1		2	7
Interviewee prefers to be accompanied by family members ¹⁹⁷		1			1
Interviewee prefers to be accompanied by DC-Cam staff who are familiar with personal background and situation ¹⁹⁸	2		1		3
Interviewee prefers to be accompanied by staff of NGO's working in the field of the ECCC				1 ¹⁹⁹	1
Interviewee prefers to be accompanied by ECCC staff			1 ²⁰⁰		1
Interviewee prefers to be accompanied by someone who can keep her safe				1 ²⁰¹	1
Interviewee prefers to travel alone		1	1 ²⁰²		2
Interviewee does not want to travel alone, but does not have any preference who should accompany him or her ²⁰³	2	1		1	4

Interviewees 1, 2, 6, A, C, D, K and N did not share their opinion on this issue.

Another issue that has been brought forward by both the interviewees in Takéo province as the official representatives is related to the residence of the witnesses in Phnom Penh and relative supportive measures. The deputy chief and interrogator at Kraing Tachan prison has stated that ECCC witnesses must be supported in ways of financial support, travel arrangements, food and housing.²⁰⁴ The considerations regarding financial support have been discussed in paragraph 6.1. The remarks with respect to the travel arrangements, food and housing have not been very detailed, but the main suggestions have been categorised in the table below.

Accommodation and travel

Considerations	Victims	Cadres	Combatants and Security	Base people	Total
Accommodation ²⁰⁵	2	3			5
Food ²⁰⁶		4		1	5
Transport to Phnom Penh ²⁰⁷		3			3

¹⁹⁶ This consideration is brought forward by interviewees 5, 7, 8, 9, J, O and M.

¹⁹⁷ This consideration is brought forward by interviewee R.

¹⁹⁸ This consideration is brought forward by interviewees 3, 5 and F.

¹⁹⁹ This consideration is brought forward by interviewee S.

²⁰⁰ This consideration is brought forward by interviewee L.

²⁰¹ This consideration is brought forward by interviewee E.

²⁰² This consideration is brought forward by interviewees G and P.

²⁰³ Brought forward by interviewees 4, 10, B, Q and official interviewee II. Interviewee B stated that he would not mind to travel alone or to be accompanied by someone.

²⁰⁴ Brought forward by interviewee D.

²⁰⁵ Brought forward by interviewees 8, B, C and D.

²⁰⁶ Brought forward by interviewees B, C, D, S and P.

²⁰⁷ Brought forward by interviewees B, C and D.

Witnesses prefer to stay with relatives in Phnom Penh				1 ²⁰⁸	1
Compensation of accommodation and travel expenses	1	3		1 ²⁰⁹	4
ECCC should provide the supportive arrangements				1 ²¹⁰	1

Interviewees 1, 2, 3, 4, 6, 10, A, E and R did not have any suggestions in this regard.

7.4 Suggested role of DC-Cam and NGO's

The important role that DC-Cam and NGO's can play in supporting the witnesses was stressed by some of the official representatives. One of the judges of the court in Takéo explained that the support of NGO's is a very important asset in the process of the Khmer Rouge Tribunal. NGO's should support the government by facilitating the transport of the witnesses to Phnom Penh and they should assist in informing the witnesses on the exact procedures regarding their testimonies. The judge added that NGO's and local authorities should cooperate closely in order to gather as much valuable information needed in the processes as possible.²¹¹ The Chief of the Takéo Provincial Court has explained that DC-Cam and NGO's can have an important role in accompanying the witnesses during the trials and help them to speak frankly and open before the Extraordinary Chambers. He also stressed that it is important to make sure that the NGO's only support them and will not tell the witnesses what they should tell during their testimony.²¹² The third judge from Phnom Penh suggested that NGO's should assist the ECCC witnesses when their rights have been violated and create ways to be a watchdog. He added that these cases should be made public by the supporting NGO's.²¹³

Besides the proposed guiding role of DC-Cam one of the representatives of the Ministry of Interior added that witnesses must receive physical and mental support as well. The impact of the testimonies on the minds of the witnesses must not be underestimated and DC-Cam and NGO's can play a valuable role in this regard.

²⁰⁸ Brought forward by interviewee Q.

²⁰⁹ Brought forward by interviewees 8, B, C, D and S.

²¹⁰ Brought forward by interviewee M.

²¹¹ Brought forward by official XII.

²¹² Brought forward by official XIII.

²¹³ Brought forward by official V.

Chapter 8 Conclusions and suggestions

The fear assessment in Takéo province originates from the shortage of information on the status of ECCC witnesses in Cambodia. There is no doubt that witnesses will be a valuable asset to the Khmer Rouge trials, but the possible consequences of their contribution have not yet been examined. This study presents the results of an enquiry in Takéo province, with the purpose to identify the obstacles that witnesses of the Extraordinary Chambers may face. Forty-seven inhabitants and official representatives of Takéo province have expressed their views on the basis of which the following conclusions and suggestions can be drawn.

The assessment has shown that witnesses of the Extraordinary Chambers may face a variety of barriers as a result of their contribution to the Khmer Rouge Trials. The indicated consequences vary from the impact on the personal safety of the witnesses and their families, financial consequences, the impact on the position of the witnesses in their communities and possible consequences with respect to the personal living situations of the witnesses.

With respect to matters of personal safety it has been a great challenge to unveil the true fears and thoughts of the interviewees and to identify the imminent attitude within Takéo province. The topic of the assessment has appeared to be very sensitive and most of the interviewees have found it difficult to share their views in detail. Nevertheless, after reading between these lines it can be concluded that the witnesses of the Extraordinary Chambers are expected to be a vulnerable target of pressure or revenge. The majority of the interviewees is willing to appear as a witness but more than half of them have stated to be afraid to testify. Especially those who have had a position in the Khmer Rouge structures and those who have witnessed the crimes from close by expressed their fears in this regard.

The assessment has shown that witnesses can feel threatened by the senior Khmer Rouge leaders, government officials, relatives of the accused, former lower cadres and victims. Some interviewees expect that their testimony invokes the anger of the accused and their relatives. Other people believe that the position of present government officials may be challenged by information brought forward by ECCC witnesses. Again others are afraid that victims of the regime want to take vengeance on those who have been responsible for the killings on higher or lower levels within the Khmer Rouge structure.

The outcomes of the interviews indicate that some witnesses may be more vulnerable for acts of revenge than others. Especially with respect to the witnesses of the defence it has become clear that they are expected to be a vulnerable target within their community. Both the interviewees in Takéo province and the official representatives have expressed their disapproval regarding those

who support the accused Khmer Rouge leaders. A good indication of their condemning views is the statement of an interviewee who feels that witnesses of the defence betray the nation. Other vulnerable witnesses are the members of opposition parties and former Khmer Rouge cadres.

As stated in the introduction it is only possible to form a proper response when there is a clear understanding of the fears and thoughts of the parties involved. The broad ranging outcomes indicate that a proper response depends on the individual situation of the witnesses and their contribution to the trials. The Extraordinary Chambers and local authorities should, therefore, cooperate in forming protective measures that connect to the individual situation of the witnesses. General measures that have been suggested are safe housing facilities, measures to conceal the identity of the witnesses and close watch by the police. Only when the witnesses are provided with these or comparative measures, they will feel confident enough to appear as a witness and contribute to the Khmer Rouge trials.

In addition to the impact on the personal safety of the ECCC witnesses, the assessment has indicated that their contribution to the trials have financial consequences, impact on their status within their communities and possible consequences with respect to the personal living situations of the witnesses. It was especially stressed by the official representatives that financial considerations often withhold people from testifying in cases before the Courts in Cambodia. Most ECCC witnesses may not be able to cover the expenses themselves. In order to encourage people to contribute to the trials as a witness, they should receive financial compensation for their expenses. With respect to the status of witnesses within their communities, reference is made to the alleged support of local authorities and the government for the Khmer Rouge. Although most interviewees believe that the Khmer Rouge does not have important power in Cambodia anymore, others are afraid that especially the relationship between witnesses and their chiefs of village or sub district may be disturbed once they testify against the senior leaders of the Khmer Rouge. To conclude, it is important to realise that most witnesses are part of close family communities and their testimony as a witness may have impact on their personal situation. In this respect especially the interruption of their work and the impact on the security of their families have been brought forward as most important considerations.

Suggestions

The abovementioned conclusions indicate that there is a need to establish a set of informative, protective, logistic and supportive measures. Some of these measures fall clearly within the responsibility of the Extraordinary Chambers and the government, but others seem to connect with the field of expertise and experiences of DC-Cam and NGO's in Cambodia.

The first category in which DC-Cam can play an important role is providing more detailed information on the ECCC law and the (legal) consequences of witness testimonies before the

Extraordinary Chambers. During the assessment it has appeared that none of the interviewees are informed on the details of the law and that people do not know what consequences witness testimonies may have. The lack of thorough information in this regard has appeared to cause insecurity and tensions within Takéo province. As long as people do not know how broad the personal jurisdiction of the Extraordinary Chambers is interpreted, people may fear that the Khmer Rouge Tribunal has consequences for them as well. This applies especially to those who have been involved in the crimes committed during Democratic Kampuchea on lower levels. It is important to remember that 'the only thing we have to fear is fear itself'. A proper response in this regard is therefore to reduce the fears by informing people in Cambodia on the relevant details of the law. Once people realise that the consequences of witness testimonies are not as far-reaching as they thought, they will feel more confident to appear as a witness. In addition, it will hopefully change the suspicious approach regarding the witnesses of the Extraordinary Chambers.

With respect to the abovementioned dynamics DC-Cam can provide various forms of support. In the first place it suggested to adjust the existing or create additional outreach programmes and focus on more detailed information on the status of ECCC witnesses and their possible impact. Some of the official representatives have stressed the value of broadcasting informative programmes through television or through radio programmes. DC-Cam could for instance call for attention on these matters through their existing radio programme. The magazine "Searching for the Truth" is another possible source for the people to learn more about the issues and the outreach teams could perhaps devote special attention on ECCC witnesses as well.

The second category of suggestions is related to the sensitive and impressive nature of the Khmer Rouge trials for those who will appear as a witness. The vast majority of the interviewees have expressed their wish to be accompanied by someone who they trust and with whom they feel comfortable. The presence of such parties will increase the confidence of the witnesses and can be a valuable asset to the witness support.

Compared to the staff of the Extraordinary Chambers, DC-Cam and NGO's may probably represent more independence and impartiality for the witnesses. They may feel more comfortable in their presence, which leads to the suggestion for these independent parties to be involved in this aspect of witness support. In this respect it is, however, important to realise that the primary initiative and responsibility rests with the ECCC Witness Unit. In view of witness protection it may also be necessary to limit the execution of these supportive measures to that Unit. Nevertheless, the appeal of the interviewees for a secure environment makes it worth to look at the possibilities to cooperate and achieve a proper response in this regard.

The last suggestion is related to possible post-trial protective measures. During the assessment a number of interviewees have declared to be afraid and they stressed the need for protective measures during the trials but also after the trials have been completed. In this respect an appeal has made to the local authorities to provide additional measures to assure the safety of the ECCC witnesses and their families. Some have even suggested that these measures should be of a high level and that the international community should assist Cambodia in this regard. Surprisingly, a number of local representatives have declared that ECCC witnesses will have nothing to fear and that there is no need to take extra protective measures. Given the sensitive nature of this issue it difficult to know which of these parties are closest to reality. Nevertheless, the chances that witnesses are confronted with acts of revenge after the Khmer Rouge trials should be reduced as much as possible. In this respect the following suggestions may provide a solution.

DC-Cam has experience in providing police and other trainings related to the field of work of the Extraordinary Chambers. With respect to witness support and protection it is suggested to adjust these trainings and provide them to local authorities in regions where protective measures are most needed. In cooperation with the Extraordinary Chambers and perhaps the NGO Working Group on the Extraordinary Chambers, these trainings could raise awareness of the vulnerable situation of the ECCC witnesses and provide a basis a protective network throughout Cambodia. The parties involved should share their expertise and know-how in order to reduce the chances that tensions in some communities arise and witnesses are confronted with threatening situations. As mentioned by one of the interviewees, it will not be possible to protect ECCC witnesses the rest of their lives and probably such far-reaching measures are not necessary. A supportive network between the ECCC, the government, NGO's and DC-Cam is perhaps, however, a solution from which not only the witnesses but also other people in Cambodia can benefit. If it seems possible to work with this suggestion it is of course necessary to investigate the possibilities and take adequate steps to realise an effective network.

The voices of Takéo are the primary source of the abovementioned supportive suggestions with respect to the witnesses of the Extraordinary Chambers. Witnesses are those who have survived the Khmer Rouge regime and those who witnessed important events that provide links to the people who are most responsible for the crimes committed. Hopefully, DC-Cam and all other parties involved can use these outcomes in developing the supportive and protective response these witnesses need.

End.