

Justice for the Survivors and for Future Generations

ADHOC's ECCC / ICC Justice Project
December 2006 – March 2010



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Completed in March 2010

Executive Summary

The ECCC / ICC Justice project, built on ADHOC's and its partners' strengths, has fulfilled and surpassed its goals. It has promoted justice for the victims of the Khmer Rouge regime by (1) dramatically influencing the shape and course of the Khmer Rouge Trials and (2) animating a sustained, nation-wide debate on Khmer Rouge crimes. Complementary project activities around the ICC were somewhat clouded by the urgency and prominence of ECCC-related work; nevertheless they constituted a key input to integrating the Rome Statute into Cambodian law.

Civil Parties: The project's major success and unique contribution to the advancement of international criminal law (ICL) is **Civil Participation**, unprecedented in ICL. Victims admitted as Civil Parties (CP) enjoy rights in Court that are similar to the Prosecutor's and the Defendant's; i.e., they co-shape the course of the Trial. ADHOC and its partners have grasped the unique opportunity offered by the ECCC's hybrid nature – its rooting both in Cambodian and international law –, and conducted constructive advocacy and lobby to prompt the necessary revisions in the ECCC rules. ADHOC's facilitating encounters between victims and CP lawyer Studzinsky has also been instrumental in putting gender-based and sexual crimes onto the ECCC agenda.

International observers concur that the first ECCC Trial (Case 001, "Duch" Trial) was fair and to international standards, despite concerns about corruption and political interference likely to affect Cambodian Court personnel. Teething problems around Civil Participation could be expected. ADHOC and its allies helped to find a viable compromise between CP rights and the need to avoid long delays in ECCC proceedings.

Due to lack of funding and foresight on the ECCC's part, the ECCC Victims Unit only began to operate at a significant scale in late 2009, near the end of the Case 001 Trial. ADHOC came to the rescue of Civil Parties' rights, organising direct support and referral systems, securing logistics (transport, food, accommodation), legal advice and representation, psycho-social services, and timely information for CP and other victims, many of whom living far from the capital city. Even today, the VU continues to depend on ADHOC's nation-wide structure and its sympathetic, non-formalised contact with victims, e.g. to ensure that court notifications reach each CP. The CHRAC KRT sub-committee has served as an information clearing-house between Civil Parties, NGOs and CP lawyers.

Another important step in empowering survivors of the KR regime has been the creation of a Victims' Association, supported by ADHOC with legal advice and free meeting space.

The country-wide CP representative system, which ADHOC is currently building as part of a 3-month project extension, initially aims at facilitating communication between CP lawyers and at least 1,200 CP and CP applicants. In the longer run, local CP groups may initiate their own activities to overcome the KR past.

Outreach: ADHOC has been the first and arguably major NGO to make the ECCC's mandate known to "ordinary" Cambodians throughout the country. Some 103,000 women and men from virtually all districts, including multipliers such as local officials, teachers and monks, have participated in participatory outreach workshops on the ECCC. Appropriate print materials and regular radio broadcasts, considered the most effective tools to reach into rural areas, have spread information on the ECCC and on options for psycho-social support. Recent studies suggest that 61% of the total population know about the ECCC; the Trials appear to generate interest and discussions even far from Phnom Penh.

Legal reform and integration of Rome Statute: Cambodia's new Criminal Procedure Code (CPC) was passed in time to serve as an effective – if incomplete – legal basis to the ECCC. By the time the EU grant was approved, it was too late to significantly influence the CPC adoption process. However, the new Penal Code (2009) does include the three ICC crimes – genocide, war crimes and crimes against humanity. This is widely seen as a result of ADHOC advocacy, described by international partners as the most consistent and best-

heard voice defending the Rome Statute in Cambodia. Cambodia is the only ASEAN State to have ratified the Statute; ADHOC currently advocates for an ICC co-operation law and for revocation of the immunity agreement concluded with the USA.

The impact of integrating **ICC messages** into popular outreach workshops appears patchy – understandably, participants seem more interested in the Khmer Rouge past than in a distant institution in The Hague. Overall, ADHOC carried out fewer public activities and training workshops on the ICC than initially planned – priorities had to be shifted to make up for the lack of ECCC support to civil parties. Yet, ADHOC’s two conferences on the ICC (2008 and 2009 respectively), bringing together national decision- and opinion-makers and international experts, have been lauded for their timeliness and relevance.

Outlook: When the project was designed, project partners expected the ECCC would start its operations swiftly and complete the Trials in 2010. This has not been the case. Yet, on 31 March 2010, EU and ON grants to the ECCC / ICC project will come to an end. If no new funding materialises, ADHOC will must close ECCC-specific activities and terminate its employment of 26 KRT staff recruited and trained for this project. Their knowledge and practical experience in making justice a reality for “ordinary” Cambodians is hard to match. If ADHOC cannot continue its ECCC-related activities, hundreds of CP applicants will find themselves without a lawyer. The Victims Unit cannot take over all aspects of ADHOC’s current role: even if its budget increases, it will depend on ADHOC’s provincial staff for communication with victims. 2010 is a crucial year: if popular interest in the trials is not satisfied with interactive outreach work, widespread frustration may undermine the national reconciliation process and individual healing. It seems urgent ADHOC mobilise donor support towards further outreach and civil parties support, in continued co-operation with key stakeholders such as the VU, CHRAC and TPO.

The project has been a vital contribution to ensuring the Khmer Rouge Trials do foster justice and reconciliation in Cambodia. ADHOC and its partners have impressed with their capacity to identify and flexibly respond to strategic opportunities and emphatically promote the interest of “ordinary” Khmer Rouge survivors in a difficult political context. We encourage the project partners and donors to continue supporting Civil Parties as a necessary complement to what the Victim's Unit can provide, and to deepen its outreach work building on the new structures – CP representatives, Victim's Associations – the project has brought into being.

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Methodology

The project “Extraordinary Chambers in the Courts of Cambodia (ECCC) and International Criminal Court (ICC) Justice Project”, implemented by ADHOC and co-funded by the European Commission (EC) and Oxfam Novib (ON), started to operate in December 2006 and will end, at the term of a four-month extension, on 31 March 2010. Its overall objectives are:

- *that justice is served for all victims of human rights violations during the Khmer Rouge regime through an informed and proper administration of the Extraordinary Chambers in the Courts of Cambodia (ECCC) according to international standards;*
- *that the principles of the Rome Statute are adopted into Cambodian Law so that the legal framework is strengthened to ensure that international war crimes and crimes against humanity can be prevented in Cambodia in the future.*

Specific **objectives** focus on (1) public awareness of the ECCC mandate and its limits, (2) advice, support and counselling to victims and witnesses¹, (3) independent, fair trials at the ECCC, (4) adoption of an international standard criminal procedure code, and (5) public knowledge on the national judicial system and the ICC².

The purpose of this evaluation as outlined in the Terms of Reference is to (i) verify attainment of the planned objectives and results, (ii) assess (potential) impact and (iii) provide learning for ADHOC for future activities around the Khmer Rouge tribunal. Hence, the evaluation serves both summative (i-ii) and formative (iii) purposes. Eight rather generic and comprehensive key questions regarding the attainment of project objectives and the contribution to national reconciliation, external and internal constraints, effectiveness and efficiency, partnerships, cultural relevance, sustainability and empowerment (see TOR in annex for detail) provided an additional framework for our research.

For easier readability, we chose not to structure the report along these eight questions. Instead, we have adopted a format which reflects the domains of activity and objectives that shape the project – Civil Participation in and public awareness-raising on the ECCC, advocacy on relevant legal reform and on the ICC, plus a short chapter on reconciliation.

ADHOC and ON brought the two of us, who had not previously worked together, into a team: Michaela Raab, a senior consultant specialised in evaluating human rights and gender justice work, and Julian Poluda, an international mental health consultant based in Cambodia. Julian’s recent experience in evaluating a programme by ADHOC partner TPO complemented our research on psycho-social aspects. Supported by the ADHOC ECCC/ICCC project team, we planned the evaluation via e-mail in January, carried out the desk study from our respective homes, and initiated field work on 10 March 2010. As shown in the itinerary attached, the exercise triangulated various methods, encompassing direct observation, semi-structured individual and group interviews, focus group discussions, and participatory workshops. We included the perspectives of a broad range of stakeholders: ADHOC staff, representatives of national and international human rights organisations, ECCC officials, government representatives at different levels (province, district, commune), opinion makers (e.g. media representatives, monks), Civil Parties and Civil Party applicants, as well as “ordinary” citizens participating in ADHOC outreach workshops.



¹ In the course of project implementation, this was adjusted to focus specifically on Civil Parties.

² For the full wording of the objectives, please refer to the Evaluation TOR in annex.

Previous page: scene from evaluation workshop.

Our evaluation framework was validated in an inception meeting with key ADHOC staff. We subsequently enriched it, and gathered first data, in a participatory evaluation workshop with ADHOC staff from Phnom Penh and 10 provinces³. Interviews and focus group discussions were based on written guides developed during the preparatory phase and adjusted in the field as needed.

Both of us visited Kampong Speu province (2 days); Julian carried out further field research in Battambang (3 days) while Michaela interviewed most Phnom Penh interlocutors. Kampong Speu seemed an obvious choice for the field visit because of the large number of KR mass executions perpetrated – and for its convenient proximity to Phnom Penh, an important factor when planning within a tight time-frame. Battambang was selected for the Khmer Rouge presence in this province until the 1990s and the large number of former KR perpetrators still living among the population. Importantly, this selection also offered the opportunity for Julian to observe the first constitutive meeting of civil party representatives.

When talking to survivors of human rights violations, we took great care to ensure interlocutors with a KR past would not suffer re-traumatisation.

Preliminary findings and recommendations were discussed with ADHOC staff in an extensive debriefing meeting with ADHOC headquarters staff working on the ECCC/ICC project. Throughout the evaluation, we informally shared our impressions between each other and with ADHOC KRT staff for verification and validation, as well as methodological advice. We split responsibilities for report-writing roughly along our areas of expertise – Michaela led on legal issues (Civil Parties, Advocacy, ICC) while Julian wrote the chapter on outreach and sections pertaining to psycho-social issues. The remaining parts of the report have been devised jointly, in an intensive exchange of notes across time differences and to a tight deadline imposed by the imminent project end. Before finalising this report, we shared a draft with ADHOC for verification and feed-back. All interview quotes attributed to interlocutors named in the text have been verified and authorised by the interviewees.

Acknowledgements

We are grateful for the unconditional support and facilitation ADHOC staff has given generously throughout the evaluation process, at an extremely crucial and busy time for the project. In our interviews and field research, we received a warm and constructive welcome. Special thanks are due to ADHOC President, Mr. Thun Saray; the ECCC/ICC Project staff led by Mr. Latt Ky, its DED advisor Nadine Kirchenbauer, and the Administrative Department, for the patience and perseverance in supporting us throughout the process. We also owe thanks to the ADHOC drivers who ferried us safely from location to location and the competent interpreters selected by ADHOC. Finally, we thank all our interviewees, most importantly the KR survivors who agreed to meet us, for sharing with us their thoughts and recommendations.

The views expressed in this report are those of the evaluators.

³ Siem Reap, Kratie, Kg. Thom, Battambang, Banteay Meanchey, Kg. Cham, Kampot, Svay Rieng, Sihanoukville and Kg. Speu

Introduction

Khmer Rouge Tribunal and International Criminal Court – ADHOC, advocate of international criminal justice

ADHOC was one of the first and foremost NGOs involved in the long process – since 1997 – that led to the creation of the Khmer Rouge tribunals (KRT or ECCC, Extraordinary Chambers in the Courts of Cambodia), a special court with limited jurisdiction. In parallel, ADHOC advocacy was instrumental to obtain Cambodia's ratification, on 11 April 2002, of the Rome Statute establishing the International Criminal Court, a permanent institution with a global mandate to judge war crimes, genocide and crimes against humanity.

The Khmer Rouge (KR) Regime (“Democratic Kampuchea”) lasted from 17 April 1975 to 6 January 1979. An estimated 1.7-2 million people, representing over 20% of the population at that time, died in mass executions or torture in at least 195 “security centres”, or from the consequences of forced labour, starvation, malnutrition and other inhumane treatment.⁴ The KR imposed radical social transformation including mass deportation of city dwellers to rural areas, family separations, forced marriages and the prohibition of religious practice. *Every Cambodian living today can be considered a victim of that regime.*⁵ A survey in 2008 of 731 direct DK victims found that 23% of the participants suffered from post-traumatic stress disorder (PTSD), 34% from depression and 41% from anxiety.⁶ “When people ask me, where were the Killing Fields, I tell them, the whole country was a killing field,” as a young rural woman summarised her perception of the Khmer Rouge past.⁷

Apart from a brisk 1979 show trial *in absentia* of key KR leaders Pol Pot and Ieng Sary, who never received their punishment, there was no significant legal justice or public apology for DK crimes until recently. Quite the opposite: up to 1993, the UN continued to recognise Khmer Rouge leaders as legitimate representatives to the UN General Assembly; in-country, former Khmer Rouges (KR) gained positions at all levels of the administration.

In June 1997, the Co-Prime Ministers requested UN assistance in view of establishing KR trials. However, when in late 1998 former KR leaders Nuon Chea and Khieu Samphan surrendered to the government, Prime Minister Hun Sen declared that “...we should dig a hole and bury the past”⁸. In swift response, ADHOC and other members of the Cambodian Human Rights Action Committee (CHRAC) collected signatures and fingerprints to demand justice for KR crimes. Within weeks, some 85,000 citizens (>50% mobilised by ADHOC⁹) signed a petition to Kofi Annan calling for the UN to establish a tribunal. Several surveys from the late 1990s confirm that more than 80% of Cambodians wanted to see the KR leaders prosecuted.¹⁰

Below: Scene from Case 001, Trial of “Comrade Duch”(left) who ran key torture and execution camps



⁴ Estimate by the Cambodian Genocide Group, <http://www.cambodiangenocide.org/genocide.htm>, retrieved on 26/2/2010

⁵ Petit, 31/1/2009

⁶ Stammel et al., forthcoming

⁷ Group discussion in Kampong Speu

⁸ Etcheson in OSJI, 2006, quoting AP, 28/12/2008

⁹ Interview TS, 11/2

¹⁰ Surveys quoted in Lambourne, 2004

In May 1999, PM Hun Sen and the UN Special Representative agreed on the principle of a hybrid court based in Cambodia and on Cambodian law, but assisted by the UN. This compromise, known as the “Cambodian model”, served as an inspiration in Kosovo, East Timor (both in 2000) and Sierra Leone (2002) – long before the first ECCC trial commenced on 17 February 2009. During the lengthy negotiations between the Cambodian government and the UN, ADHOC, with its allies and through its membership in CHRAC and FIDH, constructively used a palette of interventions, ranging from informal lobbying of key actors to public statements, so as to obtain workable solutions respectful of victims’ rights.

With its offices and volunteers extending into the 171 districts of the country’s 24 provinces, its reputation as competent and independent defenders of the human rights of “ordinary” Cambodians as well as of international law, a prominent leader, Thun Saray, and active membership in national and international coalitions, ADHOC started to exert considerable influence on the establishment of the ECCC well before EU funding was available. The EU-funded project, approved in late 2006, builds on the unique history and experience of ADHOC and its allies. Oxfam Novib has aptly chosen its partners.

Breaking new ground in international law: Civil Parties

Specific Objective 2: *Adequate and appropriate advice, support and counselling are provided to victims and Witnesses (c. 500 men and women) to facilitate their participation in the trials and alleviate some of their suffering and make their experience as positive as possible in their search for justice and truth so that they can move forward with their lives.*

Civil Participation at the ECCC

During the project design phase, the precise shape and functioning of the future ECCC were unknown. The first ECCC draft rules did not even mention Civil Parties. “It was ADHOC who discovered what the Civil Party concept could mean for the ECCC”¹¹. ADHOC expertly identified this unique possibility offered by the Court’s hybrid nature, i.e. its rooting both in Cambodian and international law. Under Cambodian law, based on the French tradition, victims have the right to participate in criminal trials as Civil Parties. Thus, victims can exert a much greater influence on the process than in common law. Common law is the tradition which has informed all previous international tribunals, wherein victims appear only as relatively powerless witnesses or spectators.

Article 23 of the ECCC Internal Rules (1st Revision, 1/2/2008) sets out roles and procedures around civil participation. The ensuing Pre-Trial Chamber ruling of 20 March 2008, confirming CP rights to participate in the investigative phase of the procedure, has been seen as a “landmark decision in international criminal justice and a major achievement for victims of gross human rights violations, whose voices have long gone unheard”¹²
“Becoming a civil party gives victims the right to choose their legal representative, request the investigation of alleged crimes, question Witnesses and the Accused, and ask the Court to take measures to respect their safety, well-being, dignity and privacy in the course of their participation in the proceedings. It also allows victims to ask the Court for collective and moral reparations from the convicted persons.”¹³

It was not easy to secure **meaningful civil participation**. Little used in Cambodia’s domestic trials and alien to most international judges and experts at the ECCC, the concept of “civil party” must be constantly lobbied for and explained to a range of stakeholders, including some senior ECCC personnel, government and UN representatives, and donors. All persons interviewed on this subject confirm that the influence of ADHOC and its networks (CHRAC, FIDH) has been of central importance. Their advocacy activities include, *inter alia*, formal and informal encounters with government, ECCC, UN officials and donors; regular meetings and information-sharing among NGOs and with the Victims’ Unit (VU); public events and press releases; and formal submissions to the ECCC.

Project partners and their allies, particularly CHRAC and dedicated initiatives by the Open Society Justice Initiative (OSJI) and the East-West Center (ASJI), **monitor** a range of ECCC activities on a daily basis. This has enabled ADHOC to take up new opportunities, or competently react to (potential) restrictions affecting CP, e.g.:

- In March 2008, the ECCC Co-Prosecutors called for a Supplementary Submission, (request to the OCIJ to launch new **investigations**), as a direct result of victims providing their information to the Court through ADHOC assistance.¹⁴
- ADHOC facilitated access to civil party applicants for in-depth investigations by CP lawyer Studzinsky, whose efforts brought **gender-based and sexual crimes** into the scope of investigation for Case 002.¹⁵
- In 2008 and 2009, ADHOC conducted workshops on **reparations** in Phnom Penh, Battambang, Kampong Cham and Kampot, bringing together 457 CP applicants and other KR victims from 17 provinces, to gather wishes and opinions on reparations.¹⁶ CP lawyers participated in the workshops.

¹¹ Cambodian NGO respondent; a similar statement was made by an international NGO respondent

¹² REDRESS, 28/3/2008

¹³ REDRESS bulletin 15

¹⁴ ADHOC annual project report to ON for Dec. 2006- Dec. 2007, completed in spring 2008

¹⁵ Interview SS 14/2

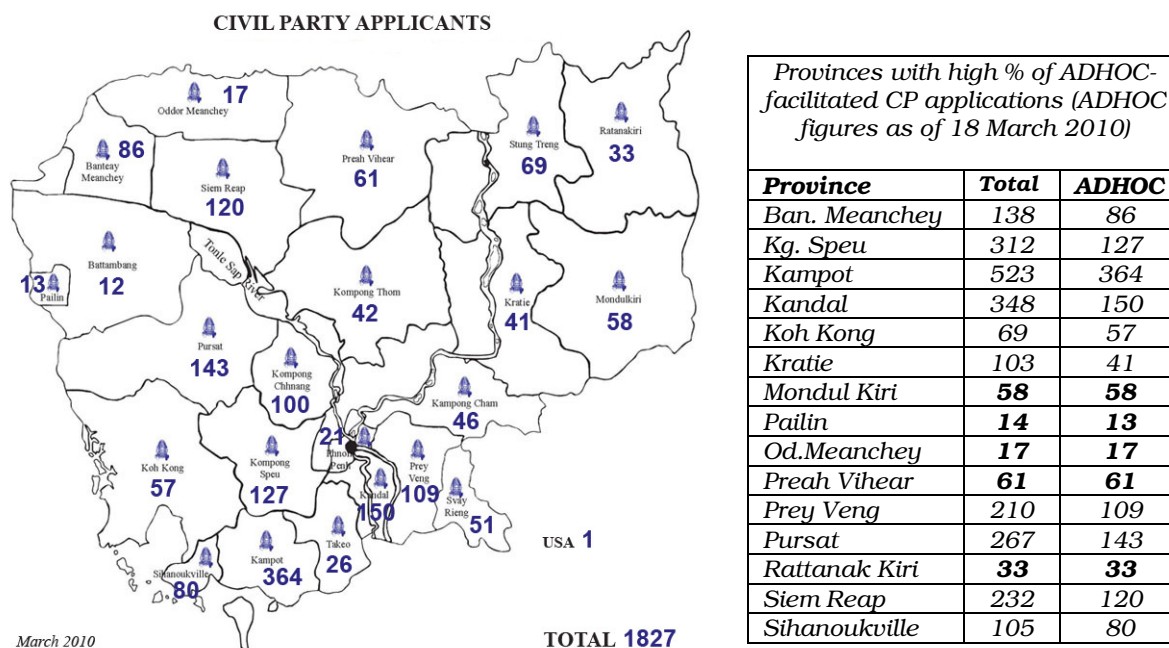
¹⁶ ADHOC internal report *Summary of Civil Parties Views on Reparations*, 2009

Civil Participation in practice

One would expect that Civil Parties, full parties to the trial, receive levels of ECCC assistance similar to those granted to Witnesses, e.g. travel expenses and per diem. However, up to late 2009, only the Defendant and Witnesses were supported by the ECCC. When the project under review started, the **Victims Unit** did not even exist. ADHOC and its allies have lobbied for its establishment¹⁷, emphasising the ECCC's responsibility in ensuring CP exercise their rights and victims are informed on the trials. Even after the VU started operating in late 2007, its small, Phnom Penh-based office was poorly equipped to mobilise or respond to thousands of complaints¹⁸ and CP applications.

The project partners recognised the urgency of addressing **CP's practical needs**. With its country-wide structure reaching into all 171 districts (each district boasting at least one trained ADHOC volunteer), enriched by 26 specialised staff recruited and trained under the project, ADHOC was uniquely placed to offer comprehensive solutions. While advocating for a better resourced, more active Victims Unit, ADHOC and CHRAC set up systems to stimulate and facilitate civil participation throughout the country.

CHRAC network members collected 47 (33 ADHOC) out of 94 CP **applications** in Case 001; none of the 47 was rejected. All 93 CP accepted to the trial, including those not facilitated by CHRAC, received comprehensive, systematic TPO support upon individual request. As of 18/2, ADHOC had collected 1,808 out of a total of 4,004 Case 002 CP applications¹⁹. At that date, the Victims Unit had received 8,202 complaints and CP applications²⁰. In remote provinces, up to 100% of CP applications in Case 002 have been ADHOC-facilitated:



According to ADHOC and DED interlocutors, it takes 2-4 days to properly complete a single civil party application – and several steps: exploring options available to victims, individual advice on eligibility, filling in the forms and gathering supporting evidence, forwarding forms to the ECCC. ADHOC staff and volunteers, familiar with investigation techniques, reportedly delivered the highest quality CP application forms. This required some ingeniousness, as initially, the ECCC did not provide any standard forms. ADHOC devised its own, effective

¹⁷ E.g. FIDH, ADHOC, LICADHO and the Collective for Khmer Rouge Victims, 17/11/2006

¹⁸ Complainants may be called to testify as Witnesses but do not enjoy the same rights as Civil Parties.

¹⁹ As of 18 March 2010, the figure has risen to 1,827 CP applications.

²⁰ Figure provided by VU 18/2 (also VU figures in table)

applications format.²¹ Each ADHOC office keeps several neat sets (in book form) of all CP applications in the relevant province.²²

Since early 2008, the CHRAC Victims' Support Scheme, a project funded by the German Development Service (DED) has securely stored complaints and CP applications facilitated by all CHRAC members – 4.445 up to 18/2.²³ ADHOC, KRT and KKKCHR have contributed to these submissions. A custom-made **database** includes English language summaries of all applications. Apart from standard data, the data base provides, since 2009, a tentative grouping of victims according to three types of crimes (crimes that could fall under the definition of genocide; killing and torture; other crimes). This grouping is likely to facilitate CP support in Case 002, when Civil Parties will be represented as groups only.

CHRAC's monthly meetings involving Case 001 CP, lawyers and TPO staff ensured that Case 001 Civil Parties obtained **legal representation** and access to **psycho-social support** throughout 2009. Reportedly, all Case 001 CP and lawyers were initially invited to these meetings, but generally only those close to CHRAC attended.²⁴ This networking mechanism arguably played a key role in **empowering KR victims**. Thus, most founders of the new *Ksaem Ksan* Victims Association had ADHOC support in Case 001; ADHOC provided legal advice and meeting space to the fledgling association.

Civil Parties have shown increasing assertiveness at the ECCC. Thus, in late August 2009, they staged a walk-out in protest against the Court's ruling that CP did not have standing to participate in the sentencing of the Defendant, or to question Witnesses on the topic of the Defendant's character.²⁵



Case 001 Civil Party Chum Mey, a survivor of the S-21 torture centre and founder of the first Victims' Association, speaks to the press during the August 2009 walk-out

ADHOC central and provincial staff **maintains contact** with Civil Parties, CP applicants and lawyers through frequent face-to-face and phone communication. Finally, even transport, basic food and accommodation needs for CP were provided by the project partners, as the ECCC institutions had virtually no functioning services for Civil Parties in Case 001.

"[CP applicants] who came through ADHOC have been in good hands. ADHOC is well informed on what information is needed and where the information needs to be taken. Well connected with the VU, ADHOC maintains constant communication without any burden to the VU. (...) [For Case 002] ADHOC has only 60-70 incomplete [CP application] forms, while organisations with fewer applicants had over 200 incomplete forms," Neou Kassie states²⁶.

²¹ Interviews DED 17/2, CHRAC 18/2

²² Evaluator's field observations

²³ Interview CHRAC 18/2

²⁴ Interview CHRAC 18/2. ADHOC did facilitate information meetings between lawyers including those outside the CHRAC network (e.g. ASF, the Paris Bar Association and the FIDH Legal Action Group)

²⁵ ALJI KRT Monitor Issue N°19

²⁶ Interview VU 18/2, corroborated by CDP 18/2: 80-90% of ADHOC forms were complete, while only 20-30% of the complaint forms submitted by other national NGOs contained sufficient information.

Since late 2009, a new, competent VU team equipped with significant donor funding has been able to work more effectively. But it will neither establish any provincial structure, nor, as a government institution based in Phnom Penh, develop the type of close, empathic links ADHOC has with “ordinary” people throughout the country. The VU continues to depend on local intermediaries – first and foremost, ADHOC – to establish and maintain contact with victims. Many **ECCC notifications** will need to be delivered through ADHOC, often the only option in rural areas where functional postal services are absent and local officials, some of whom tainted by their role in the KR past, are not the most appropriate communication channel. Even CP lawyers who do not co-operate with the CHRAC Victims Support Scheme, such as ASF, are reported to routinely call upon ADHOC to reach clients in remote areas.

Collecting civil party applications for Case 002 has been overwhelmingly successful. To cope with the onslaught of 1,808 applications, the project partners have further decentralised their approach. A project extension (January-March 2010) lucidly focuses on (a) **securing lawyers** to the maximum attainable number of CP applicants (c. 1,200 within the 3-month period), so that **appeals** against eventual rejections can be filed within the narrow 10-day window now prescribed by the Court; and (b) establishing a system of volunteer **civil party representatives** reaching into district levels, so as to facilitate the flow of information, and encourage victims to organise themselves.

Psycho-social support to Civil Parties

As in other international tribunals, trauma-related psychological symptoms hinder the participation of many victims in the ECCC. Painful memories resurface over the course of the trial and potentially lead to re-traumatisation²⁷. Facing the past and seeking for truth and justice are crucial processes in recovering from traumatisation. However, there is no doubt that psychosocial services are an important element in every outreach and support program for Civil Parties or other victims of human rights violations.

The original ECCC budget did not include any funding for psychosocial services or legal assistance for Civil Parties, creating a serious barrier to those who wanted to participate in the Court's proceedings²⁸. In response, ADHOC's partner, the Trans-Cultural Psychosocial Organization (TPO), in collaboration with the ECCC, established a psychological support structure for Civil Parties and Witnesses. In May 2007, TPO and the ECCC signed a MOU outlining TPO responsibilities in the ECCC. TPO activities, closely linked to the project under review, were financed by the German Development Services (DED), AusAid and ICCO.

Working in cooperation with ADHOC, and the Witness and Expert Support Unit as well as the Victims Unit, TPO is currently the only actor providing psychosocial services to Witnesses and Civil Parties at the ECCC, ranging from preparatory interventions to on-site support during the ECCC proceedings, and to intense psychological and psychiatric follow-up care in TPO's treatment centre in Phnom Penh. Following referral by ADHOC staff and self-referral, TPO has given counselling sessions through its field offices in four provinces of Cambodia. In addition, TPO runs a counselling hotline, important in Cambodia, as most Civil Parties do not live in Phnom Penh²⁹.

ADHOC and TPO have ensured that TPO's staff is present at the civil party/lawyer meetings, and during reparations workshops with victims and Civil Parties. TPO staff conducted a number of training sessions for CP lawyers³⁰ helping them in dealing with and preventing harmful psychological reactions during the Court proceedings. TPO also provided training on issues surrounding trauma and torture for ECCC, KID and ADHOC staff as well as psychological supervision for CHRAC staff. The cooperation with TPO further contributed to increased referrals of Civil Parties between the partner organisations on the provincial level. Additional benefits include knowledge exchange and information sharing.

Civil Parties who participated in ADHOC's/TPO's psychosocial interventions have expressed positive feed-back on TPO's methods and approaches, which integrate local traditions and

²⁷ Richard J. McNally, 2005

²⁸ Interviews 34, 35, 36

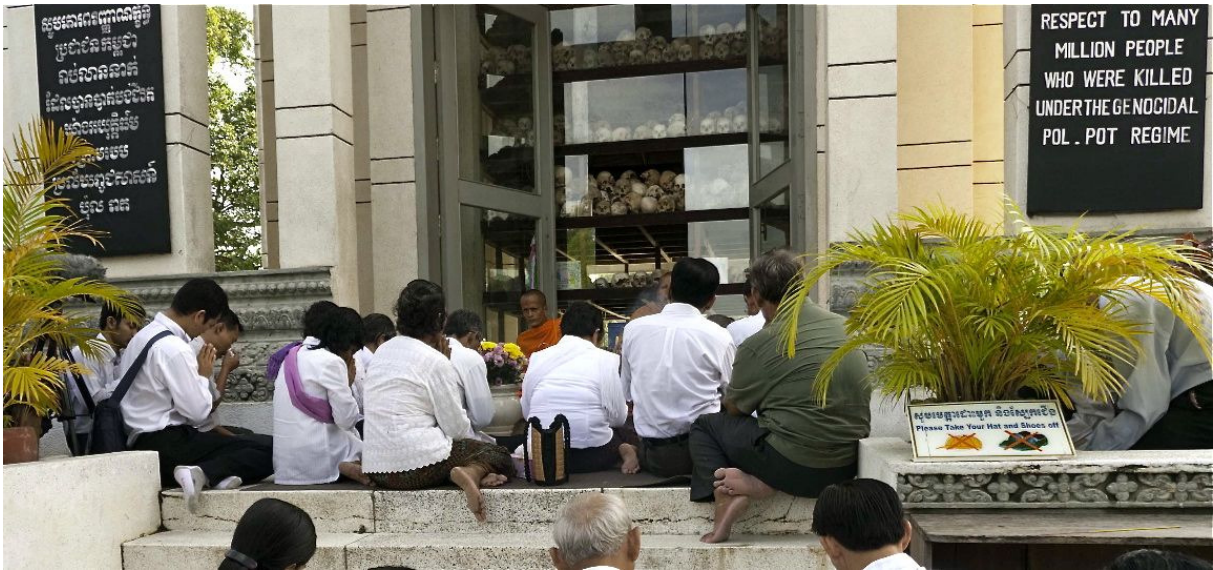
²⁹ Interviews 34, 35

³⁰ Interviews 20, 35, 36

cultural practice. Furthermore, there is clear evidence that TPO's collective approach to group therapy has helped to contribute to the emergence of civil party networks of support and assistance.

Testimonial Therapy. In cooperation with the Rehabilitation and Research Centre for Torture Victims - Denmark (RCT), TPO has developed and implemented an innovative treatment approach that takes the cultural and human rights dimensions of mental health care in Cambodia fully into account: the "Testimonial Therapy" (TT). One goal is to reduce the symptoms of PTSD by confronting the client with the memories of the traumatic event. In testimonial therapy, the participant constructs a detailed chronological account of his own biography in cooperation with the therapist. The discussion of the traumatic events continues until a habituation of the emotional reactions presented and reported by the patient takes place. In the last session, the participant receives a written report, "the Testimony" of his biography during a Buddhist ceremony at the place most central in the experience of the client.

Testimonial Therapy at the "Killing Fields"



All interview partners in this evaluation highlighted that ADHOC's and TPO's relationships with recognised Civil Parties have been particularly close and supportive; and that CP and CP applicants trust both organisations, which has helped them to engage with the ECCC.³¹

One interviewee, however, regretted having had to tell his painful story more than once to various ADHOC staff at the Phnom Penh office.³² ADHOC interlocutors admit that frequent staff changes and different record-keeping styles occasionally required additional data-gathering loops. On the other hand, ADHOC's and CHRAC's continued efforts to promote greater co-ordination among CP lawyers have helped to reduce the strain of ineffective, repetitive questioning of Civil Parties in Court.

Witness support

The initial project proposal included activities related to witness protection. According to ADHOC, no need for witness protection arose during the project period. Likewise, there are no reports of Civil Parties requiring specific protection. Witnesses' practical needs, e.g. transport and accommodation, are routinely secured by the ECCC. TPO, in close cooperation with WESU, provides psychological support for Witnesses during the court proceedings. In addition, a number of Witnesses (including "perpetrators") received intensive follow-up support in TPO's treatment centre or via the phone counselling hotline.

³¹ e.g. Interview 32

³² Interview with a Civil Party to Case 001

Psychological consequences for the mental well-being of Civil Parties and witnesses in the ECCC	
Potential psychological benefits	Potential psychological harm
<ul style="list-style-type: none"> • Highly empowering impact, e.g. by contributing to the ECCC archives as a valuable resource for future generations ("the crime will not be forgotten") • Reparatory, compensatory and healing function for the victim • A new sense of control over his/her life and integration of traumatic experiences • Shared mourning and solidarity • New faith, increased confidence, trust and empathy 	<ul style="list-style-type: none"> • Deterioration of existing PTSD symptoms e.g. panic, anxiety, vegetative symptoms (headaches, nausea), memory impairment ("holes in memory") • Secondary traumatising • Re-traumatising • Re-victimisation

Potential dangers for the mental well-being of civil parties and witnesses in the ECCC
In the court room
<ul style="list-style-type: none"> • Reliving memories of atrocities during the trial • Frustration as the trial may not allow to fully recount traumatic experiences ("to tell their story") • The need to »prove« his/her traumatic experience to the defence • Disempowerment by the justice system out of ignorance of psychological reactions • Confrontation with complex legal procedures • Difficulties to cope with the unfamiliar surroundings at the tribunal • Intimidation by judges and defendants • Praises to the accused and their glorification as heroes, e.g. by the defence • Lack of individual or collective reparation • The encounter with the accused • Accused are found innocent in the trial
Outside the court room
<ul style="list-style-type: none"> • Confrontation by community members (e.g. local authorities, perpetrators) after appearance in the court • Concerns about safety and security • Limited awareness of PTSD symptoms by legal counselling staff • Limited access to legal counselling in preparation, during and in follow-up to the trial³³ • Limited access to psychological/psychiatric treatment in preparation, during and in follow-up to the trial • Lack of logistical support such as adequate subsistence allowances, coverage of transport costs and accommodation

³³ The last three points on this list do not apply to CP supported by ADHOC/TPO

Challenges

The innovative nature and large scale of the project come with complex challenges. When Oxfam Novib submitted its concept note to the EU in 2006, project partners expected the ECCC to start its work imminently and the trials to be completed by 2010. It was not clear how victims could participate in the Court and what rules would govern the proceedings. These critical external factors only unfolded – with considerable ADHOC influence – in the course of the project. ADHOC has responded flexibly to the changing conditions, adjusting its strategy while maintaining its mission to serve Cambodians throughout the country.

Given the ECCC's slowness in establishing victims' services, the project partners have found themselves assisting victims in all aspects linked to civil participation, serving more people in more ways than planned. Necessarily, resources were stretched to the limits: virtually all ADHOC staff, including new recruits, needed to be trained and constantly updated; ADHOC's regular personnel juggled "ordinary" human rights work and KRT duties; multiple stakeholders' activities were co-ordinated at short intervals; limited-time job contracts prompted early departures from the team; administrative duties linked to the EU grant needed to be fulfilled – all this while keeping a multi-faceted, ambitious project going.

We are convinced ADHOC's strategic decision to ensure meaningful civil party participation has been correct, fruitful and of great potential impact in Cambodia and in international law. However, the onslaught of additional CP work meant that aspects of project management not immediately needed to implement core activities apparently received less attention. Although ADHOC produced an excellent recent annual report (2008), shorter-interval documentation of project activities has been difficult to retrieve. Systems for filing press releases and other project documentation appear confusing in structure and coverage. Project staff appraisal files and forms exist, but we found no evidence of formal appraisals after 2007. Our interviews and other interaction with staff at all levels, including district volunteers, corroborate findings of earlier ADHOC evaluations stating that ADHOC staff and close project partners do know each other well and are up-to-date on each other's activities. But transmission of knowledge is mostly oral, through monthly country-wide meetings, or implicit, by working along each other, which poses challenges for knowledge management.

Conclusion and outlook

The holistic project design combining advocacy, monitoring, legal aid and psycho-social services has maximized positive outcomes for Civil Parties. For Case 001, Specific Objective 2, focussed on the powerful role of Civil Parties, has been attained and surpassed. The number and quality of CP applications collected for Case 002 is impressive. Effective civil participation not only multiplies the benefits of ECCC-related outreach, but sets precedents in domestic and international justice.

This success places a heavy burden on its authors. The Victims' Unit and other actors working with Civil Parties and CP applicants have grown dependent on ADHOC and its partners. The project extension ends on 31 March 2010; donors have only committed minor amounts to support ADHOC and its partners in the run-up to the Case 002 trials. This is not sufficient to extend contracts for all provincial project staff – the backbone of the services described above. If project partners cannot maintain their work at the current level, thousands of CP applicants would be left stranded in 2010, the year that determines civil participation in Case 002. *"The biggest challenge we are facing now is a decrease in donor interest"*, as an NGO interviewee put it.

The ECCC has now installed Civil Party Lead Co-Lawyers financed by the ECCC budget. The Victims Unit, aptly renamed Victim Support Services, has started to run a complainant and CP database, to provide food and accommodation for CP during trials, and to organise outreach sessions. Arguably, it is to a great extent due to this project – and the efforts of donors committed to civil participation, such as the German (DED, GTZ), French and Swiss governments – that basic conditions for victims' participation have improved. However, huge gaps remain. ADHOC, CHRAC and TPO remain ideally positioned to address these gaps effectively and thus enable Civil Parties to obtain justice.

ADHOC's awareness raising – Essential to spread knowledge of the ECCC

SO1 - The Cambodian population of roughly 13 million is aware of and understands the mandate of the EC including its limitations so that realistic expectations are fostered.

As early as in 2004, the UN Secretary General noted that outreach must be an integral part of the ECCC's work.³⁴ However, outreach activities were not prioritised in the beginning of the ECCC; lack of funding and staff has impeded the ECCC outreach activities since then. Many Cambodians in rural areas were not sufficiently aware of the opportunity to act as Civil Parties or Witnesses in the tribunal.³⁵ Some people therefore argued the trials were rather symbolic and that true justice better be achieved through a comprehensive process of national education and community dialogues.³⁶ In response, ADHOC, the ECCC and other NGOs conducted a series of outreach activities from 2006 to 2010, so as to inform Cambodians in rural areas about the ECCC and to initiate public discussions on the atrocities committed under the Khmer Rouge regime.

ADHOC is widely seen as the major NGO to make the ECCC's purpose and mandate known to "ordinary" Cambodians in all provinces.³⁷ It has run the only truly nation-wide outreach program on the ECCC. Some 103,000 women and men from 171 districts have participated in ADHOC's outreach training sessions and received information materials.³⁸

Enhanced awareness/knowledge on the ECCC among Cambodia's population

In September 2008, the Berkeley University Human Rights Centre conducted a nation-wide population survey "to measure public awareness of the Extraordinary Chambers in the Courts of Cambodia (ECCC)". The survey found that 15% percent of the respondents had "moderate or high" knowledge of the ECCC, and nearly half (46%) had limited knowledge.³⁹

It has not been possible, within the limits of this evaluation, to compare in quantitative terms the level of knowledge of those district populations directly targeted by ADHOC awareness raising activities with those who did not participate in ADHOC's activities. The impact is furthermore difficult to quantify due to the involvement of many organisations in the working field and due to a lack of indicator-based surveys on the impact of ADHOC's project activities. However, many training participants we interviewed appear to have realistic expectations and basic knowledge on the ECCC proceedings. On average, men were more likely than women to recall detailed information.⁴⁰ Key stakeholders like local and district authorities, monks and schoolteachers displayed the best understanding of ECCC related issues.⁴¹ Some participants, such as two high-school teachers and one community councillor, indicated that people in the communities started to talk more about the Khmer Rouge time, that many KR victims were more willing to come forward to tell their stories, and that it was believed that the ECCC would bring a sense of relief to KR victims.

Last but not least, there is clear evidence – from a number of focus group discussions and semi-structured interviews – that Civil Parties supported by ADHOC represent a very well informed fraction of the Cambodian population.⁴²

³⁴ The Secretary-General, 2004

³⁵ Interview 6, no baseline study available

³⁶ Kritz, Niel; Juergen Assmann – Former Advisor to the ECCC – TAZ, 15.8.2009

³⁷ e.g. Interview CHRAC 18/2

³⁸ ADHOC Training Session Database 2007 - 2009

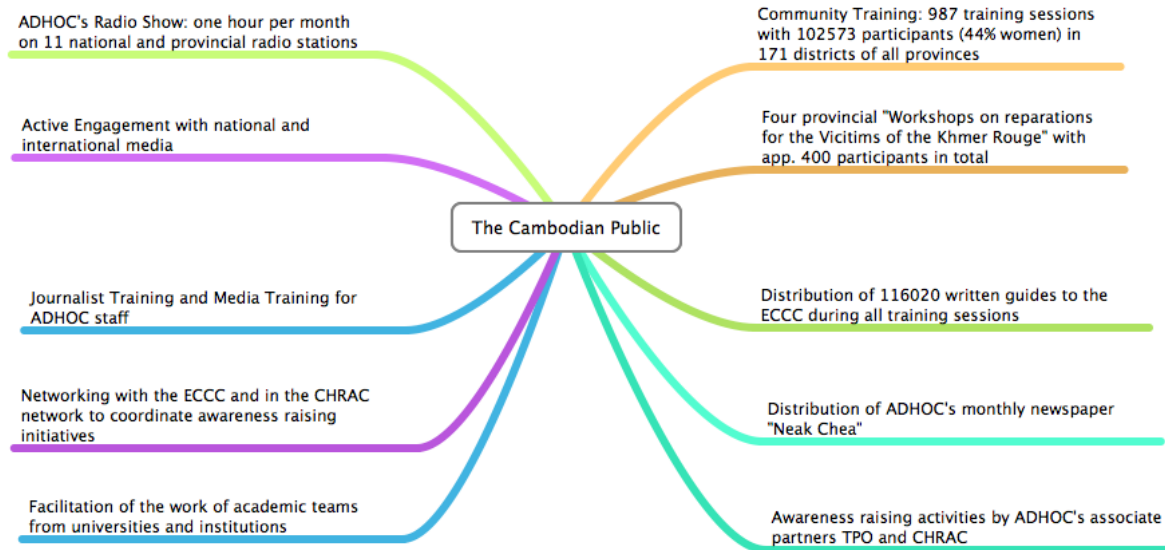
³⁹ Human Rights Center – University of California, Berkley, January 2009

⁴⁰ e.g. Focus Group Discussion 11 (Civil Parties and CP applicants)

⁴¹ Interviews 11, 25

⁴² Interviews 6, 19, 32 (*inter alia* Civil Parties)

A holistic strategy, creating synergy between outreach and advocacy



ADHOC's awareness-raising strategies are based on a variety of tools that aim at developing knowledge and awareness of and influencing changes in attitudes regarding the ECCC. They primarily use four different approaches: ECCC/ICC training sessions and national workshops on reparation, print media, broadcasts of ADHOC's national and provincial radio shows, and information and advocacy work through newspapers.

Training sessions



From 2007 to 2010, ADHOC conducted some 987 training sessions, reaching into all districts of Cambodia's 24 provinces. According to ADHOC's monitoring records, total participation was 102,573 participants with a female participation of 44 % and an average of c.100 participants per session.⁴³

ADHOC's outreach activities identify existing structures to facilitate outreach activities and therefore aim to ensure participation by multipliers such as chiefs of districts, communes, villages and pagodas, commune councillors, high school representatives, and local police and military.⁴⁴ And by allowing time for discussion and question & answer rounds on ECCC related issues the training sessions serve as a forum for communities to engage in dialogues related to the Khmer Rouge time.⁴⁵

⁴³ ADHOC Training Session Database 2007 - 2009

⁴⁴ Observation of Civil Party Representative Training; Interview 6

⁴⁵ Observation of KRT/ICC training session; observation of Civil Party Representative Training

Current training sessions appear well focussed and coherent as all information is related to the KR time, its consequences, the ECCC and the ICC.⁴⁶ According to a number of workshop participants they also provide realistic information on the issue of reparations and on various protection issues and thus help the participants to analyse and respond to their protection concerns.⁴⁷ Furthermore, it appears that mental health related information is systematically integrated. Almost all interview partners during this evaluation emphasized the importance of ADHOC's training sessions and the wish to increase them.

Below: ADHOC Provincial KRT Staff Rin Sareth animates a public workshop on the ECCC in Kg. Speu



Print Media

During all training sessions, ADHOC's staff provides participants with IEC (information, education, communication) material such as ADHOC's written guides on the ECCC, which are continually updated (6 editions) or ADHOC's Neak Chea newsletter. These materials comprise information on the history of the Khmer Rouge regime, the limits and mandate of the ECCC, victim protection and participation rights, updates on the ECCC proceedings and information on the ICC.⁴⁸ ADHOC's written guide has been distributed throughout the training sessions. 116,020 copies of six successive editions were made available in total.⁴⁹ Based on beneficiaries' feedback, it appears that communities were effectively provided with a clear and understandable written guide to the ECCC.⁵⁰ Illiterate interviewees (mainly older women) told us that younger relatives read the information materials to them. It further appears that ADHOC follows a systematic approach in distributing TPO information material on mental health related issues such as individual and collective coping strategies and available psychosocial treatment services during all outreach sessions.⁵¹ This approach appears to be effective, as most workshop participants consulted during this evaluation were aware of the counselling services provided by TPO.



⁴⁶ Evaluation Workshop with ADHOC KRT HQ staff and Provincial Coordinators
⁴⁷ Focus Group Discussions 22, 26 (commune chiefs, teachers, "ordinary" citizens)
⁴⁸ Analysis IEC Material ADHOC
⁴⁹ ADHOC monitoring results
⁵⁰ Interviews and Focus Group Discussions 9, 11, 22, 26 (*inter alia* deputy chiefs, commune chiefs, etc)
⁵¹ Focus Group Discussion 12; observation of training session Kampong Speu

Awareness-raising through the radio

"Of those who had heard about the ECCC the main sources of information were radio (80%) and television (44%)"⁵²

ADHOC's independently produced one-hour radio show is broadcast once per month on 11 national and provincial radio stations. Topics primarily focus on information related to the purpose and scope of the ECCC and how the community could participate in the ECCC proceedings. Good practice examples include expert discussions by ADHOC and other experts in the field on issues like reparations and forced marriage.⁵³ Since November 2008 all of ADHOC's radio shows have carried a TPO information spot promoting the counselling hotline and other TPO services. Moreover, ADHOC's representatives regularly appear on Voice of America and Radio Free Asia.⁵⁴

In addition, TPO has introduced a monthly radio show specifically dedicated to informing the public on mental health aspects in the experiences of KR survivors. TPO's radio shows explain common PTSD symptoms, emphasize positive coping and warn against harmful ways of coping (e.g. heavy alcohol use). Since 2005, CHRAC has also hosted a weekly one-hour radio show, covering such topics as fair trial principles, the structure of the ECCC and defence and victim's rights. As revealed during interviews, all three radio shows appear to be known among the rural population, although women usually find less time to listen to the radio. These findings are further supported by the Human Rights Center – University of California Berkley report stating that radio shows played the most prominent role in increasing knowledge of the ECCC.⁵⁵

Awareness-raising through newspapers

Aside from ADHOC'S own publications, ADHOC was also strongly engaged with provincial, national and international newspapers.⁵⁶ Media representatives consulted during this evaluation present ADHOC as a reliable source of information on the ECCC/ICC. ADHOC has key relationships with a number of journalists at important national newspapers such as the Cambodia Daily and the Phnom Penh Post. This relationship has helped addressing information gaps and strengthening the media coverage on the ECCC.⁵⁷ ADHOC has enhanced the effectiveness of ADHOC's interaction with the media through media training for provincial and coordinating office staff.⁵⁸ Last but not least, ADHOC conducted specific human rights training for journalists in 2007 to ensure that journalists understand their social responsibility to victims and the public in general when reporting about the ECCC.

The psychosocial dimensions of ADHOC's information campaign

"ADHOC helped us to find a reason for our suffering"
Second Deputy Counselor – But Voert

For many KR victims it was a deeply frustrating experience to wait for so many years for justice. Many Cambodians are still looking for their relatives, searching for the circumstances of atrocities and waiting for the prosecution of perpetrators. The enormous debts of exclusion, poverty, neglect and despair, to large extent causes of the civil war, also remain unpaid. While key perpetrators were free, there was little hope for justice and truth. Today, ADHOC outreach activities offer the only contact to many people in rural areas with the judicial process that addresses KR crimes perpetrated against them. ADHOC's legal counselling and information on the KR regime is therefore of utmost importance for many victims in order to find relief of suffering. However, as expressed by two interviewees, outreach activities can also lead to insecurity and feelings of disappointment and potentially (re-)traumatisation, if follow-up information is not disseminated clearly and frequently.

⁵² Human Rights Center – University of California, Berkley. January 2009

⁵³ Review Strategy Paper Radio Shows; Interview 33

⁵⁴ Interviews 31, 33

⁵⁵ Human Rights Center – University of California, Berkley

⁵⁶ Interview Voice of America; Interview 33

⁵⁷ Review Newspapers Cambodian Daily, Phnom Penh Post 2009

⁵⁸ 2008 ADHOC Narrative Report ECCC/ICC

Knowledge and attitudes of ADHOC staff

ADHOC has demonstrated considerable commitment to building staff knowledge and skills, which has had a direct impact on the quality of the training sessions.⁵⁹ National and international experts have trained most ADHOC field staff; head office staff has conducted regular and *ad hoc* control missions to the provinces to ensure the consistency and quality of outreach services.⁶⁰ ADHOC staff appears well qualified in terms of legal skills. Although the limits of this evaluation did not permit any full assessment of individual staff members, the ADHOC field staff consulted during this evaluation appears highly committed and seems to have strong links to the beneficiaries.

As identified during workshops with ADHOC staff, most staff members agree that the psychosocial dimensions of their work should be treated as an important issue. It appears that ADHOC staff widely accepts the premise that it has a responsibility to take into account the psychosocial problems of Khmer Rouge survivors as part of its protection mandate. However, mental health, and posttraumatic stress disorder in particular, are complex issues, deeply rooted in individual values and beliefs. ADHOC staff has received only limited mental health training. This may explain why some ADHOC staff members stated they only had limited knowledge of PTSD related issues and that they felt uncomfortable or stressed in contact with severely traumatized beneficiaries.

Partnerships in ECCC awareness raising activities

In order to streamline efforts in awareness raising activities, ADHOC cooperates with local and international partners. For instance, ADHOC is strongly involved in networking with the ECCC and NGOs in the CHRAC network to coordinate activities such as public forums and radio programs.⁶¹ However, at the field level, ADHOC's opportunities to cooperate with other organisations are limited where organisations in this field of work are simply not present.⁶²

ADHOC successfully established effective relationships with governmental representatives and other key actors at provincial and district level⁶³, ensuring these authorities would take an active, supportive role in the information campaign on the ECCC.⁶⁴ In many cases, local officials work alongside ADHOC to implement the training sessions in their districts⁶⁵.

In addition, ADHOC promotes knowledge of the ECCC by meeting with and facilitating the work of researchers e.g. from the "Human Rights Centre - University of Berkeley" and the "Treatment Center for Torture Victims - Berlin" (bzfo). ADHOC also met with documentary film teams from international TV stations.⁶⁶

Challenges

Re-traumatisation risk if poor follow-up information: The needs of participants in ADHOC workshop who did not choose to become Civil Parties, who failed to fill in an application, or whose CP application will be turned need to be respected. A lack of follow-up information on ECCC proceedings relevant to these victims may generate disappointment with ADHOC, or even re-traumatisation.

Vulnerable groups: One might ask if the training sessions are sufficiently targeted to the most vulnerable groups. Factors such as social class, age or mental health may prevent KR survivors attending. In particular, marginalized people such as people with severe traumatic symptoms usually do not join group activities unless a special effort is made to reach out and include them.

⁵⁹ Observation training session Kampong Speu; WS 12/2

⁶⁰ Interview 31, ADHOC Monitoring Data 2009

⁶¹ Interview CHRAC

⁶² Focus Group Discussion 12

⁶³ Interviews 17, 24, 25

⁶⁴ Interviews 11, 17, 24, 26 (*inter alia* CP and CP applicants, commune chiefs, monks)

⁶⁵ Interviews 12, 25

⁶⁶ Interviews 37, 38

Psychosocial skills and awareness among ADHOC staff: Specialised mental health care requires skills and long-time experience. Human Rights groups such as ADHOC can not be expected to develop extensive mental health skills. However, as suggested by some interview partners in this evaluation, some additional knowledge on PTSD symptoms might be beneficial for ADHOC field staff. There is great potential that this will not only increase the quality of investigations, trainings and interviews with Khmer Rouge victims, but also in “ordinary” human rights cases. In addition, such training may help ADHOC staff in coping with emotional stress linked to their challenging tasks.

Conclusion and outlook

ADHOC cannot be a complete substitute for ECCC-run outreach; it should be the Court’s responsibility to inform the public. However, the ECCC did not fulfil this role until recently and cannot reach as deep into the districts as ADHOC. With its local perspective and technical experience, ADHOC is best suited to take on a major role in any future outreach programs. These are not only essential to ensure the Cambodian population as a whole is aware of and thereby benefits from the ECCC, but also to contribute to a more community-based process of truth-telling and education outside the courtroom.

We therefore supports ADHOC’s plans to seek funding for further outreach activities in 2010, coupled with continued Civil Party support.

Fair trials to international standards

Specific Objective 3 (SO3): *Trials follow independent, fair, impartial processes and in conformity with international standards.*

Specific Objective 4 (SO4): *An international standard criminal procedural code is adopted before the trials begin by lobbying actively the authorities, which include the Council for Legal and Judicial Reform, National Assembly, Office of the Council of Ministers, Ministry of Justice and Royal School of Judges.*

Substantial, positive influence on structure and course of the ECCC trials, setting new precedents in international criminal justice

Specific Objective 3 seems ambitious, as the project is part of the ECCC structure and can only exert an indirect influence on the course of the trials. However, there is no doubt that ADHOC and its partners have substantially contributed to the shape of the ECCC trials and the way in which they are conducted.

As pointed out in our previous chapter, this project has been instrumental in ensuring **civil participation**. Timely, inspired advocacy and networking have led to important changes in the very structure of the ECCC process, granting victims and their lawyers a right to shape the trials. Although Case 001 ECCC rulings and revisions to the ECCC Internal Rules have imposed certain restrictions on CP participation, the principle is now established. This, coupled with massive outreach activities, has made that the ECCC, is widely seen to have drawn the highest-ever level of in-country public interest and participation in the history of international criminal tribunals.⁶⁷

The **Victims Unit**, renamed Victims Support Service (VSS) as of February 2010, has finally obtained extra funding, new staff and an enlarged mandate so as to process complaints and CP applications in a systematic way and assist victims more effectively. The newly created Civil Party Lead Co-Lawyers will be funded by the ECCC. **Victims' Associations** are now recognised by the ECCC as potentially useful counterparts.⁶⁸ Yet, as mentioned earlier, the VU/VSS will continue to depend on ADHOC as a trusted and competent intermediary in communicating with victims, and on TPO for quality psycho-social support.

Thanks to ADHOC's effective gathering of CP data and its emphatic contact with KR victims, the project has advanced ECCC and international criminal justice in another aspect. CP lawyer Silke Studzinsky, assisted by ADHOC in gathering evidence from Civil Party applicants identified by ADHOC, has obtained that **sexual and gender-based crimes, in particular forced marriages throughout Democratic Kampuchea**, are included into the scope of investigation of Case 002. Forced mass marriages, often coupled with the explicit order – issued to men only – to engage in sexual intercourse, were common under the Khmer Rouge regime and part of its population policy. On 5/11/2009, the OCIJ published a decision to the effect that victims of forced marriages throughout the country can apply for civil party status.

In addition to its merit of enlarging the definition of gender-based crimes in international law, this OCIJ decision may provide a “loophole” for victims who base their CP application on other crimes than those within the narrow geographic scope of investigations set by OCIJ. It may increase the chance for successful CP applications as well as the opportunity to submit additional information until 29/4/2010, beyond the deadline for CP application.

Criminal Procedure Code and ECCC Internal Rules

The ECCC follows Cambodian Law which, when the project partners wrote their proposal, had not yet incorporated the crimes defined by the Rome Statute (ICC) into its **criminal procedure code (CPC)**. ADHOC correctly included advocacy for a revised CPC into the proposal so as to ensure the ECCC procedures would rest on a sound basis. However, by the time the project started, the draft CPC (passed on 24 July 2007) was already under

⁶⁷ View corroborated by OCIJ Judge Lemonde (ML 22/2), and REDRESS

⁶⁸ Interview VU 18/2

consideration by the National Assembly; it was too late for ON project partners to exert any substantial influence. The new CPC incorporates crimes against humanity and war crimes, but does not meet the requirements for full engagement with the ICC. Meanwhile, ADHOC’s continued ICC-related advocacy has contributed to the inclusion of the crimes covered by the Rome Statute – genocide, crimes against humanity and war crimes – into the new **penal code**, to take effect on 30 November 2010⁶⁹.

The risk of an incomplete or lacking CPC was identified in the project design phase, which allowed the partners to swiftly focus advocacy efforts on **ECCC internal rules** – to considerable success, as outlined above, even though not all aspects of the internal rules and their 5 subsequent revisions (as of February 2010) are fully satisfactory.

Main advocacy partners and targets

ADHOC, CHRAC, TPO and their allies have, in varying configurations, maintained formal and informal contacts with multiple actors within and around the ECCC. ADHOC staff map their main advocacy contacts as follows:



Blue (dark) cards represent ADHOC’s immediate partners in civil party-related advocacy; white cards represent a mix of other partners, donors and advocacy targets (including on ICC)

List of abbreviations on page 2 of this report

Close contacts, on this spread, mean (near-)daily co-operation, e.g. daily phone calls with CHRAC and with OSJI⁷⁰, the latter maintaining a constant monitoring presence in court and an extensive informal network with ECCC staff. TPO is less involved in advocacy, but collaborates with the ECCC WESU in order secure psychosocial support in conformity with international standards. Oxfam Novib’s role is limited to grant management and project monitoring.

Our interlocutors consistently describe ADHOC as **reliable, competent advocacy** partners. ADHOC, currently chair of the CHRAC KRT sub-committee, leads in most KRT advocacy. “When there is something you want to issue a joint press release on, ADHOC either joins the statement or initiates the statement. (...) When we have a meeting with ECCC judges, Thun Saray always comes and does a good job. When the UN representative comes to Cambodia, they always request an NGO meeting and ADHOC plays a good leadership role.”⁷¹ NGOs laud ADHOC for its readiness to support fellow NGOs in formal (press releases) and informal ways when legitimate activities risk being curtailed by government intervention⁷².

⁶⁹ Phnom Penh Post, 19 February 2010, see also following chapter
⁷⁰ Interview OSJI 19/2; our interlocutor seemed informed on all aspects of the project although OSJI is not a formal project partner – an indicator of ADHOC’s effective communication with key actors.
⁷¹ Interview OSJI 19/2
⁷² Source: 2 international NGO interviewees

ECCC Co-Investigative Judge Lemonde concurs: “ADHOC does good work. It keeps a positive attitude, helping the Court to function properly. That does not keep ADHOC from raising critical points – but always in a constructive manner.” Neou Kassie, VU Outreach Co-ordinator, corroborates this: “ADHOC possesses the spirit of co-operation”⁷³.

Over the project period, **CHRAC** has issued some 20 ECCC-related press releases, linked to civil participation and on other key issues, e.g. corruption allegations (6/4/2009) and reparations (20/10/2009).⁷⁴ Within FIDH, ADHOC and even LICADHO, an influential Cambodian human rights group which does *not* implement any KRT-related project, have co-authored position papers and joint press releases on the participation of civil parties.⁷⁵

Independent, fair, impartial processes conforming to international standards?

Competent international observers to Case 001 conclude that, on the whole, the trial has been free, fair and impartial. E.g., OSJI comments on Case 001: “*The trial, while imperfect, did convincingly demonstrate that the court has successfully built the necessary physical, technical, and staff structure to conduct a fair and sophisticated trial. (...) Extensive preparation by the judges and the parties resulted in a trial that by all accounts met basic international fair trial standards.*”⁷⁶ In the context of Cambodia’s poorly developed, notoriously corrupt justice system, this seems an enormous achievement.

Imperfections, however, are numerous:

- As pointed out earlier, the ECCC and its Victims Unit were not prepared to respond to **civil parties’ needs**. Until recently, CP depended exclusively on NGO assistance – including for mundane issues such as transport from their home provinces, or board and lodging during the trial.
- **CP rights** were little understood and gradually reduced in the course of Case 001. CP lawyers occasionally seemed insufficiently prepared or poorly co-ordinated with each other.⁷⁷
- CP applicants face further limitations in Case 002, such as the tiny 10-day window for their lawyers to appeal against decisions on admissibility of their applications.⁷⁸

The new system of CP **group representation** by a sole team of Lead Co-Lawyers does limit the power of individual Civil Parties, but seems an acceptable way of accommodating a large number of CP: *The Court’s move toward a system of group representation of Civil Parties is balanced, at least on paper, by a commitment to “supplementary forms of victim participation, which will occur outside of formalized Court proceedings.” This is a reasonable balance in a mass atrocity trial. While it is necessary to modify individual civil party participation, it is necessary to honor the need and desire of a great number of people in Cambodia [to] participate in the proceedings in ways that include: 1) receiving ongoing information about the process; 2) being provided opportunities to attend proceedings; and 3) having the opportunity to tell and preserve the story of their experience during the Khmer Rouge period.*⁷⁹

The difficulties surrounding CP are to some extent due to its novel character in international criminal justice: “*Many of the problems that would emerge during the trial seemed to be the result of inadequate planning and preparation on the Court’s behalf with regard to the Civil Party Process as a whole.*”⁸⁰ Other challenges seem more related to the Cambodian context:

- ECCC judges have not systematically justified their decisions with a **legal basis**.

⁷³ Interviews ML 22/2 and VU 18/2 respectively

⁷⁴ All CHRAC press releases are available on its web-site (retrieved on 3 March 2010)

⁷⁵ E.g. *FIDH-ADHOC-LICADHO Comments on victim participation at the ECCC*, 29/1/2010 and *FIDH-ADHOC-LICADHO Position Paper: The participation of CP before the ECCC must be preserved*, 7/9/2009, retrieved on 3/3/2010 on www.fidh.org

⁷⁶ OSJI, November 2009, p.2; similar conclusions in East-West Center AIJI, December 2009

⁷⁷ OSJI, November 2009 and East-West Center AIJI, December 2009

⁷⁸ ECCC Internal Rules Rev.5, 9 February 2010

⁷⁹ OSJI, November 2009: 28

⁸⁰ East-West Center AIJI, December 2009: 28

- The plenary of the ECCC judges has adopted its own internal rules, now declared by the Pre-Trial Chamber as "procedural law". Yet, the judges are not authorized to do so according to ECCC Law. The National Assembly discussed the matter and rejected the idea that the judges could make their **own procedural rules**.⁸¹
- **Corruption** allegations related to ECCC judiciary appointments have been dealt with slowly, despite an explicit agreement between the UN and the government⁸².
- The ECCC is not free of **political interference**. Thus, the Prime Minister publicly opposed the prosecution of additional suspects, claiming this would jeopardise national security. Put bluntly by Human Rights Watch, "*Hun Sen has no role in this court, yet he keeps trying to use his hold over its Cambodian personnel to interfere*".⁸³

The *Cambodian Daily* of 11 February 2010⁸⁴ listed Foreign Minister Nor Hamong, Finance Minister Keat Chhon, Senate President Chea Sin, National Assembly President Heng Samrin and two Senators among potential witnesses whose testimony was formally requested by CIJ Lemonde, but not responded to. Written requests seeking former King Norodom Sihanouk's testimony were reportedly blocked by the government. "*Judge Lemonde said the testimony was necessary and lamented the fact that lawmakers who had voted for the establishment of the tribunal would not co-operate with it.*"

Notwithstanding its difficulties, the ECCC is widely seen as an important step in overcoming the KR past. As former S-21 detainee Vann Nath put it during his testimony in the "Duch" trial: "***I hope justice becomes tangible, one that everyone can see***"⁸⁵

The trials are also hoped to shape the future of Cambodia's justice system. We will discuss its potential **legacy** in the following chapter.

⁸¹ Interview SS 14/2

⁸² OSJI, November 2009

⁸³ HRW, 22 July 2009

⁸⁴ *Tribunal Judges Ruled Out Summoning Testimony of Hun Sen*, p. 24

⁸⁵ East West Center AIJI, Dec. 2009: 46

Preventing future crimes against humanity

Specific objective 5: The knowledge of the population on the functioning of the national judicial system and the ICC mechanism is increased to prevent the perpetration of similar mass crimes and war crimes in the future.

The project partners see the ECCC as a necessary element in the fight against impunity and the prevention of future genocide, war crimes and crimes against humanity; and as a model for future trials in Cambodia. While the ECCC deals with Cambodia's Khmer Rouge past, the ICC component of this project looks into the future, aiming to connect current domestic law and its practice more closely to the Rome Statute.

Promoting the ICC in Cambodia

Cambodia formally adhered to the Rome Statute establishing the International Criminal Court in 2002. To date it remains the first and only ASEAN State to have ratified the Statute. The three types of crimes listed in the Statute are included in Cambodia's 2009 Penal Code.

However, to enable Cambodian citizens to use the ICC appeal mechanism, a co-operation law between Cambodia and the ICC is needed. Another current restriction to the Rome Statute is the fact that Cambodia has signed a bilateral immunity agreement with the USA, practically exempting US citizens from ICC jurisdiction.

ADHOC's ICC-related activities 2007-2009: Interlocutors questioned on the ICC project component unanimously describe ADHOC as a key domestic driving force and a national and regional (ASEAN) node of ICC knowledge.⁸⁶ A number of ICC-related activities have taken place:

- International experts provided **training to project co-ordinating staff** regarding the ICC jurisdiction, mechanisms and victims' participation.
- Initially, a series of seminars for high-level civil servants including ECCC staff, lawyers, and NGO and media representatives was planned. Priorities shifted in the course of 2008, when it became apparent that, in the absence of a functional Victims Unit, ADHOC would have to devote more staff time than originally foreseen to assisting victims and civil party applicants.⁸⁷
- ADHOC staff disseminated ICC knowledge to field staff and updated staff on the ICC as part of ADHOC's routine monthly meetings with field staff from all provinces.
- Basic ICC information was mainstreamed into ADHOC's ECCC **outreach** training sessions (typically 10-minute blocks) and information materials.
- ADHOC organised two ICC **public conferences** in Phnom Penh (January 2008 and October 2009 respectively) to raise awareness amongst key decision and opinion makers. Key topics were Cambodia's obligations as a signatory to the Rome Statute, the undermining effect of the bilateral immunity agreement with the USA, and parallels between ECCC and ICC processes.

In addition, an **ICC crime monitoring** sub-component was integrated into ADHOC's routine monitoring of human rights abuses in all districts of Cambodia. ADHOC staff was prepared to provide analysis, advice and assistance with complaints on crimes within the jurisdiction of the Rome Statute. No such complaints materialised during the project period.

Outcomes: ADHOC clearly succeeded in spreading the ICC message to key decision- and opinion makers. International partners – CICC, FIDH and REDRESS – depend on ADHOC as “the” key Cambodian NGO with ICC competency. Our domestic and international NGO interlocutors commended ADHOC's ICC conferences for the apt choice of topics, speakers

⁸⁶ CHRAC, CICC interlocutors

⁸⁷ We gained the superficial impression that this shift was not fully explained to project donors; however, our narrow-time frame did not allow for proper, authoritative study of this issue.

and invitees. Top Ministry of Justice officials reportedly quoted **ADHOC as a key source of advice on the ICC**, and as necessary support in future drafting of the co-operation law.⁸⁸

In terms of wider outreach, some of our district-level interlocutors appeared surprisingly well-informed on the ICC; others claimed not to have heard of it. The project's ICC component, although useful and complementary to the ECCC work, may have been **overshadowed by the ECCC**, much more present in the project's day-to-day activities and in the minds of Khmer Rouge victims and Cambodian citizens at large. Human cognition functions in a way that issues immediately relevant to one's own lives are easily recognised, remembered and recalled, while information about more distant, abstract issues tends to fade or even pass unnoticed. Hence, it is no surprise that most "ordinary" outreach participants we interviewed did not recall anything about the ICC.

Securing the ECCC's legacy

One of the multiple expectations placed upon the ECCC is that it would serve as a model or inspiration for Cambodia's ineffectual justice system. Poorly trained personnel lacking statutory protection, corruption, political manipulation and popular mistrust are common in "ordinary" Cambodian courts.⁸⁹

Enhanced public knowledge on fair justice: In 2009, thousands of visitors watched the "Duch" trial at the ECCC premises, said to boast the world's largest court room⁹⁰ (it can accommodate some 500 spectators at a time). Millions of viewers and listeners followed the trial on TV and the radio, learning that *"justice is not only an affair of the prosecutor, the lawyer and the judge, but of the victims', too."*⁹¹ The rich media debates accompanying the ECCC since 2008, e.g. on corruption allegations and political interference, sharpen popular awareness of what an effective judiciary should look like. Civil parties to the trials return to their regions where they can share their experience with peers, making justice tangible.

Interviews in Kampong Speu and Battambang suggest that "ordinary" Cambodians who have participated in ADHOC outreach are capable of discerning huge differences between the ECCC and Cambodian court – but, realistically, do not expect any immediate impact on their local courts.

Trained judicial personnel: Some 300-400 Cambodians, mainly younger, highly educated women and men, are trained or regularly work at the ICC.⁹² Cambodian ECCC judges have kept their high-level positions in the national judiciary or government institutions. Substantial, multi-year involvement in the ECCC is likely to influence these professionals' thinking and actions. In a country where judges' level of specialised education is notoriously low, they represent a key source of expertise for the future. Whether that will result in a more independent, more competent national justice system depends to a great extent on the future political context.

Civil parties – a model for domestic and international courts: A key legacy is the concept of civil participation, a mechanism previously underused in Cambodia and absent from international criminal justice. Not even the ICC with its emphasis on victims' involvement offers such influential participation to victims.

The strong presence of civil parties in ECCC trials and media features may inspire crime victims and their lawyers to use civil participation more systematically. For example, in **gender-based or sexual crimes**, civil participation means that victims do not need to testify in court as powerless "witnesses" of the abuses they have suffered: they can have a lawyer speak on their behalf and shape the course of the trial.

⁸⁸ Interview CICC 19/2

⁸⁹ See for example USAID 2004 and U4 Anti-Corruption Resource Centre 2009

⁹⁰ Personal communication, international NGO staff

⁹¹ Interview TS 11/2, response on legacy aspect

⁹² Interview HM 19/2

Justice, Reconciliation and Healing

Today, there is no common agreement on the necessary steps towards healing and reconciliation. For instance, Karen Brounéus states, vaguely: *"Reconciliation means finding a way to balance issues such as truth and justice so that the slow changing of behaviors, attitudes and emotions between former enemies can take place. It is the pragmatic work of building relationships and confidence that will hold for the pressures on peace."*⁹³

Reconciliation can be seen from a wide range of angles, addressing legal, psychological, economic and socio-cultural factors. Neither focus on one of these aspects will bring full reconciliation on its own. It appears that ADHOC activities focus on three different aspects of the reconciliation process: the legal aspects, truth-seeking and healing. The three aspects are interrelated; together, they are essential on the road towards lasting reconciliation.

Justice: There is clear evidence that Cambodians consider the tribunal as essential for justice and the establishment of the rule of law and the end of impunity in Cambodia.⁹⁴ ADHOC has substantially contributed to holding perpetrators accountable and promoting judicial reform. Although prosecuting the top leaders may serve justice only on a symbolic level, ADHOC's work on the ECCC has been instrumental in bringing some justice by ending the cycle of impunity and in strengthening the rule of law.

Truth: Almost all "grassroots" interviewees in this evaluation indicated their wish to find out more about the KR time, e.g. why it happened and who was responsible, and to ensure that crimes will never be forgotten. ADHOC has been successful in creating space in communities across the country to talk about the court. However, long-term community-based truth telling dialogues and grassroots initiatives around this issue are still rare. ADHOC's interventions such as awareness-raising and community forums remain essential to break the silence on the past and expose the magnitude of the crimes perpetuated.

Healing: Justice and truth-telling processes are important for healing because they provide recognition of the victims' suffering and create opportunities for people to see the past in terms of shared suffering and collective responsibility. Together, they can lead to progress in the field of healing such as remorse and increased confidence, trust and empathy. However, justice and truth-telling are only two components of the painful healing process. They cannot guarantee psychological healing, as there are many other needs of individuals struggling with a personal and social history of human rights abuses. In Cambodia, a country with extremely limited psychological and other health services, widespread poverty and little access to education, many needs are not likely to be addressed in the near future.

Conclusion

The first ECCC judgment still pending, it is too early to draw definitive conclusions on the potential for reconciliation. The Cambodian process of national reconciliation is still in its early stages. However, our evaluation results point to a direct relationship between ADHOC interventions and the reconciliation process, in as much as ADHOC activities are widely perceived to have positive effects on justice, truth and healing.

As expressed by numerous stakeholders in this evaluation, local and national memorials, further community dialogue, and reconciliation events such as public ceremonies might be important elements in reconciliation and healing. Complementing ADHOC's efforts to end impunity and promote justice, they are likely to provide frameworks wherein victims can begin to understand, integrate, and create new meaning.



ADHOC ECCC/ ICC Project Logo

⁹³ Karen Brouneus, 2007

⁹⁴ e.g. in: Nadine Stammel et al., 2008; Human Rights Center, January 2009

Appendix 1 – List of abbreviations

ADHOC	Cambodian Human Rights and Development Association
AIJI	Asian International Justice Initiative (East-West Center)
ASEAN	Association of South East Asian Nations
ASF	Avocats sans Frontières
Bzfo	Behandlungszentrum fuer Folteropfer Berlin
c.	<i>circa</i> (approximately)
CICC	Coalition for the ICC
CIM	Centre for International Migration and Development (Germany)
CDP	Cambodian Defenders' Project
CJI	Cambodian Justice Initiative (CJI)
CJR	Centre for Justice and Reconciliation
CHRAC	Cambodia Human Rights Action Committee
CIJ	Co-investigating Judge
CPC	Criminal Procedure Code
CVT	Center for Survivors of Torture
CP	Civil Party
CSD	Centre for Social Development
DC-CAM	Documentation Centre of Cambodia
DED	Deutscher Entwicklungsdienst (German development service)
DK	Democratic Kampuchea (Pol Pot regime)
DV	Domestic violence
EC	European Commission
ECCC	Extraordinary Chambers in the Courts of Cambodia
e.g.	for example
EU	European Union
FIDH	Fédération Internationale des ligues des Droits de l'Homme
GBV	Gender-based violence
GTZ	German Technical Assistance Society (bilateral aid)
HR	Human Rights
ICC	International Criminal Court
i.e.	that is
KAS	Konrad Adenauer Foundation
KID	Khmer Institute for Democracy
KKKHR	Khmer Krom Human Rights Association
KR	Khmer Rouge
KRT	Khmer Rouge tribunal
ICFC	International Center for Conciliation
ICTJ	International Centre for Transitional Justice
MH	Mental Health
MoU	Memorandum of Understanding
NGO	Non-governmental organisation
OCIJ	Office of Co-investigating Judges
ON	Oxfam Novib
OPC	Office of Co-Prosecutors
OSJI	Open Society Justice Initiative
PTC	Pre-Trial Chamber
PTSD	Post-traumatic Stress Syndrom
PM	Prime Minister
RCT	International Rehabilitation Center for Torture Survivors
REDRESS	Redress Trust
SCSL	Special Court for Sierra Leone
TPO	Transcultural Psychological Organisation
UN	United Nations
VSS	Victims Support Section (formerly VU)
VU	Victims Unit
WESU	Witnesses and Experts Support Unit
YfP	Youth for Peace

Abbreviations referring to interviews (used in footnotes)

ADHOC KgS	ADHOC Kampong Speu office staff, interviewed on 15/2
CDP 18/2	Interview with Cambodian Defenders' Project GBV programme Duong Savorn, Co-ordinator, and DED advisor Beini Ye
CHRAC 18/2	Interview with CHRAC KRT PO Oeung Jeudi and Christoph, DED 18/2
CICC 19/2	Interview with Evelyn Balais Serrano, CICC on 19/2
CM 19/2	Interview with Chum Mey (CP in Case 001), 19/2
DED 17/2	Interview with DED Co-ordinator Andreas Selmececi on 17/2
DM 22/2	Interview with Counsellor Dominique Mas, Embassy of France on 22/2
HM 19/2	Interview with Hisham Mousar, former ADHOC KRT PO, on 19/2
LK 16/2	Interview with ADHOC KRT Co-ordinator Latt Ky on 16/2
MB 14/2	Interview with Mychelle Balthazard on 14/2
ML 22/3	Interview with Marcel Lemonde, ECCC Co-Investigating Judge on 22/2
OSJI 19/2	Interview with Panyavuth Long, OSJI on 19/2
SS 14/2	Interview with Silke Studzinsky on 14/2
TS 11/2	Interview with Thun Saray on 11/2
VOA 17/2	Interview with Rith Sothana, VOA on 17/2
VU 18/2	Interviews with Paul Oertly, Deputy Chief of Victims Unit, and Kassie Neou, VU Media Officer
WS 12/2	Evaluation Workshop on 12/2

To preserve confidentiality, a number of interviews are referred to by the interview number only.

Appendix 2 – Itinerary in Cambodia

Activities undertaken separately are designated with the respective consultant's initials in brackets (MR and JP). All other activities were carried out jointly by both evaluators.

Wed	10	Arrival Michaela Raab from Germany Planning meeting MR - Julian Poluda
Thu	11	Observation: Public hearing Ieng Sary Inception meeting with ADHOC Interview with Thun Saray, ADHOC
Fri	12	Evaluation workshop with ADHOC staff (Phnom Penh and 8 provinces)
Sat	13	Analysis of workshop data and ADHOC documentation
Sun	14	Interviews in Phnom Penh: Interview with Mychelle Balthazard, Researcher Interview with Silke Studzinsky, Civil Party Lawyer
Mon	15	Field research in Kampong Speu: Meeting with district officials Meeting with commune officials Meeting with CP applicants and others
Tue	16	Field research in Kampong Speu: Observation: ADHOC sensitisation Interview with Latt Ky, ADHOC <i>Return to Phnom Penh</i> (MR) <i>Travel to Battambang</i> (JP) Dinner with Mr Latt Ky, Battambang ADHOC staff, 2 CP lawyers from LAC and Civil Party Lawyer Silke Studzinsky (JP)
Wed	17	Field research in Battambang: (JP) Meeting with district governor of Banon district Observation of CP Representative Training Workshop Meeting with 4 Representatives of Civil Party Applicants Meeting with 2 Civil Party Lawyers of LAC Travel to district and interview with ADHOC provincial coordinator Meeting with 5 persons from Ta Kreim commune including a Commune Chief, Vice-Commune Chief and teachers and citizens Meeting with a monk of Ta Kreim Commune Meeting with a Commune Chief of Phnom Sampo Commune Interviews in Phnom Penh: (MR) Rith Sothana, Voice of America Andreas Selmecci, KOR ZFD, DED Nadine Kirchenbauer, ADHOC/DED Review of documentation at ADHOC office
Thu	18	Field research in Battambang: (JP) Meeting with a District Governor, Ek Phnom district Meeting with 5 persons at the Preak Norin commune incl. Commune Chief Meeting with monk of Preak Norin commune Meeting with Commune Chief and School Director of Samrong Khnong Meeting with a perpetrator of KR crimes Meeting with a perpetrator of KR crimes who has become a monk Dinner with Mr Latt Ky and ADHOC's provincial coordinator Battambang

Thu	18	Interviews in Phnom Penh: <i>(MR)</i> CHRAC KRT PO Oeung Jeudy and Christoph Sperfeld, DED CDP GBV programme Duong Savorn, Co-ordinator, and DED advisor Beini Ye VSS: Paul Oerty, Deputy Head VSS: Kassie Neou, Outreach
Fri	19	Interviews in Phnom Penh: <i>(MR)</i> Interview with Long Panhavuth, OSJI Skype interview with Evelyn Balays Serrano, CICC Chum Mey, Case 001 Civil Party Hisham Mousar, former ADHOC KRT staff <i>Return to Phnom Penh from Battambang (JP)</i>
Sat	20	Analysis
Sun	21	Preparation for debriefing
Mon	22	First debriefing with Thun Saray Interview with Civil Party Sonthary <i>(JP)</i> Interview with Judge Lemonde, ECCC <i>(MR)</i> Interview with Radio Free Asia <i>(JP)</i> Interview with Dominique Mas, Counsellor (French Embassy)
Tue	23	Debriefing meeting with ADHOC Departure of MR to Germany
Wed	24/2 – Wed 10/3	Report Writing at respective home base
Tue	2/3	Encounter with Judith Strasser, DED Advisor with TPO, Nadine Stammel (BZFO) and Ella Pugliese, documentary maker <i>(JP)</i>
Wed	3/3	Interview with Dr. Sothara, TPO KRT coordinator <i>(JP)</i>
Thu	11/3	Skype interview with Carla Ferstman, REDRESS <i>(MR)</i>

Appendix 3 – List of documents reviewed

For additional reading on reasonably up-to-date “essentials” on the ECCC, easily available key documents have been highlighted in **fat print**.

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ON / ADHOC Project Proposal for EU funding including all annexes

Annual Reports submitted to Oxfam Novib for 2007 and 2008

ADHOC Outreach Reports 2007-2009

ADHOC Activity plans 2007 – 2010

ADHOC Radio Program Plan 2007 – 2010

Neak Chea Summary 2007 – 2010

CP application map January 2010

Organisational Structure ADHOC 2009, staff list and web-site www.adhoc-chra.org

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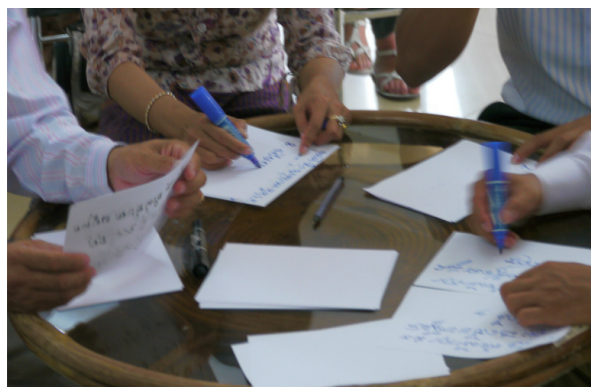
Appendix 4 – Evaluation Workshop

Workshop Plan

The one-day Workshop was roughly divided into 3 sections:

1. Extensive introductory round, including socio-metric exercises on seniority in KRT work, gender balance and other project-related issues
2. Morning session: small group work on the “ups” and “downs” in the ECCC/ICC project 2007-2009, as perceived by the participants
In a first phase, using a quick succession of individual, small group and plenary work (photographs below), we decided together on key aspects of the project the small groups would focus on. Subsequently, three groups worked on three different topics. Their presentations are summarised in the text below.
3. The afternoon was dedicated to exercises on psycho-social aspects: consequences of KR human rights violations, barriers to complaints and stressors in KRT-related work

“Ups” and “Downs” in the ECCC/ ICC Project, as compiled by project staff (English translation of flip charts presented in Khmer)



Group 1: Dissemination of Information – Awareness-Raising

Success 2007

Start to disseminate information in provinces: people were able to get information on ECCC, understand about the context of how the ECCC was created.

Challenges 2007

People did not know about the process of ECCC
People didn't really trust ADHOC officers
Complicated complainant form and problems to fill in forms

Success 2008

Better support by local authorities
More victims participation in the complainant process
More trust

Challenges 2008

Corruption in ECCC, so people don't believe it's a fair process

Success 2009

Complainant process much better
More people who wish to file their complaint

Challenges 2009

Victims don't understand clearly about the compensation
Not enough time for complaint applications
Since Khmer Rouge officers are now in high position, some victims are afraid to complain.

Group 2 : ADHOC's contribution to fair and independent ECCC trials**Challenges**

Not enough workshops for each province
Some are afraid to participate since they were KR in the past
Local authorities first did not participate sufficiently

Success 2008

CP applications accepted by ECCC
More people now know about the activities of ADHOC (information dissemination)

Challenges 2008

Some people do not have the opportunity to file their complaints
Some are afraid of former KR soldiers

Success 2009

In 2009 ADHOC organised useful workshops on compensations for the victims
ADHOC invited victims to participate in the ECCC

Outcomes

People gained knowledge about internal rules of ECCC
People have more opportunities to participate in the ECCC and join more the hearings in the court
Victims' rights have been respected
Younger people now better understand the feeling of the elderly
People get specific information about their rights
People get more support from local authorities

Questions: how do people experience the judges in the ECCC (Khmer and international)?
Do they understand the internal rules?

Group 3: Participation of the victims**Success - 2007**

Through information dissemination people start to understand better, in particular through interviews and media

ADHOC get more participation from victims and people trust ADHOC more

Civil parties understand better about their rights

CP are better able to demand compensations

2008

Information disseminated to local authorities

Gave some consultation

More people participate and filed more complaints

People participate in the hearings in the court

Victims started to talk about compensation

ADHOC included compensation in Case 001

Victims made a protest and challenged lawyers to ask more questions (e.g. related to compensation)

2009 - Success

The Victims Association was established.

Better opportunities and contact to their lawyers

ADHOC has a better role to coordinate between victims and lawyers

Challenges

Local authorities sometimes limit the information dissemination

People are afraid to talk about their experiences

Interviews take a lot of time and staff may be overwhelmed by the mental suffering



Heartfelt thanks to all participants!

Appendix 5 – Sample interview guideline

All Phnom Penh interviews were based on semi-structured interview guidelines. A sample is given here.

Interview Guide – Other NGOs involved in ECCC-related work

Introduction: *Presentation of the interviewer(s), purpose of the interview:* within the framework of our current evaluation of the EU-funded ADHOC project to support civil party participation in the ECCC, we'd like to have your opinions about

- How the work with the victims has been so far – successes, difficulties, lessons learnt
- What ADHOC's contribution has been to the (potential) success of the ECCC, looking at its different activities around the tribunal
- Your co-operation with ADHOC

[In case the interviewee says she is not fully aware of all ADHOC activities around the EC, tell her it's no problem; we can skip questions and/or look more generically at NGO activities around the ECCC]

We may use some quotes in our final report, but anonymously (or, where the source is easily identifiable, only with the explicit permission of the interviewee); interview records will only be shared between the 2 evaluators. OK if I audio-record?

Date of the interview :

Interviewer(s) :

Your current job title :

Your organisation :

Co-operation with ADHOC: your experience with ADHOC

- 1a In which aspects of your work and at what moments have you been in contact with ADHOC?
- 1b If there has been direct cooperation, what did you do together on and when?
- 1c What has worked well in your co-operation, what less? If there have been difficulties, how did you overcome them? Please explain.
- 1d Do you feel that the co-operation with ADHOC has reinforced the capacities of your organisation and those of ADHOC? Please explain.
- 1e Have you also worked on ICC-related issues with ADHOC? Has the experience been the same or different? Please explain.

Effectiveness: How useful has ADHOC's ECCC work been so far?

ADHOC has carried out outreach on the ECCC in all provinces, provided direct support to civil parties and contributed to advocacy around the establishment and procedures of the ECCC, to quote the main aspects of the project we are evaluating.

- 2a What, in your opinion, have been the most useful activities ADHOC has carried out around the ECCC? Why?
- 2b Could they have done it even better? How?

- 2c What, in your opinion, has been less useful? Why?
- 2d Are you aware of any unexpected outcomes or results from the ADHOC ECCC work, positive or negative? Please explain.
- 2e Do you feel both women and men have participated in benefitted equally from the project?
- 2f Anything you would like to add about the usefulness of ADHOC's ICC-related work?

(Likely) achievements: ADHOC's contribution to the success of the ECCC

- 3a What, in your personal opinion, has been ADHOC's contribution to helping the ECCC fulfil any, some or all of the multiple expectations that are placed upon it
- fair trials to international standards
 - justice for the victims of the Khmer Rouge
 - prevention of future war crimes and crimes against humanity
 - development of the national judicial system
 - healing and national reconciliation
- 3b Would there be any difference if ADHOC had not done any of its ECCC-related work in the last three years? Please explain.
- 3c If ADHOC were to design a new project related to the ECCC, where should its priorities be?
- 3d Anything to add about the (potential) achievements of ADHOC's ICC-related work?

Psycho-social aspects:

- 4a What do you think are the main psycho-social and mental health aspects of working on the ECCC?
- 4b Are you aware of ADHOC lobbying for and monitoring the psycho-social needs of civil parties and witnesses in the ECCC? What is your opinion about it?
- 4c Do you feel that the needs of women witnesses and civil parties have been respected by ADHOC and other actors in the ECCC process?
- 4d What have you and ADHOC respectively learnt about psycho-social aspects in the course of this project, and how do you share this learning with others?

Are there any other issues that we should know about? Anything I forgot to ask and that you find important for the evaluation of this project?

Depending on the nature and activities of the NGO to be interviewed, specific questions will be inserted on the relevant activities and outcomes.

Appendix 6 – Evaluation TOR

TOR – Final evaluation of the ADHOC *Extraordinary Chambers in the Courts (ECCC) of Cambodia and the International Criminal Court (ICC) Justice Project*

Contents of the Terms of Reference

- I. Background and context of the evaluation
- II. Evaluation rationale, purpose and objectives
- III. Evaluation scope and key questions
- IV. Methodology
- V. Evaluation report and any other products
- VI. Evaluation budget
- VII. Evaluation team, Planning

I. Background and context of the evaluation

Since January 2007 ADHOC has been conducting the *Extraordinary Chambers in the Courts (ECCC) of Cambodia and the International Criminal Court (ICC) Justice Program* funded by the European Commission and ADHOC's long-term partner Oxfam Novib. The program aims to ensure that the ECCC succeeds in delivering justice to the victims of the Khmer Rouge, and to seek safeguards that will prevent the perpetration of similar mass crimes in the future.

This program has made ADHOC the leading force in outreach activities that will equip Cambodians with the knowledge that they need to understand the role and limits of the ECCC. ADHOC is also playing a key role in assisting victims of the Khmer Rouge participate in the trial. This is a vital contribution given the current failure ECCC to give meaningful support to victims seeking to lodge complaints or become civil parties to the trial.

ADHOC has been the sole organisation to mount a truly national outreach program with dedicated staff in every province in the country. Local ADHOC staff, equipped with expert training, has hosted hundreds of information sessions on the ECCC and assisted victims file complaints with the court. Since May 2007 ADHOC has reached over 34,000 people in every corner of Cambodia. ADHOC has a program of 6 national rounds of outreach sessions over 3 years providing initial information on the ECCC, advice on the progress of the trials, and giving informed answers to questions and concerns from participants.

ADHOC's information and outreach sessions leave communities better equipped to cope with the emotions and issues raised by the fresh focus on the Khmer Rouge years prompted by the establishment of the ECCC, and better able to engage with ECCC as witnesses, victims and civil parties. As a result of this massive outreach effort many hundreds of Khmer Rouge victims have been given initial advice on submitting complaints, with over 400 assisted in completing complaints for submission to the ECCC. ADHOC supports witnesses, victims and civil parties, and is working effectively to ensure they receive the support and legal advice they need.

In addition ADHOC has convened and hosted a number of conferences and workshops in relation to issues such as reparations to victims of the Khmer Rouge, and the effective incorporation of the Rome Statute into Cambodian domestic law.

ADHOC staff and volunteers are dedicated to ensuring that the ECCC serves the Cambodian people well and meets their demand for justice and reparation. ADHOC will continue to provide independent information and advice across the country, and advocate on behalf of the Cambodian people to ensure that this goal is met.

The **project objectives** are:

Overall objectives:

- That justice is served for all victims of human rights violations during the Khmer Rouge regime through an informed and proper administration of the Extraordinary Chambers in the Courts of Cambodia (ECCC) according to international standards.
- That the principle of the Rome Statute are adopted into Cambodian Law so that the legal framework strengthened to ensure that international war crimes and crimes against humanity can be prevented in Cambodia in the future.

Specific objectives:

- The Cambodian population of roughly 13 million is aware of and understand the mandate of the EC including its limitations so that realistic expectations are fostered.
- Adequate and appropriate advice, support and counselling are provided to victims and witnesses (around 500 men and women) to facilitate their participation in the trials and alleviate some of their suffering and make their experience as positive as possible in their search for justice and truth so that they can move forward with their lives.
- Trials follow independent, fair, impartial processes and in conformity with international standards
- An international standard criminal procedural code is adopted before the trials begin by lobbying actively the authorities, which include the Council for Legal and Judicial Reform, National Assembly, Office of the Council of Ministers, Ministry of Justice and Royal School of Judges.
- The knowledge of the population on the functioning of the national judicial system and the ICC mechanism is increased to prevent the perpetration of similar mass crimes and war crimes in the future.

Given Cambodia's weak democratic structure, the EC is hoped to open up space for legal and judicial reform. The budget for the EC is very low in comparison to other mixed or internationalised tribunals. With the different actions planned for this project, ADHOC can palliate the lack of human and financial resources of the EC and complement fulfil some of EC's tasks thus hopefully speeding up the trial process and strengthening work of the EC. And finally through ADHOC's work with communities in confronting buried old wounds, the process of reconciliation becomes more durable.

The types of **activities** carried out under the project encompass:

- 1) Community Education
- 2) Victim & Witness support (for ECCC part of the project only)
- 3) Advocacy
- 4) Monitoring

II. Evaluation rationale, purpose and objectives

This end evaluation is part of ADHOC's EU and ON-funded project (described above, section 1) and will be funded from the project budget. It will be commissioned by ADHOC, in close co-operation with Oxfam Novib (TOR elaboration, selection of evaluation team).

The main objectives of this evaluation are to (i) verify attainment of the planned objectives and results, (ii) asses (potential) impact and (iii) provide learning for ADHOC for future activities around the Khmer Rouge tribunal. Hence, the evaluation serves both summative (i-ii) and formative (iii) purposes.

III. Evaluation scope and key questions

Scope: the evaluation is expected to focus on ADHOC's nation-wide *Extraordinary Chambers (EC) and International Criminal Court (ICC) Justice Project* described above (section 1), covering the extended project period from 13 December 2006 up to February 2010 (the project ends on 31 March 2010). It should address primarily the key evaluation questions listed below:

- To what extent have the general and specific project objectives been attained, and how sustainable are the project achievements?
- What outcomes, intended and unintended, have resulted from the project and how have they come about? What has been the project's contribution to healing and reconciliation processes related to the country's Khmer Rouge past?
- How have knowledge, attitudes and practice among ADHOC staff on the psychosocial dimensions evolved throughout the project period?
- Which internal (effective, efficient management at Phnom Penh and field levels) and external factors have influenced the attainment of project objectives in positive or negative ways?
- How has ADHOC worked with project partners and external actors to attain the project objectives?
- How does ADHOC distil and disseminate learning from the project for itself, NGOs in Cambodia and other interested parties, including internationally?
- To what extent is ADHOC's approach in this project a capacity building approach that fosters ownership and community participation?
- What has been the role of socio-cultural factors (e.g. local perceptions of needs and of ways of producing and sharing benefits; local power structures, systems and beliefs, acceptability of changes introduced by ADHOC's activities) in the project?

IV. Methodology

The evaluation should be highly participatory, triangulate different methods, including story-telling and other creative approaches, and integrate multiple perspectives. It should include the following elements, which the evaluation team will elaborate in a more detailed methodological proposal in close co-operation with ADHOC.

Joint planning and reviewing with ADHOC: Evaluation planning will be carried out in close co-operation with ADHOC. The evaluation process in Cambodia will begin with an inception meeting, include a workshop with relevant ADHOC staff and a debriefing.

Desk study: Evaluators review project documentation and external sources as relevant.

ADHOC will designate an English-, French- or German-speaking focal point person for the evaluation among senior ADHOC staff. ADHOC is responsible for providing all necessary documentation, facilitating appointments and local logistics in consultation with the evaluators.

ADHOC will assemble evidence for attainment of project objectives and outputs, such as copies of relevant *Journal Officiel* publications, newspaper clippings, ON trip reports, ADHOC internal reports, relevant national or sub-national statistics gathered by other institutions etc., with English or French language summaries for documents in Khmer.

Field research: The evaluation team will conduct field research with a range of stake-holders in Phnom Penh and at least two provinces, triangulating different methods and combining internal (ADHOC) and external (beneficiaries, other stakeholders such as CHRAC, TPO, Victims Unit) perspectives. Interpreters will assist the evaluators in field research.

International perspectives: The evaluation team will interview international law specialists with world-wide expertise in national justice and reconciliation processes and seek their views on the EC process in Cambodia and ADHOC's role in it.

Reporting: The evaluator(s) will submit an advanced draft report to ADHOC and ON within two weeks from completion of field work. The report will be finalised within two weeks from receipt of comments by ADHOC and ON.

V. Evaluation report

The lead evaluator will be responsible for production of a joint, comprehensive evaluation report, to be submitted within one month from completion of the field research, provided ADHOC and the co-evaluator submit their inputs as planned. This report will be forwarded in the form of two “hard” copies to ADHOC and one electronic copy each to ADHOC and ON.

The report, to be written in English and not exceeding 30 pages (annexes excluded), must include the following components, to be clearly distinguished from each other:

- Cover page
- Table of contents
- An executive summary that can be used as a document in its own right. It should include the major findings of the evaluation and summarise conclusions and recommendations
- The objectives of the evaluation
- The main question or central research question and derived sub-questions.
- A justification of the methods and techniques used (including relevant underlying values and assumptions, theories) with a justification of the selections made (of persons interviewed, villages or projects visited)
- Eventual limitations of the evaluation
- A presentation of the findings and the analysis thereof (including unexpected, relevant findings). All research questions should be addressed, paying attention to gender issues
- Conclusions linked to the various research questions. Conclusions have to be derived from findings and analysis thereof
- Recommendations should be clearly related to conclusions but presented separately. Recommendations should be practical and if necessary divided up for various actors or stakeholders
- Annexes including: TOR, list of interviewees, interview guides or questionnaires, itinerary (dates, places, main activities carried out), definitions and lists of abbreviations, lists of documents consulted/ bibliography, composition of the evaluation team (names, nationalities, expertise, current occupation) and task division

The reporting style should be clear and accessible. References to sources used, such as interviews, literature, reports, must be given. Where required, informants can be designated in ways that protect confidentiality.

VI. Evaluation Team, Planning

The evaluation will be led an experienced evaluator knowledgeable in human rights and gender issues and skilled in working with a wide range of cultural, political etc. contexts. She/ he will closely co-operate with a Cambodia-based co-evaluator experienced in evaluating community mental health and reconciliation projects. The evaluation team will be supported by a senior ADHOC staff member. In all workshops and field research, at least one Khmer-English and English-Khmer translator will assist the evaluators. Ideally, interpreters should not be recruited among ADHOC staff with project responsibilities within the ECCC/ICC Justice project.

VII. Indicative Budget

See EXCEL-file in annex

Appendix 7 – Evaluation Team

Michaela Raab – Senior Consultant and Development Writer

Michaela Raab draws on more than 20 years of development policy and practice in Asia, Africa and the Middle East. She has held a range of programme and senior management positions with international NGOs (Save the Children UK, Oxfam International affiliates, Ford Foundation) and multilateral organisations. Main themes have been human development, human rights, gender justice, education and peace building. Michaela holds M.A. equivalent degrees in International Law and Chinese Studies respectively, as well as a B.A. equivalent in Political Studies (France). She is proficient in English, French, German, Dutch and Mandarin Chinese, and possesses basic skills in Arabic, Italian and Spanish. In recent years, she has focused on evaluations, and on facilitating learning processes (monitoring systems, training workshops), strategy development and writing. Michaela's e-mail is michaela.raab(at)gmail.com. For an informal presentation of current interests, please consult her blog on people-centred development: <http://michaela-raab.blogspot.com>

Selection of References 2009	Agency
Gender-sensitive results monitoring – workshop at GTZ „theme day”, December 2009	GTZ, Eschborn Germany
Context analysis and strategy planning , Democratic Republic of Congo	Oxfam International
Participatory development of a Monitoring System for the <i>We Can End All Violence Against Women (We Can)</i> campaign in East and Central Africa	Oxfam Novib, The Hague
Blog Reporter for <i>Gender is Happening</i> , an international seminar at the Heinrich Böll Foundation, Berlin	http://gender-happening.de
Formative Evaluation : methods development for capacity and peace building in Israel/ Palestine	TRANSFORM e.V., Berlin
Elaboration of a <i>Programme Officer's Companion</i> for support to the <i>We Can</i> campaign world-wide	Oxfam Novib
Formative Evaluation : <i>We Can</i> campaign (spread over 10 countries, 4 continents): <i>theory of change</i> , implementation	Oxfam Novib, The Hague
Formative Evaluation : Legal and social services for survivors of violence against women in Palestine	Women's Centre for Legal Aid and Counselling, Jerusalem
Impact Evaluation : 3-year programme of human rights organisation ADHOC in Cambodia	Oxfam Novib, Den Haag

Julian Poluda – Freelance Consultant

Coming from Berlin, Germany, Julian Poluda comes from one of the multi-cultural epicentres of Germany. He holds a Diploma in Tropical Medicine & Public Health and a Master Degree in International Health from Humboldt University, Berlin. After having practiced as a medical doctor in the field of psychosomatic medicine, Julian Poluda co-founded the Italian NGO "Medici del Mondo – Italy" where he worked in his position as national coordinator in a number of refugee related projects and in Chiapas, Mexico. Prior to moving to Cambodia, he spent two years as a project manager and evaluation consultant in the independent consulting firm "Health Focus" and was – inter alia – responsible for a nine month global evaluation of UNCHR's activities in preventing of and responding to SGBV.

Since 2008, he has been working as an independent consultant and has undertaken consulting work for a number of non-governmental organisations. Julian Poluda is experienced in designing and evaluating psychosocial interventions and community-based mental health programs. Other areas of expertise include Sexual and Gender based Violence; Refugee/Migrant health; HIV/AIDS prevention & care; Conflict Transformation & Peace Building, Human Rights and mental health.

Julian Poluda is an experienced grant writer and has been able to secure funding for a number of non-governmental organisations. Julian Poluda also enjoys photography and likes to use photography & documentary film making during evaluations or in trauma healing interventions.

This assignment has been the two consultants' first opportunity to work together. ADHOC selected the consultants independently from each other. There was no formal lead position assigned to any of the two evaluators.