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**CAMBODIAN HUMAN RIGHTS ACTION COMMITTEE**

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**Victim Participation in the  
Extraordinary Chambers in the Courts of Cambodia (ECCC)**

**First CHRAC Monitoring Report**

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**Phnom Penh, 26 November 2008**

# Victim Participation in the ECCC

## Executive Summary

In February 2008, CHRAC member organizations established a coordinated scheme to support victim participation in the legal proceedings before the Extraordinary Chambers in the Courts of Cambodia (ECCC) and to provide legal representation to civil parties.

As part of this scheme, member organizations assist interested victims in filling in the ECCC Victim Information Form. These forms are channeled to the Court's Victims Unit. At the occasion of a conference on "Reparations to the Victims of the Khmer Rouge Regime" taking place in November 2008, the Secretariat initiated an assessment of the current state of victim participation.

This CHRAC monitoring report covers all interested victims that have received assistance from member organizations between 1 March 2008 and 15 October 2008. During this period, 813 Forms have been submitted to the Court's Victims Unit. The goal of the report is to provide an initial insight into the Cambodians who are applying to participate in the ECCC process, be it as a witness, a complainant or civil party.

Special thanks go to the staff at the Secretariat, particularly to LACH Sreytouch, YOS Sopheakneary and OEUNG Jeudy, as well as to two legal interns, Edward Penoyar (USA) and Will Fitzgibbon (Australia) who assisted us throughout this process.

## Cambodian Human Rights Action Committee (CHRAC)

The Cambodian Human Rights Action Committee (CHRAC), also known as the Action Committee, was established in 1994 by a group of local NGOs in order to promote human rights, rule of law, peace and democracy. CHRAC is a coalition of currently 21 local neutral, non-partisan, non-governmental organizations in Cambodia. The coalition maintains a permanent Secretariat in Phnom Penh.

CHRAC is envisioning Cambodia as a peaceful and liberal democracy where development takes place in an environment where human rights are respected and protected. Under this vision, CHRAC aims at reducing the number of serious human rights violations in Cambodia.

For more information, please visit [www.chrac.org](http://www.chrac.org)

## 1. Background: Victim Participation in the ECCC and the CHRAC Support Scheme

The participation of victims in the ECCC process is crucial to the success of the Court. The ECCC's rules provide victims various ways of actively participating in the legal proceedings. In 2007, the ECCC Internal Rules were created which provide for the participation of victims of the Democratic Kampuchea regime in the legal proceedings.

Elaborating on the Internal Rules, on 5 October 2007 the ECCC issued a Practice Direction on Victim Participation. It provides for the participation of victims in three ways: (1) by volunteering to be a witness; (2) by filing a complaint (providing the Co-Prosecutors with factual information); and (3) by applying to become a civil party (joining the proceedings as a party to claim collective or moral reparations). The Practice Direction contains a Victim Information Form ("Form") for victims to submit to the ECCC Victims Unit. Using this form, victims provide, *inter alia*, their personal information, details of crimes suffered or witnessed, and their preferred form of participation in the proceedings (as a witness, complainant and/or civil party).

A so far unique and unprecedented mechanism with regard to other internationalized tribunals is the possibility for victims to join the proceedings as civil parties. Victims' participation rights are found in both Cambodian law and the ECCC Internal Rules. These sources of law permit victims to play an active role in the legal proceedings with full procedural rights, similar to those afforded to the charged person. In addition, civil parties may ask the Court for "collective and moral" reparations. These participation rights afford the key beneficiaries of ECCC proceedings – the victims - direct access to justice and the opportunity to present their personal experiences, views and concerns. More importantly, the involvement of victims in the proceedings has the potential to make a significant contribution to national reconciliation.

As of 31 October 2008, with the assistance of Cambodian civil society, the ECCC's Victims Unit had received approximately 2,560 complaints and civil party applications - a clear indication of the strong interest and desire of victims to actively participate in the legal proceedings and to make full use of their rights. Furthermore, this interest indicates the high level of trust placed by victims in the ECCC proceedings.

### *The CHRAC Support Scheme*

Many member organizations of the Cambodian Human Rights Action Committee (CHRAC) have recognized the important potential of this mechanism for the numerous victims of the Khmer Rouge regime. They have engaged substantially in the fields of outreach and victim participation in order to enable victims to participate in the process of justice. Moreover, and in order to increase the efficiency of their programs, CHRAC and its member organizations decided to establish a coordinated support scheme for victims participation.

After many months of successful outreach work which has primarily focused on providing information to the Cambodian people about the ECCC, some of CHRAC's member organizations began at the end of 2007 projects to support the active participation of victims in the ECCC's legal proceedings. As a consequence, and in order to maximize the outcomes of their projects, they decided to coordinate their activities and to establish the CHRAC 'Support Scheme to Victims Participation and Legal Representation'.

The support scheme consists of three components (see Box 1) complementing the existing outreach activities of member organizations with the provision of legal representation for recognized civil parties and thereby bringing together the different strengths of member organizations. Internal Guidelines have been drafted to ensure transparency and to guarantee confidentiality.

In a *first step*, four member organizations (ADHOC, CSD, KID and KKKHRO) have assisted victims in filling the ECCC Form - a time-consuming process that consists of informing victims about their rights as well as about the complex legal procedures.

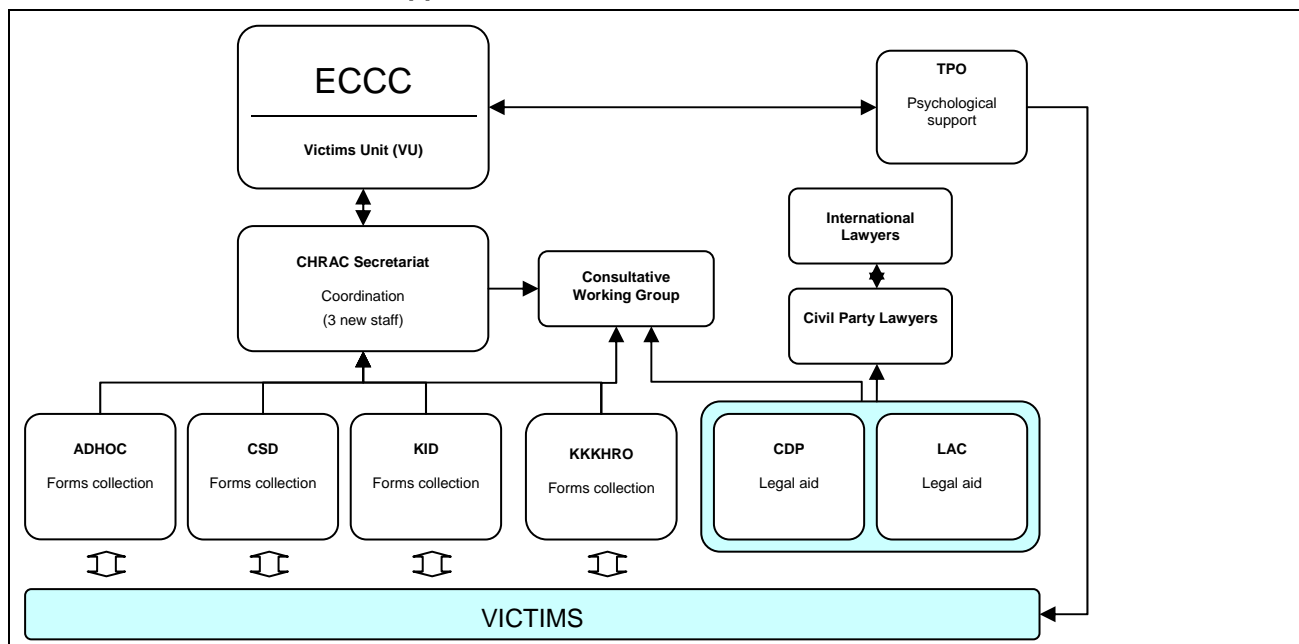
In a *second step*, these forms are sent to the CHRAC Secretariat; which member organizations decided to make a focal point for coordinating civil party participation. The official launch of this scheme began in March 2008.

**Box 1: The CHRAC Support Scheme**

- ❖ **Component 1:**  
Disseminating, filling and collecting the victims’ participation form  
*CHRAC member organizations involved so far: ADHOC, CSD, KID, KKKHRO*
- ❖ **Component 2:**  
Coordination at the CHRAC Secretariat
- ❖ **Component 3:**  
Provision of legal representation to civil parties  
*CHRAC member organizations involved: CDP, LAC*

In a *third step*, as mentioned previously, it was possible to provide legal representation to the first recognized civil parties through CDP and LAC that have a well-known record in providing legal aid for victims of human rights violations. This achieve was first visible at the public hearing of the Nuon Chea case on pre-trial detention held on 7 February 2008. At his hearing, victims of the Khmer Rouge that have been recognized as a civil parties were able to address for the first time the Pre-trial Chamber and the general public.

**Box 2: Chart of the CHRAC Support Scheme**



## 2. Research Design

The CHRAC monitoring report assesses basic information of victims who received assistance by CHRAC member organizations in between **1 March 2008 and 15 October 2008**. During this period, member organizations submitted 813 ECCC Victim Information Forms to the Victims Unit. The assessment was conducted in two phases in between July and October 2008.

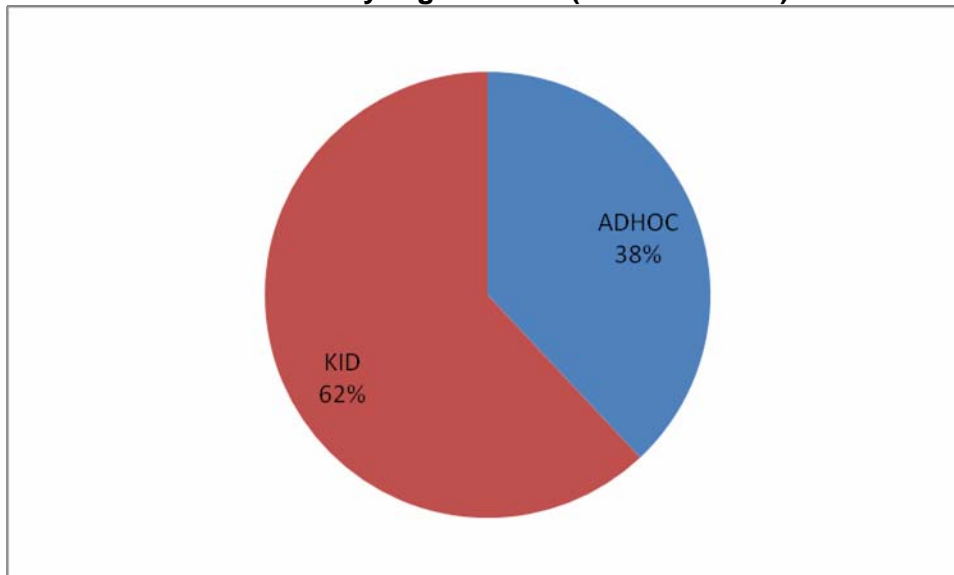
Basic information reviewed by the Secretariat staff include: type of participation (witness/ complainant/ civil party applicant), submitting intermediary organizations, geographical origin (by provinces), gender and age.

Throughout the assessment process, all staff at the Secretariat maintained strict confidentiality concerning the information provided by victims as stipulated by the CHRAC Internal Guidelines.

## 3. Statistical Analysis and Findings

During the observation period, the member organizations ADHOC and KID engaged in country-wide outreach activities to enable victims to participate in the ECCC proceedings. Overall, 813 Forms had been submitted to the ECCC Victims Unit. Many more are currently being processed in the provinces and the organizations' headquarters in Phnom Penh. Other CHRAC member organizations preparing to submit more Forms to the Court include the Center for Social Development (CSD), the Khmer Kampuchea Krom Human Rights Organization (KKKHRO) with a focus on minority victims, and the Cambodian Defenders Project (CDP).

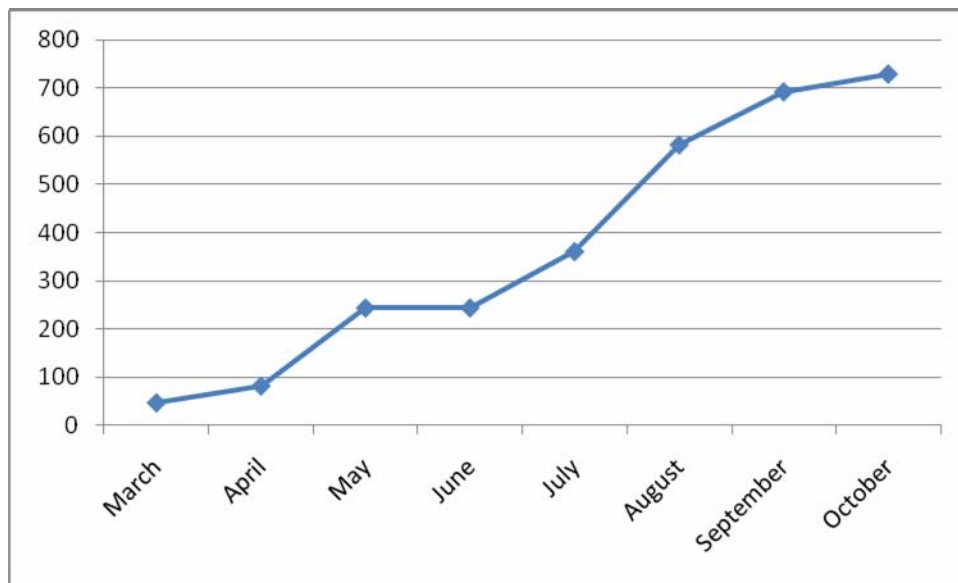
**Chart 1.0 Submissions by organization (Mar - Oct 2008)**



The **process of submitting Forms to the ECCC** is a time-consuming process that involves many stages in order to ensure the completeness of the Forms. Provincial staff of member organizations provide basic legal advice to victims in their villages and communities and assist those interested in filling the ECCC Forms. These Forms are sent subsequently to the headquarters in Phnom Penh where office staff review the Forms for their completeness. Complete Forms are submitted to the Court - incomplete Forms are sent back to the provinces for additional clarifications. Taking into consideration the difficulties concerning accessibility of communities, transportation and funding the overall process for the submission of one form can last several weeks.

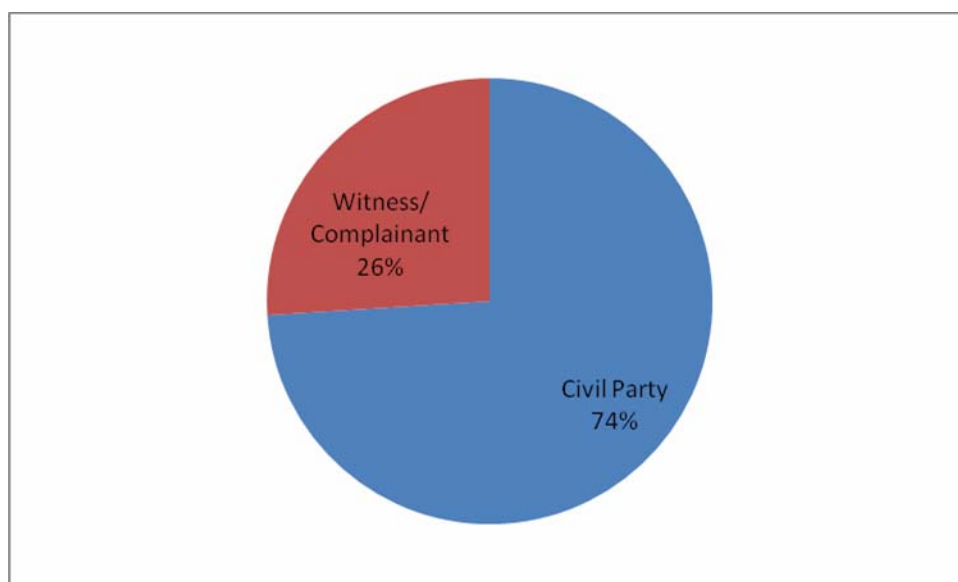
This explains in part the **exponential increase in the submission of Forms** over time since December 2007 when member organizations started to engage in supporting victim participation. The CHRAC Support Scheme came into effect in March 2008. It can reasonably be expected that the overall number of submitted Forms will be well over 1,000 by the end of the year 2008.

**Graph 1.1 Monthly submission of ECCC Victim Information Forms**



As mentioned previously, victims interested in participating in the ECCC legal proceedings have three **categories of participation**: (1) by volunteering to be a witness; (2) by filing a complaint (providing the Co-Prosecutors with factual information); and (3) by applying to become a civil party. For the purpose of the assessment, the first two categories were put together and contrasted with civil party applications. The results show that a majority of victims assisted by CHRAC member organizations are interested in joining the legal proceedings as civil parties.

**Chart 1.1 Categories of Victims**



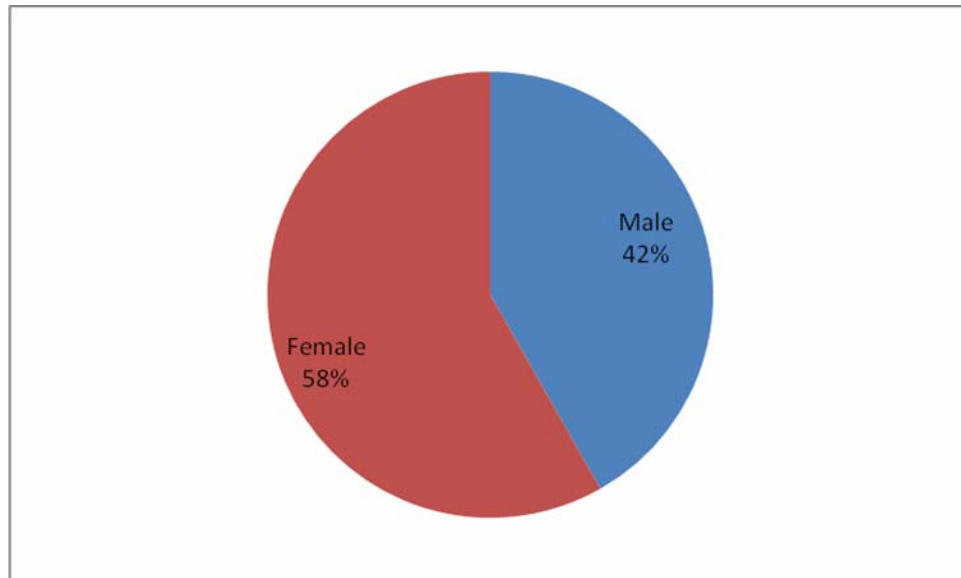
The following table illustrates the **regional distribution** of victim participation. The mapping is strongly linked to the regional presence of member organizations. ADHOC facilitates victim participation through its provincial offices whereas KID assists victims through its citizens' advisor programme. Interestingly, no participation is yet reported from many of the Northern provinces, which were former Khmer Rouge strongholds.

**Table 1.1 Forms by Province (Mar - Oct 2008)**

Province	Civil Party	Witness/Complainant	Total
Banteay Meanchey	-	-	0
Battambang	11	17	28
Kampong Cham	114	61	175
Kampong Chhang	3	-	3
Kampong Speu	89	10	99
Kampong Thom	13	47	60
Kampot	60	7	67
Kandal	3	-	3
Kep	2	-	2
Koh Kong	10	-	10
Kratie	20	68	88
Mondulkiri	14	-	14
Oddar Meanchey	-	-	0
Pailin	-	-	0
Phnom Penh	24	2	26
Sihanoukville	11	-	11
Preah Vihear	-	-	0
Pursat	-	-	0
Prey Veng	22	8	30
Ratanakiri	10	16	26
Siem Reap	71	42	113
Stung Treng	18	-	18
Svay Rieng	18	6	24
Takeo	15	-	15
USA	1	-	1
<b>TOTAL</b>	<b>529</b>	<b>284</b>	<b>813</b>

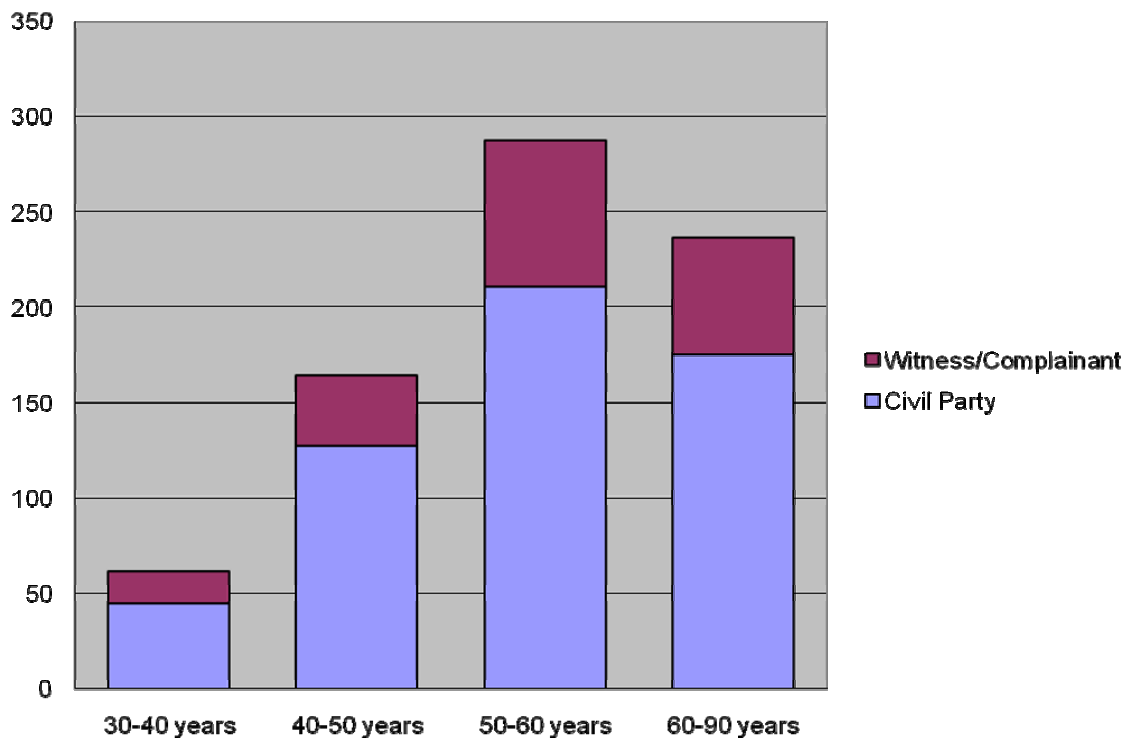
When taking a look at the **gender balance**, it is worth noting the preponderance of female civil party and complainant/witness applications. This result is contrary to many presumptions relevant to the ECCC and victim participation.

**Chart 1.2 Total gender distribution**



An assessment of the **age structure** shows that the majority of victims interested to participate in the ECCC proceedings are over 50 years old. This fact indicates that people who lived through the time are more eager to actively participate in the process of justice.

**Graph 1.2 Age structure**



Regarding the **ethnicity** of victims participating in the ECCC process, 30 applicants identified themselves as Cham Muslims. All other victims concerned described themselves as ethnic Khmer. This number is expected to change with the recent engagement of KKKHRO with minority groups in half a dozen provinces throughout Cambodia.