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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)**

**Second CHRAC Monitoring Report**

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# 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. In November 2008, CHRAC published its first monitoring report to inform about the performance of its victims support scheme.

The second CHRAC monitoring report covers all interested victims that have received assistance from member organizations between 1 March 2008 and 31 August 2009. During this period, 2,328 Forms have been submitted to the Court's Victims Unit. The goal of this monitoring report is to provide some ideas about the Cambodians who have applied to participate in the ECCC process, be it as a witness, complainant or civil party.

Special thanks go to the staff at the Secretariat, particularly to LACH Sreytouch, YOS Sopheakneary and NOUN Sovanrith who assisted us in compiling the necessary information.

## 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 2009, with the assistance of Cambodian civil society organisations, the ECCC's Victims Unit had received approximately 5,058 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, 93 civil parties participated in the Court's first trial against Kaing Guek Eav, alias "Duch", and more than 180 civil parties had been admitted by the Office of Co-Investigating Judges (OCIJ) by October 2009. 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 KKKHRA) have assisted interested 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. These organizations continue to act as intermediaries between the victims and the Court/civil party lawyers.

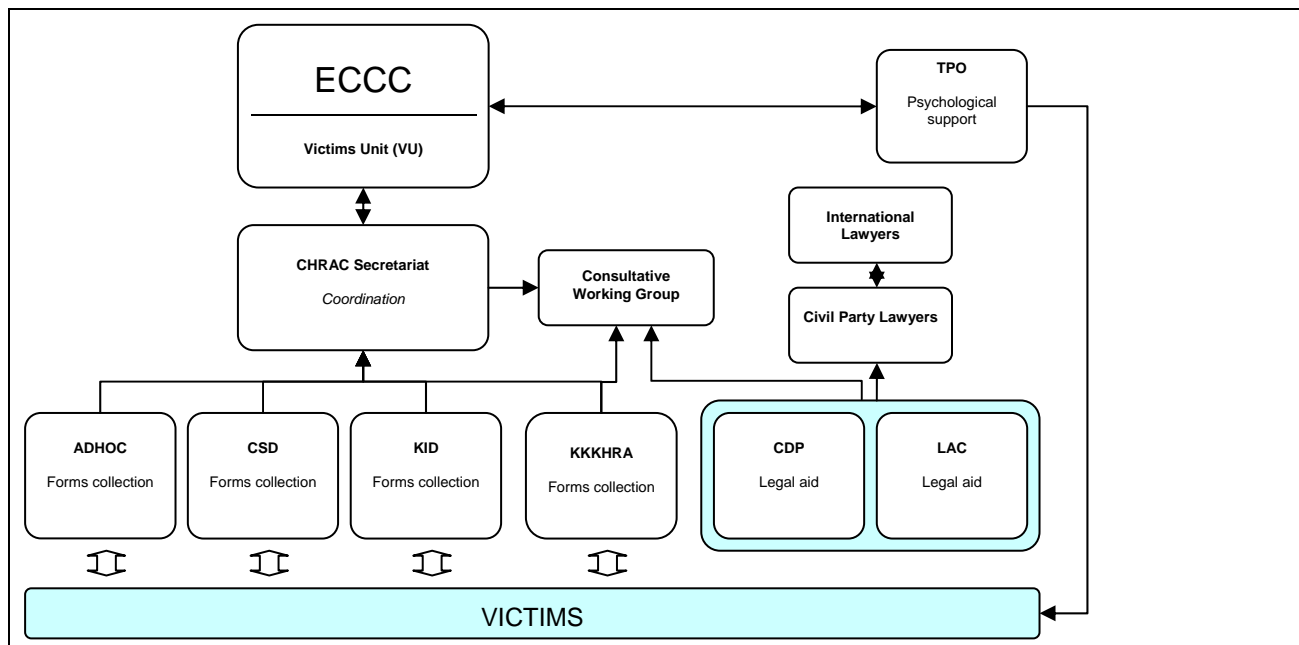
In a *second step*, these forms are sent to the CHRAC Secretariat; which member organizations decided to make a focal point for coordinating civil party participation. The official launch of this scheme began in March 2008.

**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, KKKHRA*
- ❖ **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*, 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 support was first visible at a pre-trial detention hearing on Nuon Chea held on 7 February 2008, when victims of the Khmer Rouge appeared for the first time as civil parties in public. In absence of an ECCC legal aid scheme for victims, the CHRAC support scheme contributed crucially to the fact that all 93 civil parties in Case 001 had legal representatives.

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



## 2. Research Design

The second CHRAC monitoring report assesses *basic information* of victims who received assistance by CHRAC member organizations in between **1 March 2008 and 31 August 2009**. During this period, member organizations submitted 2,328 Victim Information Forms to the ECCC Victims Unit. The assessment was conducted in September/October 2009.

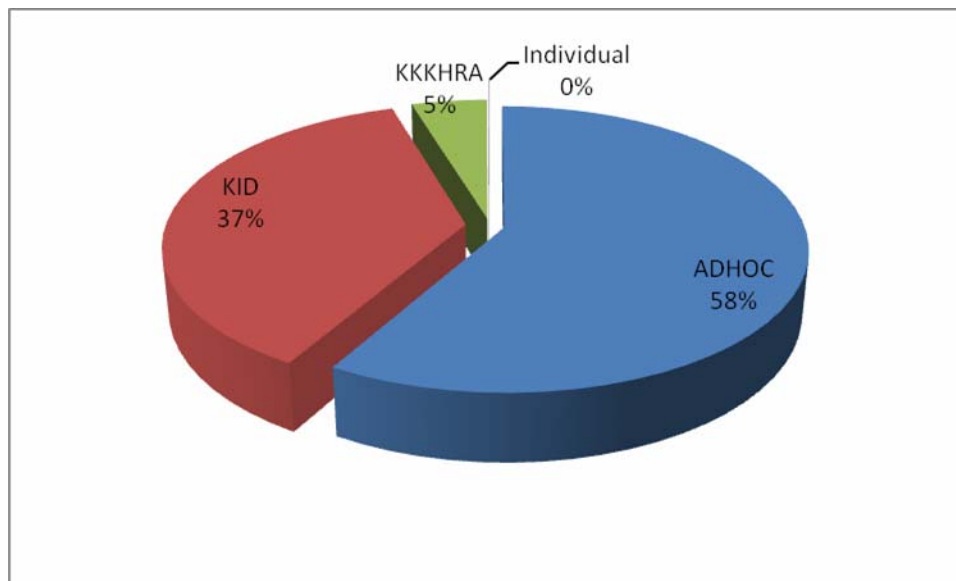
Basic information reviewed by the Secretariat staff include: type of participation (witness/ complainant/ civil party applicant), submitting intermediary organizations, geographical origin (by provinces), gender and age.

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. Statistics and Findings

During the observation period, the member organizations ADHOC, KID, CSD and KKKHRA engaged in country-wide outreach activities to enable victims to participate in the ECCC proceedings. Overall, 2,328 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 in order to meet the **deadline for victim participation in Case 002** which is set to be the announcement of the closing of the investigations by OCIJ. Another member organization, the Cambodian Defenders Project (CDP), initiated a special project to support victims of gender-based crimes in the ECCC process.

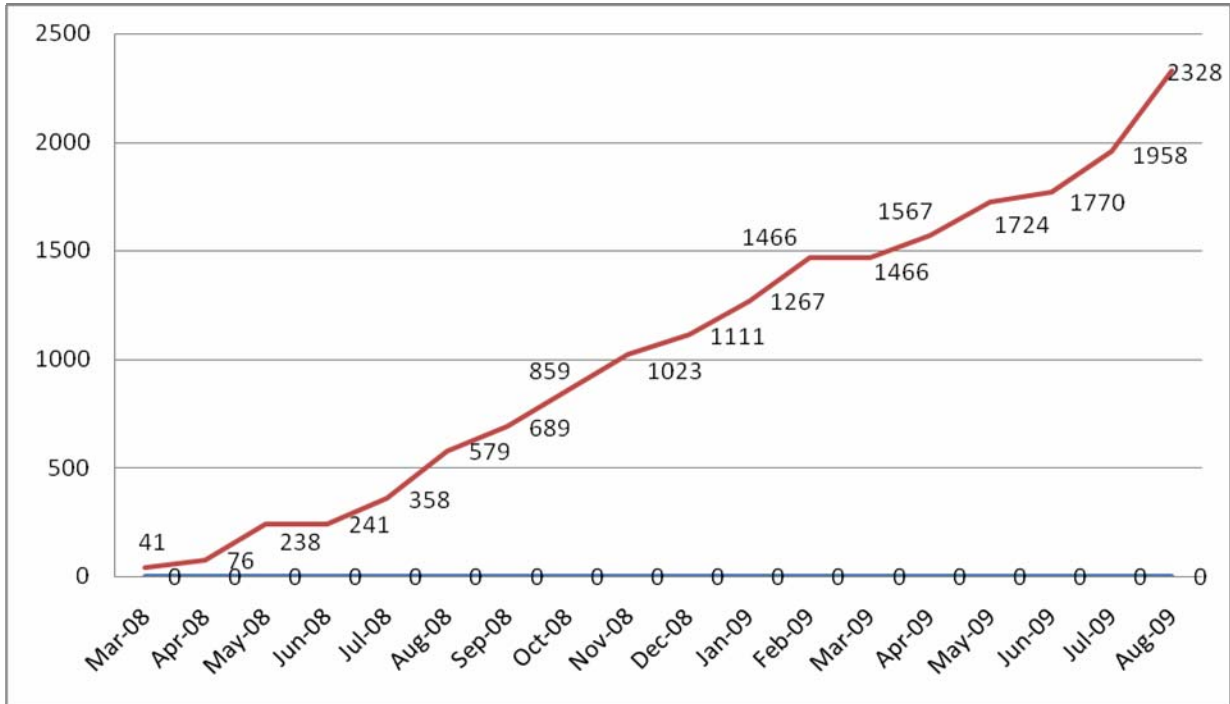
**Chart 1 Submissions by organization (Mar 2008 - Aug 2009)**



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. Completed Forms are submitted to the Court - incomplete Forms are sent back to the provinces for additional clarifications. Feedback from the ECCC's Victims Unit indicates that the degree of completeness has improved over time which gives evidence for the effect of capacity-building among intermediary organisations. However, taking into consideration the difficulties concerning accessibility of communities, transportation and funding the overall process for the submission of one form can still last several weeks.

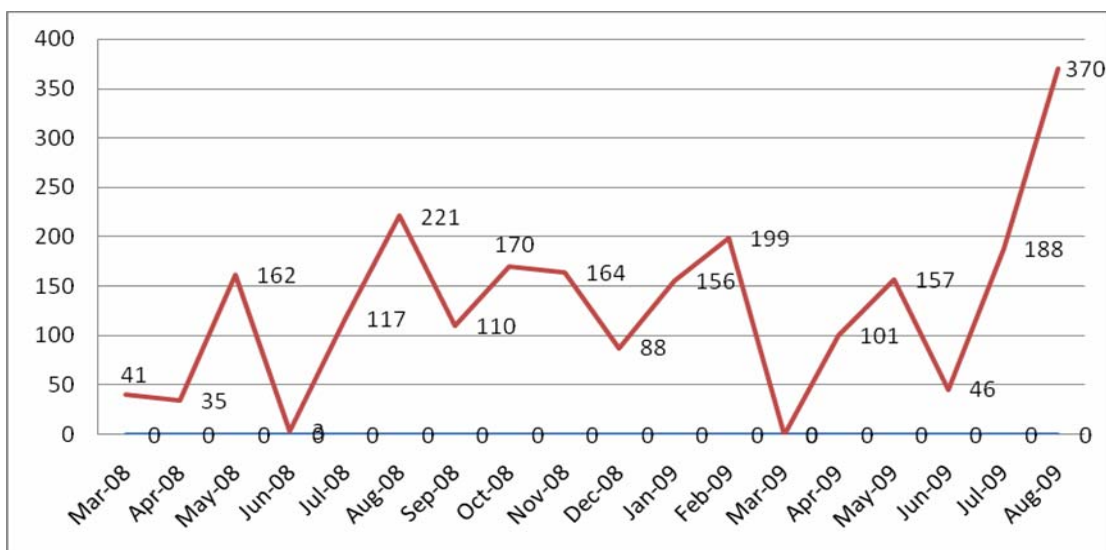
This explains in part the **increase in the submission of Forms** over time since December 2007 when member organizations started to engage in supporting victim participation. The CHRAC Support Scheme came into effect in March 2008. It can reasonably be expected that the overall number of submitted Forms will be around 4,000 by the end of the year 2009 when OCIJ is expected to announce the closing of the investigations and no more complaints can be submitted for participation in Case 002.

**Chart 2 Accumulated submissions of ECCC Victim Information Forms**



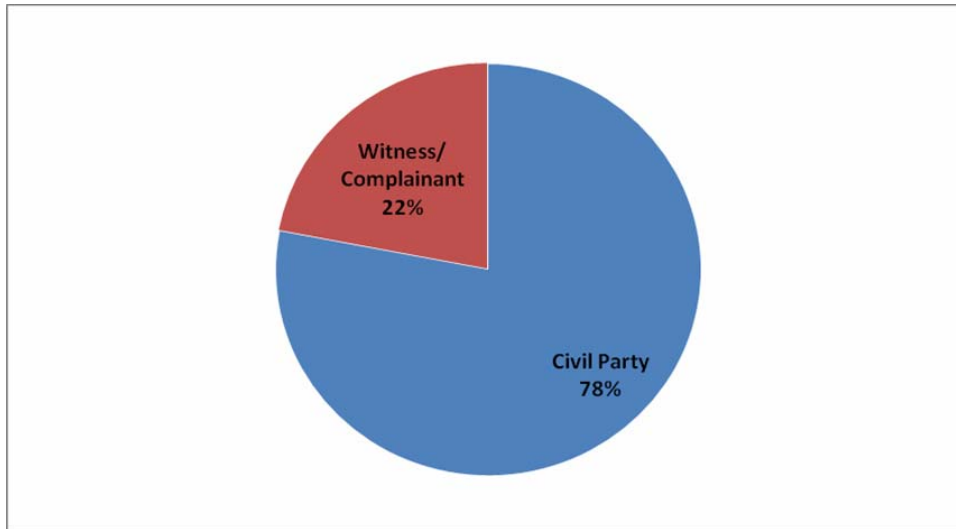
**Monthly submissions** of Forms by CHRAC member organizations to the ECCC Victims Unit have remained more or less constant over time providing an indication about the capacity of these intermediary organizations. We expect an increase in monthly submissions when approaching the deadline for participation in Case 002 and many NGOs trying to process remaining Forms in the field and at headquarters.

**Chart 3 Monthly submissions of ECCC Victim Information Forms**



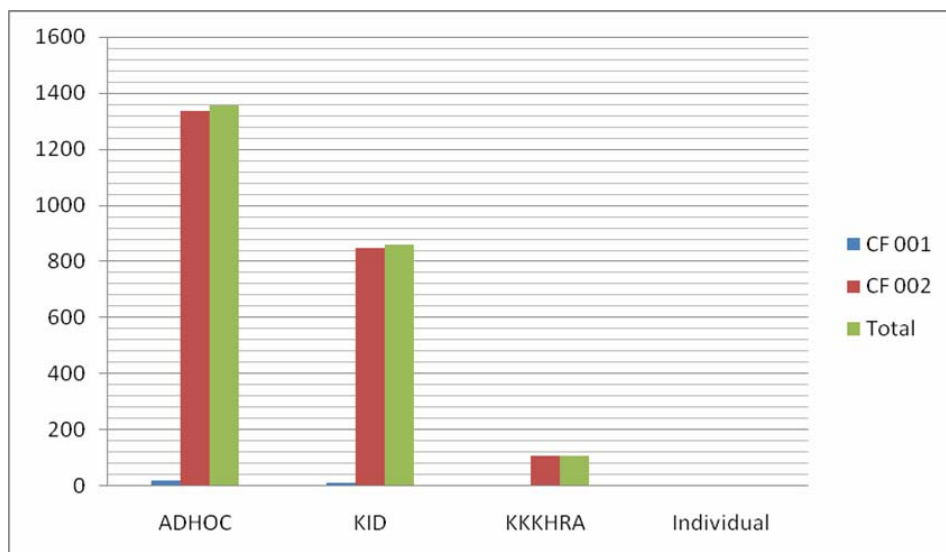
As mentioned previously, victims and survivors interested in participating in the ECCC legal proceedings have three **types of participation** available: (1) by volunteering to be a witness; (2) by filing a complaint (providing the Co-Prosecutors with factual information); and (3) by applying to become 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 survivors assisted by CHRAC member organizations are interested in joining the legal proceedings as civil parties. These figures differ from general statistics at the Victims Unit which is in part due to the fact that ADHOC focuses its support mainly on civil party applicants.

**Chart 4 Type of participation sought by survivors**



Only the assistance provided by intermediary organizations made it possible that 93 civil parties could ultimately participate in **Case 001**, the ‘Duch’ trial, represented by a lawyer – out of this number 45 civil parties received assistance from CHRAC member organizations (ADHOC: 31, KID: 13 and KKKHRA: 1). Without much support provided by the Court for victim participation in 2007 and 2008, this is an important success for the victims of the Khmer Rouge regime and the civil society organizations supporting them. With continuous outreach, interest in **Case 002** is expected to be much higher. At the end of the observation period in August 2009, almost 1,800 survivors had applied for civil party status before the ECCC through CHRAC member organizations.

**Chart 5 Participation by ECCC case file**



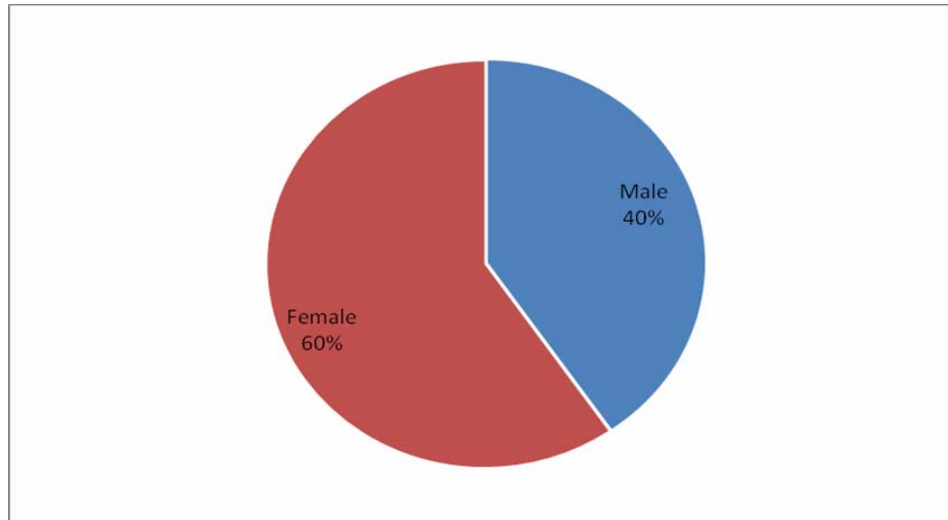
The following table provides a **regional mapping** of victim participation by province. The outcomes are strongly linked to the regional presence of member organizations. ADHOC facilitates victim participation through its offices in all provinces of Cambodia; KID assists victims through its citizens' advisor programme in nine provinces; and KKKHRA is active in five provinces of Cambodia. In comparison to CHRAC's first monitoring report of November 2008, all provinces of the country are now covered. The largest increases in victim participation during the observation period after November 2008 had come from the provinces of Pursat, Kampot, Kampong Chhnang and Prey Veng. However, participation from the Northern provinces, in particular the former Khmer Rouge strongholds, remains low.

**Chart 6 Submitted forms by province (Mar 2008 - Aug 2009)**

Province	Civil Party	Witness/Complainant	Total
Banteay Meanchey	43	-	43
Battambang	11	17	28
Kampong Cham	163	69	232
Kampong Chhnang	80	24	104
Kampong Speu	176	16	192
Kampong Thom	51	83	134
Kampot	306	15	321
Kandal	70	1	71
Kep	2	-	2
Koh Kong	43	-	43
Kratie	53	121	174
Mondulkiri	51	-	51
Oddar Meanchey	8	-	8
Pailin	2	-	2
Phnom Penh	25	2	27
Preah Vihear	47	-	47
Prey Veng	147	28	175
Pursat	134	5	139
Ratanakiri	24	16	40
Siem Reap	178	42	220
Sihanoukville	55	-	55
Stung Treng	43	40	83
Svay Rieng	79	6	85
Takeo	24	27	51
USA	1	-	1
<b>TOTAL</b>	<b>1816</b>	<b>512</b>	<b>2328</b>

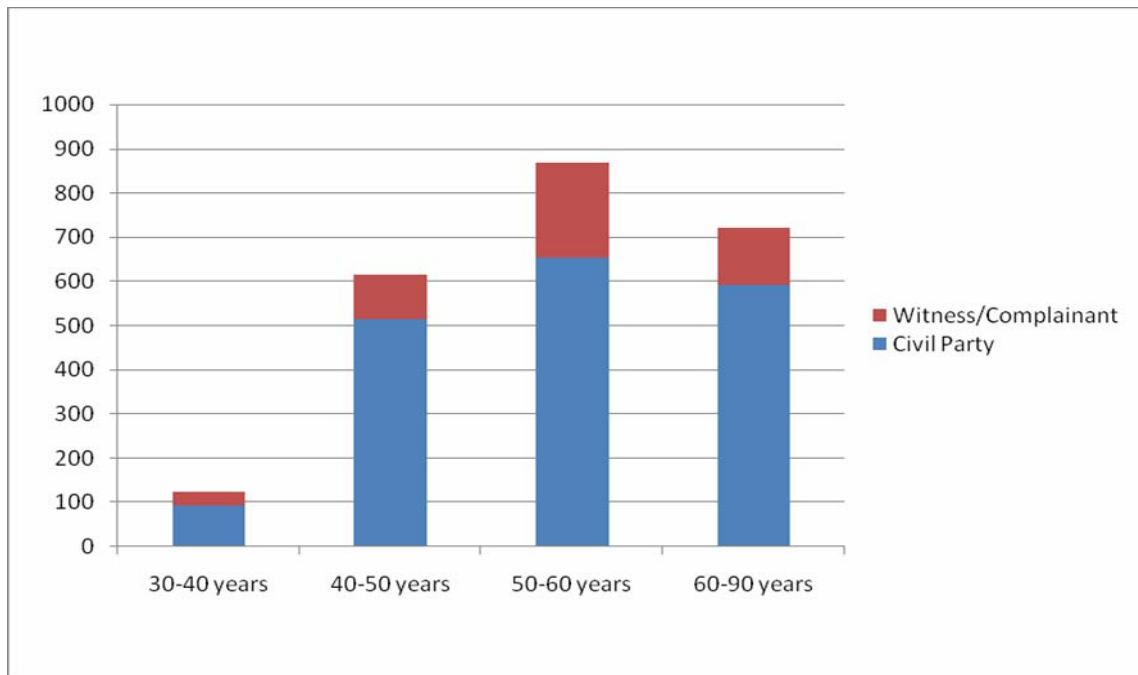
When taking a look at the **gender balance**, it is worth noting the preponderance of female civil party applicants and complainants/witnesses. This result is contrary to many presumptions relevant to the ECCC and victim participation.

**Chart 7 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.

**Chart 8 Age structure**



Regarding the **participation of victims belonging to minority groups** in Cambodia, 99 identified themselves as Cham Muslims, 72 as Khmer Krom, 36 as ethnic Vietnamese, and 22 belong to various indigenous groups. All other victims described themselves as ethnic Khmer. Among CHRAC member organizations, ADHOC (Cham and indigenous groups in Rattanakiri) and KKKHRA (Khmer Krom and ethnic Vietnamese) in particular assisted victims belonging to minority groups in Cambodia. This is an important contribution to the ECCC process, since many of these minority groups have particularly suffered under the Khmer Rouge regime.