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# **BRIDGING JUSTICE: REGIONAL COURTS AND THE ECHOES OF CAMBODIA'S TRIALS**

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*Key Words: ECCC (Extraordinary Chambers in the Courts of Cambodia), Regional tribunals, Accountability, Public outreach, Witness protection, Civil society participation, Fair trial standards, International organizations, Reparations, Victim compensation, NGO oversight, Transparency, Collaboration between local and international staff, Khmer Rouge regime, Justice reform, Impartiality*

## **ABSTRACT**

This paper explores the role of regional criminal courts in addressing historical injustices, paving the way for justice for victims, and laying the foundation for durable peace in the aftermath of conflict. The need has thus arisen for regional criminal courts to become pivotal transitional justice mechanisms; because of their proximity to where the affected communities are, they can accord a nearer and more culturally appropriate avenue of judicial redress. The Extraordinary Chambers in the Courts of Cambodia exemplify a prototypical court designed specifically for the prosecution of the severe offences perpetrated during the Khmer Rouge regime. This paper shall try to discuss how the ECCC came into being; its jurisdictional mandate and wider implications for transitional justice. By looking at both achievements and pitfalls encountered by the ECCC, it draws lessons that can be learned by other regional criminal courts in their pursuit of justice and reconciliation after conflict.

## INTRODUCTION

Transitional justice is a journey of great importance to societies emerging from times of severe conflict as well as repression since it focuses on past atrocities, justice for victims and the establishment of grounds for peace forever. Within this framework, regional criminal courts have increasingly become important innovators in dealing with these matters owing to their closeness with affected communities. A case in point is the Extraordinary Chambers in the Courts of Cambodia (ECCC) created to address the heinous crimes committed during the Khmer Rouge regime. Cambodia was involved in the Vietnam War between 1969 and 1973 which led to massive loss of lives through US bombings estimated at around 750000 deaths. Consequently, amidst this chaos, General Lon Nol took over power by overthrowing Prince Norodom Sihanouk thereby sparking off a civil war. This war saw the rise of a radical communist movement known as Khmer Rouge by in1975; this movement would take control of Phnom Penh bringing an end to the Democratic Kampuchea era that lasted until 1979. The policies put in place by the regime resulted in a death toll of 1.5-2 million people who died out of famine, forced labour, diseases and regular executions.

Ending the brutal regime of the Khmer Rouge and leading to the rise of the People's Republic of Kampuchea, Vietnamese forces expelled them from Cambodia in January 1979; nonetheless, this led to another ten-year civil war. This marked a turning point for Cambodia with the 1991 Paris Peace Agreements as they allowed for UN intervention and a transition towards democracy although there remained political upheavals. The Extraordinary Chambers in the Courts of Cambodia (ECCC) were set up as a hybrid court in 2006 operating within Cambodia's judiciary backed by international assistance from the United Nations Assistance to the Khmer Rouge Trials (UNAKRT). The court thus has authority only over those who are accused of representing or whose conduct was most culpable during that period when Democratic Kampuchea committed acts of genocide. The ECCC is a significant attempt at addressing human rights abuses of previous governments and providing justice for victims.

### Chapter 1: Historical Background of Transitional Justice

- ***Transitional justice and the Role of regional courts***

*“Transitional justice refers to how societies respond to the legacies of massive and serious human rights violations. It asks some of the most difficult questions in law, politics, and the*

*social sciences and grapples with innumerable dilemmas. Above all, transitional justice is about victims.*"<sup>1</sup>

When dealing with large-scale human rights violations and atrocities committed during wars or autocratic governments, such actions are collectively referred to as transitional justice. These encompass legal action, truth commissions, healing programs, and institutional reforms all of which foster responsibility, justice and reconciliation in a post-conflict environment. Transitional justice assists in the process of societal recovery from conflicts by confronting abuses, preventing recurrences and establishing lawfulness. It has overall and interconnected goals that are considered to be crucial for the process of state and society reconstruction after the phase of war or oppression<sup>2</sup>.

In the context of accountability, the idea includes all perpetrators being brought to justice via criminal trial or some other legal proceedings as a way to deliver justice to victims and prevent the occurrence of such events in the future. On the other hand, reconciliation aims at introducing common orderly amity that is reached with the help of dialogue between individuals and groups and supports social harmony. Some of the components of victim redress are compensating a victim, paying for the harm a victim has incurred, recognizing and affirming the victim's pain and suffering, and assisting the same victim in reclaiming his/her life. To avoid recurrence, one needs to put certain structural changes in place that would prevent future violations and set up a society that respects human rights. Finally, there is advocacy of democratic governance and the rule of law for democracy transition thereby promoting peace and justice. Altogether, these objectives form the systemic approach to address past traumas and promote reconciliation societal resilience and justice. Another factor that serves as a key to the process of transitional justice is the regional criminal courts that deal with mass atrocities and human rights violations that occur within a certain region. These are arguments because that makes the courts that are located in the specifically affected regions more responsive to the particularities of the situation, which makes them more legitimate and efficient. These courts are important since they attach responsibility to the individuals who have committed heinous crimes and assist in the healing process of the communities that have been affected by conflict. The ICTY, for example, sought to bring to trial individuals who were top officers, key agents, and perpetrators of genocide and war crimes to uphold the law and prevent further

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*What is transitional justice?* | International Center for Transitional Justice. (n.d.). <https://www.ictj.org/what-transitional-justice#:~:text=Transitional%20justice%20refers%20to%20how,Criminal%20Justice>

<sup>2</sup> United Nations. Dag Hammarskjöld Library. (n.d.). Research guides: UN International Law Documentation: Courts & Tribunals. <https://research.un.org/en/docs/law/courts>

violations. In the same way, there is the African Court on Human and People's Rights that deals with rights violations in the region, for instance, the forced eviction of the Maasai people in Tanzania, and guarantees that they are provided with justice and compensation<sup>3</sup>. Extraordinary Chambers in the Courts of Cambodia (ECCC) prosecuted senior leaders of the Khmer Rouge which has helped the nation to heal to an extent and avoid such actions in the future. These courts show how regional instruments can be appropriate to address the objectives of an attempt at transitional justice to make accountability possible, offer recognition to victims' losses and, in general, assist in creating reconciliation and stability in society.

- ***Importance of accountability and reconciliation in post-conflict societies***

Accountability and reconciliation are agents of change that allow for the construction of a trustworthy and just society that recognizes both workable justice and, in a similar way, unity. Despite having general connotations and being quite abstract, these concepts have crucial parts to play in reconstructing a society that has been marked by war. Accountability is used to ensure that those who committed a crime during the hatred conflict are punished, therefore regaining balance. It includes focusing on the victims and offenders, evidence collection, as well as trials. Thus, compulsory measures make it possible for societies to adhere to the rule of law and support the aggrieved parties<sup>4</sup>. This way one contributes to the writing of the history of the conflict and also serves as a deterrent to future aggressiveness since the aggressor will not go Scot-free.

Reconciliation, in contrast, is about restoring relations; it is concerned with making the society we live in more harmonious and less violent. It comprises acceptance of the bitter realities of the previous misdeeds, the efforts to forgive the offenders and the gradual establishment of confidence between offenders and the offended parties. Reconciliation is more or less a proactive event that aims at altering the nature of people's relationships and making it possible for people to turn a new page and live together with those who have wronged them.

Transitional justice involves the seeking of justice in post-conflict societies mainly through a combination of retributive justice (formal courts) and restorative justice (community-driven).

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<sup>3</sup> Forsythe, D. P. (2012). Transitional justice: criminal courts and alternatives. In *Cambridge University Press eBooks* (pp. 117–154). <https://doi.org/10.1017/cbo9781139059114.009>

<sup>4</sup> Gready, P., & Robins, S. (2020a). Transitional Justice and Theories of Change: Towards evaluation as understanding. *International Journal of Transitional Justice*, 14(2), 280–299. <https://doi.org/10.1093/ijtj/ijaa008>

Restoration justice involves going to court and getting justice against the offenders as a way of meeting the end product or getting closure. On the other hand, restorative justice focuses on reintroducing identification, establishing the offenders' worth, and repairing the broken relationships.

One of the best examples of this is the Khmer Rouge Tribunal or the Extraordinary Chambers in the Courts of Cambodia (ECCC). Set up to try senior leaders of the Khmer Rouge for crimes perpetrated during the reign of the genocide zealots, this tribunal has been particularly informative in terms of social justice and healing processes. In so doing, it has helped survivors and relatives of victims of the events obtain a legal sense of justice. Also, the public sittings of the tribunal as well as the recording of the genocides has assisted the Cambodian society to publicly deal with their past thereby giving them a prospect of the society recovering from the atrocities committed<sup>5</sup>. Accountability and reconciliation are not just ends, but continuous practices. He noted that the efforts to attain long-lasting peace entail legal measures, community support, and sustainable work to restore trust. Regional criminal courts such as those under the African Union, and other transitional justice mechanisms are a central element in this process in the transition from a divided past to a united and positive future.

## Chapter 2: Establishment and Jurisdiction of the ECCC

- *Khmer Rouge regime and the ECCC*

The Khmer Rouge headed by Pol Pot headed the regime in Cambodia from 17th April 1975 to 7th January 1979. This period is signified by one of the worst genocides that occurred in the twentieth century and claimed the lives of about 1.7 to 2 million people, which sharpened a quarter of Cambodia's total population during that period. Targeting the creation of a classless agricultural society, millions of Cambodians were relocated to labour camps where they were worked to the bone and starved to death or died from easily preventable diseases. It targeted and exterminated people of Miner classes, unemployed youth, people of higher education, intellectuals, professionals doctors, lawyers, teachers, religious leaders, priests, pastors, bishops and Jewish people.

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<sup>5</sup> Jain, V. (n.d.). *The Extraordinary Chambers in the Courts of Cambodia: an extraordinary success or an ordinary failure?* The Cupola: Scholarship at Gettysburg College.utm\_source=cupola.gettysburg.edu%2Fghj%2Fvol20%2Fiss1%2F6&utm\_medium=PDF&utm\_campaign=PDFCoverPages

Thus, on December 25, 1978, the Vietnamese army accompanied by Cambodian exiles headed by Hun Sen entered Cambodia and overthrew the Khmer Rouge regime. Twenty years to the exact date, on December 25, 1998, the last of the senior Khmer Rouge leaders that remained in power Nuon Chea and Khieu Samphan formally submitted to Hun Sen who became the Cambodian Prime Minister. This event effectively closed and put the end to the political and military regime of the Khmer Rouge, and opened other possibilities regarding the discussions of accountability of the Khmer Rouge regime.

The Khmer Rouge Tribunal or the ECCC was formed only after a series of long diplomatic bargaining between the United Nations and the Royal Government of Cambodia. After the last senior Khmer Rouge leaders were captured in 1998, the cries for justice for the genocide committed by this devastating group and organization resumed.

Democratic NPC Ministers Norodom Ranariddh<sup>6</sup> and Hun Sen in October 1997 formally asked the UN to help establish the Extraordinary Chambers to try the Khmer Rouge. Due to this, the UN Security Council deployed a Group of Experts to investigate the situation. The international experts called for an international tribunal similar to that called for the former Yugoslavia and Rwanda. However, Hun Sen initially rejected this, he only required a local trial for the Khmer Rouge military chief Ta Mok, and he had also contemplated a truth commission of South Africa's sort.

The creation of the Cambodia Tribunal or known as the ECCC, was a very slow process and took time ranging from 1997 to 2006. According to David Scheffer, the ex-U. S. Ambassador-at-Large for War Crimes Issues, this process took longer time than the formation of any other international or hybrid criminal tribunals after the Cold War era. Indeed it was almost from 1979 when Democratic Kampuchea fell until 1997 for the international community to start grappling with the deeds of the Khmer Rouge. Because of the international politics between China and the United States on the one hand, and the Soviet Union on the other hand in the period of 1980s and early 1990s, the Khmer Rouge continued to influence Cambodia, and its leaders could not be prosecuted. Any early move toward justice, for example, the People's Revolutionary Tribunal that was convened in Tehran in 1979, lagged due to limited local and

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<sup>6</sup> Stensrud, E. E. (2024, February 9). *The Politics of the ECCC: Lessons from Cambodia's Unique and Troubled Accountability Effort*. Just Security. <https://www.justsecurity.org/83534/the-politics-of-eccc-lessons-from-cambodias-accountability-effort/>

international backing.

The definitive turning point was the 1996 when Ieng Sary, one of the Khmer Rouge movement founders, agreed to parade a few last rebel troops in exchange for immunity. This diminished the political power of his faction, and thus the increasing international concern about trying the Khmer Rouge leaders. The co-prime ministers of Cambodia also wrote to the United Nations Secretary-General in 1997 for assistance in identifying and trying Khmer Rouge leaders for genocide and crimes against humanity. The process that this letter set into motion was long and full of complications, for example, the controversy with the leadership of the ECCC and its status in the system of Cambodian law.

After several rounds of discussions and debates the General Assembly of the United Nations finally signed the last agreement on the ECCC on May 22, 2003, with several conditions and compromises in it. Subsequent years were used to mobilize funds as well as establish the necessary infrastructure of the court until July 2006 when the judges of the ECCC court were appointed as a formal recognition of the Court.

- ***Jurisdiction and structure***

The ECCC has its legal jurisdiction over the events that began on April 17, 1975 and ended on January 6, 1979. It can determine civil legal disputes including cases that refer to genocide, crimes against humanity as well as infringement of the Geneva conventions. The court is specially assigned the function of investigating and prosecuting most senior leaders of Democratic Kampuchea as well as those who bear the greatest responsibilities for the crimes committed. It exercises different kinds of jurisdiction such as Temporal Jurisdiction: April 17, 1975 to January 6, 1979, and Territorial Jurisdiction: Like most courts in the world, the ECCC establishes its territorial jurisdiction which may include other countries. Personal Jurisdiction: Aims at the top leadership of Democratic Kampuchea and other individuals most responsible for the crimes enumerated above Subject Matter Jurisdiction: Universal and national laws. Generally, Cambodian law prevails, but in areas where there is no Cambodian law or where Cambodian law differs from the standard, international law is followed. ECCC employs the principles both of the Cambodian and international courts and is therefore considered a mixed court. This consists of a Trial Chamber and a Supreme Court Chamber that make a two-tiered system of the court. Trial Chamber: Cohosted by three Cambodian domestic judges and two international judges. They listen to people, discuss cases and make decisions they make rulings.

Supreme Court Chamber<sup>7</sup>: Serves as the appellate chamber and is final in the hierarchy of the Tunisian legal system. There are four native Cambodian judges and three international judges that comprise the court. The decision must be unanimous; however, if the culture cannot muster a consensus, it must be at least a supermajority of the judges in the Trial Chamber and in the Supreme Court Chamber is acceptable. The Cambodian government has the responsibility of ensuring compliance with the decisions made by the ECCC, by executing and apprehending individuals when needed without delay. The ECCC enactments and jurisdiction lie in genocide, crimes against humanity, grave breaches of the Geneva Conventions, the destruction of cultural property in armed conflict, murder, torture, and persecution on political grounds.

- ***Key functions and judgments***

The ECCC's purpose is threefold: to seek justice and make sure that at least the leaders of the Khmer Rouge regime committed genocide, and accountability for it between 1975 and 1979; to improve the domestic justice system; and to raise awareness of the general public about what happened.

As a result, four cases were initiated. In Case 001 the ECCC tried and punished Kaing Guek Euv, alias Duch, the director of the S21 secret prison in July 2010<sup>8</sup>. The largest case included Nuon Chea, Pol Pot's vice, and Khieu Samphan, the former head of the government. Both are accused of War Crimes and were handed life imprisonment sentences in 2014. As many allegations of forced marriage, genocide, and sexual violence were presented also in the second part of the trial, the regime was indicted for having a clear policy to exterminate the ethnic Cham and Vietnamese populations.

Another significance of the ECCC is that it provided a new approach to case proceedings and management in Cambodia. It presaged the opportunity for victims to be a party to the trial either as complainants or civil parties. The sources of charges were similar to the complainants in prosecuting submitting to the prosecutor's list of crimes they think have been committed, and the civil parties who are the direct victims of the crimes can also apply to join and participate in the process, but not as complainants but in supporting the prosecution seeking for the moral and collective damages. All in all, the four cases provided together consequently

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<sup>7</sup> Kim, S. (2018, May 26). *Transitional Justice case Study: Extraordinary chambers in the Courts of Cambodia (ECCC) | Access Accountability*. <https://accessaccountability.org/index.php/2018/05/26/transitional-justice-case-study-extraordinary-chambers-in-the-courts-of-cambodia-eccc/>

<sup>8</sup> [https://www.fidh.org/IMG/pdf/dpcambodgedec2011\\_final.pdf](https://www.fidh.org/IMG/pdf/dpcambodgedec2011_final.pdf)

got a total of 6,875 applicants. Elements of TOP meaningful participation were facilitated by the Victim Support Section which offered to transport them in their car for hearing sessions for free.

- *Overview of the judgements against the KR regime*

### 1. Comrade Duch<sup>9</sup>

Charges and Evidence:

Kaing Guek Eav a.k.a Comrade Duch was to stand trial for crimes against humanity and grave breaches of the Geneva Conventions. He was the commander at Tuol Sleng prison commonly known as S-21 situated in Phnom Penh where numerous people were kept imprisoned, tortured and later killed. The facts that were made as sentiments against him were survivors' statements, S-21 records, and Duch's confessions made during the trial.

Legal Reasoning:

The ECCC convicted Duch for his role of strong evidence that linked him to the commission of crimes at the S-21 detention centre. The responsibility for the torturing and killing of prisoners and his involvement in those actions was the basis for the decision of the tribunal. When Duch was initially tried, he received a 35-year prison sentence and life imprisonment upon appeal needed to be recognized as the perpetrator's cooperation and apology during the process.

### 2. Neon Chea<sup>10</sup>

Charges and Evidence:

Charges against Pol Pot's right-hand man and primary ideologist, included genocide, crimes against humanity, and grave violations of the Geneva Conventions. Historical records, witness statements, and documentation of the Khmer Rouge's practices were all used as evidence against him.

Legal Reasoning:

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<sup>9</sup> *The Extraordinary Chambers in the Courts of Cambodia (ECCC)*. (n.d.). <https://cja.org/what-we-do/litigation/khmer-rouge-trials/related-resources/the-extraordinary-chambers-in-the-courts-of-cambodia-eccc/>  
<sup>10</sup> (2007).. New York, Open Society Institute

Citing his prominent position in the Khmer Rouge leadership and direct participation in policies that resulted in mass murder, slavery, and other atrocities, the tribunal found him guilty of crimes against humanity. Based on evidence of specific campaigns to eradicate the Vietnamese and Cham people, he was convicted guilty of genocide against them in a retrial. Even though he denied any participation, his life sentences were affirmed on appeal.

### 3. Khieu Samphan<sup>11</sup>

Charges and evidence:

held the position of chief of state for Democratic Kampuchea and was accused of violating the Geneva Conventions, committing crimes against humanity, and committing genocide. Records, testimony, and papers detailing the regime's policies and acts under his leadership used as evidence.

Legal reasoning:

Khieu Samphan was found guilty of crimes against humanity and genocide by the ECCC, which cited his involvement in the illegal policies of the Khmer Rouge and his prominent leadership position. His life sentence was upheld on appeal, which was consistent with the court's determination that he bore a significant portion of the blame for the crimes carried out while the government was in power.

### 4. Meas Muth

The former commander of the Khmer Rouge navy was accused of crimes against humanity and murder. Testimonies from witnesses, records connecting him to certain violent crimes, and his command position in the Navy were all used as evidence. Due to political opposition from the Cambodian government, Meas Muth has not been prosecuted despite the evidence present and the arrest orders that have been filed. This hesitation underscores the difficulties in enforcing justice in a politically sensitive atmosphere and demonstrates the continued influence of former members of the Khmer Rouge inside the present leadership.

## Chapter 3: Effectiveness and Challenges of the ECCC

- *Achievements of the ECCC in addressing crimes of the Khmer Rouge*

<sup>11</sup> *The Extraordinary Chambers in the Courts of Cambodia (ECCC)*. (n.d.). <https://cja.org/what-we-do/litigation/khmer-rouge-trials/related-resources/the-extraordinary-chambers-in-the-courts-of-cambodia-eccc/>

Despite much criticism and controversies, the tribunal took some strides towards bringing change in Cambodian society. The ECCC has a key part in recording and recognizing the terrors of the Khmer Rouge period helping to create a common historical account for the Cambodian people. The court has given victims and witnesses a chance to tell their stories, which has proven essential to teaching both Cambodians and the world about the crimes committed. By showing trials on TV and putting out materials in Khmer, the ECCC has made this info easy to access for many people making sure this knowledge becomes part of the national memory.

It has helped to challenge the idea that people can get away with anything in Cambodia. By putting senior Khmer Rouge leaders on trial and finding them guilty, the court has shown that even top officials must follow the law. This has given many victims a feeling of justice and has been a big step towards holding people responsible even though many lower-ranking wrongdoers haven't been punished.

Cambodian judges have benefited from the ECCC's growth. The tribunal allows participation in its proceedings by local jurists, solicitors and paralegals. They receive excellent instruction and practice in handling complex legal issues as a result. As a result, Cambodian legal practice has improved. People now live in a legal atmosphere, which will be beneficial long after the tribunal is over<sup>12</sup>.

People now have more faith in Cambodia's courts as a result of the tribunal's operations there and the employment of local judges. The ECCC demonstrates how well Cambodian courts can comply with international law. People now feel as though they own the courts and perceive them as fair as a result. In a nation where citizens hardly trust their institutions, this is important. Through its outreach initiatives, the ECCC has made a concerted effort to engage with Cambodians. People can learn about the tribunal's functions and the importance of upholding the law from these activities. The ECCC arranges visits to historical sites and the court. In many ways, it also disseminates news. This ensures that the ECCC's work is understood and known to a large audience.

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<sup>12</sup> Democratic Progress Institute, Yildiz, K., Henshaw, A., Aden, A., Foy, C., & Chacar, H. (2015). *Accountability and reconciliation in peace processes*. Democratic Progress Institute. <https://www.democraticprogress.org/wp-content/uploads/2016/01/Accountability-and-Reconciliation-DPI-December-2015.pdf>

The ECCC stands out as the first internationalized court to let victims join as civil parties in the proceedings. This gives victims a chance to speak up during the judicial process and helps them feel involved and find closure. The court's acknowledgement of victims' pain and its work to meet their needs has a positive effect on their healing journey and on the wider efforts to reconcile within Cambodian society.

- *Challenges and criticisms faced by the ECCC*

The court has faced noteworthy challenges when trying to reach its ambitious goals. One of the major issues was the ridiculously high cost of proceedings and the length of the proceedings. An amount over \$300 million was used up to deliver only three convictions which themselves took over two decades to come leading to inefficiency of the judges, courts and wastefulness of the resources. The ECCC has also, majorly suffered from political inference and corruption within the institution. The court's structure of balancing international and local influence has ultimately led to the manipulation of opinions and judgements inviting corruption and perception bias as mentioned above in the case of Meas Muth who is still left free. The over-involvement of the local government in the processing of the alleged criminals made the courts easily susceptible to political pressure on the decisions. This was evident when the court was handling the "high-profile" alleged war criminals. It was also evident when the government of Cambodia had advised for additional prosecutions to be added leading to a huge number of resignations to cover within the institution casting a shadow of doubt upon the court's independence.

Social engagement and outreach have also not been up to the mark as per the success that is claimed by the ECCC. The awareness of the Cambodian population at large about the proceedings going on was hampered by insufficient funds and staff, leading to limited access to information among those in less developed areas even though this gap was in the later part of the trial by the NGOs.

Further, the scope of prosecution has been so limited and small in comparison to the amount of funds used to conduct the trial.

No coordination existed between the court and the society when charging an individual for the prosecution at the same time there were inadequate responses to the charges made out against people of the KR regime ending up with only 3 convictions that too were awarded at the

perpetrators' later half of the life. These factors and other political complexities lead to a very limited ability of the court to deliver comprehensive justice to all of the victims and to account for their deaths.

Only three convictions lead to a belief that the court was of a narrow view while prosecuting such as limiting the prosecutions to only high-ranking officials and that too to be handled with an exiting bias has led the courts being handicapped to address the full breadth of the crimes committed potentially leaving many victims devoid of justice. The court's defence of political resistance and donor fatigue for prosecutions and unequal victim compensation has also invited questions on the court's comprehensiveness and effectiveness.

The most affected individuals by the court's inadequacy and lethargy of prosecution have been the victims and their right to participate. Their participation has been full of challenges, and although allowed to enter proceedings as civil parties the process of joining itself has been debauched and marred with logistical and procedural difficulties. Backlogs in the processing of applications of the victims to join, and lack of legal aid schemes for their representation hindered them from accessing justice. The number of applications and the civil parties already present and the continuous addition of the parties as the application if and when they cleared out led to the court struggling to manage the parties and proceed effectively with the trial. The above highlighted are some of the issues that highlight the need for a better system of administration and management and victim participation in these complex internationalised - regional criminal courts.

#### **Chapter 4: Lessons Learned and Implications for Other Regions**

One of the lessons from the chambers is the need to improve the productivity and effectiveness of victim participation and representation mechanisms. As mentioned above about the challenges it faced the courts in the future should focus on a streamlined procedure for applications as well as guidance for the victims. To investigate the early stages of participation of the victims to ensure that victims aren't becoming a burden to the judicial process. Balancing the needs of victim involvement with the right to a fair trial for defendants and the victims ultimately creates a supportive environment for the survivors.

To engage local civil societies<sup>13</sup> and organisations at the early stages to bridge gaps between the court and the victims, while also providing essential information and application assistance when filing to join proceedings. This can be done so by establishing strong partnerships with non-profits. Courts should take on an active role in training the organisations and the staff to develop clear guidelines for these collaborations so that a comprehensive network of assistance can be established from the victim's logistical and emotional needs.

The courts should put in efforts to implement reparations in international criminal justice for both individuals and collectives to balance the acknowledgement of personal suffering with the needs of the community<sup>14</sup>.

These require effective planning and sufficient resources, and if the assets of the convict are not enough to cover the reparations to a full extent courts to explore innovative ways to fill the gap through community-based initiatives and with aid from external organisations to ensure meaningful compensation to the victims.

Finally, the ECCC experience has highlighted the requirement of establishing a sustainable infrastructure for these internationalised- regional criminal courts. Adequate resources are required for the management of large-scale trials and victim participation. Courts should always plan for long-term stability not be reliant on their temporary status of the tribunal. They should do so by nourishing robust administrative support by way of collaborations with stakeholders, this can delay inefficiencies and lapses in justice and ensure that the work of the court remains impactful. Learning from the challenges and successes faced by the ECCC courts in the future can develop stronger impartial responsive systems that have an approach to serving the needs of the victim and upholding the world-renowned and accepted principles of international justice.

## CONCLUSION

<sup>13</sup> Ross, A., & Sriram, C. L. (n.d.). *Closing Impunity Gaps: Regional transitional justice processes?* Scholarship@Western.

[https://ir.lib.uwo.ca/tjreview/vol1/iss1/8/?utm\\_source=ir.lib.uwo.ca%2Ftjreview%2Fvol1%2Fiss1%2F8&utm\\_medium=PDF&utm\\_campaign=PDFCoverPages](https://ir.lib.uwo.ca/tjreview/vol1/iss1/8/?utm_source=ir.lib.uwo.ca%2Ftjreview%2Fvol1%2Fiss1%2F8&utm_medium=PDF&utm_campaign=PDFCoverPages)

<sup>14</sup> Thomas Streinz, *Winners and Losers of the Plurality of International Courts and Tribunals: Afterword to Laurence Boisson de Chazournes' Foreword*, *European Journal of International Law*, Volume 28, Issue 4, November 2017, Pages 1251–1257, <https://doi.org/10.1093/ejil/chx083>

For such regional tribunals as ECCC to function, there must be structural commitment towards the cooperation of local with international staff, with a clear framework for shared responsibilities and decision-making. The court must avoid internal divisions from undermining the efficacy of such a court. International organizations like the UN will need to move from pure funding and rhetoric. Therefore, the UN must insist on much stronger mechanisms of oversight and transparency in the tribunal and ensure that it's made to comply with international standards for fair trials. Its pivotal role in delivering reparations to victims demands strong pressure be applied not only to the Cambodian government but also to relevant international donors to create and adequately fund redress programs. This should also include the establishment of victim trust funds, obligatory reparations as part of sentencing, and psychological and material compensation for victims who lived under the Khmer Rouge regime.

NGOs must be constantly alert and vigilant to act as constructive watchdogs over the court to make sure that the process remains fair. International organizations may also be involved by providing technical support, including training local staff in investigatory and legal practices compatible with international standards. Without a collective drive in this direction, the tribunal is certain to fail in its mandate, and the collapse of this court may even provide a dangerous precedent for regional justice. Ultimately, without radical reform and an aggressive role on the part of the UN and its various partners, the ECCC risks further erosion of public confidence and the chance to provide long-term justice to the Cambodian people.

The ECCC would never successfully remove its shadow cast by an early negative reputation concerning the delay in accepting procedural rules and suspicion of political interference as well as corruption. Such setbacks raised many doubts about its ability to deliver justice. Still, preliminary steps are seen to be undertaken to prepare for investigations and trials that are supposed to follow. However, it has not gone long enough. Its administrative leadership needs to change to reassure the public and ensure accountability.

The funding for its critical activities - such as public outreach, witness protection, and its lamentably under-developed translation and transcription services be ensured. The government must take its responsibility seriously by creating an environment in which civil society can engage freely without fear of reprisal. Meanwhile, the UN and international donors must stop turning a blind eye and demand real transparency and adherence to fair trial standards.

It is only through these bold steps that the ECCC can deliver justice to the people of Cambodia. Anything less will continue to erode confidence and ultimately undermine the court's mission.

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