

# Outreach and tribunals:

*The Special Court Sierra Leone*

*The Extraordinary Chambers in the Courts of Cambodia*

*The International Criminal Court*

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## Introduction

*“Justice Unknown is Justice Unsatisfied”* (Cibelli and Guberek, 1999) <sup>1</sup>

In the aftermath of massive human rights abuses, measures should be taken to amend the legacies of those abuses and try to avoid them in the future. Transitional justice is such a measure, trying to achieve justice in a time of transition from conflict. There are several definitions for transitional justice, but according to the United Nations (UN) *“Transitional justice is the full range of processes and mechanisms associated with a society’s attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. It consists of both judicial and non-judicial processes and mechanisms, including prosecution initiatives, facilitating initiatives in respect of the right to truth, delivering reparations, institutional reform and national consultations. Whatever combination is chosen must be in conformity with international legal standards and obligations.”*<sup>2</sup>

Since the end of World War II the area of transitional justice has changed and developed considerably. It began with the Nuremberg Trials and Tokyo War Crimes Trials, later on we witnessed the International Criminal Tribunal for the former Yugoslavia (ICTY) and International Criminal Tribunal for Rwanda (ICTR) and today a genuine International Criminal Court (ICC) exists. The similarity between tribunals is its grounds in trying the persons who bear the greatest responsibility for serious crimes such as war crimes, crimes against humanity and genocide (McGonigle Leyh, 2010:1). According to Cohen (2007:6) trials should have effective outreach and other educational or capacity- building programs in order to have an effect on reconciliation, accountability, and the promotion of respect for the rule of law. Clark (2009: 99) also emphasizes that reaching the local population and winning their support is one of the biggest challenges for tribunals. The website of the ICC defines outreach as: *“Outreach is a process of establishing sustainable, two-way communication between the Court and communities affected by the situations that are subject to investigations or proceedings, and to promote understanding and support of the judicial process at various stages as well as the different roles of the organs of the ICC. Outreach aims to clarify misperceptions and misunderstandings and to enable affected communities to follow trials”*.<sup>3</sup>

Recently the notion of the importance of outreach has been gaining support. Therefore it is interesting to examine the effect of outreach in different tribunals. Two tribunals that started in the

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<sup>1</sup> This is a conclusion from a report made about the International Criminal Tribunal for the Former Yugoslavia. The authors concluded that justice not only must be done, but as well must be seen to be done.

<sup>2</sup> Article from website of the UN [http://www.unrol.org/article.aspx?article\\_id=29](http://www.unrol.org/article.aspx?article_id=29)

<sup>3</sup> Information from the website of the ICC : <http://www.icc-cpi.int/Menus/ICC/Structure+of+the+Court/Outreach/>

90's, the ICTY and ICTR have been criticized for their lack of competent outreach activities. Consequently, it would be worthwhile to see whether tribunals established later on have improved on outreach activities. As a result, this thesis will discuss several tribunals. Firstly, the Special Court for Sierra Leone (SCSL) and the Extraordinary Chambers in the Courts of Cambodia (ECCC). These two courts will represent hybrid tribunals. The concept of hybrid tribunals will be explained in the following chapter. Suffice to say for now that hybrid tribunals are mostly situated in the country where violations took place, therefore making it be easier to reach out to the local population, thus possibly benefiting outreach. Secondly, the ICC and their outreach activities will be discussed. The ICC is the latest development in transitional justice thus supposedly made use of important lessons from previous tribunals. The ICC has an extensive outreach program which will be discussed and evaluated. The main question this thesis seeks to answer is:

*To what extent do hybrid tribunals and the ICC make effective use of outreach?*

Answering the following sub-questions will lead towards answering the main question as formulated above:

- What are hybrid courts and the ICC?
- How can the effectiveness of outreach be measured?
- How is outreach conducted in the SCSL, ECCC and the ICC?
- What are the main difficulties and challenges for these tribunals in conducting outreach?
- What do local people think of the outreach activities?

The structure of this thesis will be as following: in Chapter 1 the concept of hybrid tribunals will be shortly introduced. Additionally the ICC model will be elaborated upon. The first chapter will conclude with a variety of notions with which to measure the effectiveness of outreach. Next in Chapter 2 the SCSL will be discussed, followed by the ECCC in chapter 3. Chapter 4 will be attending to the ICC and its outreach activities. Ultimately this thesis will close with a conclusion and recommendation.

*Justification of research methods*

Before moving on to chapter 1 we will need to account for the research methods that have been used. As discussed, this thesis will describe three different tribunals and their outreach activities. The general working method will be that of desk research. First and foremost academic papers will be used. These papers will help to provide the historical background of the thesis. Furthermore, some of these papers are written by people who did research on the tribunals and their outreach activities themselves. These sources will provide important information whilst ensuring us some reliability. Additionally information from different NGO's and other organizations will be used. These organizations have been working in the field and can thus provide firsthand experience insights. Some organizations have conducted surveys among the population. Thus giving us opportunity to witness the perceptions of the people on the receiving end. Furthermore the websites and different reports from the tribunals themselves will be studied. The different Outreach Sections of the tribunals made year reports with information about the activities of the tribunals. Briefly worded, given our limitations in conducting field research ourselves, this is the very best next thing in obtaining objective report on the issue.

## Chapter 1 Hybrid tribunals and the International Criminal Court

Before really getting into the outreach activities of the different tribunals it is important to learn more about the different types of existing tribunals and to develop a framework with which to measure outreach. This chapter will introduce us to the idea of hybrid tribunals.

### 1.1. Hybrid tribunals

There is no single definition for hybrid tribunals however the common denominator is the combining of national and international resources. The hybrid tribunals developed in countries like Cambodia and Sierra Leone can be seen as first attempts at answering among others the problems faced at the international tribunals in Yugoslavia and Rwanda (Stensrud, 2009:7). Purely international or national models pose problems which hybrid tribunals attempt to resolve by using a complex mix of national and international law and national and international judges. The exact composition of this mix differs in every tribunal. This automatically means that every hybrid tribunal is different (Lekham Sriram, 2006:474).

One of the reasons for the development of hybrid tribunals was doubt about the value of the then present tribunals for the local population. For instance, the ICTR and ICTY were located far away from the countries where the atrocities took place. This made it difficult for people or even press to attend the trials. In contrast, hybrid tribunals are located inside the country where the greater part of the conflict was fought. Therefore making it easier for people to stay informed about the trial and for judges to stay locally involved, e.g. find eye witnesses. In addition, across the board hybrid tribunals have significantly more favorable chances of conducting good outreach if located within the country of interest. Although admittedly it still preserves its difficulties. Nonetheless, by situating the tribunal inside the country it is easier for the population to feel some participatory connection to the trials. This can be reached for example through coverage by international media or through participation of fellow citizens as judges, prosecutors, or defense counsel (Cohen, 2007:5-6). Moreover, running international tribunals is a costly business. Hybrid tribunals were created also with intent to cut these costs (Stensrud, 2009:7).

The first hybrid tribunal started in 2002 in East-Timor. Since then other hybrid tribunals have been developed in Kosovo, Sierra Leone, Cambodia, Bosnia-Herzegovina and Lebanon. For reasons of conciseness, only two of these tribunals will be discussed. Firstly in chapter 2 the Special Court of Sierra Leone, established in 2002 after raised demands on accountability to those responsible for a brutal ten-year civil war (1991-2002), Then in chapter 3 the Extraordinary Chambers of the Courts of Cambodia will be considered. This tribunal was established in 2003 to punish the people largely responsible for the atrocities during the Khmer Rouge movement in the seventies. Before moving

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on to these specific tribunals it will be helpful to first take a look at the International Criminal Court.

## 1.2 The International Criminal Court

The International Criminal Court has been entered into service on July the 1<sup>st</sup>, 2002 after the 17<sup>th</sup> of July, 1998 States adaptation of the Rome Statute. This provided the legal basis for establishing the permanent International Criminal Court. The Rome Statute is binding to those States that have formally expressed their consent to be bound by the provisions. The international community had long aimed for the creation of a permanent international court. The 20<sup>th</sup> century had known different tribunals like the Nuremberg trial and the ICTY established to deal with big atrocities, however these courts had a specific time-frame and were directed to a specific conflict. Therefore the general agreement existed among many countries that an independent, permanent court was needed. This led then to the establishment of the ICC, the first permanent, treaty based international court, placed in The Hague. It was set up to end impunity for perpetrators of the most serious of crimes, i.e. genocide, crimes against humanity and war crimes. Conversely, the ICC is a court of last resort; it will only act if the national judicial system cannot deal with the crimes. Lastly, the court's jurisdiction only covers crimes committed after the 1<sup>st</sup> of July 2002.

Since its entry into service, several cases have been dealt with by the ICC. In total 15 cases from 7 situations were brought before the ICC. There are several ways in which a case can be brought before Court. First off, the prosecutor can start an investigation after a case is referred to by a State Party or by the United Nations Security Council. Secondly, the prosecutor can start an investigation himself on the basis of received information from individuals or organizations on crimes within the jurisdiction of the Court. To date, Uganda, the Democratic Republic of Congo and the Central African Republic, all State Parties to the Rome Statute, have referred situations occurring on their territories to the Court. In addition, the UN Security Council has referred the case of Darfur, Sudan and Libya, both being non-States Parties. On top of that, the prosecutor started investigations in Kenya and Côte d'Ivoire. This study will look into how outreach is conducted by the ICC in these countries. However, before getting into the outreach as conducted by the different tribunals, the next subsection will introduce models by which outreach efficacy can be measured.<sup>4</sup>

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<sup>4</sup> Information from the official website of the ICC via:

<http://www.icc-cpi.int/Menus/ICC/About+the+Court/>  
<http://www.icc-cpi.int/Menus/ICC/About+the+Court/ICC+at+a+glance/>  
<http://www.icc-cpi.int/Menus/ICC/Situations+and+Cases/>



### 1.3 Outreach models

In order to be able to analyze the outreach programs of the SCSL, ECCC and ICC it is important to have some outreach framework by which these can be measured. Different authors have developed models which measure outreach effectiveness. This chapter will present models of Norman Henry Pentelovitch and Victor Peskin. Parts of these outreach models are also discussed in an article on guidelines for outreach programs for transitional justice by the International Center of Justice. Therefore these models seem to appropriately support outreach measure (Ramírez-Barat, 2011). Subsequently the next chapters will use these models to investigate if tribunals have used outreach effectively.

#### 1.3.1 Pentelovitch's model

Pentelovitch (2008) distinguishes 4 different factors which influence the efficacy of outreach.

1. *Timing.* It is important to select a timely moment to set up outreach activities within the process. According to Pentelovitch, immediate focus on outreach will give the best results. This is something that plainly did not happen with ICTR and ICTY. Likewise, late start of the outreach program is seen as one of the reasons why the outreach of these tribunals did not work well. That is why timing is a crucial factor for the success or failure of outreach activities.
2. *A separate office for outreach and public affairs.* Separating outreach from public affairs ensures two things. One, the outreach program will receive the attention it needs. And two, it will not be overshadowed by other tasks. The danger of incorporating outreach with the Public Affairs Department is the possibility of other issues, not outreach related, being given priority over outreach activities.
3. *Planning/strategy.* A clear planning or strategy will provide a clear outreach program as well. In this way outreach can be conducted in a more professional and effective way, conveying a transparent message containing goals to be achieved, and methods on how to accomplish these goals. With formalization, the affected people will have a greater chance of being involved also.
4. *Funding.* The amount of money and the way this money is spent is crucial for the success of outreach. Outreach programs do often have ambitious goals, yet these goals will never be achieved without proper funding. Without sufficient funding for example, there will be a limited budget available for staff and other resources. This will have a negative impact on the success of the outreach program.

### 1.3.2. Peskin's model

Victor Peskin (2005: 954) describes two different approaches to outreach for criminal tribunals. The *transparency model* and the *engagement model*. He originally used the models to explain the outreach program of the ICTR. Nonetheless, it can also be applied to outreach programs in general. The *transparency model* mainly focuses on informing the public about the tribunal and making the tribunal accessible on a basic level. In the case of the ICTR, which Peskin analyses, this model includes concerns like promoting media attention to the processes, translating the decisions of the courts in the local language and providing summaries of judgments.

The *engagement model* goes beyond informing the public about the tribunal. Within this model interaction with the population is of great importance. An effort is made to have regular and extensive dialogue between the court and the people. In this model it is attempted to go beyond mere informing the people, and establish a real dialogue in which different aspects of the court can be evaluated. There are many examples of outreach activities being exercised as falling within the *engagement model*. For instance, the establishment of outreach offices in various locations to act as information centers. Another example is organizing town hall meetings, bringing together staff and citizens for an open forum, discussion, and question and answer sessions. Final examples are the arranging of journalist training programs for developing a cooperative relationship with the media and developing specific opportunities for the local people to work and be involved in the actual court (Karwande, 2009: 45).

According to Peskin the *engagement model* is the key to bring the reality of court closer to the people. It can give a human face to an institution which would otherwise remain abstract and intimidating (Peskin, 2005: 954).

Following this introduction on the different tribunals and the explanation of the outreach models the next chapter will provide an analysis of the SCSL.

## Chapter 2. The Special Court for Sierra Leone and its outreach activities.

The Special Court for Sierra Leone was set up after an agreement between the United Nations and the government of Sierra Leone. According to the mandate of the tribunal the SCSL has the following goal: “try those who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996”.<sup>5</sup> The tribunal is a hybrid tribunal because it has both national and international staff and it has the jurisdiction to prosecute crimes under national and international law. The tribunal is situated in Freetown, the capital of Sierra Leone. However, it works independently from the domestic legal system. Informing the people about the working of the tribunal has been given a high priority since the inception of the Court (Pentelovitch, 2008: 452-453). One of the main justifications for the establishment of the tribunal is that it provides meaning for the affected population (Husain, 2005: 570).

### 2.1 The structure, strategy and start from outreach within the SCSL

Different sources describe the outreach program from the SCSL as much more comprehensive and ambitious than any other outreach program that has previously been carried out. According to these sources the SCSL clearly distanced itself from the ad hoc tribunals which have been criticized because of their limited efforts to reach the affected population (Kerr en Lincoln, 2008:5; Kermani Mendez, 2009: 79; Clark, 2009: 106, Cruvellier, 2009:29; Perriello en Wierda, 2006: 35).

In March 2003, six months after the tribunal came into force, the outreach program of the SCSL was started by the creation of an Outreach Section. Before this particular moment, however, national NGO's were already conducting outreach activities. Furthermore the first prosecutor of the SCSL, David Crane also began outreach activities before the creation of the official Outreach Section. Among others he was active with the organization of town hall meetings in all 12 districts in Sierra Leone. In this way he tried to inform the people on the work of the tribunal (Clark, 2009: 107; Kerr en Lincoln, 2008:5). The Outreach Section has its office in Freetown with a staff of 20 people including interns, with additionally an outreach officer assigned to each of the 12 districts in Sierra Leone. Almost the entire staff comes from Sierra Leone and speaks Krio plus several other local languages. This greatly facilitates communication with the local people. The goals of the Outreach Section are set out in its outreach statement which declares that: “*The Special Court's Outreach Section was established to link the people of Sierra Leone with the Special Court. Outreach's mission is to promote understanding of the Special Court and respect for human rights*

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<sup>5</sup> Information obtained from the official website of the SCSL via <http://www.sc-sl.org/ABOUT/tabid/70/Default.aspx>

*and the rule of law in Sierra Leone. Through diverse programs that disseminate information and encourage dialogue, Outreach fosters an environment of two-way communication between the People of Sierra Leone and the Special Court*” (Clark, 2009: 107). In April 2008 the Outreach Section was merged with the Public Affairs department.<sup>6</sup> This merger was justified by the fact that the mandate of the tribunal was almost accomplished nearly coming to a close (Pentelovitch, 2008: 454).

In Liberia, the neighboring country of Sierra Leone, the SCSL conducts outreach activities as well. This is due to the fact that the former president of Liberia, Charles Taylor, played an important role in the civil war in Sierra Leone. Because of this role he was indicted by the SCSL. The process against him took place in The Hague, Because of this another Outreach Section was established in Liberia as well.<sup>7</sup>

On a final note, the Outreach Section was heavily reliant on voluntary contributions from third parties because it is not funded from the core budget of the SCSL. The European Union has been one of the main financial benefactors to the Outreach Section (Kerr en Lincoln, 2008: 12).

## 2.2. Outreach activities

The SCSL conducts many different outreach activities. One of the priorities from the SCSL outreach program has been to reach the remote areas of Sierra Leone. This happens in a context in which there is little access to electricity and a low literacy rate. In 2009 the outreach unit’s 17 officers conducted 272 outreach programs per month in Sierra Leone according to the SCSL. Four a week were conducted in the provinces and four in Free Town. On top of this 16 outreach events were organized in Liberia every month (Cruvellier, 2009: 29).

Town hall meetings have been used as a way to conduct outreach by the Outreach Section from the very beginning of the tribunal. During these meetings an effort is made to explain to the people the organization and operations of the tribunal. Also, booklets and posters are distributed to try and explain the mission and the procedures of the tribunal, especially for those living in more remote areas. The booklets make use of basic illustrations and simple language to explain hard concepts. For instance the Special Court’s jurisdiction over only those who bear the “greatest responsibility” for crimes.

The SCSL has also developed special programs for particular groups in society; like women, children or disabled persons. There is, among others, information on the Court available in braille,

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<sup>6</sup> Information from the “Sixth Annual Report of the President of the Special Court”, at the official website of the SCSL <http://www.sc-sl.org/DOCUMENTS/tabid/176/Default.aspx>

<sup>7</sup> Information from the Sixth Annual Report of the President of the Special Court’ at the official website of the SCSL <http://www.sc-sl.org/DOCUMENTS/tabid/176/Default.aspx>.

“Kids talk to Kids” radio programs and debate and quiz competitions are organized at schools. On top of that gender programs are arranged and the Outreach Section was working closely with students (Pentelovitch, 2008: 455-456; Kerr en Lincoln, 2008:11; Perrielo en Wierda: 2006: 37). The last Annual Report of the Court says that children are one of the main target groups from the Outreach Section. Following up on that, 165 school visits have been done by Outreach last year. Additionally, several public readings about the SCSL were held at universities. Also so called “Accountability Now” clubs have been established for students. In these clubs attention is given to the broader issues of justice like accountability and human rights.<sup>8</sup>

As it is really important for the population to have access to the different documents the SCSL has made a great effort to improve among other things translation and transcription. An example of these efforts lies within the fact that the Court appointed an international professor specialized in the languages and dialects of Sierra Leone, to train the translation staff. Transcripts prepared by these trained transcribers are then made available the same day (Cohen, 2007: 22). The SCSL is open to the public, even conducting tours. Consequently journalist, students and jurists are visiting the Court on a regular basis.<sup>9</sup> Conversely, according to Pentelovitch (2008:457) attendance to the Special Court’s actual proceedings has been low. The average number of visitors lies between 10 and 20 people per day. From which many are either court monitors or family members of the accused. This lack of visitors can be partly explained because of people’s unawareness of the possibility to visit the court. Still, the intimidating character of the Court complex does not help much either. The Outreach Section in The Hague was also open for visits; naturally this Outreach Section was even less accessible for local people as it was situated in another country.<sup>10</sup>

Outreach uses different media for its means of communication, e.g. radio, televised panel discussions, screenings of trials and weekly television broadcasted summaries of court proceedings. (Kerr en Lincoln, 2008: 11). The past year the case of Charles Taylor received a lot of media attention. During the process the Outreach Unit was working closely with journalists. While the trial was conducted in The Hague, the screening of video summaries brought the trial closer to the people of Sierra Leone and Liberia. These trial summaries were screened at local community

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<sup>8</sup> Information from ‘the Fourth Annual Report of the President of the Special Court for Sierra Leone, at the official website of the SCSL <http://www.sc-sl.org/DOCUMENTS/tabid/176/Default.aspx>

<sup>9</sup> Information from ‘the Eight Annual Report of the President of the Special Court for Sierra Leone, at the official website of the SCSL <http://www.sc-sl.org/DOCUMENTS/tabid/176/Default.aspx>

<sup>10</sup> Information from ‘the Sixth Annual Report of the President of the Special Court for Sierra Leone at the official website of the SCSL <http://www.sc-sl.org/DOCUMENTS/tabid/176/Default.aspx>

gatherings in Liberia and Sierra Leone with the help of funds from among others the EC. These videos have also been shown on television in Monrovia and Freetown.<sup>11</sup>

Outreach works in cooperation with civil society partners in Sierra Leone and Liberia to disseminate information about the Court. In Sierra Leone, up to 67 civil society groups are working with the Court. In Liberia Outreach works with 20 different civil society groups.<sup>12</sup> There is a “Special Court Interactive Forum” in which a variety of local NGO’s meet with the SCSL staff once a month (Cruvellier, 2009:29). Besides the cooperation between civil society groups and the SCSL there are also different programs organized by NGO’s independently. One example of such a program is the “Special Court Working Group”. This group has conducted national outreach efforts. Their activities ranged from broadcasting on the local radio throughout the country to development of district-coordinating teams of local leaders with basic knowledge of the SCSL (Pentelovitch, 2008: 460).

Presently several encouraging accomplishment have been discussed. Nonetheless, every tribunal has its limitations. The different limitations and criticisms of the SCSL Outreach Section will be discussed in the next subsection. Herein, the opinion of the population will also be discussed.

## 2.3 Limitations, criticisms and the opinion of the population

### 2.3.1. Limitations and criticism

The SCSL has to deal with different challenges. First of all there are logistical challenges with the roads in Sierra Leone being in a very bad condition. This makes communication and actual reaching out to certain regions challenging. On top of that there is a high illiteracy rate plus people speaking a wide range of different dialects. Staffing is another problem. District Outreach Officers need to have come from the area they are conducting their work. Otherwise they will not be accepted by the local community. In most regions there is only one District Outreach Officer, leaving high workload for this one person, making consistent outreach difficult (Kermani Mendez, 2009: 80; Kerr en Lincoln, 2008: 12).<sup>13</sup>

The lack of funding is seen as the main challenge of the outreach program of the SCSL. The Outreach Section is heavily reliant on voluntary contributions from third parties because it is not

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<sup>11</sup> Information from ‘the Eight Annual Report of the President of the Special Court for Sierra Leone, at the official website of the SCSL <http://www.sc-sl.org/DOCUMENTS/tabid/176/Default.aspx>

<sup>12</sup> Information from ‘the Seventh Annual Report of the President of the Special Court for Sierra Leone, at the official website of the SCSL <http://www.sc-sl.org/DOCUMENTS/tabid/176/Default.aspx>

<sup>13</sup> Information from among others ‘the Second Annual Report of the President of the Special Court for Sierra Leone, at the official website of the SCSL <http://www.sc-sl.org/DOCUMENTS/tabid/176/Default.aspx>

funded from the core budget of the SCSL. Equipment for conducting outreach is also in short supply missing funds. As a consequence resources like televisions, up to date video's and literature rightly formatted for a specific region are lacking. (Clark, 2009: 109; Kerr en Lincoln, 2008:12).

A final criticism on this outreach program is that according to some it started too late. The Outreach Section started six months after the SCSL was established and a few weeks after the first arrests. The main prosecutor David Crane started an outreach campaign before the first arrest. Nonetheless, it would have been better if this would have been performed by independent staff from the Outreach Section. These could have easier conveyed a balanced message about the Court then a main prosecutor, playing a significant role in the tribunal itself (Perriello en Wierda, 2006: 36; Pentelovitch, 2008: 463; Cockayne, 2005: 462).

### 2.3.2 The opinion of the population

The outreach activities conducted by the SCSL are assessed as a major success by countries other than Sierra Leone and are considered the best model on how to conduct outreach until this very day. But what do the people of Sierra Leone themselves think about its supposed success? In 2006 a survey was conducted by a consultant from the University of Sierra Leone in partnership with civil society groups and the SCSL Outreach Section. In total the sample compromised about 10,000 people and both general respondents from urban and rural areas and opinion leaders were part of it. According to the survey 79% of the respondents understood the role of the SCSL; 88% confirmed that Outreach had visited their communities; 85% said that the Outreach Section had given them enough information about the Court so they could adequately speak about it and 88% of the respondents thought that the Outreach Section was doing a very good job (Clark, 2009: 109). In addition to this survey conducted with help from the Outreach Section itself, another independent joint survey was conducted in 2008 by the BBC World Service Trust, International Center for Transitional Justice and Search for Common Ground.<sup>14</sup> This survey showed that 98% of the male correspondents and 94% of the female correspondents had heard about the SCSL. Among these correspondents 7% claimed to know a lot about the Court. Among university students this number was slightly higher, namely 11%. The correspondents were also asked if the SCSL had been successful in communicating its work to the people of Sierra Leone. 60% of the respondents answered that the SCSL had been either very or quite successful (Cruvellier, 2009:30).

It is very difficult to measure outreach, but comparing these figures to surveys from other tribunals it shows that those Outreach programs fared less well. In 2002 for example, a survey among the

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<sup>14</sup> This investigation has been conducted with help from the EU, the Dutch Ministry of Foreign Affairs and Humanity United and can be found on:

<http://www.communicatingjustice.org/files/content/file/SIERRA%20LEONE%20REPORT.pdf>



Rwandan population showed that 87% of the population was either not well informed or not informed at all about the ICTR. A different survey conducted in Serbia in 2005 found that only 6% of the respondents were very well informed about the ICTY while 72% said that they were not well informed (Clark, 2009:109). It seems that the Outreach Section from the SCSL made a lot of progress compared to these tribunals.

Does the SCSL conduct outreach in an effective way? The next subsection will evaluate the outreach conducted by the SCSL by using the models presented in chapter 1.

## 2.4 Pentelovitch's and Peskin's model

### 2.4.1. Pentelovitch's model

The model Pentelovitch uses identified four factors to measure the efficacy of outreach. These four factors will now be discussed with help from all the information about the outreach activities from the SCSL in this chapter.

1. *Timing.* In comparison to previous tribunals the SCSL is doing much better in the area of timing. The SCSL started conducting outreach from the very start of the tribunal. First the prosecutor David Crane and different NGO's conducted outreach, and six months after the establishment of the tribunal an official Outreach Section was created. There are some critics who think that this Outreach Section should have been created earlier, but still, in comparison to other tribunals the SCSL made a lot of progress with timing.
2. *A separate office for outreach and public affairs.* Until April 2008 the SCSL did have a separate office for outreach and public affairs. However, since then they have been merged into one department. The SCSL incorporated outreach into public affairs giving outreach a less important role. The justification for the merger is according to Pentelovitch the fact that the mandate of the SCSL was almost completed.
3. *Planning/strategy.* With the establishment of the SCSL an outreach statement has been formed as well in which different goals were set. In the different Annual Reports there is no clear reference made to this outreach statement. However the fact that it was formulated at least indicates that the Outreach Section had been given thought about how conducting outreach activities and what certain goals were.
4. *Funding.* Funding is still very difficult for the SCSL. Outreach is not funded from the core budget of the SCSL. This shows that despite ambitious goals outreach is not a priority for the SCSL. Money comes out of voluntary contributions from third parties with the EU being one of the main financiers of the Outreach Section. Due to shortage of money there



is a frequent lack of resources as well. But despite this, the SCSL still managed to achieve a lot.

#### 2.4.2. Peskin's model

Peskin distinguishes the so called *transparency model* and *engagement model*. The SCSL commonly uses the *transparency model*. As shows from the outreach activities the Outreach Section provides the people with basic information about the tribunal, media attention is being promoted and translations are available about the judgments in the country's different dialects. Concerning the *engagement model* the SCSL seems to do a good job as well. What clearly emerges from the outreach activities is that the SCSL tries to start a dialogue and thus interact with the people. Examples of how this is being done are the different town hall meetings that have been organized, and the targeting of different groups, like students, women and children, for starting dialogue with. By doing this the SCSL seems to have consciously chosen for an approach in which they do not just inform the people but also try to involve them in the process , thereby raising public awareness.

We will now consider the outreach program of the ECCC in the following chapter.

## Chapter 3. The Extraordinary Chambers in the Courts of Cambodia and its outreach activities

During the Democratic Kampuchea regime of the Khmer Rouge from '75-'79 an estimated 1.7 million people died. In 2003, after several years of difficult negotiations the UN and the government of Cambodia finally agreed on the establishment of the ECCC. Its goal was set on: "bring[ing] to trial senior leaders of Democratic Kampuchea and those who were most responsible for the crimes and serious violations of Cambodian penal law, international humanitarian law and custom, and international conventions recognized by Cambodia, that were committed during the period from April 17, 1975 to January 6, 1979" (Ramírez-Barat en Karwande, 2010: 4). The tribunal is a hybrid tribunal because it is comprised of both national and international staff. In this way it is easier to reach some kind of local sense of accountability within a court body which is partly internationalized (Manning, 2011:2). Special about this tribunal is that there is a very large gap between the atrocities committed and the start of the prosecutions; until this very day there is no other hybrid or international tribunal with such a gap (Ramírez-Barat en Karwande, 2010: 4). The ECCC has an outreach program. The specific contents of this outreach program will be discussed in this chapter. The first subsection will start with the structure and start of outreach within the ECCC.

### 3.1. The structure, strategy and start from outreach within the ECCC.

The ECCC has not got an independent Outreach Section like the SCSL, but there are two different units that deal with outreach activities. The first of these units is the Public Affair Section (PAS) (Ramírez-Barat en Karwande, 2010: 4). The ECCC building is situated outside the city Phnom Penh. A second public affairs office has been opened in the center of the city to make the Court more accessible to the people (Martin-Ortega en Herman, 2010: 23). The PAS has two main activities, namely outreach and public information and media relations. The ECCC did not formulate an outreach strategy, but on the official website of the tribunal the goal of the PAS has been formulated: "*The ECCC has a policy of reaching out actively to the community, the media, the diplomatic corps, donors, researchers and other interested parties. Our objective is to provide as much information as possible on the activity of the Court, working transparently to build public confidence in the judicial process. This objective needs to be balanced with respect for privacy, confidentiality and the rights of all parties in the proceedings including witnesses and victims, concerns for fair trial, due process and the presumption of innocence*".<sup>15</sup> The PAS consists of a

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<sup>15</sup> Information from the official website of the ECCC at <http://www.eccc.gov.kh/en/office-of-administration/public-affairs>

mix of international and national staff. The number of people working at the section has varied from three to six with everyone assigned to their own tasks (Pentelovitch, 2008: 465). The ECCC considers victim participation as a crucial factor in the process. Therefore a separate unit has been established which deals with outreach as well. This unit is called the Victim Support Section (VSS). The VSS focuses specifically on providing information and supporting victims (Ramírez-Barat en Karwande, 2010:7). With this, for the first time ever victims of mass atrocities have the possibility to join as civil parties at an international hybrid tribunal, making the ECCC unique as such (Pham et.al. 2011: 383).

The PAS was part of the ECCC from the very start. However, due to lack of funding and staff outreach could not be set up properly. In 2004 the UN Secretary General already warned about outreach needing to be an integral part of the ECCC and a means to meet up to the expectations of the Cambodian government as well as encouraging investment from the international community. Despite all this outreach still started out slowly (Pentelovitch, 2008: 481-482). Likewise the VSS found itself also in difficulties because of funding problems and a lack of staff (Herman, 2010:1). Outreach within this unit started late as well. : in 2007 the VSS was established, but it took until late 2008 for it to start operating. Because of this there was only a short amount of time available to conduct outreach before the first process scheduled at February 2009 (Pham et.al., 2011: 273).

As stated funding was problematic from the very start of the tribunal. Originally an amount of 56, 3 million dollar was reserved for the ECCC for a period of three years. In effect the tribunal would be operating for much longer and made costs were growing (Bates, 2010). The budget for the ECCC is financed partly by the UN and partly by the government of Cambodia. Nevertheless, both parties receive their money from voluntary contributions from third parties (Cohen, 2007, 31; Pentelovitch, 2008: 487).<sup>16</sup> This uncertainty about funding creates doubt about the continued existence for the PAS and VSS as well.

### 3.2. Outreach activities

Unlike the SCSL the ECCC does not have a clearly organized website which contains various annual reports on the tribunal. The only annual report that can be found is one about its performance in 2006. As a result the rest of this subchapter will be based on other sources that describe the activities of the ECCC. First of all the activities of the PAS will be described.

The PAS has distributed several booklets that contain basic information about the ECCC. One of its primary outreach materials was a booklet called “An Introduction to the Khmer Rouge Trials” which included 37 questions and answers. The PAS also started publishing a monthly newsletter in

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<sup>16</sup> Countries who contribute on behalf of the UN are among others Japan, France, Australia, Canada, Germany and the Netherlands.

2008 which contains the calendar of court outreach activities and information about hearings and court processes. A set of posters and stickers have been produced with lines like “everyone can be involved in the process” and “only the senior Khmer Rouge leaders and those most responsible will be tried”.<sup>17</sup> On top of that tours are being organized to the ECCC. During these tours an introduction to the Court is given and its workings are explained. After the tours, tour members can ask the staff questions. Most of the time NGO’s are in charge of the organization of these tours (Pentelovitch, 2008:466-468). During the “Dutch-trial”<sup>18</sup>, the PAS ensured that 31,349 persons were able to attend the trial. Making an average of 407 persons a day. People can also use social media like Twitter and Facebook in obtaining information about the ECCC. Additionally the PAS visits the provinces, schools and public forums. Finally workshops with experts are being organized. Examples of these workshops are town hall meetings, journalist trainings, radio programs and film screenings (Ramírez-Barat en Karwande, 2010:10).

The PAS relies heavily on NGO’s to be able to conduct the majority of its outreach activities (Cohen, 2007: 32; Pentelovitch, 2008: 465; Martin-Ortega en Herman, 2010:24; Manning, 2011: 3). These NGO’s contribute in a variety of ways to the outreach activities of the ECCC. The “Documentation Center of Cambodia” (DC-Cam) for example, has been very active in creating educational programs by which for example individuals from rural areas could attend the trials as representatives of their communities (Burns, 2010:5). Media are important too within the ECCC. Different NGO’s and other international organizations are working together to carry out activities which ensure media coverage. An example of this media coverage is the ‘Dutch on Trial’ report. The NGO’s ‘East West Center and “Asian International Justice Initiative” made a weekly report on the trial and broadcasted this on television. Doing so they reached two to three million people (Martin-Ortega en Herman, 2010: 24). The PAS itself also provides information to media on a daily basis through press releases, interviews and press conferences (Ramírez-Barat en Karwande, 2010:12).

The ECCC places a lot of emphasis on the participation of victims. It even maintains a dedicated department, the VSS, that focuses exclusively on victims as we saw already in chapter 3.1. By the end of 2007 a couple of Cambodian NGO’s, among which DC-Cam, started informing people about their rights to participate as plaintiffs or Civil Parties. One of the tasks these NGO’s fulfilled was the distribution of the required forms for participation. The VSS was not fully set up at this

<sup>17</sup> This information can also be found in the “Annual Report on achievements of the ECCC for 2006” at [http://old.eccc.gov.kh/english/cabinet/files/annualReports/eccc\\_annual\\_report\\_2006.pdf](http://old.eccc.gov.kh/english/cabinet/files/annualReports/eccc_annual_report_2006.pdf)

<sup>18</sup> Kaing Guek Eav, better known as “Dutch” was the first Khmer Rouge leader put to trial by the ECCC. His process started in March 2009 and it already only took seven months to present the proof of evidence.

moment. Therefore it could not undertake their outreach activities yet; NGO's made sure some outreach was conducted (Herman, 2010:3).

The VSS has its own specific procedure. After distributing the entry forms, several NGO's provide assistance by explaining the forms and offering legal advice. The completed forms will be checked and incomplete forms are returned to allow correct completion (Herman, 2010:5). For case 001, 94 applications were sent. For case 002 the number had increased to 4,000. This increase in applications gave some logistic problems and VSS-staff had to travel to applicants on a regular basis when forms were not completed properly (Ramírez-Barat en Karwande, 2010:13). In the end 17 persons participated in case 001. The VSS and different NGO's assisted with transportation and other logistics. During case 001 the VSS did not provide legal support, therefore NGO's had to maintain international and national lawyers who could represent the victims. Since 20 May 2010 the VSS started providing legal support as well. Furthermore, additional funds came available through contributions from among others the "German Technical Cooperation Agency". The tasks of the VSS have been extended and now include more than just legal issues. However, the biggest problem of insufficient funds being available for a very large unit remains. VSS keeps having problems in performing their tasks and keeps depending on NGO's for its work. In order to have more effect more money should be invested in the VSS (Pham et al, 2011:275).

### 3.3. Limitations, criticism and the opinion of the population

#### 3.3.1 Limitations and criticism

Just like the SCSL the ECCC has its shortcomings. One of the most striking limitations for the tribunal is accessibility. A large number of the population in Cambodia is young, poor and illiterate. The "Dutch on Trial" broadcasts, which have been discussed in chapter 3.2, were watched by 20% of the population. Although a fairly good result, it still means that 80% of the population wasn't reached. Moreover, given the high illiteracy rate many people aren't able to read the documents the ECCC distributes. Finally, the fact that the ECCC is located 16 km outside Phnom Penh does not contribute to the accessibility of the tribunal (Martin-Ortega en Herman, 2010:24-25; Pentelovitch, 2008:466).

A second criticism on the outreach from the ECCC is that both the PAS and the VSS are very dependent on NGO aid. This criticism is reflected in almost all the literature on the subject and is seen as one of the main weaknesses of the outreach program. Both the PAS and the VSS are highly dependent on cooperation with different national and international NGO's. Without them they would not be able to cut it financially. The PAS has even admitted to being unable to develop a good strategy because of financial constraints and as such needing the support of NGO's. In its

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onset the VSS could not operate at all, being completely dependent on NGO help. Notwithstanding, this necessitated collaboration, actual cooperation between the two departments and the NGO's does not always run smoothly. Again, the dependence on NGO's is a problem caused by a different, underlying issue, specifically the lack of sufficient funding (Martin-Ortega en Herman, 2010:24-25; Pentelovitch, 2008:479; Cohen, 2007: 5).

Ultimately in this scenario outreach started too late. The VSS came only into effect in late 2008 while the PAS postponed start because of financial constraints. It is clear that the lack of funds in the ECCC limits its pursuits in numerous ways. Poor implementation for its Outreach Sections being one of them.

### 3.3.2. The opinion of the people

What do the Cambodian people think about the ECCC? As shown in chapter 2.3.2 the SCSL, with third party assistance, conducted a survey among the population. The ECCC does not seem to have conducted a survey like this. However, the "Human Rights Center of the University of Berkeley" carried out a survey among the population in late 2008. For this survey people from different communities in Cambodia were selected randomly by a computer system. This system ensured that people from villages of all the 24 provinces were selected. The results of the survey showed that 39% of the respondents had no knowledge about the ECCC and 46% of the respondents stated to have limited knowledge. Among those who did have knowledge 53% of the respondents described the ECCC as a hybrid tribunal with national and international judges and staff. Generally people who did have knowledge about the tribunal were very satisfied about the ECCC: 87% thought that the ECCC was the way to deal with the crimes committed by the Khmer Rouge. 67% thought the judges would be fair and neutral and 68% thought that the ECCC would have a positive impact on the victims of the Khmer Rouge regime. However, 23% of the respondents thought the ECCC would not be able to be neutral and would even be corrupt. In accordance confidence in the national legal system of Cambodia was also very low: only 36% of the respondents believed their own legal system to be good. Most of the interviewed people heard about the ECCC through the media. Finally, only 1% of the respondents who lived under the Khmer Rouge regime had participated in an activity related to the ECCC in the 12 months previous to the interview (Pham et.al., 2009: 2-4).

In 2010, after the first trial, the "Human Rights Center of the University of Berkeley" carried out another survey among the population. The results of this survey showed that the awareness and knowledge about the ECCC had increased. 22% of the people who lived under the Khmer Rouge and 33 % of those who did not live under the Khmer Rouge had no knowledge of the ECCC. 67% could describe the court as a hybrid court. The main source for information was television (72%

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compared to 44 % in 2008). The majority of the respondents were positive about the ECCC: 84% thought the ECCC is a good way to deal with the crimes committed by the Khmer Rouge. Furthermore respondents believed the ECCC to help rebuild trust in Cambodia (82%) promote national reconciliation (81%) and bring justice to the victims (76%). Respondents had high expectations of the ECCC, and the potential impact of the Court was viewed as largely positive: only 9% indicated that the Court would have a negative impact and 13% was unsure. 54% of the respondents knew Dutch was on trial, and about 10% knew how many years he will spend in prison. Although most of the respondent agreed that the trial was conducted fairly, 56% stated that the victims did not have enough time to tell their story. Finally, trust in the justice sector had increased but at the same time many of the respondents believed the judicial system to be corrupt as well (Pham, Vinck, Balthazard and Hean, 2011: 2-4).

The figures from the ECCC are less encouraging than those of the SCSL, but still seem to be an improvement on prior tribunals like the ICTY and the ICTR.

How does outreach function within the ECCC according to the models of Pentelovitch and Peskin? This will be discussed in the next subsection.

### 3.4. Pentelovitch's and Peskin's model

#### 3.4.1 Pentelovitch's model

As described earlier the model Pentelovitch identifies four factors to measure the efficacy of outreach. These four factors will now be held against all available information about the outreach activities from the ECCC in this chapter.

1. *Timing.* As explained in chapter 1, the moment when outreach activities are being started is crucial for the effectiveness of a tribunal. A focus from the start will always yield the best results. However, the ECCC does not seem to have done well in this area. The PAS existed from the start of the tribunal, but could not start outreach activities due to lack of resources. The VSS was founded after the PAS, but before this department could start operating a year passed because of problems with funding and staffing.
2. *A separate office for outreach and public affairs.* Outreach is incorporated into the public affairs section within the ECCC. Because of this outreach has not been given priority within the department and staff has to deal with different subjects concurrently. As a result a lot of work has been passed on to NGO's. The ECCC does have a separate department



that deals with victims, specifically the VSS. However, this department has been understaffed, underfunded and very dependent on the help of NGO's.

3. *Planning/strategy*. An outreach strategy or plan was never formulated within the ECCC. In fact, the PAS even admitted that it cannot develop a good strategy given its funding and staffing issues. A good strategy would have contributed to the efficacy of the outreach program.
4. *Funding*. Its financial situation is a major problem for the ECCC. Funding for outreach is received from the UN and the government of Cambodia. These in return rely mostly on contributions from third parties. Due to the lack of money many projects cannot be fully complemented or not be put together at all. Funding issues is the main reason for the strong dependence on NGO's.

### 3.4.2. Peskin's model

According to Peskin's model there are two different models for outreach: The *transparency model* and *engagement model*. Within the ECCC, like the SCSL, both of these models are being used. The ECCC is actively engaged in providing basic information about the tribunal to the people. This is accomplished through media, newsletters, stickers and posters. By doing this the ECCC tries to keep the people informed and up to date on the tribunal and everything surrounding it. All these activities are part of the *transparency model*. Nevertheless, the ECCC also makes use of the *engagement model*. Regular town hall meetings and seminars are being held and outreach staff pays visits to schools. Moreover, a special department has been set up for the victims within the tribunal to give people a voice and get them more deeply involved with the process. The literature shows that the ECCC has clearly learned from previous tribunals inasmuch they pay due attention to outreach. The big problem for this tribunal, however, that keeps undermining the efficacy of outreach is the lack of funding. The will and the ideas are present; the only thing left to attain is the means to implement them.



## Chapter 4. The International Criminal Court and its outreach activities

The previous chapters have dealt with hybrid tribunals and their use of outreach. As shown in these chapters, it is a big challenge for international tribunals to reach out and communicate what they do to the local population. The ICC is a permanent institution unlike the ECCC and the SCSL. Currently it is dealing with several cases from Africa as we could see in chapter 1. A big difference with the hybrid tribunals is that the ICC is situated in The Hague, far away from the countries involved. Nonetheless, outreach is an important part of the Court's work and critical in the amount of success it will have (Clark, 2009: 113). Because of the greater distance and the different cases that have to be dealt with, outreach is even more of a challenge for the ICC than for the ECCC and SCSL. In addition, the cases that have been referred to the Court by the State Parties on a voluntary basis are usually less demanding than those cases brought up by the Security Council or prosecutor. In these cases the ICC often faces a hostile environment, which is a big challenge for outreach.

Outreach is important to the ICC for several reasons. Firstly, it seeks to make people more aware and interested in the legal process. By doing this, respect for the rule of law and human rights can also increase. Secondly, providing information about the trials can have a good influence on the national will to try similar crimes and implement fair trial standards in future cases. And finally, the affected communities are more likely to cooperate and assist the ICC in conducting its work on the ground if they have a better understanding of the Court's work (Human Rights Watch, 2008: 117).

### 4.1. The structure, strategy and start from outreach within the ICC.

The ICC could have learnt from the outreach failure of previous tribunals like the ICTY and ICTR. Nevertheless, it took several years before the Court implemented an effective outreach strategy in the countries under its investigation. In December 2003 the first case was referred to the ICC by Uganda, followed by respectively Congo in March 2004 and the Central African Republic in January 2005. However, a strategic plan for outreach was only developed in December 2006 (Human Rights, 2008: 118).<sup>19</sup> Initially the ICC had no people in the field to conduct outreach and as the budget was very limited only brief 'fly-in fly out' missions were done by staff from The Hague. There were several reasons for this low-profile approach. One of which was the fact that too much visibility would put witnesses or ICC staff in danger according to the prosecutor. As a result, however, the Court was disengaged from the situations in the involved communities and

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<sup>19</sup> The Strategic Plan for Outreach of the International Criminal Court can be found at the website of the ICC [http://www.icc-cpi.int/NR/rdonlyres/FB4C75CF-FD15-4B06-B1E3-E22618FB404C/185051/ICCASP512\\_English1.pdf](http://www.icc-cpi.int/NR/rdonlyres/FB4C75CF-FD15-4B06-B1E3-E22618FB404C/185051/ICCASP512_English1.pdf)

countries they were meant to help (Darehshori, 2008: 303). However, after pressure was put on by different NGO's, outreach was given higher priority in the Courts 2007 budget.<sup>20</sup> Since 2007 more staff is recruited and initial strategies are being developed (Goetz, 2008: 66). The Outreach Unit from the ICC is part of the Public Information and Documentation Section of the Registry.<sup>21</sup> According to Clark (2009) the Outreach team in The Hague consists of five persons, assisted by field teams of 4 (wo)men plus an outreach coordinator each in all of the countries the Court is dealing with. Although, this is the desired composition, the official website of the ICC however, contains an Outreach Unit Organizational Chart which shows that not every country has the same amount of staff. What is more, in Sudan Darfur no field officer is working in the country itself. This is direct consequence of the fact that the country's President Bashir, who is indicted by the ICC, does not recognize the ICC's jurisdiction.<sup>22</sup>

The Strategic Plan for Outreach, which was developed in 2006, is a fairly comprehensive plan. It contains general information about the outreach strategy as well as action plans for the countries under investigation. The document states that the Court wants to reduce the distance between The Hague and the affected communities through a two way communication.<sup>23</sup> According to the document the two main goals of outreach are ensuring the quality of justice and being a well-recognized and adequately- supported institution. In order to meet these goals the outreach program has set the following objectives:

- To provide accurate and comprehensive information to affected communities regarding the Court's role and activities;
- To promote greater understanding of the Court's role during the various stages of proceedings with a view to increasing support among the population for their conduct;
- To foster greater participation of local communities in the activities of the Court;
- To respond to the concerns and expectations expressed in general by affected communities and by particular groups within these communities;
- To counter misinformation;
- To promote access to and understanding of judicial proceedings among affected

<sup>20</sup> One of the NGO's who pressured the ICC is "No Peace Without Justice". Already in September 2004 on the Third Session of the ICC Assembly they presented a publication called "Outreach and the Criminal Court" to the ICC. This document emphasized the importance of good outreach and can be found at <http://www.npwj.org/sites/default/files/documents/File/NPWJOutreachPolicyICCSep04.pdf>

<sup>21</sup> Information from the official website of the ICC at <http://www.icc-cpi.int/Menus/ICC/Structure+of+the+Court/Outreach/>

<sup>22</sup> For the Outreach Unit Organizational Chart see [http://www.icc-cpi.int/NR/rdonlyres/975E4E5E-4369-4F6D-9BC8-726CFD6ED26D/280220/Outreach\\_OrganigramENG1.pdf](http://www.icc-cpi.int/NR/rdonlyres/975E4E5E-4369-4F6D-9BC8-726CFD6ED26D/280220/Outreach_OrganigramENG1.pdf)

<sup>23</sup> Information from the Outreach Report 2007, obtained at the official website of the ICC <http://www.icc-cpi.int/NR/rdonlyres/2FB37F35-35DA-43E8-BFF3-CB7D4E2F2D87/277269/OutreachRP2007ENG.pdf>

communities.<sup>24</sup>

The ICC is primarily funded by State Parties, but receives voluntary contributions from third parties like governments, corporations and international organizations as well (Clark, 2009: 113).

## 4.2. Outreach activities

The ICC conducts many different outreach activities. By means of its Outreach Unit in The Hague, as well as by way of its field offices in the different countries. From the three Courts discussed in this thesis the ICC has made most information available on their outreach activities via their official website. The SCSL reported on outreach within their general reports on the Court and the ECCC did not have many reports at all. In contrast, the ICC has four comprehensive reports on outreach since 2007 available on its official website as well as other documents like a “Report of the Court on the public information strategy 2011-2013”. Simultaneously, a separate page was created for all of the five cases where outreach is currently conducted (Congo, Uganda, Central African Republic, Sudan and Kenya). This page contains information on the calendar of outreach activities as well. Noteworthy, the Court is evaluating itself in the different Outreach Reports. Obviously the ICC is a much larger institution than the SCSL and ECCC. Irrespectively, it is still the institution which best succeeded in maintaining their website on outreach activities. Accordingly this subchapter can make use of this available information beyond the literature and other sources at our disposal.

Until 2007, the ICC did not engage in a lot of outreach activities in its countries under investigation. One of the reasons for the small number of activities was once more lack of resources. Outreach in the Democratic Republic of Congo (DRC) and Uganda consisted mainly of seminars and workgroups for specific groups such as local NGO’s, journalists and members of parliament. By employing this strategy the ICC anticipated that the targeted parties would redistribute the information under the population. Apart from that design, the ICC did not organize events on any large scale. Furthermore, the Court preferred to join events organized by international and local NGO’s. In the Darfur situation, which was referred to the ICC by the Security Council in 2005, no outreach activities were implemented at all until 2007. However, this was not merely a case of lacking resources, but also the Outreach Unit being restricted in entering the country. Since then the situation has improved and the Court is doing a better job in reaching out to communities. The creation of the Outreach Unit, a higher budget, increased staff in The Hague and in the field and a better coordination among the court’s components are all reasons for

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<sup>24</sup> Information from the “Strategic Plan for Outreach of the International Criminal Court”, at the official website of the ICC [http://www.icc-cpi.int/NR/rdonlyres/FB4C75CF-FD15-4B06-B1E3-E22618FB404C/185051/ICCASP512\\_English1.pdf](http://www.icc-cpi.int/NR/rdonlyres/FB4C75CF-FD15-4B06-B1E3-E22618FB404C/185051/ICCASP512_English1.pdf)

this improvement. One of the biggest changes implemented by the Court since 2007 is a shift towards engaging more directly with affected communities as opposed to reaching out to the specific groups mentioned earlier. In the DRC for example, the first outreach activities in Ituri<sup>25</sup> were held in early 2007. The ICC broadcasted the confirmation hearing of Thomas Lubanga, the first person arrested under a warrant issued by the ICC. The broadcast was aired on Congolese television channels, and the internet. On top of that NGO's and journalists were invited to watch the decision in a local café (Human Rights Watch, 2008:124, Darehshori, 2008: 303-304).

Since 2007 the ICC has engaged in many more different outreach activities. In the last report on outreach the ICC divides outreach in four different programs: the community outreach program, the academic outreach program, the legal outreach program and the media outreach program. Some examples of these different types of outreach will now be further discussed. Starting with the community outreach program. Although it is impossible to cover all the cases entirely, an illustrative selection is made and for each type of outreach at least two countries under investigation will be examined.

In Uganda the community outreach program was launched in 2007. It promotes a better understanding of the ICC's mandate, its working method, and it tries to answer to questions and community concerns. Additionally, the program is a platform for providing information on victims' rights before the Court. The community outreach program works closely with third parties, like local leaders, women's groups, youths, and community radio stations. In 2008 gender-related outreach activities were started in Uganda. The main goal was to reach women affected by rape and other forms of sexual and gender-related violence. Women were attending general village/ town hall meetings and on International Women's day the Outreach Unit held meetings targeted at women. Here they discussed the mandate of the ICC and the role of the Court in investigating sexual and gender-related crimes. Besides gender-related outreach activities the Outreach Unit did other things: town hall meetings with special target groups like civil society groups, youths or the elderly were held and consultative and also bilateral meetings with local and international NGO's were organized.

In Congo the ICC community outreach program was established in 2007. Outreach to women also is an important part of the program in Congo. For example, the Outreach Unit tries to explain the Rome Statute and the working of the ICC in events organized for women. As the Outreach Section in Uganda, in Congo the Unit maintains regular contact with groups that can spread information into the society, like community leaders, religious leaders and neighborhood leaders. This helps spreading information and at the same time these leaders are more likely to gain trust in the ICC.

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<sup>25</sup> Ituri is a province in Northeast DRC where the atrocities took place.

With improved trust, participation in outreach events may increase as well. The ICC Registrar and representatives of States Parties travelled to Congo in 2010. They then discussed the work of the Court with the affected communities and met key players who cooperate with the Court in the field. In addition to this, many different discussion and information sessions are held by the Outreach Unit in Congo. Among others with government representatives and human rights activists.

Sudan does not have its own field office on the ground. Instead this community outreach is conducted in Chad and Europe. In Chad, the Outreach Unit informs refugees by means of popular radio stations. In Europe the Outreach Unit wants to reach Sudanese Diasporas in different countries. Outreach organizes thematic discussions which include information on the judicial proceedings and the rights of victims to participate in proceedings. In 2010 13 sessions were organized in Europe in which 565 persons were directly engaged.<sup>26</sup> Furthermore, the Court in The Hague receives approximately 3000 visitors a year. During these visits representatives explain the working of the Court and answer questions from the public. During the years 2011-2013 the Court emphasizes the importance of an efficient cooperation with partners. NGO's, international organizations, legal associations and other parties are crucial for the work of the ICC. With their help the Court's impact can be maximized.<sup>27</sup> However, as long as the ICC cannot enter the country outreach will remain very limited.

The academic outreach program is the second pillar of the outreach program of the ICC. In Sudan and Kenya no academic outreach program is established. In the Central African Republic the Outreach Unit has connections with the higher education institutions in Bangui by the establishment of partnerships. Since the start of these partnerships press releases about the judicial activities have been sent to the universities which are published at the campus. Also, seven activities have been organized for students and professors. These were attended by 366 participants. In Uganda the academic outreach program is better developed. First of all university events like moot court demonstrations, public lectures, debates and quiz competitions are organized. Additionally, programs directed at children have been given more attention since 2008. Children can participate in School Outreach clubs. Here they learn more about the ICC, take part in radio programs wherein 'children talk to children' and participate in role-play models that show

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<sup>26</sup> Information from the "Outreach Report 2010" at the official website of the ICC: <http://www.icc-cpi.int/iccdocs/PIDS/publications/OUR2010Eng.pdf>

<sup>27</sup> Information from the "Report of the Court on the public information strategy 2011-2013", at the website of the ICC [http://www.icc-cpi.int/iccdocs/asp\\_docs/ASP9/ICC-ASP-9-29-ENG.pdf](http://www.icc-cpi.int/iccdocs/asp_docs/ASP9/ICC-ASP-9-29-ENG.pdf)

how Court proceedings are conducted at the ICC. Finally teachers are also trained and provided with information about the Court.<sup>28</sup>

The third type of outreach the ICC distinguishes is legal outreach. In this program the Outreach Unit engages legal practitioners in order to increase their knowledge of the Court's mandate and proceedings. In 2010 two activities for legal practitioners were held in the Central African Republic (CAR) which were attended by 99 persons. In Uganda the Outreach Unit organizes workshops for lawyers in which information and updates on the ICC's activities are supplied. Furthermore, a close cooperation with different NGO's exists, e.g. the "Advocates for Public International Law Uganda". This particular NGO helped the ICC organize an informative session in which 820 lawyers received information on the Court.<sup>29</sup> The other countries have similar activities. The Strategic plan for 2011-2013 places further emphasis on the importance of increasing cooperation with different legal partners. Partners can help the Court providing accurate information about the Courts' activities and thereby influence public opinion.<sup>30</sup>

The importance of engaging local mass media should not be underestimated. Hence the fourth pillar of the ICC outreach program, the media outreach program, is very important. Especially radio, but also print and visual media can play an important role in influencing and informing perceptions of the concerned population on the ICC. In all the countries under investigation mass media has an important role. In northern Uganda for example, radio is the most important way to inform the people about the ICC and its work. It was even the case that due to the ICC's initial absence from the radio in Uganda other parties, like the Lord's Resistance Army and local leaders, were free to use this medium to broadcast their negative views on the ICC. Today the Outreach Unit has established partnerships with radio stations in Uganda and the Democratic Republic of Congo. Moreover, the Court is producing different programs like "ICC at Glance" and "News from the Court" (Human Rights Watch, 2010: 61). In Kenya regular meetings are held with members of the Kenya Editors Guild. In these meetings the Outreach Unit provides the editors with information about the Court and its work. In the CAR different partnerships with radio stations ensure that the population is reached. Radio is the best and cheapest way to reach a broad audience, especially given the illiteracy rate in CAR being 57.3% for people from 10 years and older. In all countries under investigation the Outreach Unit holds interviews about the Court, provides informational

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<sup>28</sup> Information from the "Outreach Report 2010" at the official website of the ICC: <http://www.icc-cpi.int/iccdocs/PIDS/publications/OUR2010Eng.pdf>

<sup>29</sup> Information from the Outreach Report 2010 at the official website of the ICC: <http://www.icc-cpi.int/iccdocs/PIDS/publications/OUR2010Eng.pdf>

<sup>30</sup> Information from the "Report of the Court on the public information strategy 2011-2013", through the website of the ICC [http://www.icc-cpi.int/iccdocs/asp\\_docs/ASP9/ICC-ASP-9-29-ENG.pdf](http://www.icc-cpi.int/iccdocs/asp_docs/ASP9/ICC-ASP-9-29-ENG.pdf)

documents and legal texts to different organizations and sends newsletters to journalists and NGO representatives.<sup>31</sup> During the period of 2011-2013 the ICC will put a lot of emphasis on mass media with global awareness being one of the core issues in their strategy. The Court wants to improve this for example by the use of YouTube and new media.<sup>32</sup>

Before discussing the limitations and criticisms of the ICC outreach program it is important to first describe the role of victim participation in the ICC. Victims can take part in the ICC proceedings in different ways. Firstly, they can send information to the Prosecutor about crimes and request an investigation. Secondly, they can testify before the Court as a witness. And finally they can demand reparations. Applying to participate is possible at any stage of the proceedings and the ICC helps victims with legal representation.<sup>33</sup> Victims who did participate in the proceedings see their participation as an opportunity to express their views within the legal process. However, there are some difficulties they have to face. One of the most significant obstacles for victim participation is insecurity. People are afraid for reprisals if they participate and intermediaries risk being arrested. Furthermore, the forms are long and complicated, and have to be translated from English into local languages. This takes considerable time. Finally, lack of resources limits the possibilities for victim participation. (Goetz, 2008, 69-70; No Peace Without Justice, 2010: 41-43). Except for victim participation inside the ICC, an independent victims fund has also been created: Trust Fund for Victims (TFV). The TFV is created to provide funds and implement projects to assist victims of war crimes, crimes against humanity and genocide in countries which are under investigation by the ICC. Although it works independently from the court it can exert influence on the perception of the Court (Human Rights Watch, 2008: 121-122). Nevertheless, although the TFV does honorable work and helps people getting more involved, still many persons do not know how to apply for TFV support. Moreover people are unaware of their work altogether. Better outreach would improve the knowledge on their work among the population. Unfortunately, as previously witnessed issue, resourcing poses a challenge for TFV also (No Peace Without Justice, 2010: 38).

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<sup>31</sup> Information from the "Outreach Report 2010" at the official website of the ICC: <http://www.icc-cpi.int/iccdocs/PIDS/publications/OUR2010Eng.pdf>

<sup>32</sup> Information from the "Report of the Court on the public information strategy 2011-2013", at the website of the ICC [http://www.icc-cpi.int/iccdocs/asp\\_docs/ASP9/ICC-ASP-9-29-ENG.pdf](http://www.icc-cpi.int/iccdocs/asp_docs/ASP9/ICC-ASP-9-29-ENG.pdf)

<sup>33</sup> Information from "Victims Before the Court", document from the official website of the ICC, at [http://www.icc-cpi.int/NR/rdonlyres/F5DF108C-5A55-4C0E-A80B-A7A840E54B06/0/ICCVictimes\\_en.pdf](http://www.icc-cpi.int/NR/rdonlyres/F5DF108C-5A55-4C0E-A80B-A7A840E54B06/0/ICCVictimes_en.pdf)



### 4.3 Limitations, criticism and the opinion of the public.

#### 4.3.1. Limitations and criticism.

Like the other two tribunals, the ICC faces several challenges. The ICC is conducting outreach in several vast African countries. Consequently, the Court has to conduct outreach in different languages and to different communities in countries which are further hindered by high illiteracy and poverty rates. The simple fact that the actual Court is situated in The Hague, thousands kilometers away from the affected communities makes it difficult to conduct proper outreach. People do not quickly develop a strong connection with a Court that as far away as that. In for example Sierra Leone it is easier to develop a bond because the Court is readily visible.

The most affected communities often live in the most remote areas. These communities often lack good infrastructure, have little or limited communication networks and very poor transportation options. This makes it very hard for outreach to reach the persons who would benefit the most from it. In 2007 for example, the outreach staff in Uganda could not reach camps for internally displaced people in the north of the country because of flooding during the rainy season. Outreach in remote areas is also difficult because the field offices in the countries are situated far away. Limited sizing of staff in these field offices also limits their range and makes it hard to carry out activities on a national level.

Adding insult to injury, conflicts are still ongoing in some of the countries under investigation. Security can thus not always be guaranteed. Particular difficulties can be found in the case of Sudan. The Outreach Unit can't even enter the country, because Sudan does not recognize the ICC's authority. Therefore the outreach staff is conducting its work outside of Sudan in refugees' camps in eastern Chad and Europe. As a result a sizeable proportion of the affected population won't be reached. With regard to safety another difficulty presents itself as well: victims feeling unsafe may prefer to remain silent because fear of reprisals.

The ICC operates in war-torn and polarized societies. Accused persons, like President al-Bashir from Sudan, will often try placing ICC in a bad light. Other groups with conflicting interest can also use means of communication like radio to characterize the ICC as a bad, foreign institution. In Uganda for example, suggestions are made that the ICC delayed peace in the country. The only way to deal with these allegations is again by conducting good outreach. However, these efforts are held back in regions where hostility towards the ICC exists. Hostilities are encountered more so in those countries whose cases have not been referred to the ICC by its State Parties. This is the case for Sudan but also for Kenya. In Kenya, the parliament voted to leave the Rome Statute after the ICC prosecutor named the six Kenyans he accused of being behind committed atrocities. A minister of parliament defiantly claimed that "It is only Africans from former colonies who are



being tried at the ICC”. Good outreach is very difficult to conduct in environments where its government is hostile towards the ICC.<sup>34</sup>

The final limitation on outreach by the ICC was its slow start. Moreover, it did not only start too late, but was lacking a clear coordinated strategy as well. In Congo, outreach activities started as late as in 2007, with investigations already having started in June 2004. In Uganda no substantial outreach activities existed until March 2005. More than a year after the referral of the case to the ICC. In the Central African Republic the Outreach Unit was established in 2007, however, it only became operational in January 2009. Notwithstanding, a real overlapping outreach strategy was not developed until the end of 2006. Lack of resources can once more be identified as a cause of a slow start of outreach (Clark, 2009: 114-115; Darehshori, 2008: 302-306; No Peace Without Justice, 2010: 39-52).

#### 4.3.2. The opinion of the people

How do the affected communities feel about the ICC? To provide insight in that question, the ICC conducts regular surveys to see what people know about the Court. Furthermore, independent organizations like the “Human Rights Center of the University of California, Berkeley” and “No Peace Without Justice” administered surveys among the populations. Some of these outcomes will be discussed in this subchapter.

In 2010 states delegates visited affected communities in Northern and Eastern Uganda. According to “No Peace Without Justice” (2010:35-36) the overall perceptions toward the ICC had improved in several regions where hostility was high before. However, in other regions people were disappointed in the ICC. The prevailing opinion was that outreach had started too slow, did not succeed in addressing widespread misperceptions and that unawareness of the Court was high. Affected communities wished the trial would take place in Uganda. They furthermore thought the Court was weak, because of failures to apprehend indictees and they remained unconvinced of the court’s impartiality. At the same time victims were frustrated about the fact that only the ones bearing the greatest responsibility could be arrested. Also the perception existed of the ICC being a secretive institution, reinforced by the remoteness of the field office.

The “Human Rights Center of the University of Berkeley” conducted surveys in Uganda in 2005, 2007 and 2010 (Pham,Vinck, Wierda, Stover en Giovanni, 2005; Pham,Vinck, Wierda, Stover en Giovanni, 2007; Pham and Vinck, 2010) These surveys all included questions about perceptions and knowledge of the Court. According to the survey in 2005 27% of the respondents had heard from the ICC, the figures for 2007 and 2010 respectively were 70% and 59%. The decrease could

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<sup>34</sup> BBC News Africa, “Kenya MPs vote to leave ICC over poll violence claims”, information from <http://www.bbc.co.uk/news/world-africa-12066667>

however have been caused by the change in research methodology of the Human Rights Center. In addition, at the moment of interviewing limited judicial activities in relation to the situation took place. As such, possibly people may have lost their interest in the ICC. Of those who had knowledge of the ICC in 2005, 91% said it would contribute to achieving peace in Uganda. In 2007 55% thought the ICC was helping the peace process and in 2010 only 43% considered the ICC to help the peace process. Most of the respondents heard from the ICC primarily through the radio. In 2010 66% of the respondents considered their knowledge of the ICC as being bad or really bad.

In 2008 surveys were conducted by the Outreach Unit of the ICC after outreach activities. 52% of respondents stated that they had heard from the ICC before, and 97% of the participants considered the outreach activities to be useful to them.<sup>35</sup> In 2010 the Outreach Unit conducted similar surveys. Statistics indicated that 98% of the people who had contact with Court officials were positive about the presence of the Court in Uganda. In addition 100% of the respondents stated to have a better understanding of the ICC after they received more information.<sup>36</sup> These results demonstrate the importance of a good outreach.

In 2007 the “Human Rights Center of the University of California, Berkeley” conducted a population-based survey in the DRC (Vinck, Pham, Baldo en Shigekane, 2008). Only 27% of the respondents had heard of the ICC, and 85% of these persons had heard from the ICC through the radio or television. 67% of the respondents would like to join ICC activities, but only 12% knew how to get access. 28% of the respondents believed the ICC was not neutral. According to these respondents the ICC was either working with the government, only after one ethnic group or did not arrest the criminals. In 2010 the “Interactive Radio for Justice” published the results of a survey. This NGO established listening groups for affected communities where they provided them with information of the ICC. The survey was conducted among members of the listening groups before they started listening to the programs and then a follow up survey was administered after one year. The study found that the respondents gained more confidence in the ICC following one year. The internal evaluation of the Outreach Unit also showed that affected communities who are exposed to outreach activities for more than two years develop a better understanding of the Court.<sup>37</sup>

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<sup>35</sup> Information from the “Outreach Report 2008”, obtained at the official website of the ICC [http://www.icc-cpi.int/NR/rdonlyres/1109882E-E8FF-4AFE-978E-A7466AEB947/279544/Outreach\\_report2008enLR.pdf](http://www.icc-cpi.int/NR/rdonlyres/1109882E-E8FF-4AFE-978E-A7466AEB947/279544/Outreach_report2008enLR.pdf)

<sup>36</sup> Information from the “Outreach Report 2010”, obtained at the official website of the ICC <http://www.icc-cpi.int/iccdocs/PIDS/publications/OUR2010Eng.pdf>

<sup>37</sup> Information from the “Outreach Report 2010”, obtained at the official website of the ICC <http://www.icc-cpi.int/iccdocs/PIDS/publications/OUR2010Eng.pdf>

In 2009 the “Human Rights Center of the University of California, Berkeley” conducted an independent study in the CAR. The goal of the survey was to determine how peace, justice and reconciliation are perceived by the people. 32% of the respondents had heard about the Court. However, in Bangui, the capital of the CAR the number was 63% compared to only 7% in Ouham, a province north of Bangui. This difference can be explained by the fact that at the time of the survey the Outreach Unit was in its starting phase of outreach activities in the interior. All the same, awareness also strongly differed across socio-economic classes with the addition of women being less informed compared to men. 90% of the respondents heard of the ICC by way of radio. Friends and the community (14%), newspapers (12%) and television (12%) were also important sources of information. Only 2% of the respondents had actually participated in an outreach activity. About half of the respondents (47%) knew the ICC was established by the international community. Among those who heard about the ICC, 95% thought the ICC was important and 81% said the ICC is neutral. People with more knowledge about the ICC generally had a more positive perception of the Court (Vinck and Pham, 2010: 432-439). Internal studies from the Outreach Unit also showed that outreach activities have a positive effect on the perception of the ICC.<sup>38</sup>

How does outreach function within the ICC according to the models of Pentelovitch and Peskin? This will be discussed in the next subsection.

#### 4.4. Pentelovitch’s and Peskin’s model

##### 4.4.1 Pentelovitch’s model

The model Pentelovitch uses identifies four factors to measure the efficacy of outreach. These four factors will now be discussed with using all available information on outreach activities by the ICC in this chapter.

1. *Timing*. The ICC started very slowly with outreach. Where one would have expected the Court to have learned from the mistakes from previous tribunals, it took until 2007 before outreach was given higher priority. In Uganda no substantial outreach activities existed until March 2005. This was more than one year after the referral of the case to the ICC. In Congo investigations started as late as 2007 while investigations had already started in 2004. Moreover it proved difficult to complete the outreach team in Congo: it took over a year before all the positions were filled. During that year the team had consisted of just one person. The ICC does not seem to have performed well in timing its outreach activities. A

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<sup>38</sup> Information from the “Outreach Report 2010”, obtained at the official website of the ICC <http://www.icc-cpi.int/iccdocs/PIDS/publications/OUR2010Eng.pdf>

valuable lesson for future cases. The last Annual Report shows that in Kenya outreach did start sooner. However, here not all the four different outreach programs have started. Priority has been given to the community outreach program and media outreach program.<sup>39</sup> Resources remain a problem and more should be invested to give outreach a better opportunity.

2. *A separate office for outreach and public affairs.* The Outreach Unit from the ICC is incorporated into the Public Information and Documentation Section of the Registry. Because of this outreach has to handle different subjects at the same time. In the countries under investigation we can find outreach field offices. They do have outreach set as their dedicated task, but have to do so using only limited staff.
3. *Planning/strategy.* Initially no planning or strategy for outreach had been developed. In 2007, nonetheless, outreach was given higher priority and initial strategies and a strategic plan were developed. The Strategic Plan for Outreach is a very comprehensive plan with general information on the outreach strategy as well as action plans for the countries. In addition the different Outreach Reports contain outreach strategies and plans for the future. Finally a Report of the Court on the Public Information Strategy 2011-2013 has also been developed. The ICC has much improved throughout the years in this particular area.
4. *Funding.* The ICC is primarily funded by State Parties. Even so, it receives voluntary contributions from third parties like governments, corporations and international organizations as well. Until 2007 outreach was not given priority and resources were lacking. In 2007 however, the ICC outreach budget got an impressive boost and increased with 90%.<sup>40</sup> This greater than before budget meant that outreach could be given higher priority. As such, different strategies were developed and outreach field offices could commence startup. However, as obtained from different sources, resources are still scarce. In Uganda the Field Office has to perform a lot of activities short on resources. For example, the location of the office in Kampala makes reaching out to remote areas it time consuming and resource intensive (No Peace Without Justice, 2010: 45). Finally, different States Parties are demanding that the budget for outreach should be more dependent on voluntary contributions than the official court budget. In the current economic climate this would be catastrophic for outreach (Coalition for the International Criminal Court,

<sup>39</sup> Information from the “Outreach Report 2008, obtained at the official website of the ICC [http://www.icc-cpi.int/NR/rdonlyres/1109882E-E8FF-4AFE-978E-A7466AEBC947/279544/Outreach\\_report2008enLR.pdf](http://www.icc-cpi.int/NR/rdonlyres/1109882E-E8FF-4AFE-978E-A7466AEBC947/279544/Outreach_report2008enLR.pdf)

<sup>40</sup> Information from Institute for War & Peace Reporting: “Outreach Budget Gets Big Boost”: <http://iwpr.net/report-news/icc-outreach-budget-gets-big-boost>

2011:4). Again, outreach has proven to work, but without enough resources it is difficult to really achieve anything.

#### 4.4.2. Peskin's model

Peskin distinguishes the so called *transparency model* and *engagement model*. The ICC puts a lot of effort in the *transparency model*. The Outreach Unit distinguishes four types of outreach: the community outreach program, academic outreach program, legal outreach program and media outreach program. Especially the media program is considered to be critical. Radio is the most important way of reaching out to people and also the easiest way to reach a large audience. Further, the ICC works closely with third parties. These provide for example NGO's, women's groups and local leaders with information, who can disseminate the information. The outreach activities show that providing the population with basic information is a main task for Outreach.

However, the ICC also maintains *engagement model* principles. For instance, regular town hall meetings are being held for specific groups. Herein, women are an important target group for Outreach and discussion and information sessions are held with among other government representatives and human rights activist. Also student activities are organized albeit that this is taking place on a small scale. In CAR for example, 366 students and teachers were reached by the Outreach Unit in single year. It seems that the ICC does put some effort in trying to engage the people, but again its resource shortages limiting the Outreach Units in the different countries with their outreach activities. Merely informing people on the court is difficult as it is. Engaging them only adds to the level of difficulty.

## Conclusion

Lately, interest has grown on the subject of outreach within transitional justice. Tribunals like the ICTY and ICTR have been heavily criticized for their lack of competent outreach activities. Tribunals established following these two tribunals could have learned from previous mistakes. Subsequently, this thesis has examined the following question:

*To what extent do hybrid tribunals and the ICC make effective use of outreach?*

In order to answer this question the three different outreach programs from the SCSL, ECCC and ICC have been examined. Two models to measure the effectiveness of outreach were presented in chapter 1. Then in chapters 2, 3 and 4 these tribunals were analyzed by means of the described models. Furthermore limitations, criticism and the opinion of the people have been studied.

Different sources show that all considered tribunals pay attention to outreach. Especially the outreach program from the SCSL has been praised for its outreach activities. The fact that outreach was involved from the very start is deemed an exceptional aspect of this particular tribunal. In addition, their outreach activities are quite varied and conducted on a regular basis. In contrast, the ECCC did not start out as readily as seen with the SCSL. NGO's had to assist the PAS and VSS Outreach Sections for reasons of lacking other resources. Both sections needed time before they could really begin to operate: the VSS for example was only operational by the end of 2008. However, the fact that the ECCC pays special attention to victims is a major accomplishment in comparison to previous tribunals. Additionally, the outreach activities conducted by the ECCC are varied as well, thanks to NGO's contribution. The last tribunal, the ICC, paid little attention to outreach at the start of their investigations. In Congo for example, outreach activities started as late as in 2007, with investigations already having started in June 2004. The prosecutor preferred a low-profile approach. The impression was that too much visibility would put witnesses or ICC staff in danger. However, this approach kept the Court disengaged from the countries and its affected communities. Luckily, since 2007 outreach was given a higher priority in the Courts budget and more staff has been recruited since and strategies are under development. The fact that a higher priority was given to outreach does seem to be rewarding adjustment. According to different surveys the knowledge on the ICC has increased dramatically because of outreach activities. In addition, people with more knowledge in general tend to be more positive about the ICC as well. This seems to hold true for at Sierra Leone and Cambodia too.

The challenges for the tribunals are numerous. The countries in question often lack a decent infrastructure and have little or limited communication networks. Also, in the affected communities it is not unusual to witness a variety of languages being spoken and high illiteracy

rates being present. The ICC furthermore has to deal with several vast African countries. In a lot of cases these are still war-torn and polarized societies and the ICC has to work in a hostile environment. In the case of Sudan the ICC cannot even enter the country and President Bashir, who is indicted, does not recognize the jurisdiction of the Court. It will always be difficult for the ICC to conduct outreach in countries where its government does not recognize, is hostile or otherwise defies the ICC. Lastly, another tough obstacle for the ICC's outreach activities is the simple fact it is to be found so distantly from the areas it investigates. It is incredibly difficult for the affected communities to develop a strong connection with a tribunal situated in The Hague. Nevertheless, what seems to be the biggest challenge irrespectively for the tribunals is lack of funding. Structural resource shortfall indicates that although outreach is supposedly given more attention, it still does not receive the assets it would need to achieve the goals that are set.

Using the models of Pentelovitch and Peskin we can draw the same conclusions.<sup>41</sup> Timing is a problem for both the ECCC and ICC: but this can all at least partly be attributed to lack of resources. An outreach strategy has been developed for both the ICC and the SCSL. However, the ECCC does not have an outreach strategy. The PAS even suggested that it cannot develop a proper strategy because its means are insufficient. A separate office for outreach would guarantee that outreach gets the priority it so highly deserves. Notwithstanding, all the tribunals lack a separate outreach office. The SCSL used to have it, but in 2008 outreach merged with public affairs. The fourth pillar of Pentelovitch model considers what essentially the root cause of all issues observed is: funding concerns being at the center of the tribunals' problems. Without sufficient funds the ambitious goals that are set will simply not be reached. Tribunals can lay out great strategies, but without the resources needed to bring these plans into effect any implementation will remain flawed. Peskin's model consists of the *transparency model* and *engagement model*. Although the different tribunals make use of both of these models, the *transparency model* is the prevailing practice. Increased engagement could however be very worthwhile. Surveys show that people who are more engaged with the tribunals are more likely to support it. Again, advancing engagement would demand more resources.

It can be concluded that outreach has definitely developed within the different tribunals. Nevertheless, an assortment of potential improvements is still achievable. The simplest one being that outreach should be involved from the very beginning of any investigation. Hopefully especially the ICC will put this knowledge to use in its future cases. However, the biggest problem remains the lack of resources. More money would signify more opportunities for improvement.

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<sup>41</sup> For an overview of the tribunals and their different achievements on the models of Peskin and Pentelovitch see appendix 1.

Naturally, an increase of resources will only be agreed to if the importance of outreach will gain more support than it currently has.



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**Appendix 1: Overview of the achievements of the tribunals.**

| <b>Outreach models</b>  | <b>SCSL</b>  | <b>ECCC</b>  | <b>ICC</b>   |
|---|--|--|--|
| <b>Pentelovitch: timing</b>   | Outreach activities started from the very beginning of the tribunal.   | Outreach activities started very slow due to lack of resources.  | Outreach started very slowly, only in 2007 outreach was given higher priority. In Uganda outreach started more than one year after the referral of the case to the ICC. In Congo three years after the investigations started. |
| <b>Pentelovich: Separate office for Outreach and Public Affairs</b> | Until April 2008 a separate office, since then a merger between the two departments.   | Outreach is incorporated into the public affairs section within the ECCC.  | The Outreach Section is incorporated into the Public Information and Documentation Section of the Registry.  |
| <b>Pentelovich: Planning/Strategy</b>                               | An outreach statement and different goals have been set at the start of the tribunal.  | An outreach strategy or plan has never been formulated.  | Initially no planning/strategy was developed. Since 2007 outreach got more important and since then outreach strategies are available.   |
| <b>Pentelovitch: Funding</b>  | Money from different voluntary contributions. The EU is one of the main financiers. Funding is an issue.   | Funding is received from the the UN and the Cambodia government. They get money from third parties. Funding issues cause dependence on NGO's and lack of resources.            | Funding is primarily received from State Parties. Voluntary contributions from third parties are received as well. Funding increased in 2007; however, resources are still scarce.   |
| <b>Peskin: transparency model</b>                                   | Most used model. The Outreach Section mainly provides the people with basis information. Media attention is being promoted and translations are available in different dialects. | ECCC is actively engaged in informing the people and providing basic information about the Court. Media attention is important, newsletters are published and tours organized. | The ICCC mainly tries to inform the people about the Court through their four pillars of community, academic legal and media outreach. Media program is essential.   |
| <b>Peskin: engagement model</b>                                     | Efforts are being made to really involve the people in the process by for example town hall meetings. The tribunal tries to start a dialogue and interact with the people.       | Engagement is reached by for example town hall meetings and a special department for victims.  | Target groups like women are part of the engagement model. Activities take place, however on a small scale.  |