

# ក្រុមប្រឹក្សាឧត្តមក្រសួងយុត្តិធម៌

## Documentation Center of Cambodia Victim Participation Project

### **Guidance on and Instructions for Completing the ECCC Victim Information Form**

#### **Introduction to Victim Participation**

The Internal Rules of the Extraordinary Chambers (the “ECCC”) provide for the participation of survivors of Democratic Kampuchea in the upcoming tribunal proceedings. Elaborating on the Internal Rules, on October 5<sup>th</sup>, 2007, the ECCC issued a Practice Direction on Victim Participation. The Practice Direction envisages the participation of survivors in three ways: (1) by volunteering to be witnesses (namely, by giving live testimony about crimes suffered or witnessed); (2) by filing complaints (namely, by providing the Co-Prosecutors with factual information to aid prosecution); and (3) by applying to become civil parties (namely, by applying to join the proceedings as a party and to claim collective or moral reparations). In addition to detailed information on participation, the Practice Direction contains a Victim Information Form (the “Form”) for survivors to submit to the ECCC Victims Unit. The Practice Direction requires the Co-Prosecutors to contact every complainant informing them of their decision whether to accept or reject the complaint within 60 days of registration.

Survivors should be aware that the ECCC will select only a small number of survivors to participate in the trials. If you choose to complete the Victim Information Form and the ECCC fails to select you, this does not mean that the tribunal does believe or value the information that you have provided. The ECCC has limited resources, a short time frame, and focuses on senior Khmer Rouge leaders and those most responsible for crimes from 1975-1979. Therefore, the ECCC may not have the resources or the power to charge the person responsible for the crime against you or may only charge the responsible person in relation to crimes committed elsewhere or at another time.

#### **Importance of Victim Participation**

Although the ECCC will select only a small number of survivors to participate, it is very important that survivors complete the Victim Information Form. By completing this Form, survivors will assist the ECCC in its task of trying senior Khmer Rouge leaders. Furthermore, by contributing to the ECCC’s archives, survivors will participate in the creation of a vast historical record of the crimes of the Democratic Kampuchea era. This will help improve understanding of the period and create a valuable resource for future generations.

Although DC-Cam considers the participation of victims in tribunal proceedings to be very important, survivors must decide for themselves whether they wish to complete the Form. If you have reservations about completing the Form at this time, please feel free not to do so. You may always contact DC-Cam for assistance if you wish to complete it at a later time.

#### **Modes of Victim Participation**

According to the Practice Direction, survivors may participate in the proceedings in three ways:

- By volunteering to be a witness;
- By filing a complaint; AND
- By applying to be joined as “victims” in a civil party action.

First, survivors may volunteer to be witnesses at trial. Most commonly, witnesses would give live testimony to the ECCC about crimes that they have suffered or witnessed. The ECCC will select only very few witnesses for the proceedings depending upon who can offer the most direct testimony proving the crimes charged. If a survivor is selected to be a witness, he or she would travel to the tribunal to give his or her story. If witnesses fear for their safety, the ECCC may order protective measures to protect the witness from the public, such as a pseudonym or voice and image distortion.

Second, survivors may file a complaint with the tribunal giving a description of the crime(s) witnessed or suffered. The Co-Prosecutors may, at their discretion, choose to reject the complaint, include the complaint in an ongoing preliminary investigation, conduct a new preliminary investigation or forward the complaint directly to the Co-Investigating Judges. The Co-Prosecutors must decide whether to proceed based on the complaint and inform the complainant of their decision within 60 days. Complainants should have only limited concerns relating to personal security, as all complaints remain confidential and complainants need not testify. As a complainant would not have to appear before the ECCC, all victims or witnesses of crimes during the Democratic Kampuchea period should consider filing a complaint. Complaints are a very important source of factual information for the tribunal.

Third, certain survivors may apply to become a civil party to the proceedings and to claim collective and moral reparations. Survivors may apply to be a civil party up until the beginning of trial proceedings. In order to qualify as a civil party, survivors must qualify as “victims” within legal meaning. The legal definition of “victim” requires that they have suffered a physical, material, or psychological injury; that the injury was the consequence of a crime; and that they experienced it themselves. The loss of a family member may qualify as psychological injury. As the ECCC has not as yet given any further guidance as to which survivors may qualify as “victims,” all survivors interested in becoming civil parties should complete the application. If a survivor’s application to become a civil party is successful, he or she will become a party to the criminal proceedings. The civil party may not be a witness. The civil party will be responsible for securing legal representation. The Victims Unit and victims’ rights associations may provide assistance.

#### “Collective and Moral” Reparations

The Internal Rules provide that civil parties to the proceedings may claim “collective and moral” reparations. “Collective” reparations envisage reparations benefiting victims collectively or society as a whole. “Moral” reparations envisage symbolic reparations. The Internal Rules provide the following as examples of “collective and moral” reparations:

- An order to publish judgment in any appropriate news or other media at the convicted person’s expense;
- An order to fund any non-profit activity or service that is intended for the benefit of Victims; or
- Other appropriate and comparable forms of reparation.

The Form provides civil party applicants with the opportunity to propose their preferred form of “collective and moral” reparations. Appropriate proposals include creating a national memorial, establishing a mental health clinic for victims, or printing commemorative banknotes.

#### The Role of DC-Cam

The Center plays a limited role in victim participation in tribunal proceedings. We are not a victims’ right association and we will not provide legal representation. We seek only to *inform* survivors of their participation rights and to *assist* them in completing and filing the Form with the ECCC Victims Unit. We have considerable experience in doing so, having already assisted more than 500 survivors. Due to our established contacts with survivors of Democratic Kampuchea and possession of the Renakse Petitions, we believe that the Center has an important part to play in assisting victim participation. Where it assists survivors in filing the Form, the Center will treat the Form confidentially and deliver it promptly to the Victims Unit.

#### Step-by-Step Instructions for Completion

### **PART A – Personal Information About the Victim**

*To be completed by ALL*

<b>Question Number</b>	<b>Subject Matter</b>	<b>Instructions</b>
1	Name	Write your name, followed by your first name and any given names
2	Sex	Check your gender
3	Place of Birth	Write your place of birth, including the country
4	Nationality	Write your nationality
5	Date of Birth	Write your date of birth and, if unknown, write your age
6	Occupation	Write your current occupation and, if none, write “Unemployed”
7	Marital Status	Check your current marital status
8	Father and Mother’s Names	Write your father’s name and your mother’s name
9	Number of Dependants	Write the number of family members dependent upon you for support
10	Disabilities	Provide details of any disabilities you suffer or have suffered for the Victims Unit to make appropriate arrangements for any visits you may make
11	Proof of Identity	Check all proofs of identity you possess (even if you do not have them with you at present) and, if possible, provide their number or other reference; if you have no proof of identity, check “None” <i>Make and attach to the Victim Information Form, if possible, a photocopy of your proof of identity</i>
12	Current	Write your current address or, if you lack a current address, the

	Address	address of your last residence
13	Contact Address and Previous Submissions	<p>Check the relevant box to indicate whether you wish to be contacted at your current address (as given in Question 12), through a lawyer or victims' association, at another address (e.g. a friend's or relative's) or by telephone; if you have personal safety concerns, consider carefully how you can best be contact confidentially; AND</p> <p>Check the relevant box to indicate whether you have submitted previously any complaints or civil party applications to the ECCC or "other places" (e.g. another court) and provide details of any such submissions, including the form of application, place and date</p> <p><i>If you have already submitted a complaint or civil party application using the Victim Information Form and wish to amend your submission, send a letter to the Victims Unit (address below) and do not submit the Form again</i></p>

Do not complete the boxed section marked "FOR VICTIMS UNIT USE ONLY"

## **PART B – Information About the Alleged Crimes**

*To be completed by ALL*

Question Number	Subject Matter	Instructions
1	Location, Date and Description of Crime(s)	<p>Write the location, date and a description of the crime(s) you witnessed or suffered; if the space provided is insufficient, continue your description of crime(s) on a separate sheet of paper and attach to the Form</p> <p><i>If you do not know or have difficulties in recalling the exact location and date of the crime(s), provide as much information as you can, including an approximate date and location</i></p> <p><i>Provide as much detail as possible when describing the crime(s) and use everyday language</i></p>
2	Person(s) Responsible	<p>Write the names of the <u>ALL</u> people you believe to be responsible for crime(s) you witnessed or suffered and the reasons for your belief; if the space provided is insufficient, continue on a separate sheet of paper and attach to the Form</p> <p><i>Provide the names of all people you believe to be responsible, including both high-level perpetrators and low-level perpetrators; if you have no idea, do not respond</i></p>
3	Victim of Crime(s)	Check the relevant box to indicate whether you were a victim (i.e. directly affected) by the crime(s)
4	Witness of Crime(s)	Check the relevant box to indicate whether you were a witness (i.e. saw) the crime(s)
5	Other Victims or Witnesses	<p>Check the relevant box to indicate whether you know of other victims or witnesses to the crime(s) and write the names and addresses of other victims and witnesses on another sheet of paper and attach to the Form</p> <p><i>Provide the names and addresses of other victims and witnesses unless: (1) you know that they wish to remain anonymous; or</i></p>

		<i>(2) you believe that provision of this information would place you or another in danger</i>
6	Relationship to Other Victims or Witnesses	Check the relevant box to indicate whether you have any relationship with the other victims and witnesses to the crime(s) named above and write the nature of the relationship (e.g. family members, friends, neighbors)

### **PART C – Application to Be Joined as a Civil Party**

*To be completed ONLY by those wishing to be civil parties*

<b>Question Number</b>	<b>Subject Matter</b>	<b>Instructions</b>
1	Case File Number	Write the Case File Number for the proceeding you wished to be joined to, if you know which Charged Person is responsible for the crime(s) <i>If you know which Charged Person is responsible for the crime(s), find the relevant Case File Number online at <a href="http://www.eccc.gov.kh">http://www.eccc.gov.kh</a> or contact DC-Cam for assistance</i> <i>If you do not know which Charged Person is responsible for the crime(s), do not respond</i>
2	Injury, Loss or Harm	Write the nature of the injury, loss or harm suffered as a result of the crime(s) and give a brief description; if the space provided is insufficient, continue on a separate sheet of paper and attach to the Form <i>In order for your application to be successful: (1) the injury must be physical, material, or psychological (including physical injury, mental pain and anguish, loss or damage or property and death of kin); and (2) the injury must be the direct consequence of the crime(s), must be personal to you (i.e. you must have suffered the injury) and the injury must be real</i>
3	Doctor's Examination	Check the relevant box to indicate whether you were examined by a doctor after the crime(s)
4	Treatment	Check the relevant box to indicate whether you have received medical or psychological treatment <i>If you have received treatment as a participant in DC-Cam's Victims of Torture Project, check "Yes"</i>
5	Treatment Records	Check the relevant box to indicate whether you have records of medical or psychological treatment and, if you do, check the relevant box to indicate the type of records <i>If you have received treatment as a participant in DC-Cam's Victims of Torture Project, check "Yes" and "Other" and write "To be provided by DC-Cam"</i>
6	Persisting Condition	Check the relevant box to indicate whether your condition persists today and provide details of your condition, including whether you continue to take medicine or receive treatment; if the space provided is insufficient, continue on a separate sheet of paper and attach to the Form
7	Collective and Moral Reparations	Write your proposals for "collective and moral" reparations <i>Do not request financial compensation</i>

**PART D – Signatures**  
*To be completed by ALL*

Question Number	Subject Matter	Instructions
1	Chosen Mode of Participation and Signature of the Victim	Check the relevant box(es) to indicate whether you wish to participate in tribunal proceedings as a witness, complainant or civil party <i>Check as many modes of participation as you wish, bear in mind that, if the ECCC accepts your civil party application, you may not be a witness</i> Sign or add your fingerprint to the Form, write your location and the date, and have a witness sign or add his/her fingerprint to the Form
2	Signature of the Person Acting on Behalf of the Victim	If a person has completed the Form on behalf of the victim due to the victim's incapacity, that person should sign or add his/her fingerprint to the Form, write his/her location and the date, and have a witness sign or add his/her fingerprint to the Form <i>Complete this section only if the person completing the Form has not done so under the direction of the victim (i.e. do not complete this section if the person has completed the Form under the direction of an illiterate victim)</i>

Protective Measures

If you fear for your personal safety as a result of completing this Form, you may request the ECCC to order you protective measures in the event it selects you to participate in the proceedings. Protective measures may protect you from the public through the use of, for example, a pseudonym or voice and image distortion during the proceedings. Please note that the Victim Information Form does not provide space for requesting protective measures. As such, if you wish to request such measures, please attach a request on a separate sheet of paper.

Submission of Victim Information Forms

Survivors wishing to submit Victim Information Forms to the ECCC may do so by sending them to:

ECCC Victims Unit  
National Road 4  
Chaom Chau, Dangkao  
PHNOM PENH  
Cambodia  
E-mail: [victimsunit@eccc.gov.kh](mailto:victimsunit@eccc.gov.kh)

Confidentiality

Both the Center and the Victims Unit will treat all Forms confidentially. It is important to consider carefully your preferred method to be contacted by the ECCC. If the ECCC chooses to visit you at home or by sending you a letter, it is possible that others in your community will become aware that you filed.