

VICTIM PARTICIPATION PROJECT

**DELIVERY OF COURT NOTIFICATION LETTERS TO COMPLAINANTS IN
KAMPONG THOM PROVINCE**

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BACKGROUND

The Victim Participation Project (hereinafter “VPA Project”) at the Documentation Center of Cambodia began its operations in October 2007 after the Internal Rules of the Extraordinary Chambers in the Courts of Cambodia (ECCC) allowed for survivors to participate in the Court’s proceedings as either complainants or civil parties. Since then, the VPA Project has assisted 1756 survivors in filing applications with the ECCC, the majority of whom have requested to participate as complainants. As a complainant, a survivor has the opportunity to report crimes witnessed and/or committed against them and/or their family. Civil parties, on the other hand, have a broad set of rights, including to be legally represented, to introduce evidence of harm, to request reparations, etc. In its experience, the VPA Project has found that most survivors prefer to participate as complainants rather than as civil parties, as it is a simpler and less onerous form of participation.



VPA team leader explains to survivors the purpose of the visit.

After more than two years of receipt of these complaints, the Office of the Co-Prosecutors (OCP) in December 2009 issued letters to notify individual complainants of measures and actions taken and to be taken as a result of their reports of crimes as required by the Court’s Internal

Rules. Responsibility for notifying civil party applicants of the status of their applications lies with the Office of Co-Investigating Judges (OCIJ). With regard to notification by the OCP, there are reasons for the lengthy delay in delivery of these notifications. As of the end of January 2010, the ECCC had received a total of 8,190 applications, of which 4,004 were civil party applications and the remainder was complaints.¹ It is understandable that the processing and identification of

¹ See Opening Speech of H.E. President Kong Srim, ECCC Plenary Session, February 2, 2010.

information in these applications has taken the OCP quite sometime. Thus, despite a two-year delay, the OCP has finally issued official notification letters to complainants giving them notice.

PURPOSE OF FIELD TRIP

DC-Cam's Victim Participation Project has decided to assist the OCP in delivering notification letters to those complainants assisted by the Project over the past two and a half years. The Project received more than one thousand notification letters for delivery to individual complainants all across the country. In March 2008, the Project conducted a field trip to Kampong Thom province, the former Northern Zone during the Khmer Rouge regime. Previously, the Project had met with and informed hundreds of survivors in Kampong Thom, many of whom were *Renakse* Petitioners from the 1980s, of their rights to participate in the proceedings against surviving senior leaders and those most responsible for the crimes committed during the period of Democratic Kampuchea.² The Project assisted those interested in participating in the proceedings and collected a total of 317 Victim Information Forms, the vast majority of which were complaints.

From February 15-25, 2010 the Project re-visited Kampong Thom province in order to deliver the OCP's notification letters as well as to revisit survivors with whom DC-Cam has been in contact with for the past 15 years. These survivors, some of whom filed complaints, have been important sources of information for DC-Cam's various projects and activities.



VPA team members take photograph with former KR soldier in a pagoda in Staung district after conducting interview with him.

The Project delivered not only the OCP's notification letters, but also letters from DC-Cam Director, Mr. Youk Chhang, expressing his deepest gratitude for their support for DC-Cam's ongoing work and for their efforts to make the establishment of the Khmer Rouge tribunal a reality.

² Between 1982 and 1983, a research committee was formed and tasked with collecting what were later known as "Petitions" from survivors across the country. The committee traveled to accessible places and, at the same time, requested local authorities to collect and submit the so-called Petitions to the central government. It had been intended that the Petitions would be forwarded to the United Nations but, for some reason, they ended up being stored in the capital until being transferred to DC-Cam in the mid 1990s. A total of 1,250 Petitions detailing crimes of Democratic Kampuchea were collected from over 1.1 million Cambodians. In the past, these *Renakse* Petitions had been used to identify target audiences for the VPA Project's outreach.

ACHIEVEMENTS

Over the ten-day period, eight VPA staff members succeeded in delivering notification letters to 202 complainants in four districts in Kampong Thom province. There remain 116 notification letters to be delivered in a later field trip to the other two districts, namely Staung and Prasat Balang. Regarding the 202 notification letters delivered, the Project met with 150 individual complainants and 38 nominees appointed to receive notification letters on their behalf (their family members). The Project was unable to meet with 10 complainants or their nominees for commonplace reasons, such as the family being on a business trip or only the family's children being home. In these cases, the Project, after consultation with Mr. Tarik Abdulhak of the OCP, left the notification letters with village or commune chiefs for distribution to the complainants concerned. In addition, of the 202 complainants, three had unfortunately passed away due to natural causes before receiving their notification letters.

While delivering notification letters to complainants, VPA gathered reactions from them about their participation as complainants in the proceedings as well as their view of the ECCC process as a whole. A set of questions was established for the purpose of collecting reactions from these individual complainants. The questions address complainants' satisfaction at receiving the court's notification letter, the effects of the complainants' decision to participate in court proceedings on their daily lives and health, their knowledge of the trials, their reactions to Duch apology and the proposed sentence for Duch, and finally, their view of justice. Over the ten-day field trip to

Kampong Thom, VPA collected reactions from 84 individual complainants and another four survivors (not complainants), including a civil party in Case 001.

In a remote village in Kampong Thom province, VPA met with three complainants who performed KR dances and songs before and during the Khmer Rouge regime. The three ladies, now in their 40s and 50s, still remember the songs and steps they performed more than 30 years ago and were



Three survivors, who used to be KR performers, performed KR songs and dances for their neighbors and DC-Cam staff in their village. They had an impressive memory of the songs and steps. One of the ladies was able to sing entire KR songs despite the passage of more than 30 years.

enthused to perform for their neighbors and DC-Cam staff in their home village. VPA was able to visually record some of the steps and songs they performed.

In a nearby village, VPA came across a story emblematic of the challenges of reconciliation. An alleged perpetrator and his victims live in close proximity. The perpetrator, although claiming to have acted under orders, acknowledges taking part in the killing of two men from his village. One of the victims — a lady in her 40s whose father was allegedly executed by the perpetrator — appears to be able to put the past behind and unilaterally forgive the murderer; her mother has a somewhat similar opinion. Nonetheless, another victim, aged 60, who claims to have witnessed the execution of her uncle by the same perpetrator, feels strongly otherwise. Her anger towards the alleged perpetrator has largely not subsided and she is still looking for another perpetrator whom she accuses of killing her husband. The perpetrator, the mother, and the 60-year-old lady are Buddhist and sometimes meet one another at a village pagoda. While the mother, if necessary, will talk to the perpetrator, the 60-year-old lady will avoid him and has on several occasions even refused to drink tea made for her by the perpetrator. The passage of time helps the mother and the daughter, but not the other woman. In this case, reconciliation is exceptionally personal. VPA intends to put together a short documentary from these interviews as an example of reconciliation at the village level.

CHALLENGES AND FINDINGS

In Kampong Thom, VPA has faced two important challenges: complainants' poor memory and deaths. Many survivor complainants, especially those who are in their 60s and 70s, have poor memory. Some, although remembering that they had told their stories, did not remember telling them in the form of complaint. Only after being reminded by VPA and their fellow villagers were they able to remember. This may not be surprising given the level of trauma survivors have undergone over decades of wars and genocide. As the mother in the reconciliation story above told VPA, survivors' priority is their daily living and immediate survival needs. She did not have any information about the Khmer Rouge tribunal. VPA has also unfortunately found that three of the 202 complainants have passed away from natural causes and had no chance to see justice being done for them by the Khmer Rouge tribunal they had supported.

According to the VPA team's interviews conducted with complainants, a number of interesting observations can be made. Complainants generally are content to receive official notification letters, although the majority of them did not expect any communication from the ECCC when deciding to participate in the proceedings. To them, a letter of notification from OCP means their stories are read and their sufferings are acknowledged: someone is listening to their stories. VPA also found that a large number of complainants have followed tribunal developments, mostly via radio and some via TV. Unfortunately, a number of individual survivors neither followed the tribunal nor had any means of following the proceedings. Some of

these individuals told VPA that they could not financially afford radio sets, let alone TVs.

HIGHLIGHTS OF SURVIVOR REACTIONS

Nat alias *Bo*, 50, from Baray District: He believes that two wrongs do not make a right. After the fall of Phnom Penh to the Khmer Rouge on April 17, 1975, Nat and the family of his aunt were forced to leave Phnom Penh and made their way back to their home village in Baray district. They walked and it took them almost three weeks. What happened during the Khmer Rouge period was a painful memory for Nat. An unforgettable event occurred in 1978 when he was put to work in a district mobile work brigade. Life then was extremely difficult — little food, no medication and not enough rest. Nat ran away from work to his home, walking 40 kilometers from the 6-January dam construction site to his village. In the village, he pretended to be insane to avoid arrest and possible execution. To convince the cadre he was insane, Nat walked around naked, beat children who were tending cows, drank petroleum, and picked up fish bone on the ground to eat. Everyone, including his aunt, was convinced that Nat was mentally disturbed. That way, Nat survived the regime. When asked whether he is still angry with the Khmer Rouge, Nat, now a follower of Buddhist teachings, told VPA he was not any longer. Today, he works on a daily basis with a former cadre who formerly to put him to work in awful conditions.

Yeng, 56, a former Khmer Rouge military medic: Yeng was forced to serve the communist revolution in 1974. Initially, she studied medicine during the day and applied what she learned with wounded soldiers at night. After a 5-day training, she worked full-time as a medical provider and witnessed many deaths at the clinic where she was serving. Immediately after the arrival of the Vietnamese troops in 1979, the Khmer Rouge killed her husband, accusing him of aiding the Vietnamese forces. She told VPA staff members that she is still angry with the Khmer Rouge for killing her husband. Moreover, she regretted serving them. Yeng regularly follows the ECCC proceedings. Watching the hearings on local TV, she has seen Noun Chea, Ieng Sary, Ieng Thirth, Khieu Samphan, and especially Duch, who was also native of Kampong Thom province. Though having learned that Duch had apologized and might be sentenced to prison for up to 40 years, she feels that it is still not enough.

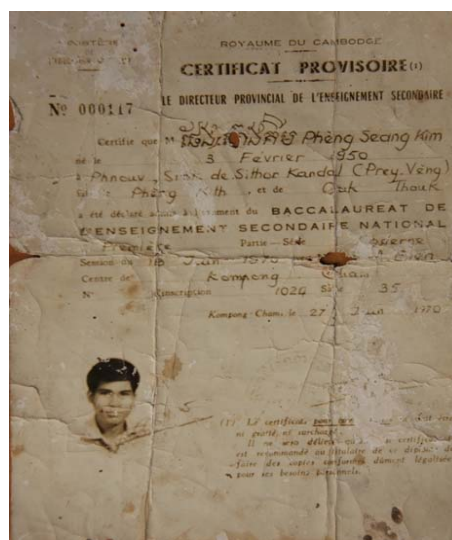
Vun, 71, a former Khmer Rouge prisoner: In 1978, Vun was arrested and detained in a pagoda for three months for allegedly feeding soldiers of the previous Lon Nol regime, an accusation Vun said was false. His four siblings all perished at the hands of the Khmer Rouge and he is the only person in his family now alive. For all of these reasons, Vun's anger towards the Khmer Rouge has been and remains enormous. He told VPA staff members that he remembered filing his complaint about two years ago, but never thought it would be paid attention to by the ECCC. He said that he feels very happy receiving the court notification letter.

CONCLUSION

VPA considers the trip to Kampong Thom a success. First, VPA successfully distributed all 202 court notification letters, although VPA did not meet personally with a small number of the complainants. Three of the complainants with whom the VPA did not meet had passed away due to natural causes, while the rest, for certain personal reasons — often due to personal commitments, had sent representatives to receive notification letters on their behalf. VPA conducted interviews with 84 out of the 202 complainants about their reactions towards both their participation as complainants and the entire process of the Khmer Rouge tribunal. Last but not least, VPA encountered an interesting case study on the topic of reconciliation and will produce a small documentary based upon the interviews conducted. This case is indeed interesting since the perpetrator acknowledged taking part in the killings, which rarely happens in the Cambodian context.



These certificates and their owner survived the destruction by the Khmer Rouge, who singled out the educated for execution.



Certificate from June 1970

END.