

## Victim Participation Project Presentation for CHRAAC Workshop on Complaints Procedures

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### 1. THE CENTER'S PROJECT PLAN

#### Overview of Project

- The Victim Participation Project is the latest of DC-Cam's efforts to make the voices of Khmer Rouge victims heard and to inform them of the workings of the Extraordinary Chambers.
- The Project seeks to provide survivors of the Democratic Kampuchea regime with information to assist them in making an informed decision as to whether to participate in proceedings.
- The Project seeks only to inform survivors of their rights and to assist in the completion of the Form and does not seek to represent civil parties before the Extraordinary Chambers.
- In 2008, the Project hopes to assist up to 10,000 survivors in completing the Victim Information Form issued by the Extraordinary Chambers in October 2007.
- We believe that, by offering survivors an opportunity to tell their story to the tribunal, the victim participation scheme will contribute to the process of reconciliation in Cambodia and serve as a form of truth commission.
- Importantly, by assisting all survivors and not targeting potential civil parties only, the Center hopes to assist in the creation of a comprehensive historical record of the Democratic Kampuchea period.

#### The Project's Use of the Renakse Petitions

- In reaching out to survivors, the Project will make use of the so-called "Renakse Petitions."
- The Center holds in its archives these 1,250 Petitions, all signed or thumb-printed by over 1.1 million Cambodians from nineteen provinces and collected in 1982-83.
- The Petitions detailed the crimes of Democratic Kampuchea in an effort to persuade the United Nations to deny the Khmer Rouge the Cambodian seat in the General Assembly.
- The Project will use the Petitions as a basis for locating potential complainants/civil party applicants.
- While questions have been raised as to the evidentiary and legal value of the Petitions due to political bias, the Project's recent efforts meeting with Renakse Petitioners in Kampot Province show that their current testimonies are consistent with those made in the Petitions.
- Similarly, other DC-Cam Projects have interviewed Petitioners and found that Petitioners consistently verify their original testimonies.
- By revisiting Renakse Petitioners to offer them the opportunity to make their voices heard once again, the Project will reactivate this informal truth commission of the early 1980s and show Petitioners that their prior testimonies were not given in vain.

## 2. ACHIEVEMENTS TO DATE

### The Conference

- From October 24th to 26th, the Center hosted 280 Cham Muslim *hakem* (judges) and *tuans* (religious teachers) in Phnom Penh for a Conference on "The Progress of the ECCC and Victim Participation," which is part of the Center's Cham Muslim Oral History Program, led by Farina So.
- Its purpose was to inform survivors of their participation rights and to assist them in registering with the Victim Unit.
- The Conference explained the place of victim participation in the tribunal process.
- The vast majority-200 of the 280-of participants chose to complete the Form.
- Upon completion, staff collected the Forms and placed them in sealed envelopes for submission to the Co-Prosecutors on October 26<sup>th</sup>, 2007.

### Survivors' Reflections on the Conference

- After the Conference, the Center contacted a number of participants to gain feedback.
- Many participants expressed their satisfaction with and enthusiasm for the Conference and its goals.
  - Example: Sin Kha, from Phnom Penh, told her children and other villagers of her experiences under the Khmer Rouge regime and of the ECCC's provision for victim participation. She said: "I want to educate the young generation about the Khmer Rouge regime, so the old should tell them about the regime." She expressed her joy at the possibility of being involved in seeking justice for her brother and victims in general.

### Field Trips and Other Recent Activities

- From November 2007 onwards, the Center conducted five field trips to Prey Veng, Kampot, Kampong Cham, Kratie, and Ratanakiri to inform other ethnic minorities (including Chinese, Vietnamese, Stieng, Mil and Preou) of their participation rights and assist them in registering with the Victims Unit.
- In addition, in January 2008, the Project conducted a field trip to Kampot to meet with Renakse Petitioners.
- The Center has received a number of requests for visits from interested villagers and has already conducted a field trip to Kampot in response to such a request.
- Under the auspices of the Living Documents Project and the Public Information Room Project, the Center has distributed the Victim Information Form to survivors invited by DC-Cam to attend recent pre-trial hearings and to spectators at DC-Cam's film screenings.
- In addition, the Center has provided assistance and guidance to potential foreign and overseas complainants/civil party applicants.
  - Example: In December 2007, the Center helped a Cambodian-Australian visitor to complete the Form.
- Finally, the Center's staff members have informed their family members of their victim participation rights and have assist them in completing the Form.

### Number of Forms Channeled Through DC-Cam

- To date, the Center has provided assistance to 517 survivors of the Democratic Kampuchea regime in completing the Form and transmitted these Forms to the Co-Prosecutors or Victims Unit, as appropriate.
- To the best of our knowledge, none of the complainants/civil party applicants assisted by the Center has received a response from the Extraordinary Chambers.
- A table showing the breakdown of Forms submitted by province and ethnicity has been distributed and is available online.
- The Center does not have figures for the number of survivors electing to participate as voluntary witnesses, complainants and/or civil party applicants as, in the interests of confidentiality, we seal the Forms in envelopes and submit them promptly to the Victims Unit.

### **3. CHALLENGES AND LESSONS LEARNED**

- By observing complainants and civil party applicants completing the Form and by requesting feedback, the Project has identified a number of general challenges to the Extraordinary Chambers' victim participation scheme.
- While we have outlined these at earlier meetings, these challenges include:
  - Illiteracy;
  - Fear of Rejection;
  - Concerns Relating to Victim Participation;
  - Concerns Relating to Legal Representation of Civil Parties;
  - Concerns Relating to the Inconvenience and Expense of Being a Civil Party; AND
  - Perhaps most significantly, the Passage of Time Leading to Difficulties in Describing Crimes, Recalling Dates and Locations, and Identifying Witnesses, Other Victims and Those Responsible.
- In order to overcome these challenges, we have trained our staff: (a) to complete the Form under the direction of illiterate survivors; (b) to explain that the Extraordinary Chambers will select only a very small number of witnesses and civil parties and use only a small number of complaints; and (c) to question survivors effectively so as to identify a specific crime, location, date, perpetrator(s) and crime, insofar as possible.
- In addition to general challenges faced by the victim participation scheme, the Project has identified a number of problems experienced by survivors due to the content and format of the Victim Information Form, including:
  - The Complexity and Length of the Form;
  - The Unavailability of a Large Print Format;
  - The Use of Terms Assuming Legal Knowledge;
  - Inadequate Space for the Description of Crimes;
  - Uncertainty as to Status as Potential Civil Party;
  - Concern Relating to Need for Case Number;
  - Failure to Differentiate Between 'Nationality' and 'Ethnicity'.
- The Project has raised these concerns and made recommendations to the Victims Unit.
- Insofar as possible, we have sought to overcome many of these challenges by training our staff thoroughly in the completion of the Form.

- In January 2008, three visiting Legal Associates from Harvard Law School conducted a two-day training session with the Project's staff, explaining the crimes within the Extraordinary Chambers' jurisdiction, explaining all sections of the Form and practicing interview techniques.

#### **4. THE PROJECT'S FUTURE PLANS AND OFFER OF COOPERATION**

- From March 2008 onwards, the Project will be conducting numerous field trips throughout Cambodia to meet with survivors from all ethnic groups with the aim of reaching out to up to 10,000 survivors within the next year.
- To provide an example, the Project intends to undertake an intensive 20-day field trip next month with 10 staff members to meet with hundreds of survivors.
- In addition to assisting survivors in completing the Form and forwarding Forms to the Victims Unit, the Project stands ready to provide assistance to the Victims Unit in processing and responding to the Forms, if requested.
- Our Director has already offered the following forms of assistance to the Victims Unit:
  - The referral of potential local interns;
  - The provision of information to victims overseas about victim participation;
  - Translation services;
  - Assistance in distributing the Form and the soon-to-be-completed booklet on victim participation to survivors;
  - Assistance in contacting complainants and civil party applicants, if the tribunal requires further information; AND
  - Assistance in delivering responses to survivors already assisted by DC-Cam.