

Follow-Up to Article on the Victim Participation Project: Victims Still Waiting to Hear from Tribunal – Response Will Come

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Introduction to Victim Participation and DC-Cam’s Activities

The Extraordinary Chambers (“ECCC”), more commonly known as the Khmer Rouge Tribunal, offers survivors of the Democratic Kampuchea regime the opportunity to volunteer to participate in proceedings against the regime’s senior leaders and those individuals most responsible for its crimes. According to one of the tribunal’s Practice Directions, survivors may participate in proceedings in three ways: (1) by volunteering to be witnesses (by giving live testimony about crimes suffered or witnessed); (2) by filing complaints (by providing the Co-Prosecutors with factual information to aid prosecution); and (3) by applying to become civil parties (by applying to join the proceedings as a party and to claim collective or moral reparations). The tribunal has produced a Victim Information Form for survivors interested in participating to complete and submit to its Victims Unit.

Since October 2007, DC-Cam has been operating a Victim Participation Project (VPA) designed to inform survivors of these participation rights and, if they wish to participate, to provide them with and assist them in completing the Form. While the VPA Project’s activities are expected to start in earnest in March 2008, the Center has already met with hundreds of survivors. As of February 5th, 2008, the Center had forwarded 517 Forms collected from survivors to the Victims Unit. In particular, in October 2007, the Center collected a large number of Forms at a Conference on Victim Participation attended by 280 Cham Muslims from all over Cambodia. After learning of their participation rights, 200 Conference participants chose to complete the Form with the vast majority choosing to file complaints to inform the tribunal of crimes suffered or witnessed.

Failure to Timely Respond to Complaints and Frustrated Hope

According to the tribunal’s Rules and one of its Practice Directions, the Co-Prosecutors must respond to every survivor or victim who has submitted a complaint within 60 days of its registration. In the response, the Co-Prosecutors must state their decision whether to accept or reject the complaint. On January 29th, 2008, four months after the Conference, Farina So, Team Leader of the Cham Muslim Oral History Project, contacted a number of participants at the Conference on Victim Participation to find out if the Victims Unit or Co-Prosecutors had informed them of the status of their complaints. She found that not one of the seven religious leaders and *hakems* contacted had received a response from the tribunal. As the highest provincial religious leaders, many confirmed that no one in their respective provinces had received responses either.

The tribunal’s failure to respond to complaints proves most worrying. If complainants do not receive a prompt response within the time promised, they may lose interest in participating or become frustrated with the tribunal process. A religious leader from Stung Treng told Ms. So that he “fe[lt] uneasy with the court since [he hadn’t] heard anything from them,” pointing out that he has been “kept waiting for a long time.” Furthermore, if they do not receive a

response, complainants in remote areas may even doubt the existence of the tribunal. An assistant to a religious leader in Siem Reap stated, for example, “I want to know when the trial happens. If they had responded to our complaints, we would have some idea regarding the reality of the trial.” Worse still, complainants may conclude that the tribunal does not value the contribution of their story.

Tribunal Efforts to Respond to Complaints and DC-Cam Cooperation

Undoubtedly, the Victims Unit, Co-Prosecutors and Co-Investigating Judges face an immense task in reviewing and responding to the 500 plus complaints submitted by survivors and victims. Considering that the Victims Unit has been in existence for only a couple of months, such difficulties are unsurprising. Promisingly, on February 7th, 2008, the tribunal issued a Press Release stating that it was “beginning to respond to hundreds of complaints...” The Press Release credited organizations, such as DC-Cam and others, for “play[ing] an important role in ensuring victim participation.” It stated that all complaints “have been scanned, processed and analyzed.” Although it did not state when complainants should expect a response, it did state that the tribunal “is now in the process of advising each and every complainant about the status of their complaint and how the Court intends to use it...”

Recognizing the difficulties faced by the tribunal, DC-Cam has offered to provide assistance to the Victims Unit in reviewing and responding to complaints. At a meeting with the Unit’s Deputy Head, Gabriela Gonzalez Rodriguez, Youk Chhang (Director) and Anne Heindel (Legal Advisor) outlined possible forms of assistance that the Center may offer, including: (a) the referral of potential local interns; (b) the provision of information to survivors overseas about victim participation; (c) translation services; and (d) assistance in distributing the Form and the soon-to-be-completed booklet on victim participation to survivors. Furthermore, in light of the difficulties faced in contacting those in remote areas, the Center has offered to help the Unit in contacting complainants if the tribunal requires further information and in delivering responses to survivors already assisted by DC-Cam staff.

Conclusion

Despite the long delay, the tribunal now appears to be in a position to begin contacting survivors and informing them of the status of their complaints. As of February 11th, 2008, it is thought that the Co-Prosecutors will begin responding to the earliest complaints in the week beginning February 18th. While the delay may have frustrated many complainants, many will, hopefully, remain interested in participating in the proceedings. Due to the only very recent establishment of the Victims Unit, the delay in responding to complaints, though undesirable, has been understandable. As soon as the Head of the Victims Unit begins, the Unit’s capabilities should expand considerably as it may begin to hire additional staff. With sufficient personnel and effective procedures in place, the Unit should be able to process and respond to complaints in a timely manner, building survivors’ confidence in the tribunal.

End.