

**BEFORE THE TRIAL CHAMBER
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA**

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**CIVIL PARTY LEAD CO-LAWYERS' SUBMISSION RELATING TO
REPARATION PROJECTS FOR IMPLEMENTATION IN CASE 002/02**

With Four Confidential Annexes

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Before:

Trial Chamber

Judge NIL Nonn, President
Judge YA Sokhan
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I. BACKGROUND

1. Internal Rule 23 *quinquies* provides for the right of civil parties to seek collective and moral reparations for the harm they suffered as a result of the crimes tried. Reparations may only be awarded in the event that an accused is convicted and must provide benefits to the civil parties that address the harm suffered. International human rights instruments, particularly the *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law* (“Basic Principles”), provide for restitution, rehabilitation, satisfaction and guarantees of non-repetition as reparation measures to which victims are entitled.¹
2. On 17 June 2015, the Civil Party Lead Co-Lawyers (“Lead Co-Lawyers”) filed their *Interim Report on Reparations in Case 002/02 and Related Request* (“Interim Report”). The Lead Co-Lawyers provided the Trial Chamber and the parties with an overview of the consultation process for reparations projects in Case 002/02. The Interim Report also provided an overview of reparation project proposals and the ECCC legal framework.²
3. On 10 June 2016, the Trial Chamber directed the Lead Co-Lawyers to prepare oral submissions outlining reparation projects currently under development in Case 002/02.³ Those submissions took place on 16 June 2016.⁴ The Trial Chamber further directed the Lead Co-Lawyers to file “written submissions with a detailed description of such projects, including time-frames for implementation” and identify those projects with “sufficient funding which would allow those projects to be secured”.⁵ The Lead Co-Lawyers hereby comply with the Trial Chamber’s direction and remain available for any further clarification.

¹ Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, Resolution 60/147, UN General Assembly, 16 December 2015, Articles 19-23.

² Civil Party Lead Co-Lawyers’ Interim Report on Reparations in Case 002/02 and Related Request, **E352**, 17 June 2015 with Annexes 1-3 (“Interim Report”).

³ Trial Chamber Memorandum entitled Indication of Reparation Projects for Implementation in Case 002/02, **E352/2**, 10 June 2016 at para. 3.

⁴ Draft Transcript of 16 June 2016, pp. 77-93.

⁵ Trial Chamber Memorandum entitled Indication of Reparation Projects for Implementation in Case 002/02, **E352/2**, 10 June 2016 at para. 3.

4. During the hearing of 16 June 2016, the Lead Co-Lawyers presented nine proposed judicial reparation projects that have been prioritised by the Lead Co-Lawyers in consultation with Civil Party Lawyers and the civil parties themselves in Case 002/02. Eight of these projects are ready to be implemented and an additional project is included in this Submission. In their oral submissions, the Lead Co-Lawyers explained the procedural framework from which judicial reparations may be awarded. As per their Interim Report,⁶ the Lead Co-Lawyers emphasised that as the accused have been found indigent, the prioritised projects are being proposed through Internal Rule 23 *quinquies* (3)(b) and thus will be implemented by NGOs and/or the Royal Government of Cambodia. The Lead Co-Lawyers further explained that projects “will only become judicial reparation projects if at least one of the accused is convicted for at least one of the crimes for which he is being tried”.⁷ Therefore, any projects that are ready for implementation prior to the conclusion of proceedings would be implemented as proposals until there is a final conviction, if any.
5. During the project development process, the Lead Co-Lawyers have been cognizant that the content of projects often present and discuss events that are the subject of an ongoing trial. The content of these projects has been developed in consideration of the right of the accused to be presumed innocent, such that the subject matter is derived from the experiences suffered by the civil parties and is in line with the crimes for which the accused are being tried in Case 002/02.
6. The Lead Co-Lawyers further wish to note the progress made with the involvement of the Royal Government of Cambodia in regards to reparations for Case 002/02. On 25 April 2016, the Lead Co-Lawyers, in collaboration with the Victims Support Section (“VSS”), submitted five projects to the Royal Government of Cambodia for its consideration through the Office of Administration of the ECCC (“Office of Administration”).⁸ One project, the Legal Documentation Center related to the

⁶ Civil Party Lead Co-Lawyers’ Interim Report in Reparations and Case 002/02 and Related Request, E352, 17 June 2015, para. 3.

⁷ Draft Transcript of 16 June 2016, p. 78 lines 16-20.

⁸ Annex 1: Memorandum from Civil Party Lead Co-Lawyers and Victims Support Section to His Excellency Dr. SOK An, Deputy Prime Minister and Minister for the Office of the Council of Ministers entitled *Civil Party Lead Co-Lawyers’ and Victims Support Section’s Joint Proposals for Government Involvement with Respect to Reparations Projects for Case 002/02*, 25 April 2016.

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ECCC, has been positively received and is moving forward. This project is described in further detail below.

II. THE CONSULTATION PROCESS

(A) Overview

7. As elaborated in the Lead Co-Lawyers' Interim Report, the consultation process with respect to the conception and development of proposed judicial reparation projects is ongoing.⁹ The Interim Report covered consultations from the time that civil parties filed their victim information forms through 25 May 2015. This Indication provides additional information with respect to subsequent consultations, which have enabled the Lead Co-Lawyers to prioritise nine projects for development and implementation as described below.
8. During the hearing of 16 June 2016, the Lead Co-Lawyers raised practical concerns with respect to the organizing and funding of consultations. With reduced funding and participation of Civil Party Lawyer teams, consultations have taken on an increased importance to ensure civil party participation in the reparations process.
9. Civil parties have been consulted about their views on the reparation projects through three mechanisms: Civil Party Forums organised by VSS, newly developed Reparations Consultations organised by the Lead Co-Lawyers and VSS, and project specific consultations organised by NGOs in cooperation with the Lead Co-Lawyers and VSS. As Civil Party Forums have been limited in number, and in order to fulfil their mandate to consult civil parties during this process, the Lead Co-Lawyers have sought additional funding for Reparation Consultation Forums and have worked together with VSS to organize them. One such forum remains for the year 2016, however, the Lead Co-Lawyers are seeking additional funding in order to maximise civil party participation.
10. Since the filing of the Interim Report, VSS organised four Civil Party Forums in which civil parties were consulted with respect to their views on proposed reparation projects. These forums took place in Kratie on 17 July 2015, in Phnom Penh on 21

⁹ Civil Party Lead Co-Lawyers' Interim Report in Reparations and Case 002/02 and Related Request, **E352**, 17 June 2015, paras 4-15.

December 2015, in Sihanoukville on 1 April 2016 and again in Phnom Penh on 24 June 2016. During the most recent forum, Bophana Center, HelpAge and the Legal Documentation Center related to the ECCC each provided presentations of their projects to the participating civil parties.

11. The Lead Co-Lawyers and VSS further organised three Reparations Consultations where civil parties were presented with and given an opportunity to provide feedback on the proposed reparation projects. These consultations took place in Kampot on 25 September 2015, in Monduliri on 3 November 2015 and in Beantey Meanchey on 12 May 2016. These reparations specific consultations were made possible with funding from the German Civil Peace Service. One more such consultation remains.
12. The Lead Co-Lawyers and VSS liaised with several NGOs such that their projects could be presented to civil parties in order receive their feedback on specific projects. These consultations are discussed below in relation to the relevant project.

III. REPARATION PROJECTS FOR CASE 002/02

(A) OVERVIEW

13. As a result of the consultation process thus far, nine proposed projects have been prioritised for implementation. In the sections that follow, the Lead Co-Lawyers have provided detailed descriptions of each proposed project, the time-frames for which each will be implemented, and the status of their funding. The Lead Co-Lawyers note that nine other projects are still under consideration. Descriptions of these projects and updates as to their development appear in Annex 2.¹⁰
14. The prioritisation of projects at this phase of the proceedings has primarily concerned to what degree the projects have secured funding, the feasibility of the projects, the availability of required documentation and their likelihood of implementation. The Lead Co-Lawyers have also taken into account: (i) the project's link with Case 002/02 and the crimes for which the Accused are being tried; (ii) the benefits that the project would provide to the consolidated group of civil parties; (iii) the benefits that the project would provide to specific groups of affected civil parties, such as the Cham, Vietnamese, or other minority groups, Buddhists, and victims of forced

¹⁰ Annex 2: Projects under Consideration.
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marriages; and (iv) the complementarity and coherence amongst projects in order to avoid potential redundancies.

(B) PRIORITIZED PROJECTS

(i) Guarantees of Non-Repetition, Nationwide

15. The reparation measure of guarantees of non-repetition take the form of educational projects that seek to prevent and monitor social conflict as well as promote their peaceful resolution.¹¹ Civil parties have systematically identified intergenerational dialogue as a priority in the development of potential reparations projects. The Lead Co-Lawyers have prioritised three projects that seek to educate Cambodians nationwide about crimes that took place during Democratic Kampuchea that fall within the scope of Case 002/02.

(1) App-Learning on Khmer Rouge History

16. Bophana Audiovisual Resource Center, in cooperation with the Lead Co-Lawyers and VSS, has developed a proposed reparation project entitled *App-learning on Khmer Rouge History*.¹² The project benefits civil parties by educating Cambodian youth about civil party experiences and about Khmer Rouge history in order to prevent future recurrence. The project has been endorsed by the Ministry of Education, Culture and Sports to be incorporated into schools throughout Cambodia.

17. The primary objective of the project is to educate youth about Khmer Rouge history through the creation of an innovative, multimedia application based on contemporaneous audio-visual resources and civil party experiences that are within the scope of Case 002/02. The project's activities also include teacher training for use of the application in classrooms and to create opportunities for dialogue between survivors and younger generations.

18. Implementation for this project has already begun. The time-frame for the project's implementation is 24 months and funding is fully secured by the European Union through UNOPS and by the Rei Foundation.

¹¹ Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, Resolution 60/147, UN General Assembly, 16 December 2015, Article 23.

¹² Annex 3: Prioritized Projects; Annex 4: Letters of Engagement.

(2) Khmer Rouge History Education through Teacher and University Lecturer Training and Workshops

19. The Documentation Center of Cambodia, in collaboration with the Lead Co-Lawyers and VSS, has developed *Khmer Rouge History Education through Teacher and University Lecturer Training and Workshops* as a proposed reparation project.¹³ The project benefits civil parties by educating the younger generations about civil party experiences and the history of the Khmer Rouge in order to prevent the future recurrence of crimes. The trainings and curriculum have been approved by the Ministry of Education, Youth and Sports for use in Cambodian schools and universities.
20. With the involvement of civil parties, the project will conduct two Commune Teacher Trainings that incorporate civil party story-telling and teaching techniques in order to strengthen the role of National and Provincial teachers in spreading Democratic Kampuchea history to local communities. Also with the involvement of civil parties, the project will further organize one University Lecturer Training in order to provide instruction on the history of the DK to university professors and lecturers in Cambodia. In addition to training educators, the project will conduct 15 classroom forums for students with a presentation, group activities and discussion. The project will use civil party story-telling and experiences to provide a medium for dialogue and education relating to the Democratic Kampuchea period and aims to develop teachers' and university lecturers' understanding of DK history.
21. The time-frame for implementation of the project is 36 months and has not yet begun. The project has secured funding from the European Union through UNOPS. Further funding is being sought to increase the number of educator trainings.

(3) The Turtle Project: Innovative Cross-Media Project, promoting historical awareness and civil courage

22. The Cambodian-German Cultural Association, with the support of the Lead Co-Lawyers and VSS, has developed *The Turtle Project: Innovative Cross Media*

¹³ Annex 3: Prioritized Projects; Annex 4: Prioritized Projects.
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*Project, promoting historical awareness and civil courage in Cambodia.*¹⁴ The project, through a play entitled ‘The Courageous Turtle’, benefits civil parties by educating the younger generation about civil party experiences and creating a forum for intergenerational dialogue after each performance. The Cambodian-German Cultural Association has secured a memorandum of understanding with the Ministry of Education, Youth and Sport in order to show the play and exhibitions in schools throughout Cambodia.

23. As a component of the project, the Cambodian-German Cultural Association organised consultations with civil parties, in cooperation with the Lead Co-Lawyers and VSS, on 27 and 28 February 2016, on 6 June 2016 and on 30 June and 2 July 2016. Civil parties were presented with the project and viewed early performances of ‘The Courageous Turtle’ in order to gain their insight for the project’s further development.
24. Through ‘The Courageous Turtle Play’, the project incorporates multi-media cultural and educational activities, which are developed in workshops with high school and university students. Live performances accompany film screenings, photo exhibitions and intergenerational dialogues that provide civil parties with the opportunity to share their experiences during Democratic Kampuchea with the younger generations.
25. The implementation of this project has already begun. The time-frame for implementation is three years. The project is fully funded by the German Institute for Foreign Relations and the European Union, through UNOPS.

(ii) Guarantees of Non-Repetition, Projects Benefitting Specific Groups

26. The Lead Co-Lawyers have prioritised four projects that take the form of guarantees of non-repetition that are designed to benefit specific groups of affected civil parties and promote awareness of crimes that particularly affected certain segments of the population.

¹⁴ Annex 3: Prioritized Projects; Annex 4: Letters of Engagement.
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(1) Community Media Project: The Cham People and the Khmer Rouge

27. The Cambodian-German Cultural Association, in cooperation with the Lead Co-Lawyers and VSS, has developed *Community Media Project: The Cham People and the Khmer Rouge* as a proposed reparation project.¹⁵ The project benefits Cham civil parties, their families and the younger generations by educating the public about the experiences of the Cham community during the Khmer Rouge.
28. The project seeks to use community media to engage young photographers, filmmakers and researchers from Cham communities to develop the personal stories of civil parties into films. The films will explore Cambodia's history and will examine the lasting impact of the suffering within the Cham community from its treatment during the Khmer Rouge regime.
29. The project is ready to begin implementation and has secured sufficient funding through the Embassy of Switzerland in Bangkok and the Heinrich Böll Foundation.

(2) Pka sla krom Angkar: Forced Marriages of the Khmer Rouge Regime

30. The Khmer Arts Academy, in collaboration with Kdei Karuna, the Bophana Center and the Transcultural Psychosocial Organization, has developed a proposed reparation project in cooperation with the Lead Co-Lawyers and VSS entitled *Pka sla krom Angkar*.¹⁶ The project addresses the harm suffered by civil parties as a result of forced marriages and educates the younger generations about civil party experiences through classical dance performance, exhibitions and intergenerational dialogue.
31. In cooperation with the Lead Co-Lawyers and VSS, the Khmer Arts Academy held a consultation with a group of representative civil parties in Takmao on 23 October 2015. The civil parties viewed a portion of the dance performance and were provided with the opportunity to present their views on the project.

¹⁵ Annex 3: Prioritized Projects; Annex 4: Letters of Engagement.

¹⁶ Annex 3: Prioritized Projects; Annex 4: Letters of Engagement.

32. *Pka sla krom Angkar* aims to address the experience and related suffering caused by forced marriages and gender based violence (GBV) during the Democratic Kampuchea regime. Through consultation with civil parties, a classical dance drama and mobile exhibition were developed. The project incorporates public performances, community and intergenerational dialogue, forum theatre and screenings in order to stimulate public discussion and awareness of how marriage was regulated during the regime. The project will further collect oral histories of civil parties to be permanently archived.
33. This project is currently being implemented. The project's timeline for implementation is from May 2016 through March 2018. Sufficient funding has been secured for the project's implementation in Phnom Penh through the Swiss Development Cooperation and the German Ministry for Economic Cooperation and Development (BMZ). Further funding is being sought to bring the performance and related activities to the provinces.

**(3) Voices from Ethnic Minorities: Promoting public awareness
about the treatment of ethnic minorities during the Khmer
Rouge regime**

34. Kdei Karuna, in collaboration with the Lead Co-Lawyers and VSS, has developed *Voices from Ethnic Minorities: Promoting public awareness about the treatment of ethnic minorities during the Khmer Rouge Regime* as a proposed reparation project.¹⁷ The project benefits Cham and Vietnamese civil parties by collecting and presenting their oral testimonies and providing opportunities for intergenerational dialogue.
35. This proposed project aims to enhance public awareness of the causes and consequences of ethnic violence and discrimination against ethnic Vietnamese and Cham during the Khmer Rouge regime and its impacts on today's society through mobile exhibitions based on the life stories of Cham and Vietnamese civil parties. Mobile exhibitions will be accompanied by inter-generational dialogue, publications, a graphic novel and forum theater.

¹⁷ Annex 3: Prioritized Projects; Annex 4: Letters of Engagement.
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36. The time-frame for the project's implementation is January 2016 to December 2017 and is already underway. The project has secured sufficient funding to begin implementation, however, is not yet fully funded. It is financed through GIZ and the Embassy of Switzerland in Bangkok.

(iii) Satisfaction

37. The reparation measure of satisfaction addresses the right of victims of crime to the verification of facts, full and public disclosure of the truth, commemorations and tributes, and the inclusion of accurate accounts of crimes in educational materials.¹⁸ Civil parties have consistently requested that memorials be built, ceremonies organised, and that they are provided with the opportunity to share their experiences through truth-telling. The Lead Co-Lawyers have prioritised two such projects.

(1) The Unheard Stories of Civil Parties Participating in Case 002/02 at the ECCC

38. The Cambodian Human Rights Action Coalition, in cooperation with the Lead Co-Lawyers and VSS, has proposed as a reparation project *The Unheard Stories of Civil Parties Participating in Case 002/02 at the ECCC*.¹⁹ The project benefits civil parties in that it provides them with the opportunity to provide an account of their experience for public dissemination.

39. The project aims to publish a book of the stories of approximately 30 civil parties who did not have the chance to testify before the Chamber. The civil parties were selected in consultation with Civil Party Lawyers and the Lead Co-Lawyers, and describe their experiences as they relate to each trial segment of Case 002/02. The book will be in both Khmer and English and distributed to participants, civil parties and schools and will be available publicly online.

40. The project is currently being implemented, with a time-frame lasting from January 2015 to March 2016. The funding for this project is fully secured through the Heinrich Böll Foundation.

¹⁸ Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, Resolution 60/174, UN General Assembly, 16 December 2015, Article 22.

¹⁹ Annex 3: Prioritized Projects; Annex 4: Letters of Engagement.

(2) Access to the Judicial Records of the Khmer Rouge Trials and Civil Party Materials at the Legal Documentation Center related to the ECCC (LDC)

41. As a result of a collaboration between the Lead Co-Lawyers, VSS, the Office of Administration, and the Royal Government of Cambodia, the Legal Documentation Center related to the ECCC (“LDC”) and the Council of Ministers of the Kingdom of Cambodia have proposed to provide civil parties access to the judicial records related to the Khmer Rouge trials and to facilitate access and dissemination of publicly available civil party and court documents to the public and younger generations.²⁰ This is consistent with victims’ right to satisfaction and access to justice as provided for in the Basic Principles.
42. The activities of the project in relation to the LDC are to create a repository of publicly available documents, free of charge, related to proceedings before the ECCC. The auditorium will be used for public events aimed at raising awareness of the history of the Khmer Rouge through civil party experiences. The project will also create a full list of Case 002 civil parties to be public displayed, as well as to make available their oral testimonies and public documents.
43. The project has secured funding for the construction of the building from the Embassy of Japan. The remainder of the project is currently under development in collaboration with the LDC and the Royal Government of Cambodia.

(iv) Rehabilitation

44. The reparation measure of rehabilitation seeks to address the medical and psychological care of victims of crime.²¹ During the consultation process, civil parties have repeatedly indicated that access to physical health services and psychological

²⁰ See Annex 1: Memorandum from Civil Party Lead Co-Lawyers and Victims Support Section to His Excellency Dr. SOK An, Deputy Prime Minister and Minister for the Office of the Council of Ministers entitled *Civil Party Lead Co-Lawyers’ and Victims Support Section’s Joint Proposals for Government Involvement with Respect to Reparations Projects for Case 002/02*, 25 April 2016; Annex 3: Prioritized Projects.

²¹ Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, Resolution 60/147, UN General Assembly, 16 December 2015, Article 21.

care was one of their main concerns. One project has been prioritized by the Lead Co-Lawyers that is consistent with the priorities of civil parties.


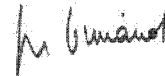
(1) Improving the health and mental wellbeing and reducing the risk of poverty and social exclusion of some civil parties and other vulnerable older people in Cambodia

45. HelpAge Cambodia, with the support of the Lead Co-Lawyers and VSS, has proposed *Improving health and mental wellbeing and reducing the risk of poverty and social exclusion of some civil parties and other vulnerable older people in Cambodia* as a reparation project.²² The project seeks to benefit aging civil parties by increasing their access to physical and mental health care services.
46. This project will establish mobile health camps to provide basic primary health care and check-ups, and to provide mental health education at the community level. The project will also train Health Centre staff and volunteers and expand the Old Person Association networks capacity in order to reach civil parties and target communities.
47. The time-frame for implementation of this project is 2.5 years. This project has not yet secured sufficient funds; however, because it has been consistent with civil party wishes with respect to reparations projects, it has been prioritized for fundraising efforts.

VI. CONCLUSION

48. The Lead Co-Lawyers remain at the Chamber's disposal for further information and clarification.

Respectfully submitted,

Date	Name	Place	Signature
15 July 2016	PICH ANG Lead Co-Lawyer	Phnom Penh	
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²² Annex 3: Prioritized Projects; Annex 4: Letters of Engagement.
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