

Ideas for the Extraordinary Chambers in the Courts of Cambodia (ECCC) Residual Functions Related to Victims

Marie Wilmet, PhD Researcher in International Criminal Law at the European University Institute, Research Affiliate at the Centre Thucydide University Paris II, Research Fellow at the Center for Khmer Studies.

This contribution draws from 30 interviews conducted with civil parties who participated in Case 002/02 on the basis of the harms they suffered as a result of forced marriage, 18 interviews with current or former legal professionals working in and around the ECCC, as well as several informal discussions with key stakeholders. The interviews revealed four areas of undertakings which could be meaningful for civil parties, for victims of the Khmer Rouge and for the younger generations.

1. Mental and physical health services

The civil parties who participated in the ECCC proceedings are on average in a very difficult financial condition and are reaching an old age. As a consequence of the crimes, the civil parties have suffered significant physical and psychological harms. Some of these harms are now materializing in different illnesses necessitating treatment which the civil parties cannot afford. To provide a practical example, some of the civil parties we interviewed must pay for the medication to help with their mental health problems. A three-month treatment costs around 100\$, a financial burden which is too high on the civil parties in light of their socio-economic situation. Civil parties also suffer from worsening physical conditions resulting from the crimes committed against them during the Democratic Kampuchea, but a visit to the hospital is above their means. Although further research is necessary, it appears that victims of the sexual and gender-based violence committed during the Khmer Rouge have seen their sexual and reproductive health significantly impacted which creates an additional financial burden for them to this day.¹

The ECCC residual functions could therefore attempt to provide some relief for the civil parties' mental and physical health issues. This could be implemented by continuing and broadening the reparation project n°13 awarded in Case 002/02 with mobile clinics operating in several Cambodian provinces to reach all the civil parties. Alternatively, the civil parties could be provided with a health insurance card to pay for their mental and physical health issues. This could potentially be achieved in cooperation with the Cambodian government through its [IDPoor Card](#) program. Prior to implementing any of these ideas, it would be crucial to conduct a survey or a study to assess the number of civil parties who are still currently alive. Indeed, with the research team, we have been to 11 villages in 6 provinces to reach civil parties of forced marriage. When arriving in the village, we were informed that (on average) half of the civil parties had passed away or were severely ill.

2. Information about the ECCC, its proceedings and reparations

The interviews revealed that the civil parties have not received information from the ECCC or their lawyers since 2017 or 2018. While they were generally positive about their civil party participation, a significant proportion of them expressed their frustration at the lack of information and follow-up in recent years. The majority of them did not know the status of their case (Case 002/02) and were wondering whether the ECCC had closed. Additionally, the majority of them were unaware of the reparations programs.² Problematically, some civil parties who had been consulted on their preferences regarding reparations never received information about the projects which were

¹ This has been pointed out in an interview with an expert who worked on several research with civil parties and victims of SGBV committed during the Khmer Rouge. The expert mentioned that although there does not seem to be data collected on this issue, her research has shown that there could be a high rate of sexually transmitted diseases among these victims.

² In some instances, the civil parties participated in projects endorsed by the Trial Chamber but were not aware that these programs were reparations.

Ideas for the Extraordinary Chambers in the Courts of Cambodia (ECCC) Residual Functions Related to Victims

eventually endorsed by the Trial Chamber. Providing this information to the civil parties seems crucial, especially since several projects are in open access (for example the Khmer Rouge history app or the video of the project Phka Sla Krom Angkar). A possible measure for the residual functions would be to organise information sessions or workshops in the provinces, during which for example the reparations projects which are easily accessible could be presented.³ These could be attended not only by the civil parties but also by the general public which would improve the level of knowledge about the ECCC in Cambodia.

3. Stupas and Buddhist ceremonies

The civil parties expressed their wish for the construction of stupas in the pagodas close to their homes in order to honour their closed ones who died during the Khmer Rouge regime. When asked which reparations they originally wanted from the Court, the stupas were usually the first or second type of reparations mentioned (the other one being financial reparations). In view of the importance of Buddhism in the Cambodian society, building stupas would be extremely meaningful for the civil parties but also for other victims of the Khmer Rouge and their families (including the younger generations). Additionally, the civil parties who participated in the TPO reparation project involving a Buddhist ceremony at the Toul Tom Pong Pagoda all expressed that it had been very important for them. With the assistance of monks, the civil parties explained that they were able to help their loved ones, who died during the Khmer Rouge without a funeral ceremony. It could therefore be important to expand TPO's project and reach more civil parties and victims. The program would be even more meaningful if it was conducted in several provinces, including those located further away from Phnom Penh.

4. Documentation and dissemination of knowledge about the Khmer Rouge period

Nearly all civil parties interviewed insisted on the importance of preserving the knowledge and evidence collected on the Khmer Rouge period. One of their main concerns was that no one would remember what happened after they pass away. Several undertakings could respond to this concern. First, a Chair could be created at one of the main Cambodian universities to produce research from an interdisciplinary perspective on the Khmer Rouge period broadly understood. It would be important to create PhD positions to encourage research and education on these issues.⁴ Second, the ECCC's archives – and especially the extensive amount of evidence collected in the investigations – could be promoted and highlighted through a collaboration with the [Mapping Memories Cambodia Project](#). This project would also promote intergenerational dialogue as it involves the participation of Cambodian university students. Third and last, oral archives about the ECCC could be collected in order to keep the ECCC history 'alive'. A team could conduct interviews with the professionals who worked in the Court as well as with the civil parties about their experience of the tribunal proceedings. This would also respond to the demands of the civil parties that their stories be documented and told to the younger generations. This idea has been developed conjointly with Mr. Vincent Lansalot – archivist at the French National Archives, Project Manager of the World War II War Crimes Unit Archives.

³ Some civil parties we interviewed shared their wish for the Court personnel to come to the provinces and not only for the civil parties to go to Phnom Penh.

⁴ While there are currently a significant number of excellent Cambodian researchers who have been working on the Khmer Rouge and the ECCC, they lack opportunities to do a PhD in Cambodia.