

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

FILING DETAILS

Case No. : 002/19-09-2007-ECCC/TC
Date of Document : 8 October 2013
Party Filing : Civil Party Lead Co-Lawyers
Filed to : The Trial Chamber
Original Language : French and Khmer

CLASSIFICATION

Classification of the document by the filing party: PUBLIC with confidential annexes

Classification by the Co-Investigating Judges or the Trial Chamber:

Classification Status:

Review of Interim Classification:

Records Officer's Name:

Signature:



**CIVIL PARTY LEAD CO-LAWYERS' RULE 80 BIS FINAL CLAIM FOR
REPARATIONS WITH CONFIDENTIAL ANNEXES**

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I. INTRODUCTION

1. On a number of occasions in the course of this trial, the Civil Parties have emphasized the importance of the participation of victims as Civil Parties before the ECCC. They did so at the initial specifications hearing held in June 2011 and the hearing of 19 October 2011. The Civil Parties were emphatic about the fact that their participation is a right and not a privilege, a necessary presence and not an invitation. In upholding their status and right to speak, the Civil Parties were defending their role in the criminal proceedings.
2. As a corollary to such participation, the Civil Parties' right to judicial reparation has been enshrined in national and international instruments. There is no justice without reparation. It is a requirement.
3. In keeping with this right, the present brief is filed to ensure that significant and just reparations are granted.
4. In this brief, reference will be made to the applicable law, the basis for reparations, in other words the harm sustained, and the reparations themselves which answer to that harm through the reparations projects. At the outset we shall recall the stages leading to the conception of reparations projects that are to be implemented.

II. PROCEDURAL BACKGROUND

5. On 29 June 2011, the Lead Co-Lawyers presented their initial specifications of the reparations,¹ as directed by the Trial Chamber pursuant to Rule 80bis.² At that hearing, the Lead Co-Lawyers established the legal foundations for reparations and informed the parties about the 13 reparations projects that are currently being developed.³ They also emphasized the considerable burden on the Civil Party to define, develop and fund the reparations projects, in accordance with Rule 23 *quinquies*(3)(b). They also reserved the right to request additional reparations projects in the final Civil Party claim, it being understood that such projects must meet the requirements laid down by the Trial Chamber.⁴
6. On 22 September 2011, the Trial Chamber announced its decision to sever Case 002, noting that the Civil Parties admitted to the case were no longer participating in the trial as individuals but as part of a consolidated group and pointing out that "limiting the

- scope of facts to be tried during the first trial accordingly has no impact on the nature of Civil Party participation at trial.”⁵ The Lead Co-Lawyers subsequently filed several applications requesting the Trial Chamber to clarify specific legal issues arising from the severance and reparations.⁶
7. On 23 September 2011, the Trial Chamber provided further clarifications on the “fundamental features” of the reparations scheme before the ECCC and commented on the projects that had been outlined at the hearing on initial specifications of the reparations.⁷ The Chamber made it clear that the Victims Support Section program manager was in charge of the funding of the projects and of ensuring they were ready for implementation. The Chamber also invited the Lead Co-Lawyers to provide further details in a new initial claim for reparations.⁸
 8. On 19 October 2011, at the request of the Trial Chamber,⁹ the Lead Co-Lawyers completed and filed their initial reparations claim in Case 002/01, seeking clarifications on specific aspects of the reparations scheme, raising certain legal points and providing information on the 14 projects that were then being developed.¹⁰ They restated their right to ask for additional reparations projects in their final claim.¹¹
 9. On 29 November 2011, the Trial Chamber issued some directives on the reparations in light of the severance of Case 002, distinguishing between different effects of the severance depending on the mode of implementation for each reparation and noting that the reparations sought under Rule 23 *quinquies*(3)(a) are limited by the harm caused by the alleged crimes whereas the reparations requested under Rule 23*quinquies*(3)(b) are not.¹²
 10. On 3 August 2012, the Trial Chamber issued a further directive on reparations, while suggesting that the Lead Co-Lawyers give priority to the development of a small number of significant reparations projects.¹³
 11. On 3 December 2012, the Trial Chamber issued a memorandum requesting the Lead Co-Lawyers to identify a list of priority reparations projects and to put it before the Chamber, along with information on the funding status of the projects, in consultation with the Victims Support Section.¹⁴
 12. On 12 February 2013, the Lead Co-Lawyers filed a written update on the reparations, setting out the seven priority projects that were being developed as Civil Party reparations. They noted the funding status of the projects and emphasized that the

Victims Support Section was primarily responsible for this aspect of the projects' development.¹⁵ The document also reiterated the Civil Parties' right to submit further projects in the final claim.¹⁶

13. On 26 April 2013, in its second severance decision, and at the request of the Lead Co-Lawyers, the Trial Chamber clarified the impact of the severance on the reparations, noting that “[t]he Trial Chamber has similarly not sought to place limitations on the ability of individual members of the consolidated group to benefit from any reparations ultimately endorsed or awarded by the Trial Chamber” while underscoring the requirement of a link between the crimes tried and the harm suffered by the Civil Parties.¹⁷
14. On 1 August 2013, the Trial Chamber responded to the Lead Co-Lawyers February 2013 update by requesting further details on the definition, development, funding and partners for the priority projects, noting that “*in principle the measures proposed under all three categories appropriately acknowledge the harm suffered by Civil Parties as a result of the commission of the crimes at issue in Case 002/01 and provide benefits to the Civil Parties which address this harm (Internal Rule 23quinquies (1) and will endorse them provided the additional information required is provided*”.¹⁸
15. On 23 August 2013, the Lead Co-Lawyers responded to the Trial Chamber's request by providing additional information on the eight reparations projects that were being developed.¹⁹ The Civil Parties again reserved their right to propose further reparations in the final claim.²⁰
16. On 6 September 2013, the Chamber responded to the Lead Co-Lawyers, recalling various obligations including the requirement that the funding be fully secured before the filing of the final submission.²¹
17. On 12 September 2013, the Chamber extended the deadline for filing the final submission on reparations to 12 October 2013.²²

III. THE LAW APPLICABLE TO REPARATIONS

A. The right to reparations in national and international law

18. It is a general principle of law that “any breach of an engagement involves an obligation to make reparation.”²³ The purpose of reparation is *restitutio in integrum* or

to nullify the consequences of an illegal act,²⁴ which, in the case of victims harmed by the criminal acts of others, means restoring them to their *previous* circumstances.

19. The right to reparations is a fundamental principle that is well established in national and international law, and is recognized by the Chamber.²⁵ Both Cambodian law and French law, on which Cambodian law is based, recognize the right of victims to reparations for harm suffered as a result of crimes, and a process has been put in place to allow victims to seek reparations for any material, physical and/or psychological harm suffered.²⁶
20. In international law, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR) and a number of other international human rights treaties assert the individual's right to redress. The fundamental principles and directives regarding the right to redress and reparation for victims of gross violations of international human rights law and grave violations of international humanitarian law reaffirm the right to "adequate, effective and prompt reparation for harm suffered"²⁷ and specify the international standards for reparations, including the right to "full and effective" reparation in the form of restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.²⁸ These international instruments must be fully enforced at the ECCC.
21. Many international courts also recognize the right to reparation and several have adopted procedures for victims seeking reparations. The law of the International Criminal Court (ICC), that of the Inter-American Court of Human Rights, and that of the European Court of Human Rights (ECHR) all explicitly recognize the right to reparations.²⁹ The important work of regional courts with regard to reparations led the Supreme Court Chamber to note that "[t]he case law of regional human rights bodies on victims' remedies may serve as persuasive authority with regard to the content of the right to reparation for harm suffered by individuals, including victims of mass crimes."³⁰ The ad hoc tribunals, including the ICTY, ICTR, SCSL and STL also recognize the right of victims to reparations, even if they all refer to external mechanisms when it comes to giving effect to such right.³¹

B. The Internal Rules

i. Form and substance of the final request

*Civil Party Lead Co-Lawyers' Rule 80 bis
Final Claim for Reparations with Confidential Annexes*

22. Le The ECCC Internal Rules confer on Civil Parties the right to seek collective and moral reparations by submitting a “final claim” through the Lead Co-Lawyers.³² The final claim for reparations must describe the reparations sought; include legal arguments specifying how the measures remedy the harm suffered; indicate, as appropriate, the sub-groups in the consolidated group concerned by specific measures; specify the form of implementation sought for each measure.³³ The Civil Parties “bear the burden of proof with regard to...the substance of their requests for full reparation.”³⁴

ii. The required link, the consolidated group and the severance of Case 002

23. The Civil Parties’ claim for reparations measures must meet two requirements. They must: 1) acknowledge the harm suffered by the Civil Party as a result of the commission of the crimes for which an accused is convicted; and 2) provide benefits to the Civil Parties which address the harm.³⁵ At the judgement stage, the Civil Parties participate in the trial as a consolidated group;³⁶ the link between them and the crimes was established following their final admission to the case as Civil Parties in the pre-trial phase.³⁷ The Internal Rules do not currently require each Civil Party to establish a systematic link between his/her actual harm and the crimes during the judgment phase. The consolidated group, on the other hand, must establish a link between the harm suffered and the crimes.

24. Regarding the severance of Case 002, “*limiting the scope of facts to be tried during the first trial accordingly has no impact on the nature of Civil Party participation at trial, and their formulation of reparations claims made on their behalf by the Lead Co-Lawyers should take account of Internal Rule 23quinquies(1)(a).*”³⁸ The reparations sought pursuant to this sub-paragraph may be developed for the consolidated group, regardless of the criteria for admitting individual Civil Parties or the crimes falling within Case 002/01.³⁹ The reparations sought under Internal Rule 23quinquies (3) (a) must, nevertheless, acknowledge the harm suffered as a result of the charges and allegations within Case 002/01.⁴⁰ This is an *a minima* requirement; reparations may also address the harms broadly borne by the civil parties as result of the facts in their totality.

iii. The collective and moral nature of the reparations

25. The Internal Rules only provide for “moral and collective” reparations, described as reparations which acknowledge the harm suffered as a result of the commission of the crimes, and whose “*benefits shall not take the form of monetary payments to Civil Parties*”.⁴¹ The “moral” aspect of the reparations denotes the redress of moral rather than material harm. The measures envisaged restore the dignity of victims, preserve collective memory, publicly acknowledge the crimes committed and the harm suffered, and carry symbolic force.⁴²
26. The Tribunal has held that the “collective” aspect is aimed at acknowledging the massive scope of the violations committed in Cambodia,⁴³ while encompassing the crimes committed against individuals and those committed against the people as a group. As long as reparations are awarded to victims as a collective, “they may entail individual benefit for the members of the collective.”⁴⁴

iv. Form of implementation of the reparations

27. The Internal Rules provide for two distinct and mutually exclusive forms of judicial reparations. As regards each measure of reparations presented in the final claim, the Civil Parties must specify whether they are requesting the Trial Chamber to order a measure against the Accused for which he would be financially responsible in the event of a finding of guilt, or to “recognize” a project for which foreign funding has been secured.⁴⁵ Although the Trial Chamber recognizes the first form of reparations as the most “traditional” one,⁴⁶ the Internal Rules and the case law of the ECCC do not allow for both the Accused to be ordered to pay for reparations and external funding to be used for the same purpose.⁴⁷ On several occasions the Civil Parties sought to remedy this situation, either by requesting that the financial situation of the accused be probed,⁴⁸ or by calling for an amendment of the Internal Rules in order that both forms of reparations may be entertained.⁴⁹ Both requests were denied, and the second request received no response from the Trial Chamber.⁵⁰

v. Scope of benefits afforded by the reparations

*Civil Party Lead Co-Lawyers’ Rule 80 bis
Final Claim for Reparations with Confidential Annexes*

28. By requiring that the reparations “*provide benefits to the Civil Parties*”, the Internal Rules set a minimum requirement. However, they do not rule out the extension of such benefits to persons other than Civil Parties. The reparations measures and projects can benefit not only all the Civil Parties in Case 002, but also persons or groups of persons who are not Civil Parties.⁵¹ Given their collective and moral impact, the reparations projects are beneficial to the entire society, including immediate and remote victims, the younger generations and the population at large. The Tribunal views this as “*the reconciliatory function of reparations.*”⁵²

C. Other considerations relating to ECCC jurisprudence

i. Implementation and registration over time

29. The Tribunal notes that the ECCC reparations scheme is claimant-driven and based on the requirement that Civil Parties claims are sufficiently developed to be ordered and recognized.⁵³ The reparations measures must provide for the full range of implementation aspects since “*irrespective of whether specificity was achieved by virtue of the parties’ own motion or through the Court’s powers, reparation awards must be self-executing.*”⁵⁴ The implementation of the projects that will be requested pursuant to Rule 23quinquies (3) (b) may start before the decision on reparations.⁵⁵

ii. Reasonable level of detail

30. “*(...) lack of specificity is not a fatal flaw in a reparation request, provided the request demonstrates that the award sought would be otherwise appropriate and enforceable (...)*”⁵⁶ However, “*a reparation request must provide a reasonable level of detail, depending on the nature of the request.*”⁵⁷ A reasonable level of detail is that which would enable the Court “*to grant the proposal through an enforceable disposition.*”⁵⁸ The details which may be useful to the Court when determining whether a reparation request may be admissible or not are: the precise nature of the request, its content, its duration, the components of the reparation measures sought, the location envisaged for the implementation of the measures, their estimated cost, and the related issues of ownership.⁵⁹

iii. The involvement of the Government and cooperation with third parties

31. Based on the ECCC jurisprudence, when a proposed reparation measure requires the involvement and the cooperation of the government or of a third party and when it is possible to establish that this involvement and cooperation are pledged, there is no impediment to the project being recognized as a form of reparation.⁶⁰ However, when such agreement has not been reached, “[i]t follows that any reparation claim is predestined for rejection that *necessarily* requires the intervention of the RGC to the extent that, in effect, such request predominately seeks a measure falling within government prerogatives”.⁶¹ These reparation claims are inadmissible because “(...) the ECCC’s mandate does not authorize its jurisdiction over the State of Cambodia or the RGC in order to compel either to administer a reparations scheme”⁶² The same rule applies to third parties whose cooperation is necessary to effectively implement the reparation measures.⁶³

IV. THE LEGAL FOUNDATION FOR REPARATIONS: HARM SUSTAINED

32. Given the applicable texts at the ECCC and the jurisprudence, it is necessary to establish the factual and contextual foundation for the reparations with respect to the established legal framework. The acknowledgment of the harm resulting from the commission of crimes will be examined through the analysis of the impact of the crimes on the civil parties. The legal requirements of article 23 *quinquies* (1) (a) will hence be met. This impact will be assessed through the statements of civil parties, and then by looking at expert commentary.

A. The impact of the crimes on the Civil Parties through Civil Party statements.

33. During their testimony on the facts before the Chamber, the Civil Parties were able to testify on the impact of the crimes and on the harm they suffered as a result. Four days of hearings were allocated to the testimonies of the civil parties, specifically on the impact suffered. What transpires from these testimonies is that multiple and very diverse forms of harm were caused by the facts, as we shall demonstrate hereunder. The harm can be psychological, physical and/or material. Often it is complex in nature and to categorise it under these three definitions is inaccurate or simplistic because the harm can fall under several headings at once. The harm is always linked, at the minimum, to

the first two phases of forced transfer, including the intermediary period between the two episodes. That is not to say that it may not also arise from the facts taken as a whole, but suffering and harm are indivisible.⁶⁴

34. This harm will be described in the terms used on many occasions by the civil parties themselves.

i. A betrayal of trust

35. The lies told by the Khmer Rouge betrayed the trust of the Cambodians, beginning with the evacuation:

36. When the Khmer Rouge arrived in Phnom Penh, some of the population welcomed them cheerfully and even enthusiastically, believing that they were bringing peace and putting an end to the abuses of the prior period:

*“Yes, I remember 17 April 1975, when the Khmer Rouge entered the city. We were all very, very happy to see a change in regime because we were saying to ourselves that now there was peace; I saw my mother with her white flag smiling and she said: ‘That’s it, that’s it, there’s peace now. We are no longer going to suffer from war (...).”*⁶⁵

37. Immediately, however, the Khmer Rouge became verbally threatening, forcing people to leave their homes there and then, often at gunpoint. People were terrified⁶⁶ :

*“(...) we were ordered to leave the city at gunpoint. We were not given enough time to pack our luggage. They, upon reaching my room, opened – fired at us (...).”*⁶⁷

*“(...) They threatened us to leave our house immediately, they need to reorganize the city. We begged them on our knees that we would leave the house, but let us leave in the morning because if I had to leave immediately, then I would not have any belongings with us.”*⁶⁸

38. They had been deceived into believing they would return to their homes three days later, the city people were ill-equipped to cope with a march of several days without any help:⁶⁹

*“(...) There was a huge crowd of people en route and it was the middle of the dry season and the weather was very hot. People were shocked. They did not bring many belongings with them. Some of them did not have any thongs or shoes so they resorted to using banana stalk [to cover] their feet.”*⁷⁰

*“(...) and together with my two other children I could not manage to carry any much belonging. So I only got clothes for each of my child and some milk and some milk bottles, and I placed them all in a carry bag that I used to use it for going to school. And I had to leave urgently as we were repeatedly chased and warned by the Khmer Rouge soldiers. And they said that the Americans would drop the bomb very soon (...).”*⁷¹

39. As described by certain Civil Parties in their applications,⁷² this rushed departure in the midst of a widespread panic caused families to be separated, in some cases permanently. Children, brutally precipitated into the horror, were the first victims.

ii. The city people abandoned their homes, all of their belongings and everything they cherished, **thereby losing the connection to their past, their bearings, their memories:**⁷³

“(...) Because when we left we did not bring much belongings as we were told we would only leave for three days. So we could only carry small things that we could carry along. We did not prepare ourselves for our long journey (...).”⁷⁴

Some of their possessions were confiscated:

“(...) Then they confiscated the car from my husband. And one of the Khmer Rouge soldiers told my family the he could drive the car, and then he took the key – car key from my husband, and then he started driving, but then he could not drive the car properly. Eventually, he got into an accident, and my car was broken.”⁷⁵

40. The civil parties sometimes only managed to save one or a handful of photographs as sole mementoes of their past and of their family members who subsequently died :

Q “Now, can you tell the Court, please, how you were able to keep these photos and whether they are the only items that you have managed to keep from those days or not?” A “Yes, I was very careful to hang onto these photographs. They were very dear to me and I wrapped them up in plastic covering and sometimes I hid them on the ground (...)”⁷⁶

Q “And do you have any photographs of your children to this day?” A “No, I do not have any other photo. This is the only single photo that I sent to my husband in the United States just a week prior to the Khmer Rouge entering Phnom Penh. That’s why he only had this photo with him and I do not have any other photos of my other children, the Khmer Rouge destroyed all of them.”⁷⁷

41. Sometimes with the arrival of the Khmer Rouge everything ended up being destroyed, in particular identity documents and photographs, thus compounding the victim’s loss of identity.⁷⁸

iii. Thirst and hunger

42. In addition to the physical suffering caused by the evacuation and the long and painful march that the people of Phnom Penh were compelled to make, most of the evacuees

experienced unrelenting thirst and hunger, especially since the evacuation was happening at the height of the dry season.⁷⁹

“And if you recall, that was the hot season, the hot month in Cambodia, and we had to travel under the heat of the sun. We kept moving very slowly under the heat of the sun.”⁸⁰

“At that time, we were near Kbal village. My children cried and we did not even have any food, nor the water, and we could not bring any cooking pots or anything with us.”⁸¹

“I went without food for several days. We did not have enough time to take rest. We did not have medicine when we fell ill. We had to walk days and nights.”⁸²

iv. Traumatizing scenes

43. The evacuees witnessed **many traumatizing scenes**: bodies discarded on the wayside, elderly people dying with nobody assisting them:⁸³

“When we were evacuated out of Phnom Penh, I encountered numerous things. When on the morning we left Phnom Penh we saw a lot of corpses along the road. The dead bodies were scattered everywhere, and along the roads I also saw some people who were dying, they – particularly the elderly, they were deserted. They were actually sitting there helplessly and they were really dying. Some of them were crying bitterly, looking for their children and relatives. I saw an old man, he was lying on the road. He was almost motionless. He could not really move his body, and I saw that there were ants crawling all over his body and went into his eye, and I saw the tears come out of his eyes. And when I was walking and witnessing this misery, I could not hold my tears. I saw dead bodies everywhere and people were dying along the street. I also once stepped on dead bodies. I sometimes walked over dead bodies.”⁸⁴

“(…) I was very traumatized because I saw my friend who was taken earlier on was soaked with blood. I asked her what happened. She said she was raped and also assaulted when they inserted a plant into her rear, into her anus and I was crying and I had to leave the vicinity (…)”⁸⁵

Pregnant women were giving birth, crying infants were being separated from their parents, and the sick were unable to walk.⁸⁶

“Some pregnant women had to deliver their babies on the way. After the delivery, the Khmer Rouge forced them to continue traveling, making some pregnant women and their babies die on the way because they could no longer bear the hardship. Some women had to leave their babies after delivering them, making the babies be completely covered by ants.”⁸⁷

“After leaving our home, on the riverbank, I saw a woman who did not actually give birth to a child, but she had a miscarriage because she was pregnant and she had problems walking. But after all she could not take it anymore and the baby was miscarried and nobody could give her any kind of help because everyone had to move on. So we did not know what happened to the woman.”⁸⁸

“The situation was miserable. Some people had the drip in their hand and some women who just delivered their babies were forced to walk under the open sky and the rains. Some disabled people, old and young people, they were exhausted.”⁸⁹

“At the time the situation was chaotic and confusing. Nobody knew what was happening. Children were separated from their family and children were crying. And we were actually travelling and we did not know where we would be going. It was in the night, it was dark everywhere, we did not know where we were going.”⁹⁰

“[TRANSLATION] Young children were crying because they had lost their parents, they were to be pitied.”⁹¹

44. The evacuees also witnessed scenes of violence and the killing⁹² of certain kinds of people:

“There were corpses of Lon Nol soldiers, Buddhist monks, civilians, and I saw pregnant women had to push carts. And I saw several people died.”⁹³

And later on – further on -, after I left Prey Pnov, I saw the dead bodies of soldiers and civilians near barbed wire along the road. And of course, there were plenty of people who were sick, young and old, before I reached Preaek Kdam (...).A “When the Khmer Rouge asked me for my biography, I thought of those dead people along the road, and I became terrified. My hands were trembling, and I thought that I would die soon, so I kept walking with the terrifying thought.”⁹⁴

v. Separations and disappearances

45. Over the course of this journey, the victims endured the wholesale destruction not only of their material goods but also their families. Family members were separated and some do not know to this day what happened to their loved ones.⁹⁵

A “I lost my parents and a large number of my family and relatives. I did not know whether they were taken and killed or they starved to death (...)”⁹⁶

“When I was being evacuated, my parents and my older siblings had left earlier (...). When they were evacuating us, they used force to move us out of our house on the pretext that we would leave for a few days in order to reorganize Phnom Penh, and then we would be returning to our homes. So we left our house and we were looking for my parents because when – before they left, they told me that if I looked for them along the river bank I would find them. But then I tried to look for them anywhere, but I could not find them. I only saw dead bodies along the street.”⁹⁷

46. Some saw their loved ones disappear without ever knowing the reason why. This civil party, who was 10 years old at the time of the events, is speaking about his father:

Ten days after our arrival, a Khmer Rouge cadre came to call him to go, and he disappeared since. At about 6 p.m. on the day, we were still waiting for him, then my mother waited, and so did I. Four or five days later, we heard that he was sent for a study session. (...) Later on I heard that my mother and siblings were taken away and killed. Upon receiving the news, I myself was about to force myself to go there to see what actually happened, I was so shocked. However, I was stopped by my grandmother and I could only look in that direction with my tears rolling down from my eyes. Since that day, my grandmother kept comforting me, but every night I wept.”⁹⁸

Or moreover:

“And from that time onward, Mr. Chau Sau disappeared. My question to Mr. Kheiu Samphan is: Where did he die? This – or what I want to know, so if I know where he died, I would try to find his skeleton remains so that I can make a religious ceremony for his soul.”⁹⁹

vi. Inhumane and humiliating treatment and feeling of guilt among survivors

47. The forced evacuation of the city dwellers marked the first step in a policy of discrimination. Beginning with the evacuation, city people were subject to inhumane treatment.¹⁰⁰ Children watched as their parents were treated in a manner that was degrading and humiliating, as many victims describe. For example:

“(…) And for the first time I saw my father ploughing the oxcart – ploughing – pulling the oxcart himself. I would see my father age by 10 years in a few days, and this is unbearable to see (...) So I wanted to die. I could not stand this sight (...).”¹⁰¹

48. Honouring parents and grandparents is fundamental to Cambodian family life, and there can be no denying the trauma caused by the seeing one’s parents humiliated and robbed of their human dignity.

Some saw their parents die from starvation, sickness or brutal treatment.

“A “The unbearable pain – that is, the most unbearable pain that I have had with me is the loss of my father. He was injected with plain water. He got a seizure and died on the bed.”¹⁰²

“A “Well, in this courtroom, my first thoughts go to my mother. I didn’t see her die. I have an image of my mother imprinted into my mind. She was so hungry, she had almost withered away. She went to the canteen with her rice bowl and she actually staggered and fell on the ground because she was so emaciated and then there she was crawling, picking up grains of rice. (...)”¹⁰³

49. As a consequence of all of this, some people are burdened by guilt¹⁰⁴, berating themselves to this day for not having acted to save their loved ones:

“It’s better for animals; they get buried, but my parents died in a way that there are no words to describe; thrown into the ditch naked. I didn’t even know the place where he was discarded and I retain a terrible feeling of guilt about this; not having been able to save my parents. If I was perhaps a little braver I might have been able to feed them, bring them some rice or something.”¹⁰⁵

50. When the evacuees were forced to undergo checks and then to write biographies, they had to tell lies so as to avoid punishment or death.

“A. We were under strict surveillance by the Khmer Rouge soldiers, and they kept asking us what my husband’s occupation was before this period. And then they also kept asking me what my profession was, and I had to tell them a lie, that I was a housewife, I did not have any particular occupation, and they threatened us that we had to tell the truth, we had to tell what my husband did and what I did at that time. And then they continued to threaten us. They contined to say that if they found out that I had tomld them a lie, my life and my family’s would be at risk.”¹⁰⁶

“(…) The Khmer Rouge soldiers made me write my biography. But having noted that a lot of former police and soldiers disappeared and were executed, I had to conceal my identity and provided them with a fake one.”¹⁰⁷

vii. Loss of many family members

51. During the two phases of forced transfer and the period between the two, most victims witnessed the deaths of members of their families who were unable to endure the living and working conditions.¹⁰⁸

“The suffering that I went through – the DK regime – could not be described in words. However, the loss of my family and relatives and the pain that I suffered until today remain with me. I try to forget it since 1979 until 1985 or 86, and I try not to recall my past, and until the establishment of this Court by the government, which is of its hybrid nature with the United Nations. And that triggered my pain, the pain, the pain that I suffered during the DK regime. My relatives, my uncles, they were all the people who had acquired a senior position in the previous government; but after 17 April 1975, I lost them all. I lost everyone. And the pain and the suffering was unbearable. It remains with me the rest of my life.”¹⁰⁹

They describe the loss of a little sister:

“R My younger sister had a fever and she got the rash on her body. There was no medicine for her treatment and nobody who would take care of her. She became emaciated, and she was left unattended in a hammock. And there was no food for her, not even watery gruel, and her condition became worse. And later on, my mother took her to the hospital in the hope that there would be medicine for her, but unfortunately, there was no medicine given to her and unfortunately, my younger sister died”¹¹⁰

of a little brother:

“I went to look for my younger brother, he was being sick, he could not do anything. Upon seeing me he was very desperate, he came to ask me in a very soft voice whether or not I have brought any rice for him to eat.

He was begging me for rice, just for a bite of rice. It would be enough for him and I was very depressed. I could not help him what so ever. I did not have anything with myself; how could I help him at that time? Then my younger brother died of starvation and disease”¹¹¹

or of all siblings:

“My siblings could not eat fully, and they could not even sleep because of hunger. I was so pitiful on my younger siblings. They were so hungry, and if they could even have rice with salt to eat, they would be very, very happy. My parents and myself could not do anything for my younger siblings but sit and shed our tears. The next morning, two of my younger siblings died. We did not know what time they passed away. And they continued to die, and my youngest daughter- sister – young – during a mealtime. Before she died, she begged for just a piece of rice to eat. That is a tragedy under the Khmer Rouge regime that I could not ever – I could not forget. We were starved and we were given food like animals.”¹¹²

and the shock they experienced since they too were only very young children.

52. Some describe the death of their children and how they were powerless to save them, such as Mrs [REDACTED]

“After learning that my husband died, my son also fell sick. He was sick because of starvation. He did not have food to eat. He became very sick and I did not have any idea how to get medicines for my son. His limbs were swollen and we only had the rabbit dung pill to administer. I was very pitiful, I was very sorrowful for my son. I know that he was dying, he was dying, I witnessed him. He said that he was starving, he could not stand anymore and he died in front of me starving. So after that, my son died of starvation, I feel very painful, it’s beyond my words to describe. I love my son dearly and he left me and he died in front of me because of starvation. I feel very pity on him. He was starving and as a mother I did not have anything to feed him.”¹¹³

or Mrs [REDACTED]:

“And when he died, and I saw written upon his chest: ‘Will you smile back to me?’ while he was on his deathbed; I think any mother would understand the appalling emotion I went through.”¹¹⁴

[REDACTED] describes the death of her three young children, who died one after the other:

“(…) my youngest child got seizures and passed away (…)”¹¹⁵

“And then on that night when we were so starving, we did not have anything to eat but the plant leaves, I cried very painfully. I hugged my two children, I did not know actually while

that night I hugged my son, I did not know when my son passed away. And the next morning when I got up, I saw my son, he was motionless, his body temperature got very cold (...) And eventually my daughter, my only daughter died. And my daughter, my last daughter who dies (...).”¹¹⁶

viii. Impossibility to express feelings

53. Once the forced transfers began, expressions of grief were forbidden and everybody had to learn to conceal their deepest human feelings. Song Rath describes seeing her husband and all of her children die when she was only 34 years old:¹¹⁷

A “In late 1976, my children died because of lack of food.”

Q “After the death of your eldest son, what happened to your other family members?”

A “My husband worked and one day he returned to – back to the house. He rested and then passed away. It’s because of hunger and exhaustion.”

Q “What happened after; that is, after the death of your eldest son and your husband, what happened to other sons?”

R “My first son died and, subsequently, my second and third sons, so within two nights my four children died.”

Q. “Regarding the death of your four sons and your husband, did you witness it personally?”

A. “Yes, they died before my eyes. Actually I cried, but then I was told that I should not cry otherwise I would be killed as I would be accused of being a traitor.”¹¹⁸

It was the same for ██████████ who was 22 years old at the time. She describes the death of her friend who was buried alive in front of her.

“(…) I did not dare cry. If I cry I would be killed by the two soldiers. I tried not to cry, then I came back to carry husked rice on my head again.”¹¹⁹

ix. Dehumanisation

54. Many civil parties emphasize the cruelty and inhumanity to which they were subjected, to the extent that they no longer saw themselves as human beings but as animals:

“Otherwise, what did we eat? Frogs, grasshoppers, and scorpions; anything I could pick up in the countryside I ate. We even ate cockroaches when we found some. We were turned into animals. We fought over scraps of food with their dogs, and their dogs had more to eat than we did”¹²⁰

“Do you think we were humans at all? We weren’t. We were totally dehumanized. We became animals. We were utterly dehumanized. That’s all I have to say today. And let me tell you again and again, if you want to listen to me, that famine was organized and programmed. It was a way for the system to eliminate us while feeling they had washed their hands of the problem.”¹²¹

██████████ then 10 years old, describes the conditions she was forced to work in:

“And for collecting pig excrement, then I would be monitored by the unit’s chief and I had to collect the pigs’ excrement from a deep pit. I was scared and it was waist deep. And at night time, I could not sleep that well because of the rash on my skin. And when we were given food, for example, a piece of potato, I would not be allowed to get out of the pit and I would be standing in the pit and get the potato and eat it. There was no hygiene at all. I was eating my food while I was in the pig-excrement pit. My whole body was stunk, but I could not do anything or protest and I had to force myself to work so that I would not be blamed”¹²²

55. The second forced transfer of “new people” also resulted in multiple forms of harm,¹²³ caused essentially by the inhumane travelling conditions - in trucks, boxcars or cattle cars without water, medical care, hygiene or shelter:

“In 1976, I and many citizens were evacuated to Pursat Province by train. They transported many citizens to Pursat Province. My father (VAY Khut) and my mother (DI Yèm) were evacuated from S’ang, Kandal Province to Bati District, Takeo Province. I did not know how they were doing there. My siblings (DI Khēn, DI Yoeun and DI Rom) were also evacuated with my parents. I travelled by train to Pursat with my two children. There were many citizens on the train. I had no idea where they were from. Some children had lost their mothers and cried nonstop. The Chief of Squad threw them out the train’s windows. Seeing this, I hugged my children to my chest. The scene was extremely frightening. The train stopped at a station at night. There was nothing to eat. We slept there without any mosquito nets. Our whole bodies were bitten by mosquitoes and insects. In the morning, we were instructed to walk to a cooperative, with the Chief of Unit carrying a gun and following us from behind. They sent citizens to all the cooperatives in the province.”¹²⁴

“In 1976 (not remember the month), Angkar began to evacuate [us] from Takeo province to Battambang province. I carried my baby in one arm, held my children’s hands in another hand and carried by my shoulder a packed bag of clothing in a very terrified manner. Because there was no food to eat, my 5th child named Chhoeun died tragically on the way when we got to Samraong Yaong market. After that, they [the Khmer Rouge] forced all of us to get on a truck. Soon after the truck left Samraong Yaong, my youngest daughter, who was a few months old, died from the lack of milk to feed.”¹²⁵

56. This second forced transfer took the victims to places where the living conditions are often described as even worse, causing unbearable physical suffering and many deaths.

This is what ██████████ recounts in her statement:

“We did not have roof over our head at that time; they actually made us sleep on the earth. We – our living conditions got desperate and worse each day. We did not have any shelter. We did not have any food. We do not have any exact location to stay. We have to sleep under the shade of the tree during the day and then at night we just slept on the earth.”¹²⁶

██████████

“A What I encountered was of an extreme nature. It was very painful. People who took the journey died, some of them died, and they were covered with white cloth and they were left along the road and we did not know whether they were young or they were old.”¹²⁷

x. Despair

57. In the face of these acts, these crimes of extermination, murder and assaults on human dignity, the civil parties speak of their chagrin:

“A If we had had enough food to eat my parents, my relatives, my siblings would not have died. We did not have anything. We did not have food, we did not have access to medicine; we did not have access to many things in life.”¹²⁸

their grief and even their wish to die:¹²⁹

“Sometimes, I wanted to kill myself by taking a poisonous drug, but my elder sister and my mother advised me not to think that way and that I should continue living in order to raise my children.”¹³⁰

“(…) I no longer had any hope with me. My life would become meaningless as all the valuables in my life – that is, my beloved ones, all left”¹³¹

xi. Obligation to renounce beliefs and religious practices

58. From the earliest days, and during the forced transfers, the civil parties witnessed how pagodas were destroyed or used for different purposes, monks were forcefully defrocked,¹³² and all religious ceremonies and practices were forbidden.¹³³ As of the very first evacuations from the cities, all religious ceremonies and practices were forbidden.¹³⁴ Civil parties witnessed the killing of monks and clergymen belonging to the Buddhist, Cham¹³⁵ or other faiths. In a society to which religious practice and faith are essential, the harm was considerable and endures to this day. Not being able to give the dead a decent place of burial is one cause of this harm,¹³⁶ which can also be attributed to the ban on praying, observing religious practices and holding proper ceremonies, in particular for weddings. Several civil parties feel that they have somehow lost their souls.

“(…) when we arrived at Prek Ho Pagoda, I saw a lot of dead people – among them were monks. I was very scared. We spent about ten nights at Prek Ho Pagoda. We stayed in the pagoda with the dead people. (…) All pagodas where I was during the journey were empty of monks. Only in Prek Ho Pagoda did I see dead monks.”¹³⁷

“I was then a monk. After that, I was evacuated to Tuol Trach village, Vihear Thom commune, Kampong Siem district, Kampong Cham province. I was then forced to defrock at the pagoda in Phoum Vihear. After that, I was evacuated to Morha village with my parents. There, I was forced to carry soil on a shoulder sling for building paddy dikes in the rice fields.”¹³⁸

xii. Harm sustained over time

59. In addition to the immediate harm caused by the criminal acts, the harm done to the victims has lasted over time:¹³⁹

“A. They have suffered mental suffering. As everyone might be well aware that the Khmer Rouge regime took place some 30 years ago, however, the mental state of mind of Cambodian people who came across the regime, both the average Cambodian family and myself, we still have this mental suffering.”¹⁴⁰

60. The memories and the **psychological wounds** linger on, after more than 30 years:

“A. “They have suffered mental suffering. As everyone might be well aware that the Khmer Rouge regime took place some 30 years ago, however, the mental state of mind of Cambodian people who came across the regime, both the average Cambodian family and myself, we still have this mental suffering.”¹⁴¹

61. ██████████ who was ten years old at the time and who lost his entire family in the forced evacuations, describes the multiple facets of the psychological harm he suffered then and still suffers today, particularly his solitude and feeling of **extreme loneliness**:

“A It was indeed very painful and that sometimes I thought of killing myself. I did not want to live as I considered I am a strange person. The pain was unbearable.”¹⁴²

“(…) During the time that I was a soldier, the barracks was my home. I only lived in the military barracks and sometimes some soldiers made fun of me. They teased me, as I did not have any children, I did not have a place to go, unlike the rest. (…)

The pain has remained with me.

(…) and I don’t want to tell them my suffering. I don’t know why my past still keeps haunting me. Today is the first day which is a new chapter in my personal history that I reveal to the world my suffering.”¹⁴³

“(…) I myself, in fact, lost everything, and at that time I want this world to end. Please reunite together. (…) Although one may have sufficient food and may have a living condition, the pain inside remains because such loneliness cannot lead to anywhere. (…)

And I myself was struggling on my own, and nobody knew of my pain. And, of course, I have not revealed the suffering that has been inside me for over 30 years old – 30 years, rather. That’s the end. Thank you.”¹⁴⁴

62. Some describe **how difficult it is for them to speak** about what they endured, stressing that it cannot be put into words:

“I have always wondered why the three years, eight months, and 20 days was so cruel. Why did they do all of this atrocity? (…) I am a surviving witness who witnessed the atrocities by my own eyes. I saw the suffering of Cambodian people (…)¹⁴⁵

“I apologize to Your Honour as I had to reveal the suffering, the pains that I have kept for so long.”¹⁴⁶

They describe the horror in which they were steeped:

“(...) and I thought to myself that something must have gone wrong and nothing would ever return to normal.”¹⁴⁷

“(...) – I could not express it in words. That made the situation even worse, because I had this painful scene that I had come across, and then I could not even speak it out (...). I dare not tell anyone about the scene I witnessed. If I risk my life telling other people about this, then of course my life would be in great danger.”¹⁴⁸

or their **bewilderment**¹⁴⁹ :

“And during the night time, at the sleeping place, we had to sleep in the hall, and we sleep everywhere and then - - we could find. At that time were - - it was the flooding season, and then there was earthworm everywhere, and we had to sleep along with the earthworms (...) We do not understand why they treated us inhumanely, why they treat us in such a very degrading situation. I did not know. They were also human beings. Why did they have to do that to us?”¹⁵⁰

or their **shame**, making it impossible for them to talk to their own family about their experiences:

“A “Yes, from time to time to my youngest son. But to the elder one, I have never talked about the period; but to the younger one, yes, I do speak about it from time to time (...)”¹⁵¹

Some describe how the hunger, so hard to endure and ultimately fatal to so many people, led later on to **obsessive eating habits**, such as bulimia:

“Yes. After that, after leaving Cambodia in 1979, I became a compulsive eater and I certainly put on a lot of weight. I always long for food. I can do without a great deal of things, comfort, money, whatever, even a roof over my head, but I need to have food.”¹⁵²

63. All speak about **the nightmares**, the images, the grief and the fear that still haunt them:¹⁵³

“And I am still very terrified and traumatized by the fact that, after the evacuation of the population of Phnom Penh, I was walking on the road, I could see that roads were littered with corpses. Every step we walked and moved forward, we would then be close to seeing more corpses, and I had been deprived of my good sleep because of thinking of this.”¹⁵⁴

They also speak about their pain in not having been able to provide a decent place of rest for their loved ones:

“I was deprived of my father, and so were mom and my siblings, and we have been grieving since 1975. I know that many have lost their fathers to disease or in accidents, but my father was tortured and killed: his body is somewhere in a mass grave, and not in a proper burial place. I cannot forgive or forget that.”¹⁵⁵

Sen: "Yes I have. I still don't know who killed him. I'm lost almost every day. Sometimes I have nightmares of them taking me to kill me. Then I wake up frightened for a while. Finally I am able to fall back to sleep. I still remember all three years."

Ph: "Do you often dream about your traumatic experience more recently?"

Sen: "Yes, often. I think about those three years all the time now."¹⁵⁶

"I had to grow up alone, knowing that my parents and my whole family were killed. I talk about my story because it is therapeutic to me. I still have nightmares now about the Khmer Rouge taking my family away. The feeling when the Khmer Rouge broke into my house and took my family that night. I sometimes have low self-esteem because it was so hard to grow up on my own. Sometimes I tell my wife that I need some time alone to think through my past."¹⁵⁷

64. They talk about the feeling of having failed to return to their parents all of the goodness their parents gave to them during their childhood:

"A: "In Cambodia, children venerate their parents; they're almost sacred. You don't touch them and to see my parents dying well before they were old, in their fifties, without me being able to give back to them what they gave to me, is something that will never be erased from my life."¹⁵⁸

They talk about how much they are still haunted by the fact of not knowing the circumstances in which their loved ones died:

"A: "As a human being with a conscience, there is no one, no father or mother or grandfather or grand-mother who doesn't love his or her child. And when the child got sick, of course we would be anxious to find a doctor for her treatment. And the situation was indescribable when my daughter was taken at night and smashed. I'm still thinking of why she was killed and how she was killed amongst with her nephews and cousins. My mind is still unsettling, although I have other children, but it is still my greatest regret for losing my daughter."¹⁵⁹

They talk about their need to obtain a fair judgement:

"As for reparation, first and foremost, in order to reduce the level of suffering I have, I would like the Court to order the construction of schools, of roads, as well as stupas in the pagodas, so that people can pay tribute to the Khmer Kampuchea Krom who were killed because, at the times, the levels of crimes they committed were so barbaric; even a small baby was also killed. They were crushed into a tee truck, at that time, so this was a barbaric act and those people should be punished."¹⁶⁰

xiii. The harm described by exiled Cambodians.

65. Cambodians who made the choice, under more or less duress, not to return to Cambodia emphasize how difficult it was to adjust and the material and cultural difficulties they had to cope with. A civil party described her situation as follows:

“Q “(...) I’d like to ask you to describe to the Court and to the parties, the feelings that you went through when you reached France in 1979 with your son, who survived, and with your sister?”

R “I had three lives in a way. I had a fine life with my parents before the genocide and during the genocide it was sheer hell. Then after, in France, it was a struggle to survive, as well. I went through periods of terrible solitude because you had to fight for everything; you had to go through your driving test again. You had to do evening classes to obtain the same degrees and diplomas as before; you had to do menial jobs. It was a complete uprooting. I know I had some French culture, but France is an enormous place and I found myself in a world where the transport, the seasons, winter was very difficult. There were strikes; I had to feed a child and a sister and it was very hard for me and I broke down. I went to a psychiatric institution for three months at one point.”¹⁶¹

They also speak of problems affecting their children, even when their children did not live through the Khmer Rouge regime and were born abroad.

B) The impact of the crimes as described by experts.

66. In their commentaries and diagnoses, experts, medical doctors and researchers describe the harm recounted by the victims in scientific terms.
67. On 5 and 6 June 2013, Dr Sotheara Chim, who has been working intensively with Khmer Rouge victims since 2005, was heard before the Court as an expert. In his testimony, he emphasised the scale of the impact of the crimes on the victims and on their loved ones. He says the following about the victims he has examined:

“(...) and the mental reaction can be a kind of PTSD or the depression or anxiety or the paranoia (...)... ”¹⁶². He adds: “And the second important symptom of PTSD is the avoidance – that is, they do not want to talk about what happened or go to the location where they were mistreated or to talk about any events that would trigger the events that happened to them in the past.”¹⁶³

68. Then Doctor Sotheara Chim speaks about the specific syndrome of *baksbat*, which literally translates as “*broken courage*” and describes a pathological behaviour that typifies victims of the Khmer Rouge:

“The word in Khmer which pronounced “baksbat”, that is in – literally means broken courage. (...) And that definition also refers to the psychological impact of a person and it means the – psychologically the person is damaged or broken. However, the word “baksbat” in the scientific sense, it – it is more extensive than that. It refers to the suffering received by the Cambodian people through the regime.”¹⁶⁴

69. The syndrome is elaborated upon in articles authored by the expert and mentioned during the hearing of 6 June 2013.¹⁶⁵ In his testimony, he spoke about the feeling of loss of identity and personal security consequent upon the loss of one's home and property.¹⁶⁶ He also discussed the traumatic effects of hunger and of exile. He spoke about the feeling of guilt that may haunt the survivors. In so doing, he corroborates the civil party statements.
70. During the second day of his testimony, the expert dwelt on the particular nature of the psychological harm the victims of the Khmer Rouge were suffering from and insisted once again on its magnitude and its multiple effects: uprooting, loss of identity, loss of and finally dehumanization.¹⁶⁷ Once again he corroborated the statements of the civil parties mentioned above. He stressed the need to give the victims the psychological care they needed. Quoting a *Transcultural Psychosocial Organization* study carried out on the civil parties in Case 001, Dr Chhim Sotheara emphasized the therapeutic effect the civil parties of participating in the trial.¹⁶⁸
71. A research report produced in Cambodia¹⁶⁹ shows that a large number of victims still suffer from "prolonged grief disorder" or "PGD" more than 30 years after the facts.
72. A survey conducted among victims living as refugees in the United States shows a high rate of post-traumatic stress disorder among victims of the Khmer Rouge regime (62%) and a high rate of depression (51%) compared to levels for the American population in general.¹⁷⁰ The same study shows that the victims of the Khmer Rouge regime living in the United States have low socio-economic standing, a low level of education, low professional status and a low level of income. 72% indicate they receive government assistance.¹⁷¹

C) Findings on the impact of the crimes

73. The existence of varied forms of material, physical and mental harm among the victims is largely substantiated, as is the need to redress this harm. These forms of harm have all been evoked and established as direct consequences of the criminal facts at trial today.
74. The link with the reparations sought is also incontestable. Many civil parties are anxious that the sorry events of the Khmer Rouge regime are not forgotten. They wish to be granted special times and places for the remembrance of the dead and for paying

respects. They are requesting that these events to be commemorated on a special day in the calendar, and by building monuments. These special times and places for remembrance are not exclusively for the benefit of the civil parties. They form part of a collective process of remembrance which itself is an essential duty towards the civil parties.

75. The civil parties also expressed the wish for rehabilitation measures in order to diminish, to the extent possible, the psychological impact of the harm suffered. They request healing ceremonies and therapeutic discussion groups. It is useful to note that these measures are not only designed for individuals; they will also foster wider understanding through testimony, discussion and other activities.
76. There is, finally, a duty towards education and documentation. Again, the collective and moral reparations requested answer to this aspect. The civil parties have expressed the wish for exhibitions to be staged and for various documents to be composed. They would also like the events of the Democratic Kampuchea regime to be taught in the Cambodian school history programs. This kind of reparation pays homage to the victims just as much as it preserves collective memory.

IV. THE REPARATIONS PROPOSED: A RESPONSE TO THE HARM SUFFERED.

A. REPARATIONS PROJECTS: AN APPROPRIATE RESPONSE TO THE HARM SUFFERED

77. The projects described below are all appropriate responses to the harm suffered, as we shall demonstrate.
78. The reparation measures described herein were proposed by the Civil Parties after discussions with the Lead Co-Lawyers and other Civil Party lawyers and in coordination the Victims Support Section and intermediary organizations.
79. These reparation measures are divided into three categories, as first indicated in the Initial Specifications briefs dated 29 June 2011 and 19 October 2011. Two of the reparation measures, namely, Publication and Distribution of the Judgement, and the publication of the names of the Civil Parties on the ECCC website were previously outlined by the Lead Co-Lawyers in the Initial Specifications, and are added to the list of priority projects.

80. The summary of each project will include a description, names of individuals or organizations responsible for implementation, objectives in terms of how it addresses the harm suffered, implementation including duration, budget, mandatory approvals, and, finally, an update on feasibility.

CATEGORY I: REMEMBRANCE AND MEMORIALIZATION

81. This category of reparations aims to pay tribute to the deceased and to victims. Irrespective of their religion or beliefs, the survivors, especially Civil Parties and future generations, will be able to contemplate the past and to pray; great suffering was caused to them by the fact that this was not possible during the Khmer Rouge regime. This category encompasses several projects: a National Remembrance Day (first project), a Public Memorials Initiative (second project), creation of a Memorial in remembrance of victims (third project), and lastly, the creation of a monument in France for the Cambodians who live there (fourth project).

First Project: National Remembrance Day

a. Project Description

82. The Civil Parties are calling for the establishment of an official Remembrance Day, which would be distinct from existing official holidays. The Civil Party lawyers have discussed this with their Civil Parties and several dates have been proposed: 17 April, 20 May, or 30 March.

83. This day may be interpreted throughout the country as a time for official and permanent acknowledgement of the crimes committed during the Khmer Rouge regime. It will be a day for ceremonies, conferences, performances and other commemorative events.

b. Objective and beneficiaries

84. The institution of such a day is designed to restore the honour of the victims who died during the Khmer Rouge regime, to allow survivors to call to mind their suffering and their loved ones, to preserve the memory of the crimes committed during the Khmer Rouge regime, and to help people to retrieve a sense of psychological well-being and

personal honour. This Day will serve a crucial educational purpose in preventing such crimes from recurring in Cambodia or elsewhere.

85. The Civil Parties will stand to benefit most from this richly symbolic project, which will bring the Cambodian people together around communal religious ceremonies.

c. Project implementation

86. This project requires the authorization of the Government, which will make the decision about the date of the Remembrance Day. The Lead Co-Lawyers and the Civil Parties have asked the Government to give its agreement in principle, select one date among those proposed,¹⁷² and enact the necessary legislative decree.

87. In a letter to the Lead Co-Lawyers responding to this request,¹⁷³ the Government gave its approval in principle and determined that a **National Remembrance Day** shall be observed on **20 May** every calendar year as a national holiday. The Government will also enact a legislative decree and may distribute circulars and notifications to the authorities concerned on parameters for project implementation.

88. The Chamber¹⁷⁴ has said that implementation of reparations can begin before a verdict is handed down in the first trial of Case 002. The project can therefore be put into effect at any time.

89. The project in itself does not require any funding. Nevertheless, Civil Parties who may wish to stage activities or religious ceremonies to observe this Day unfortunately do not have the money to do so.

d. Feasibility

90. This project is already fully feasible since it has Government backing.

Second Project: Public Memorials Initiative

a. Project Description

91. This reparations measure has been sought by nearly all Civil Party lawyers and the civil parties who were personally involved in Case 002/1 at the ECCC. These public memorial sites will become the repositories for the ashes of those who perished during the Khmer Rouge regime. Civil Parties, victims, families and the general public will be

able to burn incense and hold religious ceremonies in tribute to those who lost their lives under this regime, and do so collectively in a permanent setting.

92. The project leaves it to local communities to select locations in keeping with stipulations whereby the areas are accessible and easy to maintain, and the building work takes account of available resources and skills. This project has two phases: an initial phase for deciding on the location of the memorial in conjunction with the communities, and a second phase for the construction work, along with various activities geared to foster the involvement and understanding of communities and individuals, whether victims or not. This project has an educational component to educate the public about the Khmer Rouge regime and trigger discussion on what happened during the period.
93. Two organizations are implementing this project: *Youth for Peace* and *Kdei Karuna*, both closely involved in the work of memorialization, education and community development.¹⁷⁵ These two organisations are committed to completing this project.¹⁷⁶

b. Project objective and beneficiaries

94. The primary objective of this project is to restore the honour and dignity of the Civil Parties and to make reparations for their psychological suffering. It aims to perpetuate the memory of the deceased, to promote understanding and inspire collective discussion of the history of the Khmer Rouge. It also seeks to raise awareness among local communities of the factual allegations of the first trial of Case 002 (phases 1 and 2 of the Forced Transfer and the executions at Tuol Po Chrey). Civil Parties will have the opportunity to speak of their lives and traumas during the Khmer Rouge regime. Such projects serve to strengthen the fabric of communities and break down the residual divisions left over from the Khmer Rouge regime, in the interests of social reconciliation and preventing such atrocities from recurring. By appealing to individuals and the community in developing the project, along with other segments of society, this project has a better chance of reaching its objectives and enduring over time. Once it is established the project will open the way for official and permanent recognition of the harms suffered. The memorial sites will be places for contemplation and a venue for all to participate in the building of peace.

95. Lastly, this project will offer Civil Parties, victims, the local population and future generations a place to meet and come to greater understanding by listening to one another talking about what happened. This will help everyone to face the future with greater wisdom.
96. While this project will primarily benefit the Civil Parties, the general public will also stand to gain.

c. Project implementation

97. This project has been entrusted to *Youth for Peace* and *Kdei Karuna*¹⁷⁷, two non-governmental organisations that will act in partnership for project implementation. These two organisations have confirmed their commitment to see the project put into effect, in collaboration with local authorities.
98. With respect to mandatory formalities and the requirements for implementation, we have asked the Government to issue the necessary instructions to its various offices so as to facilitate the completion of the project. The government will pass enabling legislation, and, for each project, issue a circular or notification to the relevant authorities: the Ministry of Education, Youth and Sports, the Ministry of Culture and Fine Arts, the Ministry of Tourism, and local authorities: areas, districts, capitals, provinces and cities, if necessary, as provided in the agreement in principle dated 11 June 2013.¹⁷⁸ In fact, both *Youth for Peace* and *Kdei Karuna* are familiar with such procedures and will ensure, as a matter of routine, that they have all the required permits once the locations have been selected. They will be responsible for amending the applications in the event of a refusal. It is thus not necessary to provide the Chamber with other authorisations.
99. With respect to duration, this project is planned to last 36 months.
100. This project has received no funding to date.

d. Feasibility

101. The Civil Parties ask the Chamber not to let this project fall by the wayside before giving a chance for offers of funding to be made during the judgement phase. In such a scenario, the Civil Parties would inform the Chamber of the extent to which the project

can be completed. The Civil Parties request the Chamber to recognize this project as reparations.

Third project: Construction of a memorial in remembrance of victims

a. Project Description

102. This artistic ensemble entitled, “*For Those Who Are No Longer Here*”, is the initiative of Franco-Cambodian artist, Séra,¹⁷⁹ who has been ranked among the 101 great French artists from 2002 to 2012. The project commemorates the events of 17 April 1975, the date marking the start for Cambodians of the dramatic times of the Khmer Rouge regime. The forced transfer from Phnom Penh, ordered by the Khmer Rouge, led the Cambodian people towards an unknown future marked by excruciating suffering.

103. The site selected for this memorial is a garden in front of the Embassy of France, which is one of the places in the capital that many evacuees walked past during the first population movement. Moreover the last of the thousands of refugees gathered in this very embassy before leaving the capital. The location is easily accessible for those who want to see the sculptures, and those who wish to meditate or pay tribute to the deceased.

104. The sculptures¹⁸⁰ will be on permanent display as a metaphor for the exodus of Cambodians from Phnom Penh and from all other cities.

105. The artist has agreed to make the sculptures¹⁸¹, with the assistance of an association and various businesses.¹⁸²

b. Project objective and beneficiaries

106. This project is a tribute to victims of the Khmer Rouge regime. It will be a place for quiet contemplation and for the casual visitor. It will sustain the memory of the events.

107. The fact that this work is to be done by an artist who, as a child, witnessed the evacuation of the city from the Embassy of France endows the project with remarkable symbolic value.

108. Civil Parties who were victims of the evacuation of the city when the Khmer Rouge took control of Phnom Penh and other Civil Parties and their families who suffered a similar fate will be able to visit the location and see the sculptures, which together form

a venue that will be conducive to contemplation and prayer, whatever their religious and traditional practices or beliefs.

109. This project will be primarily oriented towards Civil Parties and victims, but as an artistic site it will also appeal to a broader public, Cambodian and international.

c. Project implementation

110. The project involves several businesses, and of course Séra, the artist himself. Project implementation is expected to last approximately one year.

111. To date, the financing of the whole project has been secured in the amount of 57 700 euros.¹⁸³ Funding is provided by France in the amount of 50 000 euros, and by businesses and associations for the remaining 7 700 euros. The Embassy of France and the other donors have all signed a written funding pledge.¹⁸⁴

112. The authorization of the Governor of Phnom Penh is required because the memorial site is located on public property managed by the municipality of Phnom Penh. The Embassy of France is working with the municipality to secure a permit to build this memorial in the park directly facing the embassy.

d. Feasibility

113. This project may begin at any time.

Fourth project: Building a monument in memory of the victims of the Khmer Rouge for Cambodians living in France

a. Project Description

114. A small monument in the form of a stupa may be built for the members of the Cambodian diaspora living in France, and who observe Khmer religious holidays, at the Pagoda in the Park of Vincennes in the 12th *arrondissement* of Paris. It will be open permanently so that anyone can come and observe a moment of silence and prayer at any time.

115. Three associations are involved in this project: *the Association of Khmer Rouge Victims in Cambodia (ARKV)*, *l'Association mémorial des victimes du génocide des*

*Khmers Rouges (MVGKR) and the International Federation for Human Rights (FIDH).*¹⁸⁵

b. Project objective and beneficiaries

116. The monument will provide Khmers in France with a place of meditation in which to gather in the country they chose to settle in when they were forced to flee the Khmer Rouge regime, a place where they may honour those who died. An inaugural ceremony will be held. The place will then serve to bring together Cambodians who wish to celebrate annual holidays and commemorations.
117. Such a monument is especially significant as the majority of survivors were not able to retrieve the remains of their loved ones who died during the Khmer Rouge regime.
118. This place of contemplation will make it possible to pay tribute to the dead. It will evoke the memory of victims within the community in a lasting manner and spur an awakening of consciousness among young people and the public.
119. The project will be primarily for the benefit of victims of the Khmer Rouge regime, but it will also benefit young generations and the public.

c. Implementation

120. This project can be completed within one year and is ready to begin immediately. The project conception phase includes the authorisation request that has already been referred to the City of Paris, which has already given its agreement in principle.¹⁸⁶
121. Fundraising efforts with the City of Paris, the *Fondation de France*, and certain embassies has also already commenced.¹⁸⁷

d. Feasibility

122. In the above-mentioned letter, the FIDH outlines the various steps taken, pledges made, and agreements in principle secured. The Lead Co-Lawyers request the Chamber once again to allow any new information about funding or permits to be formally conveyed during the judges' deliberation, with a view to recognizing this project as a form of reparations for Civil Parties.

CATEGORIE 2: REHABILITATION

123. This category subsumes two projects: Testimonial therapy and Self-Help Groups, both of which have been developed by the same organization, the, *Transcultural Psychosocial Organization* (TPO).

Fifth project: Testimonial therapy**a. Project Description**

124. This reparations measure has been requested by a good number of Civil Parties and their representatives. The intention is to enable the Civil Parties to enjoy professional care to treat the deep and lasting suffering arising from the crimes committed during the Khmer Rouge regime.

125. This project will entail public testimonies in the presence of psychologists and other individuals, focussing on the events that resulted in the suffering of Civil Parties, their families and loved ones, caused by the Khmer Rouge regime.

126. Civil Parties will be invited to speak of their trauma. With the assistance of a professional, they can revisit their suffering and record it in a document to be called “*Testimony*”. These *Testimonies* would then be read out during public ceremonies held throughout Cambodia, near the residences of the Civil Parties. These ceremonies can be attended by loved ones, members of the community, religious, political and non-governmental representatives. After the ceremony, the written testimony would be handed back to the Civil Parties.

127. Six psychologists will be recruited, including one project coordinator. They will provide psychological support during the testimonial therapy, and will be given five days of training over a two-week span.

128. Project implementation is guaranteed by TPO, which has a mission to perform psychosocial work for Cambodians and been operating in Cambodia since February 1995. TPO has tailored its method specifically to the needs of Khmer Rouge victims and has also provided them with support at the ECCC. TPO has done its work with considerable success.¹⁸⁸ TPO is committed to seeing this project to fruition.¹⁸⁹

129. TPO will map out the regions which the Civil Parties' in Case 002/01 come from and public religious ceremonies will be held in pagodas or temples specifically chosen with this in mind. Through the lifespan of the project, participants will be able to request psychological services over the telephone during working hours. TPO will also print publications and posters and disseminate project-related information.

b. Objective and beneficiaries.

130. This moral and collective reparations award aims to promote care and establish mental and physical health services specifically for the Civil Parties as a response to their traumas.

131. The purpose of the project is to improve the mental and psychological well-being of Civil Parties, encouraging them, within their rural communities, to speak out about what actually happened to them and to share their memories. Civil Parties will be helped when vocalizing their traumatizing experiences. The project will help the Civil Parties to regain their dignity, self-esteem, energy and drive. It will offer them emotional relief and teach them to manage their past memories and continuing psychological pain.

132. The project includes, in particular, Civil Parties who belong to minority groups, and women. They will benefit from the project by becoming involved and actively participating in the sessions.

133. The project will also provide space for testimony relating to the many violations of human rights committed during the Khmer Rouge regime.

134. The project contributes to the promotion of transitional justice.

135. It will also allow mental health care professionals to upgrade their skills in dealing with disorders specific to victims of the Khmer Rouge regime.

136. The project will primarily benefit Civil Parties, but it will also serve the community in which they live and the wider development of mental health care in Cambodia.

c. Project implementation

137. The establishment of this project includes a mental health support strategy for Civil Parties within their own communities, thereby bypassing the need for private clinics.

138. Through this project, twelve communities will benefit from mental health training, allowing them to master the discipline, and in turn support victims of the Khmer Rouge regime, and in particular, the Civil Parties. It will also will set up a form of psychological care system, centred on testimonial therapy and other methods that is attuned to the rural culture of the patient. With a view to develop other services, this project will also establish a health counselling service by telephone and a system for distribution of basic pharmaceuticals, taking its cue from the TPO clinic.
139. This reparations measure will take effect over duration of 16 months, and is ready to be implemented as soon as it is ready.
140. This project is partially funded by the Federal German Government. The Federal German Ministry for Economic Cooperation and Development (BMZ) has earmarked funding of 162 758 dollars, which has been transferred to the Victims Support Section via the ECCC Office of Administration.¹⁹⁰ This amount will be handed over to the organization responsible for project implementation. The funds cover both the Testimonial Therapy project, and the subsequent project on Self-Help Groups.
141. The foundation, “*Stiftung Kriegstrauma Therapie*” is also financing this project in the amount of 27 454 dollars, which will be divided between the two projects.

d. Feasibility

142. This project is already underway and being implemented over a period of 16 months, and is consistent with the financing accorded by BMZ and the “*Stiftung Kriegstrauma Therapie*” foundation. Nevertheless, the Lead Co-Lawyers request the Chamber to formally acknowledge the receipt of all documentary evidence relating to any new funding, allowing for an extension of the project that may be secured during the course of its deliberations. They request the Chamber to rule that this project may continue and be considered reparation beyond the current period in the event that additional funding makes this possible. This request is being made in the interests of Civil Parties in order to guarantee that they benefit from the reparations to the fullest extent possible.

Sixth project: Self Help Groups

a. Project Description

*Civil Party Lead Co-Lawyers’ Rule 80 bis
Final Claim for Reparations with Confidential Annexes*

143. This project is in some respects similar to the preceding project. “Self-Help Groups” are another form of proposed psychological treatment currently being set up by the TPO.

144. The TPO letter of commitment also covers this project.¹⁹¹

145. Self-Help Groups are voluntary gatherings of people who share a common wish to overcome their suffering, to better understand its cause, and to manage their emotions through discussion.

146. This project’s activities will be carried out in three local communities, with the participation of selected Civil Parties from Case 002. Approximately 10 civil parties, including some from neighbouring villages, will participate in each Self-Help Group. The process will take place once every month for a period of nine months.

b. Objective and beneficiaries

147. This project will enable participants to express their feelings, share their emotions and support each other by learning from the experiences of others.

148. It will also help participants to regain their self-esteem, their ability to make decisions and to improve their social lives.

149. It is a way for people to emerge from their loneliness and isolation by creating connections with other participants.

150. This project will allow people to become aware of the reasons which cause distress and disorders amongst victims.

151. This project will be beneficial to Civil Parties from Case 002 who are victims of forced transfer, by enabling them to talk about their suffering when they come together, and thereby helping to assuage the pain they have suffered. This is a way for them to alleviate their suffering or even put an end to it, and move towards a new life.

152. This project will also benefit the community that surrounds them. Families and communities of the Civil Parties will also benefit from this project by participating in interventions during the Self-Help sessions.

c. Project implementation

153. The project of “Self-Help Groups” is for Civil Parties who live in rural areas.

154. This project will be implemented by the TPO.

155. The implementation of this project is expected to last 16 months.

156. This reparations measure is financed by the Federal Ministry for Economic Cooperation and Development, in the amount of 162 758 dollars,¹⁹² the sum of which was transferred to the Victims Support Section via the ECCC Office of Administration. This amount also covers the costs for the project of Testimonial Therapy. It is also being funded by the foundation “*Stiftung Kriegstrauma Therapie*”.¹⁹³

d. Feasibility

157. This project is already underway and being implemented over a period of 16 months, in accordance with the BMZ funding timeline. Nevertheless, the Lead Co-Lawyers request the Chamber to formally acknowledge the receipt of all documentary evidence relating to any new funding, allowing for an extension of the project that may be secured during the course of its deliberations. They request the Chamber to rule that this project may continue and be considered a reparation beyond the current period in the event that additional funding makes this possible. This request is being made in the interests of Civil Parties in order to guarantee that they benefit from the reparations to the fullest extent possible.

CATEGORY 3: DOCUMENTATION AND EDUCATION

158. This category aims to maintain and deepen historical knowledge of the Khmer Rouge regime, founded upon the respective experience of each victim.

Seventh project: Permanent exhibition in 5 regional museums

159. This reparations measure was requested by the Civil Parties in Case 002, including many victims of forced transfer on 17 April 1975 and the following days, as well as the victims of the second forced transfer. These charges of forced transfers are being tried in the first trial of Case 002.

a. Project Description

*Civil Party Lead Co-Lawyers’ Rule 80 bis
Final Claim for Reparations with Confidential Annexes*

160. This project for a permanent exhibition will be directed by the Documentation Centre of Cambodia in close collaboration with the Ministry of Culture and Fine Arts, as part of on-going conservation and development work in museums in the 24 provinces and capital of the Kingdom. The Documentation Centre of Cambodia has received the agreement of the Royal Government of Cambodia to contribute to the establishment of a cultural promotion and conservation network. In this context, the Centre will help establish documentation and an exhibition on Democratic Kampuchea, to be displayed in all of the provinces and the capital city of the county. The permanent exhibition is part and parcel of D-Cam's mission.
161. Activities: the permanent exhibition will be staged in museums in the following five provinces in the following order: Battambang, Banteay Meanchey, Kampong Thom, Takeo and Svay Rieng. These five provinces were selected because a particularity of their museums is that they house elements that are relevant to the project: objects dating back to the Khmer Rouge regime (hoes, axes, etc) which relate to the scope of the first trial in Case 002. In fact, the majority of victims of forced transfers, including the Civil Parties, were displaced from these provinces. While the exhibition addresses several topics relating to the history of the Khmer Rouge, it will focus mainly on phases 1 and 2 of the forced transfer and the events that occurred at Tuol Po Chrey. The exhibition displays will be arranged according to the events undergone by the Civil Parties, and will be changed from time to time, in order to offer more variety and interest to the public.
162. This project has an educational purpose and seeks to revive past experiences in order to understand them, and above all illustrate what the Civil Parties have to say. The exhibitions will also impart knowledge to future generations, contribute to reconciliation and allow Civil Parties and other victims to establish, share and deepen their knowledge of the Khmer Rouge. The project will also establish an educational program on history and will allow the general public to access information on the Civil Parties.

b. Objective and beneficiaries

163. This project's goal is to preserve the memory of victims and the experiences they went through during the Khmer Rouge regime, by conserving all manner of evidence in sites identified for that purpose. This conservation of evidence will, in the longer term, contribute to the learning and knowledge of history.
164. This project pays tribute to victims and is a way for the Civil Parties to talk about their experiences, and specifically address future generations, as well as national and international audiences.
165. This project has an educational purpose. By imparting knowledge to future generations, it will contribute to reconciliation and allow Civil Parties and other victims to share and deepen their knowledge about the Khmer Rouge.
166. Young generations, who will become future leaders, will have the chance to reflect on the past to build a better future.
167. The public at large may also have a chance to reflect on this period of history, by gauging its importance and its effects, and committing it to memory.
168. As such, the beneficiaries are the Civil Parties, the greater public, and in particular young generations.

c. Implementation

169. The project will be implemented over a period of 16 months, from September 2013 to December 2014. The initial phase of the project, from September 2013 to April 2014, will focus on the preparation of the exhibition and then the exhibition itself. The exhibition will be open from May to December 2014.
170. A certain number of Civil Parties will participate in the project by providing their accounts and sharing their experience under the Khmer Rouge regime and in the proceedings of the trial.
171. Funding of this project for the five provinces concerned is entirely provided by the Federal Ministry for Economic Cooperation and Development of the Federal German Government, in the amount of 80 000 euros, which has been transferred to the Victims Support Section via the ECCC Office of Administration.¹⁹⁴
172. All necessary authorizations have already been secured through an agreement between the Government and DC-Cam.

d. Feasibility

173. The project can be completed in its entirety, as noted by the Chamber in its memorandum of 6 September 2013.¹⁹⁵ It may be recognized as reparations.

Eighth Project: Mobile exhibition**a. Project Description**

174. This exhibition will be a collection of the written accounts of the Civil Parties' experiences of forced transfer and the harm that they suffered during the Khmer Rouge regime. The collection would then be widely disseminated among the broader public. Six locations have been selected for this mobile exhibition.

175. The project's activities will unfold in two stages: production and then presentation of the project. *Kdei Karuna* organisation is responsible during the initial stage for producing the content and material, in concert with a project manager seconded by the organisation, *Youth for Peace*. The second stage of the project will fall under the joint management of these two organisations, *Kdei Karuna* and *Youth for Peace*.

176. The first stage of the project will focus on the exhibition's development (themes, relevant topics and materials); producing documentaries; displaying posters on billboards; producing multimedia support; raising awareness; outreach. The exhibition will be accompanied over two days by public fora, seminars, theatrical and musical performances, religious ceremonies, slide shows, and a film production on the making of the exhibition. 40% of the total budget will be spent on this phase.

177. During the second phase, each organisation will form a working group which will be in charge of three exhibition sites. Each organisation will be allocated 30% of the budget at this second stage.

178. The Civil Parties will have access to materials that may help them to portray their histories and feelings, and they will take part in setting up the exhibition as well as various educational activities.¹⁹⁶

179. For the past ten years, *Kdei Karuna* and *Youth for Peace* have been developing and implementing a good number of projects that have been funded by international donors.

The organizations' mission is to promote the search for the truth and honing of collective memory. Both organisations are recognized for the quality of their work with local communities, their commitment to managing post-conflict situations, and their work with young generations.¹⁹⁷

180. Both organisations have committed to completing this project.¹⁹⁸ They possess the expertise and resources necessary to put it into effect.

b. Objective and beneficiaries

181. This project was developed with the following aims: 1) to foster recognition, among the public, of the suffering of the Civil Parties under the Khmer Rouge regime, resulting particularly from forced transfer; 2) to raise public awareness of the history of the Khmer Rouge, and in particular the facts surrounding forced transfer; 3) to strengthen the Cambodian people's collective reflection on the Khmer Rouge past, its causes, and ultimately to prevent such facts from ever recurring.

182. The project also seeks to promote a nationwide culture of peace and reconciliation through the awarding of moral and collective reparations.

183. Civil Parties in Case 002 are the first to benefit from this project. It would affect Civil Parties who until now have not been able to benefit from awareness activities, especially women and those from minorities. They will therefore have the chance to have their stories recognized, to share them with people in their immediate entourage, and to participate in the peace process. Those next in line to benefit are the public, who will visit the exhibition or participate in the activities stemming from it. The public will also have access to a variety of information.

c. Project implementation

184. *Youth for Peace* and *Kdei Karuna* will be responsible for the technical aspect, the financial management and implementation work. An agreement has been established as to how the two organisations will share out the tasks and budget, in the presence of the Victims Support Section. The project follow-up and evaluation will be handed over to the Victims Support Section, the organization that has a specific mandate from the ECCC. These two organisations will collaborate with other partners, namely the Lead Co-Lawyers, the Victims Support Section, TPO, CDP, ADHOC and CHRAC.

185. The German Federal Government, through its Ministry for Economic Cooperation and Development, has provided funding in the amount of 100 000 euros,¹⁹⁹ which was remitted to the Victims Support Section by the ECCC Office of Administration.²⁰⁰ In accordance with the pre-established agreement with the organisations responsible for implementation, the amount of 67 500 euros will be transferred to *Kdei Karuna* and 32 500 euros to *Youth for Peace*.

186. The duration of the project was initially 36 months. However, the funding received from BMZ to date only covers 12 months of the project. It will be implemented from 1 September 2013 to 31 December 2014.

d. Feasibility

187. At present, the project can be pursued for a period of 12 months based on the funding proposed, and as broken down in the project outline annexed.²⁰¹ The Chamber may therefore recognize this project as reparations. The initial project was set for 24 months. If additional funding is forthcoming, the project could be broadened to include complementary activities as initially envisaged.

188. The Lead Co-Lawyers request the Chamber to formally acknowledge the receipt of all documentary evidence relating to any new funding that may be secured during the course of its deliberations. The Lead Co-Lawyers also request the Chamber to rule that this project may continue beyond the 16 month period in the event that additional funding is provided, prior to or following the judgement. This request is being made in the interests of Civil Parties in order to guarantee that reparations are as fair as possible.

Ninth project: writing a chapter on forced population movement and the Tuol Po Chrey execution site

a. Project Description

189. The Civil Parties request that the inclusion of a specific chapter in teachers' manuals used for teaching the history of the Khmer Rouge be recognised as a form of reparation, pending pronouncement of the verdict.

190. This chapter will be written and then issued by the Documentation Centre of Cambodia. DC-Cam has already published and circulated a practical manual for teachers. This chapter will be inserted after the pronouncement of the Chamber's

verdict, and will be based on it. The chapter title will be “Civil Party Participation and the Facts Judged in Case 002” and will comprise four lessons spread over 16 pages. The first will deal with the policy of forced transfer, its purpose, and the various stages of these transfers. The second chapter will describe what the Civil Parties experienced during their evacuation. The third chapter will discuss the consequences of the forced transfers on the victims. The fourth chapter will essentially deal with Tuol Po Chrey and focus particularly on the circumstances and the massacres committed at this site, as well as Civil Parties testimonies.

191. Following the publication of the chapter, the Documentation Centre of Cambodia will continue to train teachers on the history of the Khmer Rouge, with added emphasis on this new chapter.
192. The Documentation Centre of Cambodia has committed itself to completing this project.²⁰² The chapter, which will tackle some of the issues raised during the proceedings, will contain material explaining the procedures of trial 002/01 and Civil Party testimonies.

b. Objective and beneficiaries

193. The objective of this project is to facilitate official, national and permanent recognition of the history of the Khmer Rouge regime and the narratives of the victims. It will promote the education of all on the historical facts.
194. The project is directly oriented towards the younger generations by educating them with the aim of preventing such criminal violence from happening again. The goal of this project is to cultivate a sense of civic duty among young Cambodians, and a duty to act responsibly and with dignity.
195. This project is a way to keep a trace of the history of the Khmer Rouge regime by writing it into the educational system.
196. It will first and foremost benefit Civil Parties and victims, as it is recognition of what they experienced, and is part and parcel of the duty to preserve the collective memory of the victims. It will also benefit Cambodians, and in particular young generations. It will benefit teachers, whose knowledge and pedagogical skills will be enhanced.

c. Implementation

197. This project can only be implemented after the pronouncement of the verdict in case 002/01, since it aims to round off the teaching of this period. The Documentation Centre of Cambodia, in its letter of engagement, clearly stated that it would secure the funding for this project.²⁰³ To date, funding in the amount of 40000 dollars has been set aside by the Seuth Rith Insitute, a branch of DC-Cam that is recognized by the government.²⁰⁴

d. Feasibility

198. In response to the Chamber's memorandum of 6 September 2013,²⁰⁵ at the end of which the Chamber states it cannot officially endorse the project as it concerns facts that have not been adjudicated, the Lead Co-Lawyers hereby agree to such terms in so far as they apply at this present time preceding the decision. For this reason the project cannot be implemented before issuance of the decision. The Lead Co-Lawyers nonetheless emphasize that once the verdict has been issued, and subject of course to the sentence, the Chamber will be able to recognize the project as reparations. The Lead Co-Lawyers consequently request the Chamber to recognize this project as a reparations award, at the appropriate stage.

Tenth Project: Building of a Peace Learning Centre

199. The Civil Parties also request that the building of a Peace Learning Centre be recognized as a measure for collective reparations.

a. Project Description

200. This project will be based in Samraong, in the province of Battambang. It will serve as a centre for documentation, sharing, training, discussion, education, remembrance and reflection.

201. As regards the construction work: the location selected for this project was once a collective execution site under the Khmer Rouge regime, and is now community property. Preceding the development of this project, a similar project, the memorial at

Kraing Ta Chan, has been under way since 2012. With the community's approval,²⁰⁶ we will be able to undertake this project and build a reference room, conference room, and an exhibition area on the chosen site.

202. Other associated activities of the project are about strengthening good governance skills (four seminars for 80 participants). There will also be public fora open to 100 participants, in addition to manual work, enhancement of the library management system, camping trips for young people, and learning sessions on the execution sites, etc.

203. The Civil Parties will be invited to recount what they experienced during their forced transfer, the persecution of the victims, in particular in the provinces of Battambang and Pursat, under the Khmer Rouge regime, for the purpose of establishing documentation, explaining the things that happened and introducing the work of the ECCC.²⁰⁷

204. The project will be implemented by the organization *Youth for Peace*, an organisation that has carried out similar projects in several parts of the country. The organization has confirmed its commitment by letter dated 22 August 2013.²⁰⁸

b. Objective and beneficiaries

205. The project is consistent with the aim of encouraging people to reflect with a view to upholding the peace process and good governance. It targets first and foremost young generations and is meant to spur exchanges between victims and young people. Testimonies of the former will be food for thought for the latter. It is a way to lessen the likelihood of further crimes against humanity and serious violence.

206. This project will be of primary benefit to the Civil Parties, insofar as the facts from which they suffered and became victims will be recognized. Moreover, this project will give Civil Parties the hope that in future, everything will be done to prevent the repetition of such facts. This project is also beneficial to the Cambodian people, and specifically, the younger generation.

c. Implementation

207. This project duration is 2 years, from September 2013 to August 2015.

208. It is financed by the Swiss Agency for Development and Cooperation in the amount of 119 455.60 US dollars. (See letter of financial engagement).²⁰⁹

d. Feasibility

209. All necessary authorizations have been granted.²¹⁰

210. At present, this project is fully financed, and may be implemented immediately.

211. It may be recognized as reparations by the Chamber.

Eleventh project: Publication of a booklet on the proceedings of Trial 002/01

a. Project Description

212. The project involves publishing a booklet drafted in very accessible and straightforward terms, containing drawings and illustrations, to allow a wide audience to understand the workings and procedures of the trial at the ECCC.

213. This project is tailored to all the Cambodian population, whatever their educational level.²¹¹

214. It will be undertaken by the *Cambodian Human Rights Action Committee* (CHRAC), which has already stated its commitment to do so.²¹² CHRAC is an umbrella group of 21 associations that are funded internationally, and which have shared the goal of developing Human Rights and the Rule of Law in Cambodia since August 1994. It is well equipped to take charge of this project.²¹³

b. Objective and beneficiaries

215. Once again, the objective of this program is to allow each and everyone to know the events that took place under Democratic Kampuchea, through access to simple and reliable documentation. A minimum knowledge and understanding of history are essential to reflecting and then acting responsibly.

216. This booklet is also a tribute to Civil Parties who will have participated in the work of justice, on behalf of all victims.

217. It is a form of recognition of the facts and the harms suffered. It contributes to the establishment of the truth.

218. This project is of benefit to Civil Parties and to Cambodians.

c. Implementation

219. This project can be completed within a timeframe of 10 months.

220. It is financed by GIZ in the amount of 5000 USD, which covers the project's entire budget.²¹⁴

d. Feasibility

221. This project is ready to begin immediately and is in full compliance with the law and the requirements of the Chamber.

222. The Lead Co-Lawyers and the Civil Parties also intend to request that the Chamber award collective reparations by printing the text of the Judgement and publishing the Civil Parties' names on the ECCC website. These reparation measures were proposed by the Civil Parties admitted in Case 001. In fact this is a duty that falls upon the ECCC and requires no external funding.

Twelfth project: Publication and distribution of the future judgement in its full version and in summary form

223. The CP lawyers request that text of the Judgement for the first trial of Case 002 be published by the Public Affairs Section in both its full and summary versions.²¹⁵ The printed version will be distributed to Civil Parties, the public, and law practitioners.

224. Through the project aims of improving public awareness and understanding of the trial, this project will effectively facilitate national reconciliation and bolster the steps to prevent these heinous crimes from reoccurring.

225. According to the Office of Administration and the Public Affairs Section of the ECCC, a budget of 25 000 dollars has been proposed for one part of this project.²¹⁶ Nevertheless, this sum will not cover the entirety of the project (distribution of the Judgement and the summary to Civil Parties). By way of comparison, the budget for these two publications in Case 001 was much higher.²¹⁷

226. As soon as the Chamber has given its authorization, the project can be completed in four months.

Thirteenth Project: Publication of the Civil Parties names on the ECCC Website

227. The participation of Civil Parties in the trial will be truly valued if their names appear on the ECCC website. This publication of names, requested by the Civil Parties, will contribute to the promotion and participation of Civil Parties.

228. The names of the Civil Parties should be in Khmer, and in Roman script, along with their registration numbers provided by the Victims Support Section to facilitate name searches. The Victims Support Section and the Public Affairs Section will work together on this project.

229. Once the Trial Chamber hands down its Judgement, this project can be completed in 3 months.

B. IN THEIR COLLECTIVE AND MORAL CHARACTER, AND BY BEING ADRESSED TO THE WIDER COMMUNITY, THE REPARATIONS RESPOND TO THE “HARM SUFFERED”.

i. The recognition of suffering and, more generally, of the harm done, is a necessary first step.

230. The very first form of reparation is without a doubt the recognition by the Court of the suffering endured by the victims and – in this case - by the civil parties. Many authors and researchers have emphasized the importance of this kind of acknowledgement, which needs to come across clearly in the body of the judgment, confirming to the victims the legitimacy of their complaints or, in the case of the civil parties, of their applications. This acknowledgement is considered a form of reparation by the Inter-American Court of Human Rights and confirmed in the judgement of Case 001.²¹⁸ It is a difficult step for the civil parties to take, because it obliges them to revisit painful memories and to answer questions which at times they can mistake for genuine questioning of their credibility. The procedure also entails a duty to represent the other victims on whose behalf the civil parties are acting and speaking. The fact that the Chamber, after hearing the civil parties speak about the facts and the harm endured,

goes on to discuss their suffering and harm, acknowledges it, and states that its magnitude is a consequence of the charged crimes, is in itself is a form of reparation. It is essential that in the judgment, the civil parties see the vital connection between the crimes committed and the driving force of their action, which is the harm they suffered.

ii. A response to the individual harm suffered

231. Beyond the decision itself, each civil party is entitled to expect that reparations will be designed for him or her as an individual, even if they are also collective and moral. The idea here is not to provide each and every civil party with their own individual and financial reparations, but to provide each civil party with the feeling that the reparations are awarded at a personal level for harm suffered individually. All harm suffered is essentially personal, even if there may be similarities with the harm suffered by others. At the ECCC, reparations must be “moral and collective”, thus expressly precluding individual and financial reparation. Nonetheless, reparations must satisfy the following requirement: providing to each civil party the feeling that his or her personal harm has been addressed through the moral and collective reparations. This is in fact what the Supreme Court has said.²¹⁹ The projects described above seek to achieve this.

iii. An appropriate response to the context

232. For reparations to be effective, various impediments deserve consideration, such as the time that has elapsed before the holding of a trial, and the absence of funds for awarding individual financial reparations. Aside from these issues, the collective and moral aspects of the reparations assume meaning in the context in which the trial is being held. Nearly 40 years have passed since the end of the Democratic Kampuchea regime. It is difficult today to quantify or assess in detail each instance of individual harm, whether physical, material or even psychological. Evidence to back up such quantifications or assessments is difficult and sometimes impossible to gather, whereas the harm itself is incontestable. The sheer number of victims compounds the problem of quantifying the harm. What is more, many of the victims have passed away since the crimes occurred.

233. Granted these difficulties, the collective and moral reparations being sought are an entirely suitable response to both the harm suffered and the needs expressed. For a start,

this type of reparation answers to the very wide variety of civil parties, regardless of the professional categories targeted, diverse religious practices, age groups, distinctions between civilians, servicemen, officials and members of clergy, between the new people, the base people, and the Khmer Rouge who fell foul of purges. All civil parties will benefit from these reparations; it is their status as civil parties that gives them that right.

234. Since the Chamber has said that all civil parties admitted in Case 002 retain their status as members of the consolidated group, notwithstanding the severance, and that reparations shall be awarded to the consolidated group and thus to all of the civil parties,²²⁰ the collective and moral nature of the reparations proposed seems entirely suitable.

iv. An appropriate response in line with international standards.

235. Various forms of reparation have been established under international law in order to address the harm suffered by victims of gross violations of international human rights law and grave violations of international humanitarian law.²²¹ The projects hereunder are classified into three categories: Memorialization, Rehabilitation, and Documentation and Education, each of which meet the criteria set by international law.

236. We will conclude these remarks by stressing that the collective reparations sought will obviously address the individual harm suffered, which is a necessary condition for reparation, as indicated below. Each civil party will find in the day of remembrance, in the monuments, in the exhibitions, in the documents or in the therapeutic testimony sessions and support groups, a specific response to his or her suffering, to his or her harm. The projects are not anonymous and general; they are destined to provide individual responses that may repair the harm suffered.

V. FINDINGS AND REQUESTS:

237. The Civil Party Co-Lead Lawyers and Lawyers are intent on developing reparations that will meet the demands of the civil parties whilst complying with the legal requirements, both in terms of the law generally applicable to reparations and of the specific requirements of the ECCC law. The Civil Parties have stressed the extent to

which such reparations are a necessary part of the trial, as it includes victims who have joined as civil parties.

238. The Civil Parties underscore how much they regret that the ECCC Law does not allow them to request both that the Accused be ordered to bear the cost of the awards and that such costs be externally funded. Internal Rule 23 *quinquies* (3)(c) requires Civil Parties to indicate the “specific mode of implementation ... sought.” The Civil Parties believe that it is crucial that the person convicted be also ordered to bear the costs of the award, as this is a fundamental criminal law principle which must be upheld by the ECCC, even if the Accused have appeared to be indigent and incapable of effectively bearing such costs. Accordingly, the Civil Parties request the Chamber to couple this principle with an order that the costs of the awards be externally funded by third parties. Nevertheless, in order to ensure, as much as possible, the reparations requested, the Civil Parties also request, in the alternative, that the specific projects be recognized as awards whose costs are to be externally funded (mode of implementation (3)(b)).
239. To date, the small number of projects described above satisfies each of the criteria of Internal Rule 23 *quinquies*. We are asking the Chamber to acknowledge each of the projects as an appropriate form of reparation for the civil parties.
240. Despite all of their efforts, coupled with those of the Victims Support Section and the organisations working towards this end, the civil parties have not been able to obtain the funding necessary to complete all of the projects. The civil parties are requesting that these projects be nonetheless recognised as reparations, at least inasmuch as they have been funded or guaranteed funding before the judgment is handed down. It will then be the responsibility of the organisations in charge of implementing the projects to adjust the scope of the projects to the available funds.
241. Taking into account the weighty obligation to “have secured sufficient external funding”²²² for each project, the Civil Parties state that they will communicate to the Chamber and to the parties, after this final request and up to the final decision, all new information that comes in pertaining to the funding status of each project. The Civil Parties are requesting the Chamber to take note of this initiative and to give due consideration to this information when issuing its decision.

242. The Civil Parties also request the Chamber to advise whether a project that has a limited duration due to funding limitations can be considered a more long term reparation if additional funding allows for an extension in time.

243. Finally the Civil Parties acknowledge that the Chamber has indicated that, though it cannot impose obligations on the Cambodian government or on entities that were not party to the proceedings, it, “(...) *can merely encourage national authorities, the international community and other potential donors to show solidarity with the victims by providing financial and other forms of support that contributes to their rehabilitation, reintegration and restoration of dignity.*”²²³ The Civil Parties are requesting the Chamber to provide such encouragement in the upcoming decision.

FOR THESE REASONS, THE CIVIL PARTY LEAD CO-LAWYERS AND THE CIVIL PARTY LAWYERS ARE REQUESTING THE CHAMBER:

- To officially acknowledge the harm suffered by the civil parties as a consequence of the crimes for which the Accused will be convicted,

- Firstly, to sentence the persons found guilty to make reparations for the harm suffered, and to rule that due to their indigent status, reparations shall be implemented and financed by third parties,

- Alternatively, acknowledge the Civil Parties’ request to apply the mode of implementation provided for in Internal Rule 23 quinquies 3)b),

- To recognize each one of the projects, as described above, as a form of reparation, regardless of its funding status, or at least to a degree commensurate with its funding, by inviting the organisations tasked with implementing the projects to adjust the status of implementation to the level of funding if they have not already done so,

- To take into consideration during the deliberations all of the information the Civil Parties will be in a position to provide on the funding of the projects,

- To acknowledge during the deliberations the information provided by the Civil Parties, so as to make it possible for significant reparations to be awarded to them.
- To say that a project that is currently limited to a specific duration because of its funding will be considered a reparation extending beyond that duration if additional funding is secured.
- To expressly encourage the national authorities, the international community and other potential donors to show their solidarity so that recognized reparation measures may be implemented.

Without prejudice

Date	Name	Place	Signature
8 October 2013	PICH Ang Civil Party Lead Co-Lawyer	Phnom Penh	[Signed]
	Elisabeth SIMONNEAU-FORT Civil Party Lead Co-Lawyer	Phnom Penh	[Signed]

¹ T., 29 June 2011, pp. 92 – 112 (hereinafter “Transcript: Initial Specification I”).

² Trial Chamber Memorandum: Scheduling of Initial Hearing, **E86**, 11 May 2011.

³ Transcript: Initial Specification I, pp. 107 – 109 (detailing projects in four categories: *Memorialization and Remembrance* (1) remembrance day, 2) stupas and memorials, 3) preservation of execution sites); *Rehabilitation* (4) psychological [therapy] project, 5) self-help groups); *Documentation and Education* (6) educational program on history of the Khmer Rouge era, 7) documentation center, 8) museum in Phnom Penh, 9) victims register); and *Other* (10) project on Vietnamese citizenship, 11) educational project for the children of forced marriage, 12) establishment of a trust fund, and 13) dissemination of the judgment)).

⁴ Transcript: Initial Specification I, pp. 110 – 111.

⁵ Severance Order Pursuant to Internal Rule 89ter, **E124**, 22 September 2011, para. 8.

⁶ Lead Co-Lawyers’ Notice of Request for Reconsideration of the Terms of the “Severance Order Pursuant to Internal Rule 89ter,” **E124/4**, 6 October 2011; Lead Co-Lawyers and Civil Party Lawyers Request for Reconsideration of the Terms of the Severance Order E124, **E124/8**, 18 October 2011; and Urgent Request on the Scope of Trial One and the Need for a Reasoned Decision Following the Civil Parties Request for Reconsideration of the Severance Order, **E124/10**, 17 November 2011. *See also* T. 19 October 2011, pp. 17 – 19 (documenting efforts of Lawyers or Civil Parties to discuss the impact of the severance on reparation, which were cut short by the Chamber); and Initial Specification of the Substance of the Awards that the Civil Party Lead Co-Lawyers Intend to Seek—Hearing of 19 October 2011, **E125/2**, 12 March 2012 (hereinafter “Written Initial Specification II”) (providing the full text of the initial specification prepared by the Lead Co-Lawyers which elaborates on the consequences of the severance for Civil Party reparations).

⁷ Trial Chamber Memorandum: Initial Specification of the Substance of Reparations Awards Sought by the Civil Party Lead Co-Lawyers Pursuant to Internal Rule 23quinquies(3), **E125**, 23 September 2011.

⁸ *Ibid.*, pp. 2 – 3.

⁹ *Ibid.*, p. 3.

¹⁰ T. 19 October 2011, p. 4 – 70 (hereinafter “Transcript: Initial Specification II”) and Written Initial Specification II. A total of 16 projects were presented in the same four categories as Initial Specification I: *Remembrance and Memorialization* (1) advocacy project to create a national or international memorial day, 2) project to construct stupas and ecumenical monuments, 3) ceremonies of memorialization, 4) project to participate in the preservation of crime sites); *Rehabilitation* (5) project to establish psychological and physical health services; 6) project of self-help groups; *Documentation and Education* (7) preservation and teaching of Khmer Rouge history to younger generations, 8) documentation center/archive/library/museum, 9) victims register, 10) publication of Civil Party names in the judgment, 11) cultural documentation center, 12) center to preserve Cham culture; and *Other Projects* (13) trust fund, 14) reparations monitoring body, 15) Project to Facilitate the Acquisition of Cambodian Nationality, and 16) project identifying the Needs and Requests for Professional Training of the Children of Forced Marriage).

¹¹ Transcript: Initial Specification II, p. 55 and Written Initial Specification II, para. 100

¹² Trial Chamber Memorandum: Notice of Trial Chamber’s Disposition of Remaining Pre-Trial Motions (E20, E132, E135, E124/8, E124/9, E124/10, E136, E139) and Further Guidance to the Civil Party Lead Co-Lawyers, **E145**, 29 November 2011, p. 2 (noting “[h]owever the Chamber urges the Lead Co-Lawyers to focus efforts on awards that may be relevant to Case 002/01...”).

¹³ Trial Chamber Memorandum: Scheduling of Trial Management Meeting to Enable Planning of the Remaining Trial Phases in Case 002/01 and implementation of Further Measures designed to promote Trial Efficiency, **E218**, para. 19, 3 August 2012.

¹⁴ Trial Chamber Memorandum: Indication of priority projects for implementation as reparation (Internal Rule 80bis (4)), **E218/7**, 3 December 2012.

¹⁵ Lead Co-Lawyers Indication to the Trial Chamber of the Priority Projects for Implementation as Reparations (Internal Rule 80bis) with Strictly Confidential Annexes, **E218/7/1**, 12 February 2013, paras. 30-35 (hereinafter “Reparations Update I”) (presenting the following projects: *Remembrance and Memorialization* (1) Remembrance Day, 2) Public Memorials Initiative; *Rehabilitation* (3) Testimonial Therapy Project, 4) Self-Help Groups); *Documentation and Education* (5) Mobile Exhibition Project and Education Project: Exploring History and Transitional Justice, 6) Permanent Exhibition, and 7) Booklet on Adjudicated Facts on Case 002 and Civil Party Participation).

¹⁶ Reparations Update I, para. 36.

¹⁷ Trial Chamber Decision on Severance of Case 002 Following Supreme Court Chamber Decision of 8 February 2013, **E284**, 26 April 2013, para. 158.

¹⁸ Trial Chamber Memorandum: Trial Chamber's Response to the Lead Co-Lawyers' Initial Specification of Civil Party Priority Projects as Reparations Pursuant to Rule 80bis(4) (E218/7/1), **E218/7/2**, 1 August 2013, paras. 4-6.

¹⁹ Civil Party Lead Co-Lawyers Response to the Trial Chamber's Memorandum E218/7/2 Concerning Reparations Projects for Civil Parties in Case 002/01, with Confidential Annexes, **E218/7/3**, 23 August 2013 (hereinafter "Reparations Update II") (presenting the following projects: *Remembrance and Memorialization* (1) National Day of Remembrance, 2) Public Memorials Initiative, 3) Memorial in Homage to the Victims "Those Who Are Not There Anymore"; *Rehabilitation* (4) Testimonial Therapy, 5) Self-Help Groups; *Documentation and Education* (6) Permanent Exhibition Principally on the Forced Movement of the Population Under the Khmer Rouge, 7) Mobile Exhibition on the Khmer Rouge Regime and in Particular on the Crimes Being Adjudicated in Case 002/01, 8) Specific Chapter on Forced Transfer of Persons and the Tuol Po Chrey Execution Site)).

²⁰ Reparations Update II, para. 12.

²¹ Decision E 218/7/4 of 6 September 2013

²² Decision E218/7/5 of 12 September 2013

²³ *Case Concerning Factory at Chorzow (Germany v. Poland)*, Judgment (Claim for Indemnity) (The Merits), Permanent Court of International Justice, 13 September 1928, PCIJ Series A, No. 17, para. 73.

²⁴ *Martini Case (Italy v. Venezuela)*, 1930 2 U.N.R.I.A.A 977, 1002.

²⁵ Judgment, Case File No. 001/18-07-2007-TC, **E188**, para. 662, 26 July 2010 (in which the Trial Chamber "acknowledges the principles expressing the right of victims of gross violations of international human rights law to redress, reflected in a number of international treaties and other instruments, declarations of United Nation bodies and decisions of regional courts").

²⁶ See Code of Criminal Procedure of the Kingdom of Cambodia, 2007, arts. 2, 13 (the latter stipulating "A civil action can be brought by the victim of an offense. In order to be compensated, the injury must be: a direct consequence of the offense; personal damage; [have] actually occurred and exist at the present time") (hereinafter "Cambodian Code"); and Code of Criminal Procedure of France (??), arts. 2, 706-3 to 706-15, [year??] (hereinafter "French Code").

²⁷ UN Basic Principles, art. 11.

²⁸ UN Basic Principles, arts. 15-23. See also UN Basic Principles of Justice for Victims of Crime and Abuse of Power, GA Resolution 40/34, 29 November 1985 (affirming the rights to restitution (art. 8-11), compensation (arts. 12-13) and rehabilitation (arts. 14-17)).

²⁹ Rome Statute of the International Criminal Court, art. 75, 1 July 2002 (add quotation); American Convention on Human Rights, art. 63, 18 July 1978; and European Convention on Human Rights, art. 41, 3 September 1953.

³⁰ Case 001 Appeals Judgment, para. 652.

³¹ ICTY Rules of Procedure and Evidence, Rule 106 (20 October 2011); ICTR, Rules of Procedure and Evidence, Rule 106 (1 October 2009); SCSL, Rules of Procedure and Evidence, Rule 105 (31 May 2012).

³² Internal Rule 23(1)(b) and (3), Internal Rules of the Extraordinary Chamber Chambers in the Court of Cambodia (Rev. 8), 3 August 2011 (hereinafter "Internal Rule" or "Internal Rule") and Internal Rule 80bis(4) (noting that the Civil Party Lead Co-Lawyers will make a "final claim" for Civil Party reparations).

³³ Internal Rule 23quinquies(2).

³⁴ Direction on Proceedings Relevant to Reparations and on the Filing of Final Written Submissions, Case File No. 001/18-07-2007-TC, **E159**, p. 2, 27 August 2009.

³⁵ Internal Rule 23quinquies(1)(a)-(b). See also Case 001 Judgment, para. 665 (requiring "clear specification of the nature of the relief sought, [and] its link to the harm caused by the Accused that it seeks to remedy").

³⁶ Internal Rule 23(3) (establishing that "Civil Parties at the trial stage and beyond shall comprise a single, consolidated group"). See also Severance Order Pursuant to Internal Rule 89ter, **E124**, para. 8, 22 September 2011 (noting "[u]nder the applicable legal framework, Civil Parties no longer participate individually on the basis of their particular harm suffered, but instead comprise a consolidated group").

³⁷ Internal Rule 23bis(3) ("All Civil Parties admitted by the Co-Investigating Judges or by the Pre-Trial Chamber [...] shall form a single, consolidated group at the trial stage and beyond"). See also Case 001 Appeals Judgement, para. 699 (noting "once the Trial Chamber satisfie[s] itself with the presence of injury and the civil party status of the applicant, eligibility for reparation is established").

³⁸ Severance Order Pursuant to Internal Rule 89ter, **E124**, para. 8, 22 September 2011.

³⁹ Decision on Severance in Case 002 Following SCC Decision of 8 February 201, **E284**, para. 157, 26 April 2013 (hereinafter "Second Severance Decision") (stating "[t]he Trial Chamber has similarly not sought to place limitations on the ability of individual members of the consolidated group to benefit from any reparations ultimately endorsed or awarded by the Trial Chamber"). See also Trial Chamber Memorandum, Notice of Trial

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Chamber's Disposition of Remaining Pre-Trial Motions (E20, E132, E134, E124/8, E124/9, E124/10, E136, and E139) and Further Guidance to the Civil Party Lead Co-Lawyers, **E145**, p. 2, 29 November 2011 (distinguishing between reparations sought under Rule 23*quinqüies*(3)(a) (awards funded by the convicted person) and under Rule 23*quinqüies*(3)(b) (awards which are externally funded), indicating that the former may "only consider harm suffered stemming from the charges and allegations which form the basis of Case 002/01" and the latter allows for the "elaboration of specific projects which give appropriate effect to the awards sought by the Lead Co-Lawyers" and which "may be conducted in parallel with the entire trial in Case 002"). Concerning reparations sought under Internal Rule 23*quinqüies*(3)(b), the Trial Chamber nonetheless "urges the Lead Co-Lawyers to focus efforts on awards that may be relevant to Case 002/01 and deliverable within or soon after the issuance of the verdict in that case." **E145**, p. 2.

⁴⁰ Trial Chamber Memorandum, Notice of Trial Chamber's Disposition of Remaining Pre-Trial Motions (E20, E132, E134, E124/8, E124/9, E124/10, E136, and E139) and Further Guidance to the Civil Party Lead Co-Lawyers, **E145**, p. 2, 29 November 2011.

⁴¹ Internal Rule 23*quinqüies*(1).

⁴² Case 001 Appeals Judgement, **F28**, para. 683; and Case 001 Judgement, **E188**, 26 July 2010, footnote. 1144.

⁴³ Case 001 Appeals Judgement, **F28**, 3 February 2012, para. 659 (on the notion of collective reparations and stressing their relevance in the context of mass crimes).

⁴⁴ Case 001 Appeals Judgement, **F28**, 3 February 2012, para. 658.

⁴⁵ Internal Rule 23*quinqüies*(3)(a-b).

⁴⁶ Trial Chamber Memorandum: Initial Specification of the Substance of Reparations Awards Sought by the Civil Party Lead Co-Lawyers Pursuant to Internal Rule 23*quinqüies*(3), **E125**, p. 1, 23 September 2011.

⁴⁷ Internal Rule 23*quinqüies*(2) (requiring the civil party to specify "in relation to each award, the single, specific mode of implementation described in Rule 23*quinqüies*(3)(a)(b) sought" and Internal Rule 23*quinqüies*(3)(a)(b) (stating that "order that the costs of the award shall be borne by the convicted person" or recognising "specific project appropriately gives effect to the award sought."))

⁴⁸ See Co-Lawyers for Civil Parties Third Request for Investigative Actions Concerning All Properties Owned by the Charged Persons IENG Sary, IENG Thirith, NUON Chea and KHIEU Samphan, **D193**, 12 Aout 2009 (requesting that the assets of the Accused within and outside Cambodia be investigated, whether such assets may be held for use as reparation and to determine if the properties transferred to family members were obtained as a consequence of a position held by the Accused within the Khmer Rouge) and Appeal of Co-Lawyers for Civil Parties Against Order on Civil Parties' Request for Investigative Actions Concerning All Properties Owned by the Charged Persons, **D193/5/1**, 21 Mars 2010 (the Civil Party notes that the principles of law and the healing power of judicial reparations would be much enhanced by the establishment of a reparations mechanism enabling the Court to order reparations against the Accused, while also allowing for their external funding so as to facilitate timely implementation. On this point, the Internal Rules establish an untenable situation in which the civil parties must either withdraw from the consolidated group in keeping with the principles of reparation which require that the responsible party (the convicted person) bears the cost of the reparation of the harm, which requires a link between the crimes the Accused is acknowledged to be guilty of, and the party requesting reparation, or to accept to have reparations "recognized" but not ordered against the convicted person).

⁴⁹ Proposal to amend Internal Rule 23*quinqüies*(3), 6 February 2012 (deposited with the ECCC Rules and Procedure Committee on 6 February 2012).

⁵⁰ Order on Civil Parties' Request for Investigative Actions Concerning All Properties Owned by the Charged Persons, **D193/4**, 2 March 2010 (rejecting the Civil Party request) and Public Decision on Appeal of Co-Lawyers for Civil Parties Against Order on Civil Parties' Request for Investigative Actions Concerning All Properties Owned by the Charged Persons, **D193/5/5**, 10 June 2010 (rejecting the Civil Party request).

⁵¹ Second Severance Decision, E284, 26 April 2013, para. 158.

⁵² Case 001 Appeals Judgement, **F28**, 3 February 2012, para. 660.

⁵³ Case 001 Judgement, 188, 26 July 2010, para. 665 (noting "placing the burden on the Chamber to substitute its own decision in these areas is inconsistent with a mechanism that is claimant-driven, and is also irreconcilable with the [...] envisaged duration of the ECCC and the resources at its disposal").

⁵⁴ Case 001 Appeals Judgement, **F28**, 3 February 2012, para. 688; and Case 001 Judgement, **E188**, 26 July 2010, para. 665.

⁵⁵ Trial Chamber Memorandum entitled Indication of Priority Projects for Implementation (Internal Rule 80bis 4), E218/7, 3 December 2012 p.1.

⁵⁶ Case 001 Appeals Judgment, **F28**, 3 February 2012, para. 685.

⁵⁷ Case 001 Appeals Judgment, **F28**, 3 February 2012, para. 687.

⁵⁸ Case 001 Appeals Judgment, **F28**, 3 February 2012, para. 687.

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⁵⁹ Case 001 Judgement, E188, 26 July 2010, paras. 668, 669 and 672.

⁶⁰ Trial Chamber Memorandum entitled “ Trial Chamber’s Response to the Lead Co-Lawyers’ Initial Specification of Civil Party Priority Projects as Reparations Pursuant to Rule 80 bis 4”, E218/7/2, 1 August 2013.

⁶¹ Case 001 Appeals Judgement, F28, 3 February 2012, para. 664.

⁶² Case 001 Judgement, E188, 26 July 2010, para. 663.

⁶³ Case 001 Appeals Judgement, F28, 3 February 2012, para. 689.

⁶⁴ See Civil Party Lead Co-Lawyers’ Request for Specification of the Scope of the Civil Parties’ In-Court Statements About Their suffering filed on 30 October 2012, E240, and Response to Civil Party Lead Co-Lawyers’ Request for Specification of the Scope of the Civil Parties’ In-Court Statements About Their Suffering, E240/a, 12 November 2012.

⁶⁵ E1/198.1, Oral testimony by ██████████ Transcript of Trial Proceedings of 29 May 2013, , p.4, lines 1-6, ERN 00917216.

⁶⁶ Civil Party Application of ██████████ 10-VU-00186, E3/5084, ERN 00569477 (“the KR knocked on our door, and when we answered they held a gun at us and told us we had to leave immediately for 3 days so that they could clean up the city.”); Civil Party Application of ██████████ 08-VU-00649, E3/4839, ERN 00893370 (“They announced that the people had to leave the city immediately and would be back in a few days. Those who were not willing to leave or hesitant to leave were killed immediately. Some were pulled or pushed off buildings and died mournfully. The people, in general, left unwillingly. They were separated from their families in tears.”); Civil Party Application of Mr. ██████████ 08-VU-01270, E3/4687, ERN 00375736 (“In 17 April 1975, Khmer Rouge soldiers entered Phnom Penh and told that the following three days American army forces would bombard Phnom Penh. Because my family loved property, we did not leave home. Three days later, when we learnt that one family did not leave home and the Khmer Rouge shot them dead, my family left the city”); Civil Party Application of ██████████ 08-VU-00649, E3/4839, ERN 00893371 (“Suddenly, three or four black-suited teenage soldiers, who were standing along the road and holding 47AK guns and two 40B rocket launchers, with their folded sleeves and pants’ legs, ran towards me and pointed their guns at me. They threatened me saying, “Go! Go! Go away! What are you doing? Do you want to die? “ I kneeled down in front of them putting my hands together and implored them in fear ”); Written Record of Interview with Civil Party ██████████ D296/8, ERN 00434920, (“After my husband’s departure, the Khmer Rouge Soldiers pointed their guns at me and the other villagers, forcing us to to move ahead. I stepped forward with my children. They threatened to kill us if we didn’t move. I continued aimlessly, with no destination. I did not have enough to eat. I only had rice that I had brought from home. I remained alone with my eight children.”)

⁶⁷ E1/197.1, Oral testimony by ██████████ Transcript of Trial Proceedings of 27 May 2013, p.11, lines 6-9, ERN 00916501

⁶⁸ E1/199.1, Oral testimony by ██████████ Transcript of Trial Proceedings of 30 May 2013, p.96, lines 5-9, ERN 00917720.

⁶⁹ Civil Party Application of ██████████ 08-VU-00649, E3/4839, ERN 00893370 (“Telling them to leave the city as soon as possible without bringing any property to avoid difficulties because imperialist Americans were going to bomb the city soon. They announced that the people had to leave the city immediately and would be back in a few days.”); Civil Party Application of ██████████ 09-VU-00809, D22/340, ERN 00864536 (“At that time, the Khmer Rouge soldiers entered into Phnom Penh. They announced to all people to prepare luggage and to leave Phnom Penh immediately because they were afraid of American warplanes bombing the city. They also announced that in just three days, all the people could come back to the city. On that day, my father quickly prepared some luggage before leaving the city with my mother, my younger brother and sister and myself.”); Civil Party Application of ██████████ At 08-VU-02371, E3/4707, ERN 00417896 (“17 April 1975: At that time, the whole family was forced to leave immediately, allowing us to have no time to take any belongings, except the few clothes.”)

⁷⁰ E1/199.1, Oral testimony by ██████████, Transcript of Trial Proceedings of 30 May 2013, p.6, lines 11-15, ERN 00917630.

⁷¹ E1/200.1, Oral testimony by ██████████ Transcript of Trial Proceedings of 4 June 2013, p.8, lines 3-11, ERN 00918598.

⁷² See annex: description of criminal acts by Ms ██████████ E3/3963, pp. 1-3. Or civil party application of ██████████, E3/4681 (D22/40), p. 5.

⁷³ Civil Party Application of ██████████ 08-VU-00231, E3/4833, ERN 00932666 (“On 18 April 1975, The Khmer Rouge expelled and deported my family from Phnom Penh. They made an announcement using loud speakers, “Compatriots, leave your homes for the outskirts for three days, the Americans are going to start bombing. Take very little and do not lock the door, Angker will take charge, you will not lose anything.”); Civil

Party Application of Mme. ██████████ **E3/4674**, ERN 00842203 (“That regime robbed me of the properties such as land, house and car.”); Civil Party Application of ██████████ 10-VU-00382, **E3/5745**, ERN 00911400 (“After the Khmer Rouge took power, I lost approximately 30 hectares of land in Kirivong, Takeo province, approximately 20 cows, three houses (in the province of Takeo); a car, and a bicycle.”).

⁷⁴ **E1/199.1**, Oral testimony by Ms ██████████ Transcript of Trial Proceedings of 30 May 2013, p.46, lines 11-14, ERN 00917670.

⁷⁵ Oral testimony by Ms ██████████ Transcript of Trial Proceedings of 6 November 2012, **E1/141.1**, p. 14, lines 6-11.

⁷⁶ **E1/198.1**, Oral testimony by Ms ██████████ Transcript of Trial Proceedings of 29 May 2013, p.15, lines 6-12, ERN 00917227

⁷⁷ **E1/200.1**, Oral testimony by Ms ██████████ Transcript of Trial Proceedings of 4 June 2013, p.19-20, lines 21-25 and 1-3, ERN 00918609-00918610.

⁷⁸ Oral testimony by ██████████, Transcript of Trial Proceedings of 30 May 2013, **E1/199.1**, p. 11, lines 6-16 (FRE).

⁷⁹ **E3/4722**, Civil Party Application of ██████████ ERN 00463052: (“The trip was extremely difficult because I just delivered my baby in the last two weeks. I had to walk for hundreds of kilometres without enough water and food and directly under the summer’s heat. I felt so pity for my little children when they cried.”); **E3/5084**, Civil Party Application of ██████████ 10-VU-00186, ERN 00569477 (“During this journey we slept on the bare dirt ground. Our food quickly ran out and the KR did not give us any food; we drank whatever water we could find.”); **E3/5042**, Civil Party Application of ██████████ 09-VU-03598, ([TRANSLATION]: “We walked under the sun and the rain and we spent a night along the wayside. Some weren’t able to sleep because they did not have any mosquito nets. They made a fire. The children wailed because they were hungry.”); **E3/5736** Civil Party Application of ██████████ ERN 00922084 (“We trudged along with our small bundles of belongings under the arm until we reached *Roka Kaong*. It was 40 degrees Celsius in the shade. April is the hottest month in Cambodia. We were walking aimlessly, with no water, food or shelter. The streets were teeming with people.”); **E3/4811**, Civil Party Application of ██████████ 09-VU-00112, ERN 00893348 (“Due to malnutrition, my son died when he was six months old. He died because I could not feed him. My daughter, Rasy, also died due to insufficient food.”); **E3/4812**, Civil Party Application of ██████████ 08-VU-02353, ERN 00793356 (“I then got sick, and became very thin that my breasts could not produce milk to feed my child. Eventually my child died when he was nine months old due to complete absence of breast milk.”)

⁸⁰ **E1/200.1**, Oral testimony by Ms ██████████ Transcript of Trial Proceedings of 4 June 2013, p.9, lines 9-11, ERN 00918599.

⁸¹ **E1/197.1**, Oral testimony by Ms ██████████ Transcript of Trial Proceedings of 27 May 2013, p.58, lines 17-20, ERN 00916548.

⁸² **E1/197.1**, Oral testimony by Ms ██████████ Transcript of Trial Proceedings of 27 May 2013, p.16, lines 2-4, ERN 00916506.

⁸³ **E3/4664**, Civil Party Application of ██████████ ERN 00156847 (“On my way out of Phnom Penh (Monivong road), I saw many corpses of soldiers killed in the war and the corpses of civilians who were killed by the Khmer Rouge for refusing to leave their houses at their orders.”); D22/350.1, Annex 1: Annexes 4, ERN 00887719 (“During the period of two months, my living condition was to ask for food from the Khmer Rouge and pack up some tree leaves to eat. In paddy fields, ponds, rivers were full of dead bodies because of the civil war.”)

⁸⁴ **E1/200.1**, Oral testimony by Ms ██████████ Transcript of Trial Proceedings of 4 June 2013, p.105-106, lines 11-25 and 1, ERN 00918695-00918696.

⁸⁵ Oral testimony by Ms ██████████ Transcript of Trial Proceedings of 27 May 2013, **E1/197.1**, p. 11, lines 24-25. P.12 lines 1-5.

⁸⁶ **Pregnant women giving birth: E3/4951**, Supplementary information form of civil party applicant ██████████ ERN 00874077 (“While we were travelling from Phnom Penh to the province, my husband was ill and unable to walk, so I pulled him in a cart even though I was 8-months pregnant at that time. During that time, our life was so miserable, worse than death.”); **E3/4722** Supplementary information form of civil party applicant ██████████ ERN 00463052: “The trip was extremely difficult because I just delivered my baby in the last two weeks. I had to walk for hundreds of kilometres without enough water and food and directly under the summer’s heat. I felt so pity for my little children when they cried.”); **E3/5042**, Civil Party Application of ██████████ 09-VU-03598, ([TRANSLATION]: “They attempted to find their loved ones. God have mercy! Nobody could help them, because everybody was only thinking about staying alive. Some women gave birth without the help of a midwife. They looked sickly. It was truly dreadful!”); **E3/4811**, Civil Party Application of ██████████ 09-VU-00112, ERN 00893348 (“I delivered another son in complete misery as there was no medical staff and no

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medicine.”); *Very young children wailing*: E3/5042, Civil Party Application of [REDACTED] 09-VU-03598, ([TRANSLATION]: “We walked under the sun and the rain and we spent a night along the wayside. Some weren’t able to sleep because they did not have any mosquito nets. They made a fire. The children wailed because they were hungry.”); *Children separated from their parents*: E3/4722 Supplementary information form of civil party applicant [REDACTED] ERN 00463053 (“Three of my children; [REDACTED]; were separated to children unit and they were made to work just like adults. I felt so pity for my children. They could not study and they never had enough foods.”).

⁸⁷ Civil Party Application of [REDACTED] 09-VU-01969, E3/5005, D22/2953, ERN 00871750.

⁸⁸ Oral testimony by Mme [REDACTED] Transcript of Trial Proceedings 6 November 2012, E1/141.1, p. 28, lines 18-24.

⁸⁹ E1/198.1, [REDACTED] TCCP-198

⁹⁰ Oral testimony by Ms [REDACTED] Transcript of Trial Proceedings of 30 May 2013, E1/199.1, p. 100, lines 4-9.

⁹¹ Civil Party Application of [REDACTED] E3/4653 (D22/306), p. 1. *See also* Oral testimony by Mr. [REDACTED] Transcript of Trial Proceedings 7 February 2013, E1/170.1, p. 26, lines 9-14 and Oral testimony by ms [REDACTED] Transcript of Trial Proceedings of 29 May 2013, E1/198.1, p. 80, lines 11-21 and Civil Party Application of de [REDACTED] 08-VU-00650, E3/4838 (D22/1340), p. 2.

⁹² Civil Party Application of [REDACTED] E3/5736, ERN 00922084 (“At the other end of town, I saw a new-born baby next to a lifeless body. It was the body of its mother who had died only moments earlier (presumably that morning”. The new-born baby was trying to reach for its mother’s breasts while crying at the top of its voice. Nobody dared to take any action to do anything, because stepping out of the long line of deportees without permission from the Khmer Rouge soldiers was not allowed, and anyone who did not comply risked getting shot there and then. My instinct told me that I should do something for the poor little child. Right as I was preparing to “do something”, I saw a heavily armed Khmer Rouge soldier walk up to the baby. He grabbed hold of the baby. Separated from its mother’s body, the baby began crying at the top of its voice. The barbarian grabbed both its tiny legs, one in each hand, and pulled them apart; he ripped the baby’s body apart nonchalantly without wincing; he saw absolutely nothing wrong with that. The baby died instantly! I was petrified. I was in tears. I wanted to cover my face with my hands but could not as I was carrying my small bags of belongings. So to avoid watching anymore savagery, I turned away and walked away with a heavy heart. The killing site of new born babies has been immortalized in a drawing by Vannath.”)

⁹³ E1/197.1, Oral testimony by Ms [REDACTED] Transcript of Trial Proceedings of 27 May 2013, p.15, lines 13-15, ERN 00916505.

⁹⁴ E1/197.1, Oral testimony by Mr Yos Phal, Transcript of Trial Proceedings of 27 May 2013, p.76-77, lines 21-24 and 2-5, ERN 00916566-00916567.

⁹⁵ E3/4664, Civil Party Application of [REDACTED] ERN 00156847-0156848 (“Then my father appeared together with another 7 persons and the Khmer Rouge recorded their names and pushed them into the truck as if they were prisoners. My family waited for the news from my father for three months but there was no information about him. During the time when my family was waiting, I saw corpses floating in the water but they were all men with blind folding. Someone told me that my father may be killed by the Khmer Rouge because those high ranking officials were ordered to wash and collect the corpses in the city. They were deprived of food and brought to be shot in front of the Royal Palace. I felt hopeless but my mother remained hopeful.”); D22/350.1, Annex 1, Annexes 4, ERN 00887719 (“From then I separated from my family. I tried to find them from the national road number 1 to the national road number 5; however, I could not find them.”); E3/5105, Civil party application of [REDACTED] 10-VU-00573, ERN 00891065 (“In 1979, my family, which used to be a big family in 1975, became a broken family. When we had left Phnom Penh, there were 15 family members but when we came back, only six people survived. We lost nine family members.”); E3/4811, Civil Party Application of [REDACTED] 09-VU-00112, ERN 00893347 (“My husband and child have also since disappeared. I had never faced such a traumatic loss of husband and children.”); E3/4832, Supplementary information of civil party [REDACTED] ERN 00853101 (“Having lost him, I felt he had gone somewhere. I have searched to hear about my father and my older sisters, but I have never heard about them at all. I think that, if we were living together now, my family would be happier, and my life today would also be much better.”).

⁹⁶ SUMMARY TCCP-141 ([REDACTED] Relevant Transcript(s) : E1/200.1

⁹⁷ 04/06/2013 Trial Day 187 (Draft Transcript) – Pages 50 & 51 E1/200.1 M. [REDACTED]

⁹⁸ E1/197.1, Oral testimony by Mr [REDACTED] Transcript of Trial Proceedings of 27 May 2013, p.35, lines 4-18, ERN 00916525

⁹⁹ Oral testimony by Mr [REDACTED] Transcript of Trial Proceedings of 23 November 2012, E1/146.1, p. 95, lines 20-25.

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¹⁰⁰ Civil Party Supplementary Information Form, **E3/4951**, ERN 00874079-00874080 (“While we were travelling from Phnom Penh to the province, my husband was ill and unable to walk, so I pulled him in a cart even though I was 8 months pregnant at that time. During that time, our life was so miserable, worse than death. On the way, the Khmer Rouge took the cart from me. Theyn they beat my husband and killed him by beating him and cutting his throat in front of me. My pain is indescribable.”)

¹⁰¹ **E1/198.1**, Oral testimony by Ms [REDACTED] Transcript of Trial Proceedings of 29 May 2013, p.8, lines 5-8 and 10, ERN 00917220.

¹⁰² **E1/197.1**, Oral testimony by Mr Yos Ohal, Transcript of Trial Proceedings of 27 May 2013, p.79, lines 5-7, ERN 00916569

¹⁰³ **E1/198.1**, Oral testimony by Ms [REDACTED] Transcript of Trial Proceedings of 29 May 2013, p.17, lines 13-18, ERN 00917229.

¹⁰⁴ Oral testimony by Mr. [REDACTED] Transcript of Trial Proceedings of 4 June 2013, **E1/200.1**, p. 83, lines 23-25, ERN 00918673 (“And I have separated with my relatives. I had to leave from one place to another in search of my relatives. I went to various refugee camps, but I could not find any of my relatives there.”)

¹⁰⁵ **E1/198.1**, Oral testimony by Ms [REDACTED] Transcript of Trial Proceedings of 29 May 2013, p.13, lines 3-8, ERN 0091725.

¹⁰⁶ Oral testimony by Ms [REDACTED] Transcript of Trial Proceedings of 6 November 2012, **E1/141.1**, p. 14, lines 22-25 – p. 15, lines 1-5.

¹⁰⁷ Oral testimony by Mr Yos Phal, Transcript of Trial Proceedings of 27 May 2013, **E1/197.1**, p. 75, lines 6-9.

¹⁰⁸ Complaint of [REDACTED] 10-VU-00573, **E3/5105**, ERN 00891064 (“While we were travelling in the cold season through rain without having enough food to eat and nothing to cover our bodies, my old and young family members died miserably.”).

¹⁰⁹ Oral testimony by Mr [REDACTED] Transcript of Trial Proceedings of 23 May 2013, **E1/196.1**, p. 34, lines 7-20, ERN 00917884.

¹¹⁰ **E1/200.1**, Oral testimony by Ms [REDACTED] Transcript of Trial Proceedings of 4 June 2013, p.103, lines 10-17, ERN 00918693.

¹¹¹ **E1/199.1**, Oral testimony by Ms [REDACTED] Transcript of Trial Proceedings of 30 May 2013, p.56-57, lines 22-25 and 1-6, ERN 00917680-00917681.

¹¹² **E1/198.1**, Oral testimony by Ms [REDACTED] Transcript of Trial Proceedings of 29 May 2013, p.46, lines 12-24, ERN 00917258.

¹¹³ **E1/199.1**, Oral testimony by Ms [REDACTED] Transcript of Trial Proceedings of 30 May 2013, p.103, lines 10-25, ERN 00917727.

¹¹⁴ **E1/198.1**, Oral testimony by Ms [REDACTED] Transcript of Trial Proceedings of 29 May 2013, p.14, lines 21-24, ERN 00917226.

¹¹⁵ **E1/200.1**, Oral testimony by Ms [REDACTED] Transcript of Trial Proceedings of 4 June 2013, p.11-12, line 25 and line 1, ERN 00918601-00918602.

¹¹⁶ **E1/200.1**, Oral testimony by Ms [REDACTED] Transcript of Trial Proceedings of 4 June 2013, p.17, lines 7-12 and p. 18, lines 3-4, ERN 00918607 and 00918608.

¹¹⁷ Civil Party Application of [REDACTED] D22/348, ERN 00922085-00922087 ([TRANSLATION] Muy told me that she could not stop thinking about her parents, who had been missing since the day of evacuation. (...) Towards the end, the Khmer Rouge told me to “keep open my eyes and ears » whilst they pulled Muy from the pit and sat her on its edge. While carrying the pickaxe in one hand, one of the two Khmer Rouge grabbed Muy, saying, “you wanted to go see your parents and your family, huh, we will now help you to go join them” No sooner had he finsied his sentence I saw him kill Muy with a picaxe blow to her nape”; Complaint of [REDACTED] [REDACTED] 09-VU-00219, E3/4808 ERN 00891199 (“My younger sister and I wept secretly and did not let others hear us crying because we were afraid they might kill us too”).

¹¹⁸ **E1/197.1**, Oral testimony by Mr Seng Rath, Transcript of Trial Proceedings of 27 May 2013, p.60-61, lines 15-25 and 1-4, ERN 00916550-00916551

¹¹⁹ **E1/198.1**, Oral testimony by Ms [REDACTED] Transcript of Trial Proceedings of 29 May 2013, p.95, lines 8-10, ERN 00917307.

¹²⁰ **E1/152.1**, Oral testimony by Ms [REDACTED] Transcript of Trial Proceedings of 12 December 2012, p.94, lines 18-22, ERN 00871253

¹²¹ **E1/153.1**, Oral testimony by [REDACTED] Transcript of Trial Proceedings of 12 December 2012, p.105, lines 11-21, ERN 00871974.

¹²² **E1/200.1**, Oral testimony by Ms [REDACTED] Transcript of Trial Proceedings of 4 June 2013, p.102, lines 3-13, ERN 00918692.

¹²³ Civil Party Application of ██████████ 09-VU-00112, E3/4811 ERN 00923387 ([Translation] My relatives died one after the other, it nearly made me mad with grief and I too wanted to die).

¹²⁴ **D22/2068**, Civil Party application of ██████████ 09-VU-00126, ERN 00893384

¹²⁵ **D22/131**, Civil Party application of ██████████ ERN 00391744

¹²⁶ **E1/199.1**, Oral testimony by Ms ██████████ Transcript of Trial Proceedings of 30 May 2013, p.100-101, lines 20-25 and 1, ERN 00917724-00917725.

¹²⁷ **E1/197.1**, Oral testimony by Mr ██████████ Transcript of Trial Proceedings of 27 May 2013, p.40, lines 2-6, ERN 00916530.

E1/199.1, Oral testimony by Mr ██████████ Transcript of Trial Proceedings of 30 May 2013, p.63, lines 4-7, ERN 00917687.

¹²⁹ Civil Party Supplementary Information Form, E3/4800, ERN 00835937 (“ten of my relatives were killed in that regime. Whenever I recall these stories, I want to commit suicide and die with them. I always think of them.”)

¹³⁰ **E1/200.1**, Oral testimony by Mr ██████████ Transcript of Trial Proceedings of 4 June 2013, p.104, lines 1-3, ERN 00918694.

¹³¹ **E1/199.1**, Oral testimony by Ms ██████████ Transcript of Trial Proceedings of 30 May 2013, p.105, lines 5-7, ERN 00917729.

¹³² **D22/2896**, 00793364.

¹³³ Civil Party Application of ██████████ E3/4892, ERN 00890956 (“In 1975, the Khmer Rouge banned the worship of God.”).

¹³⁴ Oral Testimony of Mr. Stephen Heder, Transcript of Trial Proceedings of 10 July 2013, **E1/221.1**, p. 85, lines 16-21 (FRE).

¹³⁵ Civil Party Application of ██████████ E3/4706, ERN 00417861 (“1976: The Khmer Rouge put a stop to religion. Islam was an important target for eradication. The Khmer Rouge absolutely prohibited the Cham people to sâmpéas yang (worship), did not allow them to speak the Cham language, and every single Cham custom and tradition, wearing scarves and Cham clothing, was forbidden.”); Civil Party Supplementary Information Form, E3/5079, ERN 00894118 (“They destroyed the holy boards for worshipping our God and went up into our stilt houses to search for the Koran and other books written in the Cham script; they destroyed them all. They did not allow worship, and they burned and destroyed mosques and turned them into food warehouses instead.”); Civil Party Supplementary Information Form, E3/5060, ERN 00856209 (“The Khmer Rouge had forced us to eat pork, and if we refused to do it, they would kill us.”).

¹³⁶ Civil Party Application Form of ██████████ **E3/4734** (D22/309), p. 4 and Civil Party Supplementary Information Form, **E3/4976** (D22/2673a), p. 3.

¹³⁷ **D22/31**, 00279713-00279714

¹³⁸ **D22/2560a**, 00842817

¹³⁹ Civil Party Supplementary Information Form, **E3/4951**, ERN 00874077 (“My pain is indescribable and I have had amnesia and been horrified until the present. I have been to psychiatric hospitals in Takeo and Kampot provinces and received medications many times.”); Civil Party Application of ██████████ 08-VU-02337, **E3/4722**, ERN 00463054 (“My family has been in poverty up to now because the Khmer Rouge caused destruction to my family’s properties.”); Civil Party Application of ██████████ 08-VU-00243, **E3/4850**, ERN 00906238 ([Translation] “After the liberation of 7 January 1979, after having lost my parents, I became an orphan, with no one to look after me, I went to live with my aunt in Roka commune, Kandal Steung District, Kandal province.”); Civil party application of Ms. ██████████ **E3/4695**, ERN 00391745 (“When thinking back to the Khmer Rouge regime, it hurts me deeply. I feel pity for my children who died very young from the lack of rice to eat and they died one after the other.”); Civil Party Supplementary Information Form, **E3/4807**, ERN 00846969: (« I suffer from a kidney condition because I used to drink unsafe water and eat unsafe food. I suffer from frequent headaches, and I get headaches very easily. I also have a problem with my nerves and suffer from memory loss”).

¹⁴⁰ **E1/200.1**, Oral testimony by Ms ██████████ Transcript of Trial Proceedings of 4 June 2013, p.38, lines 2-6, ERN 00918628.

¹⁴¹ **E1/200.1**, Oral testimony by Ms ██████████ Transcript of Trial Proceedings of 4 June 2013, p.38, lines 2-6, ERN 00918628.

¹⁴² **E1/197.1**, Oral testimony by Mr ██████████ Transcript of Trial Proceedings of 27 May 2013, p.39, lines 20-22, ERN 00916529.

¹⁴³ **E1/197.1**, Oral testimony by Mr ██████████ Transcript of Trial Proceedings of 27 May 2013, p.41 and p. 42, lines 19-22 + line 25 and lines 1-5, ERN 00916531 and 00916532.

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¹⁴⁴ **E1/197.1**, Oral testimony by ██████████ Transcript of Trial Proceedings of 27 May 2013, p.42 and p. 43, lines 23-24 and lines 2-4 + lines 7-11, ERN 00916532 and 00916533.

¹⁴⁵ **E1/198.1**, Oral testimony by ██████████ Transcript of Trial Proceedings of 29 May 2013, p.52, lines 15-17 + 22-24, ERN 00917264.

¹⁴⁶ **E1/199.1**, Oral testimony by ██████████, Transcript of Trial Proceedings of 30 May 2013, p.76, lines 10-11, ERN 00917700.

¹⁴⁷ **E1/198.1**, Oral testimony by ██████████ Transcript of Trial Proceedings of 29 May 2013, p.100, lines 7-8, ERN 00917312.

¹⁴⁸ **E1/198.1**, Oral testimony by ██████████ Transcript of Trial Proceedings of 29 May 2013, p.102, lines 4-9, ERN 00917314.

¹⁴⁹ **E3/4842** Civil Party Supplementary Information Form, ERN 00865106 (“I had great pain over the suffering I experienced in that cruel regime. Until today, I still pity my beloved relatives who were killed without any wrongdoing.”)

¹⁵⁰ **E1/138.1**, Lay Bony, 4 October 2012

¹⁵¹ **E1/198.1**, ██████████ 29 May 2013

¹⁵² **E1/198.1**, Oral testimony by Ms ██████████ Transcript of Trial Proceedings of 29 May 2013, p.12, lines 11-15, ERN 00917224.

¹⁵³ Civil Party Application of ██████████ **E3/4667**, ERN 00347789 (“I often have nightmares, and every night, I think of the period when I felt tormented and of my father dying in such horrendous conditions.”); Civil Party Application of Mr. ██████████ **E3/4694**, ERN 00398345: (“When I recall the Khmer Rouge regime, I am scared. When I hear a loud sound I am startled and become dizzy.”)

¹⁵⁴ Oral testimony by ██████████ Transcript of Trial Proceedings of 6 November 2012, **E1/141.1**, p. 68, lines 17-22.

¹⁵⁵ D22/10, 00188827

¹⁵⁶ D22/1370.1, 00943275

¹⁵⁷ D22/3766, 00846012

¹⁵⁸ Oral testimony by ██████████ Transcript of Trial Proceedings of 29 May 2013, E1/198.1, p. 16, ERN 00917106, lines 20-25.

¹⁵⁹ Oral testimony by ██████████, Transcript of Trial Proceedings of 30 May 2013, E1/199.1, p. 9, ERN 00917512, lines 10-17.

¹⁶⁰ Oral testimony by ██████████ Transcript of Trial Proceedings of 4 June 2013, **E1/200.1**, p. 63, lines 17-25, ERN 00918653.

¹⁶¹ **E1/198.1**, Oral testimony by ██████████ Transcript of Trial Proceedings of 29 May 2013, p.16, lines 1-18, ERN 00917228.

¹⁶² **E1/201.1**, Transcript of Trial Proceedings of 5 June 2013, a bit before 13.52.33 in the English transcript

¹⁶³ **E1/201.1**, Transcript of Trial Proceedings of 5 June 2013, a bit before 13.56.03 in the English transcript

¹⁶⁴ **E1/201.1**, Transcript of Trial Proceedings of 6 June 2013

¹⁶⁵ **E1/202.1**, Transcript of Trial Proceedings of 6 June 2013, a bit before 13.38.47 in the English transcript

¹⁶⁶ **E1/201.1**, Transcript of Trial Proceedings of 5 June 2013, a bit before 15.09.30 in the English transcript

¹⁶⁷ Transcript of Trial Proceedings of 6 June 2013, E1/202.1, p 81 and 82

¹⁶⁸ Transcript of Trial Proceedings of 5 June 2013, E1/201.1, p 109, and E285.1.1 Chapter 7

¹⁶⁹ Public Attachment 4: Nadine Stammel et al, “Prolonged Grief Disorder Three decades Post Loss in Survivors of the Khmer Rouge Regime in Cambodia,” *Journal of Affective Disorders* 144 (2013); 87, **E285.1.4**, p.5

¹⁷⁰ Attachment 3: Grant N. Marshall et al, “Mental Health of Cambodian Refugees 2 Decades After Resettlement in the United States,” *Journal of American Medical Association* 294 (2005); 571, E285.1.3, pp 5-6.

¹⁷¹ *Ibid*, pp.5-6

¹⁷² Letter N° LCLs-2013-00014 of the Civil Party Lead Co-Lawyers, 7 March 2013, Annex 1: Supporting Documents for Project 1: National Remembrance Day, p. 1 (“Annex 1”).

¹⁷³ Lettre n° 1134 Notification from the President of the Council of Ministers, 11 June 2013, Annex 1 : Supporting Documents for Project 1: National Remembrance Day, p. 7 (“Annex 1”).

¹⁷⁴ E218/7, Memorandum from the Chamber (p. 2, l. 5 from last paragraph).

¹⁷⁵ See Organizational Information: Kdei Karuna Organization and Youth for Peace Partner Description, Annex 2: Supporting Documents for Project 2: Public Memorials Initiative, pp. 5-6 (“Annex 2”).

¹⁷⁶ See Letter of Undertaking, le 22 August 2013, *Ibid*, pp. 1-2.

¹⁷⁷ Letter of Undertaking between Lead Co-Lawyers, the Victims’ Support Section, Youth for Peace and *Kdei Karuna*, dated 22 August 2013, Annex 2, pp. 1-2.

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¹⁷⁸ Lettre n° 1134 Notification from the President of the Council of Ministers, 11 June 2013, Annex 1 : Supporting Documents for Project 1: National Remembrance Day, p. 7 (“Annex 1”).

¹⁷⁹ See note on SERA, Annex 3: Supporting Documents for Project 3: Memorial to Khmer Rouge Victims—“For Those Who Are No Longer Here,” p. 5 (“Annex 3”).

¹⁸⁰ See project description and sketch, Annex 3, pp. 12-28.

¹⁸¹ See letter of undertaking from SERA, 1 October 2013, Annex 3, p. 1.

¹⁸² See letter of undertaking from the Association of businesses, 30 September, Annex 3, pp. 2-3.

¹⁸³ See Letter of undertaking from project partner, 30 September, Annex 3, pp. 2-3.

¹⁸⁴ *Ibid.* and letter from the Embassy of France in Cambodia, 14 August 2013, Annex 3 p. 7.

¹⁸⁵ See Project Partners’ Presentation “Monument in memory of Khmer Rouge victims residing in France”, Annex 4: Supporting Documents for Project 4 : Monument in Memory of the Victims of the Khmer Rouge Regime for Cambodians in France (“Annex 4”), pp. 3.

¹⁸⁶ See Letter from the FIDH (“Letter of Intent”), 18 September 2013, Annex 4, p. 7.

¹⁸⁷ *Ibid.*

¹⁸⁸ See Transcultural Psychosocial Organization Cambodia (TPO Cambodia): Brief Presentation, Annexes 5 & 6: Supporting Documents for Projects 5 & 6 : Testimonial Therapy and Self-Help Groups (“Annexes 5 & 6”), p. 5.

¹⁸⁹ See Letter of Engagement for Testimonial Therapy and Self-Help Groups Projects, le 5 June 2013, Annexes 5 & 6, pp. 1-2.

¹⁹⁰ Letter of the Federal Ministry for Economic Cooperation and Development (BMZ) re: German Financial Contribution to the ECCC Reparations Program, 17 July 2013, Annexes 5 & 6, pp. 6-7.

¹⁹¹ See Letter of Engagement for Testimonial Therapy and Self-Help Groups Projects, 5 June 2013, Annexes 5 & 6, pp. 1-2.

¹⁹² See Letter of the Federal Ministry for Economic Cooperation and Development (BMZ) re: German Financial Contribution to the ECCC Reparations Program, 17 July 2013, Annexes 5 & 6, pp. 6-7

¹⁹³ Letter of Stiftung Kriegstrauma-Therapie re: Support for Transcultural Psychosocial Organization Cambodia (TPO Cambodia) and Reparation Project, 19 September 2013, Annexes 5 & 6, p. 8.

¹⁹⁴ See Letter of the Federal Ministry for Economic Cooperation and Development (BMZ) re: German Financial Contribution to the ECCC Reparations Program, 17 July 2013, Annexes 7 & 9: Supporting Documents for Projects 7 & 9: Permanent Exhibitions in Five Provincial Museums and Redaction of a Specific Chapter on Forced Transfer and the Tuol Po Chrey Execution Site (“Annexes 7 & 9”), pp. 12-13.

¹⁹⁵ Memorandum from the Trial Chamber “Trial Chamber’s subsequent and Final Order on the Updated Specification of Civil Party Priority Projects as reparations pursuant to Rule 81bis(4) (E218/7/3)”, **E218/7/4**, 6 September 2013, para. 6.

¹⁹⁶ See ECCC Reparation Project Overview, Annex 8: Supporting Documents for Project 8: Mobile Exhibition on Forced Transfers (“Annex 8”), p. 3.

¹⁹⁷ See Project Partner Descriptions, Annex 8, pp. 4-6.

¹⁹⁸ See Letter of Undertaking for the Mobile Exhibition Project on Forced Transfer, Annex 8, pp. 1-2.

¹⁹⁹ See Letter of the Federal Ministry for Economic Cooperation and Development (BMZ) re: German Financial Contribution to the ECCC Reparations Program, 17 July 2013, Annex 8, pp. 7-8.

²⁰⁰ Agreement between BMZ and VSS

²⁰¹ See ECCC Reparation Project Overview, Annex 8, pp. 3 and Reparation Project Proposal, Annex 8, pp. 9-33.

²⁰² See Letter of Engagement on DC-Cam’s Genocide Education Project as a Reparation, Annexes 7 & 9, pp. 1-2.

²⁰³ See Verification of Secured Funding for Reparation Project, Annexes 7 & 9, p. 11.

²⁰⁴ Letter of the Royal Government of Cambodia re : Request for Permission to Use the Name Sleuk Rith Institute for the Permanent Documentation Center of Cambodia from the Year 2011, 23 December 2010 Annex 9, p. 10 and p 11.

²⁰⁵ Memorandum from the Trial Chamber “Trial Chamber’s subsequent and Final Order on the Updated Specification of Civil Party Priority Projects as reparations pursuant to Rule 81bis(4) (E218/7/3)”, **E218/7/4**, 6 September 2013, para. 8.

²⁰⁶ See Common letter of Authorization, Annex 10: Supporting Documents for Project 10: Community Peace Learning Center at Samrong Khnong (“Annex 10”), pp. 16-18.

²⁰⁷ See Reparation Project Proposal Community Peace Learning Center, Annex 10, pp. 19-33.

²⁰⁸ Letter of Engagement for Community Peace Learning Center at Samrong Knong in Battambang Province, 22 August 2013, Annex 10, pp. 1-2.

²⁰⁹ See Contract No. 81019131 between the Swiss Confederation and Youth for Peace, 16 September 2013, Annex 10, pp. 8-12.

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²¹⁰ See Common letter of Authorization, 16 September 2013, Annex 10, pp. 16-18.

²¹¹ See Reparation Project Proposal, Annex 11: Supporting Documents for Project 11: Civil Party Stories—An Illustrated Storybook of the Khmer Rouge Victims Participating at the ECCC (“Annex 11”), pp. 12-26.

²¹² See Letter of Engagement for Civil Party Stories of CHRAC: An Illustrated Story Book of the Khmer Rouge Victims Participating in the ECCC, le 13 September 2013, Annex 11, pp. 1-2.

²¹³ See Cambodian Human Rights Action Committee (CHRAC) Brief Presentation, Annex 11, p. 4.

²¹⁴ See Contribution Letter for Reparation Project, Annex 11, p. 5.

²¹⁵ See Annex 12, p. 3 and 4.

²¹⁶ See Confidential Annexes 12 & 13: Supporting Documents for Projects 12 and 13: Publication of the Judgment and Publication of Civil Party Names, p. 1.

²¹⁷ *Idem*.

²¹⁸ Case 001 Appeals Judgement, **F28**, 3 February 2012, para. 661, see also e.g., *Bámaca-Velásquez v. Guatemala. Reparations and Costs. Inter-Amer. Ct. H.R.*, 22 Feb 2002 (Ser. C) No. 91; *Myrna Mack Chang v. Guatemala, Merits, Reparations and Costs, Inter-Amer. Ct. H.R.*, 25 Nov. 2003 (Ser. C) No. 101; *Las Dos Erres Massacre v. Guatemala, Preliminary Objection, Merits, Reparations and Costs, Inter-Amer. Ct. H.R.*, 24 Nov. 2009 (Ser. C) No. 211, paras. 284- 285; and *Blake v. Guatemala. Reparations and Costs, Inter-Am. Ct. H.R. (ser. C) No. 48 (22 Jan. 1999)*.

²¹⁹ Case 001 Appeals Judgement, **F28**, 3 February 2012, para. 658.

²²⁰ **E284**, Decision.

²²¹ **A/RES: 60: 147**, Resolution adopted by the General Assembly [of the United Nations], 21 March 2006

²²² Internal Rule 23*quinquies* (3)(b).

²²³ **E188**, Duch Judgement, para. 663.