

PROJECT DESIGN EVALUATION: VICTIMS PARTICIPATION PROJECT

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Dear Youk,

I am writing with my evaluation of the project design for the Victims Participation Project at the Documentation Center of Cambodia (DC-Cam). My report and suggestions are based on interviews conducted with members of the Victims Participation Project Team, members of the Extraordinary Chambers in the Court of Cambodia's Victims Unit, staff from local NGOs, and other DC-Cam staff members.

Overview of the Project

DC-Cam began its "Victims Participation Project" (VPP) in October 2007. The project aims to collect ten thousand Victims Information Forms by mid-to-late December of 2008, submit them to the Victims Unit of the Extraordinary Chambers in the Courts of Cambodia (ECCC), and promote a timely response to the forms by the ECCC. The current focus of the project is to locate people who filled out "*Renakse*" petitions in the early 1980's and to assist them in deciding whether and how to complete the Victims Information Form. The VPP will also provide information and assistance to other Cambodians who wish to learn more about the ECCC and fill out the Victims Information Form.

Overview of Progress To Date

The Victims Participation Project has gotten off to a strong start. In late October 2007, DC-Cam brought 280 Cham Muslim male and female religious teachers and chiefs from across Cambodia to Phnom Penh to learn about and if they so desired, complete the Victims Information Form. Two hundred forms were completed. The remaining 80 participants will fill in the forms at home in consultation with their families. Each participant also pledged to bring five copies of the complaint form home and to encourage their neighbors to file as well. In addition, in November, DC-Cam assisted 28 people from the Cambodian-Vietnamese community of Prey Veng province to file complaints and submitted them to the ECCC along with interviews (each was approximately 60 pages long). DC-Cam also assisted 115 residents of Phnom Penh and are providing similar help to a number of people living abroad whose relatives died during the regime.

The initial field team has been assembled and will be led by Mr. Terith Chy. It has met several times to discuss logistical issues, methodologies of document collection, and interview techniques. These discussions were supplemented by the creation of an interview manual by three DC-Cam Visiting Legal Associates from Harvard Law School—Andrew Steinman, Neil Pai, and Padriac Glaspy. The manual provides background on the purpose of the project, suggests techniques to be used while interviewing, and gives a step by step break down of each line of the Victims Information Form with instructions about how best to explain and assist in completing that section.

The Visiting Legal Associates also conducted a two-day training session to explain the contents of the interview manual and prepare DC-Cam staffers to conduct effective interviews in the field.

DC-Cam Legal Advisors John Ciorciari and Anne Heindel have also conducted meetings with ECCC officials, including officers from the Victims Unit and the Public Affairs Section relating to the Victims Participation Project.

The field teams will begin traveling to various communes in early-to-mid February, and Mr. Chy will join the teams when his work in Bangkok with the United Nations High Commissioner for Human Rights ends in late-February. The teams will use the *Renakse* petitions to determine which areas of Cambodia to focus their attention, as the primary focus of the project at this stage is to locate those who filled out *Renakse* petitions in the early 1980's and to verify the information that was then recorded.

Suggestions and Observations

A. Project Purpose and Messages

The Victims Participation Project has two declared purposes: first as a way of collecting and maintaining a historical record of the Khmer Rouge period with a focus on verifying the stories of those who completed *Renakse* petitions in the 1980s; second, to be of assistance to the Victims Unit of the ECCC in compiling complaints and applications to be joined as civil parties to individual cases. Overall, DC-Cam's hope is that focusing on the *Renakse* petitioners can restart a process of healing that began nearly 30 years ago.

DC-Cam needs to be clear about the dual purposes of the Victims Participation Project. First and foremost, it is important for victims to understand that their submissions are important as history even if they do not become featured parts of the criminal trials. This is a critical factor in ensuring that victims feel their voices have been heard. Second, DC-Cam's emphasis should serve as a reminder to the ECCC and other NGOs to show similar respect for the historical value of victims' submissions, even if they are not germane to the trials. The Victims Participation Project should seek to provide accurate and complete forms to the Victims Unit for the ECCC's purposes. However, the *primary* outcomes that DC-Cam is attempting to achieve are to improve the historical record of the Khmer Rouge Period and to promote reconciliation. Possible ways to make this emphasis clear include editorials and op-eds in print publications, a position paper produced by DC-Cam, and informing people who fill out the form that DC-Cam intends to use it for historical purposes, *as well as* providing it to the ECCC. This would require additional training to ensure that the field teams are accurately conveying DC-Cam's intentions with regards to the forms it collects.

A message that could be included to in-part clarify DC-Cam's goals for the project would state that the Victims Participation Project will provide information about the Victims Information Form (including what it means to be a complainant versus a civil party) and then will allow people to choose if they want to complete the form as a complainant, civil party, or not at all. No influence or advice will be exerted to persuade people to do anything with the form.

A benefit of the VPP is that if many of the *Renakse* petitioners are located (even a small number such as two to three thousand) and their stories verified, it will lend credibility to the other 1.1 million petitions that were filled out in the 1980s. Looking forward, other projects could be based on reaching out to those petitioners who the VPP could not locate to further develop a credible historical record and promote reconciliation.

B. Issues with Coordination

The Victims Unit (VU) has already reached out to local civil society organizations through meetings both with individuals and with multiple NGOs. The VU has expressed a desire to coordinate their efforts with those of civil society, through training sessions, meetings, and consolidation of messages.

DC-Cam's Victims Participation Project will attempt to provide the Victims Unit with a vast number of Victims Information Forms, and to this end, a high level of cooperation and coordination between DC-Cam and the Victims Unit will aid the overall impact of the effort to provide a voice to victims. There are a number of questions that should be addressed related to interactions with the Victims Unit as DC-Cam moves forwards with its Victims Participation Project:

1. Victims Information Form

Victims Participation Program staff members will assist Cambodians in filling out the Victims Information Form. This will provide VPP staff with insight into difficulties or problems with the form. DC-Cam has already noted several issues (such as the insufficient space to describe crimes and the form's small print), and the VU has been receptive to that feedback. As DC-Cam staff continues to work with the Victims Information Form, other issues could be noted to pass along to VU officers.

An additional issue may arise as the VU begins to process the forms. Some forms may be incomplete, illegible, or filled out improperly. In order to ensure that the greatest number of forms is processed and that those who wish to be civil parties are adequately considered, it may become important for DC-Cam to remain aware of deficiencies in completed forms and be in touch with the Victims Unit about possible remedies for those defects.

2. Comparing Lists

As DC-Cam provides completed forms to the VU, issues may arise related to the VU's ability to acknowledge receipt of the form to the person who filled it out. The potentially high volume of forms that the VU will have to manage could prevent the VU from responding to the complainant/civil party within the 60 days required by the ECCC's Practice Directive. One way to address this issue is by, on a recurring basis, requesting a list of forms that have been replied to. By comparing the list of forms sent to the VU by DC-Cam with the list of people who have been sent responses, DC-Cam can remain aware of feedback problems and can work with the VU to propose solutions.

3. Understanding the part that other NGOs will play

Day-to-day coordination with other NGOs in the field is unlikely to be efficient or productive due to differing methods of operation and different focuses on groups to target. However, there will be at least three other NGOs collecting completed Victims Information Forms (KID, ADHOC, CSD, and possibly others), and it will be useful to remain aware of what communes/provinces other organizations are working in and what the focus of their activities are. It could cost valuable time and resources to visit an area that has already had an NGO collect forms and submitted them to the court, as this will prevent the VPP team from collecting any forms in that area. A focus on locating *Renakse* petitioners will likely mitigate these issues, as there are no other NGOs that are targeting *Renakse* petitioners, however remaining aware of the activities of other NGOs and groups working on collecting Victims Information Forms will help ensure that the Victims Participation Project does not encounter unnecessary problems.

There are several different ways that the VPP can remain apprised of the activities of other NGOs, including informal ongoing conversations, posting the VPP's interview calendar on the DC-Cam website and tasking a staff member with checking the websites of other NGOs, and an e-mail listserv with dates and locations sent to relevant organizations.

C. DC-Cam's Role With Victims and Others Beyond Collecting and Submitting Forms To the ECCC

DC-Cam will not be functioning as a Victim's Association, nor will it in any way be providing legal representation, or information about legal representation to victims. It is essential for staff members to reinforce this point in their field interviews. This being said, DC-Cam's role will likely not, for practical purposes, end once the forms have been submitted to the ECCC. Potential areas in which DC-Cam may continue to play a role with victims include assisting the ECCC in delivering responses to complaints and civil party applications, correcting errors and omissions on the submitted forms, and holding conferences/meetings of victims in the future to assess the impact that filling out and submitting the Victims Information Form had on them.

It will be important for DC-Cam to be explicit with victims and the ECCC about what it will do beyond submitting the forms, particularly if DC-Cam agrees to carry out work on behalf of the court (such as delivering the responses). DC-Cam may want to inform the Victims Unit of its plans and work regarding further victim-related activities, and work with the Victims Unit to learn what assistance DC-Cam may have the resources and expertise to provide (i.e. functioning as a back-up storage site for the documents).

Clarifying DC-Cam's role beyond collecting and submitting the documents may also be important for managing the expectations of those who fill out the forms. If DC-Cam does not intend to play a role with the victims directly beyond collecting and submitting, this should be made clear to those filling out the forms.

The idea discussed above of "comparing lists" of documents submitted and responses sent out does not necessarily imply that DC-Cam's role involves remaining in touch with complainants. Instead, comparing lists can be viewed as a process through which DC-Cam is helping to keep the Victims Unit accountable for the responses.

An additional issue to be considered is to what extent information will be sought from *Renakse* petitioners about their experiences in filling out the petitions. If DC-Cam is attempting to further validate the accuracy of the *Renakse* petitions, conversations with former petitioners may be useful to achieving this goal. However, such conversations may detract from the ability of the VPP staff to efficiently assist in the completion of forms. Balancing the amount of historical information sought versus the ability to reach many people and also provide a significant number of forms to the court may also be an issue to consider.

D. Information Tracking

Once the Victims Participation Project gets underway, DC-Cam will have access to a great deal of information about the individuals who fill out the forms. An issue to be considered is what, if any, information will be retained by DC-Cam, and for what purposes that information will be used. The name and address of those who fill out the forms will likely be the least legally objectionable information for DC-Cam to retain. DC-Cam's legal advisors should also consult with the ECCC and with individual victims to determine whether the Center should also keep additional information, such as people's suggestions of what they may want as "collective and moral reparations."

To serve the historical purpose of the VPP (creating a historical record and verifying information from the *Renakse* petitions), DC-Cam should retain copies of the forms if possible. This raises issues that can be discussed with court officials, including issues related to confidentiality, maintenance of a back-up copy of records, and witness protection.

E. Collection

DC-Cam's target of collecting ten thousand Victims Information Forms is a formidable challenge. There are several important issues to be dealt with in order to approach the target number.

1. Resources

DC-Cam staff anticipate that there will be a permanent Victims Participation Team with approximately ten dedicated staff. Of these staff, two cannot travel in the field because they are part time staff who have other commitments.

The VPP team is planning to spend 20 days of every month in the field, with two teams of 5 people (10 people total) traveling to communes together. The staff have further informed me that it takes at least one hour to assist a victim in filling out the form, and that each staff member could help complete 4 forms a day under ideal conditions (i.e. that there are no difficulties in finding the meeting site, that there are enough people willing to fill out forms, that there are no delays, etc.).

This means that under ideal conditions, 40 forms would be completed a day, however staff members have commented that it would be more reasonable to assume that they will complete an average of 27-30 forms a day. Assuming that teams start going into the field in February, there are approximately 220 days for the staff to collect forms (11 months x 20 days a month). At this rate (30 forms a day X 220 days), the field teams will be able to collect 6600 forms in 11 months.

Main Point: The field teams will likely be able to collect between 5800-7000 forms in 11 months.

There are three considerations that follow from this calculation:

- a. Coordination of field trips prior to the teams departing will be important.

In order to allow the teams to work as efficiently as possible, it may be useful to have a dedicated VPP staff member, or a member of another DC-Cam team be responsible for coordinating the VPP field teams trips. This would include identifying the communes with the highest concentration of *Renakse* petitioners, identifying known commune chiefs in those areas, and contacting the commune chiefs both several weeks and several days before a planned visit to confirm that the team is expected.

- b. Additional team members may be needed

The scope and duration of the VPP indicate that additional team members may help ensure that the project reaches its targets. Adding additional members to the field teams will allow VPP staff to assist more victims on each trip. There may also be a need for additional team members based at DC-Cam to help coordinate trips, and organize and record information once the field teams have returned.

- c. Additional methods of collecting forms will need to be planned

As demonstrated above, for the VPP to achieve its goal of assisting in the completion of ten thousand Victims Information Forms, additional methods for collecting the forms will likely need to be devised. Possible ideas are to hold conferences every few months similar to the conference held in October with Cham Muslims. This would allow a large group of victims to assemble in one place where more DC-Cam staff members would be available than the ten in the field to assist people in choosing whether and how to fill out the forms. Students who are selected for training later in the year could also be trained to assist victims in filling out the forms as an additional source for forms. Further discussions on programs to bring in additional forms would be useful.

2. Debriefing

When VPP field teams return from collecting Victims Information Forms, a debriefing process could help discover issues with travel arrangements, gaps in training, or other issues that could be commented on to the VU. Establishing a formal or semi-formal debriefing process will allow these issues to be discussed and procedures revised to ensure that the efforts in the field are efficient and productive. Additionally, as new information or messages are created by the VU to be disseminated in conjunction with the Victims Information Forms, field teams will be in a position to provide feedback on the new messages that can be relayed to the Victim's Unit in a timely fashion so that difficulties can be immediately addressed.

F. Training

The VPP team now has a training manual and some members of the team have experience working with the form and assisting others in completing it. However, as the Court releases information about the crimes with which suspects have been charged and the areas in which prosecution will focus, and also begins making decisions that clarify who may file a civil party application, the VPP team will need to update its methods and messages. This issue can be partially resolved by keeping up to date with Court decisions and staying in contact with the Victims Unit to remain aware of any changes in procedures or messages.

In addition to trainings focused the legal issues raised by the forms, additional training measures could also be implemented including:

- Training sessions focused on the difficulties of interviewing people who are recounting painful stories. Many staff members are experts at this and could lead the trainings
- Brain storming sessions about the most effective way to record the information provided by victims (i.e. tape recorders likely won't be adequate to take information for later transcription, so a discussion of the challenges and issues that may arise from having to handwrite long descriptions of crimes may be useful)

In my view, a significant challenge to protecting the potential legal value of the Victims Information Forms arises from having VPP staff members fill out the forms for those people who cannot write. Particularly for the section in which the victim is supposed to describe the crime, the VPP team needs to think about how it can both record the information completely (that is, getting the whole story written down) without writing verbatim every word that the victim says. This will necessarily require a degree of choice about what the VPP team member writes. To address this issue, the VPP team could have additional trainings or discussions to narrow what is appropriate and necessary to write, and what does not need to be recorded. To facilitate a transparent process, DC-Cam may wish to formalize (in writing) criteria for what types of information the VPP team will record and what types it will omit.

G. External Factors

A factor relating to the success of the VPP is tied to the ability of the VU to acquire adequate resources quickly and efficiently. The VU has ambitious plans for the work it will conduct, yet there is currently no budget for core activities. The ECCC will only fulfill its mission if victims are adequately included in the process, and support for the VU—both from donors and court management—is critical. Even if the VU’s issues are resolved to some extent, there remain numerous “bottleneck” points in the process that will need to be addressed by the VU in order to allow large numbers of complaints to be processed. Related to the Victims Participation Project, efforts by the VU to update the Victims Information Form and to work with the Court to provide a cohesive message about the definition of “victims,” “complainants,” and “civil parties,” will factor in to the ability of the VPP to accomplish its goals.

Potential areas in which the VPP can provide assistance to the VU to resolve these issues include providing consistent feedback on difficulties encountered with the forms in the field, translating documents before they are submitted, organizing the submissions into groups based on any criteria that the Office of the Co-Prosecutor or VU may provide, and working with the VU to develop effective outreach messages to ease the process of filling out forms.

Conclusion

The Victims Participation Project provides an opportunity to both begin a process of assessing the historical validity of the *Renakse* petitions, and, through the completion of Victims Information Forms, promoting reconciliation. The project is off to a good start, however in order to achieve success, the ambitious goals of the teams must be evaluated in terms of available resources and realistic expectations, and additional programs within the VPP need to be considered. Communicating a clear message to those who the Victims Participation Project team members interact with about the purpose of the Victims Information Form, the various options that the form entails, and the potential disposition of the forms and their stories are all integral to the project’s success.

Please do not hesitate to contact me at +001-202-907-8624, or at normanpent@gmail.com with any questions or if I can be of further assistance to the Victims Participation Project. The VPP is an essential part of DC-Cam’s ongoing mission to develop a historical record of the Khmer Rouge period, both by documenting the crimes committed and by helping to facilitate a legal process to bring accountability to those who would commit such crimes. I look forward to continuing to work with you and the members of the Victims Participation Project in the future.

Very Truly Yours,

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