

## **Justice and Healing At The Khmer Rouge Tribunal – The Psychological Impact Of Civil Party Participation**

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### **Conclusion**

The ECCC Civil Party mechanism is an important approach to make tribunals more accessible to victims. It appears to be successful in the empowerment of victims by providing a framework in which Civil Parties can play a more active role and where they have more space to express and gain some acknowledgment for their suffering and pain. For now, it appears that the Civil Party mechanism can have significant additional value for the mental wellbeing of survivors in international tribunals. However, it is too early to make a final conclusion on the long-term mental health benefits of this important participatory mechanism in the ECCC.

What is clear, however, is that shortcomings in a number of areas need to be addressed to allow for the best possible psychological outcome. First and foremost, the judicial process needs to be adjusted more effectively to victims’ psychological needs. All participants in the judicial process should consider how they can reduce the psychological burden of Civil Party participation without compromising the legal procedures or fairness to the Accused. In particular, the tribunal should undertake action to reduce stress during the testimony of victims. Lawyers in collaboration with mental health professionals should do their best to evaluate and respond to potential psychological risks in providing testimony and to prepare their clients effectively prior to and after their testimony. Further, the Court could ensure that survivors are afforded sufficient time to cope with the emotions invoked by recalling painful experiences. Moreover, judges and other legal staff could express more empathy toward victims without prejudicing defendants. By listening carefully and providing space for emotional expression, Court staff can support victims’ understanding of what happened and help to repair their confidence in their own judgment. Moreover, the Court could increase gender sensitivity among investigators and other Court staff, and ensure gender-sensitive procedural protection mechanisms for victims of gender-based

violence. Gender mainstreaming, the provision of female investigators and interpreters, and basic training on psychological principles could be important contributions to progress in this matter.

Secondly, additional efforts and funding for information and legal support services are needed to prevent unnecessary rejections of applications, to counteract stress of protraction and to avoid frustration due to a lack of follow-up and legal support. The provision of full logistical and financial support to Civil Parties needs to be ensured to secure the attendance of Civil Parties in the proceedings, and information and legal support services for Civil Parties need to be sustained over the full length of the trial. Moreover, legal and psychosocial support services could be expanded to include rejected Civil Parties and complainants. In particular, it is important to manage Civil Parties' expectations and to provide legal and psychological services to respond to the emotional reactions after the verdict.

Third, it is imperative to offer structured and long-term psychosocial support services for Civil Parties prior, during and in follow-up of the proceedings, particularly to those for whom the retelling of experiences may have evoked long-suppressed emotions and who may be more vulnerable due to social isolation. Psychological expertise during outreach work and mental health training of legal staff could substantially help to identify potential Civil Parties with severe mental health problems and to avoid psychologically harmful practices. Further, additional funding is needed to ensure the provision of mental health services for Civil Parties, not only at the ECCC and through TPO's trauma treatment centre, but in particular at the provincial/community level. Community based and enabled services are known to be particularly suited in addressing mental health care needs in developing countries.

Moreover, for justice to be achieved, the question of reparations must be comprehensively addressed. With its new mandate to provide some form of reparations, the ECCC has a unique opportunity to respond in a more integrated manner to the legal, psychological and economic needs of Civil Parties. Particular attention should be given to decentralized and community-based mental health services and the establishment of informal support structures, such as self-help and advocacy groups, which are most likely to meet the psychological needs of survivors.

Notwithstanding these ways in which the ECCC can improve the experience of Civil Parties, we must not forget about the majority of survivors who were not able to participate in the tribunal. Those seeking to support survivors should therefore look far beyond the tribunal. Thus, an emphasis on a more comprehensive national transitional justice strategy is vital not only to foster individual healing but as part of a larger societal attempt to reconciliation and healing. As emphasized by many survivors and important protagonists such as Wilson, Hamber and Becker, responses to major life stresses depend on a variety of factors including the availability of personal, cultural, political and socio-economic resources. For instance, most Khmer Rouge survivors never received any kind of financial compensation and many still live under precarious socio-economic conditions. Moreover, one can hardly expect survivors to confront their victimization in a political and religious climate that has not always been supportive when it comes to remembrance of the past. Thus, as a first step, greater attention should be given to a holistic approach on the issue of reparations and measures in the areas of truth seeking, remembrance, and mourning. Whereas the state must play a particularly important role regarding the question of reparations, grass-root mobilization appears to be the key to further transitional justice developments in the area of memorialisation. Given its mandate to design and implement non-judicial and reparation measures addressing the broader interests of victims, the ECCC has the unique opportunity to contribute toward this endeavor in unprecedented ways. Thus, the ECCC can initiate and serve as an inspiration for Cambodia's future transitional justice process, one important step in securing the tribunal's legacy.