

REDRESS

Ending torture, seeking justice for survivors

Ideas for possible victim-related initiatives which could be implemented by the ECCC under the terms of Article 2 of the Draft Addendum

1. Background

The REDRESS Trust is partnering with Kdei Karuna (KdK) on conducting the [Global Survivors' Fund](#) (GSF) Multi-Country Study on Opportunities for Reparations for Survivors of Conflict-Related Sexual Violence (CRSV) in Cambodia. The study focuses on the status of and opportunities for reparations for CRSV survivors in over 20 countries. It aims to make recommendations for further action based on survivors' needs and aspirations. For the past 5 months REDRESS has carried out in-depth desk-based research, including a systematic review of relevant publications; background information about the conflict; a systematic review of existing information on the scope, scale, and nature of CRSV and reparations (including based on the Extraordinary Chambers in the Courts of Cambodia's court documents); an analysis of legal, institutional and policy frameworks relevant for CRSV survivors as well as data from survivors interviewed through KdK in Cambodia. REDRESS also conducted stakeholder interviews with former and current civil party lawyers, members of civil society, experts and academics in and outside of Cambodia. The study and survivor engagement is still ongoing, but KdK and REDRESS have reached preliminary findings and published a [country briefing](#) on Cambodia with the GSF. This proposal includes reparations programs that have been thought of with a specific focus on CRSV survivors but can be applied to survivors of the regime more broadly.

2. Preliminary findings of the research on the ECCC and reparations

- Many survivors were disappointed by the Court limiting its reparations to collective and moral measures as they continued to live in poverty.
- Reparations projects recognized by the ECCC lacked any recognition of State responsibility, and they lack State and political support as they were entirely donor-funded.
- Many projects were already ongoing or even almost completed when they were recognized by the ECCC as reparations project.
- Beneficiaries often did not even know that they were taking part in a reparations project. Moreover, the ECCC's focus on the larger group of civil parties meant that meeting CRSV survivors' specific needs was not a priority when awarding reparations.
- Since the reparations' projects were all donor-funded, their sustainability was not guaranteed and most of them have come to an end even though many survivors, especially those in rural areas, have not had sufficient, if any, access to services that the projects were providing.
- Since the ECCC only included forced marriages in the Case 002/2 indictment, but no other forms of sexual or gender-based violence, many CRSV survivors were not civil parties and were unable to advocate for the reparations they needed, or to access reparations projects.
- Survivors were not sufficiently consulted in the reparations process of the ECCC.
- Many survivors are elderly, live in poverty, are excluded from society, live in rural areas and are illiterate. Many have already passed away. Time is therefore of the essence if more assessments or studies are to be conducted before implementing reparations measures.
- Only one ECCC reparations' project specifically focused on forced marriages, which does not accurately reflect how rampant the practice was throughout Cambodia during the regime or the sheer number of people who were affected by it.

- The ECCC only addressed one form of CRSV, forced marriages, extensively in the court room (with the exception of one instance of rape that the accused was convicted of in case 001). Hence, the pool of survivors who were able to apply to be civil parties does not accurately reflect all types of CRSV committed during the Khmer Rouge era. Additional reparations' programmes and consultations need to go beyond those who were admitted as civil parties in the ECCC proceedings and should include other forms of sexual or gender-based violence.

3. Proposed undertakings

A. Support for a nationwide administrative reparations programmes

The ECCC residual mechanism could provide technical expertise to the Cambodian Government to assist in putting in place an administrative reparations programme that survivors can access independently of the ECCC.

Rationale

CRSV and other crimes committed during the Khmer Rouge regime, for many reasons, caused material loss amongst survivors, whose lives were derailed by their experiences. Examples of this include property loss and disruption of employment or education. As a result, many survivors continue to experience poverty, which compounds the difficulty they face in accessing health, legal and other support services. Psychological trauma and damage to the socio-economic quality of life experienced by survivors also has a lasting impact on their families and communities. Such impacts are intergenerational and include poverty, low education levels, and unemployment. An administrative reparations program through which survivors of the Khmer Rouge era could access individual lump sum payments or a type of pension would allow them to respond to many needs linked to their victimhood. It would also be a way to recognise survivors' agency over their own lives as it would enable them to spend the money the way they see fit.

Target groups

Victims of the Khmer Rouge era, with a particular priority given to those who live below the poverty line. Qualifying for administrative reparations should not be linked to having been admitted as a civil party in an ECCC case.

Approximate timelines

The ECCC residual mechanism could assist the government in establishing the scheme and identifying ways to finance it with a view to ensuring that the Cambodian government can independently run the program beyond the initial three-year period.

B. Support for a nationwide ID card programme linked to the reparations programme

The ECCC residual mechanism could lend technical expertise to the Cambodian Government towards the establishment of a programme to issue ID cards for Khmer Rouge survivors to enable them to access free and adequate medical and psychosocial care and other forms of reparations.

Rationale

See rationale under A. above. Survivors still suffer from long-term physical and psychological ailments and often do not have access to sufficient or adequate care.

Target groups

Victims of the Khmer Rouge era, with a particular priority given to survivors of CRSV. Qualifying for administrative reparations should not be linked to having been admitted as a civil party in an ECCC case.

Approximate timelines

The ECCC residual mechanism could assist the government in establishing the programme and identifying ways to finance it with a view to ensuring that the Cambodian government can independently run the programme beyond the initial three-year period.

C. Support to TPO and training of psychologists nationwide

The ECCC residual mechanism could provide financial support to the [Cambodian Transcultural Psychosocial Organization \(TPO\)](#) to reach out to survivors in remote communities, to continue their work offering intergenerational therapy to families and providing further psychosocial support services to CRSV survivors. They could also finance trainings of more psychologists nationwide so as to ensure a broader access to psychosocial care for survivors.

Rationale

See rationales above. Survivors still suffer from long-term psychological problems and often do not have access to sufficient care, especially when they live in remote areas. TPO's Testimonial Therapy is a specific form of human rights-based therapy, that engages survivors in the narration and documentation of their traumatic experiences whilst providing opportunities to reconstruct traumatic memories and seek support in their families and communities.

Target groups

Victims of the Khmer Rouge era, with a particular priority given to survivors of CRSV and not limited to those admitted as civil parties in ECCC cases.

Approximate timelines

Ideally the ECCC residual mechanism should support TPO throughout its 3-year mandate.

D. Organise wedding ceremonies for survivors of forced marriage who desire them

The residual mechanism should support the work of [NGOs organising wedding ceremonies](#) for couples who were forcibly married during the Khmer Rouge era and decided to stay together afterwards. This would reduce some of the stigma the victims carry from not having had a traditional wedding ceremony. This is a creative and unconventional measure that responds to some of the needs expressed by survivors.

Rationale

Many couples who were forcibly married have decided to stay together after the end of the Khmer Rouge regime but suffer from societal stigma connected to not having had a traditional wedding ceremony. Many interviewees for this study mentioned that couples who were forcibly married during the Khmer Rouge regime and their children are still ostracized by their communities because their marriage ceremonies did not follow Cambodian traditions.

Target groups

Couples who were forcibly married and would like to have a traditional wedding ceremony. They can be identified with the help of the relevant NGOs. Approximately 500 weddings could be celebrated all over the country.

Approximate timelines

Ideally, the ECCC residual mechanism should support such ceremonies throughout its 3-year mandate.

E. Intergenerational Dialogue Programs

The Residual Mechanism should support intergenerational dialogue programmes (some of which were part of reparations projects, run by KdK, TPO and others) to work towards ensuring that the next generation, particularly children born of forced marriages, understand the stigma and trauma their parents carry.

Rationale

Forced marriages imposed significant emotional hardship and trauma onto the family dynamic, creating an environment conducive to abuse, such as domestic violence. Interviewees explained that, although divorce is possible in Cambodia, couples who were forcibly married and had children often remained together after the end of the Khmer Rouge regime. However, these couples sometimes lack an emotional connection, and the family dynamic may be permeated by feelings of resentment and anger. In addition, children born of forced marriages often are not aware that their parents were forcibly married, which exacerbates feelings of confusion. NGOs have found that intergenerational dialogue initiatives had a very positive impact on families that suffer from such dynamics. They were, however, unable to reach large parts of the population as funding ran out after the reparations projects were completed and many survivors live in hard-to-reach rural areas.

Target groups

Survivors of forced marriage and their families, especially those with children born from forced marriage. This initiative should not be limited to victims admitted as civil parties to ECCC cases.

Approximate timelines

Ideally, the ECCC residual mechanism should support such programs throughout its 3-year mandate.

F. Memorialization initiatives

While case 002/01 featured a reparations project that involved the publication of a booklet on facts adjudicated in Case 002/01, no such publication followed case 002/02, the only case that prominently featured widespread sexual violence in the form of forced marriage. The publication of such a booklet could fill that gap. Moreover, the ECCC residual mechanism should consider further supporting initiatives such as the Legal Documentation Center related to the ECCC (LDC), established as a reparations measure after the 002/02 judgment, to ensure that the public can consult public court documents, including evidence, for many years to come and that crimes related to conflict-related sexual violence are included and showcased in a sensitive manner in such initiatives. One should also mention other memorialisation efforts by civil society actors such as the Bophana centre and DC Cam, who could possibly be included in a memorialization strategy of the Residual Mechanism.

Rationale

Case 001 and 002 both included reparations projects that aimed at memorialization and preserving knowledge about the Khmer Rouge era. However, none of them particularly focused on sexual violence. Thus, a booklet on facts adjudicated in 002/02 is crucial to preserve the record and legacy of the Court. The ECCC has, in its reparations projects often emphasised the importance of remembering the past and teaching the next generation about it. The facts adjudicated in case 002/02, including forced marriage, are a crucial part of Cambodia's history.

Target Groups

The Cambodian public.

Approximate timeline

Ideally, the ECCC residual mechanism should support such initiatives throughout its 3-year mandate.

From: Lisa-Marie Rudi <Lisa-Marie@redress.org>

Sent: 22 December 2021 20:54

To: Sothie KEO <KEO.Sothie@eccc.gov.kh>; Sorya Sim <sorya.sim@un.org>

Cc: Alejandra Vicente <Alejandra@redress.org>; Julie Bardeche <julie@redress.org>; Director <director@kdei-karuna.org>

Subject: Re: REDRESS submission of ideas ECCC residual functions

Dear Sothie,

I hope this email finds you well. I saw that you submitted your report, congratulations! We look forward to following the process as you conduct consultations in May.

We recently presented our preliminary report findings to a group of 60 survivors and many of them mentioned that they would like to have a final large meeting between survivors and ECCC staff before the ECCC draws down. I wanted to mention it to you since the survivors asked us to communicate it to you and because it is something that we would have included in our submission to you if we had known it at the time.

KdK is going to organize a stakeholder consultation in January in Phnom Penh, during which they will share our preliminary findings and we will publish the report in the Spring of 2022 and make sure to share it with you.

My contract with REDRESS is finishing at the end of this year but everybody copied here will continue to implement the project.

Wishing you a peaceful end of the year.

Best,

Lisa