



Victims' Rights Before the ECCC: A Mixed Record for Civil Parties **December 5, 2012**

One year after the opening of the trial of Nuon Chea, Kieu Samphan and Ieng Sary before the Extraordinary Chambers within the Courts of Cambodia (ECCC), to which almost 4000 victims of the Khmer Rouges are participating as Civil Parties, FIDH, with the support of its member organisations in Cambodia, ADHOC and LICADHO, is launching a report entitled "Victims' Rights before the ECCC: A Mixed Record for Civil Parties".

This report takes stock of the implementation of a regime of victims participation announced as one of the most progressive ones before international and hybrid tribunals. *"The ECCC experience raises essential questions concerning the mode of participation of victims"*, explains Patrick Baudouin, FIDH Honorary President and Civil Parties lawyer in Case 002 before the ECCC. *"Is Civil Party participation the best way to ensure realistic, effective participation of victims in mass crimes trials? Were the ECCC given the practical means to explore all the possibilities offered by this system? In responding to these questions, this report intends to give its contribution to the effective participation of victims before other international and internationalized tribunals, such as the African Chambers within the Senegalese courts responsible for trying the international crimes committed under Hissène Habré, that have been recently created"*, he added.

This stocktaking exercise is undertaken while the ECCC are today facing the challenging issue of reparations for victims in the first trial of Case 002. *"Given the ambiguities and gaps of the decisions on reparation in Case 001, that have caused disappointment among Civil Parties, the expectations are even higher in Case 002"*, says Marie Guiraud, lawyer, member of the FIDH Litigation Action Group (LAG), representing Civil Parties in Case 002 before the ECCC, and author of this report. *"Nearly 4000 Civil Parties are participating in the Case 002 proceedings but only part of them are directly concerned by the first trial that is currently taking place, concerning in particular the forced population transfers. If the other trials, concerning other facts, are not taking place, contrary to what was initially planned, what will happen to the right of Civil Parties to reparation?"* she added.

FIDH, ADHOC and LICADHO are also concerned by the fact that Civil Party Lead Co-Lawyers are now required to propose - before any decision on the guilt of the accused - "turnkey" collective and moral reparation projects to the Chambers, already financed and approved by the Cambodian government. *"The effective implementation of reparation measures for victims is overly resting on the shoulders of intermediary organisations, that are already considerably contributing to the activities of outreach and victims*

support", declares Thun Saray, President of ADHOC.

Our organisations are as well concerned by the announcement of the creation by the government of Cambodia of a Victim's Foundation that is supposed to be coordinating, as of 2014, the funding and implementation of the ECCC reparation programme developed by the ECCC Victims Support Section, but which mandate and functioning are still not clearly defined. Given the record of political interferences in Cases 003 and 004, clear guarantees of independence and transparency will have to be given by the government, in order for this Foundation to be supported by NGOs. To this date, these guarantees seem insufficient.