



# គណៈកម្មាធិការប្រព្រឹត្តិកម្ម នៃ អង្គការសមាគមការពារសិទ្ធិមនុស្សកម្ពុជា

## CAMBODIAN HUMAN RIGHTS ACTION COMMITTEE

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### PRESS RELEASE

#### "CHRAC Urges ECCC to Consider Victims' Rights with Care"

*Phnom Penh, 1 February 2010*

During its Seventh Plenary Session from 2 to 9 February 2010, the participants of the Plenary will revise the Internal Rules of the Extraordinary Chambers in the Courts of Cambodia (ECCC), in particular amending provisions on victim and civil party participation in order allow for effective proceedings in the Court's second and most important case. In light of the profound proposed changes, the Cambodian Human Rights Action Committee (CHRAC), a coalition of 21 NGOs working in the fields of human rights, democracy and the rule of law, urges the Judges to consider with care the proposed amendments (see ECCC press release of 28 January 2010) while striking a just and fair balance between ensuring effective legal proceedings and rights of victims.

Since 2007, CHRAC member organizations have assisted nearly 4,500 victims in filing complaints and civil party applications to the Court – a clear indication of the strong interest and desire of victims to actively participate in the legal proceedings and to make fully use of their rights granted to them by the Judges under the original Internal Rules in conjunction with Cambodian national law. However, late and insufficient information about the Court's scope of investigation and related admissibility policies will likely lead in the coming months to a large number of civil parties not being admitted to participate in Case 002. This has already created some discontent among applicants. The more important it becomes now to discuss at the Plenary the future role of victims with prudence, honesty and respect for their rights.

In this context, CHRAC and other NGOs have submitted comments on the proposed amendments to the Rules and Procedure Committee as well as to Plenary with some of the key points being as follows:

First, CHRAC notes a number of positive developments. In particular, we applaud the expansion of the mandate of the Victims Unit to include the development and implementation of programs and other non-legal measures to address the broader interests of victims. This will require a consultative and collaborative approach in designing these measures together with additional administrative and funding arrangements to guarantee their effective implementation. Furthermore, a long-demanded increase in the level of Court-funded legal representation for civil parties has also been proposed. In this respect, we urge the Court and its donors to provide sufficient financial resources to allow for a comprehensive and appropriate representation of civil parties' interests at all stages of the legal proceedings.

Second, the amendments under consideration also envisage Civil Party Lead Co-Lawyers who represent a single, consolidated group of civil parties. Although many details of this future scheme need still to be elaborated, we urge the Judges not to circumscribe the role of existing Civil Party lawyers beyond what is necessary to ensure efficiency at trial and to respect fundamental rights of civil parties, such as to choose their own lawyer. In this regard, adequate provisions are necessary

to ensure a collaborative approach between the future Lead Co-Lawyers and Civil Party lawyers to guarantee the best interests of the lawyers' clients and the multiplicity of victims' views are represented in Court.

Third, CHRAC has serious concerns in relation to the proposed limitation of reparations claims to a single, consolidated claim, consisting of a single award. We consider these provisions an affront to the nature and extent of the suffering of victims, denying them the opportunity to express the multiplicity of their harm in ways meaningful to them and arguably preventing the Judges from arriving at a just and appropriate result for victims. Whilst the Judges may deem it appropriate to limit their awards of reparations in order to promote efficiency, it is inappropriate to limit the ways in which victims can articulate the harm caused and to present to the Court their views on collective reparations.

Therefore, CHRAC urges the ECCC to:

1. Ensure that victim-oriented programs and other non-legal measures are designed in a participatory approach and that the necessary administrative provisions and funding structures are in place to guarantee their effective implementation;
2. Ensure that a comprehensive legal aid scheme for Civil Parties has sufficient resources available to allow for an appropriate representation of civil parties' interests at all stages of the legal proceedings;
3. Ensure that the role of Civil Party lawyers is not circumscribed beyond what is necessary to ensure efficiency at trial by introducing adequate provisions to guarantee a collaborative approach between the future Civil Party Lead Co-Lawyers and Civil Party lawyers and by taking into account the fundamental rights and best interests of civil parties;
4. Defer any rules changes in relation to reparations to another Plenary Session allowing Judges adequate time to consider their policy on reparations and its implementation in a comprehensive manner and to undertake further consultations with stakeholders.

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