



Cambodia: War crimes court juggles public demands

March 10, 2010

PHNOM PENH (IRIN) - Competing pressures in Cambodia's Khmer Rouge war crimes tribunal could work against the victims it is supposed to represent, human rights groups warn.

Since its establishment in 2006, the UN-backed tribunal has sought to provide a greater voice to victims of the regime, while at the same time expediting a legal process bogged down by delays. As a result, the court decided last month to filter the representation of all victims through two lawyers because of the high number of applicants seeking to participate in the second case.

Known as the Extraordinary Chambers in the Courts of Cambodia (ECCC), the tribunal includes a "civil party" system designed to give lay people an official role to provide testimony, question suspects and request reparations.

More than 4,000 people applied and about 250 had been accepted by the end of last year. By contrast, just 90 civil parties participated in the tribunal's first case.

Court delays

In the tribunal's first case last year against the regime's most notorious prison chief, Kaing Guek Eav, civil parties were represented by four legal teams, giving victims a strong presence in the courtroom.

But participation was often muddled by repetitive and irrelevant questions from some lawyers that steered testimony away from the core issues of the trial and slowed proceedings.

This, coupled with the ballooning number of civil parties, prompted the tribunal to seek victim participation reforms for its remaining case.

Still awaiting trial in the second case are four ageing leaders, widely considered the architects of the Khmer Rouge's vision to transform the country into an agrarian utopia. Some 1.7 million Cambodians died in the process, according to estimates.

In a 9 February ruling, the court said victims would be represented in the second case by two lead lawyers, one Cambodian and one international, whose strategy and views are supposed to reflect a consensus among the individual civil party lawyers.

“The number of Civil Party applicants, combined with the complexity, size and other unique features of the ECCC proceedings, make it necessary to adopt a new system of victim representation during the trial and appeal stage,” the court said in a statement.

But while most observers recognize that the original system of individual legal representation would be impractical in the much larger second case, they warn that their diminished role could make victims feel disenfranchised.

“A lot of people’s stories will be lost,” says Thun Saray, president of the local rights group Adhoc. “The victims have an important role to play and this gives them a smaller role.”

Applications limited

The charges against the suspects in detention are restricted to particular crime sites, which means prospective cases pertaining to other sites will not be able to participate in the trial.

“It’s common in all courts dealing with crimes of this magnitude to limit the investigation to a representative sample of all the crimes committed because of time and resource constraints,” court spokesman Lars Olsen told IRIN.

While the court’s investigation into the second case began in 2007, the public was not told which sites were involved until last November – leaving them little time before the deadline in January.

“I think it will be a very big problem when many of the victims who want to be civil parties are told the crimes against them don’t apply [to the trial],” said Sok Sam Oeun, director of the Cambodian Defender’s Project, a legal aid group. “Many didn’t know about the guidelines until very late.”

The court, in turn, says victims should not regard their status in the court as an official judgment of their suffering.

“It’s a technical decision as to how they relate to the particular cases,” Helen Jarvis, head of the court’s Victims’ Support Section, told IRIN.

“Even if they’re not designated a civil party, their information is valuable to the court’s investigation of the systematic nature of the crimes. There is bound to be some disappointment but they should not feel there are first-class victims and second-class victims.”