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Reassuring the Khmer Krom James O'Toole and May Titthara June 14, 2010

Khmer Rouge tribunal co-prosecutor Andrew Cayley addressed a group of Khmer Krom residents of Pursat province on Sunday, intent on assuring them that the suffering inflicted upon their community under Democratic Kampuchea will not be overlooked by the court.

In speaking to a group of around 200 in Pursat's Romlech commune, Bakan district, Cayley made the uncommon move of reaching out and explaining the status of the court's investigation to survivors who have voiced concern that attacks and alleged genocide against them have yet to be acknowledged.

"I know there is a feeling amongst some of your community that you haven't been properly considered by the court," Cayley told the audience, speaking in the dusty courtyard of the Wat Romlech pagoda.

"But I want to say to you today, sincerely, why I'm here is because I do recognise what happened to you as a people."

"Khmer Krom" is a term for ethnic Khmer with roots in the Mekong Delta region of Vietnam.

In January, the court's co-investigating judges ruled that genocide charges and other offences would not be brought against the Khmer Rouge leaders currently in detention based on the regime's treatment of the Khmer Krom.

This decision, court officials emphasised at the time, was based not on a historical judgment that the Khmer Krom were not victims of genocide and other crimes, but on

procedural factors: Such offences had not been properly listed in evidentiary submissions by the prosecution.

As a result of this decision, a number of Khmer Krom civil party applicants from Pursat who had been provisionally accepted in Case 002 were rejected, as their claims were deemed to be outside the scope of the court's investigation. An April ruling from the court's Pre-Trial Chamber reversed the decision against several of these applicants, though only on the basis that their claims could be connected to crimes in other provinces that had already been established as part of the court's investigation.

"The rules are ridiculously complicated on the acceptance of civil parties," Cayley told one woman who approached him after the event to ask about the process.

Assistant prosecutor Dale Lysak explained that although the deadline has passed to add crimes against the Khmer Krom in Pursat to the list of alleged offences being investigated in Case 002, evidence related to the group will nonetheless be utilised in supporting the case for existing crimes under investigation; namely, forced relocations from Eastern Cambodia and genocide of the Vietnamese in Prey Veng, Svay Rieng and across the border in Vietnam.

"This area is very important to both of those, because we have to prove that there was a policy of the Khmer Rouge with respect to the Vietnamese," Lysak said.

Cayley said that the complexity and the volume of evidence in Case 002 would stretch the trial for "at least two years". Were the court to properly account for all crimes committed under Democratic Kampuchea, the trial "would go on for 20 years", Cayley said, though he promised those assembled that the Khmer Krom will not be forgotten during the proceedings.

"We will seek to have evidence from witnesses heard in that trial in respect to crimes committed against the Khmer Krom, so that the judges and the world can hear what happened to you as a people," he said.

Meas Chanthorn, a Khmer Krom man who was chief of Romlech commune at the time the Khmer Rouge took power, called Cayley's visit "a historic day" for his community.

“The co-prosecutor came to talk to villagers in this area to show that the court is paying attention to the Khmer Krom case,” Meas Chanthorn said. He called Romlech a “genocide area”, and urged the court to reconsider investigating the charge in the context of the Khmer Krom.

In December, the court announced that the four Khmer Rouge leaders awaiting a first round of indictments were facing genocide charges in connection with the regime’s treatment of Cham Muslims and Vietnamese.

Historians such as David Chandler have argued, however, that Khmer Rouge killings do not fit within the legal definition of genocide: criminal acts committed “with intent to destroy, in whole or in part, a national, ethnical, racial or religious group”.

A number of Khmer Krom who gathered in Romlech said they were singled out for persecution under the Khmer Rouge because of their perceived connection to the regime’s enemies in Vietnam.

At a meeting organised in the commune last week by the Documentation Centre of Cambodia (DC-Cam), 42-year-old Peou Sophy recalled an incident in which cadres gathered local residents together and separated them into two groups: “pure” Khmer and Khmer Krom, who were taken away from the village and killed.

“They said they had to kill everyone with Khmer bodies and Vietnamese heads,” said Kim So, another Romlech resident.

John Ciorciari, an assistant professor at the University of Michigan and a senior legal adviser with DC-Cam, said in an email last week that it was unfortunate that the popular and legal uses of the term genocide “have diverged so widely”.

“Many people have come to use ‘genocide’ as a generic label for the most serious mass crimes, which tends to suggest that other similarly heinous crimes are lesser offenses,” he said. Analysis of targeted attacks on the Khmer Krom, however, could help explain the animus that drove Khmer Rouge atrocities, Ciorciari added.

“One important fact for the court to shed light on is the motives for the alleged Khmer Rouge genocide,” he said. “Were victims targeted due to their ethnicity, their perceived

nationality, politics, or all three?”

It is this sort of explanation that 51-year-old Pao Sinoun, another Romlech resident, said she hoped to get from the tribunal.

“We want to know the reason why Pol Pot killed the Khmer Krom – they did this for what?” she said.