



## **Khmer Rouge survivors feel justice denied** **December 11, 2009**

*For the first time at an international criminal tribunal, victims of Cambodia's notorious Khmer Rouge regime have been represented as well as the defence and prosecutors. But as the BBC's Guy De Launey reports from Phnom Penh, the survivors are not happy with the experience.*

"I lost my family," says Chum Mey.

"They killed my children and my wife. Nobody had rights or freedom then. That's why now I want to find justice - for the victims and the younger generation."

Despite his horrific story, Chum Mey does not have the air of a man who went through hell.

Now a sprightly 78, he seems many years younger, chuckles easily and speaks eloquently about his unenviable life.

The former mechanic not only lost his family to the Khmer Rouge, he also suffered torture and beatings at the notorious S-21 detention centre in Phnom Penh.

At least 14,000 inmates passed through its tiny cells and torture chambers in the late 1970s; Chum Mey is one of only three confirmed, living survivors.

Even now, his life revolves around S-21.

The prison has become a genocide museum and Chum Mey can be found there most days, offering his services as a tourist guide in exchange for a few dollars.

### **Equal voice**

Three decades have passed since the Khmer Rouge caused the deaths of as many as two million Cambodians.

But with the start of the long-awaited, and much-delayed, Khmer Rouge tribunal, Chum Mey thought he might find some belated justice.

Like other survivors and the relatives of the victims, his hopes were raised by an innovation at the United Nations-backed special courts.

For the first time at an international criminal tribunal, victims - officially known as civil parties - would be given an equal voice alongside the prosecution and defence. It raised the possibility of survivors confronting, and even questioning, their former tormentors in court.

Along with almost a hundred other people, Chum Mey was accepted as a civil party in the trial of the man who ran S-21, Kaing Guek Eav - alias Comrade Duch.

But their optimism at the start of court proceedings in March had turned to frustration and anger by the closing arguments in November.

The prosecution, defence and judges seemed, at best, ambivalent towards the civil parties.

Over the course of the trial a series of rulings whittled away at their rights to speak and question witnesses; their lawyers complained that little interest was shown in their testimony.

"They felt that the trial chamber was not very receptive to their sufferings," civil party lawyer Silke Studzinsky told the court in her closing statement.

"This left for them the impression that the trial chamber was rather uninterested in their stories," she said.

"They are still wondering why they were not treated with equal respect like all witnesses, experts and the accused. Is the personification of suffering shown every day too hard to bear?"

Perhaps the most infuriating factor for the civil parties was that while their rights to speak in court had been restricted, no such limitations appeared to apply to the defendant.

Day after the day they watched as Comrade Duch declaimed at length and quibbled with witnesses. For Chum Mey, it was hard to bear.

"When I raised questions to Duch, his lawyers objected," he said.

"Then the court did not allow my lawyers to ask questions. They seemed to ignore us. So at that point I felt like I did not have any rights to express my concerns, but Duch had the right to express himself."

### **Yawns and eye-rolling**

The victims were not helped by the nature of their representation.

Various local and international lawyers worked with several different groups of victims - but there seemed to be little co-ordination among them.

Indeed, one international civil party lawyer conspicuously yawned and rolled his eyes while Silke Studzinsky delivered her closing statement.

Meanwhile, many civil parties appeared to have been poorly prepared for the rigours of cross-examination.

Some contradicted themselves during testimony and gave the impression of being unreliable witnesses.

"The Khmer Rouge Tribunal took the risk of allowing victims to become a party, and what we are seeing now is part of the administrative mess," says Theary Seng, who is a qualified lawyer as well as a civil party in the tribunal's forthcoming second trial. "What we could not have envisioned as one of the problems was the grand-standing by the civil party lawyers. For some of them this was a way to build up their resume, to compete for status. That has been an embarrassing and shameful element of this." The system will be completely overhauled for the second trial, which is not likely to start until 2011.

Instead of a gaggle of different lawyers, there will be one lead counsel for the civil parties - a mirror of the approach taken by the prosecution and defence. The tribunal has also promised that victims will be given proper preparation before they testify.

But the changes have come too late for the civil parties in the trial of Duch. Instead of gaining a sense of closure, some of them feel that they have been used as guinea pigs in a judicial experiment. Chum Mey believes the victims have been let down.

"We lost our voice," he says, "and there is no real justice for us."