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Victims to play simpler role at KRT

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AS its critical second case approaches, the Khmer Rouge tribunal is wrestling with the issue of how to expedite proceedings against the ageing leaders set to stand trial, while at the same time giving adequate voice to the regime's many victims.

On Tuesday, the court formally adopted reforms to civil party participation, including the establishment of a team of lead co-lawyers who alone will represent all admitted civil parties in court. In the first case, that of Tuol Sleng prison chief Kaing Guek Eav, civil parties were represented by four distinct legal teams.

This change was paired with an expansion of responsibility for the Victims Unit, renamed the Victims Support Section, to include "a broader range of services, as well as a more inclusive cross-section of victims than those who are admitted as Civil Parties in cases before the [court]", the UN-backed tribunal said in a statement Tuesday.

More than 4,000 civil parties have applied to participate in Case 002, and about 250 had been accepted by the end of December, compared with just 90 who participated for the duration of the first case. Under the old system, this many civil parties could not have been accommodated, court officials say, though observers warn that the newly diminished legal role for civil parties may sow discontent among many victims.

"The judges ... have to balance between the rights of the accused and also respect for the victims," said Long Panhavuth, project officer at the Cambodia Justice Initiative. "The victims have to have a meaningful way of participating."

A further concern, aired by the Cambodian Human Rights Action Committee last week, is the potential disappointment of thousands of civil party applicants whose applications may be inadmissible.

Though the court's mandate is to investigate crimes committed under Democratic Kampuchea (DK), charges in individual cases are confined to particular crime sites falling under the scope of the judges' investigation. As such, prospective civil parties with applications pertaining to other sites will be unable to participate at trial.

Although the Case 002 investigation began in 2007, the sites being examined were not publicly revealed until last November.

Theary Seng, the former executive director of the Centre for Social Development and a civil party in the case, acknowledged the court's need to keep the investigation confidential, but said the delayed disclosure did a disservice to victims.

"To use the blanket of confidentiality to keep the public from being adequately informed generally, and then to keep the victims who could become civil parties from knowing whether they fit into the scope or not is irresponsible," she said.

After being imprisoned as a child at the Boeung Rai security centre under Democratic Kampuchea, Theary Seng was frustrated to learn that the site, where perhaps 30,000 people were killed, was not named specifically by the court (though it may be included in the investigation of purges in DK's Eastern Zone). She said she plans to file an investigative request asking judges to examine the centre.

More broadly, Theary Seng said she resented what she views as the court's diminished engagement with victims and civil parties.

"The fear is that they're going to really emasculate and water down the concept [of civil parties] to make it completely not meaningful," she said, calling victim participation essential "to give a larger meaning to this process".

Defence teams, however, say the increased number of civil party applicants in Case 002 may undermine the rights of the accused.

Richard Rogers, chief of the court's defence support section, said in a statement following the conclusion of Tuesday's plenary that the newly established 10-day window for lawyers to appeal decisions about the admissibility of civil party applications is unacceptably small.

"According to international standards, an accused's right to appeal must be practical and effective. In adopting these amendments, the plenary has left the accused with a right that is merely theoretical," Rogers said.

Outside the courtroom

Helen Jarvis, head of the Victims Support Section, emphasised the importance of contrasting between "the issue of admissibility in a particular case ... and recognition of somebody's status as a victim".

"It's an important distinction. I think it's a technical distinction, and I think that we have done and certainly will [continue to] bend over backwards to thank people for the information that they have provided," she said.

Jarvis said her section was developing outreach efforts through “non-legal measures” to ensure that victims who are unable to officially participate nonetheless have their suffering addressed.

These measures notwithstanding, a more limited role for victims is inevitable in Case 002, said Youk Chhang, director of the Documentation Centre of Cambodia, who called on the court to be open about its reforms.

“If a person can no longer speak, you’re no longer a civil party,” he said, adding: “It’s a bumpy road by having to explain this, and perhaps the fear is of being resented by the victims.”

While he noted the importance of outreach efforts for Khmer Rouge survivors, Youk Chhang said the broader expectations of the Cambodian people are uncomplicated.

“None of the people here expect the court to go down to the villages and record their story on file,” he said. “They expect delivery of justice and a verdict.”