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Khmer Rouge victims given a voice in Cambodia trials

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If Sok Chear had her way, she would slice the elderly man into ribbons and pour salt into his wounds. She would beat him up and torture him and give him electric shocks to make him talk.

For Ly Monysar, "Only killing them will make me feel calm. I want them to suffer the way I suffered. I say this from the heart."

Sok Chear, an office worker, and Ly Monysar, a security guard, are two of the millions of Cambodians who suffered for four years in the late 1970s under the brutal Communist Khmer Rouge, who caused the deaths of 1.7 million people.

Today, three decades later, five aging former Khmer Rouge leaders have been arrested and are awaiting trial. And Sok Chear and Ly Monysar have an innovative role to play in the tribunal, where the first case is expected to get under way this autumn.

They are two of hundreds of people who have applied to the court to be recognized officially as victims of the Khmer Rouge and to bring parallel civil cases against them.

They will have the chance, not to beat and torture them but to seek symbolic reparations - a monument, perhaps, or a museum or a trauma center.

It is a controversial experiment in this unusual hybrid tribunal, which is administered jointly by the United Nations and the Cambodian government, cobbling together elements of both local and international law.

"For the first time in history the internal rules of a tribunal will give victims of crimes the possibility to participate as parties," said Gabriela González Rivas, deputy head of the tribunal's victims unit.

Victims have been included in other comparable tribunals like the International Court of

Justice, but their role has been more limited.

As civil parties, the victims here will have standing comparable to those of the accused, including the rights to participate in the investigation, to be represented by a lawyer, to call witnesses and to question the accused at trial, according to a court statement.

"Participation in these types of proceedings is a tool of empowerment," Rivas said.

"People can tell their story, feel that what happened to them is a consideration, a recognizing that what happened to them shouldn't have happened."

The inclusion of victims is part of the evolution and refining of the mechanisms of international justice, said Diane Orentlicher, special counsel of the Open Society Justice Initiative, in an interview by telephone from New York.

"There has been a growing recognition, after 15 years of international and hybrid courts like this one, not to exclude victims from the justice that is being dispensed on their behalf," she said. "This is one of the frontier issues in ongoing efforts to improve ways in which war crimes trials are carried out."

The Cambodia tribunal has been criticized for compromising international standards of justice with its awkward admixture of Cambodian law and its vulnerability to manipulation by the country's strongman, Prime Minister Hun Sen.

The participation of victims is drawing more criticism, partly from people concerned for the rights of the accused and the preservation of the presumption of innocence.

Victor Koppe, a defense attorney for one of the Khmer Rouge leaders, called the presumption of innocence "the most fundamental issue" in a case whose defendants have already found a place in history books as the perpetrators of the killings.

"The question is whether or not everything in this tribunal is institutionalized in such a way that only guilty verdicts can come," he said.

Other critics say the court is being distracted by social agendas from its core task of seeking justice for crimes against humanity.

"I would put this under the category of therapeutic legalism," said Peter Maguire, a specialist in international justice and author of "Facing Death in Cambodia."

"The task of an international criminal court is to convict the guilty and exonerate the innocent," he said. "To ask more of it than that is asking way too much of any criminal trial."

For many people, though, these related benefits are the main purpose of the trials in a country that has never fully come to grips with its tormented past.

The trials will offer a catharsis and a measure of healing, they say, and will set a base line for an end to impunity in this still raw and sometimes lawless country.

"This is an invention of the 1990s where people freighted the trials with all this baggage," said Maguire. "How do you measure closure, how do you measure truth, how do you measure reconciliation? These are not empirical categories."

These added elements can also encumber an already tortuously slow process, the critics say.

Almost two years of the tribunal's budgeted three-year mandate have passed since it was set up in August 2006, after nearly a decade of contentious negotiation between the United Nations and the Cambodian government.

Nearly a year has passed since the first of the five defendants was charged in the case. A new budget has been submitted, and most analysts are confident that more money will be found from international donors to extend the life of the tribunal. But as Maguire put it, this court needs to get hustling.

So far, Rivas said, her office is processing about 1,300 applications to participate from people who say they are victims. About half of them seek to be civil parties, while the other half offer evidence that could be submitted to prosecutors. Most names have been channeled through a documentation center or through human rights groups.

Ten people have been accepted so far as civil parties, she said.

As the number grows, it is likely that they will be combined into class actions representing religious or ethnic groups, victims of particular crimes or other parties.

Theary Seng, 37, a Cambodian-born American lawyer who lost her parents to the Khmer Rouge, is organizing two groups of orphans - including Sok Chear and Ly Monysar - to bring civil cases.

In February, Seng became the first - and so far the only - victim to address the court, standing face to face with a man she blames for the deaths of her parents.

Though her words were addressed to the court, she said, her eyes were locked directly with those of the defendant, Nuon Chea, 81, the most senior of the five imprisoned leaders - the man Sok Chear said she wanted to flay.

In a short statement, Theary Seng contrasted the legal protections that Nuon Chea is receiving with the arbitrary arrest and abuse she said she and her younger brother suffered as children under the Khmer Rouge.

Nuon Chea, the Khmer Rouge ideologue, was sometimes known as Brother No. 2 to Pol Pot, the Khmer Rouge leader, who died in 1998.

"He was stoic, stoic," said Theary Seng, recalling the confrontation. "He's completely stoic. Eighty percent of the time I was addressing him in my statement. He didn't break the stare."

Nearly one-fourth of the Cambodian population died between 1975 and 1979 from execution, torture, starvation and overwork in the mass labor brigades the Khmer Rouge created.

Today, though, most of the survivors are as stoic as their victimizers. When asked about the tribunal, most simply say they want to know who caused their suffering and why.

But the approach of the court sessions has aroused the feelings of many people, and those who have applied to be counted as victims are among those with the strongest emotions.

Sok Chear, 32, who said she was raped and brutalized as a girl by the Khmer Rouge, remains inconsolable over the loss of her father, an engineer, who disappeared into the hands of the black-clothed cadre and never returned.

"We were always waiting for him to come home, but he never came," she said. "We were always waiting and waiting. Even now, I still look around. Maybe my father is still alive."

Tears still come when she talks about him.

"He gave me rice to eat, and I want to repay him," she said, "even one plate of rice, my

gift to him, even one plate for him to eat from his daughter."

Ly Monysar, 41, is a broken man, poor and sick and bitter, his voice quavering as he tells of the loss of his entire family when he was a boy of 9.

He sustains himself with fantasies of revenge every bit as chilling as the calculated brutality of men like Nuon Chea.

"I want to kill all those people who did this to me," he said.

"And if I can't, I'll come back in the next life and find them. I'll create my own genocidal regime and take my revenge on them all."