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Potential Tribunal Witnesses Fear Testifying

By Erika Kinetz

A new study by the Documentation Center of Cambodia suggests that fear, limited information, and lack of a clear witness protection program have started to quiet voices that could potentially testify to the horrors wrought by the 1975-1979 Democratic Kampuchea regime.

DC-Cam Director Youk Chhang said that survivors once associated with the Khmer Rouge are beginning to ask some sensitive questions: "What is in it for me? Will I be given amnesty? Will my name be cleared?"

And victims of the regime have begun to wonder what will keep them safe if and when they are asked to speak up at the trial of the surviving leaders of the Khmer Rouge.

"You can sense the fear," Youk Chhang said.

"You can sense there has been a shift of thinking."

Investigators from the prosecutor's office of the Extraordinary Chambers in the Courts of Cambodia have already begun to interview witnesses and gather information from the field, but the tribunal's witness protection program is not yet fully functional.

There is a budget for a witness protection officer, but the actual officer is not expected to arrive for another two weeks, said Peter Foster, the ECCC's public affairs officer. The protection of potential witnesses outside the court is the responsibility of Cambodian authorities, he said.

Nonetheless, ECCC co-prosecutors carefully consider the security needs for each interview on a case by case basis and all appropriate security precautions are being taken, Foster said.

"People should have confidence that they can tell their story without fear," he wrote.

And, he added, "So far the ECCC investigators have been able to interview many witnesses, all of whom have spoken to the prosecutors voluntarily."

Though there are no uniform procedures for witness protection, safe houses, identity protection, and other measures are being considered.

But the lack of clarity and the fact that witnesses are being asked to testify before a formal protection program is up and running has some rights groups worried.

"They put people in a very dangerous situation by interviewing people without an effective program of protection," said Kek Galabru, founder of local rights group Licadho.

Geerteke Jansen, a legal associate at DC-Cam, spent the last three months talking with people in Takeo province: victims, former Khmer Rouge cadre, the ordinary villagers referred to as "base" people during the regime, combatants, judges, prosecutors the government officials among them.

Twenty of the 30 villagers Jansen spoke with said that they were willing to testify at a Khmer Rouge tribunal. Complicating the situation, however, is the fact that, in some cases, former Khmer Rouge inmates live opposite former prison guards, and former cadre live cheek by jowl with victims.

"They don't know what to expect if they talk about the involvement of their neighbors," she said. "What will be the consequences?"

Those that are afraid to testify, Jansen said, are afraid of retribution, wreaked not just by their neighbors but also, possibly, by the families of the highest-ranking Khmer Rouge leaders who will stand trial.

One man who said he would not testify explained that it was against his Buddhist beliefs, which he felt exhorted him to live in peace with his neighbors and simply accept the past.

Others, Jansen said, were too shy or uneducated to reckon with the big, abstract work of justice for the crimes of the Khmer Rouge.

"They are afraid to talk. They don't know what to expect," she said.

And that may be the root of the problem.

From what the ECCC has seen during its outreach activities, Cambodians have many different expectations about the tribunal, Foster wrote.

"After so many false starts in the past, I am sure that some people are even unsure if trials will actually take place," he wrote.

However, the more people learn about the ECCC the more their confidence will grow in the process, he said.

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