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'Here, We Are All Victims'

Cambodians struggle to comprehend their justice system and the genocide as they stagger toward trials for some Khmer Rouge figures.

By Joel Rubin

PHNOM PENH, Cambodia — It's not that Yem Phork didn't care whether someone was held accountable for killing his two brothers. It's just that he had never seen the inside of a courtroom, and there was rice to be planted.

Phork, a wizened, worn 74-year-old, was shin-deep in the thick mud of a rice paddy in the Cambodian countryside. He trudged behind two oxen, whipping them with a thin reed and barking commands to keep his plow in a straight line.

Three decades ago, Phork had been forced to work the same lush green land during the country's dark period from 1975 to 1979 — four brutal years of rule by the Khmer Rouge in which more than 1 million people, about one of every six Cambodians, died, many the victims of torture, mass killings and starvation.

"We ate so little," he said. "We worked so hard. If we complained, they killed us."

Taking a break in the shade of a tree, Phork sipped water, lighted a cigarette and said he had heard talk at night on the radio about leaders of the Khmer Rouge going on trial. He knew no details and wondered how a trial would ease the hurt he felt for his brothers.

"I don't know much; I'm just a farmer," he said. "When this trial is done, I hope to know the result, but it seems very complicated."

"It is none of my business — it belongs to the powerful people and the government," he said. "It won't make any change in my life."

After a generation of delay and nearly a decade of political wrangling, trials of at least some Khmer Rouge figures are moving toward a hesitant start. Years of silence in this poor, largely uneducated country have left the scars of the Khmer Rouge era raw, but few Cambodians understand the complex court process or trust their legal system. Many question whether the trials will bring any justice.

Supporters of the trials are hoping to reach out to Cambodians to give them more confidence in the legal process. But they concede that a successful legal effort is far from certain.

A few days after Phork voiced his doubts, Moanh Saphan, a member of the National Assembly, tried to explain the trials to about 550 countrymen.

Earlier in the day, the group had quietly walked the hallways of Tuol Sleng, a school in the heart of Phnom Penh that the Khmer Rouge had used as a prison and interrogation center. Now it is a museum, filled with graphic images of tortured prisoners.

"They were barbaric," one old man said as he tugged on a shackle chained to an old bed. "We were human beings. They used such hard steel. It should have been saved for elephants."

"My classmate," Yuok Sokthun said to no one in particular, running his hand gently across the photograph of a young woman. "Her name was Thin Kimheang."

Moanh Saphan explained that in 2003, the Cambodian government struck a complex agreement with the United Nations for a hybrid court. Unlike recent war crimes trials that have used special international courts, the Khmer Rouge trials will take place within Cambodia's legal system, with foreign and Cambodian judges and lawyers sharing responsibilities. Death sentences cannot be imposed.

"We needed to protect our territory, our power," Moanh Saphan told the crowd.

The reach of the tribunal is limited to only the "senior and most responsible" in the Khmer Rouge. Anything more might have threatened Cambodia's Prime Minister Hun Sen and several others in his government who served as low- and mid-level officials in the Khmer Rouge regime before they defected.

When the lawmaker finished speaking, a bony-kneed man rose to ask why the people in his village who had served as Khmer Rouge informants wouldn't be tried.

"You say this will bring justice," another elderly villager asked, "but what does that mean for us?"

The Khmer Rouge era hovers like a shadow over Cambodia, rarely discussed but hardly forgotten. This piece of recent history is not taught in schools; parents rarely share stories with children. Killers and victims live side by side, too fearful to confront each other.

The court is in a race against time as top Khmer Rouge leaders, witnesses and victims grow old and die. Pol Pot, the regime's leader, died in 1998. In July, the Khmer Rouge military commander Ta Mok died in a Phnom Penh hospital.

Many who survived the genocide are dying as well.

"Every day we lose people who want to see this trial done," said Helen Jarvis, a spokeswoman for the tribunal. "It would have been a lot better if this happened 20 years ago, or 10 years ago. Last year would have been better than this year. But you can't make up for lost time."

Youk Chhang, director of the independent Documentation Center of Cambodia, which houses nearly a million pages of witness accounts, confessions and other documents on the Khmer Rouge, organizes the tours of Tuol Sleng and the tribunal's courtroom. So far, the group has brought more than 3,000 Cambodians from the countryside into the city. Like others, he fears the tribunals risk ignoring the people they aim to heal.

"The victims have to have their own role, equal to that of the United Nations and this government," he said. "Right now there is no role for them. They are being treated as a secondary issue."

By design, half of the people invited on the tours were rank-and-file members of the Khmer Rouge — the bottom rung of the killing machine, who were forced to carry out orders.

"Here, we are all victims," he said.

Thirty years after the Khmer Rouge genocide, many Cambodians doubt the tribunal will even occur, and others expect it to do the impossible, Youk Chhang said.

"The tribunal will not explain how or why genocide was able to take place in Cambodia, or how the Khmer Rouge came to power," he said. "The expectations from the public are often very different than the aims of the tribunal."

The start of the first trial is still at least six months away, said Jarvis, the tribunal spokeswoman. Prosecutors have begun tracking down witnesses and combing through hundreds of thousands of pages of documents, nearly all of which are written in Cambodia's Khmer script, in search of evidence. Given a budget of \$56.3 million, enough for about three years of work, most expect that five to 10 people will stand trial.

There is still much work to be completed before the first trial can begin. Even the jail cells that would hold defendants are not yet built.

"There is the possibility we'll need some crisis management, almost inevitably," Jarvis said as she looked out onto a grove of mango trees, the site of the future jail. "We're hoping against hope."

Also troubling for many observers is the question of whether the Cambodian

judges appointed by the government are qualified. Several studied in the Soviet Union and communist Vietnam and have been involved in trials widely believed to have been politically motivated.

"This is the last chance; it's been 30 years," said Heather Ryan, a trial observer for the Open Society Justice Initiative, which is monitoring the court process. "It would be nice to have something better, but we have to try to make this one succeed."

Robert Petit, the tribunal's co-prosecutor, who has worked on several other international tribunals, is quick to point out that the U.N. can always pull out if things go awry.

"I'm going to go home if I can't do my job right," he said.

"It doesn't help anyone to focus on nightmare scenarios. I think we have a fighting chance. To me it will be a success if we can deliver some justice to some people for some of what has been done.

"It's never going to be perfect."

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