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New book assesses tribunal

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DC-Cam effort addresses administration, challenges for survivor participation.

The Khmer Rouge tribunal's efforts to engage survivors have been hindered by a severe lack of resources, and administrative issues such as unresolved corruption complaints threaten to compromise progress in the courtroom, according to a new book from the Documentation Centre of Cambodia (DC-Cam).

The release of *On Trial: The Khmer Rouge Accountability Process*, scheduled for Saturday, roughly coincides with the third anniversary of the tribunal's founding, initially with three-year mandate. In addition to topics such as the tribunal's history and operations, the book includes chapters assessing its performance in three areas: rulings, administration and survivor-engagement.

The chapter on survivors, written by Sarah Thomas and Terith Chy, states that an under-resourced Victims' Unit and ill-equipped civil party lawyers have detracted from survivors' contributions to the proceedings.

The unit, they say, "has suffered greatly as a result of its late creation and the half-hearted support of donors", making it necessary for outreach and other tasks to be delegated to NGOs and other intermediary organisations.

Though they note that the processing of complaints and civil party applications has been aided by the hiring of more data-entry clerks, more than 1,500 forms had not been processed as of late July, they say.

In an interview with the Post, Terith Chy, head of DC-Cam's Victim Participation Project, said there was still a chance the forms could be useful in the shaping of the tribunal's second case, but that "the window of possibility for this is ... rapidly closing" as the investigation phase winds down.

Though they claim that the reliance on intermediary organisations "has been so extensive as to be overwhelming", the authors argue that the unit should not try to take the lead on outreach.

“Having conducted outreach for almost two years, intermediary organisations possess far greater experience in the provision of victims’ rights education than the unit and have already secured the involvement of more survivors than the court may be able to handle,” they write.

The chapter goes on to describe civil party lawyers as inexperienced and outmatched by the prosecution and defence teams — a situation the authors say was inevitable, given that the tribunal does not fund civil party representation. In the trial of Tuol Sleng prison chief Kaing Guek Eav, alias Duch, pro bono lawyers recruited through intermediary organisations “lacked the resources necessary to match the other parties, including the necessary administrative, investigative and technological capabilities”, the authors say.

In addition to pushing for the appointment of court-recruited legal teams, the authors advocate stronger intervention by judges in the civil party process, which they say could have prevented many of the problems that arose during the Duch case.

In a separate chapter, John Hall, an associate professor at California’s Chapman University School of Law who has written extensively about the tribunal, writes that administrative issues “have risen to such a level that they threaten to damage the legitimacy and viability of the legal process”.

After detailing allegations of a kickback scheme on the Cambodian side of the tribunal, Hall criticises the “apparent lack of teeth” of the independent counsellor position, an anticorruption mechanism announced last month.

In an interview with the Post, he said it “seems highly unlikely” that Cambodian staff would be comfortable bringing their complaints to the counsellor, Uth Chhorn.

Hall also criticises the donor community for failing “to exert the full potential of its fiscal, moral and political leverage” in pushing for “more effective anticorruption mechanisms”.

(Editor’s note: Robbie Corey-Boulet was acknowledged for having provided comments during the preparation of Hall’s chapter on administrative issues.)