

THE PARADOX OF VICTIM-CENTRISM: A CASE STUDY OF THE CIVIL PARTY
PROCESS AT THE KHMER ROUGE TRIBUNAL

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ABSTRACT

The orthodoxy of a victim-centred approach to international criminal justice posits that direct participation in legal proceedings is necessarily beneficial to victims of mass atrocity. The newly-established Extraordinary Chambers in the Courts of Cambodia (ECCC) promises unprecedented rights for victims who may participate by joining the proceedings as civil parties. It has been said – though not proved – that civil parties will be empowered by their participation. This Paper seeks to interrogate this claim. Based on in-depth interviews with (potential) civil parties, victims and the ECCC actors whom they interact with, it asks whether the pre-trial phase of the ECCC’s proceedings has lived up to the promise of victim-centrism. During the pre-trial phase of the ECCC’s proceedings, 28 civil parties were officially recognized, questioned by ECCC judges and prosecutors, interacted with ECCC affiliates and NGO intermediaries and otherwise participated before the ECCC. Yet, there is a striking dearth of research on how Cambodian victims of mass atrocities perceive their participation before the ECCC. To date, no qualitative or quantitative research has been conducted (or at least published) to shed light on this, despite the fact that the ECCC’s pre-trial phase began in 2006 and the first public pre-trial hearing was held in 2007. This Paper seeks to begin to fill this intellectual void. It examines why the ECCC introduced the civil party process in the first place, pulling together the normative and legal basis for this particular mode of victim participation. Importantly, this Paper draws on interviews with 24 civil parties, victims and ECCC affiliates in order to examine whether or not the realities of the civil party process are consistent with its promises. Finally, this Paper does not purport to have a large enough representative sample to generalize with confidence about all Cambodian victims, let alone all victims of mass atrocity. Instead, it seeks to move beyond vague speculations that victim participation in a legal process is always therapeutic and towards a new victimology that the ECCC should be aware of as the long-awaited trials of the Khmer Rouge unfold.