

OPINION

Judge Wrong in Saying KR an Anomaly on Gender Violence

We refer to the article "KR Regime an Anomaly on Gender-Based Violence," (Sept 17-18, page 11) about the lecture given by ECCC Trial Chamber Judge Silvia Cartwright at Pannasastra University.

We noted with surprise Judge Cartwright's statement that the Khmer Rouge regime was one of the few criminal regimes in which gendered violence did not comprise a major part of its criminal activity.

Judge Cartwright was quoted as saying "that this particular conflict is unusual [in that] it does not contain allegations of widespread violence against women because they are women."

The opinion of Judge Cartwright is not backed by facts.

The Khmer Rouge policy of forced marriages—a gendered form of violence—was practiced widely and even systematically.

Due to the efforts of civil party lawyers and victims who had the courage to talk about this crime and the harm that they suffered, this crime was eventually included in the indictment in Case 002, resulting in the admission of 664 civil parties on the basis of forced marriage, within the scope of judicial investigations (by decisions of the Co-Investigating Judges, not including the later admissions by the Pre-Trial Chamber).

It is true that this heinous and serious crime was not included into the prosecutorial strategy from the outset—this may have been due to the fact that, even though the existence of forced marriages during the Khmer Rouge regime was common knowledge, it was never regarded as a crime.

Forced marriages constitute gendered and sexual violence, directed against women because they are women and against men because they are men. The proper legal characterization behind these acts include rape as a crime against humanity; and forced pregnancy, forced marriage and an attack against culture, as other inhumane acts of crimes against humanity.

Given the lack of sufficient investigations by the ECCC, it is impossible to know how many victims of these gendered and sexual crimes are concerned, but they number at least several hundred

"case" of a forced marriage.

But in addition, and beyond the forced marriages, it was part of the Khmer Rouge policy that women who were declared enemies could be tortured, ill treated and of course raped before they were killed.

The lack of statements of immediate victims because most of them were killed is not a proof that rapes against women did not exist.

To the contrary: Civil party lawyers submitted statements of eye-witnesses, which suggest the pattern that those women who were killed were also raped, that these crimes were commonly known and not punished.

One of our clients revealed, after having been explicitly asked, that she was the only survivor of a group of 30 women who were all killed and raped before killing,

including her. Of course she did not dare to report this story in her application form as a civil party but could disclose it later when she felt secure and in appropriate surrounds.

Moreover, the story of our transgendered client suggests that sexual violence against males was a common practice due to the separation of sexes.

One civil party also reported systematic rapes of Vietnamese women. They were selected for the crime by perpetrators because they were Vietnamese and because they were women. This was a means of the genocide against the Vietnamese.

The statement of Kaing Guek Eav is in conformity with these findings. He testified in Case 001 that he did not punish the interrogator and perpetrator of a rape committed in S-21.

But it is also true that all these crimes were never investigated and consequently disregarded, therefore remaining unreported.

Sexual crimes are crimes that need a sensitive investigative approach so that victims and witnesses are able to speak out.

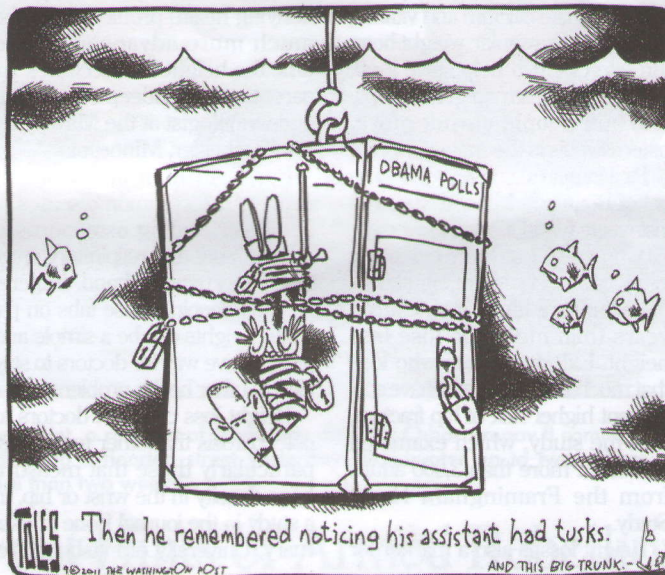
Civil party lawyers are not in the position to conduct investigations. However, we did submit evidence suggesting that, contrary to the common perception of the puritanical Khmer Rouge, sexual violence was a widespread crime against women and men under the Khmer Rouge—quite aside from forced marriages.

It is a matter of serious concern if Judge Cartwright draws her conclusions that gendered violence was not a "major part of the Khmer Rouge criminal activities" from the common ignorance toward these crimes by (dominantly male) scholars and (dominantly male) investigative bodies of the ECCC.

She is correct, though, in saying that the case file does not contain many allegations of sexual crimes.

This is far from representing reality.

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