

## INTRODUCTION

### Conflict in Cambodia, 1945-2002

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Before World War II, Cambodia was a heavily taxed, relatively quiet corner of the French empire. Its population was 80 percent Khmer, 80 percent Buddhist, and 80 percent rice-growing peasants. Up to a fifth of the population were ethnic and religious minorities: Vietnamese, Chinese, and Muslim Chams worked mostly in rubber plantations or as clerks, shopkeepers, and fisherfolk, while a score of small ethnolinguistic groups, such as the Jarai, Tampuan, and Kreung, populated the upland northeast.

After Japan's defeat in World War II, the reimposition by force of French colonial control of Indochina provoked armed nationalist resistance by both Viet Minh and Khmer Issarak ("independence") forces. Protracted anti-colonial conflict in both Vietnam and Cambodia fostered the emergence by 1951 of a Vietnamese-sponsored Cambodian communist movement, the Khmer People's Revolutionary Party (KPRP), which won increasing though not unchallenged preeminence among Issarak nationalists contesting French control of their country.<sup>1</sup> KPRP members, led by former Buddhist monks, slowly gained leadership of the nationwide Khmer Issarak Association, which adopted for its flag a silhouette of Angkor Wat's five towers on a red background. One faction of the independence movement initially called itself "Democratic Kampuchea" — the title later used by the Pol Pot regime as the official name of its Khmer Rouge state.<sup>2</sup> An anti-KPRP grouping used for its flag a three-towered motif of Angkor, the future flag of Democratic Kampuchea. Members of another anticommunist splinter group carried out racist massacres of ethnic Vietnamese in 1949, and of Chams in 1952.<sup>3</sup> Saloth Sar, then a student in Paris calling himself the "Original Khmer," returned home in 1953 and briefly served in the communist-led Issarak ranks. He later assumed the nom de guerre Pol Pot.

The First Indochina War culminated in the French defeat by Viet Minh forces at Dien Bien Phu in 1954. Cambodia also obtained independence under the then-king, Norodom Sihanouk, who soon adopted a foreign policy of cold war neutrality. His choice was partly a domestic accommodation, an implicit acknowledgement of the local communists' important role in the war for Cambodia's independence and their potential and incentive to disrupt a more pro-Western regime. Neutrality was also a foreign policy strategy to keep Cambodia out of escalating conflict in neighboring Vietnam.

It worked for over a decade. Sihanouk's foreign policy of independence appealed to moderate nationalists, and his neutrality appeased veteran communists, while his autocracy stifled dissent and co-opted most of Cambodia's political spectrum into a one-party kingdom. Those radicals of left and right dissatisfied with Sihanouk's policies had to bide their time, head for the hills, or leave for Vietnam or Thailand. Half of Cambodia's veteran communists took up exile in Hanoi.<sup>4</sup> Most remaining grass-roots leftists were either mollified by Sihanouk's advocacy of peace and neutrality, jailed by his police, or disappeared, like the underground Cambodian communist leader, the former monk Tou Samouth, who was mysteriously killed in 1962. A group of Paris-trained militants headed by Saloth Sar, Ieng Sary, and Son Sen immediately assumed the central leadership of the demobilized KPRP. They quietly slipped away from their teaching jobs in the capital. The party's veteran leadership, largely from rural and Buddhist backgrounds, pro-Vietnamese though relatively moderate, was replaced by younger, urban, French-educated, anti-Vietnamese extremists. From the jungles of the remote northeast, the new party leadership planned an armed rebellion against Sihanouk's regime, ignoring his independent nationalism and labeling him a U.S. puppet. Civil war loomed as the regime sensed the threat and moved with renewed vigor against all leftists, driving above-ground moderates into the arms of the younger militants now leading the party. Following them into underground opposition came a new cohort of disgruntled youth who had benefited from Sihanouk's rapid post-independence expansion of educational opportunities, but who were unable to secure commensurate employment in a fragile economy that registered real growth only in 1963-65 and remained plagued by corruption.

Once the United States escalated the Vietnam War in 1964-65, Cambodia had little hope of remaining an oasis of peace. Its frontiers became increasingly porous and vulnerable. By 1966, rampant smuggling of Cambodian rice across the border to both sides in the Vietnam conflict bankrupted the Sihanouk regime by depriving it of export duties, the government's main source of revenue. Cambodia was drawn further into the war by waves of ethnic Khmer refugees fleeing Saigon's persecution, Vietnamese communists seeking neutral sanctuary, anti-communist troops in "hot pursuit," and U.S. Special Forces incursions and jet-fighter raids. Then, in 1969, President Nixon ordered extensive B-52 bombing raids of border areas of Cambodia.

Worse, in 1967 civil war broke out in the countryside. Saloth Sar's newly renamed Communist Party of Kampuchea (CPK) mounted a limited domestic insurgency, and provoked escalating military reaction. In combination with this,

Sihanouk's regime found itself unable to handle the impact of the Vietnam War, especially the economic crisis and the presence of Vietnamese communist sanctuaries. General Lon Nol overthrew him on 18 March 1970.<sup>5</sup> From exile in Beijing, Sihanouk quickly joined forces with the Khmer Rouge, led by the CPK with Saloth Sar now using the code name "Pol." In Phnom Penh, meanwhile, the Kingdom of Cambodia was renamed the Khmer Republic (1970-75), with Lon Nol as president. His army massacred hundreds of the country's ethnic Vietnamese residents, and 300,000 more fled across the border into Vietnam, setting a precedent for intensified "ethnic cleansing" by the Khmer Rouge.<sup>6</sup>

But the most dangerous movement was into Cambodia, by soldiers not civilians. Both sides in the Vietnam conflict now treated Cambodia as a theatre of their ground and air war. Vietnamese and Cambodian communist forces spread across the country, as did U.S. and South Vietnamese troops, each side attempting to outflank and avoid encirclement by the other. Lon Nol's Khmer Republic quickly lost control of most of the countryside, and U.S. ground troops withdrew in mid-1970, but Saigon forces occupied eastern Cambodia until 1972. Most Vietnamese communist units withdrew from Cambodia in 1973 after the Paris Agreement on Vietnam in January. U.S. aerial bombardments continued and escalated until August 1973. From 1969 to 1973, American aircraft dropped over half a million tons of bombs on Cambodia's countryside, killing over 100,000 peasants and driving many survivors into the ranks of the Khmer Rouge.<sup>7</sup>

The opposing Cambodian armies fought out the last two years of the war, with continuing large-scale U.S. military assistance to the Republican forces based in the cities, and sporadic Vietnamese aid to the Khmer Rouge who dominated the rural areas, which they called their "bases" (*moultanb*). After initial urban euphoria, the Khmer Republic became mired in corruption and the increasingly narrow military dictatorship of Lon Nol and his brother Lon Non. In the countryside, portending the genocide to come, the Khmer Rouge central leadership attacked its Vietnamese allies as early as 1970, killed a thousand Khmer communist returnees from Hanoi, and in 1973-74, stepped up violence against ethnic Vietnamese civilians, purged and killed ethnic Thai and other minority members of CPK regional committees, banned an allied group of ethnic Cham Muslim revolutionaries, and instigated severe repression of Muslim communities.

On 17 April 1975, Khmer Rouge forces entered Phnom Penh, deported its two million residents into the countryside, and established the new state of Democratic Kampuchea (DK). This was secretly headed by Saloth Sar, CPK secretary-general and prime minister, under the name "Pol Pot" or "Brother Number One," and other members of the Party "Center" (*mocchim*) based in Phnom Penh: Nuon Chea (Deputy CPK Secretary), Vorn Vet, Ieng Sary and Son Sen (Deputy Prime Ministers), the increasingly powerful army chiefs, Chhit Choeun (alias Mok) and Ke Pauk, and the DK head of state, Khieu Samphan.<sup>8</sup>

### The Genocide, 1975-1979

The DK labeled the conquered urban populations "new people." Driving them from the capital in all directions, the Khmer Rouge forcibly settled the urbanites among the rural "base people" (*neak moultanb*) who had lived in the

countryside during the 1970-75 war, putting them to work in agricultural labor camps without wages, rights, or leisure time. Before the rice harvest in late 1975, the Khmer Rouge again rounded up 800,000 of the urban deportees in various regions and dispatched them to the Northwest Zone, doubling its population. Tens of thousands died of starvation there during 1976, while the new regime began exporting rice. Meanwhile, it hunted down, rounded up, and killed thousands of defeated Khmer Republic officials, army officers, and increasingly, soldiers, schoolteachers, and alleged “pacification agents” (*santec sampoan*) who in most cases had merely protested the repression or just the rigorous living conditions imposed on them. In 1976-77, the CPK Center and its Security apparatus, the Santebal, headed by Son Sen and Kang Khek Iev (alias Deuch), conducted massive internecine purges of the Northern and Northwest Zone CPK administrations, arresting and killing large numbers of peasant “base people” who were relatives of the purged local officials. Starvation and repression escalated in 1977 and especially in 1978. By early 1979, approximately 650,000 or one quarter of the Khmer “new people,” and 675,000 Khmer “base people” (15 percent), had perished from execution, starvation, overwork, disease, and denial of medical care.

This severe Khmer Rouge repression of the majority Khmer rural populations was accompanied by intensified violence against ethnic minorities, even among the “base people,” escalating the patterns of 1973-74. Over half of the ethnic Chinese, a quarter of a million people, perished in the countryside in 1975-79, the worst human disaster ever to befall the large ethnic Chinese community of Southeast Asia.<sup>9</sup> In 1975 the Khmer Rouge expelled from Cambodia over 100,000 more Vietnamese residents, and ferociously repressed a Cham Muslim rebellion along the Mekong River.<sup>10</sup> Pol Pot then ordered the deportation of 150,000 Chams living on the east bank of the Mekong and their forced dispersal throughout the Northern and Northwest Zones. In November 1975, a Khmer Rouge official in the Eastern Zone complained to Pol Pot of his inability to implement “the dispersal strategy according to the decision that you, Brother, had discussed with us.” Officials in the Northern Zone, he complained, “absolutely refused to accept Islamic people,” preferring “only pure Khmer people.”<sup>11</sup> In a message to Pol Pot two months later, Northern Zone CPK leader Ke Pauk listed “enemies” such as “Islamic people.”<sup>12</sup> Deportations of Chams began again in 1976; by early 1979, the Khmer Rouge had killed, starved, or worked to death approximately 100,000 of the country’s Cham population of 250,000 (in 1975). In 1977 and 1978, they hunted down and murdered the 10,000 or so Vietnamese residents remaining in the country. Oral evidence suggests that other ethnic groups, including the Chinese, Thai and Lao, were also subjected to genocidal persecution; even the relatively favoured upland minorities suffered enormous losses.<sup>13</sup>

The 1975 Cham rebellion was followed in 1978 by another serious uprising in the Eastern Zone, led by ethnic Khmer. From late 1976, the Pol Pot regime accelerated its violent internal purges of the Cambodian regional administration. The Santebal and the CPK Center’s armed forces subjected all five regions of the Eastern Zone to concerted large-scale arrests and massacres of local CPK

officials and soldiers. In May 1978, these purges reached a crescendo, and provoked a mutiny by units of the Zone armed forces. The rebels, led by Heng Samrin and Chea Sim, held out for several months before retreating across the Vietnamese border and requesting assistance from Hanoi's army.

Meanwhile, from early 1977, Phnom Penh also mounted cross-border attacks on Thailand, Laos and especially Vietnam. Hanoi was now ready to intervene. On 25 December 1978, 150,000 Vietnamese troops launched a multipronged assault and took Phnom Penh on 7 January 1979. They drove the retreating Khmer Rouge across the country and into the Cardamom mountains along the Thai border. Cambodians welcomed the end of the genocide. The People's Republic of Kampuchea (PRK) was established, headed by Heng Samrin, Chea Sim, and Foreign Minister Hun Sen, who became prime minister in 1985. After Vietnamese troops withdrew in 1989, the regime renamed itself the State of Cambodia.

### **Conflict, Diplomacy, and Recovery**

Meanwhile, on 6 December 1975, President Gerald Ford and Secretary of State Henry Kissinger had visited Indonesia's President Suharto in Jakarta. Ford told Suharto that "despite the severe setback of Vietnam" seven months earlier, "the United States intends to continue a strong interest in and influence in the Pacific, Southeast Asia and Asia. As a whole, we hope to expand this influence." Ford had just been in China, where, he said, "we made it clear that we are opposed to the expansion of any nation or combination of nations." This was aimed not at China but at its rivals, Kissinger added: "We believe that China does not have expansionist aims now.... Their first concern is the Soviet Union and their second Vietnam." Suharto asked if the United States believed that Cambodia, Laos, and Vietnam would "be incorporated into one country." Ford replied: "The unification of Vietnam has come more quickly than we anticipated. There is, however, resistance in Cambodia to the influence of Hanoi. We are willing to move slowly in our relations with Cambodia, hoping perhaps to slow down the North Vietnamese influence although we find the Cambodian government very difficult." Kissinger then explained Beijing's similar strategy: "The Chinese want to use Cambodia to balance off Vietnam.... We don't like Cambodia, for the government in many ways is worse than Vietnam, but we would like it to be independent. We don't discourage Thailand or China from drawing closer to Cambodia."<sup>14</sup> For such geopolitical reasons, while the Cambodian genocide progressed, Washington, Beijing and Bangkok all supported the continued independent existence of the Khmer Rouge regime.

They kept up this support after 1979. As revealed in the Chinese inside account of Pol Pot's fall that follows (pp. 497-519), Beijing maintained its alliance with the Khmer Rouge. For the twenty years following his overthrow, Pol Pot also benefited from sanctuary in Thailand. He evaded justice and died in his sleep near the Thai border in April 1998.

When Vietnam ousted the Khmer Rouge in 1979, most of the world lined up in confrontational cold war positions. Hanoi's intervention was seen as having created "the Cambodian problem" rather than or despite having stopped a

genocide. China, the United States, and the Association of Southeast Asian Nations (Asean), all supported Pol Pot's Khmer Rouge in various ways, and opposed attempts to bring them to justice. Protracted legal inquiries found no state anywhere willing to file a case against the Khmer Rouge in the International Court of Justice. They held on to Cambodia's seat in the United Nations, representing their victims for another fourteen years. France was the only major Western country that even abstained on the seating issue, though Paris did not cast a vote against the Khmer Rouge. While they were openly accountable for their crimes, international aid poured into their coffers, abetting their war to retake power.<sup>15</sup> Their opponents in Phnom Penh were subjected to an international embargo.<sup>16</sup> This embargo, and the human rights abuses of the wartime one-party PRK regime, constrained and marred its acknowledged achievements in restoring normality and reconstructing the country's economy, administration, cultural life, and education system.<sup>17</sup>

From 1979 to 1982 the Khmer Rouge continued to hold Cambodia's UN seat alone, still using the name "Democratic Kampuchea." Then Sihanouk and Son Sann led two smaller non-communist parties into a Khmer Rouge-dominated "Coalition Government of Democratic Kampuchea" — in reality neither a coalition, nor a government, nor democratic, nor in Cambodia. With Sihanouk now the nominal CGDK leader, the Khmer Rouge flag flew over New York until 1992.

Governments were not alone in prolonging Khmer Rouge influence. In the 1980s, international legal bodies rejected invitations to send jurists to Cambodia to investigate the crimes of the Khmer Rouge and initiate legal action. The American Bar Association, LawAsia, and the International Commission of Jurists all refused. Only the Australian branch of the International Commission of Jurists showed interest.

Neighboring Thailand provided key support to the Khmer Rouge — sanctuary along the border, secret military supplies, and diplomatic aid.<sup>18</sup> In 1985, Thailand's foreign minister described Pol Pot's deputy, Son Sen, as a "very good man." In 1991, General Suchinda Krapayoon, after seizing power in Thailand, proclaimed Pol Pot a "nice guy." Thai politician Anand Panyarachun told Khieu Samphan: "Sixteen years ago I was also accused of being a communist. Now they have picked me as prime minister. In any society there are always hard liners and soft liners, and society changes its attitudes toward them as time passes by." After meeting Pol Pot in 1991, Suchinda pleaded to the media that Pol Pot had no intention of regaining power and it was time to treat him "fairly."

"I do not understand why some people want to remove Pol Pot," said China's Deng Xiaoping in 1984. "It is true that he made some mistakes in the past but now he is leading the fight against the Vietnamese aggressors." China provided the Khmer Rouge forces with \$100 million in weapons per annum all through the 1980s, according to U.S. intelligence. A Chinese shipment in mid-1990 violated a promise to cut weapons deliveries to the Khmer Rouge in return for Vietnam's September 1989 withdrawal from Cambodia.

Former U.S. National Security Advisor Zbigniew Brzezinski recalled Kissinger's earlier policy when he revealed that in 1979, "I encouraged the Chinese to support Pol Pot. Pol Pot was an abomination. We could never support him,

but China could.” According to Brzezinski, the United States “winked, semi-publicly” at Chinese and Thai aid to the Khmer Rouge.<sup>19</sup> At the same time, U.S. officials pushed through international aid to Khmer Rouge-controlled camps on the Thai border.<sup>20</sup>

In the 1980s, U.S. Secretary of State George Shultz opposed efforts to investigate or indict the Khmer Rouge for genocide or other crimes against humanity. Shultz described as “stupid,” Australian Foreign Minister Bill Hayden’s 1983 efforts to encourage dialogue over Cambodia, and in 1986 he declined to support Hayden’s proposal for an international tribunal. On a visit to Thailand, Shultz warned against peace talks with Vietnam, telling Asean “to be extremely cautious in formulating peace proposals for Kampuchea because Vietnam might one day accept them.”<sup>21</sup>

The first Bush administration even took a hard line against Thailand after the advent of an elected prime minister there in 1988. The United States saw Thailand’s new policy — turning Indochina into a marketplace rather than a battlefield, and engagement with Vietnam and Cambodia — as a defection from the position of China and the United States. The Far Eastern Economic Review reported that in 1989, U.S. “officials warned that if Thailand abandoned the Cambodian resistance and its leader Sihanouk for the sake of doing business with Phnom Penh it would have to pay a price.”<sup>22</sup> Secretary of State James A. Baker proposed that the Khmer Rouge be included in the future government of Cambodia.<sup>23</sup>

International negotiations on Cambodia began in 1988 in Jakarta, in a regional forum that involved all the Southeast Asian countries. But the talks moved to Paris the next year, and were expanded to include the Great Powers. China’s involvement brought its Khmer Rouge protégés to center stage. Any agreement now required unanimity, giving the Khmer Rouge a veto and time to rebuild their military power. According to briefings Pol Pot gave his commanders in 1988, he set out to delay elections until his forces controlled the countryside. Khieu Samphan added: “The outside world keeps demanding a political end to the war in Kampuchea. I could end the war now if I wanted, because the outside world is waiting for me. But I am buying time to give you, comrades, the opportunity to carry out all the tasks. If it doesn’t end politically and ends militarily, that’s good.”

Diplomatic criticism of the Khmer Rouge genocide abated. At the first Jakarta Meeting on 28 July 1988, the Indonesian chairman’s final communiqué had noted a Southeast Asian consensus on preventing a return to “the genocidal policies and practices of the Pol Pot regime.” But on 3 November 1989, the UN General Assembly watered this down to “the universally condemned policies and practices of the recent past.” The February 1990 Australian proposal, on which the final UN Plan was based, referred only to “the human rights abuses of a recent past.” The UN Plan’s further obfuscation, in August 1990, vaguely nodded at “the policies and practices of the past.” Even Pol Pot would enjoy “the same rights, freedoms, and opportunities to participate in the electoral process” as other Cambodians.

In August 1990, the UN’s Human Rights sub-Commission was about to consider a draft resolution referring to “the atrocities reaching the level of genocide

committed in particular during the period of Khmer Rouge rule,” and calling on all states to “detect, arrest, extradite, or bring to trial those who had been responsible for crimes against humanity committed in Cambodia, and prevent the return to governmental positions of those who were responsible for genocidal actions during the period 1975 to 1978.” However, the chair of the Human Rights sub-Commission, Yugoslav diplomat Danilo Turk, dropped this text from the agenda after speakers said that it would “render a disservice to the United Nations.”<sup>24</sup> A year later, however, the UN Sub-commission passed a resolution noting “the duty of the international community to prevent the recurrence of genocide in Cambodia” and “to take all necessary preventive measures to avoid conditions that could create for the Cambodian people the risk of new crimes against humanity.”<sup>25</sup> The genocide had finally been acknowledged in an official international forum.<sup>26</sup>

Also in 1991, Indonesia and France, co-chairs of the Paris International Conference on Cambodia, accepted the Phnom Penh government’s proposal that the final Agreement stipulate that the new Cambodian constitution should be “consistent with the provisions of...the UN Convention on the Prevention and Punishment of Crimes of Genocide.”<sup>27</sup> The great powers rejected this, and the Paris Agreement on Cambodia was signed in October 1991 without reference to the Convention or mention of genocide. The United Nations Transitional Authority in Cambodia (UNTAC) allowed the Khmer Rouge to return to Phnom Penh. Khieu Samphan and Son Sen joined the Supreme National Council, a body temporarily enshrining Cambodian sovereignty. Before returning to the capital, Son Sen read through the 1948 Genocide Convention and underlined passages that might be used to prosecute him, including the definition of the crime, and sections asserting that, “whether committed in time of peace or in time of war, [genocide] is a crime under international law.”<sup>28</sup>

Though they profited from the Paris Agreement’s protections and concessions, the Khmer Rouge declined to abide by it. They refused to implement the cease-fire, disarm their troops, or demobilize. They refused any UN presence in the territories they controlled, which they expanded by force while the other Cambodian parties generally respected the cease-fire. This allowed the Khmer Rouge to harvest valuable timber for sale to Thailand, while the dollar influx accompanying the UN’s arrival in the urban areas nourished a new epidemic of corruption there.

The Khmer Rouge also boycotted the 1993 UN-organized election and tried to sabotage it, killing peacekeepers from Bangladesh, Bulgaria, Japan and even China.<sup>29</sup> They failed to prevent the election, and continued their military campaign against the new Cambodian government, a coalition of the royalists headed by Sihanouk’s son Norodom Ranariddh and the former communists led by Hun Sen. Sihanouk was once again crowned king, and the country was re-named the Kingdom of Cambodia. In 1994, its National Assembly formally outlawed the Khmer Rouge. International action finally began to build against them too. In the same year, the U.S. Congress passed the Cambodian Genocide Justice Act. It now became American policy to bring the perpetrators to justice. The State Department commissioned legal



studies, and funded Yale University's Cambodian Genocide Program ([www.yale.edu/cgp](http://www.yale.edu/cgp)) to collect the historical evidence.<sup>30</sup>

In 1993, in the first ever international implementation of the Genocide Convention, the UN Security Council created the Ad Hoc International Criminal Tribunal on the Former Yugoslavia. Slovenia's Ambassador to the United Nations, Danilo Turk, who in 1990 as a Yugoslav diplomat had deleted from the agenda of the Human Rights sub-Commission the draft resolution condemning the Cambodian genocide, now insisted that "the international community could not afford not to punish the perpetrators of the genocide of the Muslim people of Bosnia and Herzegovina."<sup>31</sup> The next year, Turk found it "particularly discouraging that Radovan Karadzic and Ratko Mladic, who were indicted for genocide and other crimes, had not been arrested and continued to exert an influence in public life. That situation should not be allowed to continue," he added.<sup>32</sup>

In August 1996, DK's former deputy prime minister, Ieng Sary, defected to the Hun Sen government, bringing some Khmer Rouge units with him. Sary received a "pardon" for his opposition since the Khmer Rouge defeat, and for his new loyalty retained autonomous authority over Pailin province.<sup>33</sup> Other Khmer Rouge leaders soon jockeyed for similar treatment from Phnom Penh. In June 1997, fearing further defections and possible betrayal, Pol Pot murdered Son Sen, DK's defense and security chief from 1975 to 1979. As the last military forces loyal to Pol Pot fled their jungle headquarters, they drove their trucks over the bodies of their final victims, including Son Sen, his wife Yun Yat — former DK minister of culture — and their family. Mok, the rump Khmer Rouge commander, turned in pursuit, arrested Pol Pot, and quickly subjected him to a show trial in the jungle.

In July 1997, a joint appeal to the United Nations by the two Cambodian prime ministers, Hun Sen and Norodom Ranariddh, called for the establishment of an international tribunal to judge the Khmer Rouge. This was one of their last joint acts before their own coalition government ruptured in an outbreak of bloody fighting in Phnom Penh later that month. But it generated a response. The UN secretary-general's Special Representative for Human Rights in Cambodia ushered a resolution through the General Assembly condemning the Khmer Rouge genocide. A year later, the United Nations commissioned a Group of Experts to examine the evidence. Danilo Turk, representing Slovenia on the UN Security Council in 1998 and 1999, expressed "serious concern" about an "ethical vacuum" concerning violations of humanitarian law.<sup>34</sup>

In March 1999, the UN secretary-general released the Experts' report. They found a *prima facie* case that the Khmer Rouge regime had committed not only war crimes and crimes against humanity, but also genocide and other violations of the 1948 UN Genocide Convention, and they recommended the creation of an international tribunal for Cambodia.<sup>35</sup> Russia, France, Britain, and the United States now all favored such a Tribunal. China threatened a veto in the Security Council, but it cannot veto General Assembly resolutions. The United Nations commenced negotiations with Cambodia to set up a mixed international/national tribunal. On 1 February 2000, Danilo Turk became UN Assistant Secretary-General for Political Affairs, "with responsibilities for the Americas and Europe, Asia and the Pacific."<sup>36</sup>

Meanwhile, in March 1998, the former DK deputy army commander, Ke Pauk, led a new mutiny against Mok, and then defected to the government. The next month, as the various factions slugged it out, Pol Pot died. He may have committed suicide in order to evade capture. U.S. officials had been negotiating with Mok's forces to take custody of Pol Pot at the Thai border.



Pol Pot, August 1986. Photograph purchased from a "former" Khmer Rouge soldier, Anlong Veng, July 1999. (Courtesy of Daniel Rudder)

In December 1998, the top surviving Khmer Rouge leaders — Nuon Chea, formerly Deputy CPK Secretary, and Khieu Samphan, former DK head of state — abandoned Mok's border hide-out and surrendered to the Cambodian government. They said "Sorry" for the crimes they had perpetrated.<sup>37</sup> Alone in the jungle, Mok did not hold out long. Cambodian troops captured him in March 1999. And the next month, a journalist discovered Kang Khek Iev, the former Santebal chief and commandant of Tuol Sleng prison, who was apprehended by Cambodian police.

Thus the surviving Khmer Rouge leaders had all surrendered or been arrested. Phnom Penh prepared initial charges of genocide against Mok, Nuon Chea and Khieu Samphan.<sup>38</sup> Ieng Sary, officially pardoned not for the genocide but for his subsequent opposition to Phnom Penh, hoped to escape justice. Ke Pauk died in 2002.<sup>39</sup>

In July 2001, Cambodia's National Assembly and Senate enacted a Law on the Establishment of Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed during the Period of Democratic Kampuchea. The law was promulgated the next month (see the BCAS website: <http://csf.colorado.edu/bcas/>). However, it did not satisfy the United Nations, which ended three years of negotiations with Phnom Penh in February 2002. Six months later, the United Nations renewed its interest and referred the case to the General Assembly. Hopefully, the Cambodian government and its imperfect judicial system will not be left to try the surviving Khmer Rouge leaders without substantial international assistance and inspection.

## Conclusion

In the thirty years after World War II, Cambodia witnessed the reassertion of colonial power, the spread of nationalism, the birth and growth of a communist party, the achievement of independence, the stifling of reform during a decade of peace, the rise of an armed domestic insurgency, the encroachment of an

international war, massive bombardment and civilian casualties, pogroms and ethnic “cleansing” of religious minorities. From 1975 to 1979, genocide took another 1.7 million lives. Then, after liberation from the Khmer Rouge regime, Cambodia survived a decade of foreign occupation, international isolation, and guerrilla terror and harassment. UN intervention and democratic transition were followed by Cambodia’s defeat of the Khmer Rouge in 1999 amid continuing internal tension and political confrontation. Whether legal accountability will resolve the country’s poverty and injustice, remains to be seen.

This issue of *Critical Asian Studies* on “Conflict and Change in Cambodia” brings together primary documents and secondary analyses of modern Cambodian political and environmental history. Following the detailed Chinese account of the fall of the Pol Pot regime in 1979, political scientists David Roberts and Caroline Hughes then examine the contemporary struggle for democracy. Surveying the 1990s, Roberts analyzes the advances and setbacks in the incorporation of rival political forces into a democratic state structure. Hughes then takes a close, careful look at the roles of two opposition parties during the 1998 elections, and reveals the return of racism to Cambodia’s political scene in tandem with campaigns against corruption. Philippe Le Billon and Ruth Bottomley examine the country’s serious challenges on the environmental front. Le Billon takes a new interpretive angle on 1990s Cambodia, showing how environmental aspects of the civil war cut across other national political analyses. Forest resource exploitation proved an independent variable, both fueling the conflict with opportunities for all-round corruption and tempering it by fostering common business interests. Bottomley zeroes in on the local impact on five villages in Ratanakiri Province and their Kreung and Tampuan upland minority peoples. She demonstrates the pressures for incorporation and assimilation, and responses that vary by time, place, generation, and gender. Logging has both threatened and benefited locals, who seek to retain their autonomy and gain from development. But forest resources are exhaustible, and older issues of conflict and corruption may always regain prominence in a degraded environment.

We also publish here an update by specialist consultant Helen Jarvis on efforts to bring the surviving Khmer Rouge to justice and a series of documents detailing the negotiations between the United Nations and Phnom Penh over the establishment of a mixed national/international tribunal.

The related fates of democracy, the environment, and the rule of law will remain key issues for Cambodia’s future development, while confrontation continues and change persists.

### Notes

An abridged version of this survey will appear in Kai Ambos and Mohamed Othman, eds., *New Approaches in International Criminal Justice: Kosovo, East Timor, Sierra Leone and Cambodia* (Freiburg im Breisgau: Max Planck Institute for Foreign and International Criminal Law, 2003).

1. Documentation for much of what follows may be found in Ben Kiernan, *How Pol Pot Came to Power: A History of Communism in Kampuchea, 1930-1975* (London: Verso, 1985).

2. Archives d'Outre-Mer, Aix-en-Provence. Indochine, Conseiller Politique (CP) 34, 2, S.E.C.A.M., no. 1271, Phnom Penh 25.10.48, document dated 20.8.1948, translated appendix headed "Cambodge Démocratique: 4ème Année"; Direction de la Police et de la Sûreté Fédérales (DPSF), 4 janvier 1949, document signed by "Sambath" headed "Cambodge Démocratique."
3. Kiernan, *How Pol Pot Came to Power*, 73-75, 87, 104. Nayan Chanda, *Brother Enemy* (New York: Harcourt Brace Jovanovich, 1986) stresses the reappearance of traditional ethnic antagonism in later Cambodian communism.
4. See also Thomas Engelbert and Christopher E. Goscha, *Falling Out of Touch: A Study on Vietnamese Communist Policy towards an Emerging Cambodian Communist Movement, 1930-1975* (Victoria, Australia: Centre of Southeast Asian Studies, Monash Asia Institute, Monash University, 1995).
5. Justin Corfield, *Khmers Stand Up! A History of the Cambodian Government, 1970-1975* (Victoria, Australia: Centre of Southeast Asian Studies, Monash University, 1994).
6. Jacques Migozzi, *Cambodge: Faits et problèmes de population* (Paris: CNRS, 1973), 44.
7. Ben Kiernan, *The Pol Pot Regime: Race, Power and Genocide in Cambodia under the Khmer Rouge, 1975-1979*, 2d ed. (New Haven: Yale University Press, 2002), 16-25; and Kate G. Frieson, *The Impact of Revolution on Cambodian Peasants, 1970-1975* (Ph.D. diss., Monash University, Victoria, Australia, 1991).
8. For different views of the Khmer Rouge regime, see for instance Michael Vickery, *Cambodia 1975-1982* (Boston: South End Press, 1984); David P. Chandler, *Brother Number One* (Boulder, Colo.: Westview, 1992); and *Voices from S-21* (Berkeley and Los Angeles: University of California Press, 2000).
9. See Kiernan, *The Pol Pot Regime*, 288-96.
10. *Ibid.*, 107-9, 262-67.
11. "To Comrade Brother Pol with respect," signed Chhon, 30 November 1975. Original held at the Documentation Center of Cambodia, Phnom Penh, DC-Cam Document No. N0001045 (01 bbk).
12. "To Brother Pol with respect," signed Comrade Pauk," 4 February 1976. DC-Cam Document No. N0001187 (02 bbk).
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14. Text of Ford-Kissinger-Suharto discussion, U.S. Embassy Jakarta Telegram 1579 to Secretary State, 6 December 1975, in *East Timor Revisited: Ford, Kissinger and the Indonesian Invasion, 1975-76*, National Security Archive Electronic Briefing Book, no. 62, ed. William Burr and Michael L. Evans, 6 December 2001 ([www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB62](http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB62)).
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