



## **Cambodia Confronts the "G" Word**

**Brendan Brady**

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*The horrors of the Khmer Rouge's rule may be in the past, but the question of whether its crimes amounted to genocide lingers on.*

The Khmer Rouge liked to say, "When pulling out weeds, remove the roots and all." Fulfilling this dogma, the ultra-Maoist regime killed the babies of supposed traitors of the revolution and "smashed" -- its euphemism for executed -- pregnant women carrying the children of men whose loyalty was in question. The term genocide is often used reflexively to describe the Khmer Rouge's rule of terror that led to the deaths of at least 1.7 million Cambodians from overwork, starvation, and murder from 1975 to 1979. It was not, however, one of the charges former Khmer Rouge leaders had faced in the three-year-old U.N.-backed war crimes tribunal. This is changing, though, and the new move is controversial.

The hybrid Cambodian-U.N. tribunal has been trying five former top regime officials for war crimes and crimes against humanity. Its first trial, of Kaing Guek Eav (alias Duch), the warden of a prison code-named S-21, where an estimated 15,000 prisoners deemed enemies of the revolution were tortured before being executed in the nearby "killing fields," concluded in November. A verdict is expected in March. Last month, the tribunal added genocide as a charge against the four remaining defendants for their alleged role in the slaughter of ethnic Vietnamese and Cham Muslims in Cambodia. The charges need to be finalized in the court's closing order, but it is widely thought that they will all be included in the formal charges against the defendants.

Duch admitted to his role in overseeing the S-21 prison. But the regime's chief ideologue, Nuon Chea (known as "Brother No. 2"), former President Khieu Samphan, former Foreign Minister Ieng Sary, and his wife and social affairs minister, Ieng Thirith, have all denied culpability for the charges they face. By all reliable accounts, however, they were the chief architects of the regime's catastrophic experiment to forge an agrarian utopia by methods that included forcing the population onto rural

collectives; abolishing money, schools, and religion; and exterminating perceived enemies of the revolution.

In 1999, U.N. experts concluded that the Khmer Rouge should face charges for genocide, war crimes, and crimes against humanity. They said there was strong evidence -- including Khmer Rouge statements, eyewitness accounts, and the nature and number of victims of each group -- pointing to genocide against the Cham and Vietnamese as ethnic groups and against the Buddhist monkhood as a religious group.

In light of the denial and obfuscation of the former regime's leadership, the court's role in clarifying the historical record is now especially important. "That is part of the healing process," says David Scheffer, a former U.S. war crimes ambassador, "to confront these charges head-on inside the courtroom rather than see them abandoned forever." It was for this purpose of direct confrontation that the tribunal included an innovative "civil party" system allowing victims into the courtroom to air grievances and question the defendants.

Many advocates of minority rights applaud the addition of genocide charges as a way for these groups to reaffirm their rights in Cambodian society. Lyma Nguyen, a lawyer representing a group of 17 ethnic Vietnamese survivors, says the genocide charge would allow her clients to formally pursue the truth about why they were targeted and, in the process, "reconstitute their identity." Lawyer Lor Chunthy said the more than 200 Cham Muslim civil parties he represents are still consolidating their place in Cambodian society. "There is still discrimination against the Cham, so this sends an important message that Muslims in Cambodia are part of the country," he notes. Both lawyers said the groups they represent unequivocally think they were singled out because of their ethnic or religious identity.

Cambodian advocates of the charge also say it carries enormous symbolic weight that will help the tribunal receive local support. "The addition of genocide charges reflects what the millions of Cambodians who survived have wanted since 1979," says court spokesman Reach Sambath. The charge resonates with all Cambodians, he says, because, according to their understanding of the term, it best describes the crimes inflicted upon them. The Khmer term for genocide is *pralaay puch sah*, as it approximately sounds transliterated from Khmer, and literally means to "destroy from the root" or "kill the seed of the race." Given the Khmer Rouge's maniacal obsession with cleansing society of unwanted elements, it is not hard to see why Cambodians frequently use this particular expression to describe the regime's policies.

But genocide, in an international court, has a strict definition and is notoriously hard to prove. There is little doubt the Khmer Rouge led a campaign to wipe out groups it considered incompatible with the revolution. The question is whether the groups were targeted first and foremost because of their ethnic or religious identities, or because they represented perceived political and economic enemies of the state --

categories that fall outside the crime's definition. The fact that certain ethnic or religious groups suffered disproportionately and sustained severe repression of their practices does not necessarily constitute genocide.

This point is still vigorously debated among academics who study this bloody era in Cambodia's history. "They weren't mowed down because they were Cham. They were mowed down because they resisted and anyone who resisted during that time was killed," says David Chandler, a scholar on the Khmer Rouge and the author of *A History of Cambodia*. "They were forced to eat pork because they were Cham -- but that's not genocide."

Some observers fear that the genocide charge is being wielded by international powers for political gain. Philip Short, author of *Pol Pot: Anatomy of a Nightmare*, a biography of the now deceased Khmer Rouge leader, argues that the term genocide has been bandied around by foreign powers as a "political commodity." Short says that the U.S. government, whose war in Vietnam in the 1960s and 1970s is often believed to have contributed to the rise of the Khmer Rouge, has pushed for genocide to be applied to the regime so it can condemn the crimes and assume a moral high ground, while distancing itself from the circumstances that lead to the horror and terror.

"The Jews were killed in Germany because they were Jews. Not because of any resistance to the Nazis, but because they were considered detritus or scum. In Rwanda, the Hutus killed Tutsis simply because of their racial type," Short says. "But this wasn't the case in Cambodia. This regime was one of the greatest abominations of the 20th century. It's bad enough without now trying to [add] politically motivated charges."

The court's coinciding request for an additional \$93 million from donor countries to finance the court over the next two years has also prompted murmurs that ulterior motives lie behind the new charge. "It smacks of a publicity stunt," says Michael Karnavas, the international defense lawyer for one of the accused, Ieng Sary. "It seems like this new charge is a way to show the importance of the tribunal and to help get funding." The court says there is no connection.

Piyamin Yusoh, an enlisted civil party with the tribunal, holds out hope that the genocide charges can draw attention to the persecution his people experienced during the Khmer Rouge's reign. He is the current Muslim leader, or *hakim*, of Svay Khleang village, the historical heart of Cambodia's minority Muslim community. It was here that the Cham staged a bloody, and unsuccessful, uprising after the Khmer Rouge carried out secret executions of their men. "I'm hoping the tribunal will acknowledge the particular suffering of the Muslim people," Yusoh told me in an interview I did for IRIN News. "We weren't allowed to practice our religion; we were forced to eat pork; our women couldn't wear hijabs. For us, this was humiliating. The Khmer Rouge wanted to annihilate all people who practiced Islam." The Khmer

Rouge, he says, tried to "destroy us from the root," referring to what he perceived as genocidal intent.

But, as a participant in the tribunal, Yusoh is an exception -- many victims are unfamiliar with the tribunal and the legal classifications of the Khmer Rouge's crimes. A month before proceedings opened in the Duch trial last February, a survey showing that 85 percent of Cambodians had little or no knowledge of the tribunal was published by the University of California-Berkeley's Human Rights Center. That number would now certainly be lower following the publicity of the initial trial, but it nonetheless reflects the disparity between Cambodia's impoverished countryside and the highly technical legal machine in the capital, Phnom Penh.

For regular Cambodians, the tribunal's most important task may be delivering some sense of justice in the form of concrete results, rather than contributing to endless legal debates that could risk prolonging the process. "Scholars have been debating [whether the Khmer Rouge's crimes constituted genocide] for 20 years," says Youk Chhang, director of the Documentation Center of Cambodia, a custodian of primary documents on the Khmer Rouge. "For the victims, it meant watching someone take a piece of wood to the back of your husband's head. You can call it smash, crush, or whatever, but it was, most importantly, what people experienced."

That is how Ly Sarfyas, a 66-year-old woman in Svay Khleang, feels about the tribunal. "I would just like to kill them myself," Sarfyas, who was left without any family after the Khmer Rouge's rule, told me. "It's difficult to wait for the court, but it's what we are relying on."