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## **Justice for the Khmer Krom**

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### *As KR leaders face their fate at the ECCC, the court should not forget other victims*

A police officer looks over documents from one of several Khmer Krom evicted from Thailand earlier this year and seeking asylum in Cambodia. The ECCC in January ruled that the tribunal's four Case 002 suspects would not face charges of genocide and crimes against humanity for crimes committed against Khmer Krom.

After more than 30 years of impunity, some key architects of the Khmer Rouge reign of terror are finally being held accountable at the Extraordinary Chambers in the Courts of Cambodia (ECCC). The upcoming joint trial of Nuon Chea, Ieng Sary, Ieng Thirith and Khieu Samphan holds promise for survivors who have waited too long for justice.

Unfortunately, one important set of crimes is in danger of exclusion. In January, the ECCC's co-investigating judges decided to charge the suspects with genocide and crimes against humanity against Cambodia's Cham Muslim and ethnic Vietnamese minorities, but not the Khmer Krom – ethnic Khmers with roots in southern Vietnam. The ECCC's pre-trial chamber recently upheld that decision.

The pre-trial chamber grounded its decision partly on a technicality. Months ago, the co-prosecutors sent a memo to the co-investigating judges about possible genocide against Khmer Krom in Pursat province. They titled the memo an "investigative request" rather than a "supplementary submission". The latter title would have triggered an investigation; the former may cost some Khmer Krom survivors their deserved day in court.

But the pre-trial chamber's decision does leave some room for reconsideration. It does not bar the possibility that the co-prosecutors can simply white-out the old title, type on a new one and resubmit their memo as a "supplementary submission". The co-prosecutors ought to do so.

The ECCC cannot account for the myriad offenses of Democratic Kampuchea (DK), but there are good reasons to hear out the Khmer Krom, who have long argued that their community suffered genocide and targeted crimes against humanity. Indeed,

documents and survivor accounts indicate that the DK regime sometimes targeted Khmer Krom for abuse. In at least one well-documented case, Khmer Krom were butchered en masse. In 1977, hundreds were rounded up and massacred in Pursat's Bakan district – a calculated mass murder with some chilling parallels to the Srebrenica Massacre of 1995. Such offenses demand investigation and justice.

The reasons for these atrocities remain subject to debate. The Khmer Krom spoke Vietnamese and brought syncretic cultural practices from the Mekong Delta. Cultural disdain may thus have contributed to their plight. Under the Pol Pot regime, persons with foreign cultural characteristics were suspect. Depending on the evidence, the ECCC could find that senior DK officials committed genocide by seeking to destroy Khmer Krom based on their perceived ethnic impurity.

The case for crimes against humanity is easier because it encompasses abuses based on political motives. Political targeting of the Khmer Krom was clearly at work. The communist DK regime bitterly resented the prominent roles Khmer Krom played in Lon Nol's Khmer Republic and the CIA's Mobile Strike Force Command during the Vietnam War. The Khmer Rouge also regarded ties to Vietnam as politically suspect after 1975, when the xenophobic DK regime turned its back on Hanoi. Documents show that Vietnamese-speaking Khmer Krom were often singled out as potential spies and purged for that reason.

The complex case of the Khmer Krom lies at the heart of unresolved questions about the DK regime. For three decades, survivors and scholars have tried to discern the motives for Khmer Rouge brutality. Was the killing driven primarily by excesses in radical communism? Or was the violence also rooted to a considerable extent in racism and nationalism?

The legal distinction between genocide and other grave crimes is sometimes unhelpful. In Cambodia, it risks suggesting that certain victims suffered more than others, when in reality all suffered horrific abuses. This distinction is nevertheless useful in trying to properly understand the terror in Democratic Kampuchea. By examining crimes against the Khmer Krom, the ECCC can help shed light on the true animus of the DK regime.

The ECCC does not have infinite resources, and it is rightly under pressure to rein in its budget and speed up the trials. However, ECCC officials must be wise in deciding how and where to cut and prune. Adjudicating crimes against the Khmer Krom in Pursat would add little to the hefty sum of time and money already spent on the trials. In fact, the court's investigators and prosecutors have completed most of the necessary investigation evidencing these crimes. Bypassing the Khmer Krom case would deny this important and courageous community a sense of justice. The ECCC could also fail to reveal some of the most illuminating truths about the Pol Pot regime.