

**Defining Genocide:
The Experience of Chinese Minorities
Under the Khmer Rouge, 1975-1979**

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ABSTRACT

Perhaps the most difficult and daunting task for international lawyers in the 20th century has been proving that individual state leaders have been responsible for the crime of genocide, what legal scholars refer to as “the worst crimes against humanity.” This research explores Cambodia as a case study, particularly the experience of Chinese minorities and whether or not their experiences under the Khmer Rouge constitute “genocide” as defined by the United Nations Genocide Convention in 1949.

From 17 April 1975 to 7 January 1979, Pol Pot, the leader of the Khmer Rouge successfully orchestrated a radical communist revolution. His commitment to an ostensible ‘egalitarian’ society failed utterly as 1.7 of 8 million, —approximately one in five persons—died from execution, mass starvation, diseases, and exhaustion from forced labor camps. Of the 430,000 Chinese that resided in Cambodia before the revolution, only 215,000 survived by its conclusion, a startling fatality rate of 50%. This study critically analyzes fourteen interviews of Chinese survivors— seven from Cambodia and seven from Los Angeles, California. My findings suggest that though the experience of the Chinese varied due to different regions and time, generally there was no racial pogrom targeted to exterminate the Chinese population during the revolution. Thus, “genocide” was not legally committed against the Chinese. Through the case study of the Chinese under Pol Pot, I will elucidate the fundamental problems of the definition of genocide and propose a modification in order to fulfill its original humanitarian commitment.

Introduction

The end of the Vietnam War in 1975, coupled with American bombings of eastern Cambodia, inadvertently gave rise to the atrocious Khmer Rouge (hereinafter “KR”) regime that piloted a reign of terror from 17 April 1975 until 7 January 1979. Maoist inspired and determined to implement a radical agricultural revolution, Pol Pot, the leader of the KR claimed to have envision a communist Kampuchean utopia. Shortly after taking power, he renamed Cambodia to Democratic Kampuchea (hereinafter “DK”). However, the ideological commitment resulted in inefficient economic and politically repressive policies. An estimated 1.7 of 8 million (Appendix A), nearly one of every five persons, perished from mass starvation, diseases, and exhaustion from forced labor camps, and slaughter during the three years, eight months, and twenty days that the KR were in power.

Since the tragic history of Cambodia, scholars have done extensive research on the experience of the ethnic and religious minorities: Vietnamese, Chinese, Muslim Chams, and Buddhist monks. Generally, a consensus has been reached among scholars and international lawyers that the KR implemented genocidal policies against the Vietnamese. (Etchenson) Of the 10,000 that resided in

Cambodia pre-revolution, none survived (Appendix A) by 1979. However, controversial debates have been centered on whether one can accurately classify the horror committed against Chinese as genocide because of legalities over the definition of genocide provided by the United Nations Genocide Convention (hereinafter “UNGC”) in 1949.

Thus, this article will explore whether or not the term genocide can be accurately used to qualify the experience of the ethnic Chinese under the Khmer Rouge. In the wake of current atrocities committed in Darfur, Sudan beginning 2003 February, contentious debates persist between European and United States leaders on whether or not the plight suffered by the Sudanese civilians should be legally considered as genocide. Thus, the politicized interpretation of the controversial definition of “genocide” reinforces the significance of that term and the implications of its use to the international community.

Ultimately, I will contend that based on a literature review, data analysis of fourteen interviews, and international law, “genocide” did not technically and legally occur against the Chinese during Democratic Kampuchea, 1975-1979.

My conclusion will present a two-fold argument. According to the strict and legal interpretation of the UNGC, neither was there a racial target nor has there been any legitimate source of evidence that explicitly demonstrates the systematic targeting and intention to annihilate the Chinese. My second argument is that though the UNGC is symbolic to humanitarian progress, there are grave shortcomings in its definition of genocide. Thus, I will propose that the UNGC’s definition of genocide should be modified to include political, cultural, social, regional, or other subsets of groups.

Historical Overview of “Genocide”

Adopted by the General Assembly on 9 December 1948, the Geneva Convention on the Prevention and Punishment of the Crime of Genocide or UNGC, is defined as: “any of the following acts committed with intent to destroy, in whole or in parts, a national, ethnical, racial or religious group” [emphasis added] (Convention). It is significant because for the first time in the history of nation-states, the crime of genocide invokes humanitarian intervention. In essence, perpetrators of genocide, primarily state leaders, forfeit any rights asserting the principle of self-determination and national sovereignty because the crime of genocide supersedes any claims of domestic jurisdiction. Thus, other nation-state’s that have signed the UNGC not only have a right, but also the responsibility to intervene to prevent genocide in other states. The crime of genocide codified into international law in 1951 after the forty-three states signed the treaty and one hundred and four ratified it (van Schaak 31). It remains the first and only treaty in international law to require humanitarian intervention to prevent and punish those responsible for genocide.

The Problematic Implications of the Definition of Genocide

The prevention and punishment of genocide epitomizes both moral and legal imperatives that are significant to the 20th century. However, mass killings are not equivalent or could it be used interchangeably with genocide. For this reason, the definition of genocide has been criticized at two levels. First, in order to legally establish that genocide was committed against specific national, ethnical or religious group, the atrocities must clearly exhibit the requisite intent to destroy the group. The problematic determination of “intent to destroy” is equivalent to demonstrating that state leaders exhibit the systematic extermination with the objective of total annihilation and eradication of a national, ethnical, racial or religious group. As Elizabeth van Schaack mentions, providing evidence for “intent” as the most difficult aspect to prove because documentation such as “written or oral orders [or indications of a] systematic and destructive patterns” to eliminate a certain group is necessary to substantiate any claims of genocide (32).

The second criticism of the UNGC that its parochial definition pertains only to crimes committed against ethnical, national, or religious groups, deliberately excluding political, cultural, social groups and

other subsets of groups. During the Cold War, the Soviet Union refused to approve the treaty unless it specifically excluded the word “political” because they were guilty of systematically murdering any persons from the bourgeoisie class, primarily groups belonging to academia and capitalist business owners (Ronyane 17). Therefore, the drafters of the UNGC had to compromise and exclude political groups in order to have the treaty ratified, since ratification required unanimity from the UN Security Council. Essentially, the persecution of political groups, with the intent of eradication, is of lesser significance or of incomplete significance in the international genocide law.

Life under the Khmer Rouge

The KR regime reverted Cambodia to “Year Zero”, an absolute and new beginning to which they hope to build an egalitarian utopia. Radical economic and political policies took foothold to “cleanse” Cambodia of its former capitalist tendencies, social divisions, and foreign influences. Pol Pot’s economic policies were effectively implemented with the “transformation into bartering, the abolition of banks, the confiscation and burning of books, and the reduction of medical services to herbs and folk cures” (Ronyane 53).

Individuals who exhibited any signs of class divisions, such as intellectuals, university students, previous Lon Nol government officials, successful capitalists, and schoolteachers were targeted and murdered. Those who wore glasses or were able to speak a foreign language, such as French or English, were automatically murdered because of their presumed membership to the bourgeoisie class (Becker 228). These factions of society were considered a threat to the regime’s power because they were “polluted by their education.” Summary executions based on political killings of members of the bourgeoisie and capitalist classes were conducted as one of the first orders of the state.

The presence of Chinese capitalists fundamentally contradicted the Marxist ideology. Therefore, the Chinese who were presumed wealthy and/or successful capitalists were targeted and killed. Furthermore, many Chinese died from starvation and diseases because they were not used to labor intensive farming (since they primarily lived in the cities). Thus, in the period that the Pol Pot regime was in power, over 50%, 215,000 of 430,000 suffered disproportionately (Appendix A). The case to prove that genocide was committed against the Chinese is more challenging because of the various interpretations of the CPK policies against the Chinese.

Contentious Debate Among Scholars on a “Chinese Genocide”

In a 1986 study of thirteen interviews with Chinese survivors, Ben Kiernan concludes that there was “no racist vendetta against people of Chinese origin... [They] were not singled out for persecution by an anti-Chinese regime, but the pro-Chinese regime subjected them to same brutal treatment as the rest of the country’s population” (Kiernan: 1986 20). Kiernan’s central argument is that the Chinese suffered from social or geographic, rather than racial discrimination. The Chinese were systematically exterminated if they were presumed members of the bourgeoisie class or capitalist “exploiters” (Kiernan 1998: 295).

Kiernan rejects the argument that genocide was not committed against the Chinese because he argues that the CPK attempted to destroy the cultural and linguistic identity of the Chinese. For instance, he asserts that because the language and culture was prohibited, the Chinese “was to be destroyed ‘as such.’ This KR policy, like that toward the Chams, could be construed as genocide” (Kiernan 1998: 296). Thus, in the case of the Chinese, because they were killed for social, political, economic, and perhaps geographic reasons as urban dwellers, they still fall short of satisfying the conditions set forth in the UNGC. In order for the atrocities committed against the Chinese minorities to constitute genocide, one must carefully demonstrate that there was a racial pogrom and a clear intent beyond reasonable doubt that the KR wanted to destroy the existence of the Chinese ethnicity.

Scholars such as Serge Thion and David Chandler contend that the KR did not specifically target the Chinese, instead the labor-intensive work on the “killing fields,” inefficient collective farming, and inadequate rationing system claimed the lives of hundreds of thousands of Cambodians. The charge of genocide is false against the Chinese because they were not specifically targeted and denied food; rather, the majority of the population that died under the reign of Pol Pot was a result of starvation, malnutrition, and related diseases.

Data Analysis of 14 Interviews with Chinese Survivors

Of the fourteen interviews I conducted, eleven said that they did not feel targeted racially; two believed they were towards the end of 1978, and one felt that the Chinese were deliberately placed into harsh conditions, indirectly intending to kill the Chinese. Generally, those who did not feel targeted for racial purposes mentioned that the CPK killed those who appeared “lazy,” complained about conditions, or for infractions such as stealing food, speaking a foreign language, engaging in sexual relations, or criticizing the revolution or CPK. In this case, survivors argued that they were treated similarly to other Cambodians, and although they discriminated against the Chinese because of their presumed class status, they did not specifically target all Chinese because of their ethnicity. Most felt that the CPK arbitrarily and without mercy, killed those who they suspected were traitors.

Eng Tran, at the age of 19, was forced out of her home in Phnom Penh, the capital of Cambodia, and separated from her parents and nine siblings. All she knew was that a band of armed young communist radicals, dressed in black clothes with checkered red and white scarves wrapped around their necks, were forced to evacuate the city. Those who refused, even hospital patients, were beaten, tortured, and killed. Afflicted with fear, she obeyed.

Today, Eng Tran is 48. She is the only one among a family of twelve, with the exception of her younger brother who fled to Hong Kong immediately before Pol Pot came into power, to have survived what is today known as the Cambodian “killing fields.”

Eng Tran lived in the Southwest during Democratic Kampuchea and she reflects on traumatic images of her younger brother, whose body was emaciated to the point where he could no longer use his legs to walk. Instead, he used his arms. She recalls in tears, “after my visit to my younger brother [the KR soldiers] hung his body in display because he was considered lazy.” They tortured and killed him to demonstrate to others the consequence of being “lazy.” Her mother, a schoolteacher, and her father, a capitalist, were both executed because they were a part of the “bourgeoisie” class. The rest of her siblings either died from starvation or were killed for minor infractions of the law such as stealing food. Though she had never learned to swim, Eng Tran knew it was her only way out. Using only a bound of bamboo sticks she escaped to Vietnam in early 1978 by swimming through the Mekong River. Today, she is still searching to find the truth and history of how and why her family members died and/or were murdered.

Eng Tran recalls vivid memories of such a tragic experience yet she insists that the Chinese were not singled out or targeted, at least not in her location. Instead, she believes that the KR killed anyone who they felt were either disobedient or potential threats. She did, however, mention that the Chinese might have been discriminated against because they were presumed capitalists.

Bun Tech Lim, born on 20 April 1921, lived in the Southwest zone and recounts treacherous memories of being tortured because he was accused of killing pigs and feeding it to the so-called “enemies.” He was tied up and beaten for a few days by the KR, to this day his left arm is twisted and he also suffers from hearing loss on his left ear because of the beatings he endured. Lim also remembered that a couple was accused of “liking each other”, which meant engaging in sexual relations. They were tied up and their stomachs were literally cut open and their bodies displayed in his village to serve as an example to those who dared defy DK laws. Although Lim was tortured for numerous days and beaten, he believed that he was not a racial target. The KR targeted and tortured those who they felt were a threat to the revolution, he says. Thus, Lim reaffirms the notion that the Chinese were not singled out for persecution.

Geng Goe, born on 28 February 1954, lived in the Northwest zone in Region 4 where food was very limited. Goe recalls, “we ate anything, and everything – if there were rats or anything that was living, we’d eat it.” Goe also provided a horrific memory of cannibalism:

A father was so hungry that he killed his child and ate him. He ate his own child. The KR discovered the legs, hands and other body parts hidden in the camp. The KR then killed his father shortly after. (Goe)

Despite the fact that Goe lost about thirty of her immediate and extended family members, she did not feel the Chinese were individually targeted for destruction, but rather they lived among Cambodians and other ethnicities where conditions and circumstances caused wide scale deaths due to starvation.

Aligned with this view, Kath Kiry, a Chinese survivor, international lawyer, and former legal advisor to the Documentation Center at Cambodia believed that genocide is not the appropriate term since it is impossible to establish intent to destroy. Kiry similarly suffered the fate of losing loved ones during Democratic Kampuchea, because his mother died from exhaustion, his father was killed as a Lon Nol soldier, his brother-in-law was killed because he was a former F-15 pilot, and his older sister was “smashed” for speaking the French language. As an international lawyer in Phnom Penh, he argues that, “no evidence has been shown to prove that the DK eliminated the Chinese.” On the contrary, because of the positive relationship with China, he believes that some Chinese fared better.

Exploring the Exception

Hoi Ing and Seng Ing are sisters who recounted the experience of losing their family members by the end of 1978 because of racial targeting. Born on 12 December 1949 and 9 May 1950 respectively, they lost their father, younger brother, and six sisters during the era. Hoi specifically remembers that she knew her sister was killed because:

My sister sewed a patch on her clothes so that we would know if anything happened to her. Two days later when my sister left. We knew for sure that she was killed because they [DK cadres] passed her clothes around to re-distribute to others. We saw that one of the clothes had a patch sewed onto it. We knew it was hers.

In addition, Seng mentions that two of her sisters and her nieces died because they were targeted as Chinese, and even though she never saw them actually murdered,

One Cambodian told us that they put a string and sewed it through the hands and they were put together—sent to be killed. A Cambodian told us, they were not imprisoned. They lied to them, telling them that there was a village that had enough food to eat. Then my mom and my 5-year-old niece said to wait for the truck to take us, and let your mom go and walk to the other village. If my mom and niece did not hold out, then they would’ve have been killed.

Hoi believes that towards the end of 1978, the DK cadres anticipated that the Vietnamese invasion to Cambodia would succeed. Therefore, individual leaders who held racial animosity against the Chinese began a policy of systematic extermination. However, she does recognize that although not all the Chinese were targeted, in region 38, not a single Chinese person survived, and an estimated 8,000 were killed in that one region alone (Chan 5). Sambath Chan’s findings in “The Chinese Community in Cambodia” reinforced her supposition that in Region 38, over 8,000 Chinese died because of presumed racial animosity held against the Chinese by the DK leader of that region.

Data analysis indicate that the Chinese were primarily targeted for political reasons, and were not killed because they were Chinese, although the case provided by Hoi and Seng Ing is an exception. Thus,

my findings conclude that the experience of the Chinese is so complex and diverse that it is problematic to argue that all Chinese were targeted and executed for racial reasons. The fact that Hoi and Seng Ing's family were systematically slaughtered is nonetheless significant. It provides a unique perspective that should be explored because it may constitute genocide. Because of limited knowledge and data on Region 38, I refrain from making the supposition that genocide was committed. Their case is an anomaly and deviation, rather than a paradigm that reflects the experience of most Chinese. Ultimately, the evidence suggests that there was no systematic slaughter against the ethnic Chinese based on racial reasons. Rather, if they were killed, it was primarily because of political reasons or the individual animosity of KR leaders in specific regions against the ethnic Chinese. To answer my initial research question, "genocide" was not legally committed against the Chinese.

Conclusion: A Proposal for Revision of the UNGC

My research was not intended to lambaste those who have used the term genocide to refer to the crimes against the Chinese. Rather, I wanted to convey the fundamental problems inherent in the UNGC's definition of genocide. In the midst of Cold War politics, one can understand why it was important to exclude "political" from the UNGC during the mid-1940s. In order to actually obtain approval of the genocide treaty, drafters of the UNGC had to compromise and ultimately exclude "political groups" to gain unanimity in the UNSC. But today, there is no rationale for why the UNGC could not expand their definition to include political, social, geographic, and economic groups. In order to provide redress, justice, and recognition to the plight suffered by all different groups and factions at the hands of their own government, the UNGC must be modified to include political groups.

Without modifications of these provisions, the UNGC renders the mass slaughter of any groups other than that of religious, national, ethnic, and racial groups inapplicable, and therefore, insignificant in legal terms. From an ethical perspective, what does it matter which group is slaughtered or whether one can exhibit the intent to destroy such groups? Is it more acceptable that a government targets a group based on their political, social, or geographic backgrounds? Or even more importantly, what does it matter if a government had the "intent" to annihilate the group? In the end, millions of innocent civilians have died in the hands of their own government while scholars and political leaders, during and after the fact, quibble and debate on the accuracy of political labels such as genocide. Raphael Lemkin's ultimate goal of "Never Again" to the systematic slaughter of people was epitomized by the UNGC, yet has not been realized in the past 50 years. The duty of the international community is to achieve his vision through the prevention of genocide and the punishment of the perpetrators of genocide.

Appendix A

Social Group	1975 Pop	# Perished	%
<i>* "New People"</i>			
Urban Khmer	2,000,000	500,000	25
Rural Khmer	600,000	150,000	25
Chinese (urban)	430,000	215,000	50
Vietnamese (urban)	10,000	10,000	100
Lao (rural)	<u>10,000</u>	<u>4,000</u>	<u>40</u>
Total	3,050,000	879,000	29
<i>* "Base People"</i>			
Rural Khmer	4,500,000	675,000	15
Cham (all rural)	250,000	90,000	36
Vietnamese (rural)	10,000	10,000	100

Thai (rural)	20,000	8,000	40
Upland minorities	<u>60,000</u>	<u>9,000</u>	<u>15</u>
Total	<u>4,840,000</u>	<u>792,000</u>	<u>16</u>
Total (new & base)	7,890,000	1,671,000	21

*“New” people were those who lived in the urban cities pre-revolution and *“Base” people were those who have lived in the rural sector before 1975. (Kiernan: 1998, 458)

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