

April 2008 marked the 33rd anniversary of the coming to power of the Khmer Rouge terror regime, which during its reign killed an estimated 1.7 million Cambodians through execution, overwork and starvation. This year five ageing Khmer Rouge leaders are finally being brought to justice in a tribunal in Phnom Penh. Benny Widjono examines why it has taken so long to prosecute these war crimes.

Exorcising the curse of the Khmer Rouge

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On 15 April 2008, the tenth anniversary of the death of Pol Pot, the despot leader of Cambodia's Khmer Rouge regime, Ban Ki Moon, the Secretary-General of the United Nations reminded the international community of the urgent importance of bringing to a close one of history's darkest chapters. Until they were ousted on 7 January 1979, the Khmer Rouge had killed an estimated 1.7 million Cambodians. They also abolished religion, schools, private property, personal possessions, money, leisure, socialising and all personal liberties.

Ban Ki Moon concluded his statement by hoping that the Extraordinary Chambers in the Courts of Cambodia (ECCC) will soon deliver long-overdue justice for the people of Cambodia. After protracted negotiations between the UN and Cambodia, the ECCC was established in June 2006 to try the remaining ageing and ailing Khmer Rouge leaders. The ECCC is a hybrid tribunal which relies in large part on domestic law and procedures but allows for international judges and prosecutors.

In 2007, five former Khmer Rouge leaders were brought before the ECCC and continue to be held at a facility outside Phnom Penh. September 20, 2007 marked an important milestone for the long suffering Cambodian people who had yet to see justice for Khmer Rouge crimes. Nuon Chea, the 81 year old former second-in-command to Pol Pot, appeared in court for crimes against Cambodia. Other defendants include former Foreign Minister Ieng Sary and his wife Ieng Thirith, former Minister of Social Affairs, Khieu Samphan, former Head of State and Kang Khek Euv aka 'Duch'. Duch, in particular, is synonymous with Khmer Rouge brutality. He was the murderously efficient commander of the notorious 'S-21' torture chambers.

The battle shifted to New York

Mr Ban's concern is particularly relevant as the UN has been involved in Cambodia's tragedy, both positively and negatively, since the beginning. Due to its location next to Vietnam, Cambodia was pulled, unwillingly, into the middle of the Cold War. The result was a tragedy of enormous proportions that plunged Cambodia into two decades of chaos, turmoil, civil war and deep despair, before the arrival of the UN peacekeeping mission in 1992.

How did the Khmer Rouge, which started as a small communist insurgency against Prince Sihanouk's neutralist government of Cambodia become such a formidable force, able to subjugate the entire country? Two externally driven factors contributed to their meteoric rise: Massive bombings in eastern Cambodia by the US during the period of 1969-1973 and the overthrow of King Sihanouk by a pro-American, right-wing General. Together these acts alienated a disenchanted youth and rural population, leading them into the willing arms of the Khmer Rouge who would use them to terrorise the nation. Sihanouk, an exile in Beijing and ignorant of the future holocaust, embraced Pol Pot and set the foundations for the massive Chinese aid which would become the lifeblood of the Khmer Rouge.

On 7 January, 1979, the Vietnamese Army, supported by Cambodian rebel forces, drove the Khmer Rouge into the jungle bordering Thailand, ending the genocidal regime's reign of terror. The Peoples Republic of Kampuchea was established in Phnom Penh under Heng Samrin and Hun Sen. They soon gained control over 90% of the country. The unspeakable atrocities of the Khmer Rouge regime were suddenly opened up to the eyes of the world. It generated an outcry echoed across the globe. Alas, the liberation of the country from the horrors of the Khmer Rouge failed to end the suffering of the Cambodian people. Instead, the battle shifted to the corridors of the UN in New York. There the international outcry against the Khmer Rouge was muffled by big power diplomatic manoeuvrings. Incredibly, the UN, in a resolution spearheaded by the US and China, awarded Cambodia's contested seat in the General Assembly to the exiled Khmer Rouge terror regime, instead of to the People's Republic of Kampuchea (PRK) in Phnom Penh! China clearly had a vested interest in legitimising the KR given their history of support, while the US was emerging from the embarrassing debacle of the Vietnam War. Although Hun Sen's government was accepted by the Cambodian people, the US found it unacceptable for Cambodia to be ruled by a communist regime.

The coddling of the Khmer Rouge continued for eleven more years, with similar resolutions adopted annually. During those years, the People's

Republic of Kampuchea was politically isolated and denied much needed economic aid, thereby prolonging the sufferings of the Cambodian people. Throughout these years, instead of putting the Khmer Rouge on trial for their unspeakable crimes, they were pampered and resuscitated and put in the seat reserved in the UN for Cambodia. In Phnom Penh, the PRK did try the Khmer Rouge leaders Pol Pot and Ieng Sary in absentia, but these trials were ignored by the western world.

In an attempt to make the resolutions more palatable to the world, the wolves were cloaked in sheep's clothing. In 1982 the US and China persuaded the Khmer Rouge to form a Coalition Government of Democratic Kampuchea (CGDK) with the royalist Cambodian party FUNCINPEC and the pro-American KPNLF. The much contested seat in the UN was now occupied by the new coalition. However, it was the Khmer Rouge flag which continued to fly over the Manhattan skyline in New York making many



Hun Sen (left) and Ieng Sary notorious leader of the Khmer Rouge (right), on the occasion of the surrender of Ieng Sary and the bulk of Khmer Rouge troops to the government in 1996. From the author's private collection.

Cambodians wonder what on earth was happening at the UN. Nobody consulted the Cambodian people on this ultimate affront. Meanwhile, the Soviet Union and its allies plus a number of non-aligned countries, including notably India, recognised the PRK as the legitimate government of Cambodia but they were outvoted in the General Assembly.

Flaws in the Paris Agreements

This stalemate, and the sufferings of the Cambodian people, continued until the signing of the Paris Peace Agreements on 23 October 1991 and the United Nations Transitional Authority on Cambodia (UNTAC) was established to implement the Agreements. At the time, everyone hailed this step as a major breakthrough. However, in retrospect it is clear that because of the strange decisions of the UN during the 1980s, both the Paris Agreements and UNTAC were damaged at birth by conflicting mandates, exaggerated hopes and UN inexperience.

The most serious flaw of the Agreements, pushed by the US and China in the Security Council, was that, in the name of a comprehensive solution, the Khmer Rouge faction was to play a legitimate role in the UNTAC process. This was simply adding insult to the injury but almost nobody raised an eyebrow. With their hands tied, UNTAC could only stand helplessly by as the Khmer Rouge refused to disarm and demobilise per UN mandate. The impotence of UNTAC emboldened the remaining Khmer Rouge to ignore further stipulations of the Peace Agreement including barring the UN from KR territory, taking UNTAC personnel as hostages and land grabbing. This culminated in several massacres of Vietnamese villages as well as a significant attempt to take the major hub of Siem Reap. The Khmer Rouge derisively called UNTAC a paper tiger.

In the end, the Khmer Rouge also refused to participate in the elections. While this was deplored by senior UNTAC officials at the time, with retrospect it can be seen as a blessing in disguise. To have allowed the Khmer Rouge leaders to participate in the elections would have opened the possibility of the Khmer Rouge leaders occupying cabinet posts, all in the name of a 'comprehensive solution'.

The Paris Agreements were the best that could have been achieved to end the protracted Cambodia stalemate. After all it would allow the big powers to finally extricate themselves from a never ending proxy war. While this may be true, one could equally argue that if in 1979 an Indian amendment

to the UN resolution, calling for the Cambodian seat to remain vacant, had been adopted, the Cambodian dilemma would most probably have been resolved sooner and with less lopsided provisions. India pointed out that its amendment would be in accordance with decisions made by the non-aligned countries summit in Havana but, of course, the non-aligned countries were ignored. The Indian amendment was never even voted on.

UNTAC's major successes include free and fair elections, in which 90% of the eligible voters participated, and the return of 370,000 refugees from Thai border camps. However, because of the failure of UNTAC to resolve the Khmer Rouge problem, the new and uneasy Royal Government of Cambodia headed by co-Prime Ministers Prince Ranariddh and Mr. Hun Sen, inherited an intact Khmer Rouge faction determined to overthrow it: When UNTAC left Cambodia, the Khmer Rouge were firmly entrenched in

their jungle redoubts, fully armed and occupying more territory than they had upon UNTAC's arrival. As their earlier action predicted, on UNTAC's exit the Khmer Rouge launched an attack which brought tanks to the doorstep of Battambang, Cambodia's second largest city. The Khmer Rouge curse continued.

A major breakthrough came in 1996 when the Khmer Rouge's Ieng Sary defected to the government with the bulk of the forces in the Pailin area. The rump Khmer Rouge, perched in the An Long Veng area, continued to oppose the Royal Government. With the death of Pol Pot and subsequent surrender of its remaining leaders in the same year the Khmer Rouge movement was finally dissolved. While the Khmer Rouge's rise to power and significance were very much products of foreign intervention, its final demise was basically accomplished by Cambodians alone.

Throughout this tumultuous period, no one thought of bringing the Khmer Rouge criminals to court. But in June 1997 Co-Prime Ministers Ranariddh and Hun Sen requested UN aid to bring the Khmer Rouge to trial. The negotiations that followed were protracted because of a divergence of interpretations on the notion of justice and Cambodian insistence of ownership of the trials. It is now expected that the first trial of Kang Khek Euv aka 'Duch' will commence in September 2008. Meanwhile, in July 2008 charges of corruption held up UNDP funding for the salaries of the Cambodian side of the court.

The current ECCC trials, while flawed, will hopefully put an end to a dark chapter in Cambodian history and finally exorcise the curse of the Khmer Rouge hanging over Cambodia. This will allow the government and people to move forward and fight the important battles against poverty, disease, injustice and ignorance.

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