

The Cambodian Genocide

**INTEGRATING THEORY & LAW IN
INTERNATIONAL PEACEBUILDING
OPERATIONS**

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The purpose of this research is to analysis the rise of the Khmer Rouge in Cambodia, following independence in 1953; which eventually led to a death toll of 25% of the country's population. It will also be necessary to critique the behavior of international actors, such as organizations and states during the timeframe of the Khmer Rouge reign. By analyzing the political regime at the time of the Cambodian genocide, and evaluating international law; this research will serve to better understand the various conflict management styles that were and were not utilized, and propose theories on the effectiveness of international peace-building operations.

Thus, a historical background will illustrate how the Khmer Rouge came to power. Providing vital information of Khmer Rouge leaders, international influences, political motives, economic development, and other demographics of Cambodia from 1953 to 1979, furthers the analytical research of the genocide itself.

Thereafter, centralizing on international law, the research will develop a theoretical approach; concerning international organizations, and their involvement during the Cambodian genocide. It will also provide insight into how international law, the United Nations, and sovereign states can work together to provide successful missions during, and after atrocities (i.e. genocide, crimes against humanity, and war crimes).

CAMBODIA

THE RISE OF THE KHMER ROUGE

“Genocide is the responsibility of the entire world.”

~ Ann Clwyd

DEFINING GENOCIDE

Before delving into the history of Cambodia, which was followed by one of the biggest atrocities in human history, it is significant to define the term "genocide." The Office of the United Nations Special Adviser on the Prevention of Genocide (OSAPG) states that "genocide is defined in Article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide (1948) as "any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: killing members of the group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group; [and] forcibly transferring children of the group to another group."¹

OSAPG also has a framework of eight categories in order to determine whether there may be a risk of genocide. They include "Inter-group relations, including record of discrimination and/or other human rights violations committed against a group", "Circumstances that affect the capacity to prevent genocide", "Pressure of illegal arms and armed elements",

¹ Office of The Special Adviser on The Prevention of Genocide. (n.d.). Retrieved July 16, 2014, from <http://www.un.org/en/preventgenocide/adviser/>

"Motivation of leading actors in the State/region; acts which serve to encourage divisions between national, racial, ethnic, and religious groups", "Circumstances that facilitate perpetration of genocide (dynamic factors),"Genocidal acts", "Evidence of intent "to destroy in whole or in part ..."", and "Triggering factors."²



³Furthermore, these categories are broken down further to define each of the individual issues to be analyzed and determine whether genocide has a probability to occur. The importance of properly understanding the term

"genocide" (by incorporating the U.N.'s definition, analysis and framework in Article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide (1948)) serves not only as an indicator of what occurred in Cambodia during the 1970s, but also to establish a normative interpretation for this research.

² Office of The Special Adviser on The Prevention of Genocide. (n.d.). Retrieved July 16, 2014, from <http://www.un.org/en/preventgenocide/adviser/>

³ As Khmer Rouge Trial Nears End, Prosecutors Say Tribunal Is Lesson to World. (n.d.). *As Cambodia's Khmer Rouge Trial Nears End, Prosecutors Say Tribunal Is Lesson to World*. Retrieved July 9, 2014, from <http://www.irrawaddy.org/asia/khmer-rouge-trial-nears-end-prosecutors-say-tribunal-lesson-world.html>

POL POT & THE KHMER ROUGE

"..Well you'll work harder

With a gun in your back

For a bowl of rice a day

Slave for soldiers

Till you starve

Then your head is skewered on a stake .."

~ The Dead Kennedys, excerpt from "Holiday in Cambodia" (1980)

Following Cambodia's struggle against French colonization in the 1940's, the Cambodian communist movement came fourth. During the Indochina War of the 1950s until the end of the 1970s, the Communist Party of Kampuchea (CPK) grew in power. In the beginning of 70's, the CPK, or Khmer Rouge aligned with than head of state, Prince Sihanouk. The Khmer Rouge also had the support of the Vietnamese up until late 1972.

In contrast, the United States supported an alternate political party, the Khmer Republic government and Marshall Lon Nol, the prior prime minister of Cambodia. With the support of the U.S., the Khmer Republic government dropped around one half a million tons of bombs on Cambodia, killing an estimated 300,000 people. This assistance proved very successful for the Khmer Republic in fighting back against Khmer Rouge. The U.S. was able to assist Lon Nol from 1973 to 1975, but 1975 marked the end of all foreign intervention.

⁴ Consequently, the Khmer Rouge had seized the vast majority of Cambodia. It was in 1975 that the Khmer Rouge took control of Phnom Penh, Cambodia. "Brother Number One", or better known as Pol Pot, was at the helm of the Khmer Rouge during their reign in Cambodia. Peter Maguire, the



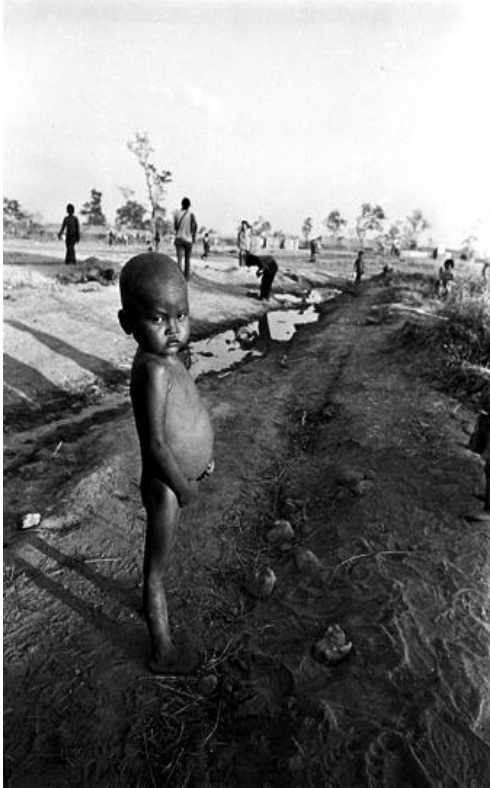
Pol Pot

author of "Facing Death in Cambodia" and "Law and War: International Law and American History." and instructor of the law and theory of war at universities, such as Bard College, Columbia University, and the University of North Carolina, Wilmington best describes Pol Pot's political background and personal life by stating:

- Better known by his nom de guerre, Pol Pot, Saloth Sar preferred to live in secret and to work behind the scenes while his trusted functionaries served as frontmen. The rebel leader had studied in France during the 1950s and been heavily influenced by Marxist politics. Although Pol Pot claimed to be a great fan of Yugoslavian leader Tito, his true political inspiration came from Mao's China. During a 1966 visit to Beijing, the future Cambodian leader met K'ang Sheng, the Soviet-trained head of Mao's secret police. Pol Pot would remain friends with "the claw of the dragon" until Sheng's death in 1975 (46).⁵

⁴ Brief History of the Khmer Rouge and Pol Pot. (n.d.). *Brief history of the Khmer Rouge and Pol Pot*. Retrieved July 16, 2014, from http://www.istopcambodia.net/culture/khmer_rouge

⁵ Maguire, P. (2005). *Facing Death in Cambodia*. New York: Columbia University Press.



Cambodia Genocide Survivors, 1979

⁶Led by Pol Pot, from 1975 to 1979, the Khmer Rouge, and its army ruled the country, which was kept secret until 1977. The confidentiality of the Khmer Rouge kept foreigners unaware of the infrastructure of Khmer Rouge governance.

In addition, the Khmer Rouge had created the Democratic Kampuchea early in 1976, in order to generate a respiratory notion of human rights, as well as civil liberties. The farce of democracy, as well as propaganda, lies of U.S. aggression, secrecy, and threats (very well known to be followed through) kept Pol Pot

and the Khmer Rouge in power. During this four year

rule of the Khmer Rouge, Phnom Penh devolved from an epicenter, flourishing with life, to a silent, morbid hellhole. By the end of the 1970s, Phnom Penh was literally a ghost town. The few people that were left after the atrocity lived in fear. They had lost everything from jobs, food, homes, and wealth to loved ones, a sense of security.. and their spirit.

⁶ (Cambodia Genocide Survivors 1979) Jim Hubbard: <http://www.jimhubbardphoto.com/work/outside-the-usa/cambodia-genocide-survivors-1979>

PHNOM PENH: THE EVACUATION

"Since he is of no use anymore, there is no gain if he lives and no loss if he dies."

~ Pol Pot

⁷A common refrain from the period: "Keeping (you) is no gain. Losing (you) is no loss", Maguire states.⁸ The Khmer Rouge's goal was to target the educated population. They labeled city folk, the portion of the population who were knowledgeable, and innovative, "New People". Their desire was to cleanse Cambodia of New People. Maguire further describes, "The two million residents of Phnom Penh (New People) would undergo the ultimate Darwinian experiment.



Vietnamese Soldiers in Phnom Penh, 1979

After being forced into the countryside, most faced a simple choice: work or die."⁹

In contrariety, Cambodians that supported the Khmer Rouge, which included mainly peasants, were called, "Old People". Ostracizing city folk, and growing in support by peasants, the Khmer Rouge staged a political agenda based on a principle that the country belonged to the honest, hard workers that were more culturally-oriented to Cambodia. Pol Pot and the Khmer

⁷ (Vietnamese soldiers walk the empty streets of Phnom Penh, Cambodia on January 7th, 1979): <http://picoggan.com>

⁸ Maguire, P. (2005). *Facing Death in Cambodia*. New York: Columbia University Press.

⁹ Maguire, P. (2005). *Facing Death in Cambodia*. New York: Columbia University Press.

Rouge used propaganda to cover up their plans for "New People". As they tore city folk from their homes, the Khmer Rouge declared that they were simply protecting them from U.S. attacks. As Stephen Courtois declares in *The Black Book of Communism*, "The total evacuation of Phnom Penh following the Khmer Rouge victory came as a great shock both to the city's inhabitants and the rest of the world, which began to realize for the first time that exceptional events were unfolding in Cambodia. The city's inhabitants themselves seemed to accept the explanation given by their new masters, who claimed that the evacuation was a safety measure to ensure protection from possible American bombing raids and that people would be better fed elsewhere(583)."¹⁰ The Khmer Rouge's farce allowed for the complete relinquish of the city's population, leaving Phnom Penh a ghost town.

PROBLEMATIC INTERNATIONAL INTERVENTION IN CAMBODIA

During 1975-1979, under the Khmer Rouge regime, an estimated 1.7 million people lost their lives. This unforgettable genocide generated a plea for international organizations to provide assistance in such crucial times of need. Still, during the Khmer Rouge regime in the latter part of the 1970's, international law proved to be less than effective.

¹⁰ Courtois, S. (1999). *The Black Book of Communism: Crimes, Terror, Repression*. Cambridge, Mass.: Harvard University Press.

Firstly, the United Nations communicated privately with the Khmer Rouge, as opposed to a public engagement. The U.N.'s Genocide Convention was severely limited because it did not layout how to identify, investigate, or prosecute crimes. The U.N.G.C. also had allotted power to prosecute to the individual state which worsened international power to react quicker. In addition, at the time of the Cambodian genocide, the International Court of Justice (I.C.J) was not yet established. Sadly, without a judicial apparatus, even if the U.N.G.C. had the power to prosecute, there was not a court in which to do so.



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Victims of Pol Pot's Khmer Rouge rule in Cambodia. The skulls and bones of thousands of unidentified victims are displayed at the "Museum of Genocide."

In addition, the accounts given by refugees were met with disbelief. A vast majority of officials believed that such horrific occurrences had been relinquished at the end of World War

¹¹ The Black Book of Communism : Free Download & Streaming : Internet Archive. (n.d.). *Internet Archive*. Retrieved July 14, 2014, from <http://www.archive.org/details/TheBlackBookofCommunism10>

II. For example, Charles Twining, a foreign service operator was sent to the U.S. embassy located in Bangkok, in June of 1975. As Samantha Power describes, "after his first trip Twining did not even file a report because he found the refugees' recollection "inconceivable" and felt he would be laughed at back in Washington. But every time he took the four-hour car journey to the border, he found it harder to deny the reality of the atrocities."¹² Powers also notes how refugees told Twining about the limited amount of food they were given to eat. Twining stated that it was not enough food for them to live, and they agreed, but explained, "that anybody who complained was dragged away to what the KR called *Angkar Loeu*. *Angkar* was the was the nameless and faceless "organization on high," which prided itself on never erring and on having "as many eyes as a pineapple."¹³ At first, refugees believed that Angkar Loeu might have been a place for reeducation until they stumbled upon piles of bones and skulls.

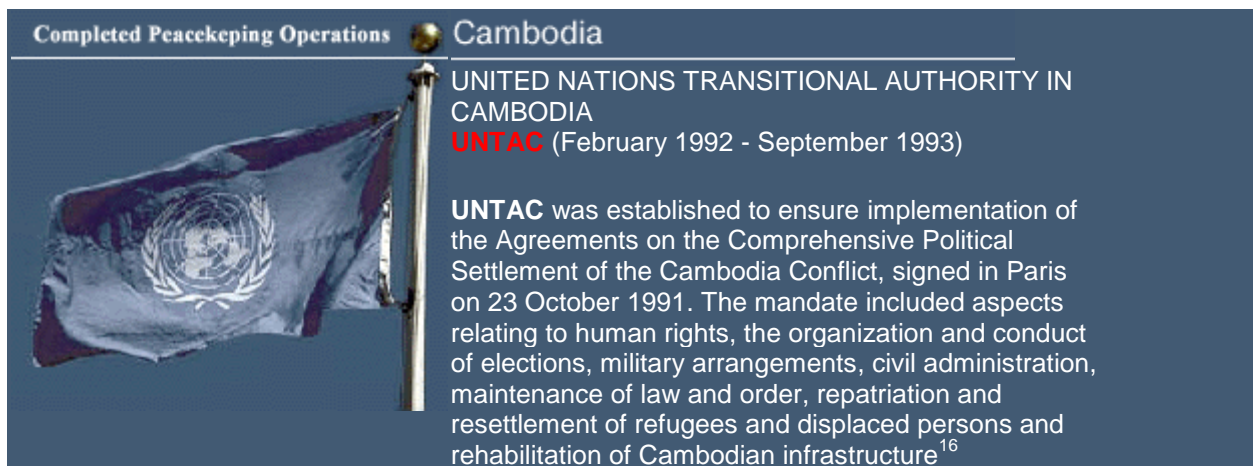
Accordingly, as MaGuire explains in *Law and War, An American Story*, "Did the United States call for the prosecution of Pol Pot, Ieng Sary, Khieu Samphan, and other Khmer Rouge leaders? No, quite the opposite: in 1979, Cyrus Vance, the Carter administration's UN representative, voted to allow the deposed, genocidal regime to retain its seat in the UN General Assembly. After the decision, a senior U.S. official justified the decision to journalist Nayan Chanda: "The choice for us was between moral principles and international law. The scale weighed in favor of law because it served our security interests."¹⁴ The United States' reluctance to acknowledge the genocide, and influence international retaliation played a major role in the Khmer Rouge's ability to continue ethnic cleansing within Cambodian borders.

¹² Power, S. (2002). *A Problem From Hell: America and the Age of Genocide*. New York: Basic Books.

¹³ Power, S. (2002). *A Problem From Hell: America and the Age of Genocide*. New York: Basic Books.

¹⁴ Maguire, P. (2001). *Law and War: an American story*. New York: Columbia University Press.

In 1977, Amnesty International reacted similarly to the UN. Amnesty officials requested reports regarding torture and disappearances from the Khmer Rouge, but did not receive any correspondence. Three years after the massacre began, in 1978 Amnesty International began to accept the claims of refugees, and decided to publicly shame Pol Pot and his regime. As Karen A. Mingst and Margaret P. Karns describe in *The United Nations In The 21st Century*, "The enforcement of norms against genocide, crimes against humanity, and war crimes has proved problematic. Only in the 1990s, with the humanitarian crisis in the former Yugoslavia, Rwanda, and Sierra Leone, did the international community begin to pay attention to evidence of ethnic cleansing, genocide, and other crimes and demand action, although too late to prevent atrocities."¹⁵ It was not until 1991 that what had occurred in Cambodia was internationally recognized as genocide.



On October 1991, 19 governments signed the Paris Peace Agreement which aimed to end violence in Cambodia. Under the terms of the agreement, the United Nations sent a mission, the

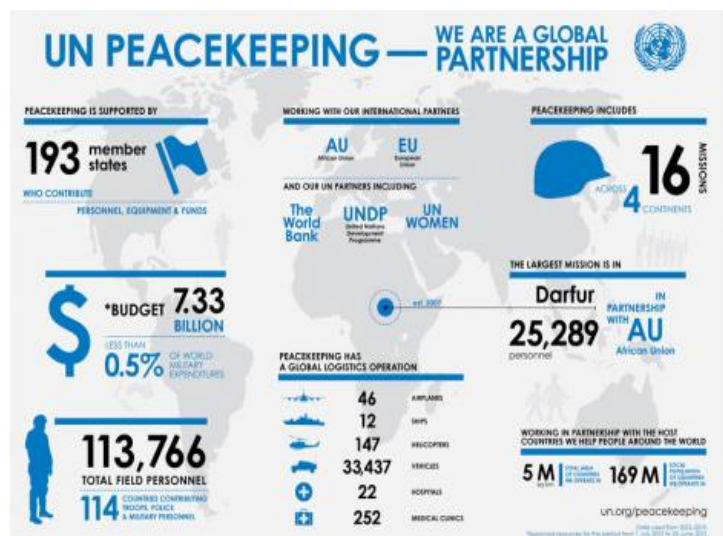
¹⁵ Mingst, K. A., & Karns, M. P. (2012). *The United Nations in the 21st Century* (4th ed.). Boulder, Colo.: Westview Press.

¹⁶ UNITED NATIONS TRANSITIONAL AUTHORITY IN CAMBODIA (UNTAC). (n.d.). *UN News Center*. Retrieved July 14, 2014, from <http://www.un.org/en/peacekeeping/missions/past/untac.htm>

United Nations Transitional Authority in Cambodia (UNTAC) until 1993.¹⁷ This mission was provided to ensure that human rights were protected, and to assist in establishing a new Constitution with free and fair elections. Equally importantly, during the duration of the mission, the UNTAC mandated a ceasefire in Cambodia. Over the course of the mission (February 1992-September 1993), UNTAC (and a total of 1.6 billion in expenditures) proved to be highly beneficial.

Still, long-term success in Cambodia depends on an array of domestic government structural components. Ensuring that the policies and practices of the past do not again arise in Cambodia, the United Nations established a Human Rights office in 1993. This facility is in operation today, and promotes the necessary reformations for Cambodia (focusing on four areas: development of civil society; protection of land and housing rights; legal and judicial reform; and prison reform).

¹⁸ Prior to the success of the United Nations' peace-building operations in Cambodia, international law and organizations were not recognized as they are in the present day and age. The United Nations' principles of sovereignty, neutrality, and securing a democratic



¹⁷ UNITED NATIONS TRANSITIONAL AUTHORITY IN CAMBODIA (UNTAC). (n.d.). *UN News Center*. Retrieved July 14, 2014, from <http://www.un.org/en/peacekeeping/missions/past/untac.htm>

¹⁸ UN Peacekeeping - We Are A Global Partnership - Infographics : IdleList. (n.d.). *Infographics IdleList RSS*. Retrieved July 4, 2014, from <http://infographics.idlelist.com/un-peacekeeping-we-are-a-global-partnership/>

states that desire ceasefire, but not democracy; corrupt governments which are protected by United Nations sovereignty; and the sheer lack of power to act in situations such as the UNAMIR in Rwanda for a period, due to neutrality.

THE TRIBUNAL & THERAPUTIC LEGALISM

"I would put this under the category of therapeutic legalism."

~ Peter Maguire

As the Extraordinary Chambers in the Courts of Cambodia's website's *Introduction to the ECCC* page claims:

- In 1997, the government requested the United Nations (UN) to assist in establishing a trial to prosecute the senior leaders of the Khmer Rouge. In 2001, the Cambodian National Assembly passed a law to create a court to try serious crimes committed during the Khmer Rouge regime 1975-1979. This court is called the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed during the Period of Democratic Kampuchea (Extraordinary Chambers or ECCC). The government of Cambodia insisted that, for the sake of the Cambodian people, the trial must be held in Cambodia using Cambodian staff and judges together with foreign personnel. Cambodia invited international participation due to the weakness of the Cambodian legal system and

the international nature of the crimes, and to help in meeting international standards of justice.¹⁹

Furthermore, the webpage describes that an agreement was reached with the U.N. in June of 2003. It mentions that although the new court was established by both the Cambodian government and the U.N., the E.C.C.C. is a separate entity from the government, as well as the U.N. The E.C.C.C. is also specially designed for matters concerning the Cambodian genocide, and follows international standards.

Yet, it was been over a decade, and there are still four ongoing cases. In a 2008 article written by Seth Mydans in the New York Times, Mydans stresses the lack of cooperation between officials, and the complication that has arisen because of the controversial experiment in the unusual hybrid tribunal. Heavily influenced by the U.S., the "mixed tribunal" consists of both U.N. and Cambodian officials. In its development, the structure of the tribunal was met with harsh criticism, as well as skepticism.

In addition, there was a lot of issues among the Cambodian government and the U.N. Hun Sen, then Prime Minister of Cambodia traveled to the U.N.'s millennial summit in New York City, on September 2000, and "he could honestly claim that the National Assembly had begun to review the draft law, even if it had taken them seven months. Anette Marcher best described the prime minister's strategy as "One small step forward, a long pause, international pressure to continue the process, then another hesitant step, another delay and more pressure from the outside(168)".²⁰ Officials from both sides were questioning the U.S.' influence over U.N. decision making, the draft law of Hun Sen, and the legal principles of the U.N.

¹⁹ Introduction to the ECCC. (n.d.). Retrieved July 1, 2014, from <http://www.eccc.gov.kh/en/about-eccc/introduction>

²⁰ Maguire, P. (2005). *Facing Death in Cambodia*. New York: Columbia University Press.

In contrast, Mydans interviews Gabriela Gonzalez Rivas, deputy head of the tribunal's victims unit who explains how the tribunal is comprised of both international and Cambodian law. "As civil parties, the victims here will have standing comparable to those of the accused, including rights to participate in the investigation, to be represented by a lawyer, to call witnesses and to question the accused at trial, according to a court statement."²¹ Which has brought about hundreds of people that have applied to be recognized officially as victims. These victims hope to bring civil cases against Khmer Rouge participants to parallel the prior criminal charges.



Ieng Sary at a pre-trial hearing in 2008

²²Conversely, Maguire has argued that this type of justice system is "therapeutic justice", which is "an invention of the 1990s, where people freighted the trials with all this baggage."²³ Maguire continues his argument by posing three questions: "How do you measure closure, how do you measure truth, how do you measure reconciliation? These are not empirical categories."²⁴ Not including three of the senior Khmer Rouge leaders (i.e. Ke Pauk, Son Sen, and Yun Yat) that died before the end of the regime, three have already died awaiting trial: Pol Pot died in 1998; Ta Mok died in 2006; Ieng Sary died in 2013. This begs the questions: Is this form of justice ever going to bring about convictions regarding the very reason they were initially arrested, or does the hybrid tribunal's focus on civil matters hinder its ability to prosecute criminals? In addition, should there be a

²¹ Mydans, S. (2008, June 16). In Khmer Rouge Trial, Victims Will Not Stand Idly By. *The New York Times*. Retrieved July 10, 2014, from <http://www.nytimes.com/2008/06/17/world/asia/17cambodia.html?pagewanted=all>

²² Mydans, S. (2013, March 14). Ieng Sary, Former Official of Khmer Rouge, Dies at 87. *The New York Times*. Retrieved July 14, 2014, from <http://www.nytimes.com/2013/03/15/world/asia/ieng-sary-khmer-rouge-leader-tied-to-genocide-dies-at-87.html>

²³ Mydans, S. (2008, June 16). In Khmer Rouge Trial, Victims Will Not Stand Idly By. *The New York Times*. Retrieved July 10, 2014, from <http://www.nytimes.com/2008/06/17/world/asia/17cambodia.html?pagewanted=all>

²⁴ Mydans, S. (2008, June 16). In Khmer Rouge Trial, Victims Will Not Stand Idly By. *The New York Times*. Retrieved July 10, 2014, from <http://www.nytimes.com/2008/06/17/world/asia/17cambodia.html?pagewanted=all>

separate tribunal established to deal with civil matters(as states typically do within their sovereign borders)?

CONFLICT MANAGEMENT & RESOLUTION

Along with giving a wholeheartedly, detailed history of the Khmer Rouge; the U.N.'s involvement; as well as an account of the E.C.C.C.; this research will conclude by providing a few examples of how the Cambodian genocide could of been better managed and resolved in a more timely fashion. The following will suggest strategies that have been implemented in other regions in the world, and theories from scholars about how such crises can hopefully be averted.

Ciru Mwaura and Susanne Schmeidl suggest early warning strategies that can greatly benefit the security of states, but more importantly, the individuals that reside within the state. "Confusion may arise as early warning and intelligence both depend on similar methods such as collecting and analyzing information, scenario building, and recommending options to decision-makers for action and intervention. But early warning differs from traditional intelligence in one fundamental point by stressing the welfare of others ('human security') rather than state security."²⁵

As opposed to purpose of intelligence being collected in order to protect national interest, early warning strategies focus on collecting such data in order to anticipate and provide humanitarian aid. Also, early warning information is much more easier to obtain than that of intelligence which is typically safeguarded by authorities of the state. It includes information

²⁵ Mwaura, C. (2002). *Early Warning and Conflict Management in the Horn of Africa*. Lawrenceville: The Red Sea Press, Inc..

regarding culture and subcultures, geographical locations, agriculture, economic resources, languages, and other sorts of societal benefactors. Additionally, in the 21st Century most of the information that is essential for early warning strategies can be found on the internet.

Peacekeeping operations that emphasize on working with the general population of a state can better comprehend their needs, and desires. The decentralization of early warning strategies provides decision-makers with the proper information to assist a society at large. With examining a majority of the problems that occurred during the genocides of the twentieth century, the communications with the state and lack of intelligence of the population played a vital role in the error. Another example of how early warning strategies can improve conflict management and resolution can be illustrated by the Vietnam War. Due to the lack of early warning strategies, Lyndon Johnson and the U.S. jeopardized the lives of hundreds of thousands of people without the knowledge of geographical locations, cultural misinterpretations, and countless other issues.

Howard Adelman addresses timing and targeting as a few early warning and conflict management strategies in response to the genocide in Rwanda. These could of benefited the genocide in Cambodia as well. Considering targeting, "States that promote human rights in their foreign policies, the UN Commission on Human Rights and the High Commissioner for Human Rights should develop a capacity to relate human rights violations to a dynamic analysis of the social forces that produced them, and strengthen procedures to flag crisis areas in terms of severity and urgency. Procedures must be improved to investigate such situations and ensure that the results are put before the relevant decision-makers."²⁶ Skillful intervention requires the

²⁶ Adelman, H., & Suhrke, A. (1996). *The International Response to Conflict and Genocide, Lessons from the Rwanda Experience*. Copenhagen: Danida, Udenrigsministeriet].

international community to constantly enhance policies in order to denounce threats before they arise. Additionally, the internationally community should remain on high alert for criminals, and provide quick results in order to assertively correct the situation.

Lastly, Adelman makes mention of the timing of peacekeeping operations in time of crises. "The international community must increase its capacity for rapid response, as exemplified in several current proposals for rapid deployment force. The UN should undertake a comprehensive review of procedures to enhance rapid response, including budget procedures. Existing plans to strengthen rapid response (by African) peacekeeping forces should be carried forward."²⁷ The recommendations that Adelman suggests are not only prudent in Africa, but in Asian states as well. During the genocide in Cambodia, response was very slow. There were countless reasons for it, but to avoid similar outcomes in the future, bolstering up response times, and including budget procedures will prepare peacekeeping operations to prove more successful.

²⁷ Adelman, H., & Suhrke, A. (1996). *The International Response to Conflict and Genocide, Lessons from the Rwanda Experience*. Copenhagen: Danida, Udenrigsministeriet].