The Khmer Rouge in Cambodia and International Law

Background to Cambodia:

Cambodia is a country in South East Asia, less than half the size of California and twice the size of Scotland.¹ It is a country that has a very rich history, in terms of culture and politics. The history can be sub-divided in three basic time frames:

- Before the 1600s: It was once the ancient kingdom of the Khmer, with Angkor as the capital of the country. At the peak of the empire’s reign, the city was a symbol of the vast power and wealth of the rulers. It was one of the largest pre-industrial urban centers in the world. Buddhism and Hinduism were the predominant languages until Buddhism began to prevail.

- 1600-1850: The power of the empire began to wither, and the land came under the control of Thailand. In the next two hundred years, the power of Cambodia’s other neighbor, Vietnam, began to grow and the country soon found itself sandwiched between two powerful countries, Thailand and Vietnam. After a string of violence between the two countries, French missionaries began to arrive in Cambodia around the mid-1850s. The Cambodian king at the time turned to the French for protection from the Vietnam and Thailand, hence Cambodia became a French protectorate.²

- 1850s-1950s: Under the control of the French, Cambodia became more developed in terms of infrastructure, however, they people were forced to pay high taxes. The feelings on nationalism began to grow during this point. In the 1940s, the Japanese tried to take
over and there was a struggle for power between them and the French. Soon the French regained control and this time they did allow the Cambodians to have political parties and a constitution. By a treaty of 1949 Cambodia was made semi-independent. Then in 1952 King Sihanouk dismissed the government and took personal control of the country. Events then moved swiftly. On 9 November 1953 the French finally allowed Cambodia to become fully independent and in 1955 Sihanouk abdicated in favor of his father and elections were held. From then on till 1970, Sihanouk ruled Cambodia with what he called “Buddhist Socialism”, which was not really socialist. The Khmer Rouge was the name of the communist party that was formed as an off-shoot Vietnam’s People Army. In 1968, they waged civil war in Cambodia and in 1970, removed Sihanouk as they “Chief of State”. General Lon Nol took over and renamed the country as the ‘Khmer Republic’.

Introduction to the conflict:

Cambodia has been a victim of other international conflicts in the region, which has repeatedly created political instability. In 1954 when Cambodia’s neighbor Vietnam successfully defeated the French and gained independence, civil war broke out between North and South Vietnam. The South Vietnamese were very pro-western and hence had the backing of the US. During the reign of Sihanouk, Cambodia was successful in maintaining a neutral stance in the Vietnamese civil war. However, when General Lon Nol took over, Cambodia offered open support to the US. Soon, US bases were established and the troops were allowed to roam freely. For the next four years, Cambodia was a battleground for the US, with the US carpet bombing Cambodia and killing 750,000 Cambodians in order to cut off the North Vietnamese supply lines. At this point, communists were rising in Cambodia, led by Pol Pot, a supporter of communism. The killings of civilians by the US encouraged the victims and the lower class to join the communist party, known as the Khmer Rouge, and fight against the government. In essence, the US bombing actually caused a rise in the number of people joining the communists. With Chinese and North
Vietnamese backing and training, the Khmer Rouge grew to 700,000 people. In 1975, the Khmer Rouge overthrew Lon Nol, with a 156,000 people being killed in the process.\textsuperscript{iv}

**Cambodia under the Khmer Rouge:**

The Khmer Rouge has a vision to transform Cambodia into a classless society based on the principles of equality. They took complete hold of all the land and resources, forcing people out of their homes and into agricultural communes. Private property was abolished, schools, banks, hospitals and factories were closed. There was of social control was through force – burning down the houses of those who did not comply to leave, forced labor and executions. Many times people were given false hope in the name of Khmer Rouge, making them believe that they were only be dislocated for a while. However, they were sent on long marches to agricultural areas, families were broken apart and many died along the way. Once they reached their destinations, they were stripped of all rights and were forced to work on farms, often up to 12 hours a day. There was no space for any personal relations or leisure time. Many times people would die and would simply be buried on the farms, as the Khmer Rouge believed that this enhanced the efficiency of the soil. No gatherings were allowed. Language was reformed as well, with people encouraged to refer to each other as “friend” or “comrade”. Any actions or expressions that depicted any sort of superiority were punished by death. They believed in keeping the people as mere work slaves, taking away all freedom and rights. All religious practices were banned, temples were destroyed and Buddhist monks were executed. The Khmer Rouge also had a deep fear of them educated people in terms of them stirring a rebellion, therefore they executed everyone who they thought was educated. Doctors, lawyers, engineers all were killed in mass executions. Anyone with glasses was seen as an intellectual and killed. There was also extreme ethnic cleansing, with Muslims, Christians, Chinese and Thai minorities being executed. For four years, the population was isolated, overworked and starved. Approximately 2million people died from executions, disease and starvation.\textsuperscript{v}
International Response and End of the conflict:

After the establishment of the Khmer Rouge as the controlling force in Cambodia, they turned their attention to international fears. Vietnam was viewed as a historical enemy and soon seen as a threat, particularly after a pact between Vietnam and Laos. Vietnam soon sent troops into Cambodia and attacked villagers on the border, taking war prisoners. Though their forces retreated, they soon launched another attack, in 1978, this time with the support of the Soviets and infiltrated deep into Cambodian territory. Pol Pot fled, and Cambodia soon fell to Vietnam. They established the People’s Republic of Kapuchea and established a government. Despite the fall of the Khmer Rouge, they left Cambodia plagued by millions of landmines, mass graves and close to 30% of the population dead. They continued to wage guerilla warfare against the new government, however could not make a successful breakthrough. The Paris Peace Accord in 1991 that was unanimously accepted, called for a ceasefire, but even after this the Khmer Rouge continued their attacks. Soon the party itself broke down into factions, with many surrendering and gaining amnesty.

The role of the international community and organizations, such as the United Nations, was hindered because of the US-Vietnam war.

- United State of America: The USA has frequently been blamed for fuelling the rise of the Khmer Rouge by bombing Cambodia in their war against Vietnam. Many analysts argue that had it not been for the USA’s treatment of Cambodia as a battlefield, the Khmer Rouge movement would have died down. Instead, it just multiplied the number of people enrolling in the Khmer Rouge out of desperation. In 1973, after the end of the Vietnam War, USA pulled out of Cambodia, leaving to it to suffer the civil war that had begun. The USA adopted a policy of non-acknowledgement, non-engagement, and non-interventionism, turning a complete blind eye towards the events in Cambodia. President Nixon’s administration successfully manipulated the information about the genocide and refused to acknowledge its existence, so that there would be little
argument against the non-acknowledgement policy. Initially, they supported Nol based on their policy of siding with anyone against communism, despite the atrocities committed by his government. The Ford administration did try and raise awareness about the inevitable massacre however, the American public distrusted the government because of the Cold War fever and manipulation of information by Nixon, and hence no solution could be reached. They feared the derailment of talks with China so they never brought up the issue of the Khmer Rouge with them. Therefore, the USA adopted a very distant and hands-off policy for Cambodia, often ignoring the events that were taking place.

- China: For a long time, the Khmer Rouge were supported by China financially as well as militarily. From the initial war against Nol’s government, to providing political stability, the RPC always fully supported the Khmer Rouge. When Vietnam tried to take over from the Khmer Rouge, China saw that as offense to their political might and launched offensives against Vietnam. In the battles that followed, 20,000 to 60,000 people lost their lives. The USA never brought up the issue with China about this due to the fear of breakdown of talks between the two countries.

- United Nations: The United Nations refused to acknowledge the atrocities being committed by Nol’s government against the Khmer people. Then when the Khmer Rouge started committing atrocities, the United Nations and the leading countries refused to identify it as a genocide and failed to take any action. The Khmer Rouge were given a seat in the UN as representatives of Cambodia, even after their fall. The UN refused to recognize the Vietnam established government in Cambodia as the true representatives. In 1991, the UN brought all the factions of the Cambodian issue to the table and worked out a peace plan. It called for a ceasefire, allowing the refugees from Thailand to go back to Cambodia and ensure the elections in Cambodia. The UN did succeed in facilitating the return of the refugees. Voters were registered and election were held in 1993, despite pressure from the Khmer Rouge. A weak yet existing political structure was set up and a coalition government was formed. However, the UN failed on
several fronts. The cease fire could not be properly imposed, all the factions of the civil war were not demobilized, the economy could not be rehabilitated and a “neutral political environment” could not be ensured. viii

Extraordinary Chambers in the Courts of Cambodia:

After the Khmer Rouge broke apart and Cambodia had a proper government, the Extraordinary Chambers in the Courts of Cambodia was set up to try the senior most leaders of the Khmer Rouge for war crimes, crimes against humanity and genocide between 1975 and 1979. The court was a mixture of the UN and the Cambodian judicial structure, with many foreign judges being invited to serve on the bench. The staff was Cambodian and worked under their mandate. Cambodia asked the USA for help in detaining and convicting the leaders, and this led to the USA circulating a draft in the UN calling for a body to be set up to try the Khmer Rouge leaders. China opposed this by saying that since the topic was no longer a threat to international security, there was no need for setting up a tribunal.

Reconstruction of Cambodia:

The Khmer Rouge left the country in a very deplorable state, with lands covered in hundreds of thousands of landmines and a quarter of the population dead. There was complete social breakdown, people had lost their families and suffered from isolation, the educated people were all dead. Without the educated, there was no foundation on which to introduce economic and social reforms. Public sectors such as education and health were restored and a more efficient method of allocation of resources was introduced, however there was a sharp shortage of labor and lack of resources as a consequence of the genocide. Economic reforms were introduced in the 1980s. Once the Vietnamese troops left Cambodia, foreign investment was encouraged. Thailand adopted a policy of “turning battlefields into market places”, the lifting of the US economic embargo in 1992 eased the inflow of Foreign Direct Investment. ix At a
conference in Tokyo in 1991 that was aimed at rehabilitating Cambodia foreign donors pledged up to $800 million, a sum greater than the amount estimated by the UN to reconstruct Cambodia. However, political instability has repeatedly hindered economic growth, with the Khmer Rouge adopting guerilla warfare tactics till the end of the 1990s. The elections in Cambodia often failed to bring positive political change because of the social situation. With an entire generation wiped out, there remained a failure to efficiently manage resources and hence achieve stability. Many of the leaders were initially Khmer Rouge leaders who had defected and hence were not fully trusted by the people. Even today, Cambodia has failed to break free from the trauma of the Khmer Rouge rule. According to the Human’s Right Watch World Report 2013, the state of human rights in Cambodia is deteriorating. There is land grabbing by powerful people, frequent cases of murder and violence. The USA has pledged its support of the Cambodian government even amidst such reports of human rights violation.

**The Cambodian Genocide and International Law:**

- **Geneva Convention:** Cambodia has been a signatory of the Geneva Convention. Political killings are not covered by the Convention unless their intent is to destroy in whole or in part a national, ethnical, racial, or religious group, as such. The evidence has now been gathered that establishes beyond a reasonable doubt the Khmer Rouge intent to destroy Cham Muslims, Christians, Buddhist monks, and the Vietnamese and Chinese minorities. It sets forth three legal options for in the face of genocide:
  1) Trial by a Cambodian court.
  2) Trial by an International court.
  3) A party to the Geneva Convention to submit a dispute with Cambodia to the International Court of Justice.

- **Genocide Convention 1948:** Despite the Genocide Convention calling for all those who commit genocide to be tried by an international court, this was never successful because of the controversial definition of the word genocide. There has been a huge debate whether the massacre by the Khmer Rouge classifies as a genocide or not.
Questions and Important Issues:

- Can the United State of America be held responsible for their alleged role in fuelling the growth of the Khmer Rouge? If yes, that what actions, if any, should be taken against them?
- How must the roles of China, Russia, Thailand and Vietnam, along with other major international players be viewed and classified? Should they be held accountable for anything?
- Can the Khmer Rouge be held accountable for genocide? If yes, is there a point in continuing trials against the few remaining leaders of the Khmer Rouge?
- How can Cambodia be put on the path of reconstruction? What is the role of the international community in this?
- How is political stability and economic growth going to be facilitated in Cambodia?
- What types of social, political and economic reforms are required?
- What reforms are required in the international law to limit such occurrences in the future and ensure that swift and effective action is taken against those who do commit such crimes?
Works Cited


iii Ibid.


v Ibid.


ix Ibid.