

SOME DOUBTS ABOUT EVIDENCE OF GENOCIDE IN CURRENT TRIALS OF EX-COMMUNIST PARTY OF KAMPUCHEA LEADERS

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A recent email exchange between myself and Steve Heder, a former officer of the Extraordinary Chambers in the Court of Cambodia (ECCC), throws doubts on the allegations of genocide made against three defendants in the the current 'Khmer Rouge' trials. These defendants are Khieu Samphan, Nuon Chea and Ieng Sary who are charged with crimes against humanity, genocide and war crimes.

According to the prosecution case, the policies of the 'Khmer Rouge' (Communist Party of Kampuchea-CPK) leadership of Democratic Kampuchea between 1975 and the start of 1979 resulted in a death toll, estimated at between 1.7 and 2.2 million. The source for this figure seems to be the 'Demographic Expert Report' that was submitted to the ECCC in 2009 (1). One of the authors of the report is Ewa Tabeau, the Chief Demographer for the Prosecutor at the United Nations International Tribunal for the Former Yugoslavia in the Hague.

One of the main sources cited for this death toll figure are the estimates made by Ben Kiernan, author of 'The Pol Pot Regime' which has become the standard text by those who accuse the government of Democratic Kampuchea of genocide (2). His estimates are analysed in the 'Demographic Expert Report' (3). Kiernan makes one of his estimates from surveys of survivors who were asked about the numbers of people in their families who died in the Democratic Kampuchea period. One of Kiernan's most important sources is a survey by Stephen Heder which was carried out on the Thai-Cambodian border in 1980-1981. According to Kiernan, Heder's survey of these refugees shows a death toll of 20% of the population of Kampuchea in the Democratic Kampuchea period (4). On page 108 of the 'Demographic Expert Report' it is claimed that this survey and the others Kiernan uses provide support for an 'excess death toll' figure of 1,671,000 of the Kampuchean population (21%). They base this on a calculation Kiernan made by extrapolating deaths from surveys, including Heder's, across the Kampuchean population as a whole (5). However, as a recent email exchange between Dr Heder and myself reveals, Heder believes that as far as he can remember the normal level of deaths that would have occurred in Kampuchea in this period were never deducted from the death toll of 20% that he calculated from his survey. It is therefore, not an 'excess death' figure, in all probability. Assuming the figure is correct, and this cannot be checked, it is just a figure for total deaths in Kampuchea from 1975-79. It must be stressed however, that the data for Heder's survey is in storage and was never seen by the authors of the 'Demographic Expert Report' so it is not clear to anyone, what the precise status of the 20% figure is. It is very surprising that the authors of the 'Demographic Expert Report' seem not to have queried this issue.

The email exchange between Heder and myself is available [here](#).

It is very surprising that a survey of this kind has been entered in evidence in such an important trial when the original data has not been checked, according to Heder's account. There must also be a question about the figures Kiernan uses from the other surveys from which he derives his figures. For

example, Kiernan uses his own refugee survey and a refugee survey by Milton Osborne to calculate the death toll of 21%. There is no indication that normal deaths have been subtracted from the death toll figure either of his own survey or that of Osborne's.

On page 52 of the 'Demographic Expert Report' a pre-Democratic Kampuchea death rate of 1.86% per annum is cited. If we subtract this from the 21% Kiernan believes he has discovered, then this would imply that over the nearly four years that Democratic Kampuchea existed, there was an excess death rate of perhaps 12 or 13% .

However, a survey of sibling survivors covering the period 1970-1980, quoted by De Walque, shows the death rate was already expanding very steeply in 1974 BEFORE the Communist Party of Kampuchea took over and the death rate actually began an equally steep decrease before the Communist Party of Kampuchea left power (6). This survey would imply that the 1974 death rate was actually quite a lot higher than 1.86%, even if this was the average for 1970-74. It also shows that the leadership of Democratic Kampuchea was able to bring the death toll down very substantially, once death rates peaked at the mid-point of the regime, and surely the reasons for this should be considered by the current Tribunal (6).

I have not had time to study all the other evidence in the 'Demographic Expert Report' I am releasing the email evidence now purely because the trials are now in progress and a proper treatment of the Democratic Kampuchea period would probably take longer than the likely lifespans of some of the defendants. However I would make the following points about the other evidence that seem to be overlooked elsewhere.

1) De Walque criticises the approach of Sliwinski in coming up with their death toll figures. The 'Demographic Expert Report' relies heavily on this source, along with Kiernan's survey evidence.

2) Mass grave or 'Killing Field' evidence seems unreliable. As the 'Demographic Expert' report concedes (p.119) the CPK banned traditional means of disposing of the dead (cremation). Therefore, it seems that all those who died in the Democratic Kampuchea period were either buried or sometimes just dumped in the jungle with little ceremony. It's certainly not clear that all those corpses disposed of in this way were victims of the CPK. The only forensic examination that appears to have been made of the Killing Fields showed only a very small percentage showing signs of violent death (7). Though the author Pollanen claims a 'significant minority' of the bones he examined showed signs of a violent death his own report simply does not bear out this 'politically correct' conclusion. He examined three sites. At Kampong Speu, he examined 100 crania and found evidence of violent death in 1 case. Of several hundred long bones, Pollanen found 13 showing signs of violence (8). At Pomhea Lea, Pollanen examined several hundred long bones and crania. He found evidence of violence in 8 of the long bones and 2 crania had gunshot wounds (9). At the memorial site at the ruins of the Sang Prison, Pollanen examined piles of human skeletal remains, topped with 50 crania. He found no evidence of violence or violent death. Despite such evidence the authors of the 'Demographic Experts Report' insist that 50% of all excess deaths in the Democratic Kampuchea era were due to violence (11).

3) I have not studied the various demographic studies mentioned in the report. On the face of it, however, trying to get a death toll by extrapolating between censuses, that were 36 years apart to try and get a death toll for a four year period some time in between is pointless. It might look scientific but

surely the method is nonsensical unless you have reliable birth/death registration figures for the period in question and these don't exist. This would even be the case if the time gap is narrowed, perhaps by comparing the 1962 census to the 1980 Administrative Account of the population (compiled at a time when Vietnam was desperate to prove that the CPK had committed genocide in order to secure international recognition of their client regime in Kampuchea.)

4) Refugee surveys are unreliable guides to death tolls in the country as a whole as refugees are more likely to come from the regions that suffered the most from violence or hunger. (It should be pointed out that Heder claims his survey described as a 'refugee survey' by Kiernan was not only a survey of refugees).

5) It must be noted that US food aid was cut off when Lon Nol fell. The capital Phnom Penh was swollen with refugees who had been relying on this food aid. It may be this factor that led to most of the excess deaths rather than deliberate policy or indeed policy error. It is not true that Democratic Kampuchea accepted no aid, they accepted food aid from China as Phillip Short's book on Pol Pot demonstrates (12). It may have been that if the CPK had accepted aid from western food agencies, China would have reduced its own aid in proportion. China was not producing massive surpluses of food at this time and had already cut off aid to Vietnam, probably due to Vietnam's links with the Soviet Union (13). It's not entirely clear-cut that accepting food aid, especially from potentially hostile western powers would have been an unalloyed good. It might have encouraged dependence and discourage some farmers to plant crops. If the aid had then been cut for political reasons, the long-run effect might be an even greater number of deaths than a policy of trying to cope with the food crisis with internal resources and aid from Kampuchea's ally China.

In conclusion, the question of how many of the deaths that occurred in Kampuchea between 1975 and 1979 can be blamed on policy errors or deliberate killings by the CPK has not been established and the 'Demographic Expert Report' appears, on the face of it, to do nothing to shed light on this question.

My comments here should not be taken as any endorsement of the policies of the CPK by myself. We do not know how many people were executed in Democratic Kampuchea, however I am an opponent of the death penalty by any regime. The CPK is often described as 'Maoist' but its ideology seems wrapped in confusion. Mao himself warned against the 'Communist Wind' of trying to abolish money too soon. Mao also believed that after taking power the Communists in countries like Kampuchea should begin with 'New Democracy' not move straight to socialism and communism. This idea does not seem to have been present in CPK thinking. The CPK is often described as 'ultra-leftist' but it seems to have moved quickly to condemn the so-called 'Gang of Four' in China and to endorse the rightest regime created in China by Hua Guofeng and Deng Xiaoping. A full, objective account of what happened in Democratic Kampuchea has yet to appear. It is unlikely that the deliberations of the ECCC will do much to contribute to its emergence.

(1)'Demographic Expert Report. Khmer Rouge Victims in Cambodia, April 1975-January 1979. A Critical Assessment of Major Estimates.'

http://www.eccc.gov.kh/sites/default/files/documents/courtdoc/D140_1_1_Public_Redacted_EN.PDF

(2) Kiernan B. (1996) 'The Pol Pot Regime: Race, Power, and Genocide in Cambodia under the Khmer

Rouge, 1975-79.' Yale University Press.

(3) 'Demographic Expert Report' p.108-110

(4) Kiernan, B. (1996), p.456-457

(5) see ibid. (1996), p. 458

(6) see de Walque,D.(2004) 'The Long-Term Legacy of the Khmer Rouge Period in Camodia'
Development Research Group, World Bank, p.21.

<http://elibrary.worldbank.org/content/workingpaper/10.1596/1813-9450-3446>

(7) Pollanen, M. (2002) 'Forensic Survey of Three Memorial Sites Containing Human Skeletal
Remains in the Kingdom of Cambodia' Forensic Mission in Cambodia

http://www.d.dccam.org/Projects/Forensic_Study/pdf/Forensic_Survey_of_Three_Memorial_Sites.pdf

(8) ibid, p. 6.

(9) ibid, (2002), p. 7.

(10) ibid.. (2002), p. 8.

(11) 'Demographic Expert Report', p. 70.

(12) Short, P.(2004) 'Pol Pot. The History of a Nightmare.', p.289, John Murray.

(13) Short, P. (2004) p. 303.