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**"Beyond the Killing Fields": Il contributo delle Extraordinary Chambers  
in the Courts of Cambodia al Diritto penale internazionale**

**WAR CRIMES**

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## Introduction

### Article 6

The Extraordinary Chambers shall have the power to bring to trial all Suspects who committed or ordered the commission of grave breaches of the Geneva Conventions of 12 August 1949, such as the following acts against persons or property protected under provisions of these Conventions, and which were committed during the period 17 April 1975 to 6 January 1979:

- wilful killing;
- torture or inhumane treatment;
- wilfully causing great suffering or serious injury to body or health;
- destruction and serious damage to property, not justified by military necessity and carried out unlawfully and wantonly;
- compelling a prisoner of war or a civilian to serve in the forces of a hostile power;
- wilfully depriving a prisoner of war or civilian the rights of fair and regular trial;
- unlawful deportation or transfer or unlawful confinement of a civilian;
- taking civilians as hostages.



## Introduction

1. What are War crimes?
2. Controversies about the ECCC convictions for War Crimes
3. Two exemplary War Crimes in the jurisprudence of the ECCC: Rape in conflict and deportation



## What are War Crimes?

Violations of International Humanitarian law, for which individuals are held responsible.

From Henry Dunant, the Battle of Solferino, to the Founding of International Committee of the Red Cross

Hague Law vs. Geneva Law

International Military Tribunal in Nuremberg post-1945 and Nuremberg Principles 1950

Geneva Conventions 1949 and AP I and II 1977

ICTY, ICTR, SCSL, ECCC

Rome Statute 1999, ICC



## Controversies about the ECCC convictions for War Crimes

Were the war crimes tried before the ECCC punishable at the time of their commission, and if so on which basis?

Were the provisions of the Geneva Conventions applicable in the Cambodian context?

Armed Conflict requirement met, although mainly domestic crimes?

Nexus Armed Conflict / specific crime met?

Protected Persons only Vietnamese nationals?



## Case 001: Rape as a War crime

### Relevance:

Khmer Rouge Policy of Forces Marriages, victims: Cambodian nationals

### Legal issues:

Was rape 'only' a War Crime, or also a Crime against Humanity under customary international law in 1975?

Relationship between rape as a War Crime and rape as a Crime against Humanity?



## Case 002/01: Deportation as a War Crime

### Relevance:

One of the main and largest scaled crimes of the rule of the Khmer Rouge

### Legal issues:

Was the crossing of a border required under the law applicable in 1975?



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