

ACHIEVING PEACE IN CAMBODIA

Paper by the Hon Gareth Evans QC MP, Australian Foreign Minister 1988-96, to the Hague Centennial Peace Conference on Dispute Settlement, Humanitarian Law and Disarmament, University of Melbourne, 20 February 1999.

Negotiating and implementing a durable peace in Cambodia remains one of the United Nations' finest achievements. Nobody pretends that the country is yet a flourishing democracy; or a country in which human rights are respected as they should be; or one where corruption is under control; or where economic and social development is as far advanced as it could and should be. Measured against the ideals of what was the largest (with 22 000 personnel), costliest (\$US1.7 billion) and most ambitious UN peace keeping operation ever, it is not surprising that many find the present condition of Cambodia disappointingly wanting.

But the country *is* at peace. The Khmer Rouge, despite all the predictions of John Pilger and a legion of other doomsayers, is defunct. After the shock of Hun Sen's coup in July 1997, democratic governance is back from the brink. And there is a pervasive sense of hope about the future which none of the setbacks and disappointments since the 1991 Paris Peace Settlement have been able to completely suppress.

Nobody should forget the extent to which Cambodia was on its knees by the late 1980s. Since 1970 the country had been ravaged successively by massive US bombing, by civil war, by a genocidal reign of terror exceeded only by the Nazis, by invasion and by civil war again, resulting overall in the deaths of some 2 million Cambodians and the destruction of the lives of many more. The Vietnamese invasion in November 1978 brought to an end the worst of the Khmer Rouge reign of terror, but it triggered a new civil war. Recurring bloody military engagements, guerilla assaults and ambushes, the further displacement of large numbers of civilians, and the inability of life generally to return to any kind of pre-1970 normality, all took their further toll of an exhausted and suffering people.

Nor should anyone forget how complex and intractable the continuing conflict was, being played out as it was at three distinct levels. The first level was that of the warring internal factions - with Hun Sen's Government waged against a fragile coalition of the non-communist Sihanoukists and KPNLF (Son Sann) and communist Khmer Rouge, and each group was immensely distrustful of all the others. The second level was regional, with Vietnam supporting Hun Sen and ASEAN supporting his opponents. And the third level involved the great power patrons of the warring factions - with China supporting the Khmer Rouge and Prince Sihanouk; the Soviet Union supporting Hun Sen; and the United States supporting the two non-communist resistance groups.

To unravel all this, and produce out of it something resembling a durable peace - even if we have not yet seen a durable, human-rights respecting democracy - was a formidable achievement indeed for the international community, and one in which, I am pleased to be able to say,

Australia played a quite central part.

Australia's involvement in this achievement dates back to 1983, when the Hawke Government came to office in 1983 with a commitment to play a more active role in a Cambodian settlement, and from the outset the Government's Indo-China policy focused on exploring the various options for a Cambodian settlement. Activities included visits by Foreign Minister Hayden to Vietnam and Laos in 1983 and 1985, and to Australia by Vietnamese Foreign Minister Thach in 1984 and Prince Sihanouk in 1985. Specific Australian initiatives designed to help break the stalemate included a call by Bill Hayden in 1986 for an international war crimes tribunal to try Pol Pot and his senior associates, although this initiative was not greeted with any enthusiasm by the ASEAN countries.

The achievement of the Hayden years was to have Australia accepted by the international community, including eventually ASEAN, as a responsible and knowledgeable voice on the issue of the Cambodian settlement. Our views at this time were not necessarily welcomed by all parties, but they were given weight and taken into account, and Australia's activities did impart a sense of urgency, previously absent, to the effort to find a solution. Something of a consensus was emerging, at least on broad principles - that there needed to be withdrawal of all Vietnamese forces from Cambodia, matched by an effective arrangement to prevent Pol Pot and his Khmer Rouge forces from returning to power in Cambodia; free and fair elections; the creation of conditions for the peaceful return of displaced Cambodians; and guarantees that a post-settlement Cambodia would be neutral, independent and non-aligned.

In the late 1980s other regional countries, and in particular Indonesia, gradually sought to play a more active diplomatic role in pursuit of a solution to the Cambodian problem. The resulting Jakarta Informal Meetings (JIMs) in July 1988 and February 1989 were inconclusive: although they did result in some clearer definitions of the issues involved, there was no significant lessening of the differences among the four Cambodian factions. But hopes for a major move forward had arisen with the announcement by Vietnam in January 1989 that it was prepared to withdraw all its troops from Cambodia by September that year. Seeking to force a breakthrough, France - the former colonial power and still a significant influence in the region - judged in mid-1989 that the time was ripe for a full international conference on Cambodia. The Paris Conference on Cambodia (PICC) was accordingly convened, with joint Indonesian-French chairmanship, in Paris in July-August 1989. This brought together all four Cambodian factions, the six ASEAN countries, the Permanent Five Members of the UN Security Council, Vietnam, Laos, Australia, Canada and India as well as Zimbabwe (representing the Non-Aligned Movement) and a representative of the UN Secretary-General.

In the event, the Paris Conference failed, but not without coming close to succeeding. A comprehensive settlement strategy was mapped out which foundered for a number of reasons, but only one of which was really crucial. One side of the conflict, the combined resistance forces of Prince Sihanouk, Son Sann and the Khmer Rouge, together with their international backers, demanded a place for each of the four internal parties, including the Khmer Rouge, in the

transitional administration, but to this demand the SOC Government of Hun Sen, and its international backers, were simply not prepared to concede.

It was to break this impasse that the Australian peace proposal, which I announced in outline in the Senate on 24 November 1989, was put forward. So as to side-step the power-sharing issue which had bedevilled the Paris Conference, and constrain the role of the Khmer Rouge in the transitional arrangements, we proposed that the United Nations be directly involved in the civil administration of Cambodia during the transitional period. There should be, we said, a UN military presence to monitor the cease-fire and cessation of external military assistance; a UN role in organising and conducting elections; and UN involvement in the transitional administrative arrangements to ensure a neutral political environment conducive to fair and free general elections.

The idea of United Nations involvement in a transitional authority was not in itself completely new, although the degree of detail with which the concept was subsequently developed, and the effort with which it was pursued, certainly was new. Prince Sihanouk had in March 1981, and occasionally subsequently, raised the idea of some form of United Nations trusteeship. And during 1989, US Congressman Stephen Solarz had developed the specific idea of a neutral United Nations interim administration: my discussions with Solarz in New York in October 1989 and subsequently were crucial in shaping Australia's thinking.

In advocating a very substantially enhanced UN role in the settlement, we knew we were being ambitious. The United Nations was well enough experienced in peace-keeping operations and monitoring elections, but had not up to that time had a role in the civil administration of one of its member states, nor primary responsibility for organising and conducting elections as distinct from monitoring them. Moreover, conditions within Cambodia - including the potentially fragile character of any cease-fire, the difficulty of monitoring guerrilla forces, and the lack of developed transport and communications infrastructure - meant that the overall UN operation would be much more difficult than had been experienced in most other situations.

So a long, gruelling diplomatic effort was always going to be required to translate the Australian proposal into reality. If it were simply a matter of adopting a strategy that would isolate and marginalise the Khmer Rouge, not very many voices would have been heard in opposition. But the crucial point was that the Khmer Rouge could not be effectively isolated and marginalised, and its military influences nullified, so long as it continued to be supplied, especially by China, with arms, money and diplomatic support. China (determined as always to neutralise Vietnam's influence over Cambodia) had consistently maintained that it would give a commitment to cease military support to the Khmer Rouge, and support a ceasefire, only in the context of a comprehensive settlement agreed by all four Cambodian parties and which guaranteed the future independence and neutrality of the country. Unless and until China was prepared to withdraw from the picture, then whatever Australia and other countries might have chosen to do, the continuation of bloody civil war was inevitable. So our UN peace proposal was expressly designed to give China a face-saving way of engaging in just that withdrawal.

There could be no absolute guarantee that, if it accepted the peace plan, the Khmer Rouge would not simply resume fighting after the transitional period. But there were two crucial new factors that would minimize this risk. First, China would give an international legal undertaking to cease arms supply to the Khmer Rouge, would be under close international scrutiny to uphold that undertaking, and could be reasonably expected to honour it. The second consideration was that the new Cambodian administration would be accepted by the international community as the government of the country and was likely to receive substantial economic, social and technical assistance during the rehabilitation and reconstruction process envisaged under the comprehensive settlement. Taken together, these factors would mean that the newly elected Cambodian government would be in a much better position than its predecessor to withstand any renewed challenge from the Khmer Rouge.

The initial response to my statement laying out the proposal for a major UN role was nothing less than remarkable. It very quickly became clear that the idea was one whose time had come. Within a matter of weeks, most of the participants at the Paris Conference had given it varying degrees of public, as well as private, endorsement. This process was considerably assisted by an extraordinary feat of diplomatically effective endurance by Michael Costello, then the Department of Foreign Affairs and Trade's Deputy Secretary. I had tasked him early in December 1989 to pay a quick visit to Hanoi - in between talks scheduled on other matters in Hawaii and Tokyo - to take preliminary soundings. This initial detour turned into a series of thirty major meetings with key players in thirteen countries over a period of just twenty-one days. During the course of this odyssey the Australian 'idea' became a fully fledged Australian 'initiative' or 'plan' as we constantly refined and developed the detailed elements of the proposal and responded to suggestions or criticisms from our various interlocutors.

Particularly encouraging was the positive reaction of the United States Administration, which had already initiated with the Soviet Union in late 1989 a proposal to join the other three Permanent Members of the Security Council in a series of consultations on Cambodia. Representatives of the Permanent Five met in Paris on 15-16 January 1990 and agreed by consensus on a set of sixteen principles which would form the basis of their future discussions. Those principles included strong endorsement of the concept of an enhanced United Nations role in the transitional period. The January meeting was significant in another sense. It marked the start of a two-track international approach to the Cambodia problem - the Permanent Five process and the Paris Conference process - between which a productive interaction was subsequently maintained.

By late January 1990, Indonesian Foreign Minister, Ali Alatas, who as Co-Chairman of the Paris Conference had been exploring the possibility of an informal regional meeting on Cambodia, felt sufficiently encouraged to convene a meeting in Jakarta on 26-28 February involving the four Cambodian parties, Vietnam and Laos and the ASEAN countries. In recognition of the contribution we were making to the peace process, Australia was invited to attend as a resource delegation. In preparation for the Jakarta Informal Meeting on Cambodia (IMC), an Australian technical mission visited Cambodia, Bangkok and the Thai-Cambodia border area from 2-16 February 1990 to gather further information on administrative structures and other data necessary to develop a full United Nations role in Cambodia. At the Jakarta Meeting, ten days

later, a 155-page series of Working Papers, incorporating the technical mission's findings and covering in some detail all the necessary elements of a comprehensive settlement were distributed. Needless to say, we were rather busy in Canberra that month!

The Papers were subsequently published as *Cambodia: an Australia Peace Proposal* - the "Red Book", so-called from the colour of its binding. They outlined in detail the roles proposed for the United Nations in civil administration; in organising and conducting elections; and in maintaining a secure environment in which Cambodians might exercise their electoral choice free from fear, intimidation and violence. The Papers also explored a range of costings. Conventional wisdom had it that such an exercise would be beyond the resources of the United Nations, but our indicative calculations showed that such a proposal - estimated to cost US\$1.3 billion for 18 months - was both practicable and affordable. (It is interesting to note that the actual cost of the UNTAC operation when eventually put into place, for the two year period from November 1991 to November 1993, was \$US 1.7 billion - remarkably close to our original guesstimate: although a number of details of the plan had by then changed.)

The February 1990 Jakarta Meeting came very close to reaching agreement on a statement of principles providing for an enhanced role for the United Nations in a comprehensive settlement, but in the end it just failed to do so. Consensus, very frustratingly, broke down on the question of whether the agreed record should make specific reference to 'the prevention of recurrence of genocidal policies and practices'. While the outcome was disappointing in that regard, the meeting did begin a process of consensus-building.

Steady diplomatic progress was made throughout the rest of 1990 in the refinement and development of the Australian plan, with the Permanent Five and the Paris Conference Co-Chairmen in close consultation with the UN Secretariat now playing a central role. The Permanent Five held six major consultative meetings on the subject between January and August, reaching agreement in New York on 27-28 August on a

'framework' document setting out the key elements of a comprehensive political settlement, based on an enhanced UN role, in a skilful and judicious balance of the various interests involved.

Then, at a meeting in Jakarta on 9-10 September 1990, hosted by Indonesia and France as Paris Conference Co-Chairmen, the four Cambodian parties accepted this Permanent Five framework in its entirety as a basis for settling the Cambodian conflict, and agreed to establish a Supreme National Council (SNC) - part of the original Australian proposal, and called for in the framework - which would, among other things occupy the Cambodian seat in the United Nations.

The next step was for the United Nations itself to endorse the basic elements of the peace plan. It did so, urging the parties to elaborate the Permanent Five framework into a concluded comprehensive political settlement in UN Security Council Resolution 668 of 20 September 1990, and UN General Assembly Resolution 45/3 of 15 October 1990. These Resolutions also welcomed the agreement of the Cambodian parties to form the SNC 'as the unique legitimate body and source of authority in which, throughout the transitional period, the independence,

national unity and sovereignty of Cambodia is embodied'.

The last of the settlement building blocks to be put in place was the preparation of a detailed negotiating text. Agreement was reached on the form and structure of such a text at a Working Group Meeting in Jakarta on 9-10 November, hosted by the Paris Conference Co-Chairmen. Australia, still enormously active behind the scenes, had prepared and circulated a full draft negotiating text; and this work was substantially drawn upon during the discussions. The meeting gave a mandate to its Co-Chairmen to complete the draft: their representatives, and the Secretary-Generals, met with Permanent Five officials on 23-26 November and reached consensus on a full draft comprehensive agreement. By the end of 1990, then, all the necessary foundations had been laid.

As 1991 dawned, there seemed likely to be a relatively swift and painless run home to the tape. But despite all the momentum and expectations generated over the long months since the Australian plan was first put on the table in November 1989, the process faltered and seemed - five months into the year - in danger of stalling completely. Phnom Penh, supported by Hanoi, expressed a series of reservations about the Permanent Five negotiating text. Some of these reservations - in particular the issue of army demobilisation, and the relative vulnerability of each side following it - raised serious questions requiring further thought and negotiation; others - like the question of the implications of a UN role for Cambodian sovereignty - seemed to be trying to prise open agreements in principle long since reached; others were essentially minor quibbles, but capable of endlessly protracting the settlement process.

Despair, however, was as premature as exultation would have been in 1990. A rush of events in June 1991 injected immense new life into the settlement process. Prince Sihanouk emerged from months of self-imposed isolation and formed an improbable liaison with Hun Sen which, being with the apparent approval of China, pushed the Khmer Rouge into something of a corner. He convened a meeting of the SNC in Pattaya, Thailand on 24-26 June (the first since its notional formation the previous September), and at that meeting brokered a series of agreements between the four Cambodian parties.

Crucially, all the Cambodian parties at Pattaya reiterated their support for the Permanent Five framework, and for a comprehensive settlement in which the United Nations would have a central role. There remained many issues of detail - not least the question of interim enforcement of the ceasefire and arms cessation agreements, and resolution of the demobilisation question which was continuing to worry Hun Sen's SOC. But there was general agreement on a course of future meetings to address these issues - involving, again, the Paris Conference Co-Chairman, the Permanent Five, and ultimately the reconvened Paris Conference.

Finally, the Agreements on a Comprehensive Political Settlement of the Cambodia Conflict were signed on 23 October 1991 by the four Cambodian parties and the international participants at the Paris Conference on Cambodia. The settlement committed the Cambodian parties and those supporting them to a permanent ceasefire, the holding of free and fair elections, and the adoption of a new democratic constitution - all under the supervision of the United Nations through the United Nations Transitional Authority in Cambodia (UNTAC).

The Paris Agreements included provisions that were typical of traditional peacekeeping functions: the verification of the withdrawal of foreign forces and the supervision of the ceasefire - plus some of the newer functions being assumed by the UN, such as involvement in elections. However, in Cambodia, the concept of peacekeeping was much expanded, to include comprehensive efforts towards institution building and social reconstruction as integral parts of the package designed to secure a lasting end to armed conflict and a genuine transition to democracy.

The relevant measures included a direct control function in respect to key areas of civil administration in the transitional period - a completely new role for the UN; cantonment and demobilisation of the four Cambodian armies; organisation and supervision of elections; repatriation and resettlement of more than 365,000 Cambodian refugees and displaced persons from camps along the Thai-Cambodian border; and peace-building measures such as efforts to ensure the observation of human rights. The Paris Agreements in fact probably contain the strongest provisions of any treaty on this subject - reflecting the growing realisation that ensuring respect for human rights was critical for any comprehensive settlement to a conflict. The final important element of the Agreements in this regard related to the rehabilitation of essential Cambodian infrastructure during the transitional period, and the post-transitional reconstruction of the country.

Another innovative aspect of the comprehensive settlement was that it did not end with the completion of UNTAC's mandate, but was rather a continuing international process to which the signatories were committed in a variety of ways, including in the rehabilitation and reconstruction of Cambodia through involvement in the International Committee on the Reconstruction of Cambodia (ICORC); through obligations to uphold the neutrality of Cambodia; and continuing involvement in human rights questions. The latter resulted in, among other things, the later appointment by the UN Secretary-General of a Special Representative on Human Rights - another Australian, Justice Michael Kirby.

In order to get a UN presence on the ground quickly to prepare the way for what was to become the UN Transitional Authority in Cambodia (UNTAC), a UN Advance Mission (UNAMIC) was despatched to Cambodia on 9 November 1991. On 28 February 1992 the UN Security Council approved the overall plan for UNTAC which called for 15 900 military personnel, 3600 civilian police and 1020 administrative personnel: 34 nations contributed to the military operation and 45 to the peace keeping exercise overall, a breathtakingly large commitment from the international community. The first UNTAC units arrived in Cambodia on 15 March 1992, accompanied by the Secretary-General's Special Representative, Yasushi Akashi, and the Australian commander of the military component, Lieutenant General John Sanderson, whose outstandingly professional leadership was in my judgement absolutely crucial to the success of the UNTAC operation.

Trouble was not long in coming. By June 1992 it became apparent that one of the central

elements of the comprehensive settlement would not be fully implemented due to the refusal of the Khmer Rouge to canton and disarm their troops. Breaches of the ceasefire also occurred, though on a relatively small scale. More troubling were attacks directed at UNTAC civilian and military personnel. A reason cited by the Khmer Rouge for their intransigence was that Hun Sen's SOC retained control of their administrative structures: certainly it was the case that the UN Civil Administration component was deployed far too slowly, and never in fact became the confident monitoring and neutrality-guaranteeing body that it had been intended to be. The Khmer Rouge never did cooperate with UNTAC or show any willingness to participate in the UN organised elections. Despite this, and the violence which characterised the electoral campaign (not instigated only by the Khmer Rouge), the general atmosphere was judged sufficiently neutral for the elections to proceed.

This they did from 23-27 May 1993, with an almost 90 per cent turnout and, to everyone's surprise and delight, almost no violent disruptions. I don't think I have ever been more moved than when I saw those first satellite pictures of men, women and children lined up at the polling stations in their scores of thousands, knowing the risk of bomb attack, but thrilled at the prospect of peace at last, and the chance to have some say at last in how they lived their lives.

The results brought a further surprise, the clear winner being Sihanouk's FUNCINPEC, with Hun Sen's Cambodian People's Party (CPP) coming second. An uneasy power-sharing arrangement was eventually adopted, with the new Government headed by Sihanouk's son, Prince Ranariddh as 'First Prime Minister', and Hun Sen as 'Second Prime Minister', with mainly FUNCINPEC and CPP Co-Ministers in each portfolio.

By no means did everything go perfectly with the UNTAC operation. Obvious lessons to be learned were the fundamental need for greater flexibility within UN Headquarters and in the field to get an operation up and running and to deal more rapidly with significant changes in original conditions (eg the refusal of the Khmer Rouge to comply with all the provisions of Paris Agreements). There were also, as I have already indicated, serious weaknesses in the actual implementation of what was in many ways the most innovative single element of the Paris Plan, ie the civil administration function.

It is also clear, in retrospect, that the Paris Agreements should have included specific measures for building a functioning criminal justice system as part of the transitional period and post-conflict peace-building exercise, as the rule of law, and institutions needed to support it, had clearly broken down in Cambodia. If a peacekeeping force is given a mandate to guard against human rights violations, but there is no functioning system to bring violators to justice - even those who violate others' right to life - then not only is the UN force's mandate to that extent unachievable, but its whole operation is likely to have diminished credibility, both locally and internationally.

Despite all the setbacks and deficiencies, the UN-supervised settlement did achieve its principal aims. It succeeded in removing the Cambodian conflict as a source of regional tension; it

enabled Vietnam to enter into much more productive relations regionally and internationally; external patrons withdrew material support for the various political groupings, sucking away the oxygen that had sustained civil war for so long; the more than 365 000 displaced Cambodians from the Thai border were successfully repatriated; the path was cleared for Cambodia to assume its rightful place in the community of nations; and reconstruction could at last begin.

At the signing of the Paris Peace Agreements in 1991 I said in the course of my speech: "Peace and freedom are not prizes which, once gained, can never be lost. They must be won again each day. Their foundations must be sunk deep into the bedrock of political stability, economic prosperity and above all else, the observance of human rights."

The truth of that observation has been amply demonstrated in the course of events since 1993. The democratic process is still very fragile, as we learned in particular with the shock of Hun Sen's coup in July 1997. The legal system is still in very poor shape, with far too many having a sense of impunity, ie that they can do just about anything without the justice system touching them. Economic and social development is lagging - the latest UNDP Human Development Report shows Cambodia struggling to rank number 140 out of 174 developing countries. The military still exercises too much influence, is still too bloated and corrupt, and like the civil service, is desperately in need of major reform. Environmental problems are getting out of control, with administrative weakness and lawlessness allowing over exploitation of Cambodia's two most important natural assets, forests and fisheries, with real concern that the Tonle Sap could eventually silt up entirely.

But there are plenty of things to be said on the positive side. The Khmer Rouge has completely disintegrated, military security is no longer a problem, and the government exercises greater effective control over the country than any administration has for decades. Non-government organizations are growing in strength and effectiveness. International investment and donor support have led to significant economic development, infrastructure renovation and improvements in government management systems. And last year's election, though certainly not deserving the clean bill of health it rather too swiftly received from the international monitoring team, was at least partially free and fair: although things are far from ideal, these days there is rather more democracy, both in form and substance, in Cambodia than in its ASEAN neighbours Vietnam, Laos and Burma.

There are no miracles ahead for Cambodia. It is going to be a long, hard slog to improve the quality of government and quality of life for ordinary Cambodians. The international community, including Australia, has to give strong and continuing support - being patient and generous, but at the same time sensibly critical when things go wrong. But above all the responsibility for Cambodia's future lies with its own people and its own leadership. It is ultimately the Cambodian people who have to run their country: outsiders cannot do it for them. It is Cambodians themselves who have to come to terms with their own past and decide how to handle it, including on the question of war crimes trials for Khmer Rouge leaders. And it is ultimately Cambodians themselves who have to bring and hold to account authoritarian leaders,

and make them responsive to the wants and needs and hopes of ordinary people.

At the end of the day, all that the United Nations could really hope to do in Cambodia was to give back to the Cambodian people some hope for the future. No operations of this kind can ever themselves guarantee stability and prosperity in perpetuity: that depends on the will and capacity of the people and their representatives, and other factors beyond the international community's control. All the international community can really do is give peace a chance. And in Cambodia it did.

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