

Foreword

Gareth Evans

Seeking Justice in Cambodia is an important book. It records the stories of some extremely significant Cambodians who established the first human rights organisations in Cambodia in the wake of the signing of the Paris Peace Agreements in 1991 and the establishment of the United Nations Transitional Authority in Cambodia (UNTAC) in 1992. Through a series of absorbing interviews, Sue Coffey follows the careers and experiences of those early founders, and adds the stories of younger human rights leaders in Cambodia today. These people have taken the struggle for human rights from the early 1990s to the present, and some are still leading the organisations they founded. Their mission has been to achieve human rights for all Cambodians, and they are still fighting for this goal. Their commitment deserves the attention and support of the wider world.

Cambodia's journey has been a long and harrowing one. Before the signing of the Paris Peace Agreements, the country was on its knees—ravaged successively by massive US bombing, civil war, the Khmer Rouge's genocidal reign of terror, invasion by the Vietnamese, and by civil war again. These onslaughts caused the deaths of some two million Cambodians and effectively destroyed the lives of many more.

The Khmer Rouge took over Cambodia in 1975, in the wake of the collapse of the US-backed Lon Nol administration, which had deposed Prince Norodom Sihanouk in a bloodless coup in 1970. To reach their goal of comprehensively transforming Cambodian society, the Khmer Rouge were responsible for the deaths of between one quarter and one third of the population—by outright execution or through starvation, illness and overwork. They particularly targeted intellectuals, the 'petit bourgeois', and those with religious affiliations and connections to the previous government. But executions became increasingly indiscriminate and included high-ranking cadres and members of the armed forces as mistrust and instability within the regime grew.

The Vietnamese invasion in the closing days of 1978 drove the Khmer Rouge out of the capital and brought an end to its genocidal reign of terror. It also witnessed the rise of Hun Sen, who became prime minister in 1985 and has continued in this role for thirty-two years, becoming one of the longest-serving heads of government in the world. But the Vietnamese arrival triggered a new civil war, with the Khmer Rouge still armed and active. Continual military fighting, guerilla assaults and ambushes, widespread displacement of people—with hundreds of thousands still in border refugee camps, unable to return home—and political repression, meant that life for the majority of Cambodians in the 1980s remained fraught.

The continuing conflict was complex and intractable. It was played out at three distinct levels. The first involved the four competing internal parties, with Hun Sen's government ranged against the anti-communist United National Front for an Independent, Neutral, Peaceful and Cooperative Cambodia (FUNCINPEC) of Prince Sihanouk and the Khmer People's National Liberation Front (KPNLF) of Son Sann, and the militarily still powerful communist Khmer Rouge. Each group intensely mistrusted the others. The second level was regional, with Vietnam supporting Hun Sen's government, and Association of Southeast Asian Nations (ASEAN) supporting his opponents. The third level involved the global powers, 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. Complicating matters further, throughout the 1980s Cambodia's seat at the United Nations (UN) was held by a coalition of the two royalist parties and the Khmer Rouge, as the UN refused to recognise the government imposed by the Vietnamese as legitimate.

As the political impasse became more intractable, world powers sought a solution to the Cambodia problem with increasing determination. How to bring enduring peace and stability to this atrocity-, crime- and war-wracked nation?

Hopes were raised when the Vietnamese confirmed their preparedness to withdraw troops from Cambodia by September 1989. France, the former colonial power that was still influential in the region, resolved to inaugurate a full-scale international peace conference on Cambodia. The Paris Peace Conference on Cambodia (PICC), with Indonesia as co-chair, 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, and a representative of the UN secretary general. This conference came close, but failed, to reach a solution. The key stumbling block was that the combined forces of Prince Sihanouk, Son Sann and the Khmer Rouge demanded a place for all four internal parties—including the Khmer Rouge—in the transitional administration, but Hun Sen was utterly unwilling to accede to this demand.

It was in this context, after I succeeded Bill Hayden as Australia's foreign minister in 1988, that I became closely involved in the peace process. The Hawke Government had come into office in 1983 with a commitment to play a more active role in the region generally, and Cambodia in particular, and Hayden had been very active in building relationships with the key players and exploring settlement options, but without managing to achieve any breakthroughs. My own contribution—built on ideas earlier put into circulation by Sihanouk and US Congressman Stephen Solarz, but not picked up by anyone else—was to identify the key to breaking the deadlock as finding a face-saving way for China to step away from its support for the Khmer Rouge. And we identified the circuit-breaker in this respect as being an unprecedentedly central role for the UN during the transition from war to peace.

The plan, which I announced in outline on 24 November 1989 in the Australian Senate, proposed that the UN become directly involved in the civil administration of Cambodia with a full, on-ground presence, assuming responsibility for the actual governance of the country, ensuring a neutral political environment, conducting a free and fair national election, and ensuring the maintenance of a ceasefire and the cessation of external military assistance. It was to be the first time that the UN took on such a commanding and comprehensive role in the civil administration of any country. There could be no guarantee that the Khmer Rouge, in particular, would honour the ultimate agreement, but the hope and expectation was that it would be reduced sooner or later to impotence as China stopped supplying it with arms and financial support, and as the country received very substantial economic, social and technical reconstruction assistance.

The plan was very ambitious, both in scale and in regard to the extremely difficult operational realities on the ground in Cambodia. But the response of the participants at the Paris Conference was extremely enthusiastic, as became evident in a whirl of diplomatic discussions Australia conducted across thirteen countries in the three weeks after my initial statement. Most importantly of all, PICC co-chair Indonesia—through its foreign minister Ali Alatas—warmly embraced the proposal, and worked closely with us to refine and develop it. In preparation for a new round of discussions in Jakarta, an Australian technical mission visited Cambodia in early February 1990 to gather information on administrative structures and other data necessary to a full-scale UN operation.

These papers were subsequently published as *Cambodia: An Australian Peace Proposal*, famously known thereafter as the 'Red Book', from the colour of its binding. The Red Book outlined in fully worked-through and costed detail the roles proposed for the UN in civil administration; in organising and conducting elections; and in maintaining a secure environment in which Cambodians might exercise their electoral choice free of fear, intimidation and violence. Our blueprint—with its estimate of US\$1.3 billion as the price of an eighteen-month mission—proved remarkably prescient: the actual cost of the two-year UNTAC that was eventually put in place was US\$1.7 billion.

New momentum for the UN peace plan was generated when the five permanent members of the Security Council met in January 1990 and agreed on a set of sixteen principles as the basis of their future discussions, which included the key ingredients of the Australian proposal. Diplomatic

progress thereafter was by no means smooth, with many diversions and setbacks along the way, but eventually 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 Peace 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 UN. On 28 February 1992 the UN Security Council approved the overall plan for UNTAC, which called for over 20 000 personnel to join the mission. In the event, thirty-four countries contributed to the military operation and forty-five to the peacekeeping exercise overall. The whole enterprise was a huge commitment from the international community in terms of anything that had gone before.

The UN's objectives were ambitious, aspiring to bring not only peace and democracy but genuine respect for all human rights to the long-suffering Cambodian people. The Universal Declaration of Human Rights embraced by the UN in 1948 spells out a very comprehensive range of rights to be recognised by every person and state—including the rights to life, liberty and security of person; to not be subjected to cruel, inhuman or degrading treatment or punishment; to recognition before the law; to own property, and not be deprived of it arbitrarily; to freedom of thought, conscience and religion; to freedom of expression and opinion; to free and fair elections; to peaceful assembly and association; to work and to a standard of living adequate to health and well-being; and to free early education.

Many of these rights were included in Article 15 of the Agreement on a Comprehensive Political Settlement of the Cambodia Conflict, which includes a broad statement that all persons will enjoy the rights and freedoms in the UN, and other relevant UN human rights instruments. It was also stipulated that the UN should continue to monitor closely the human rights situation in Cambodia, including, if necessary, through the appointment of a special rapporteur. This position has continued to the present day. The Paris Peace Agreements also required that a new Cambodian constitution would be developed by the new government, following a free and fair election that established a new legislative assembly. This was to embrace a pluralistic system of liberal democracy. It was to provide for periodic and genuine elections, the right to vote and be elected by universal suffrage, the right to secret ballot, and full and fair opportunity to participate in the electoral process.

The new Cambodian Constitution, developed after the general election of 1993, did in fact enshrine these rights. It undertook to ensure respect for and observance of human rights and fundamental freedoms in Cambodia. It also established the right of all Cambodian citizens to undertake activities to promote and protect these rights, including the right to strike and organise peaceful protests, within the framework of law. It stipulated an independent judiciary empowered to enforce the rights provided under the Constitution, with separation of powers between the legislature, executive and judiciary. It stipulated that the Kingdom of Cambodia would adopt a policy of liberal, multi-party democracy. And it also stated that effective measures should be taken to ensure the policies and practices of the past should never be allowed to return to Cambodia.

But, as so often in human affairs, there has been a gap between aspiration and reality. The story of UNTAC—as told compellingly in this book by Benny Widyono, one of its leaders—is certainly one of success on many fronts. It did not operate in quite the way its mandate contemplated, with the civil administration component never commanding the reins of government—monitoring, supervising and, as necessary, directing Hun Sen's people—to the extent that the peace plan had intended, but the election was successfully conducted and transition to a new government successfully managed. The mission as a whole was continually frustrated by the Khmer Rouge, which refused to lay down its arms as intended, but external patrons did withdraw their material support, with the result that the Khmer Rouge did eventually wither on the vine, and the civil war did end. More than 365 000 displaced Cambodians were successfully repatriated from the Thai border. Reconstruction began, and the foundations were laid for Cambodia's strong economic development. And Cambodia was at last removed as a source of wider regional and global tensions.

But while Cambodia since 1993 has remained at peace, it has been anything but a poster child for democracy and human rights. It has become clear over the years that the Paris Peace Agreements fell short in not including specific measures for building a functioning criminal justice system as part of the transitional period and post-conflict peace-building exercise. 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 support this, then its operation will be diminished in practice and in reputation. These issues are fundamental to any successful capacity to enforce compliance with human rights.

In 1991, at the signing of the Paris Peace Agreements, I said, ‘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.’ Sadly, since 1993, the truth of that observation has been borne out in the course of events under the leadership of Hun Sen. The democratic process has remained fragile, and it is no exaggeration to say that Cambodia today is a de facto one-party state.

In modern Cambodia, many of the rights enshrined in the Constitution are not respected by government and remain completely unattainable to the people. Cambodia’s legal system is in poor shape, with far too many having a sense that they can act with impunity. The courts are politicised. As Hun Sen has tightened his grip on the country, elections free from violence and intimidation, and the effective separation of powers, especially the judiciary, have disappeared. Cambodia has become one of the fastest growing economies in ASEAN, yet the wealth is not shared: in 2017 the UN stated that two-thirds of Cambodians live on \$2 a day.

Cambodia may have travelled far from the days of the Khmer Rouge, but there is still a very long way to go before it can be called a functioning democracy fully observing the rights enshrined in its own Constitution. It is crucial in this environment that civil society organisations are able to function and maintain their commitment to effective change, in the face of considerable odds. And it is also crucial that the international community continues to give its support and commitment to this work, and that close and informed scrutiny of Cambodia continues.

The stories in this book cover the many areas of human rights that people are still trying to achieve in Cambodia, including the rights to live free of violence, to peaceful assembly and association, to separation of powers and an independent judiciary, to fair distribution of wealth, to not be deprived arbitrarily of property, and to a standard of living adequate to health and well-being. And these stories are told by some truly remarkable individuals, including Thun Saray, a political prisoner under the Vietnamese, who founded the Cambodian Human Rights and Development Association (ADHOC) in 1991, and Pung Chhiv Kek (Kek Galabru) who established Cambodian League for the Promotion and Defense of Human Rights (LICADHO), first in Paris, in 1991, and then in Cambodia in 1992. These pioneers are still leading the same organisations, and their stories are compelling. They were mentors to others, including Chhith Sam Ath of the NGO Forum on Cambodia, and Koul Panha, executive director of the Committee for Free and Fair Elections in Cambodia (COMFREL).

I warmly commend Sue Coffey for gathering and recording the stories of these extraordinary pioneers, and of the younger generation, all of whom are fighting to achieve human rights for all Cambodians. We in the international community should support their endeavours strongly. Without continual pressure and scrutiny from external, independent voices to supplement the courage of those within, Cambodia cannot hope to achieve its potential as a fully functioning democracy—and one that does not just pay lip-service, but fully protects in practice all the human rights of its people.

September 2017