

The unfinished business of the Paris Peace Accords

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18 October 2016

The 1991 Paris Peace Accords were a milestone, not only in Cambodian history but in the field of peace-making and peace-building. They were not only an agreement to end a horrible, genocidal war and the tremendous suffering that accompanied it, but were a blueprint for peace and for the kind of nation that the Cambodian people aspired to construct. Looking back, much has been achieved. A liberal Constitution was adopted enshrining the universal human values that we share the world over. Arms were laid down – although that process took a few more years to complete – and institutions were reconstructed to provide the essential services to the people that are the *raison d'être* of all Governments.

The foundation for peace was established, and Cambodians have benefitted from that ever since. Arguably the greatest achievement of the Accords was the creation of conditions that allowed for the emergence of a vibrant civil society and a nascent middle class, both striving for continuous improvements. There lies the dilemma, for growing expectations naturally accompany the development path. When ordinary people see some benefitting from privileges and others suffering from it, the result is often a rise in grievances.

This much sounds quite familiar. This could apply to just about any country on earth. Does that mean that Cambodia has achieved peace? An enlightened person once said, “peace is more than the absence of war.” What more, then, needs to be done?

I submit that the unfinished business of the Paris Peace Accords is the human rights framework. The reports of many of the organizations represented here, those of my own office and successive Special Rapporteurs on the human rights situation in Cambodia, the conclusions of the various United Nations human rights mechanisms, and the numerous resolutions of the inter-governmental bodies, including of the United Nations, have highlighted many specific areas of concern throughout the years.

To summarize them in a few broad brushstrokes, I would highlight first an observation that a culture of constructive criticism has yet to be fully ingrained. Freedom of expression is widely enjoyed in Cambodia – and at the same time it is being curbed through existing or new laws that are increasingly punishing those who express unwanted things. Recently Cambodia joined the club of nations that convict individuals for a mere posting on Facebook. Public rallies and demonstrations of all kinds are blocked for lack of authorization that the law does not require, and growing numbers of persons are being arrested as a result. Problems will not be fixed, nor will people feel satisfaction from it, if the problems cannot be exposed.

Second, it remains to be understood that the basic elements of dignified human life, which are the ultimate goal of human rights, must be guaranteed as rights and not bestowed as charity. Many good deeds are done in impoverished communities, by well-intentioned businesses, tycoons, officials, party members, or others. While philanthropy should be encouraged and warmly appreciated, it does not compensate for a lack of a systemic and responsive system of identifying those most in need and providing relief when it is needed. An adequate national social security system has yet to be established. The National Housing Policy needs to be implemented without delay. Opportunities for decent work with proper remuneration must be expanded. In a country with such a large proportion of the population dependent on land, the

titling process must be regularized more quickly, more transparently, and more fairly. In human rights language, this translates into the rights to an adequate standard of living, to social security, to adequate housing, and to decent work not having been guaranteed. Far from it, those most in need of help are struggling with growing debt ... or are arbitrarily locked up in a “social affairs center”.

Third, there remain deep social divisions and superstitions that prevent the nation from coming together as a whole. What it means to be Khmer may seem to be so self-evident to most people that it needs no definition. The time has come to define it. There are over 400 indigenous communities in Cambodia who are looked down upon by the rest of society. Third and fourth generation members of ethnic groups from other countries are blamed for the sins of their forefathers’ (and foremothers’) countries of origin. Mob actions, even lynching, sometimes with clear ethnic motivations, are far too common. Life with one’s neighbours can be peaceful one day and the next day one can be called a sorcerer, which in rural Cambodia is often accompanied by banishment – or murder. The rate of violence against women in Cambodia ranks among the highest in the ASEAN region. Abuse of authority can be very pronounced in hierarchical societies. A concerted effort to promote respect for every human being, their acceptance as equal to oneself, with the same rights, must be urgently undertaken in all corners of the nation. The rising expectations in Cambodia are also about the right to be “different but equal.”

Fourth, recognition that we live in an imperfect world where grievances of all sorts may arise is not fully accepted. If it were, establishing a credible, effective, and impartial judiciary would have been a top priority from the outset. Members of the Cambodian legal profession acknowledge that the judiciary does not enjoy the support of the public. They are well aware that their performance is under scrutiny. It only takes a few high profile cases, where they are shown to be incapable or unwilling to weigh the material evidence provided and apply the law fairly, to tarnish the whole of the judiciary. No amount of calling the judiciary independent will make it so, when the administration of courts, the discipline procedures and structures, recruitment, promotion and all aspects of personnel management lie in the hands of the executive. In other words, the right to a fair trial by an independent and impartial court is not yet a reality in Cambodia. Too many human rights defenders whose only crime was to protect the rights of others have been victimized as a result, while at the same time too many crimes, such as the murders of Chut Wutty, Chea Vichea, and Kem Ley, among many, have been overlooked. The rising expectations for justice are being met, less through the formal justice system than by vigilante justice.

It would not be fair to highlight only these areas, when there have undoubtedly been improvements in many others whose importance should not be diminished. In the areas of freedom of the press, in the professionalization of the public service, the fight against AIDS, human trafficking, education, to name but a few, are concrete, measurable areas of progress seen today. We should be appreciative of the many dedicated civil servants who do their best, within their means, to serve the people they were hired to serve. Certainly when compared to 25 years ago, we see today ordinary people generally fighting for their livelihoods instead of their lives. There is no comparison with that time, when Cambodia was torn apart by the horrors of the genocide and civil war. There are indeed many reasons to celebrate today.

The question nevertheless resurfaces: if peace is more than the absence of war, is Cambodia today at peace? If the above issues are potential causes of conflict, the way to mitigate them, then, should be clear. The visionary drafters of the Paris Peace Accords knew that promotion and protection of human rights and fundamental freedoms had to be an integral part of the peace process, so much so that they placed human rights at the center of the Accords.

Specifically, they placed human rights at the heart of the agreement pertaining to Cambodia's sovereignty, independence, territorial integrity and inviolability, neutrality, and national unity. The notion that human rights monitoring and protection amounts to "interference" in Cambodia's internal affairs was dispelled 25 years ago in this particular agreement. In fact, it was dispelled 70 years ago in the United Nations Charter, which set out the promotion and protection of human rights as one of the very purposes of the UN, as well as laid out the principle of respect for national sovereignty and non-intervention in domestic matters.

With regard to the worst crimes, the global norms have evolved in an even more interventionist way in the years since. In the 2005 World Summit Outcome, all Heads of State and Government affirmed that each State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. The responsibility to protect encapsulates a powerful imperative that the international community has a collective responsibility to help to protect populations from acts defined as international crimes.

Thus, not only does human rights monitoring and protection in themselves *not* threaten or compromise the sovereignty of Cambodia, but according to the UN Charter, it is the duty of Cambodia and every Member State "to fulfill in good faith the obligations assumed by them" in accordance with the Charter, including human rights obligations. Much of this we do with and through civil society organizations. We do this, not with the tools of war or revolution but with the tools of empowerment. I would like to take this occasion to pay tribute to the human rights NGO's, who have displayed the utmost courage and dedication in these very difficult times.

Human rights by themselves, however, cannot solve all problems. If properly implemented, they can only prevent the worst manifestations of abuse of power and guarantee the minimum to which all human beings are entitled. They cannot solve a political impasse, or determine political strategy. This is the work of political leaders. What can solve these kinds of problems is dialogue, which is not a human right but is essential to peace.

Dialogue was achieved beyond all the odds in 1991, bringing an end to a complex and horrific war between several armed factions, each with its international backers. If dialogue was possible then, it is possible today. Just a year ago, the rules for a new political dialogue were established, and they can be established again. Respecting human rights will ensure that it will be an honest dialogue. This may be the most important unfinished business of the Paris Peace Accords. It is time to finish it.