

"Cambodia - Unequalled Suffering; Unique Opportunity"

United Nations Commission on Human Rights

Geneva, Wednesday 2 March 1994.

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CAMBODIA - UNEQUALLED SUFFERING; UNIQUE OPPORTUNITY

The Hon. Justice Michael Kirby
Special Representative of the Secretary-General on
Human Rights in Cambodia

In the parade of horror stories of deprivations of human rights which come before the Commission on Human Rights of the United Nations, it is not too much to say that Cambodia has secured a special place.

My first substantive report, as Special Representative of the Secretary-General, traces how this all came about:

- the destabilization caused by massive aerial bombing in the "sideshow" to the Vietnam War;
- the dislocation of the population and unequalled genocide which followed the proclamation of "year zero";
- the invasion which brought relief from the worst cruelties but resulted in Cambodia's isolation by the international community;
- the turn of the tide - with the Paris Peace Agreements, and the establishment of UNTAC (a comparative success story for the United Nations); and

- the elections which were considered free and fair, the coalition government, a new constitution with a constitutional monarchy under H.M. King Norodom Sihanouk and ratification of numerous human rights instruments.

Cambodia is struggling to rebuild the infrastructure that will protect human rights. It deserves more support from the international community than mere words. Words are cheap .

Last week in Malawi I presided over the constitutional conference by which that country is moving to multiparty elections in May 1994. But nothing in my past life in international agencies or in the International Commission of Jurists had readied me for the shocking destabilization of basic institutions which I found in Cambodia on my first mission there as Special Representative.

Let me start with some images as they are etched indelibly in my memory:

- At the airport a small ambulance plane of the unsung heroes of Médecins sans Frontières brings a boy of 19 to hospital in Phnom Penh. His arm has been blown off and his stomach opened by a land-mine. His shoeless brother - a farmer - accompanies the French doctors, worry and despair on his face at a brother's life in the balance;
- At a prison in Battambang I speak privately and collectively to polite prisoners. Their complaint is not of their prison conditions, but of their complete ignorance of when their long delayed cases will be heard;
- A distracted judge in Battambang agrees with the prisoners - but he has few colleagues to help with a crippling workload. He has even run out of paper with which to record decisions;

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- In Phnom Penh a well reputed judge gently complains that US\$20 per month is insufficient to keep his family. His wife must go to the market to sell produce. And he is forced to accept gifts from winning litigants to supplement his meagre salary;

- At a hospital in Phnom Penh dedicated surgeons tell of the perils of unstable electricity supply, out of date pharmaceuticals and water which is completely unsafe for drinking or even washing;

- Everywhere there are children happy at their games - 20 per cent of the population is under four years of age but in the country, schooling lasts an average of only two years. In the cities it is only 4.4 years;

- Female literacy is specially low. 85 per cent of the population - including children - work in agriculture. But the economy is shattered. Cambodia, once a food exporter, must now import rice. GDP per capita is half the level of 1969 in real terms. This is a country that must rebuild the infrastructure of a civil society virtually from a new beginning: truly a second year zero.

My mandate follows a resolution of this Commission. It requires me to:

- Maintain contact with the Government and people of Cambodia;
- Guide and coordinate the UN human rights activities;
- Assist the Government of Cambodia with the promotion and protection of human rights; and
- To report on my work.

This I will do.

My approach is described in the report. It is to win the confidence and support of the Government and people of Cambodia and to assist them in the building of a rights respecting society. Cambodia (as in Malawi) presents the future way of United Nations assistance in human rights matters. This is to help people to help themselves - so that human rights becomes a true national movement - not something foreign imposed from outside. In my approach I have had the greatest help and support from the Royal National Government of Cambodia. Every door I asked was opened. Every Minister I asked to see was available. Every prison, courthouse and hospital I asked to inspect was opened to me. And my contacts reached out to the myriad of non-governmental organizations which flowered in Cambodia during UNTAC and still flourish. Through radio and television and the press - which enjoy unprecedented freedoms - I explained the United Nations' purposes and my role to the ordinary people of Cambodia. I am glad that the Minister of Information, who oversees this highly liberated media, is leading the Cambodian delegation to this Commission.

This glowing picture of co-operation and support should not disguise the fragile and shattered state of human rights in Cambodia which I found. It remains a country traumatized by the recent past and threatened by the continuing security problems, which present a constant challenge to the building of a civil society. There are especially serious defects in the institution of justice and the practices affecting due process, which I call to attention in my report. There is an urgent need for national institutions to protect human rights, which institutions should be accessible, independent and truly effective. All of the Cambodian leaders recognize the dangers and the needs of the present situation.. The Second Prime Minister,

H.E. Mr. Hun Sen, put it vividly when he explained his determination to build a rights respecting society because not only had he lost his human rights in the past - so had the First Prime Minister, HRH Prince Norodom Ranariddh, and political rivals. Their shocking experiences provide a foundation upon which to build - with advice and technical assistance from the United Nations - a new society. But it will not happen overnight. And it will not happen simply as a result of my visits and work. And it will not happen without considerable financial support from the United Nations and donor countries and agencies and work of committed NGO's.

My report is in two parts, for logistical reasons. Generally available is the addendum with my conclusions and recommendations. Shortly to become available is the full report, which supports and explains those conclusions and proposals. The full report traces the history of Cambodia in recent years. It then reviews the current situation so far as economic, social and cultural rights are concerned and so far as progress has been made on civil and political rights. It examines the establishment and activities of the Office of the Centre for Human Rights in Cambodia. I found in that office a small team of dedicated and talented workers advising, helping and cautioning the Government and NGO's. Their programme is worthy of the full support of the international community. We may never get a similar chance for institutional rebuilding. I have been shocked since my arrival in Geneva to discover that way that the funds are running out and the office is living on a day-to-day allocation. This is no way to sustain the efforts of the Centre, the morale of the staff and the confidence of the Cambodian Government and people. Believe me, the problems for human rights in Cambodia are not over. Tackling those problems is only just beginning. Unless we sustain the effort, the people's

confidence in the democratic Government may be fractured. The security problem, especially in the North West, remains a warning of the risks of failure. I urge support for the Office of the Centre in Phnom Penh and the eventual expansion of that office to at least one provincial centre. Such support will require provision from the regular budget and extra-budgetary allocations by donor countries to the UN Trust Fund for a Human Rights Education Programme in Cambodia. I know how vital the work of the Centre is - not least for the Human Rights Commission of the National Assembly, whose distinguished Chairman is here as part of the Cambodian Government's delegation. That body must be supported as an authentic local institution for investigating and reporting on allegations of human rights abuses. It must be independent and supplied with all necessary resources to perform its vital work. It is a measure of the confidence which it enjoys that it is already overwhelmed with work. It must be supported by us or it will lose that confidence.

There are two items in the report which may at first appear to go beyond the special concerns of my mandate. I refer to my conclusions and recommendations on land-mines and on peace keeping forces generally. But each item is presented in sharp focus by the experience of Cambodia. No study of human rights in Cambodia can ignore the deadly peril of land-mines. H.M. the King recently appealed to the combatants to stop importing and laying these mines. They cost US\$15 to install and \$1000 to remove. They take a daily toll on the right to life and the right to movement. But more fundamentally, they destabilize Cambodian society which has, with Angola and Afghanistan, the dubious distinction of the highest level of war-caused amputees in the world. The international community

cannot just ignore this problem. This report on Cambodia provides a graphic illustration of the urgent need to respond.

I draw particular attention to my recommendation that governments and armed forces of Member States should desist from support, explicit or tacit, to the armed groups which have refused or failed to participate in the moves of Cambodia towards democracy and respect for human rights. While in Phnom Penh, I sought to speak with the representative of the PDK ("Khmer Rouge"). Having received no response, I went to their premises near the compound of the Royal Palace in Phnom Penh. I was informed that if their representative wanted to have contact with the Secretary-General's Special Representative, a message would be sent. No message ever arrived. It is impossible to overstate the challenge to human rights created by the current security problems in Cambodia. To the extent that armed resistance to the elected Government, and the companion to armed resistance - lawless banditry - flourish, the building of the defences for human rights is made much more difficult.

Secondly, the experience of UNTAC, although largely a success story, illustrates the possible need for the training of all UN Peace Keeping Forces in local culture and conventions and in the risks of HIV/AIDS. The possible need for a Discipline Code and for ready means of redress for the wrongs allegedly done by United Nations officials and troops requires study. Whilst peace keepers wear the United Nations blue helmet, it is the United Nations and not their home countries which attract the opprobrium when their conduct is insensitive, unjust or criminal. The fact that UNTAC was such a success makes it an occasion for considering these issues and their wider ramifications.

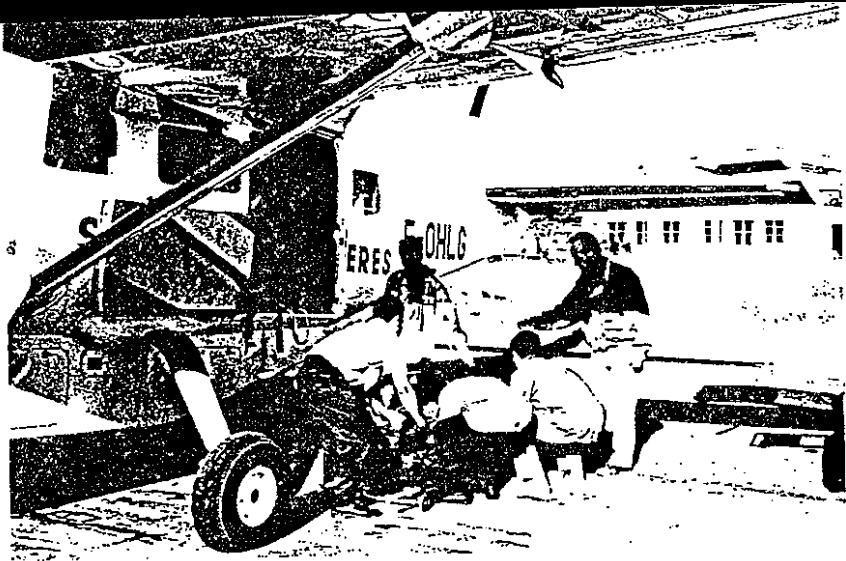
I will go back to Cambodia in July and August - next time for a longer period. I will concentrate on vulnerable groups - especially the ethnic minorities who appear to have suffered some derogations from basic human rights. I will be offering advice to the Cambodian Government and people on these and other vulnerable groups. It will be dispiriting if that advice - for the righting of wrongs - is not backed up by the necessary funding for technical assistance. In my first report I have provided a long list of highly specific recommendations. They can become a checklist by which the Cambodian authorities and the international community can measure progress in the months ahead. I am afraid that a short report or a report of generalities would be totally unsuitable to the unique Cambodian needs at this time.

I record my thanks to the Royal National Government of Cambodia for its full cooperation with my mission. To the Governments of France, Australia and Thailand, whom I consulted before and after the visit to Cambodia, to the representatives of many countries in the region who have given me wise advice and suggestions. To the NGO's in Cambodia, Europe, North America and elsewhere who have given me information and proposals which are invaluable.

And to the people of Cambodia. Despite all their suffering and events that would shatter the faith of even robust believers in human rights, they came out in vast numbers to vote peacefully. They collected in brave NGO's. They wrote and spoke freely in the media about their human rights concerns. They marched peacefully in the streets whilst I was in Phnom Penh - exercising their new-found rights. There is much to be done. But a true start has certainly been made. It is

up to us to maintain the momentum. The world community must not let Cambodia down. It has purchased our attention by atrocious suffering. It is still paying the price by a genuine effort which we must support and sustain.

An amputee arrives
at Phnom Penh
airport.



Addressing prisoners
at Battambang Prison



On the steps of
the Courthouse
in Battambang

