

United Nations
Division for the Advancement of Women (DAW)
Expert Group Meeting on
“Peace agreements as a means for promoting gender equality and ensuring
participation of women – A framework of model provisions”
10-13 November 2003
Ottawa, Canada

Peace Agreements as a Means for Promoting Gender Equality and Ensuring
Participation of Women

Prepared by
Chea Vannath
Cambodia

* The views expressed in this paper, which has been reproduced as received, are those of the author and do not necessarily represent those of the United Nations.

Cambodia Case Study

Chea Vannath
The Center for Social Development
Phnom Penh, Cambodia

I. BACKGROUND OF THE CONFLICT

Over the last three decades, Cambodia has suffered through war, genocide, and social chaos. The contemporary Cambodia history of tragedy began in the 1960's when the cold war fighting in Vietnam spilled into Cambodia. In 1970 King Norodom Sihanouk, then Head of State, was overthrown, then followed a long series of internal and external wars. In the meantime, the political regimes changed from monarchy to capitalist republic, to absolute communist republic, to socialist republic, and then back again to constitutional monarchy in 1993. The most traumatic experience for Cambodians occur under the Khmer Rouge regime from 1975-1979 when barbarous acts were committed. During that time, more than 5 million people from a population of 8 millions were displaced, and some 1.7 million died from disease, starvation, and murder. During the following ten years, a civil war simmered, between the Vietnamese-supported Peoples Republic of Kampuchea (PRK) ruling inside Cambodia, and a coalition of opposition groups (including the Khmer Rouge, the Royalist FUNCINPEC and the republican Son Sann Party) controlling the Thai-Cambodian border areas. Finally in the late 1980's cautious discussions had begun between the PRK's Hun Sen and Prince Sihanouk, which culminated in the Paris Conference on Cambodia in 1991. Because women's roles are to take care of their families, the burden of this conflict and violence has fallen to a greater degree on women than men.

The tragic conflict and continuing bloodshed in Cambodia was internationally recognized with the Paris Conference on Cambodia convened in order to restore peace. On 23 October 1991, the Agreements on a Comprehensive Political Settlement of the Cambodia Conflict (the Agreements) were signed by Cambodia and 18 other nations in the presence of the United Nations Secretary General. Not a single woman sat as a major player at the negotiation table, and very few women had been involved in the pre-agreement negotiations.

The country resolutely turned a new page with the signing of the Paris Peace Accords and the subsequent creation of the United Nations Transitional Authority in Cambodia (UNTAC). Tens of thousands of international staff, and billions of dollars poured into Cambodia between 1991 and 1993, culminating in the multi-party elections in May of 1993. Unfortunately, one of the four parties to the Agreements, the Khmer Rouge (otherwise known as Partie of Democratic Kampuchea or PDK) dropped out in 1993, remaining to fight from the jungles, until the majority had defected between 1996 and 1998.

The results of the Agreement, and the presence of UNTAC had many effects in Cambodia, both positive and negative. During UNTAC many women were hired by the UN which allowed them to play a more active role in society. Many women also either created, or were hired by non-governmental organizations (NGO), and these organizations were a major factor in the development of civil society.

After the election, the focus soon turned to national reconciliation and to establishing the foundations for a pluralist liberal democracy, a free market economy, the rule of law and the respect for human rights. A new Constitution embodying these principles was promulgated in September 1993.

Historical Background -Analysis of Women's Participation in the Peace Process

There is no direct translation of the word "gender" in Khmer. We have to literally use the word "gender". Also, we still have a strong misunderstanding of the concept of gender, in which it leads to the problem of decision makers being 'gender blind'.

Another issue that affects women's role in society is the patronage system in which it is strongly rooted in society. The administration system in war torn country was based on a patronage system whereby people in a particular region gravitated around powerful macho warlord who dispensed all kinds of fear or favors to their clients in return for tributes and loyalty. Young and vulnerable women and girls were exploited because of their sex. The patronage system still exists today, and is fueled by the lack of trust among, and between, the civil society, the donor communities, and the government.

Women's status began to change from the traditional roles during the 1950s and 1960s with many educated women in politics, government, education and the arts. In the 1970's women's roles began to change even more as war engulfed Cambodia and women filled roles in society as men were off fighting. A few famous educated women were also part of the Khmer Rouge leadership, and who are alleged to be responsible for the millions of deaths of the Cambodian people. During the civil war 1970s women were used as porters by the Khmer Rouge to transport arm and food supplies to the front lines. They played important roles to back up the troops, providing them medical care and evacuation.

In the 1980s, there were more than ten women's associations within the three Cambodian factions refugee camps along the Cambodian-Thai border. They provided vocational training such as food processing, non-formal education for day-care center. The associations played crucial roles during the on-going fighting to urgently evacuate the refugees and provide logistic and emergency care to them. Women's associations inside Cambodia under the PRK also played a major role in rebuilding society. They mobilized women to support men who were posted to difficult duty stations along the border. Despite women's ability to implement these important duties, and their strong commitment, women in decision-making positions are either non-existent, or too few to make impact on policies.

All of the key leading Cambodian women from the four political factions participated in the process leading up to a peace agreement, but had little influence on their respective political parties. Women in each factional party were co-opted by the party's interests at the expense of a true population's well-being and peace. There were also a few outstanding women outside of the political factions who informally played very important roles as catalysts in the pre-negotiation phase in preparation for early dialogues among the Cambodian political antagonists.

From 1975 to 1979, the Khmer Rouge decimated two thirds of the adult males in the 20 to 50 age group. Cambodian women kept the country and families running strongly during the twenty years of civil war and destruction.

The transformation from a socialist to a liberal free market economy in early 1990s with no proper mechanism and infrastructure negatively affects the socio-economic of women, poor, and vulnerable group, such as low status, high rate of child drug users, girl prostitutes, family violence, rape, illiteracy and poverty among other conditions, and extremely low levels of access to education, health care, information, technologies and services.

II. AGREEMENTS ON A COMPREHENSIVE POLITICAL SETTLEMENT OF THE CAMBODIA CONFLICT

Gender Perspectives in the Peace Agreements

The 1991 Paris Peace Agreement adopted the following instruments:

a. Agreement on a Comprehensive Political Settlement of the Cambodian Conflict (ACPSCC) annexes on the mandate for the United Nations Transitional Authorities in Cambodia (UNTAC), military matters, elections, repatriation of Cambodian refugees and displaced persons, and the principles for a new Cambodian constitution;

b. Agreement concerning the sovereignty, independence, territorial integrity and inviolability, neutrality and national unity of Cambodia; and

c. Declaration on the rehabilitation and reconstruction of Cambodia.

These instruments represent an elaboration of the "Framework for a Comprehensive Political Settlement of the Cambodia Conflict" adopted by the five permanent members of the United Nations (UN) Security Council on 28 August 1990, and the elements of the work accomplished at the first session of the Conference. They entailed a continuing process of national reconciliation and are enhanced role for the United Nations, thus enabling the Cambodian people to determine their own political future through free and

fair elections organized and conducted by the UN in a neutral political environment with full respect for the national sovereignty of Cambodia.¹

In September 1990, the Cambodian parties agreed to form the Supreme National Council (SNC) as the unique legitimate body and source of authority in Cambodia throughout the transitional period. The SNC was composed of twelve representatives (no women) from the four political factions.

Recommendations - Lessons Learned and Good Practices

To promote gender equality and women participation in the peace process, women must be included in the negotiations for table and be part of the Peace Agreement drafting process. In addition, when women have made contributions in the pre-negotiation phases, these contributions should be recognized.

Gender balance in the work place should be promoted by “Equal Opportunity” and “Affirmative Actions” policies and procedures to bring more women into decisions making positions. No speeches are louder than to have more and more women role models in the UN agencies, especially in the concerned country in conflict and/or in peace process.

III. ACTUAL AGREEMENT IMPLEMENTATION

The Agreement implementation can be divided into two periods: during UNTAC (1992-1993) and from 1993 to the present. There was only explicit reference to gender in the Agreements, that the Constitution shall “assure the protection of human rights... freedom from racial, ethnic, religious or sexual discrimination.”² And there was little attention to gender issues by UNTAC either. UNTAC consisted of several components: Civil Administration, Elections, Military, Repatriation (UNHCR), Information, Human Rights, and Reconstruction and Development (UNDP). Not a single component was led by a woman, nor were there many women in decision-making positions within UNTAC.

Local Cambodian women however were hired in large numbers by UNTAC, especially in the election division which hired the largest numbers of staff, and this has seemed to make an impact on the population about the roles and abilities of women. In addition the human rights component taught human rights, including women’s rights broadly across Cambodia, and made efforts to be gender sensitive in the training. The information component also tried to represent women fairly in their materials, written as well as for radio and television.

The current situation shows the legacy of the UNTAC period. For the first time in decades, Cambodia is currently enjoying a peace, security and relative political stability. These are the necessary pre-conditions for the nation to be able to begin to address the

¹ Agreements on A Comprehensive Political Settlement of the Cambodia Conflict, Paris, 23 October 1991, the United Nations.

² Ibid

root causes of poverty and to further social and economic development. However, a key legacy left by UNTAC, was that the Agreements were never fully implemented. According to the Agreements UNTAC should have taken control of key ministries and instituted widespread administrative and judicial reforms. In only one year, with inconsistent application of the Agreement, little actual progress was made.

In his speech on August 1996 at the “Peace and Cooperation: Different Approaches to the Maintenance of Peace in Southeast Asia, Asia and Europe”, Hun Sen, the Cambodian Prime Minister said that: “As always, in trying to secure peace, there are difficulties and challenges, especially for a country which tries to move from war to peace and national reconciliation, and from underdevelopment to development. In reality, peace is not just the absence of war or the absence of violence. It is also about development and social justice that, in turn, are the results of peacemaking, peacebuilding, and peace maintenance.”

Although the government acknowledges that social justice is necessary for peace, progress is slow. Only 15 women are currently in the National Assembly of 123 persons, while 979 women were elected in the Commune Councils of 11,261 persons in the 2002 elections. Many fewer girls than boys finish primary school, and only a handful reach university.

At the beginning of 1992, Cambodia widely opened its door to the world community. The followings are the success and constraints of the actual Agreement implementation on the six issues of concern:

A. CONSTITUTIONAL AND LEGAL SYSTEMS

One of the Agreements signed in Paris included principles for a new constitution for Cambodia is to establish an independent judiciary, empowered to enforce the rights provided under the constitution. The principles also called for the constitution to have due process and equality before the law, protection from arbitrary deprivation of property without just compensation, and freedom from racial, ethnic, religious or sexual discrimination. This is the only reference to gender in the Agreement.

The Agreement and presence of UNTAC allowed the space for a fairly liberal Constitution to be created. Women, particularly in civil society were of key importance in the relatively open process in which the Constitution was created. UNTAC provided the technical support for the Constitution writing, as well as the political space for grass roots groups to lobby and give input to the process.

UNTAC provide technical assistance to the National Assembly and many other bodies. This assistance made efforts to reinforce the principles of separation of the three powers (executive, legislative and judicial) and to provide a system of checks and balances. Sadly, the assistance was too short to make a real lasting impact.

The Constitution of the Kingdom of Cambodia ensures the participation of women in every aspect of political, economic, and social activities as men. Women have the right to vote and to be voted, and form associations and trade unions. Furthermore, to promote women participation, a Ministry of Women and Veteran Affairs had been established, and is currently headed by a woman minister.

B. POLITICAL AND ELECTORAL SYSTEMS

The development processes for the elections were spelled out in the Agreements. The half full and half empty part of the implementation is the “freedom of speech, assembly and movement, and the fair access to the media, including press, television, and radio”. To achieve this activity, UNTAC brought an impressive media system to Cambodia, including generator, equipment and experts to Cambodia at the immense joy of the Cambodian people. But, in exercising their rights, a number of candidates (men and women) for political parties, activists and supporters were the targets of political violence, including the local UNTAC staff. UNTAC hired a lot of Cambodian women for election and in which it is very unusual for Cambodia.

Even though women’s participation is guaranteed by the Constitution, the numbers of women in the Parliament is approximately 10%. Furthermore, an attempt to have a 30 percent of women candidates quota in the Election Law had been failed, because the lack of two third (2/3) support in the National Assembly. Women suffer discrimination in many other areas as well.

During its mandate, UNTAC failed to take control of the five key ministries to ensure neutrality as mentioned in the 1991 Paris Peace Agreement. It also failed to completely locating and confiscating caches of weapons and military supplies throughout the country. Furthermore, UNTAC did not have the power, or authority to make decision when one of the factions did not recognize the result of the 1993 Election sponsored by the UN. These failures set negative examples to the respect of the democratic process and the rules of law at the present time. Ten years after, in 2003, Cambodia is still at the deadlock to form new government, because the contesting political parties did not recognized the July 2003 Election organized by the National Election Committee (NEC). A positive note about NEC and gender equality is that the women participation has been significantly increased from 11 men and 0 woman in 1998 to 3 men and 2 women in 2003.

C. JUDICIARY AND ACCESS TO JUSTICE

UNTAC supported the human rights training courses to all armed forces, political groups, teachers, etc. But, the limitations were that the high ranking officers and the Khmer Rouge factions did not fully participate in the training process. Therefore, the training had little impact on the respects for human rights. Anyhow, all things considered, UNTAC did plant seeds in the ground since then, and we can see its slow and steady impact on the society. Many women today state that they remember learning about their rights for the first time during UNTAC.

Justice sector reform is an essential requirement to reduce corruption and deal with impunity within Cambodian society. A weak judiciary and poor rule of law harms inward investment and therefore undermines efforts to achieve poverty reduction. It is clear that reform must take place of the Supreme Council of the Magistracy and the Constitutional Council. Unfortunately, these institutions were never properly created during and after UNTAC, and this gap leaves a lasting weakness.

During UNTAC, and in the post-UNTAC period, there has been training for judges, prosecutors and lawyers with the establishment of training schools. An ongoing training program of those working with the legal system will have a positive effect in providing much needed capacity building. Much more is needed.

The Khmer Rouge (responsible for 1.7 millions death in Cambodia) was a legal entity of Cambodia under the name of Democratic Kampuchea. Currently, there is an advanced negotiation to have a Mixed Tribunal (the Royal Government of Cambodia – RGC - and the UN) to trial some Khmer Rouge leaders responsible for the killing from 1975 to 1979.

D. RECONSTRUCTION OF SOCIAL STRUCTURES AND CIVIL SOCIETY

In the post-conflict era, several women in civil society played important roles to move the peace process forward, and to lay the grounds for national healing and reconciliation. Many women led and worked in NGOs and civil society blossomed during the UNTAC period and beyond. There were peaceful movements leaded by non-governmental organizations and civil society to spread the concepts of non-violence, peace, and national reconciliation. However, women's participation was still dominated by the political agendas and interests, in which it underestimated the effort for real unity and reconciliation. There was resistance to gender equality based on traditional culture and customs, and the weak understanding of gender.

During many meeting and gatherings (prior/during/post peace agreement) of women from different political factions, women were more prone to talk and listen to each other, and more open to peace and reconciliation.

A positive lasting legacy of UNTAC is the labour/trade unions women leaders, especially in the garment factories where 80% of the workers are women. We also see a new phenomenon of the liberalization and emancipation of approximately two hundred thousand (200,000) of young girls who left the countryside and come to work as garment factory workers in the city of Phnom Penh. Furthermore, more women start to rise in different workplace, in the government, civil society and private sector, but the working conditions are still very limited, and generally open for exploitation.

E. RECONSTRUCTION OF ECONOMIC SYSTEMS

The Civil Administration Component of UNTAC was responsible for looking at economic issues including tax revenues and many other issues. There was very little

progress in this area. In Cambodia, about 65 percent of agricultural labor and 75 percent of fisheries production are in the hands of women. Poverty reduction will not be successful unless the big portion is included in the process. There is a need to promote gender equality.

The National Poverty Reduction Strategy

In an address by Prime Minister Hun Sen, in October 2003, it said that: “The biggest challenge faced by the Royal Government in its quest for development is to reduce poverty and improve the quality of the Cambodian people. The Royal Government is fully conscious of the burden of poverty and considers such a heavy cost to the economy and society. This burden is socially destructive and morally unacceptable. Therefore, based on this philosophy, the Royal Government has embarked on the National Poverty Reduction Strategies (NPRS), which has the following two [among the others] key elements: 1. The equitable distribution of the fruits of growth between males and females; 2. Improving gender equity, focusing on reducing the gender gap in all aspects of life.”

In order to harmonize and monitor the contributions that will be made by the international community to the reconstruction of Cambodia after the formation of a government following the elections, a consultative body, to called the International Committee on the reconstruction of Cambodia (ICORC) was set up and open to potential donors.

The ICORC has been changed to the donors Consultative Group (CG) held every years. Currently, the foreign aid constituted 50% of the Cambodian National Budget. Despite the last ten years of aids, the areas of health, education, and rural development still remains a serious concern for the Cambodian people.

The aid comes from a spectrum of foreign countries with different and competitive agendas, different and competitive requirements, and different and competitive expectations. They provide technical assistance to promote democracy, good governance, transparency, accountability, and the rule of law. They also focus on economic growth, but a careful planning, coordination, and on-going monitoring are needed to improve the quality of life, the well-being and dignity of the people. There is evidence that the PRSPs are being used at forums like consultative group meetings to encourage donor alignment.

F. DISARMAMENT, DEMOBILIZATION, AND REINTEGRATION

The Paris Peace Agreements explicitly stressed on the withdrawal of foreign forces, cease-fire, and related measures, but it failed to properly implemented because the lack of support, and trust among the four political factions, and lack of law enforcement from UNTAC. UNTAC was composed of more than 20,000 staff from 43 countries, and spent approximately 2 billions.

A major problem with the implementation of the Agreements was that the Khmer Rouge dropped out - the demobilization was incomplete because of the withdrawal. Therefore, as a consequence, the ongoing presence of small arms within society has a disturbing impact upon vulnerable communities. The use of weapons to support acts such as land

grabbing and trafficking which threaten, disempower and harm the poor needs to be addressed. The actions have been already taken by the RGC in collecting and destroying a large number of illegal weapons. However, it urges the National Assembly to pass the draft Arms Law as soon as possible. At the same time more effective law enforcement will be needed to ensure that illegal weapons are confiscated and destroyed more effectively. The need to security and stability at all levels within Cambodia will be aided in the long term by more vigorous action in removing weapons from circulation.

The Negative Legacy of UNTAC

Approximately 23,000 UNTAC staff from different parts of the world flock into the country, allowing the booming of local businesses for goods and services, contributed to the country prosperity. For better or for worse, the presence of 15,000 male troops, far from home and family, also contributed to the increase of brothels. The presence of UNTAC personnel presented a flagrant gap between the “have” and the “have not”. As a result, the poor young girls became prostitutes. The Cambodian leaders and politicians on and off highlighted the presence of UNTAC to the existence of HIV/AIDS in Cambodia. The negative consequences of the UNTAC troops were on the poor and vulnerable girls and women prostitutes who did not have access to medical care.

Furthermore, the cases of rape by UNTAC personnel occur more and more toward the end of the mission in 1993, and by the time the alleged victims brought the case to UNTAC attention, the former UNTAC persons already left the country and the Missions. In addition, UNTAC did not equipped to deal with the rape issues, such as the lack of female personnel to assist the victims.

Recommendations, Lessons Learned and Good Practices

The Agreements were not fully implemented, leaving space for misuse of power and incomplete application of democratic principles. The legacy of this incomplete implementation remains today, with a lack of rule of law, and widespread impunity. The Constitution has not been applied and many laws have not been passed, nor institutions properly set up.

The presence of UNTAC was too short, as start-up time was insufficient to allow for long-term effects.

The following legal issues could have been given greater attention during the UNTAC period:

- **Need to insure that the freedom of expression, freedom of speeches, freedom to have peaceful demonstration are protected by the law.**
- **A law on weapons should be passed by the National Assembly, and its provisions vigorously enforced to ensure the removal of more illegal weapons from society.**

- **The Law enforcement needs to be strengthened to deal with the exploitation of women and children.**
- **The Domestic Violence Law needs to be passed by the NA as a matter of priority. Following this effective enforcement is necessary in order to begin to deal with a situation in which 25% Cambodian women are victims of domestic violence.**

Develop a code of conducts for the UN Peace Keeping Forces, for the respects of concerned country traditions and customs.

The UN should create workable mechanisms in place dealing with plaintive complaints and grievances against their personnel.

Besides modeling gender mainstreaming by using affirmative action policies to hire local staff, the UN should also reform their own staff structure to include more women in total, and more women in senior positions.

The extensive training in human rights, including women's human rights, which was reinforced by a widespread media campaign made important contributions to gender issues, but these initial steps need to be reinforced for the long-term with adequate funding provided.

The fight against corruption within the civil service will take number measure including the preventing people from purchasing their position. Increasing salaries for public sector workers is crucial and must be addressed as a matter of priority. However, this must be supported by an involvement and monitoring by the United Nations Cambodia Office of the High Commissioner for Human Rights.

The withdrawal of the Khmer Rouge from the peace process also left a lasting legacy which has still not been resolved. For the RGC and UN mixed tribunal process to be beneficial to the Cambodian people, the tribunal should be conducted at an independent, transparent and credible manner. Furthermore, the UN should encourage women judges and prosecutors to be in the tribunal.

The RGC needs to develop mainstreamed gender related data, which should then be widely disseminated to provide a useful gender indicator and illustrate the extent of women's contribution to society.

Need to improve donor alignment and harmonization around national strategies in order to achieve successful implementation of NPRS. Furthermore, donors' wider consultation with civil society and NGOs should be encouraged.

It is essential that UN/Government, donors and NGOs alike see gender issues as being crosscutting. The development of mainstreamed gender related data is

essential if there is to be a significant shift in understanding and action on gender issues.

The Center for Social Development (CSD) is a non-governmental organization, advocating good governance through the institutionalization of democratic values and principles. CSD support justice, social equity and sustainable economic development by building citizens' participation in the democratic process.

Center for Social Development
P.O. Box 1346 Phnom Penh, Kingdom of Cambodia
Phone: (855) 23-364-735, Fax: (855) 23-364-736
Email: csd@online.com.kh
Website : <http://www.online.com.kh/users/csd>