

Memorandum of Understanding between International Bridges to Justice, the
Ministry of Justice and the Bar Association of the Kingdom of Cambodia

1. Introduction

This Memorandum of Understanding (MoU) is an agreement made between the following parties:

International Bridges to Justice (IBJ), with its office at #25K, Street 488, Sangkat Phsar Deum Thkov, Khan Chamkarmorn, Phnom Penh, Cambodia;

and

The Ministry of Justice (MOJ) of the Kingdom of Cambodia, with its office at No. 14, Samdech Sothearos Blvd (3), 12207 Phnom Penh, Cambodia;

and

The Bar Association of the Kingdom of Cambodia (BAKC), St. 1929, corner of St. 1930, 12101 Phnom Penh, Cambodia.

This MoU between IBJ, the MOJ and the BAKC establishes common objectives and activities related to the legal aid and justice systems in Cambodia. This agreement sets each partner's roles and responsibilities in the implementation of the MoU.

IBJ, the MOJ and the BAKC enter into this understanding in a spirit of mutual trust, respect and shared commitment to improve legal aid and the justice system in Cambodia.

1.1. Background

To date, there is still no comprehensive national legal aid system in Cambodia. Permanent legal aid services are not offered in all the provinces and are mostly provided by non-governmental actors. Due to the lack of legal representation, accused people see many of their legal, fair trial rights violated and they are denied access to justice. Confessions are still often extracted from the accused as it appears to be the easiest, cheapest and fastest method of investigation. Those confessions are then used in courts as the only basis for conviction. Furthermore, the Code of Criminal Procedure, the Criminal Code and the reform of the law on the organization of the court have been recently adopted (respectively 2007, 2009 and 2014), and justice stakeholders¹ have not been properly trained on the new standards, at the national level, which

¹ Court officers (judges, prosecutors, clerks), judicial and military police officers, prison officers...

brings misunderstandings in the implementation of the law and difference of interpretation by justice stakeholders.

In parallel, most people do not know their rights. When confronted with criminal proceedings, people are unaware of available resources and how to contact a legal aid lawyer who is able to protect their rights. People's disempowerment impedes them from having an effective access to justice.

IBJ, the MOJ and the BAKC have each an important institutional or operational role in the provision of legal aid services in Cambodia, as described below.

1.1.1 International Bridges to Justice:

IBJ has had an active presence in Cambodia since 2006. Over the past ten years, IBJ has developed a robust program, providing legal services to the poor in 20 of the country's 25 provinces. IBJ has created a sustainable model to provide legal aid services at the local level in Cambodia, which it believes can be scaled-up on a nationwide scale. Today, IBJ is the only legal aid services provider for all accused people in Cambodia. It provides universal access to legal aid services, without distinction based upon the gender, the age, or other characteristics of the persons benefiting from its services.

IBJ provides access to legal counsel for the accused as soon as possible upon arrest, working to eliminate instances of torture or other inhumane treatment. Furthermore, in order to guarantee the quality of the legal aid services provided and the professional development of its legal staff, IBJ organizes at least one legal training per year. In the past, the BAKC and IBJ have cooperated to organize such training sessions for more than 100 lawyers.

IBJ conducts campaigns to raise legal rights awareness in the community and in prisons. IBJ complements these live legal awareness campaigns with radio programs continuously broadcasted, and a legal aid hotline which enables people to contact a lawyer and seek advice at any time. Lawyers from the BAKC have also contributed as guest speakers to live radio shows on legal rights organized by IBJ.

Finally, IBJ works to build collaborative and trusting relationships with local authorities and national officials who are in the best position to ensure that the human rights of the accused are properly upheld in a long term and sustainable manner. To do so, IBJ holds roundtable discussions, with representatives from the MOJ as guest speaker, at the provincial level that bring together community and justice sector stakeholders to discuss obstacles to access to justice and challenges they meet in their work.

1.1.2. The Bar Association of the Kingdom of Cambodia:

The BAKC is an independent and autonomous organization, established by the Law on the Bar on 22 August 1995. Beside the mission as Legal Profession Organization, the BAKC has missions to establish rule of law, strengthen social justice and protect human rights. With these missions, the BAKC is continuously implementing 4 main activities:

1- Provide legal aid services to indigent: According to Article 29 of the Law on the Bar stating that lawyers are obliged to defend poor people, the BAKC provides free legal services to poor people (representation in court and legal consultation) through its Legal Aid Department (LAD).

2- Strengthening capacity of lawyers: The BAKC holds two kind of trainings to strengthen lawyers' capacity: 1) initial education for lawyer students and 2) Continuous Legal Education (CLE) program for practicing lawyers. The BAKC prepares one-day or two-day seminars each and every month for its members.

3- Law dissemination: Law dissemination is part of the Rule of Law concept. People will obey the law, unless they know the law and the meaning of the law. By this concept, the BAKC has formed a Working Group, in 2013, on Law Research, Education and Dissemination (LRED). LRED has 4 unique and specific sub-working groups on four specific legal matters such as Civil matter, Criminal matter, Labor matter and Commercial matter. LRED has its mission to join radio or television show to disseminate the new law or some specific legal matter to the public.

4- To strengthen rule of law, protect social justice and human rights: Upon request, the BAKC provides legal opinion on the draft laws and regulations to make sure that those draft are consistent with the existing laws. The BAKC also monitor the law enforcement of the public authority to ensure compliance with the existing laws and procedures.

1.1.3. The Ministry Of Justice:

According to the Ministry's Sub-decree, the MOJ has the following mission, role, duty and structure:

Article 4 of the Sub-decree: The Ministry of Justice has the authority to direct and govern the justice sector within the Kingdom of Cambodia.

Article 5 of the Sub-decree: The Ministry of Justice has [among others] the following roles and duties:

- guarantee the independence of the courts;
- guarantee equal rights and equality of arms before the justice;
- guarantee enforcement of the law and judicial decisions by prosecutors and judges;
- monitor the execution of the laws on detention centers and prisons;
- conduct legal research, training, education and dissemination;
- supervise legal education and legal dissemination in the justice sector.

1.2. Purpose of the MoU

Taking into account each partner's own expertise and existing role in the current legal aid and justice systems, the purpose of this MoU is to establish a framework of cooperation and mutual support between IBJ, the MOJ and the BAKC in order to achieve the following objectives:

- (i) Establishing a comprehensive legal aid system in Cambodia, ensuring the delivery of quality legal aid services in all provinces;
- (ii) Enhancing access to justice for all and empowering people to participate in the justice system; and
- (iii) Developing close cooperation with committed local justice stakeholders, and promoting better functioning legal aid and justice systems.

During the first year of implementation, this activities conducted under this MoU will be focusing on the criminal justice system and on the side of legal defense. Afterwards, the three partners can decide to expand the scope of this MoU to include other justice-related areas (such as civil law, labour law, etc.).

2. Strategy and Proposed Activities

To achieve the objectives stated above, IBJ, the MOJ and the BAKC will jointly implement the following activities.

2.1. Legal Aid Services

Within their own scope of action, IBJ, the MOJ and the BAKC commit to ensure effective delivery of quality legal aid services in all provinces.

The MOJ and IBJ will create a network of **paralegals serving as Probation Agents** responsible to meet accused people and gather documents and information to submit to the courts in order to make a decision on the detention of the accused people. These trained Probation Agents will also **support prisoners and their family** with regard to reintegration in the community after release.

2.2. Provincial Roundtable discussions

IBJ will organize and run Roundtable discussions at the district and commune levels on diverse topics related to legal aid, criminal procedure and criminal law in order to encourage an open dialog amongst local justice stakeholders about the challenges and obstacles they respectively meet in the implementation of their work, to promote mutual understanding and cooperation, and to hone their knowledge of the law and the improvement of their professional skills. A speaker from the MOJ and/or from the BAKC will co-chair the Roundtable discussions with IBJ. ↩

The MOJ will organize Roundtable discussions at the provincial and national levels in order to discuss the Criminal Code and the Code of Criminal Procedure.

2.3. Community Legal Awareness activities

Each legal aid team based in province will organize **Community Legal Awareness (CLA)** sessions per year in order to inform people about their legal rights and to empower them to demand their respect and to know where to turn to if they need legal assistance and/or representation. The CLA sessions will be co-sponsored by the MOJ and the BAKC.

Each legal aid team based in province will run a **Legal Aid Hotline system** in order to enable access to legal aid services and legal consultation 24 hours a day, 7 days a week. The hotline numbers will be advertised on local radio stations.

IBJ will record **Radio Spots** in order to increase general legal awareness and inform people about the availability and Hotline phone numbers of legal aid services in their province. In addition, IBJ will record live **Rights Awareness Radio Shows** with legal aid lawyers and speakers from the MOJ and the BAKC invited to answer to people's questions on legal issues.

All three partners will organize a **National Rights Awareness Day** to promote knowledge and strengthen the importance of legal rights and of legal aid. The National Rights Awareness Day will involve law universities, government and civil society representatives, local justice stakeholders and law enforcement authorities.


2.4. Lawyers Training

The BAKC will organize Lawyers Trainings in order to increase the legal capacities and litigation skills of the legal aid lawyers, hence guaranteeing the quality of the legal aid services provided. The trainings will also aim at developing a pro bono culture amongst legal professionals.

IBJ will organize internal legal trainings for its own personnel.

3. Cooperation

IBJ, the MOJ and the BAKC will meet on a bi-monthly basis in order to discuss the progress in the effective implementation of the present MoU. Each partner will appoint one of their staff members as a focal point responsible for the implementation of the activities described in this MoU and for dealing with any related issue. Overall, the MOJ will ensure the global strategy and overarching coordination of the project.

The MOJ will be responsible for representing the three organizations and to lead the initiative described in this MoU. 

All three organizations will report on their respective activities to IBJ, which will ensure the technical coordination and preparation of the internal and external reports. If this MoU is submitted to donors, IBJ will be the partner responsible to coordinate reports to donors. The MOJ will send the concerned reports to donors.

Monitoring and Evaluation mechanisms will be developed by IBJ in cooperation with the MOJ and the BAKC for all the activities falling under the scope of this MoU. IBJ, the MOJ and the BAKC will jointly implement the monitoring and evaluation mechanisms.

All three parties commit to facilitate the implementation of all the activities described. If a challenge arises for one of the organizations, and if this challenge falls into the scope of one other party's mission, the latter commit to facilitate to the greatest extent possible the resolution of the challenge.

4. Prospective Annual Budget to run the whole program

The three partners will receive a percentage of the resources available calculated according to their respective responsibilities and tasks to implement the activities described in this MoU.


5. Financial management

All the funds necessary for the implementation of the activities falling under the scope of this MoU will be received by the MOJ, which will create a sub-account and distribute the funds to the partners in accordance with the terms of this MoU.

All three organizations will submit their financial reports to IBJ, which will ensure the technical coordination and preparation of the internal and external reports. If this MoU is submitted to donors, IBJ will be the partner responsible for reporting to donors on financial issues.


6. Terms of Understanding

This MOU will be valid from its date of signature for a duration of 3 years. It can be renewed for an unlimited number of times by simple signature.

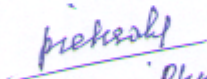
If needed, this MoU can be changed or modified at any time. All proposed changes and modifications must be submitted in writing and agreed upon and signed by all three parties to the original agreement. 


7. Signatures

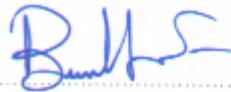
On behalf of IBJ, Ous Vandeley (name),
Country Director (position),

 (signature),
Phnom Penh 02/06/2015 (date and location)

On behalf of the MOJ PEN Pichsaly (name),
Director-General (position),

 (signature),
Phnom Penh 02.06.2015 (date and location)

On behalf of the BAKC BUN Honn (name), 
President (position),

 (signature),
30-06-2015 (date and location)