

STATUTORY PROPOSALS

LAW OF THE BAR: KINGDOM OF CAMBODIA

(STATUTORY UNDERPINNINGS OF THE DEVELOPMENT OF AN INDEPENDENT BAR IN CAMBODIA: CODE OF ETHICS; INTERNAL REGULATIONS)

CHIN KIM*
JEFFREY L. FALT**

The National Assembly of the Kingdom of Cambodia adopted the *Law of the Bar* in June of 1995.¹ The Bar Association of the Kingdom of Cambodia (BAKC) came into being on October 16, 1995 with the election of its President and a nine member Bar Council. The BAKC completed the drafting and adoption of its Internal Regulations and Code of Professional Ethics by March of 1996. By the fall of 1996, the BAKC had doubled its size to fifty-four members, and initiated programs in continuing legal education, legal research and documentation, law awareness, and legal aid.

The achievements of the Cambodian Bar, however, come upon the heels of over two decades of civil conflict that resulted in the near total destruction of all pre-existent legal institutions, legal resources, and law professionals. While in power from 1975 to 1979, the Pol Pot regime executed between one and three million persons (from a 1975 population of just over seven million), including nearly all intellectuals and lawyers.² Those professionals not murdered by the Khmer Rouges fled the country. The social structure of Cambodia, including its legal infrastructure, was "ruralized" to nearly a stone-age level.³ Courts, law schools, and law offices were ransacked and closed. All in-country law books and records were destroyed.

This situation did not improve until September 24, 1993, with the formation of the freely-elected Royal Cambodia Government.⁴ Those few

* In-Country Director, University of San Francisco Law School, Law and Democracy Project. Professor of Law Emeritus, California Western School of Law.

** In-Country Representative, American Bar Association, Cambodia Law and Democracy Project, Legal Advisor to the Bar Association of the Kingdom of Cambodia; J.D., Boalt Hall, M.A. Asian Studies, University of California at Berkeley.

1. As to the text of the Law of the Bar, see unofficial English translation prepared by the ABA, Cambodia Law and Democracy Project, Phnom Penh, Cambodia, August 1995.

2. Human Rights Watch/Asia, Cambodia at War 10 (1995). As to thoroughly depressing account of the nature of the Pol Pot regime that turned Cambodia into grisly killing fields, or starved to death, see BEN KIEMAN, *THE POL POT REGIME: RACE, POWER, AND GENOCIDE IN CAMBODIA UNDER THE KHMER ROUGE, 1975-79* (1996).

3. Michael W. Doyle, UN Peacekeeping in Cambodia: UNTAC's Civil Mandate 17 (1995).

4. Timothy E. Keehan, *The Legal System of Kampuchea (Cambodia)*, in *MODERN LEGAL SYSTEMS CYCLOPEDIA* (Kenneth R. Redden ed. 1990).

lawyers and judges who escaped the holocaust have subsequently returned to Cambodia, determined to rebuild the country's legal institutions and re-establish the rule of law within Cambodia's new democratic context.

The majority of these returning legal professionals were educated in the French legal tradition. Several practiced law in France during the occupation of Cambodia by socialist Vietnam. The two documents printed below reflect this French influence. As Cambodia continues to develop, however, greater accommodation to the legal traditions of its Asian neighbors will likely occur. The BAKC therefore expects further revision of these documents.

CODE OF ETHICS FOR THE LAWYERS LICENSED WITH THE BAR ASSOCIATION OF THE KINGDOM OF CAMBODIA

SEAL OF THE ASSOCIATION

CHAPTER I: PROFESSIONAL DOMICILE - SITES OF CONSULTATIONS

- Art. 1 Professional Domicile - Secondary Offices*
- Art. 2 Secondary Offices of Cambodian Lawyers*
- Art. 3 Secondary Offices of Lawyers Licensed Abroad*
- Art. 4 Site for Reception of Clients*
- Art. 5 Consultation Services Outside the Office*

CHAPTER II: GENERAL AND MISCELLANEOUS REGULATIONS

- Art. 6 Fundamental Principles*
- Art. 7 Professional Confidentiality*
- Art. 8 Difficulties in the Drafting of Legal Documents by a Lawyer*
- Art. 9 Legal Documents Drafted By Multiple Lawyers*
- Art. 10 Professional Card*
- Art. 11 Wearing of the Robe*

CHAPTER III: PUBLICITY AND COMMUNICATION

- Art. 12 Professional Communication*
- Art. 13 Prohibited Canvassing and Solicitations*
- Art. 14 Letterhead - Professional Cards*
- Art. 15 Media Activities by Lawyers*

CHAPTER IV: CLIENT RELATIONS

- Art. 16 Acceptance - Refusal - Abandonment of Assignment - Independence*
- Art. 17 Written Assignment*
- Art. 18 Direct Client Relations*
- Art. 19 Multiple Clients*
- Art. 20 Former Clients*
- Art. 21 Detained Clients*
- Art. 22 Remuneration - Fees*
- Art. 23 End of Assignment*

CHAPTER V: RELATIONS WITH JUDGES

- Art. 24 Relations with Judges*

CHAPTER VI: RELATIONS WITH OTHER LAWYERS AND MEMBERS OF RELATED PROFESSIONS

- Art. 25 General and Miscellaneous Regulations*
- Art. 26 Judicial Action*
- Art. 27 Correspondence Among Lawyers*
- Art. 28 Substitution of a Lawyer*
- Art. 29 Correspondent Lawyer - Ministerial Officers*
- Art. 30 Unrepresented Adverse Party*
- Art. 31 Represented Adverse Party*
- Art. 32 Meetings - Assemblies*
- Art. 33 Third Parties and Witnesses*

CHAPTER VII: RELATIONS BETWEEN THE LAWYER AND THE ASSOCIATION

- Art. 34 General*
- Art. 35 Assignments Conferred by the Association*
- Art. 36 Responsibility to Respond to the President*
- Art. 37 Actions Taken Against a Lawyer*
- Art. 38 Dues*

CHAPTER I: PROFESSIONAL DOMICILE - SITES OF CONSULTATIONS

- Art. 1 Professional Domicile - Secondary Offices*

The lawyer of the Bar Association of the Kingdom of Cambodia

establishes his or her principal professional domicile in Cambodia.

The lawyer may establish other secondary offices in conformity with Article 2 of the law: [the Article] concerns establishments distinct from the principal professional domicile where the lawyer may receive clients.

Professional installations must assure the respect for the principles of dignity and independence and guaranty professional confidentiality.

The Bar Council may, at any time, verify conformity with professional regulations.

Art. 2 Secondary Offices of Cambodian Lawyers

The Cambodian lawyer wishing to open a secondary office in the Kingdom of Cambodia must first obtain the authorization of the Bar Council by furnishing all details regarding the site and the anticipated modalities of practice at the secondary office.

The Cambodian lawyer wishing to open a secondary office abroad shall inform the Bar Council and request authorization to open from the host Bar.

The lawyer shall inform the Council of the Bar of the closing of a secondary office.

Art. 3 Secondary Offices of Lawyers Licensed Abroad

The opening of a secondary office in Cambodia by lawyers in fulfilling the conditions of Article 6 of the law must be submitted for the authorization of the Bar Council.

The lawyer provides to the Association, in the name of that secondary office, a fee set annually by the Bar Council.

The lawyer is responsible for informing the Council of the Bar Association of the Kingdom of Cambodia of all acts of negligence or disciplinary sanctions to which he or she may be subject by his or her Bar of origin.

The list of secondary offices shall be annexed at the roster of the Association.

Art. 4 Site for Reception of Clients

The lawyer [shall] receive his or her clients at his or her principal

professional domicile or at his or her secondary office(s).

[The lawyer] may go to the client (domicile or to any other private location).

[The lawyer] may not consult [with the client] in a public place.

Art. 5 Consultation Services Outside the Office

All consultation services provided outside the office or secondary office of the lawyer must have prior authorization from the Bar Council.

CHAPTER II: GENERAL AND MISCELLANEOUS REGULATIONS

Art. 6 Fundamental Principles

In all circumstances, the lawyer must respect the obligations of his or her oath and the principles of conscience, humanity, and tact.

Any participation in an act contrary to the law and regulations, professional rules of conduct, and the imperatives of conscience are prohibited.

Art. 7 Professional Confidentiality

The lawyer is absolutely bound by professional confidentiality. [Confidentiality] may not be waived by anyone, not even the client.

[The lawyer] determines, according to his or her conscience, the elements necessary to the needs of the defense.

There is no obligation of confidentiality when the lawyer has to respond to a [legal] action by his or her client, within the strict limits necessary for his or her defense.

Art. 8 Difficulties in the Drafting of Legal Documents by a Lawyer

The lawyer as sole drafter [of a legal document] may act on or defend its execution, except against one of the parties to the document where [the lawyer's] personal responsibility is at issue.

The lawyer who has agreed to draft a legal document as counsel to one of the parties may act on or defend its execution against other parties.

The lawyer as drafter or co-drafter of a legal document alone or with others may not act on or defend the authenticity or interpretation of the document when his or her intervention leads him or her to hold himself or herself out as a witness or to compromise professional confidentiality. [The lawyer] is also prohibited if his or her professional responsibility is at issue.

Art. 9 Legal Documents Drafted By Multiple Lawyers

It is required of each lawyer to bring together the proper elements for his or her clients. [Each lawyer] must verify the accuracy and authenticity of the identity of persons and all references and exhibits which he or she includes and the signatures which he or she attaches.

Unless otherwise agreed, the lawyer who materially assures the creation of a legal document shall undertake the diligence and formalities necessary for its authenticity and effectiveness. He or she then directs a copy to his or her fellow lawyers to deliver to their clients.

Each lawyer is responsible to his or her fellow lawyers for the diligence and formalities for which he or she is charged for the common interest, provided that he or she has received the necessary funds.

Art. 10 Professional Card

The lawyer proves his or her qualifications through a card delivered to him or her by the Association. [The card] must be deposited at the Association in case of resignation, omission, temporary interdiction, or provisional suspension.

Art. 11 Wearing of the Robe

The lawyer must present him or herself in robe before judges and all kinds of [legal] jurisdictions, subject to contrary usage. He or she must also wear the robe at ceremonies and events of the Association.

CHAPTER III: PUBLICITY AND COMMUNICATION

Art. 12 Professional Communication

The Association assures the functional publicity and communications of the Bar.

Art. 13 Prohibited Canvassing and Solicitations

All acts of canvassing or solicitation are prohibited to the lawyer.

Art. 14 Letterhead - Professional Cards

The letterhead must include the following guidelines:

- Family name and given name of the lawyer, or the official name of the law firm.
- The notation: “Lawyer” or “Lawyer at the Bar Association of the Kingdom of Cambodia.”
- The professional domicile, if relevant the address of secondary offices that are regularly open, and any information necessary to remove confusion with the personal domicile.
- The postal address, telephone number, and other means of communication.
- Academic titles, graduate degrees, and personal honors, provided they have been proven to the Association.
- The list of lawyers who are partners in a firm, associates, or collaborating lawyers.
- The use of a logo is permitted.

Lawyers who practice jointly without being formally associated are authorized to use a common letterhead, so long as they do not create any confusion with a professional framework.

Art. 15 Media Activities by Lawyers

All public or media activities by the lawyer in his or her capacity [as a lawyer] are prohibited unless in strict conformity with professional obligations. [Such activities] require the greatest prudence.

The President must be informed and, unless impossible, consulted prior [to the activities].

CHAPTER IV: CLIENT RELATIONS

Art. 16 Acceptance - Refusal - Abandonment of Assignment - Independence

Unless designated by the President, the lawyer is free to accept or refuse business.

If [the lawyer] accepts, he or she must see the assignment through to its completion unless discharged by the client.

However, the lawyer may, for reasons relating to personal conviction, decide to terminate [the assignment] provided that he or she has informed the client in time to permit the client to provide for his or her interests.

To accomplish his or her assignment, the lawyer remains, while respecting the will of the client, in charge of his or her counsel, argumentation, and means of defense.

[The lawyer] must refuse to carry out all processes or actions contrary to rules of the profession and the imperatives of conscience.

[The lawyer] assures that the process remains within the framework of guaranteed assurances.

Art. 17 Written Assignment

In all matters, the lawyer must obtain from his or her client an assignment in writing.

Art. 18 Direct Client Relations

Client relations must be direct and personal. The lawyer may not accept a case from a third party if he or she is not personally at liberty to enter into relations with the client whose interests are at issue.

Derogation from this rule is permitted when the lawyer intervenes as *correspondent* for another lawyer.

Art. 19 Multiple Clients

If [the lawyer] is retained by multiple clients for the same case or process, the lawyer is prohibited from favoring the interests of any one of them. [The lawyer] informs the parties [of the situation].

[The lawyer] may not advise, assist, represent, or defend multiple parties if a conflict of interest arises between them.

If such a conflict arises while [the lawyer] is or was counsel to multiple parties, [the lawyer] may not represent the interests of one of [the

parties] until after he or she has advised the others [while remaining] under the strict obligation to compromise neither tact nor professional confidences.

Art. 20 Former Clients

In legal matters, the lawyer who has counseled, assisted, or represented a party may not, in the same matter or a connected matter, intervene on behalf of an adverse party.

In all cases, the lawyer may not intervene against a party for whom he or she was previously counsel, except under the strict measures imposed by obligations of professional confidentiality, independence, and tact.

These provisions apply to all lawyers practicing within the same [professional] framework as well as their collaborators and employees.

Lawyers who are parties to an agreement to pool resources may, with the agreement of their respective clients, and subject to the obligations of professional confidentiality, counsel, assist, or represent parties having conflicting interests.

Art. 21 Detained Clients

The lawyer must scrupulously guard against providing his or her client [with] any means to escape the normal path of justice or to falsify the conduct of the preliminary investigation.

[The lawyer] is prohibited from passing to his or her client, or from delivering to the outside [of the prison], objects, exhibits, letters, or verbal communications unless authorized by the investigating judge (in the case of provisional detention) or the penitentiary authority (if the client is serving a specific sentence).

Art. 22 Remuneration - Fees

A prior agreement may be concluded determining either a fee schedule or the method of establishing remuneration.

In case of disagreement, the President may be designated as arbiter by the parties. In this case, [the President] shall establish the rules of arbitration specifying the necessary dates of the proceedings. [The President] shall issue his or her award within six months following his or her appointment.

Art. 23 End of Assignment

The lawyer returns to the client, upon request, a statement of outlays, expenses, and fees.

If the assignment consisted of the drafting of a legal document, [the lawyer] remits to each original signatory party respectively the entire assignment, returning as well all documents verifying the completion of the legal and regulatory formalities.

[The lawyer] returns, without delay, the materials for which he or she was responsible, with no ability to exercise the right to retention. [The lawyer] thereby discharges himself or herself.

CHAPTER V: RELATIONS WITH JUDGES

Art. 24 Relations with Judges

The lawyer who appears for the first time before a judge presents himself or herself [to the judge].

The lawyer preserves for the judges, in independence and dignity, the respect due to their position.

[The lawyer] observes the procedural rules and practices of the jurisdiction. He or she is strictly prohibited from engaging in disloyal and disruptive conduct, especially with regard to objections. The lawyer has the right to express all that which he or she deems useful to the interests of his or her client.

In case of conflict with a judge, [the lawyer] may seek the intervention of the President.

Problems arising among lawyers, outside the context of procedural regulations, give rise to the mediation of the President.

CHAPTER VI: RELATIONS WITH OTHER LAWYERS AND MEMBERS OF RELATED PROFESSIONS

Art. 25 General and Miscellaneous Regulations

All interactions among lawyers shall occur in a spirit of brotherhood, propriety, and courtesy.

Subject to the interests of his or her client, the lawyer must abstain from all acts which may be prejudicial to other lawyers.

In particular, [the lawyer] shall notify the opposing lawyer in advance of all requests for dismissal, as well as the initiation of a new proceeding, subject to contrary requirements imposed by the interests of the client. [The lawyer] advises [the opposing lawyer] of the measures which he or she has determined.

[The lawyer] must avoid late notifications and communications and return without delay exhibits delivered in the original. In all cases, he or she may not return them to the client.

Meetings and encounters are arranged by mutual agreement according to the convenience of each [party]. In principle, they take place at the office of the older lawyer.

The ranking among fellow lawyers is one of equality except for the President who has priority.

All conflicts between fellow lawyers are submitted to the President.

Art. 26 Judicial Action

The President shall receive prior notice of all legal actions undertaken by a lawyer against another lawyer, a judge, or another member of the legal profession or legal field.

Art. 27 Correspondence Among Lawyers

All written and verbal exchanges between lawyers are, by their nature, confidential. Correspondence between lawyers may not, in any case, be confiscated or presented to the court, or be used to violate confidentiality.

The following are not confidential:

- a letter serving as a procedural document,
- a letter marked "official" which delivers an offer or non-confidential documents,
- an exchange of letters marked "official" constituting an agreement, or the signature of an agreement between lawyers within the bounds of their assignments.

These letters and documents may make no reference to exchanges or prior matters considered confidential.

In case of violation of the regulations defined above, the President guarantees the essential principles of the profession and assures respect for the code of ethics.

In his or her relations with foreign lawyers, the lawyer must, before exchanging confidential information, assure himself or herself of the existence, in the country in which the foreign lawyer practices, of rules that permit the assurance of the confidentiality of correspondence and, in the negative, ask his or her client whether [the client] accepts the risk of exchanging nonconfidential information.

Art. 28 Substitution of a Lawyer

The lawyer who receives the offer of a client or a case must verify that no other lawyer has been previously engaged.

The lawyer who agrees to replace a fellow lawyer or to intervene alongside [the fellow lawyer] must, in all diligence, alert [the fellow lawyer] in writing and inquire as to the expenses and fees due to him or her. [The lawyer] shall strive to obtain them for him or her.

The abdicating lawyer must respond, without delay, and send the particulars of the case which he or she does not have the right to retain.

The succeeding lawyer may take effective control of the case only after payment of the other lawyer, subject to the agreement of the latter or authorization from the President. In the event of a dispute over reclaimed fees, the President is informed and may request consignment.

The succeeding lawyer announces his or her intervention to the counsel of the other parties and, if necessary, the competent judicial authority.

When the lawyer so notified intends to reserve his or her response, [the lawyer] informs the lawyer requesting the delivery of the file. [The notified lawyer] is responsible for announcing his or her position within one month. In default, he or she is considered to have renounced [the case].

Until notification of acceptance, the lawyer previously chosen, designated or committed is not released. The notified lawyer is prohibited from all involvement beyond the examination of the file and the reception or visit of the client. The performance of one or more other professional acts constitutes acceptance.

Any divergence from these rules may justify, upon the decision of the

President, the personal responsibility of the succeeding lawyer for the payment of the other lawyer.

Art. 29 Correspondent Lawyer - Ministerial Officers

The lawyer intervening as a *correspondent* for a fellow lawyer is personally responsible and responsible to the client for the accomplishment of his or her assignment, if he or she has received all the necessary elements.

Except in case of necessity, [the lawyer] may not contact the client directly except with the approval of the lawyer responsible for the case.

[The lawyer] presents his or her requests for provisions and remuneration through the intermediation of his or her fellow lawyer and submits [the requests] for approval.

The lawyer who confers an assignment on a fellow lawyer is personally responsible for the payment of expenses, salary, and fees, provided that they have been requested within an appropriate time.

Art. 30 Unrepresented Adverse Party

Prior to any action, the lawyer may, with the assent of his or her client, contact the adverse party to pursue an amicable solution.

On such occasions, he or she must avoid all presentations which are excessive, disloyal, or contrary to tact and dignity. [The lawyer] must invite [the adverse party] to go through a lawyer selected by [the party].

In no case may the lawyer meet with the adverse party outside the presence of [the party's] lawyer. If [the party] intends not to be represented, [the lawyer] may receive [the party] with his or her own client or alone with the assent of the latter.

Prior to any discussion, [the lawyer] reminds the adverse party of the possibility of being represented.

Art. 31 Represented Adverse Party

The lawyer may not establish relations with another person whom he or she knows to be represented by a fellow lawyer except in the presence of the latter or with his or her agreement.

Unless otherwise agreed beforehand, no meetings may occur except in the presence of the interested parties and their counsel.

Art. 32 Meetings - Assemblies

The lawyer who anticipates holding a meeting, either contentious or not, must inform the other participants in advance, either directly or through his or her client.

Art. 33 Third Parties and Witnesses

Within the framework of a legal proceeding, and in the case and conditions established by the rules of procedure, the lawyer may establish relations with a third party to invite him or her to voluntarily produce documents under his or her possession.

In the absence of a favorable response, [the lawyer] directs [the problem] to the judge.

The lawyer must abstain from meeting a potential witness and from influencing in any way his or her testimony.

CHAPTER VII: RELATIONS BETWEEN THE LAWYER
AND THE ASSOCIATION

Art. 34 General Provisions

The lawyer of the Bar of the Kingdom of Cambodia is a member of the Association.

The Association places its services at [the lawyer's] disposition and furnishes him or her its support and assures his or her protection.

The Association represents lawyers, manages the collective duties of the Bar, in particular defense [counsel] and access to justice.

Through his or her conduct, every lawyer is responsible for the image of the Bar, the authority of the President, and the efficiency of the Bar Council.

Art. 35 Assignments Conferred by the Association

The lawyer must fulfill with diligence and punctuality the assignments and joint services conferred on him or her by the Association.

Art. 36 Requirement to Respond to the President

The lawyer is required to respond without delay to the inquiries or injunctions of the President or his or her delegates.

Art. 37 Actions Taken Against a Lawyer

The lawyer who is the object of a legal action for liability or penal sanctions relating to his or her professional practice or susceptible to compromising [that practice] must immediately inform the President.

Art. 38 Dues

The dues to the Association are due before the end of the first trimester of the civil year. [The dues] must be paid within the fixed time period.

INTERNAL REGULATIONS OF THE ASSOCIATION OF LAWYERS OF THE BAR OF THE KINGDOM OF CAMBODIA

SEAL OF THE ASSOCIATION

CHAPTER I: PROFESSIONAL RULES

Art. 1 Professional Rules

CHAPTER II: ASSEMBLIES OF THE ASSOCIATION

Art. 2 Organization of the Assemblies of the Association

Art. 3 Organization of Elections

CHAPTER III: THE COUNCIL OF THE ASSOCIATION

Art. 4 Meetings and Deliberations of the Council of the Association

Art. 5 Meetings and Deliberations of the Council of the Association

CHAPTER IV: LEGAL ASSISTANCE

Art. 6 Designation by the President of a Voluntary Attorney

Art. 7 Rate of Compensation of the Attorney

CHAPTER V: PROFESSIONAL TRAINING CENTER ACCESS TO THE PROFESSION

Art. 8 The Professional Training Center

Art. 9 Program and Examination of the CAPA (Certificate of Aptitude in the Legal Profession)

Art. 10 Transitional Measures

CHAPTER VI: ORGANIZATION OF THE STAGE

Art. 11 Organization of the Stage

Art. 12 Stage Attorney and Stagist

Art. 13 Interruption and Completion of the Stage

CHAPTER VII: HANDLING OF FUNDS AND SEQUESTRATION

Art. 14 The Settlement Fund of the Association

Art. 15 Functioning of the Fund

Art. 16 Deduction of Fees

Art. 17 Supervision by the President

CHAPTER VIII: BOOKKEEPING AND CONTROL REQUIREMENTS

Art. 18 Bookkeeping Requirements

Art. 19 Control and Verification

CHAPTER I: PROFESSIONAL RULES

Art. 1 Professional Rules

The attorney entered in the Bar Association of the Kingdom of Cambodia shall apply and respect the professional rules determined by the “Code of Ethics of the Attorney Entered into the Bar Association of the Kingdom of Cambodia.”

CHAPTER II: ASSEMBLIES OF THE ASSOCIATION

Art. 2 Organization of the Assemblies of the Association

The General Assembly brings together all attorneys entered into the Role and on the List of the Stage.

It [the General Assembly] is informative or consultative. It can issue votes or motions on which the Council of the Association is required to comment within 3 months.

Only those attorneys having the right to vote participate in the deliberations.

Other than in regard to elections, the General Assembly is convened at least one time per year by decision of the Council of the Association which determines the agenda. Except for an emergency, this is brought to the attention of the members by all appropriate means at least 1 month in advance.

All attorneys may initiate the entry of a question onto the agenda, by request addressed to the Council of the Association at least fifteen days in advance by registered letter with receipt or placed at the secretariat against a receipt.

The General Assembly is presided over by the President.

When a vote takes place, it is done by raised hands. A vote by secret ballot may be ordered by the President or upon the request of at least one quarter of those present.

Art. 3 Organization of Elections

Elections of members of the Council of the Association take place every 3 years. The election of the President takes place every 2 years.

The elections are organized on the 16th of October of each year during a public session and their modalities are determined by the Council of the Association. The elector attorneys are convened by appropriate means (circular letter or public notice and posting at the Association) 1 month in advance.

Candidacies are established by written request to the President at least 1 month prior to the balloting; [failure to meet this deadline] may result in inadmissibility. The names of the candidates are sent out by all appropriate means and appear at the polling station.

Elections cannot proceed unless over half of the members are present or represented.

The polling stations are presided over by the eldest lawyer present.

The President, or his or her delegate, resolves problems that may arise in the course of the proceedings or ballot counting.

The lawyer proves his or her qualification as a voter by presenting his or her professional card at the entrance to the offices.

Voting by proxy is permitted. No lawyer may hold more than one power [of attorney].

Any vote received by an ineligible person is considered void. Blank or null votes are set aside and are not taken into account in the calculation of the majority.

The results are announced by the President at the end of the proceedings and are notified to the Prosecutor General of the Court of Appeals. The Council of the Association takes note of them during its next meeting.

CHAPTER III: THE COUNCIL OF THE ASSOCIATION

Art. 4 Meetings and Deliberations of the Council of the Association

The Council of the Association meets at the initiative of the President, who sets the agenda.

Meetings of the Council of the Association are not public, subject to proper

arrangements in disciplinary procedures.

The Council cannot sit unless a half of its members are present. Decisions are made by a majority of the votes cast. The President votes with the members of the Council; his or her vote is not preponderant.

The minutes of the meeting are prepared by the Secretary of the Council. They are not definitive until approved by the Council.

Any member of the Bar can request to examine the minutes of the meetings of the Secretariat of the Association. He or she or she may obtain a copy [of the minutes], unless the President opposes.

Art. 5 Meetings and Deliberations of the Council of the Association

The Council of the Association, at the first meeting following each turnover, designates a Secretary, an Assistant Secretary, a Treasurer, and an Assistant Treasurer. They receive from the President a signatory delegation for banks.

CHAPTER IV: LEGAL ASSISTANCE

Art. 6 Designation by the President of a Voluntary Attorney

In conformity with Article 29 of the law, a special account is open and reserved for legal assistance to the most needy.

A person who is the beneficiary of legal assistance transmits to the President a request for legal assistance (Annex No. 1), previously examined by the President of the Court or the Chief Clerk who have established the insufficiency of resources of the petitioner.

Within a period of 15 days maximum, the President designates one of his or her colleagues who are designated as volunteers to intervene in the framework of legal assistance.

Each volunteer shall report to the President.

The Council of the Association shall determine the number of lawyers required for the proper functioning of legal requests.

Art. 7 Rate of Compensation of the Attorney

The lawyer designated to the legal assistance staff shall receive a monthly compensation (including all costs) the amount of which shall be determined each year by the Council of the Association.

The lawyer undertakes to be responsible for all cases to which he or she shall be assigned. The amount of [his or her] remuneration is independent of the number of cases handled.

Prior to receiving the compensation due to him or her or her, the lawyer shall submit on the 15th of each month a report (Annex No. 2) specifying the state of progress of the cases for which he or she has been designated.

If the volunteer lawyer does not provide the diligence necessary to the normal course of the proceedings, the President may withdraw his or her name from the list of volunteers and may initiate disciplinary proceedings against him or her or her. The lawyer must return the moneys improperly received.

CHAPTER V: PROFESSIONAL TRAINING CENTER ACCESS TO THE PROFESSION

Art. 8 The Professional Training Center

The Professional Training Center specified in Article 31 is an association consisting of:

- The President in office, who is the President
- As well as the 6 following members:
 - 2 lawyers designated by the Council of the Association (and not necessarily members of the Council).
 - 2 law teachers from the Faculty of Law and Economic Sciences of Phnom Penh designated by the Dean of the Faculty.
 - 2 judges designated by the Minister of Justice.

Art. 9 Program and Examination of the CAPA (Certificate of Aptitude in the Legal Profession)

The Professional Training Center defines the substance upon which the CAPA shall be based, as well as the modalities of the examination.

The examination takes place each year in the month of November.

The Council of the Association determines at the beginning the maximum number of lawyers to recruit.

The President shall constitute the jury of examiners, comprised of:

- 1 lawyer whom he or she designates,
- 1 teacher designated by the Dean of the Faculty of Law and Economic Sciences of Phnom Penh,
- 1 judge designated by the Minister of Justice

The jury may call upon specialized examiners to correct written tests.

Art. 10 Transitional Measures

Until the graduation of the first licensees in law from the University of Phnom Penh, the recruitment is organized on the basis of the conditions specified by Article 80 of the law and is managed by the jury of examiners of the CAPA defined in Article 9.

The Council of the Association determines the maximum number of candidates to retain.

CHAPTER VI: ORGANIZATION OF THE STAGE

Art. 11 Organization of the Stage

The Stage has a duration on one year which may be extended for one year by decision of the Council of the Association.

The Stage must be comprised of complementary training activities organized by the Association which are delegated to the Professional Training Center and a collaboration within a law office.

The Stage may take place partially in a foreign law office.

Art. 12 Stage Attorney and Stagist

The stage attorney and the stagist sign a collaborative contract (Annex No. 3) which shall be submitted to the Council of the Association in conformity with Article 52 of the law.

The stage attorney is obligated to participate actively in the professional and ethical training of the stagist.

The modalities of the Stage are freely determined between the stage attorney and the stagist.

The Council of the Association may withdraw approval of a stage attorney if the requirements of the training do not meet the norms.

Art. 13 Interruption and Completion of the Stage

All interruptions of the Stage must be authorized by the President.

In the event of prolonged and repeated interruptions, the President may call

the lawyer before the Council of the Association with a view towards his or her deletion from the List of the Stage.

The deletion may also be pronounced with respect to the lawyer who does not respect the undertakings of the Stage and who does not prove an effective collaboration.

CHAPTER VII: HANDLING OF FUNDS AND SEQUESTRATION

Art. 14 The Settlement Fund of the Association

In conformity with Articles 70 and 71 of the law, funds arising out of collateral deposits, moneys transferred to winning parties, or sequestration are deposited by the lawyer in a special account opened by the Bar Association of the Kingdom of Cambodia, entitled: Settlement Fund of the Association.

Art. 15 Functioning of the Fund

The lawyer deposits funds that he or she has thus received (checks, credit transfers, or cash) in the Settlement Fund of the Association.

He or she indicates only his or her name, the name of his or her client and the case involved (Annex No. 4).

In exchange, a receipt (Annex No. 5) containing the same information is delivered to him or her or her.

Upon the written demand (Annex No. 6) of the lawyer, the fund delivers to his or her beneficiary(ies) the funds which it has held within the framework of a case.

A statement is sent to the lawyer in order to advise him or her of the total funds remaining available for this case.

The balance of a case cannot be in debit.

Art. 16 Deduction of Fees

The lawyer may not deduct fees from the funds deposited by his or her client except under the condition of producing a written authorization from his or her client indicating the name of the case and the amount to deduct.

This authorization shall be explicitly communicated by the lawyer to the Settlement Fund of the Association during the request for dispensation of funds.

Art. 17 Supervision By the President

The President may request of the lawyer a full justification concerning the source and beneficiaries of funds thus deposited.

In the event of difficulties and if a case presents negative balance, the President may initiate disciplinary proceedings.

CHAPTER VIII: BOOKKEEPING AND CONTROL REQUIREMENTS

Art. 18 Bookkeeping Requirements

The lawyer must maintain accounting records of his or her professional activities, distinguishing those that relate to the management of his or her office and those undertaken on the account of his or her clients.

The accountability of activities relating to the management of the office is conducted in conformity with legal rules or, that lacking, on a receipt/expense system.

The activities which relate to the payment of fees, charges and expenses performed on behalf of clients are the object of a distinct system of accounting.

Art. 19 Control and Verification

The President initiates through lawyers whom he or she designates, if necessary in the company by a competent person or certified public accountant, the auditing of the activities for the management of the funds, sequestration and the verification of accounting documentation.

The auditing lawyers are designated each year by the President and are subject to evaluation every 5 years.

The lawyer is required to present his or her accounting records to the designated person. The audits take place at the office of the audited lawyer.

The auditors may require the submission of accounting documents, files, should the occasion arise the personal accounts of the lawyer, and request all possible explanations of the audited lawyer.

Each audit gives rise to a detailed report which is given to the President.

ANNEX NO. 1

REQUEST FOR LEGAL ASSISTANCE

Requester: Date of Request: / /

Family Name
Given Name
Address

Certification of the President of the Court:

Mr./Ms.President of the Court affirms the insufficient resources of Mr./Ms.

Signature of the President of the Court Date

Certification of Chief Clerk of Court:

Mr./Ms.Chief Clerk of the Court affirms the insufficient resources of Mr./Ms.

Signature of the Chief Clerk of the Court Date

Designation of the Lawyer

The President of the Bar Association of the Kingdom of Cambodia assigns

....., Esquire
to assist Mr./Ms.
in a proceeding (*precise nature of the proceeding*).....
the opponent to:

Certification of the Association Date of designation

Complete in three copies (1 for the requester, 1 for the lawyer, 1 for the Association)

ANNEX NO. 2

REPORT OF LEGAL ASSISTANCE

Established by, Esquire
 / /

Name of Client	Name of Case	Action	Case Progress
<i>ex: Durand</i>	<i>Durand/Dupont</i>	<i>Improper dismissal</i>	<i>2 meetings of 1 hour Summons delivered</i>

Signature of the lawyer

ANNEX NO. 3

TYPICAL CONTRACT OF COLLABORATION

BETWEEN

....., Esquire, lawyer of the Bar of the Kingdom of Cambodia

OF ONE PART,

AND

....., Esquire

OF THE OTHER

PART

IT HAS BEEN DECIDED AND AGREED AS FOLLOWS

ARTICLE I

....., Esquire and, Esquire conclude between them a contract of collaboration commencing

ARTICLE II

....., Esquire entrusts to, Esquire the preparation of all files, the conduct of hearings, the pleadings and the execution of all work compatible with the profession.

....., Esquire shall have the opportunity to perform all acts of the profession of the lawyer on his or her own account and to develop his or her own clientele.

ARTICLE III

....., Esquire puts at the disposal of, Esquire the premises, library, materials and staff which are necessary to him or her both for the needs of his or her collaboration and for the development of his or her own clientele under the following conditions:

....., Esquire shall install a nameplate conforming to the Internal Regulations.

ARTICLE IV

....., Esquire shall execute with punctuality the work whose completion shall be entrusted to him or her as if it were his or her own.

He or she may nonetheless request to be relieved of an assignment which would be contrary to his or her conscience. He or she must take care to make this request within the time limits to allow his or her replacement without prejudice to the office or the client.

He or she shall organize his or her activities in accordance with the business which will be confided in him or her by the office, by his or her own clients, and the activities of the Stage.

The personal business of, Esquire and, Esquire shall be handled with the same care and diligence.

ARTICLE V

....., Esquire shall retrocede fees to, Esquire in compensation for his or her collaboration, under the following conditions, the latter making his or her business the social and fiscal charges accruing from his or her activity:

The costs of relocating under the rubric of the collaboration shall be regulated separately according to the following conditions:

ARTICLE VI

....., Esquire shall advise, Esquire of his or her absences.

The dates for foreseeable absences shall be determined by reciprocal accord sufficiently in advance that the two parties shall not be inconvenienced.

ARTICLE VII

The present contract for collaboration is of an undetermined duration.

The parties may terminate it with a three month notice.

However, during the first two months, the parties shall be able to terminate the contract without a period for notice.

....., Esquire may remain domiciled at the office of, Esquire until he or she has notified the Association of the new conditions of practice, within a maximum period of three months. Even after this period, his or her mail normally shall be forwarded to him or her.

ARTICLE VIII (STAGE)

....., Esquire undertakes, in return for his or her collaboration, to assure the professional training of, Esquire, notably in having him or her participate in a complete way in the activities of his or her office and in contacts with the clientele.

The mandatory activities of the Stage shall be privileged.

ARTICLE IX

All difficulties arising in the course of the execution, the non-execution or the breach of the present contract shall be submitted to the arbitration of the President.

Completed at

In three original

documents

The [date]

Of which one shall be returned to the secretariat of the Association.

ANNEX NO. 4
DEPOSIT FORM

....., Esquire has deposited on / /
the sum of
to the account of the Settlement Fund of the Association
concerning the matter of

Signature of the lawyer

Date

ANNEX NO. 5

RECEIPT OF THE ASSOCIATION

The President attests to having received on / /
the sum of
in cash - checks (1)
from, Esquire
concerning the matter of

Stamp of the Association

Date

(1) strike out the inappropriate item

ANNEX NO. 6
TRANSFER REQUEST FORM

....., Esquire requests that there be transferred to Mr./Ms.

.....

the sum of

concerning the matter of

Signature of the lawyer

Date

