

*MEMORANDUM OF UNDERSTANDING BETWEEN THE UNITED NATIONS
CENTRE FOR HUMAN RIGHTS AND THE GOVERNMENT OF THE KINGDOM OF
CAMBODIA FOR THE IMPLEMENTATION OF A TECHNICAL COOPERATION
PROGRAMME ON HUMAN RIGHTS*

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WHEREAS pursuant to United Nations General Assembly resolution 926(X) of 14 December 1955, the General Assembly established the United Nations Programme of Advisory Services in the Field of Human Rights to be rendered by the Secretary-General, at the request of Governments;

WHEREAS the United Nations Commission on Human Rights, in resolution 1993/6 of 19 February 1993, requested the Secretary-General to ensure a continued United Nations human rights presence in Cambodia after the expiry of the mandate of the United Nations Transitional Authority in Cambodia, inter alia through the operational presence of the Centre for Human Rights;

WHEREAS resolution 1993/6 further called for the United Nations Centre for Human Rights, through its operational presence in Cambodia, to manage the implementation of educational and technical assistance and advisory services programmes and to ensure their continuation; to assist the Government of the Kingdom of Cambodia (hereinafter referred to as "the Government") established after the election, at its request, in meeting its obligations under international human rights instruments recently acceded to, including in the preparation of reports to the relevant monitoring committees; to provide support to human rights groups in Cambodia; to contribute to the creation and strengthening of national institutions for the promotion and protection of human rights; to continue to assist in the drafting and implementation of legislation to promote and protect human rights; and to continue to assist with the training of persons responsible for the administration of justice;

WHEREAS the same resolution requested the Secretary-General to appoint a special representative to maintain contact with the Government and people of Cambodia; to guide and coordinate the United Nations human rights presence in Cambodia; to assist the Government in the protection and promotion of human rights, and; to report to the General Assembly at its forty-eighth session and the Commission on Human Rights at its fiftieth session; and, whereas such special representative has now been duly appointed;

WHEREAS resolution 1993/6 of the United Nations Commission on Human Rights was endorsed by decision 1993/254 of the Economic and Social Council;

WHEREAS pursuant to agreements between the United Nations as administrator and the respective donors to the former Trust Fund for a Human Rights Education Programme in Cambodia, such fund has been transferred in trust to the United Nations Centre for Human Rights, for the purpose of providing financing for the Centre's activities in Cambodia;

WHEREAS by letter of 6 November 1993 the Government of the Kingdom of Cambodia, as requested by Commission resolution 1993/6, has communicated its agreement with the provisions of that resolution, including express agreement with the establishment of an operational presence of the Centre for Human Rights in Cambodia, the appointment of a special representative, and the respective mandates of both the Centre and the special representatives for assisting in the promotion and protection of human rights in Cambodia;

WHEREAS the Government of the Kingdom of Cambodia is desirous of assistance in the field of human rights, including expert advisory services, technical assistance, training, seminars, fellowships, the provision of human rights documentation and information, and support for Cambodian non-governmental human rights organizations, in particular for the purposes of building institutions for human rights and democracy, securing a system for the administration of justice consistent with international standards, informing and educating the population on human rights and democracy, strengthening civil society and enabling the Government to comply with its international human rights treaty obligations;

WHEREAS the Royal Government of Cambodia and the United Nations Development Programme have concluded a Standard Basic Assistance Agreement (hereinafter SBAA);

NOW THEREFORE the United Nations and the Government of the Kingdom of Cambodia (hereinafter the "Government") (hereinafter referred to collectively as the "Parties") hereto have agreed as follows:

I. OBJECTIVES

Article 1

Purpose of the Memorandum of Understanding

The purpose of this Memorandum of Understanding is to declare the intention of the Parties to cooperate in the implementation of a Technical Cooperation Programme on Human Rights (hereinafter the "Programme") for the benefit of the Government and people of the Kingdom of Cambodia.

II. DESCRIPTION OF THE PROGRAMME

Article 2

Operational presence of the United Nations Centre for Human Rights in Cambodia

Pursuant to United Nations Commission of Human Rights resolution 1993/6, the United Nations Centre for Human Rights established, with the agreement of the Government as communicated in the letter described in the seventh Preambular paragraph, *supra*, an operational presence in the Kingdom of Cambodia in order to implement the mandate assigned to it by the Commission on Human Rights.

Article 3

Projects

3.1 It is the understanding of the Parties that the Programme shall consist of the projects described in this paragraph, to be implemented by the Centre for Human Rights through its operational presence in Cambodia in cooperation with the Government over an initial period of two years. The projects are to be divided into five substantive areas, including (i) Institution Building; (ii) Administration of Justice; (iii) Strengthening of Civil Society, including through non-governmental organizations; (iv) Strengthening of Human Rights Activities in the Provinces; (v) Information and Education. These projects are to be carried out in five forms, namely: (a) Advisory Services and Technical Assistance; (b) Training Courses and Seminars; (c) Fellowships; (d) Documentation and Information; and (e) Support to Non-governmental Organizations and Civil Society. The said projects are briefly described as follows:

1. Institution building

(a) Advisory services of nine consultants for the drafting, supplementing, or revision and implementation of legislation affecting human rights, including legislation in the areas of criminal law and criminal procedure, land law, prison regulation and reform, civil procedure, citizenship and immigration, family and domestic relations, equality and non-discrimination for women, and children's rights.

(b) Advisory services of two consultants to the appropriate national authorities, including the National Assembly and the Government, for the establishment and effective functioning of national institutions for the promotion and protection of human rights.

(c) Advisory Services of one consultant to the Parliamentary Commission on Human Rights and Reception of Complaints.

(d) Advisory services of two consultants to Governmental authorities responsible for the preparation of official reports under international human rights treaties to which Cambodia is a party.

(e) Advisory services to the Supreme Council of Magistracy and to the Constitutional Council.

(f) Advisory services to the Government for the elaboration of a national action plan identifying measures to be taken by the Government to improve the promotion and protection of human rights.

(g) Four seminars for Members of the National Assembly on various human rights issues.

2. Administration of justice

(a) Advisory services of one consultant for the provision of assistance to prosecutorial bodies.

(b) A judicial mentor programme for members of the Supreme Court, courts of appeal, provincial and municipal courts, focusing on human rights in the administration of justice, effective judicial functioning, and relevant international and comparative standards, through the placement of twelve foreign experts in Cambodia to advise members of the Cambodian judiciary on these issues.

(c) Two training courses for legal defenders, paralegals, lawyers and trainee lawyers on human rights, the administration of justice, and effective advocacy.

(d) Four training courses for judges and prosecutors, including courses at the Ecole Royale de l'Administration, on the fair and effective administration of justice.

(e) Four training courses for police officials and military personnel on domestic and international standards and comparative practice for effective and humane law enforcement.

(f) Four training courses for prison officials on domestic and international standards and comparative practice for human rights in the operation of prisons and the treatment of prisoners.

(g) A fellowship programme for ten judges, six prosecutors and five lawyers through placement in foreign jurisdictions for the direct study of the administration of justice in other democratic systems.

(h) Provision of documentation to courts, including international human rights instruments and materials and domestic legal reference materials.

(i) Strengthening of the law faculty through the provision of documentation, training and fellowships.

(j) Financial and advisory support for the establishment of a Cambodian Institute for Criminal Justice to carry out research, training and documentation in the field of criminal justice.

3. Strengthening of civil society, including through non-governmental organizations

(a) Four training courses for Cambodian non-governmental organizations on the use and functioning of United Nations human rights monitoring mechanisms and procedures.

(b) Two training courses on human rights, free expression, and effective and responsible media use for Cambodian media representatives.

(c) Four training courses on human rights for women associations, labour organizations, religious groups, development and other organizations.

(d) Direct financial support to Cambodian non-governmental organizations for specific projects, including those aimed at promoting human rights for prisoners, women, children, disabled persons, minorities and victims of trauma and abuse.

4. Human rights activities in the provinces

(a) Periodic visits and posting of thirty staff members at selected Cambodian provinces outside of Phnom-Penh, including provision of salaries, support staff, travel expenses inside the country, vehicles, computer equipment, and all other necessary operational requirements.

5. Information

(a) Development of Khmer language written information material on human rights and democracy for distribution to Cambodian audiences.

(b) Production of audio and video materials on human rights and democracy for Cambodian audiences.

(c) Translation of human rights instruments and United Nations publications into the Khmer language.

(d) Establishment of a human rights documentation centre in Cambodia for public access.

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6. Education

(a) Advisory services of one consultant for the development of human rights curricula for primary and secondary schools and other pedagogical institutions in Cambodia

(b) Four training courses on human rights for teachers of primary and secondary schools and other relevant personnel in Cambodia.

(c) Provision of lectures on human rights at various faculties of Cambodian universities.

(d) Production of an undergraduate textbook on Human Rights Law for Cambodian universities.

(e) Provision of popular education on human rights, popular participation, the democratic transition process and the democratic functioning of society.

3.2 The operational presence of the Centre for Human Rights in Cambodia shall implement the Programme described herein, assist in the work of the Special Representative, and serve as an accessible source of human rights information for the Government and people of the Kingdom of Cambodia.

3.3 The projects consisting of advisory services, technical assistance, training courses and seminars, documentation and information, and support to non-governmental organizations and civil society are to be implemented in Phnom-Penh or other locations in the Kingdom of Cambodia. The projects consisting of Fellowships are to be implemented at various locations to be determined in consultation between the parties.

3.4 It is understood and agreed by the Parties that the Programme, including all projects thereof, shall be implemented in accordance with the United Nations Financial Regulations and Rules, other applicable United Nations policies and rules, and the terms and conditions established for the implementation of each project.

3.5 It is further understood and agreed by the Parties that the implementation of each project of the Programme shall be contingent upon the availability of funds, required materials, and logistical, informational and personnel resources.

Article 4

Responsibilities of the United Nations

The Centre for Human Rights shall be responsible for:

a) sending to the Kingdom of Cambodia the United Nations officials who are necessary to organize and direct the projects outlined above and inviting the required experts and consultants for the implementation of the programme activities, as outlined in Article 3 above;

b) covering the travel expenses and daily subsistence allowance of United Nations officials, experts and consultants provided to the Government by the Centre, in accordance with the procedure established under the United Nations Advisory Services Programme in the Field of Human Rights;

c) arranging for and covering the costs of all materials it considers necessary for the Programme in connection with the above-mentioned projects.

Article 5

Responsibilities of the Government

The Government shall be responsible for:

a) reporting to the Centre for Human Rights on the particular needs which the Government wishes to see addressed in the implementation of the Programme, on actions which the Government has taken to follow-up on assistance provided by the Centre, and on relevant information which will assist the Special Representative and the Centre in the fulfilment of their respective mandates;

b) ensuring that adequate hotel accommodations are available at reasonable rates (to be paid by the United Nations) for United Nations officials, experts and consultants provided by the Centre under the Programme;

c) assisting the Centre for Human Rights, at the request of the Centre, in inviting participants, including Government officials, for the activities outlined in the projects of the Programme referred to in Article 3 above.

d) ensuring the security of all persons mentioned in Article 7 below, as well as the property and premises of the United Nations used in connection with the implementation of the present Memorandum of Understanding.

III. FUNDING

Article 6 Funding

6.1 It is the understanding of the Parties that the responsibilities of the Centre for Human Rights, as described in Article 4, above, as well as all other activities carried out by the Centre under this Memorandum for the implementation of the Programme are to be funded by the United Nations Trust Fund for a Human Rights Education Programme in Cambodia or other United Nations voluntary funds administered by the Centre, as the Centre may consider appropriate.

6.2 The Government and the Centre agree to consult periodically with a view to developing a programme of work within foreseeable resources. This programme shall be regularly revised and adjusted in accordance with available funds.

6.3 It is understood and agreed by the Parties that the implementation of the responsibilities of the United Nations is dependent on the availability of funds and, therefore, at any time during the implementation of the Programme should there be a lack of funds, the Parties shall consult with each other with a view to obtaining the required financing. If no such financing is available, the Programme or any project(s) thereunder may be reduced, amended or terminated by the United Nations.

IV. LEGAL ARRANGEMENTS APPLICABLE TO PROJECT ACTIVITIES

Article 7 Privileges and Immunities

7.1 The Government agrees to apply the provisions of the UNDP/SBAA to all activities and personnel of the United Nations Centre for Human Rights, as well as the property and premises of the United Nations in Cambodia, used in connection with the operational presence of the Centre.

7.2 With respect to the seminars, training courses, workshops and other similar activities, the participants invited by the United Nations shall be considered as experts on mission for the United Nations.

7.3 With respect to all activities of the Programme and of the operational presence of the Centre for Human Rights:

(a) United Nations officials, experts, consultants, persons performing services, and all other persons participating in those activities shall enjoy the privileges and immunities set forth in Article VIII of the UNDP/SBAA, as appropriate;

(b) officials of the Specialized Agencies participating in such activities shall be accorded the relevant privileges and immunities under the Convention on the Privileges and Immunities of the Specialized Agencies;

(c) without prejudice to the provisions of the UNDP/SBAA, all experts and persons performing functions in connection with the activities of the Programme shall enjoy such privileges and immunities, facilities and courtesies, as are necessary for the independent exercise of their functions, in connection with these activities;

(d) participants and personnel, invited and provided by the Government pursuant to this Memorandum shall enjoy immunity from legal process in respect of words spoken or written and any act performed by them in their official capacity in connection with such activities.

(e) all experts, officials of the United Nations, and all persons performing functions in connection with the activities of the Programme shall have the right of unimpeded entry into, and exit from the Kingdom of Cambodia. Visas and entry permits, where required, shall be granted promptly and free of charge.

Article 8 Fellowships

United Nations Fellowships shall be conducted in accordance with the applicable United Nations policies and procedures. In particular, all prospective candidates must complete a United Nations Fellowship Nomination Form.

Article 9 Claims against the United Nations

Claims brought against the United Nations in connection with the implementation of the Programme shall be dealt with in accordance with the provisions set out in Article VIII (6) of the UNDP/SBAA.

Article 10 Settlement of Disputes

It is understood and agreed by the Parties that:

Any dispute between the United Nations and the Government arising out of or relating to the Programme and any project thereof shall be settled in accordance with the provisions set out in Article IX of the UNDP/SBAA.

Article 11
Amendments

This Memorandum may be modified by written agreement between the Parties.

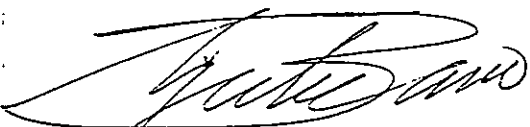
Article 12
Entry into Force

This Memorandum shall enter into force upon signature by the duly authorized representatives of the United Nations and the Government.

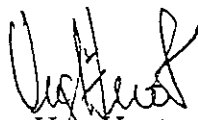
Signed, this day 1st March 1996, in Phnom Penh.

For the United Nations

For the Government of the
Kingdom of Cambodia



Name: José Ayala Lasso
Title: United Nations
High Commissioner
for Human Rights



Name: Ung Huot
Title: Minister of Foreign Affairs
and International Cooperation