



**Centre for Democratic Institutions**

**REPORT ON THE WORKSHOPS IN SUPPORT OF  
THE SENATES OF THAILAND AND CAMBODIA  
July 2001**

Project Origins and Rationale

The project was planned following separate discussions between the Centre for Democratic Institutions (CDI) and King Prajadhipok's Institute (KPI) of Thailand and the Secretary-General of the Cambodian Senate.

CDI and KPI signed a MOU in March 2001 agreeing to work together on projects of common interest. KPI is Thailand's official democracy promotion institute and is ably led by its Secretary-General, Professor Borwornsak Uwanno. One of its key goals is the strengthening of Thailand's parliamentary system.

CDI has maintained close contact with the Cambodian parliament since its Director, Roland Rich, was engaged by AusAID to undertake a needs analysis of the new Cambodian Senate in July 1999. The Secretary-General of the Cambodian Senate, HE Mr Oum Sarith, was the driving force behind the holding of the workshop in Phnom Penh.

The aim of the project was to draw on the strength and experience of the Australian Senate, this year celebrating its centenary, to assist the Thai and Cambodian Senates by discussing ways and means of improving their effectiveness. The project was funded by CDI, KPI and the Cambodian Senate. CDI receives its core funding from AusAID.

Two 2-day workshops were held for this purpose. The first was held in Ayutthaya, Thailand, on 2-3 July 2001 with the participation of some 17 Senators and the Secretary-General of KPI and other members of his staff. The second was held in Phnom Penh, Cambodia, on 4-5 July with some 80 Senators and Senate officials participating. Attached are the programs and the lists of participants for the two workshops.

The Australian participation comprised five Australian Senators and the Director of CDI. Senators Vicky Bourne, Rosemary Crowley, Sandy Macdonald, Brett Mason and Robert Ray represent the four main parties in the Australian Senate and have almost 60 years of Senate experience between them. The Senators were selected following an invitation from CDI to Senate President Margaret Reid seeking participation in this project. The Parliamentary Relations Office facilitated the process.

## The Ayutthaya Workshop

The Thai Constitution of 1997 radically altered the structure and functions of the Thai Senate. The 200 member Senate is elected by universal suffrage whereas previously it had been an appointed Chamber. Elections are based on provincial constituencies with the number of Senators per province dependant on the population size. Qualifications for Senators include a 40-year age minimum and a university degree. The Senate has been designed as an apolitical Chamber and Senators are not permitted to be members of political parties. Senators cannot seek re-election immediately after serving their six-year term, though they may stand in subsequent elections.

The functions of the new Senate have also changed. The Senate has the right to reject or propose amendments to legislation originating from the National Assembly, other than money bills. Where a disagreement between the Chambers exists, a joint committee shall seek to resolve it. The 1997 Constitution in effect establishes a fourth regulatory branch of government comprising such bodies as the Election Commission, Ombudsman Commission, Human Rights Commission, Counter Corruption Commission, the Auditor-General Commission, the Constitutional Court and the Administrative Courts. The Senate has the key role in the process of appointment and dismissal of officials of these bodies and has general oversight of this branch of government.

The Ayutthaya workshop was chaired by the respective heads of KPI and CDI and each session was introduced by a statement from a Thai and Australian participant followed by intensive discussion. While there are significant differences between the Australian and Thai Senates, there were also areas where the two Chambers can usefully exchange views.

The discussion on legislative review highlighted the difficulties involved in dealing with a large and disparate range of legislation. The Australian Senate has a Committee specifically to vet all pieces of legislation coming before it and ensure that all issues are given due consideration. The Australian Senators' advised that it was best practice for individual Senators to specialise in certain distinct areas rather than try to be conversant with all subjects coming before the Senate. The Thai Senators pointed to the tight time frame for consideration of bills (60 days for ordinary bills, 30 days for money bills and 20 days for the budget) and the difficulty of coming to the grips with such complex issues in so short a time given that they were dealing with these bills as individuals rather than as members of a political party.

The Australian Senators put a high value on the work of Senate committees. These committees had the ability to investigate issues in depth and to delve into a level of detail that the full Chamber was unable to devote time to. The Australian Senators emphasised the need for strong staff support for committees. The committees tended to act in a bipartisan way searching for the national interest on various issues rather than trying to score political points. In this way, committee work in the Australian Senate resembled the concepts around which the Thai Senate was built.

The Thai Senators were interested in the way the Australian Senate committees held public hearings. Thailand has recently had credibility difficulties in the public

hearings held by the government on major land use projects. One thought was that the Thai Parliament might become more involved in holding focused public hearings on various issues. The Thai Senators were particularly interested in the way the Australian Senate committees tended to invite expert witnesses to give evidence before them rather than holding huge 'town hall' public meetings.

There was also in depth discussion of the issue of accountability with particular interest in the Estimates Committee of the Australian Senate in which all aspects of the Executive Branch's conduct could be examined in minute detail. It was argued that in many ways the Estimates Committee process was a more effective tool of accountability than Question Time. The Thai Senate did not have these tools at its disposal. Section 189 of the Thai Constitution allowed the Senate to form standing and *ad hoc* committees but there had not been enough practice to draw conclusions. This section allows a Senate committee "to demand documents from any person or summon any person to give statements of fact or opinions on the act or the matter under its inquiry or study." The section has some enforcement provision in relation to officials and official documents but these have not yet been tested. It was difficult, for instance, for the Thai Senate to obtain documents from private banks despite the broad power conferred in the Constitution.

The main point of discussion centred on the sustainability of the new Thai Senate. There were several unusual features of the Senate that would pose significant challenges in the future. Given that all 200 Senators would be replaced at the next election, it would be difficult to build the corporate memory so essential to make institutions work effectively. Senate officials would have to attempt to provide the continuity and good written records would have to be produced of Senate practice. But there was a danger that each newly elected Senate would spend the first half of its term 'reinventing the wheel' before it mastered the processes involved.

The fact that the Senate was designed to be a collection of 200 individuals of high repute and character elevated the Chamber in the eyes of the public and gave it a credibility that the political lower Chamber may not enjoy. The problem with this approach was the difficulty inherent in 200 individuals acting effectively as a single Chamber. The architects of the Constitution discouraged the development of Senate interest groups based on regional or ethnic lines but hoped for the establishment of groups based on shared interests or specialisation.

The Australian Senators concluded that it was a most exciting time for the Thai Senate and that the current group of Senators would forever be known as Thailand's first elected Senators and that they had the power and responsibility to set the future course of the new Chamber.

### The Phnom Penh Workshop

The Cambodian Senate is a new Chamber. The 1993 Constitution established a unicameral parliament but in 1998 the Constitution was amended and the Senate established. The first Cambodian Senate was convened on 25 March 1999. It has 61 members, 59 of whom are appointed in relation to the political party strength in the lower house and two are appointed directly by the King.

The Senate has the power to review legislation and to recommend amendments but does not have the power, ultimately, to reject legislation passed by the National Assembly. It is seen as a Chamber that can give more dispassionate consideration to legislation and thus act as a circuit breaker for hasty decisions pushed through the National Assembly. The Constitution also places in the Senate an unusual and perhaps unique role of acting as a moderator between the National Assembly and the Royal Government. The exact meaning of this role has yet to be developed in the short life of the Senate.

In a call on the President of the Senate, HE Mr Chea Sim, the delegation was advised that the Government has taken the decision to convert the Senate into an elected house at the 2003 national elections. The exact voting method has yet to be decided but the Senate President agreed with the suggestion of Senator Robert Ray that a different electoral system be used for the Senate than that used for the National Assembly so that the Senate would have a different complexion and could be more effective as a house of review. At this stage, there was no intention to amend the powers of the Senate.

There was very encouraging attendance at the Phnom Penh workshop which was held at the Senate compound, previously known as the Chamkarmon Palace. The five work sessions were presided over by the various chairs of Cambodian Senate standing committees. The discussion of the issues was lively.

A major issue that arose on several occasions concerned the limited powers of the Cambodian Senate. It did not have the power to initiate legislation or to reject or amend legislation. It only had the power to recommend amendments. The Australian Senators' response was the need to work with the powers at hand and to influence results through the exercise of intellectual leadership on the issues of the day. The Senate was a very new institution and could still develop into a pivotal Chamber.

There was also a discussion of the Senate's responsibility to moderate between the National Assembly and the Royal Government of Cambodia. The Cambodian Senators explained that the establishment of the Cambodian Senate was part of the architecture of governance designed as an element of the reconciliation process between the major political forces in the country. The conciliation role in the Constitution was an integral part of the package. But Cambodian Senators were unsure of how to implement this provision.

The Australian Senators noted that in the 100 years since the Australian Senate was established many changes had occurred in society and governance. The way the Senate was working in 2001 was not the way the founders of the Australian Constitution had anticipated it would work in 1901. The Australian Senate was far less a States' house today and, through proportional representation, was now more representative of the spread of Australian political opinion than the lower house. The Cambodian Senate would also develop and the provision allowing it the role to moderate between the government and the National Assembly may one day become of considerable significance should a crisis in relation to the separation of powers occur.

A discussion of the complexity of the budget process and the difficulty of understanding budget documentation followed. The Australian Senators noted that their Cambodian counterparts were not alone in this regard. An advantage of the Australian parliamentary system is that parliamentarians, including Senators, could be Ministers should their political party have the numbers in the lower house. This allowed the Senators who were Ministers to see the budget process at the formulation stage and armed them with greater knowledge to deal with budget issues in future. Most Australian parliamentarians relied on the collective wisdom of their political parties to analyse the budget and formulate positions. The best advice was for individual Senators to become expert in a selected number of areas and to contribute to the collective effort in those areas.

A Cambodian Senator complained about the UN's interference in Cambodia's sovereignty on the issue of the passage of the Khmer Rouge trials legislation and asked how Australia would have reacted. The Australian side responded that unlike the cases of Yugoslavia and Rwanda where the UN Security Council had imposed a Criminal Court on the parties to punish those guilty of crimes against humanity, in the case of Cambodia there had been a negotiation between Cambodia and the UN on the final outcome. No country in the modern world had complete sovereignty in the sense that all countries had to negotiate on issues and accept compromise positions. The acceptance of the compromise was an assertion of national sovereignty. Australia had also been criticised by UN committees on certain aspects of human rights. In one case, the Australian Government had accepted the criticism and passed legislation to correct the problem.

The Australian Senators congratulated their Cambodian counterparts on being Cambodia's first Senators and encouraged them to work within their mandate to lift the standard of political debate in Cambodia in order to improve the welfare of the Cambodian people.

### Visits

In Ayutthaya, the delegation was very fortunate to undertake a tour of this ancient history and thus gain a better understanding of Thailand's rich historical legacy. Ayutthaya had been the Royal capital of Thailand from 1350 to 1767 and a visit to the Ayutthaya Historical Study Centre allowed the delegation to view a miniature reconstruction of this magnificent royal city. The delegation also visited Wat Pra Srisanpetch and Wat Chai Wattanaram for a first hand look at the ancient temples.

The traditional dinner hosted by the Governor of Ayutthaya at the Koomkhunpan took participants back to the grand days of Ayutthaya to enjoy traditional Thai hospitality while wearing aspects of traditional Thai costume.

In Phnom Penh, the delegation began with a tour of the infamous Khmer Rouge torture and execution centre, Toul Sleng. This was a harrowing but necessary visit as it allowed participants to understand the tragic recent history of Cambodia and the trauma that every Cambodian family suffered. Over 20,000 Cambodians were tortured and executed at Toul Sleng. The Khmer Rouge practice was to execute entire families regardless of how young the children were. Photographs of those executed

line the walls of Toul Sleng in sombre testimony of the crime against humanity that was committed within its precincts.

The delegation was also very fortunate to be able to visit the Friends project in downtown Phnom Penh, a stone's throw from the Royal Palace. Sebastien Marot, the project leader explained that this was a program for the street children of Phnom Penh. It provided schooling and vocational training and gave the children an alternative to the street life from which they came. This was a very necessary project in a city like Phnom Penh because many families live disrupted lives following the Khmer Rouge period. Many of the traditional forms of passing and gaining knowledge have been affected and more formal structures are often needed to fill the gap. Sadly, some of the children were HIV positive.

### Assessment

The Thai and Cambodian Senates will of course need to assess the value of the project. The Australian team found the project to be most worthwhile and each member learned a great deal from the experience.

The strength of the project was its focus on the workings of the Senate. This was not a bilateral visit in that bilateral issues were not discussed. The focus was on the participants as Senators and the format allowed the participants to learn from each other about methodology and best practice. The workshops allowed sufficient time for discussion and it was usually in these sessions that the concerns of the various Thai and Cambodian Senators emerged allowing the group to workshop the issues.

The timing of the project was also felicitous in that both the Senates are relatively young and are still setting their direction. Contact with a well established Senate allowed them to bounce off ideas and to look at relevant precedents.

There was considerable support for a repeat of the exercise in 2002, perhaps focusing on more specific topics.

The project would not have been possible without the assistance of many individuals and institutions. In particular the Australian Parliament, King Prajadhipok's Institution, the Secretariat-General of the Cambodian Senate, the Australian Embassies in Bangkok and Phnom Penh and the participating Senators from Thailand and Cambodia.

Particular thanks must go to the participating Australian Senators who displayed their competence, enthusiasm and collegiality through the visit.

## Program

### *Senate Project - Ayutthya*

Sunday 1 July, 23.00

Arrive Don Muang  
Pick-up by KPI  
Travel to Ayutthya (hotel to be advised)

Monday 2 July

AM Free  
PM Working Session  
15.00-16.20 Welcome  
Making the Senate More Effective  
Senator Robert Ray (15 minutes)  
Senator (from Thailand) (15 minutes)  
Open discussion  
16.20-16.40 Afternoon Tea  
16.40-18.00 Making the Committee System Work  
Senator (from Thailand) (15 minutes)  
Senator Vicki Bourne (15 minutes)  
Open discussion

*Evening Workshop Dinner*

Tuesday 3 July

09.30-10.50 Reviewing Legislation  
Senator Kerry O'Brien (15 minutes)  
Senator (from Thailand) (15 minutes)  
Open discussion  
10.50-11.10 Morning tea  
11.10-12.30 Holding Public Hearings  
Senator (from Thailand) (15 minutes)  
Senator Sandy Macdonald (15 minutes)  
Open discussion  
12.30-14.00 Lunch  
14.00-15.20 Making the Senate Accountable  
Senator Brett Mason (15 minutes)  
Senator (from Thailand) (15 minutes)  
Open discussion  
15.20-15.40 Afternoon tea  
15.40-17.00 Concluding Observations  
Professor Borwornsak Uwanno (15mins)  
Roland Rich (15 minutes)  
Open discussion

*Evening Free*

Wednesday 4 July

06.00 Depart for airport  
08.35 TG696 to Phnom Penh

*Senate Project – Phnom Penh*

Wednesday 4 July      Arrive Ponchentong      09.50      TG696  
Sunway Hotel

PM      Discussion Session, Cambodian Senate  
15.00-15.30.1 Welcome/Introductions  
15.30-16.30.1 Making the Senate Effective  
                 Senator Robert Ray  
                 Cambodian Senator  
                 Discussion  
  
16.30-16.45.1 Afternoon tea  
16.30-16.45.2  
                 Making the Committee System work  
                 Senator Vicki Bourne  
                 Cambodian Senator  
                 Discussion  
  
Evening      Dinner

Thursday 5 July

09.00-10.30      Public Consultations  
                 Senator Sandy Macdonald  
                 Cambodian Senator  
                 Discussion  
10.30-11.00      Morning tea  
11.00-12.30      Senate Accountability  
                 Senator Brett Mason  
                 Cambodian Senator  
                 Discussion  
12.30-14.00      Lunch  
14.00-15.30      Legislative Review  
                 Senator Kerry O'Brien  
                 Cambodian Senator  
                 Discussion  
15.30-16.00      Closing comments  
  
Evening      Free

Friday 6 July

09.00      Depart Sunway Hotel  
10.50      TG697 to Bangkok

## Participants

### Cambodia

<b>Name</b>	<b>Position</b>	<b>Section</b>
H.E. Mr. Kem Sokha	Chairman	Commission on Human Rights
H.E. Mr. Ung Ty	Vice-chairman	and Reception of Grievances
H.E. Mrs. Man Maly	Secretary	
H.E. Mr. Kang Chan	Member	
H.E. Mr. Ouk Moeun	Member	
H.E. Mr. Chea Pengchheang	Chairman	Commission on Finance and
H.E. Mrs. Pum Sichan	Vice-chairman	Banking
H.E. Mr. Chhay Bornlay	Secretary	
H.E. Mr. Van Mad	Member	
H.E. Mr. Ou Bunlong	Member	
H.E. Mr. Chan Phin	Chairman	Commission on Economy,
H.E. Mr. Sin Po	Vice-chairman	Planning, Investment,
H.E. Mr. Ouk Prathna	Secretary	Agriculture, Rural,
H.E. Mr. Prak Vanny	Member	Development,
H.E. Mr. Hut Try	Member	and Environment
H.E. Mr. Chea Cheth	Chairman	Commission on Interior,
H.E. Mr. Khuon Frang	Vice-chairman	National Defense, Ethics and
H.E. Mr. Sek Sam Iet	Member	Investigation
H.E. Mr. Ung Sim	Member	
H.E. Mr. Chao Phally	Member	
H.E. Mrs. Ty Borasy	Chairman	Commission on Foreign Affairs,
H.E. Mr. Yoeung Kim Aun	Vice-chairman	International Cooperation,
H.E. Mr. Phay Sipphan	Secretary	Information and Media
H.E. Mr. Chhang Song	Member	
H.E. Mr. Chea Kim	Member	
H.E. Mr. Ouk Bunchhoeun	Chairman	Commission on Judiciary
H.E. Mr. Kieu San	Vice-chairman	
H.E. Mr. Keo San	Secretary	
H.E. Mrs. Mech Somaly	Member	
H.E. Mr. Thach Sotha	Member	
H.E. Mr. Kong Korm	Chairman	Commission on Education,
H.E. Mr. Pou Savath	Vice-chairman	Religion, Culture and Tourism
H.E. Mr. Sim Soly	Secretary	
H.E. Mr. Hang Chuon	Member	
H.E. Mr. Khoun Play Veth	Member	
H.E. Mr. Seng Oeurm	Chairman	Commission on Public Health,

H.E. Mr. Chhea Thang	Vice-	
H.E. Mrs. Sam Kanitha	chairman	Social Welfare and Labor,
H.E. Mrs. Mean Sam An	Secretary	Women, and War Veteran
H.E. Mr. Meng Rita	Member	Affairs
H.E. Mr. Sabu Bacha	Member	
	Chairman	Commission on Public Works,
	Vice-	
H.E. Mr. Chhit Kim Yeat	chairman	Transportation, Post &
H.E. Mr. Has Saren	Secretary	Telecommunication, Industry,
H.E. Mr. Boeuy Koeuk	Member	and Commerce
H.E. Mr. Khieu Suon	Member	

### **Senators outside the Commission**

H.E. Mrs. Keo Bunthouk  
H.E. Mr. Ieu Pannaka

### **Staff of the Secretariat-General of the Senate**

Mrs. Mom Sokhayouk		Legal Council
Mr. Nop Kuch		
Mr. Kith Touch		
Ms. Yem Kannitha		
Ms. Kong Somony		
Ms. Nou Chhin		
Mr. Heng Sophal		
Mr. Kim Ly	Director	Legislative Department
Mr. Chheav Kimseng	Vice-director	
Mrs. Chea Kim		
Mrs. Ly Roth		
Ms. Ly Rothmoney		
Mr. Ly Savann		
Mr. Phan Chansak		
Mr. Chhoeut Sarith		
Ms. Pen Doeun		
Mr. Oeung Samath		
Ms. Chheat Kanika		
Mr. Kry Song		
Mr. Mak Kimlong		
Mr. Ngoung Sophal		
Mr. Leng Se		
Ms. My Kongkhea		
Ms. Peng Pheara		
Mr. Yu Sothey		
Ms. Chroeung Chinda		
Mr. Youn Yan		
Mr. Sok Socheat		
Mr. Keth Chhinran		
Mr. Chan Pirun		
Mr. Kea Try		

Mr. Prok Bunmeng  
Mr. Davan Rothchesda  
Mr. Hang Davy  
Ms. Noun Bunnouv  
Mr. Bin Oeun  
Mr. Huy Vandy  
Ms. Chhi Teng

## **Thailand**

Mr. Pichet Pattanachote	First Vice President of the Senate
Mr. Boonton Dockthaisong	Second Vice-president of the Senate
Mrs. Maleerat Kaewka	Senator, Sakonnakorn Province
Mr. Nipon Wisityuthasart	Senator, Anghong Province
Mr. Panat Tasneeyanond	Senator, Tak Province
Maj. Gen. Manoonkrit Roobkajorn	Senator, Saraburi Province
Khunying Chodchoy Sophonpanice	Senator, Bangkok
Mr. Nirun Phitakwatchara	Senator, Ubonratchathani Province
Mr. Niwes Phancharoenworakul	Senator, Ayutthaya Province
Lieutenant-General Opas Ratanaburi	Senator, Nakornsrihammarat Province
Mr. Paiboon Upatising	Senator, Phuket Province
Mr. Pha Aagsornsua	Senator, Khonkaen Province
Mrs. Prateep Ungsongthan (Hata)	Senator, Bangkok
Mr. Saravuth Niyomsub	Senator, Nakhonpathom Province
General Siri Thiwaphant	Senator, Pitsanulok Province
Mr. Wiboon Shamsheun	Senator, Kalasin Province
Mr. Wongphan Na Takuathung	Senator, Phang-nga Province