For the second consecutive year, CDI arranged discussions between the Australian and Cambodian Senates. The discussions took place at the Cambodian Senate meeting room in Phnom Penh on 1-2 July 2002. CDI wrote to the President of the Senate in Australia requesting her to seek nominations from the major Australian political parties. In the event the Australian team comprised:

Senator Sue West, Australian Labor Party (NSW), Deputy President of the Senate
Senator George Brandis, Liberal Party (Queensland)
Senator Kay Denman, Australian Labor Party (Tasmania)
Senator Meg Lees, Democrats (South Australia)
Senator Marise Payne, Liberal Party (New South Wales)
Roland Rich, Director, Centre for Democratic Institutions.

Below is the program for the discussions and the list of Cambodian participants.

**Topics**

The topics for discussions were settled in preliminary correspondence between HE Oum Sarith, Secretary-General of the Cambodian Senate and Roland Rich. The five topics on the agenda were:

1. The Senate’s Oversight role
2. Senator’s Privileges and Obligations
3. The Committee System
4. Promoting Democracy and Gender Equity
5. Working with the Secretariat

All the issues raised were of particular relevance to the Cambodian Senate in view of its ambition to fulfill its role under the Cambodian Constitution. The current Senate members were appointed but the next Senate will be an elected chamber and it was important to establish effective work processes.

Another topic that arose in the course of the discussion was the importance of having a different electoral system for the Cambodian Senate from that used for election to the National Assembly. Australia used a constituency based electoral system in the lower house but a proportional representation system in the upper house based on
State boundaries. The result was that whereas the system of two major parties and several minor ones produced workable majorities for the ruling party in the lower house, no government has enjoyed a majority in the upper house for many years. It is unlikely that any future Australian government would have a Senate majority. This made the Australian Senate a far more effective house of review. Senate Committees are not subject to automatic government majorities and the Senate had become a key player in the oversight of government process in Australia.

Senate's Oversight Role

Senator West’s opening presentation explained the way Ministers were members of parliament in the Australian system and that Question Time in both houses has become an important means of shaping the political debate in Australia. She explained that political debate in Australia is robust but that the parliamentarians only fight with words. The executive branch of government is required to respond to questions in many different contexts:

- Question time
- Questions on notice requiring a written response
- In debate over bills introduced by the government
- In response to questions asked in the various parliamentary committees
- In the course of hearings before the Senate budget estimates committees

The discussion following the presentation ranged over a number of issues including the legislative process, the degree of separation of powers between the legislative and executive branches in a Westminster system and other processes of ensuring government ministries implemented the program for which the parliament had voted a budget.

Privileges and Obligations

Senator Denman concentrated on the practical obligations required by the Senate and in particular the asset disclosure provisions. Assets, directorships and benefits of the Senator, his/her spouse and her/his dependent children all have to be listed. A senior Senator recently resigned because of difficulties caused by his failure to list his wife’s assets. Gifts, of a certain value, hospitality and free travel also have to be listed. The media can scrutinize these lists and omissions can be very costly politically.

Members of Parliament in Australia enjoy immunity from prosecution and civil suit for documents and speech in parliament or incidental to their work as parliamentarians. They do not enjoy absolute immunity from the criminal law and are therefore also subject to search warrants and discovery processes for their extra-parliamentary behaviour. As a courtesy, the Presiding Officers are consulted before a search warrant is executed within the precincts of the parliament. So, clearly, receiving a bribe is punishable and Senator Denman explained the case of a recently retired Member of Parliament who has been sentenced to 6 years jail for taking money and sexual favours to influence visa decisions.

Senator Denman then listed the various allowances, support and benefits Australian Senators enjoyed including support staff, car allowances, travel entitlements,
telephone entitlement, superannuation etc. This was the subject of considerable interest by the Cambodian Senators.

The ensuing discussion concerned corruption laws, aspects of privileges and the dividing line between conduct as a parliamentarian and extra-parliamentary conduct. The key, the Australian Senators explained, is to ensure that there is full freedom of speech in the parliament and full freedom to investigate government conduct. Thus documents and witnesses also enjoy the privileges flowing to parliamentarians. But being a member of parliament does not protect the parliamentarian from the consequences of criminal conduct.

There was also an interesting discussion on what constituted misconduct in the parliament. The Senators explained the way in which the Speaker of the House could give a warning for un-parliamentary behaviour such as constant interruption and insulting language and then could expel a Member from the House for one hour or for a serious offence for 24 hours and for a repeat offender for one week. The Senate is not quite as rowdy as the House of Representatives in Australia and there has only been one case of a Senator expelled from the Chamber for 24 hours in recent memory.

There was also a discussion on the need to submit a report on any visit funded by the parliament. The Cambodian side said this was a practice that the Cambodian Senate would like to see respected more scrupulously.

The Committee System

Senator Lees displayed some overheads of the Senate Chamber and of various committee rooms. One of the overheads had a graph of the time a Senator had spent in various meetings in 2000. It showed that while 600 hours had been spent in the Chamber, 1800 hours had been spent in committee hearings and meetings. This 1:3 ratio demonstrated the importance of committee work. Senator Lees then listed the various types of committees including

- Legislation and General Purpose Standing Committees (these hold Budget Estimates hearings)
- Scrutiny committees overseeing bills, regulations and ordinances
- Select committees established by a Senate vote to investigate a specific matter and then to be dissolved after reporting on that matter.
- Domestic committees looking after the Senate itself

The Cambodian system was different in that there was a standing committee that oversaw the work of the Senate and nine specialized commissions:

1. Protection of Human Rights and Reception of Complaints
2. Finance and Banking
3. Economy, Planning, Investment, Agriculture Rural Development and Environment
4. Interior, National Defense, Investigation and Anti-Corruption
5. Foreign Affairs, International Cooperation, Propaganda and Information
6. Legislation
7. Education, Religious Affairs, Culture and Tourism
8. Public Health, Social and Women's Affairs

Whereas Australian Senators might sit on several committees, Cambodian Senators sat on only one commission. Other questions raised issues concerning the holding of public hearings, time limits on questions in parliament and the degree of internal discipline within political parties.

There was also a discussion of joint parliamentary committees in which both Senators and Members of the House of Representatives sat. In Australia there were several Joint Standing Committees including:

- Corporations and Financial Services
- Electoral Matters
- Foreign Affairs, Defence and Trade
- Migration
- National Capital and External Territories
- National Crime Authority
- Native Title and the Aboriginal and Torres Strait Islander Land Fund
- Public Accounts and Audit
- Public Works
- Treaties

The discussion dealt with the possibility of the Cambodian Senate and the National Assembly forming joint committees. This led to a discussion on joint sittings of both houses. In Australia a joint sitting can take place after the elections following a double dissolution, i.e., the dissolution of both houses and the calling of an election. The bills rejected by the Senate that triggered the double dissolution can then be put to a joint sitting of both houses. This is one (drastic) way in which governments can get around the fact that they do not hold a majority in the Senate. In the course of this discussion a Cambodian Senator asked who would chair the joint sitting. Recourse to Odgers' Australian Senate Practice Tenth Edition, edited by Harry Evans, Clerk of the Senate, did not elicit an answer and it took an overnight call to Canberra to work out that such a sitting would be co-chaired by the Speaker and the Senate President.

Promoting Democracy and Gender Equity

Senator Payne noted that Australia had celebrated the centenary of women’s suffrage. In Cambodia, she said, women’s suffrage had come in 1955. Much progress had been made but a lot of challenges remained. In the Australian Parliament 24 of 76 Senators and 38 of 158 Members were women. The situation was not as rosy in terms of leadership of political parties. Neither of the major political parties had had a woman leader though the Labor Party now had a woman as Deputy Leader. The Democrats, on the other hand, have had five women leaders.

Senator Payne elaborated on the vision of the Office of Status of Women and on how gender issues were pursued under the aid program. She then spoke of civics education in Australia for primary school aged children and how so many classes visited the parliament.
In response, the Cambodian side noted that there were currently 2 women ministers and nine women Senators. The discussion centred on issues of protection of women and children from traffickers, HIV-AIDS, violence against women. There was also a discussion on the value of having quotas for representation of women in parliaments.

**Working with Secretariats**

Senator Brandis explained the key distinction between the Senator’s three personal staff members for which the Senator had sole responsibility and which had to work as a team dealing with parliamentary, party and constituency matters and the staff of the Senate itself. The Senate staff are led by the Clerk of the Senate who is the principal advisor to the Senate on procedures and has tended to act as a defender of the integrity of the Senate. He leads a team of officials who assist committees, handle legislative matters, and conduct research on behalf of Senators.

In the discussion there was concern expressed at the way the Cambodian senate staff were sometimes required to act as if they were the personal staff of the Senator. There was also discussion about the operation of Hansard and how much time Senators had to correct the proof record (only 30 minutes in Australia) and the final copy. There was also discussion of the rules applying to Senate staff. In Cambodia they were not yet the subject of legislative rules.

**Conclusion**

Both sides expressed their satisfaction at how productive the discussion over the two days had been. It was hoped to continue the practice and meet again the following year. The organisation of the discussions was excellent for which the Cambodian Senate and its Secretary-General deserve great credit. The Australian Embassy led by Ambassador Louise Hand was also of great assistance to the delegation.
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<td>• Interpellation of Ministers</td>
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<td>0830</td>
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<td>• Working with the Secretariat General</td>
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<td>0925</td>
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Participants

Senators
Mr Rong Phlam Kayson
Mr Huth Try
Mrs Ty Borasy
Mr Toch Sak
Mr Thong Chan
Mr Khieu San
Mr Ros Srang
Mr Tith Ream
Mr Ouk Moenh
Mr Sek Sam Let
Mr Ou Bun Long
Mr Ung Ty
Mr Chea Cheth
Mr Ly Sarun
Mr Meng Ritta
Mr Kong Korm
Mrs Prim Sichan
Mrs Chlouk Chhim
Mr Chea Thang
Mrs Men Maly
Mr Ung Sim
Mrs Sam Kanitha
Mrs Keo Bunthank
Mrs Mech Somaly
Mr Khuon Frang
Mr Chhit Kim Yeat
Mr Som Sopha
Mrs Lak Ann
Mrs Mean Sam An
Mr Rong Phlamkaysoe
Mr Ros Sieng
Mrs Keo Bun Thuoc
Mr Kung Kormo
Mr Ouk Bunch Heoun

Advisors and staff
Mr Oum Sarith
Mr Chuo Sokhon
Mr Som Lavy
Mr Phung Phy Sarom
Mr Kim Ly
Mrs Chea Kim
Mrs Pen Doeun
Mrs Suan Puth Thavy
Mr Kea Try
Mrs Chi Thong
Mr Pich Kim Sreang
Mr Hem Samin
Mr Un Den
Mr Un Sam An
Mr Let Sok
Mr Kry Song
Mr Lang Than
Mrs Kuoy Chanthea
Mr Kung Monika
Mr Um Rathna
Mr Mak Kim Long
Mr Chey Mealea
Mr Or Sam Rong
Mrs Sovan Malyda
Mrs Res Sevey
Mrs Ton Kon Thou
Mrs Kuy Chantha
Mrs Rath Nary
Mrs Seng Serey Vathna
Mr Ung Sam Ath
Mr Ly Savuth
Mrs Chi Teng
Mr. Heng Jim Hay