

## **B) The Cambodian Senate<sup>13</sup>:**



### **I) Creation of the Senate:**

The Senate initially did not exist when the Cambodian Constitution came into effect in 1993. It was created later by the constitutional amendment in 1999.

### **II) Election of Senate Members:**

For the **first period of only 5 years** the senators were not elected but just **appointed** by the King, Article 157 II CC).

After the expiring of that first period only 2 senators are to be appointed by the King but the majority of the senate members now have to be **elected in non-universal elections** (Articles 99 and 100 CC) for a period of now **regularly 6 years** (Article 102 I CC). That means they will not be directly elected by the Cambodian people but by different stakeholder groups. The details are still unclear as the necessary Senate Election Law has not yet been discussed and adopted. Such a law must be compatible with the basic **concept of pluralism and representation** as it is enshrined in the Cambodian Constitution. When drafting such a law the lawmakers should also keep in mind that such a second legislative institution (see the principle of **bi-cameralism**) has to play an important role in balancing political conflicts and primarily in giving a broader representation to the lawmaking process. All this shall increase the legitimacy of the lawmaking process.

### **III) Rights of Senators:**

The Senators have the same right of **immunity** like the members of the National Assembly, Article 104 CC<sup>14</sup>. That means they shall not be punished for the opinions they express in the exercise of their duties.

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<sup>13</sup> For further details see: [www.khmersenate.org](http://www.khmersenate.org)

<sup>14</sup> for more details see page 29.



#### IV) Function and Role of the Senate:

Unlike the National Assembly the Senate has **neither real power to make laws nor to chose and control the government**. It can initiate laws (Article 91 I CC) but it can not question, accuse or dismiss the government or its members.

It has a more **advisory role** and can give **recommendations** whereas the final power of lawmaking and adopting laws is with the National Assembly (Article 113 VII CC: If the Assembly examines a draft law a second time after the Senate has called for modifications the Assembly itself decides finally.)

The Senate holds its **sessions in public** (Article 111 I CC) and **twice a year** (for three months each session) like the National Assembly.

The structure and procedural rules are more or less the same like those of the National Assembly. The Senate also has a **President**, a **General Secretary**, a **Standing Committee** and different **Commissions**.

The Senate also has its own **Internal Rules**<sup>15</sup>.

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<sup>15</sup> The text of these rules can be found on the Senate homepage: [www.khmersenate.org](http://www.khmersenate.org)



#### Study Question 4

- a) Look into the Cambodian Constitution and describe the steps to be taken to establish a new government after the NA election!
- b) If the necessary 2/3 majority in the NA can not be achieved due to a political deadlock what different constitutional amendments could you imagine to solve the deadlock?



#### Study Question 5

Prime Minister Hun Sen does not want to negotiate with the “Alliance of Democrats” which was recently formed by FUNCINPEC and SRP.

- a) He says that FUNCINPEC and SRP can not first run for the election as two separate parties and later after the election unite in only one coalition to negotiate about the forming of a new government. He says this is against the constitution. Is this right or wrong? Do not just answer with “yes” or “no” but give reasons for your opinion and quote the relevant articles!
- b) Some CPP officials say that Cambodia would not be a democracy if there is no opposition party in the National Assembly. It would be against the constitution if all three parties (CPP, FUNCINPEC and SRP) form a joined government. Is this right or wrong? Do not just answer with “yes” or “no” but give reasons for your opinion and quote the relevant articles!



#### Study Question 6

Read the following summary of the Cambodian Daily article of June 26, 2002 carefully.

Several members of the Cambodian National Assembly, among them Sam Rainsy Party lawmaker Son Chay, are mobilizing support among other lawmakers for the establishment of a new commission of the National Assembly called: "Independent Border Commission".

The reason is that the lawmakers want to know what the government has done so far regarding border issues but up to now have not got related documents because the Joint Border Committee of the Council of Ministers does not share information on border issues.

For discussion of illegal immigration into Cambodian territory the lawmakers invited Co Minister of Interior, Sar Kheng, who had just received a letter of Funcinpec lawmaker Keo Remy, criticizing the government for not doing enough to prevent illegal immigration.

- a) How many commissions does the National Assembly have? Do not forget to quote the relevant article (s)!
- b) Can the lawmaker create a new commission called “Independent Border Commission”?  
Do not just answer with “yes” or “no” but give reasons for your opinion and quote the relevant articles!