

Descriptive Paper
on
**Why General Research Department and How It and the Whole Research
Unit Work to Produce Legislative Note
for the Senate of the Kingdom of CAMBODIA**

Prepared for the Focus 39 Session
of the 11th Biennial Conference of APLAP
on Moving Towards a Big Data Era: the Role
of Parliamentary Libraries and Research Services

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1. Introduction

The Descriptive Paper on *Why General Research Department (GRD) and How GRD and the Whole Research Unit Work to Produce Legislative Note for the Cambodian Senate* consists of three main parts such as: Brief Background of GRD, followed by looking at its Location, Importance and Types of Support Services Provided by GRD, and thirdly, it will look at How GRD and the Whole Research Unit Work to Produce Legislative Note for the Senate.

2. Background of GRD

GRD started from a very small section in the Library in 2006, that is, seven years after the creation of the Senate in 1999. Three years later in 2009, this section was promoted to Department of General Research, whose organizational hierarchy is equivalent with the Library. GRD has five research offices such as Economics and Finance, Environment and Infrastructure, Human Rights and Foreign Policy, Social Works and Culture, and State Policy and Reform. These offices are tasked with duties to help the ten commissions fulfill their duties and competence and it is noteworthy that the commissions' duties and competence are organized around the areas of work of the government's ministries and/or agencies.

For example: the Economics and Finance Research Office is responsible for conducting any research and analysis concerning with economics, finance, banking and audit matters, and for preparing legislative note on any draft or proposed law that is initiated, authored and introduced by Ministry of Economy and Finance or National Bank of Cambodia or National Authority of Audit and that is referred to the Commission on Economy, Finance, Banking and Audit by the Senate's Standing Committee.

3. Location, importance and types of support services provided by GRD

GRD locates in the Research Unit of the Senate Secretariat General, namely, General Directorate of Legislative Service and Collective Territory. There are five research departments within this General Directorate such as GRD, Department of Legislative Research (LRD), Department of Women Affairs and Gender (WAGD), Department of Regions and Collective Territory (RCTD), and Department of Parliamentary Studies (PSD).

Structurally, these departments are independent from each other. However, they share responsibility in some research work, *for example: when preparing legislative note on any draft or proposed law¹ (DPL), the four former departments shall work in group. They focus their study on different aspects of the legislation such as: GRD reviewing the legislation from economic and social perspective; LRD studying legislation's conformity with Constitution, national and international laws; WAGD focusing their study on gender perspective of*

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- ¹ A law initiated by a Ministry or an Agency of the Government is called a **Draft Law**. The appropriate ministries study the policy and review its sources to determine whether or not the legislation is needed. If legislation is required to implement a policy, the minister shall allow ministerial officials to proceed with law drafting, beginning with policy consultations to obtain input from stakeholders, other ministries concerned, and sub-national administration officials. The Council of Ministers examines and may approve the draft law. It then submits the draft law with an Explanatory Memorandum to the National Assembly for review and adoption; and then to the Senate for review and recommendations.
 - According to Cambodian Constitution, any member of parliament (the National Assembly and the Senate) may initiate a legislation, which is called a **Proposed Law**. The proposed law initiated by any member of the National Assembly or the Senate shall be introduced along with an Explanatory Memorandum in the National Assembly. After its review and adoption, the proposed law is referred to the Senate for review and recommendations.

legislation; and RCTD looking at legislation in reflection against sub-national policies.

As mentioned above, GRD is tasked with conducting cost benefit analysis (CBA) of the legislation. This work is complicated and requires high expertise. At the same time it is time-consuming too. For these reasons, it can be argued that, GRD's research work is vital and crucial to the entire work of preparing legislative note for the Senate.

There are three types of support services GRD produces for the Senate. They are: Legislative Note (refers to the Aide Memoir Paper on DPL), Senator Note (refers to research paper, referencing note, aide memoir paper, speech, discourse, keynote address, remark ... etc. that is produced at the request of any one or many Senator(s)), and the Reference Note (refers to Research Work of GRD on any Today's Hot and/or Important Topics; this is a proactive research for the Senate). The above-mentioned supports can be given in either writing or oral format; it depends on request and/or circumstances.

In order to ensure quality and timeliness of our service delivery, GRD depends on communication and negotiation with Senators and/or their staff, who are owner of the research request. Usually, trade-offs take place as a result of trying to achieve a good balance between them.

4. **How GRD and the Whole Research Unit Work to Produce Legislative Note for the Senate**

Constitutionally, any draft or proposed law shall be introduced and adopted in the National Assembly and then referred to the Senate for review and recommendation. The Senate's Standing Committee meets to decide which one or more commission(s) should be responsible for studying the draft or proposed law and reporting to the Senate. Once identified, the commission(s)-in-charge reviews the draft or proposed law's entire contents and principles with the

assistance of the research staff of Research Unit of the Senate Secretariat General.

So how should research staff assist the Senate and its commissions to fulfill their legislative function?

As afore-explained, each of the four research departments (PSD not included) separately works to prepare their own legislative note and then they meet to put together into one joint legislative note, namely, Aide Memoir Paper on Draft or Proposed Law. LRD is responsible for putting together all the notes into one by using a pre-set template (see annex). Then, a draft joint legislative note is presented in the meeting and representative(s) from each department is asked to give explanation on how and why his or her department picks and includes any particular data or information; how data or information is interpreted; what will be costed and benefited by the legislation; and how/what gender and local governments are impacted.

In addition to the afore-said work, the expert staff members attending this meeting shall jointly work to summarize the declared purpose of the DPL, identify the principal policy reasons supporting the need for the DPL, identify the Ministry or Agency responsible for implementing the law, clarify the connection of the DPL to existing laws and the Constitution, and identify whether this is an 'urgent' DPL and the reasons, if any, for that designation. And at the same time, they seek to answer the following questions (just to mention a few):

1. Does the DPL begin with a clear and comprehensive explanatory memorandum?
2. Is any Regulation-making authority clearly identified?
3. May the law be retroactively applied?
4. Who will administer the new legislation once it becomes law?

Once passed by the inter-departmental meeting and approved by General Director of the Research Unit, the joint legislative note will be submitted to the Secretary General (or Clerk of the Senate) for final endorsement. Then, the note is to be delivered to the Senate, its leaders, and all the ten commissions.

END

Annexed Template

Aide Memoir Paper

on

Draft or Proposed Law (DPL) on ...

I. Background of DPL Preparation

1. Source of DPL (Who is the author of DPL?)
2. When is Draft Law passed by the Council of Ministers
3. When is Draft or Proposed Law adopted by the National Assembly?
4. When did DPL arrive Senate?
5. When will DPL be endorsed by Senate?

II. Rationales for Preparing a DPL

1. Why is this law needed? And is it nationally, regionally, and internationally required?
 - a. Does the DPL raise any implications for Cambodia's obligations under regional treaties or conventions?
 - b. What about obligations to multilateral treaties, conventions, or organizations such as the WTO, or ASEAN ..., ect.?
2. Context of the nation, regional and international arena
3. Theory and practice
4. Scope of DPL (What challenges is DPL intended to solve)

III. Features of DPL

1. Main contents of DPL

- a. Type of law (whether it is private or public law)
 - b. Legislative format of DPL
 - c. Legislative substance of DPL
2. Legitimate principles of DPL (Is DPL in conformity with the Constitution and existing laws?)
3. Principles of rule of law
 - a. Does the DPL provide for yearly reports to Parliament on its administration and operation?
 - b. May the law be retroactively applied?
 - c. What compliance costs are likely to be borne by citizens or businesses that are governed by the new law?
 - d. What is the probable impact of DPL on different parts of community—in particular, women, families, the poor, small businesses?

IV. Process of law implementation

1. Public information and education issues
 - a. How will the public and affected people learn about the terms and impact of DPL?
 - b. Have funds been set aside for public information and education programs?
 - c. Do officials, judges, and other authorities need to be better acquainted with (made aware of) the terms of DPL and questions of both administration and interpretation?
2. Law enforcement
 - a. Who will administer this new legislation when it becomes law?

Does the DPL provide for the creation of regulations to enforce law implementation?

V. Impact analysis

1. Cost, benefit, social and environmental analysis
2. Employ Key Steps of Gender Analysis

3. Cost and benefit analysis of the DPL for local (sub-national) government.