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The NGO Forum on Cambodia

A Legal and Policy Framework Review on Public Participation in Public Financial Management in Cambodia



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Phnom Penh
April 2019

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Printed Date: April 2019

Published by: The NGO Forum on Cambodia

National Development Policy Program

National Budget Project

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ACKNOWLEDMENT

The consultant team is grateful to the following individuals and institutions for their support, without which the report could have not been produced.

First, appreciation goes to the leadership and staff of the NGO Forum on Cambodia including Dr. Tek Vannara, the Executive Director, Mr. Ouk Vannara, the Deputy Executive Director, Mr. Sun Youra, National Development Policy Program Manager, Ms. Uch Sovannalay, National Budget Project Coordinator, and Ms. Ros Saem, National Development Policy Program Assistant, who have supported the team throughout the research process and offered useful inputs and feedback for the study.

Second, the team owes gratitude to a number of government officials, various staff of (International) Non-Governmental Organizations, a United Nations body, other development partners, and experts on Public Financial Management reform and sub-national democratic development for their useful technical inputs, information, documents, and advice to the research. Thanks also go to the people and local authority of a commune in Kandal Province for their inputs and opinions.

Third, we are thankful to the CSO Budget Working Group and Mr. Javier Castillo-Alvarez, attaché for aid effectiveness, budget support and public finance management of the Delegation of the European Union to the Kingdom of Cambodia for their useful comments and suggestions to the penultimate draft report.

Finally, the team is indebted to the relevant state institutions for providing us invaluable comments, technical expertise, and feedback. The institutions include the Ministry of Economy and Finance, the Secretariat General of Public Financial Management Reform Program Steering Committee, and the National Audit Authority.

LIST OF ACRONYMS AND ABBREVIATIONS

ASEAN	Association of Southeast Asian Nations
ABI	Alternative Budget Initiative
BPA	Budget Partnership Agreement
COA	Commission on Audit
CDP	Commune/Sangkat Development Plan
CGAU	Central Government Agency Unit
CIP	Commune Investment Programme
CPA	Citizen's Participatory Audit
CSO	Civil Society Organization
DBM	Department of Budget and Management
DIP	District Investment Programme
GIFT	Global Initiative for Fiscal Transparency
GSPFMPRSC	General Secretariat of Public Financial Management Program Reform Steering Committee
GPB	Grassroots Participatory Budget
FMIS	Financial Management Information System
IBP	International Budget Partnership
ICT	Information Communication Technology
IP3	Three-Year Implementation Plan
LPRAT	Local Poverty Reduction Action Teams
MDG	Millennium Development Goals
M&E	Monitoring and Evaluation
MEF	Ministry of Economy and Finance
NA	National Assembly
NAA	National Audit Authority
NCDD	National Committee for Sub-National Democratic Development
NEDA	National Economic and Development Authority
NGO	Non-Governmental Organization
NP-NSDD	National Program for Sub-National Democratic Development
NSDP	National Strategic Development Plan
NDPA	National Development Planning Agency
OBI	Open Budget Index

OBS	Open Budget Survey
PFM	Public Financial Management
PIP	Provincial Investment Programme
PFMRP	Public Financial Management Reform Program
PFSL	Public Finance System Law
PM	Prime Minister
PROCEED	Promoting Citizen Engagement in Democratic Development
PTWGE	Provincial Technical Working Group on Education
RDC	Regional Development Council
RGC	Royal Government of Cambodia
RPJMN	Mid-Term National Development Planning
RS	Rectangular Strategy
SAB	State Audit Board
SAI	Supreme Audit Institution
Sida	Swedish International Development Cooperation Agency
SNA	Sub-National Administration
(Sub)- TWG	(Sub-) Technical Working Group
UNESCO	United Nations Educational, Scientific, and Cultural Organization

EXECUTIVE SUMMARY

Literature has indicated that public participation in public financial management (PFM) has contributed to a more transparent and accountable government, better public service delivery, and better trust between the government and the citizens. While some countries have established legal requirement and practical, accessible mechanisms to enable participation from the public and civil society organizations (CSOs), others have been lagging in providing legal avenues to enhance public participation. Cambodia is one of the countries where reforms, especially to facilitate the participation in decision-making in PFM at the national level, has been slow. The very low score (8 and 4 out of 100 in 2015 and 2017, respectively) it received in the Open Budget Survey (OBS) is a good indication. Results, citations, and responses in the OBS questionnaires confirm that the opportunities for public engagement are limited, and the country scored nil (or at best below average) for almost all the survey items on public participation between 2008-2017. Law and policies governing PFM, especially at the national level, have few stipulations on public participation. This is, however, not to downplay the effort the government has made to improve public participation at the sub-national level and to conduct sporadic consultation at the national level. Indeed, in Cambodia sporadic evidence of active sub-national level CSOs engagement is noted, and more favorable legal and policy frameworks have been established for the sub-national tier as well. Further, there are some good practices of public participation in PFM elsewhere, especially from aspirant countries in the region. All these lessons learnt may present opportunities for Cambodia to improve its effort to engage the public in PFM.

A meaningful, systematic reform towards greater public participation in PFM can start from having a supportive legal and policy framework, which can be used to trigger the participation in a more comprehensive matter. Thus, this review aims (1) to analyze the legal and policy frameworks concerning participation in PFM including the budgetary process, and (2) to identify specific civic space for such participation, including the planning process, budgetary preparation, adoption, and the execution of budget at both national and sub-national levels. The two questions that will guide this research are: (1) to what extent have Cambodia's legal and policy frameworks provided opportunities for public engagement in PFM? and (2) what could be done to enhance potential opportunities for advancing participation in PFM?

The conduct of this research involves three phases as follows: It starts with a review of the existing legal and policy frameworks on public participation in Cambodia and practices in Indonesia and the Philippines. This is followed by consultation meetings with three public institutions dealing with PFM, and then key informant interviews with a number of experts in PFM and Sub-national Administration (SNA). The concept of 'invited participation' advocated by the Global Initiative for Financial Transparency (GIFT) is used to frame the analysis.

The followings are the key findings from the review of Cambodian legal and policy frameworks in relation to public participation in PFM. The Constitution has two generic stipulations on public participation (not related to PFM). The key legislature on PFM (mainly the Law on Public Finance System [LPFS] and Law on Audit) has no stipulations on the participation, either in general terms or in relation to PFM. The Public Audit Standards of the Kingdom of Cambodia contain a few generic stipulations on engagement of professional societies in the audit process. The lack of effort to engage the public in PFM and its reform can

be felt in the key policy documents guiding PFM reform too. While the internal regulations of the National Assembly (NA) and Senate and those of their commissions should be applauded to have some stipulations on public consultation and, for the case of NA, access to information, there is a lack of detailed procedures and established mechanisms to meaningfully and systematically engage the public, especially to provide testimony and inputs to this very important matter, let alone provision of feedbacks on their inputs. The laws and policies on SNA and annual budgeting and policies guiding SNA reform have more generous stipulations on public participation, especially with regard to preparation of the local development plan, investment program, budget proposal, and to a lesser extent, citizens' involvement in implementation monitoring and evaluation (M&E). A number of projects and programs conducted by MoI and NGOs have been implemented to involve the public in formulation of commune/Sangkat investment program, preparation of the annual commune/Sangkat budget, and preparation of performance-based project proposals. However, no mechanisms exist for the public to receive feedback as to whether their inputs are used for budget preparation, monitoring, and auditing – both at the national and local levels.

A number of good lessons can be drawn from experiences in public participation in PFM in Indonesia and especially the Philippines. A caveat is that despite their better score in OBS and public participation in PFM, these two countries, particularly Indonesia, have areas that they still need to improve to better enhance public participation. Two key take-away lessons from Indonesia are the passage of the Act on Access to Information, which enables the public to legally access public information and binds the state institutions (local and national) to disclose public information. The increase in the score on public participation in OBS can be partly explained by the availability and application of this act. Another good experience from Indonesia is the transformation of existing mechanisms to accommodate public participation (at least in the technical aspects of annual planning) in the government's decision-making. The deployment of Musrenbang (Development Forum) for this purpose should be applauded.

More lessons can be taken from the Philippines' experiences. Firstly, despite the lack of laws detailing access to information and public participation in the affair of the state, the constitution and a few other laws do guarantee public participation in generic terms. More importantly, the country has opened up the opportunities for public participation in PFM and improved the provision of feedback on inputs from the public through passage of executive orders and expansion of existing mechanisms to accommodate citizens and CSOs in decision-making of state institutions (central and local). The reliance on the Budget Partnership Agreements (BPA) – a formal partnership between the various departments (i.e. ministries) and government corporations and CSOs at the national level; Local Poverty Reduction Action Teams (LPRATs) – comprising local government agencies and CSOs, and Regional Development Councils (RDCs) in annual budget preparation, implementation monitoring, and feedback is a very good case in point. The Department of Budget and Management (DBM) plays the lead role in this regard and the initiative was gradual in nature (starting as a pilot project) and expanded to cover all departments, government corporations, and local governments.

The legislature and Commission on Audit (COA) have likewise established various mechanisms to ease the participation of the public in their decisions and activities. These include opportunities to provide testimony and inputs in legislative deliberations and inputs into audit programs/process, provision of a summary report of inputs received (legislature and

COA), and involvement in audit investigations. The Philippines and to a lesser extent Indonesia also use new information communication technology (such as websites and social media) to provide public information and engage with the public.

Taking the current status of public participation and legal and policy frameworks of Cambodia into account and drawing some lessons learned from the two neighboring countries, this study provides the following key recommendations for policy consideration to improve public participation in PFM in Cambodia.

1. That the government aims to amend the Law on Public Finance System by 2020 presents a welcoming initiative and opportunity to address shortfalls of the current law regarding public participation. Effort is required to incorporate stipulations on public participation at least throughout the budget cycle in the law. MEF, NA, and the Senate are central actors in taking such amendment initiatives.
2. Cambodia's public participation would benefit from passing the pending draft law on access to information. The Council of Ministers should process the current draft bill further, accordingly.
3. While it is understandable that legal amendments take time, at this stage feasible steps, which could be taken to raise public participation score in the short to medium term, are to strengthen and expand the existing various mechanisms in place. Here are several low-hanging-fruit measures.

At the sub-national level, citizens and CSOs already have legal and policy space to participate in preparation of development planning processes, budget formulation, and to a limited extent in its M&E. Such participatory policies have been implemented in some communes/Sangkats as run by/under MoI and several NGOs. The existing good practices can be adopted and scaled up, accordingly. However, because the Commune Investment Plan (CIP) and budgeting process are practiced in isolation in many cases, a joint prakas between MoI and MEF on guidelines and procedures to streamline public engagement in sub-national budget and CIP preparation may be issued.

4. and 5. A lesson the national level can learn from the sub-national one, as pointed out in Recommendation 3 above, is to utilize the prevailing TWGs, and/or sub-TWGs, and provincial TWGs as mechanisms to expand public participation in budgeting processes. Here are two feasible ideas:

First, MEF could more meaningfully engage citizen representatives and CSOs through the existing TWG on PFM, or any functioning mechanisms that may fit this purpose, throughout the budget cycle and beyond. Understandably, the roles of TWG in MEF are limited to supporting budget formulation, but not budget discussions and decisions. However, with CSOs' engagement, MEF can hear their concerns and priorities, which can be used for the annual budget prioritization. Lessons learned from CSOs' engagement in TWG in MEF regarding budget formulation could be extended to cover public participation in other areas of public finance, be it implementation,

monitoring, and provision of feedback. Other appropriate mechanisms, some of which already exist, could be set up or strengthened respectively to support those new initiatives of public participation. To realize those objectives, MEF may issue a *prakas* or notification on guidelines and procedures for public participation in budget preparation and implementation monitoring.

Second, CSOs may engage with line ministries and provincial line departments through existing structure. Indeed, TWGs, sub-TWGs, the provincial TWGs, and/or other appropriate mechanisms are already operational in the line ministries and their provincial line departments, in which program budgeting is being implemented. With this arrangement, the public and CSOs can engage with the line ministries and concerned provincial line departments, and influence PFM, for example, regarding budget prioritization, early on in the budget process, especially in priority sectors. Going forward, the government, under the initiative of MEF, may issue a sub-decree on guidelines and procedures for public participation in budget preparation and implementation monitoring of the ministries' budget spending and pilot this new initiative with a few key ministries such as the Ministry of Education, Youth and Sport and the Ministry of Health. In addition, the sub-decree may take into consideration the participation of provincial CSOs in the budget preparation and monitoring of the provincial line departments' budget implementation.

6. Cambodia's legislature could utilize public hearings, as practiced in the Philippines and to a lesser extent Indonesia, as a potential means to enhance public participation. In the case of the annual budget, NA and the Senate may consider engaging more proactively and systematically with CSOs and the public even before the arrival of the draft budget bill as practiced in the Philippines, if need be. The Internal Regulation of NA and Senate may be revised, accordingly, to include guidelines and procedures for public participation in their hearings and the feedback mechanisms to the public and CSOs.
7. It is encouraging that NAA is improving its website. Further, Article 29 of the Audit Law establishes that audit reports are deemed 'public documents'; however, at the time of the writing, NAA has not released them to the public. NAA should publicize such reports to ease and encourage wider and deeper public participation. Going forward in the medium term, more efforts should be put enhance other communication means to improve the institution's engagement with the public and CSOs, e.g. to receive inputs for its audit programs and to provide feedback to those inputs. In the longer term, NAA may issue a guideline to enable the public and CSOs to engage in its performance audit, and this can start as a pilot project on a specific sector like education or public health.
8. In Cambodia, Prime Minister Hun Sen has already used his Facebook page to seek and respond to popular complaints and suggestions, and even to modify policies (Vong & Hok, 2018). In fact, almost all Cambodia's state institutions have their own websites and Facebook pages; therefore, other than NAA, line ministries, NA, and the Senate could benefit from using this effective and low-cost ICT tool to invite participation in their work areas at different stages of the budget cycle and possibly in designing and implementing development plans/strategies or service delivery. In this regard, their

websites need update and maintenance and they need to utilize their social media platforms accordingly to engage the public and CSOs.

With the demand for MEF, NAA, NA, and the Senate to be more responsive, especially through the use of (social) media and to engage the public and CSOs in their budget activities, there is a need for capacity building to their staff, especially in the areas of budget transparency promotion, public relations, and use and maintenance of ICT tools. In the short to medium term, each institution may consider to include this training issue in their annual work plans and short-term plans. NGOs and development partners may want to support these institutions in this area.

CHAPTER I: INTRODUCTION TO THE STUDY

1.1 Rationale

Citizens and civil society organizations (CSOs) are supposed to have rights and opportunities to participate in discussion and deliberation over the design and implementation of fiscal policies (GIFT, 2018). Public participation ensures that individuals affected by or intended to benefit from the policies have a voice in the crucial decision affecting their lives. Thus, participation is gradually accepted as tools in enhancing fiscal transparency and accountability in public financial management (PFM), improving fiscal and development outcomes, and bringing about a ‘more democratic, empowered, and enlightened society’. Further, participation has the potential to advance legitimacy of and increase public trust in the government (ibid, Capistrano, 2017, Marchessault, n.d.).

In Cambodia, the Open Budget Surveys (OBS) consistently show that the level of public participation in PFM has been very limited since the first survey in 2008. A potential approach to understand this shortcoming is to examine the country’s institutional set-ups, especially its legal and policy frameworks on the participation in PFM. To what extent have they provided opportunities for public engagement in PFM? And what could be done to enhance potential opportunities for advancing participation in PFM? This report attempts to answer these two questions.

1.2 Study Objectives

The study attempts (1) to analyze the legal and policy frameworks concerning public participation in PFM including the budgetary process, and (2) to identify specific civic space for public participation in PFM comprising the planning process, budgetary preparation, adoption, and the execution of budget at both national and sub-national levels.

1.3 Research Methodology

The conduct of this research is divided into three phases:

(1) A review of existing laws and policies on PFM in Cambodia, and of good practices of public participation in PFM in Cambodia and the region

The first step was a review of relevant (budget) laws, a range of royal decrees, ministerial *prakas*, guidelines, decisions, and the like, and policies of Cambodia (Table 01), especially with regard to the participation in PFM at both the national and sub-national levels. The second step was to look into ostensibly current practices of participation at the sub-national level. These practices can inform practices of the participation in PFM at the national level. The third step was an examination of good practices in PFM from the Philippines and Indonesia, the two top scorers among countries of the Association for Southeast Asian Nations (ASEAN).

The Philippines and Indonesia are chosen for their better performance in public participation as well as overall score for budget transparency in PFM and their good practices

in selected areas that may be adopted in Cambodia. The Philippines was amongst the first countries to join OBS in 2006 and one in which the government was the main driver in initiating PFM reform, including promotion of public participation. In the past decades, the country has maintained the slot as the top scorer in ASEAN and has improved its performance over the years. Intriguingly, according to the Global Initiative for Fiscal Transparency (GIFT), public participation in the budget process in the Philippines represents one of the world's best cases along with a few advanced democracies (Petrie, 2018). Like the Philippines, yet to much lesser degree, Indonesia has taken some steps to improve its budget transparency and public participation in PFM since it joined the survey in the same year of 2006. The country has generally maintained the second (or sometimes third) place amongst ASEAN countries. Together with the Philippines, it has scored much better than Cambodia. In this context, it is important to explore what the respective state (mainly the executive, legislature and supreme audit institution [SAI]) has done to promote the public participation.

(2) Consultation meetings with selected state institutions dealing with PFM

The second phase involved consultation meetings with three related institutions and committee, namely, the 1) Ministry of Economy and Finance (MEF), 2) General Secretariat of PFM Program Reform Steering Committee (GSPFMPRSC) (located in MEF), and 3) National Audit Authority (NAA). Effort was made to reach three other state institutions through coordination by the NGO Forum on Cambodia, but it was not successful or timely. The institutions were 1) the National Committee for Sub-national Democratic Development (NCDD), 2) the 2nd Commission of the National Assembly on Economy, Finance, Banking and Audit, and 3) the 2nd Commission of the Senate. The purposes of the meeting included: (1) presenting key preliminary findings, good practices, and initial recommendations from the draft report; (2) seeking feedback on the findings and recommendations and more importantly exploration of other potential entry points for the participation in PFM, and (3) building awareness of good practices and promotion of buy-in from the stakeholders to enhance opportunities for the participation.

(3) Interviews with Concerned Experts

The third phase was to conduct 1) key informant interviews with fourteen technical experts and NGO staff who have engaged with PFM, budget work, education, water resources management, rural development, and sub-national administration (SNA) reform, and 2) interviews with a number of citizens and local officials in one commune. The interviews were to assist in confirming or refuting the preliminary findings.

1.4 The Concept of Participation

Public participation in the affair of the state and in PFM in particular is very important in improving public accountability, transparency, public trust in the government, citizens' empowerment, and government's legitimacy (Baimyrzaeva, & Kose, 2014; de Renzio & Kroth, 2011; GIFT 2018; Capristano, 2017; Sopanah, 2012). Public participation in PFM refers to "the variety of ways in which citizens and non-state actors interact directly in public discussion and deliberation with state entities (governments, legislatures, SAI) on fiscal policy design and

implementation” and its monitoring and evaluation (M&E) (GIFT, 2018, p. 81).¹ It refers to not only public engagement in the annual budget cycle but also participation in other fiscal aspects such as (1) policy reviews around revenue and expenditure, and (2) participation in the process of designing and delivering public services and public investment projects. To ensure transparency and meaningful participation, it also involves the government’s provision of feedback to the public and CSOs about how and whether or not their inputs are used to improve PFM. Participation comprises of two forms: ‘invited participation’ and ‘invented participation’ (ibid).

Invited participation means engagement initiated by state entities such as MEF, line ministries or SNAs, which may seek public inputs during budget preparation. The legislature may invite citizens and CSOs to review draft budget laws, or SAI may involve them in their audit programs or work (ibid). These are just a few examples of invited participation.

Invented participation means engagement between state and non-state actors, which is initiated by the latter. In this case, non-state actors lead the engagement process and state actors may significantly or barely involve or not involve at all. A good example is OBI conducted by the civil society every two years from 2006 (ibid).

Both types of participation involve different approaches and are complementary. It may include face-to-face interaction or physical deliberation, or written forms of communication via the Internet, or a combination of both. Further, relationship ranges from one-off public consultation where state actors invite feedback for the draft budget to sustained institutionalized relationships. Moreover, participation may potentially involve ‘participatory budgeting’ in which the citizens can decide and vote on how a specific line of budget is spent (ibid; de Renzio & Kroth, 2011).

This report pays particular attention to invited participation, scrutinizing the degree to which relevant legal and policy frameworks, as well as potential non- or partially codified mechanisms that enable the public and CSOs to engage in PFM, authorize state actors, namely the executive, legislature, and SAI to engage citizens and CSOs in PFM. Such public engagement covers budget preparation, adoption, monitoring of implementation, state entities’ provision of feedback to inputs offered by citizens and CSOs, and oversight (Baimyrzaeva, & Kose, 2014; OBI 2017, Marchessault, n.d.). This framework is also used to analyze and draw lessons learned from the Philippines and Indonesia.

1.5 Limitations of the Study

Despite the effort to make the report as comprehensive and nuanced as possible, there are still limitations. First, the report would have benefited extensively if the team had a chance to meet with all the concerned institutions as planned to seek clarification and their inputs to the study. In spite of the continuous effort to coordinate such a meeting from the NGO Forum on Cambodia, the research team did not manage to meet with three of the institutions. The

¹ For some other definitions, see, for example, Sopanah, A. (2012). Ceremonial Budgeting: Public Participation in Development Planning at an Indonesian Local Government Authority. *Journal of Applied Management Accounting Research*, 10(2), 73.

conclusions are thus drawn from the data and information the team managed to collect and lessons from the Philippines and Indonesia.

Second, given the limited time and resources, the report focuses on only two ASEAN countries as a comparator. This study may benefit from a more exhaustive regional and/or global comparison. However, it should be of note that the two countries selected are the best scorers in ASEAN.

Third, this study was originally designed as a ‘legal review’, and hence it has the main limitations that apply to such a desk-review study. The research team, however, were able to conduct fairly extensive key informant interviews with experts in PFM and SNA as well as a brief visit to one commune to supplement and verify the findings. The research also benefits from (un)published documents shared by some informants and state institutions.

Fourth, the study only looks into ‘invited participation’ and does not touch on the ‘invented participation’, again given the original design of the study. The quality of invited participation may associate with the quality of the invented participation and the ability and possibilities of CSOs and the citizens to work collectively. And these points are not addressed in the report, but this was partially addressed in a previous research study commissioned by the NGO Forum on Cambodia in 2017 (see Chan, 2017). The research assessed the capacity, potential, and limitations of NGO’s Budget Working Group (BWG) members and other concerned civil society actors at the national and provincial levels in participating in budgeting work with state institutions to enhance budget accountability and transparency.

Finally, to a large extent, the concept of participation adopted in OBS and GIFT, which is used to guide this study, can be very ambitious for such a developing country as Cambodia. This scope of the study does not include critiques of the framework of public participation adopted in OBS and GIFT. Nor do the adoption of the framework and highlight of OBS and GIFT suggests that the framework and OBS are the only appropriate tools to guide the participation or the assessment of PFM, respectively.

1.6 An Overview of PFM Reform Achievements and Invited Participation in Cambodia

Since Cambodia participated in OBS in 2008, there has been significant progress in making more budget documents available to the public as shown in the snapshot below. Importantly, MEF is planning to amend the 2008 Public Finance System Law (PFSL), and there is potential that public participation can be incorporated into the amendment². Besides, other amendable PFM reform achievements include strengthened tax revenue administration, more credible and accountable budget, making finance documents available via mobile applications, adoption of program budgeting nationwide, increase in revenue collection and significant increase in budget to priority sectors, installation of Financial Management Information System (FMIS), and timely release of audit reports (see GSPFMRPSC, 2018). According to its medium term and latest work plans, MEF is committed to improving its assessment performance in OBS and this has been included in its current work plan.³ As discussed later, the legal and policy reform towards greater public participation in the general affair of the local government has been rather remarkable.

² Interview 12, DP, January 18, 2019.

³ “Action Plan to Improve OBS Score”.

Some effort exists to involve CSOs in PFM. Some initiatives to involve CSOs with the executive in PFM are involvement of CSOs as observers in the Technical Working Group (TWG) on PFM and the other is to invite them to participate in a meeting on draft budget proposal before it is sent the Council of Ministers. Mechanisms for them to involve in PFM in line ministries are virtually absent, although mechanisms for their engagement with ‘technical work’ such as through the respective TWGs in some ministries exist. According to OBS reports, NAA has quite a strong oversight capacity, yet there was no public participation in its work. However, conversation with NAA indicates that recently some ad hoc mechanisms exist for public engagement. It is explained that people who want to lodge a complaint can do so via submission to the Administration Office, via email or even Facebook posts (to NAA page or that of the Prime Minister [PM]).⁴ A working group of six people was assigned to follow the Facebook page of the PM to spot any posts from Facebook users related to NAA. NAA has been updating its website and considering to develop a complaint section. Since 2018, NAA began to conduct performance audit of five public projects, and such audit are reportedly involved collecting information from the public service users. The performance audit reports are not made available to the public via its website (at the time of the writing), however. Public’s involvement in the other two types of audit – financial audit and compliance audit – does not exist⁵. As for the involvement with the National Assembly, it is reported that CSOs are invited to participate in a meeting conducted by Commission 2 on the draft budget law when it summons the government to clarify the draft.

Table 01: Public Availability of Budget Documents from 2008 to 2017

Document	2008	2010	2012	2015	2017
Pre-Budget Statement	●	●	●	●	●
Executive’s Budget Proposal	●	●	●	●	●
Enacted Budget	●	●	●	●	●
Citizens Budget	●	●	●	●	●
In-Year Reports	●	●	●	●	●
Mid-Year Review	●	●	●	●	●
Year-End Report	●	●	●	●	●
Audit Report	●	●	●	●	●

● Available to the public ● Not produced
 ● Published Late, or Not Published Online, or Produced for Internal Use Only

IBP. (2017a). *Open Budget Index*.

⁴ It received no complaints from the public and CSOs in 2018. Consultative meeting 01 with representatives of NAA, January 15, 2019.

⁵ For a good argument for citizens’ participation in audit process and investigation, see Baimyrzaeva, M., & Kose, H. O. (2014). The Role of Supreme Audit Institutions in Improving Citizen Participation in Governance. *International Public Management Review*, 15(2).

However, despite the overall progress in PFM reform and the few opportunities for the public and CSOs to engage in PFM, public participation in PFM in Cambodia has been consistently low. The participation is, nevertheless, a ‘new phenomenon’ globally (Marchessault, n.d., p. 2). As an illustration, it received the score of 8 out of 100 in 2015 and 4 in 2017 for public participation (IBP, 2015a; IBP, 2017a). Numerical score was unavailable for previous surveys; however, the survey summary reports indicate that opportunities for the participation were few, and an overview of the questionnaires confirms that participation was limited and the country got a score of nil for almost all items on public engagement (IBP, 2008a; IBP, 2010a; IBP, 2012a; IBP, 2008d; IBP, 2010d; IBP, 2012d; IBP, 2015d; IBP, 2017d). While the results show that the level of participation declined from 8 in 2015 to 4 in 2017, this report treats the level of participation as low rather than deteriorating. That is because the methodology used to conduct the 2017 OBS differs greatly from the 2015 one—the principles of participation applied in 2015 OBS are less much comprehensive than the 2017 version (GIFT, 2018). Partly because of the new methodological approach, the global average participation score decreased from 25 in 2015 to merely 12 in 2017. That means the average score in individual countries including Cambodia dropped too.

1.7 Structure of the Report

The study is organized as follows. First, it analyzes the legal and policy frameworks on public participation in general and in relation to PFM and budget processes. Where appropriate, reference is made to existing research on the actual public participation. Second, it discusses good practices and challenging issues of the Philippines and Indonesia. Finally, it concludes with lessons learned and recommendations drawn from the study.

CHAPTER II: LEGAL AND POLICY FRAMEWORKS ON PUBLIC PARTICIPATION IN CAMBODIA

This section examines participation in laws and policies related to PFM and major development policies such as the Rectangular Strategy whose mandate may cover public participation in budgeting at various levels. The finding section will follow.

Table 02: Public Participation as Reflected in Related Laws, Policies, and Other Documents

In this table, a tick means a law/policy/document mentions public participation at a particular stage of the budgeting process; a cross suggests public participation is not articulated, and NA notes that a specific document is related to public finance at large or the overall objectives of the study, but not directly relevant to any of or all the stages of public participation under examination.

Title	Budget Preparation	Budget Adoption	Implementation Monitoring	Feedback to Citizens' Inputs	Oversight	Remarks
National Level						
Constitution (2008)	×	×	×	×	×	Participation is mentioned in generic terms.
Internal Regulations of National Assembly and Senate (2014)	NA	×	×	×	×	Several platforms are available for public participation, but detailed procedures do not exist.
Public Finance System Law (2008)	×	×	×	×	×	No provisions on public participation throughout the four stages of budget cycle.
Audit Law (2000)	NA	NA	×	×	×	No provisions on public participation.
Public Audit Standard of Kingdom of Cambodia (2011)	NA	NA	√	×	√	Public participation is mentioned. NAA sees the usefulness of inputs from concerned research institutions and involvement of professional societies, which are a part of civil society (Section 3.9.2).
Law on Public Procurement (2012)	NA	NA	×	NA	NA	Citizens can participate during opening of tenders (Art 44).
Anti-Corruption Law (2010)	NA	NA	NA	NA	×	This law does not cover public finance but contains provisions for ensuring good performance in PFM (Article 2).
Law on Access to Information (draft)	NA	NA	NA	NA	NA	This law adopts public participation as a tool to promote public transparency and accountability (Article 1, 2, 6).
Rectangular Strategy (RS) (Phase I: 2004; Phase II: 2008 Phase III: 2013; Phase IV: 2018)	NA	NA	NA	NA	NA	Public participation is used to enhance good governance and to achieve more equitable development.

Public Financial Management Reform Program (PFMRP) (2004 & 2008)	NA	NA	NA	NA	NA	PFMRP document (2004): The term participation is mentioned only once. PFMRP document (2008): Public participation is not mentioned.
NSDP (Updates: 2014-2018)	NA	NA	NA	NA	NA	Public participation is not mentioned in sections on public finance.
Decision on Establishment of Steering Committee of PFMRP (2007)	NA	NA	NA	NA	NA	It is unclear if civil society and private sector representatives may only observe, or could make demand, or raise concerns.
Budget System Reform Strategy (2017) (2017-2025) (draft) ⁶	NA	NA	NA	NA	NA	Public participation is not mentioned.
Sub-National Level						
Law on Administrative Management of Capital, Provinces, Municipalities, Districts and Khans (2008)	×	×	×	×	NA	The council has to consult citizens during the process of formulation and implementation of development plan (Art 38). However, there are no provisions on public participation in budgeting process (Article 245).
Law on Financial Regime and Property Management of Sub-National Administrations (2011)	×	×	×	×	NA	Public feedbacks are collected for proposed budget package (Art 35). In Part 4 on execution of sub-national administrations' budget, comprising 9 articles (37-46), public participation is not mentioned.
National Program for Sub-National Democratic Development (NP-SNDD) (2010)	NA	NA	NA	NA	NA	Public participation is central in NP-SNDD (program objectives and Annex 3)
Three-Year Implementation Plan (IP3), (Phases I, II, and III of NP-SNDD) Latest: IP3-III: 2018-2020	NA	NA	NA	NA	NA	Participation by citizens, and by extension, civil society, is central in IP3 Phases I, II, and III.
Decentralization & De-concentration Strategic Framework (2005)	NA	NA	NA	NA	NA	Public participation is central in the framework.
Technical document on meetings of capital, provincial, district, and Khan councils (2012)	NA	NA	NA	NA	NA	Public participation is taken into consideration in general activities of capital, provincial, district, and Khan councils.

⁶ The European Union's (EU's) Results Framework (2019), an agreement between MEF and the EU on projects the latter's supports, does not cover public participation. It focuses mainly on public disclosure, accountability and transparency

Sub-Decree on Roles, Responsibilities, and District Councils and Boards of Governors (2009)	NA	NA	NA	NA	NA	Public participation is taken into consideration (Articles 9, 65, 121, 50, 107, and 168).
Sub-decree on Financial Management System of Municipalities and Districts (2012)	√	√	√	×	NA	Public participation is mentioned in budget preparation stage (Articles 15, 16), and implementation process (Article 59).
Guideline on the Preparation, Adoption, Implementation of District/Municipality Fund (2013)	√	√	×	×	NA	Public participation occurs during budget preparation and adoption (Sections B.5, B.7), but not during budget implementation.
Law on Commune/Sangkat Administrative Management (2001)	×	×	×	×	NA	Public participation is mandatory in preparation of Commune/Sangkat development plan, but it is not mentioned during budget preparation, adoption, and implementation.
Sub-Decree on Commune/Sangkat Financial Management System (2002)	√	√	√	×	NA	Public participation is mentioned in budget formulation (Articles 11, 12, 13) and budget implementation (Articles 29, 59).
Sub-Decree on Commune/Sangkat Fund (2002)	√	√	√	×	NA	Participation is articulated in terms of preparation, approval, and implementation (Article 17).
Joint Ministerial Prakas on Guideline for Preparation and Implementation of Commune/Sangkat Budget (2002)	√	√	×	×	NA	Public participation is mainstreamed throughout budget formulation and adoption process (Sections 2, 3, 4), but not during implementation.
Joint Ministerial Prakas on Guidelines for Preparation and Production of 3 Year Rolling CIP (2016)	NA	NA	NA	NA	NA	Public participation is articulated in preparation phase of CIP
Joint Ministerial Prakas on Guideline for Preparation and Production of 3 Year Rolling DIP (2016)	NA	NA	NA	NA	NA	Public participation is articulated in preparation phase of DIP
Joint Ministerial Prakas on Guideline for Preparation and Production of 3 Year Rolling PIP (2016)	NA	NA	NA	NA	NA	Public participation is articulated in preparation phase of PIP
Sub-decree on Preparation and Operation of Sub-national Investment Fund (2016)	×	×	√	×	NA	Citizens in respective councils' jurisdiction have full rights to monitor sub-national administrations' implementation of investment projects (Article 35).

Decision on Implementation of Guidelines on Annual Performance Assessment of District Administration (2017)	√	√	×	×	NA	One criterion for assessing performance of district administration is to include public participation in preparation of district annual budget and DIP.
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2.1. National Level

General Related Legal and Policy Frameworks: As reflected in Table 02, Cambodia's core laws and policies overall unevenly include public participation in managing the affair of the state. Articles 35 and 51 of the Cambodia's constitution state that Khmer citizens are the masters of the country, thereby could exercise full rights to participate in the country's political, economic, social, and political spheres. Thus, the Khmer citizens' concerns and requests must be seriously considered and resolved by state institutions. The constitution clearly has provisions on public participation; however, participation is presented in a generic term, not related to PFM and budgeting.

The related draft law on access to information has clear provisions on public participation and access to government information, but it is yet to be enacted. With support from The Swedish International Development Cooperation Agency (Sida) via The United Nations Educational, Scientific and Cultural Organization (UNESCO), a TWG co-chaired by UNESCO and the Ministry of Information was tasked to draft the bill. It completed the draft in 2018 and submitted it to the Council of Ministers pending further legal process. Three articles are highly relevant. Article 1 states, "The purpose of this law is to ensure the public's right to and freedom of access to information". The extended objectives (Article 2) are "to ensure public participation in political, economic, social, and cultural affairs of the nation, as described in article 35 of the Constitution of the Kingdom of Cambodia, and to encourage public institutions to fulfill their duties with good quality, effectiveness, transparency, and accountability." In line with the global principle, the draft law (Article 6) encourages, "All public institutions shall abide by the principle of maximum disclosure".

The Rectangular Strategy (RS), the overarching political platform guiding the National Strategic Development Plan (NSDP) throughout its development from 2004 to 2023, provides that wide participation is a crucial tool in fighting corruption, advancing good governance and more equitable development. For example, a main strategy to reform the public administration as stipulated in the latest RS is to encourage 'people's participation in the process of development as well as formulation and implementation of various policies'. The strategy is also committed to 'strengthening and expanding public disclosure of updated information on public services, legal documents and national policy documents,' encouraging public participation in the process of formulation and implementation of various policies, promoting mechanisms to receive feedback and handling complaints with the possibility to use ICT to support such implementation, and strengthening effectiveness of inspection and audit mechanisms (RGC, 2018, 13).

Nevertheless, public participation in PFM is not mentioned. NSDP 2019-2023 is yet to pass at the time of the review; however, NSDP 2014-2018 presents public participation widely across varied sections ranging from fighting corruption to promoting rural development, but participation is not raised in the section on public finance. Generally in NDSP, participation is encouraged in the 'technical aspects', but not related to budgeting of investment programs.

Legal and Policy Frameworks on PFM and Budgeting: The Law on Public Finance System (LPFS) (1998, revised in 2008) and the Law on Audit (2000), the two major laws governing

PFM, have no particular provisions on public engagement by citizens and CSOs in public finance and budget processes. Explicitly, public participation is excluded in all stages of the budget cycle (formulation, approval, execution, and oversight) as guided in these laws. The Public Audit Standards (2011), which governs operation of its audit work, permits NAA to collaborate with advanced relevant research institutions and professional societies, which are a form of selected civil society. Besides, there are virtually no existing permanent mechanisms or policy instruments set up for or by NAA to invite citizens and civil society to lodge their complaints, provide inputs to its audit programs and investigation, and to be provided with feedback of their inputs. The Law on Public Procurement has only one article (Article 44) related to stakeholders' participation: "All submitted tenders shall be opened publicly and immediately following the set deadline."

The PFM Reform Program (PFMRP) (2004) states lightly (just once) that participation by CSOs is necessary to achieve the program's overall objectives. However, the 2008 PFMRP does not incorporate public participation at all. Further, the Decision on Establishment of the Steering Committee of PFMRP (2007) gives opportunities for CSOs to serve as a member or an observer as decided by the committee. The latest draft Budget System Reform Strategy (2017-2025), which will be relied upon to guide the latest phase of PFM reforms, offers no provisions on public participation. This is because the next phase of PFM reform will reportedly focus on social accountability and performance-based budgeting.

The Internal Regulations of the National Assembly (NA) issued in 2014 details the procedures and operations of the institution. Amongst others, it stipulates deliberations on draft bills and bill proposals, meeting agenda, special regulation on the national budget and budget for NA, inquiry to and response from the government, expression of opinions, and rules on deliberation. There are no provisions on detailed procedures for public participation in general and in relation to hearings on the national budget proposal, implementation and monitoring, audit hearings, nor mechanisms on provision of feedback to the public (NA, 2014a). Some generic provisions on public participation exist. Provision 7, for instance, tasked the Permanent Commission 'to review and deal with suggestions from the citizens with delicacy.' Provision 12 allows '[e]ach commission to propose to the President of NA to appoint experts who are not parliamentarians to work in the commission. The experts have no decision rights in the affair of the commission.' The Secretariat of the Assembly is tasked to take care of all the 'minutes and other documents' and can provide to 'the public and parliamentarians these minutes and documents, which shall be done via a request. Release of secret minutes and documents need approval of the President.' Provision 47 requires that 'the meetings of NA be done in public.' Provision 64 states, 'In principle, the President may allow the public to attend meetings in a meeting hall in accordance with seats available.' Overall, there are only a few provisions, with no procedural details, on access to information, participation in the affair of the assembly, and public attendance in public hearings.

The Decision on Roles and Responsibilities of 2nd Commission on Economy, Finance, Banking, and Audit (NA, 2014b) also has some stipulations on public participation. It indicates that the commission may 'participate in and organize public workshops or consultation meetings with national and international organizations and CSOs and other stakeholders.' It may collaborate with relevant national and international partnerships, CSOs, and the private sector. It may encourage active participation from the public in various forums in order to respond to their need and legal interest. It is tasked to review relevant requests and suggestions

from the public to submit to relevant ministries to consider and resolve via a request from the President. Like the internal regulation of NA, the decision lacks any procedural details on public participation, let alone provision of feedback.

The Senate (2014) has its internal regulation and it covers all key issues like those of the NA's. This regulation has no detailed procedures for public participation in the hearings, has even fewer stipulations on public participation, and no provision on access to information from and feedback to the public. Three provisions on participation are as follows. Provision 18 enables each commission to 'invite government representatives, dignitaries, experts or civil society representatives to provide opinions on various issues.' Like the NA commissions, the senate's commissions can propose appointment of experts to assist their work too. Provision 42 indicates, 'Meetings of the senate [except for meetings deemed secret] shall be done in public and broadcast on the national TV and radio.' The limited opportunities for public participation in the affair and meetings of the NA and senate are confirmed by the OBI questionnaires, which indicate that there were no mechanisms for the participation in the deliberations of the annual budget proposals and other finance-related issues conducted by the National Assembly and Senate.

Overall, at the national level, public participation, as stated in various laws, regulations, and major development policies, is a tool to broadly promote good governance and equitable, social, economic, and political development. However, specifically on PFM and budgeting, the related laws and policy frameworks provide very limited and unclearly defined opportunities for public participation, indicating that chances for public participation as provided by the executive, legislature, and NAA are ostensibly narrow.

2.1. Sub-National Level

At the sub-national level, public participation is featured more prominently than at the national level in general activities and budgeting processes, although some limitations exist. Government officials, experts, and NGOs working on SNA agree that sub-national laws and policies are generally 'designed to be participatory'⁷.

General Related Legal and Policy Frameworks: Laws and policies at the sub-national level establish prominent provisions and mechanisms for public participation in the following manners. First, they make public participation mandatory in the process of formulation and implementation of development and investment plans—the council at the respective Capital, Province, Municipality, District/Khan, and commune/Sangkat levels has to consult with citizens within its jurisdiction. In other words, legally citizens have rights to participate in the design and implementation of development plans, and more importantly in monitoring the work performance of the councils. The policies that state public participation most noticeably are the National Program for Sub-National Democratic Development (NP-SNDD), the Three Year Implementation (IP3), the implementation tool of NP-SNDD, and the Guidelines on Preparation and Production of CIP, DIP, and PIP (see details in Table 02).

⁷ Interview 08, NGO, January 17, 2019; Interview 11, DP, January 14, 2019.

Second, several concrete measures are established to institutionalize public participation. For instance, NP-SNDD in its Annex 3 lists some working mechanisms to involve citizens and CSOs in their sub-national councils' work. Other detailed measures of public participation range from participating in council meetings in which citizens, vulnerable groups, and political party members could ask questions, provide feedback to councils' work, raise concerns and issues, and make demands to those councils, to even communicate and work in those sub-national councils and boards.

Legal and Policy Frameworks on Budgeting: Even though all the sub-national laws and policies are not fully consistent in their provisions on public participation in budgeting processes, several of them streamline public participation explicitly in budget preparation, approval, and implementation. For instance, the Sub-decree on commune/Sangkat Financial Management System, Sub-Decree on Commune/Sangkat Fund, and Sub-decree on Financial Management System of Municipalities and Districts offer such provisions (see Table 02 for details). An issue is those legal frameworks have no provisions on the sub-national councils' feedback to inputs obtained from citizens and CSOs. In other words, there are apparently no existing mechanisms to inform them about whether or not and why their inputs in the budget preparation, approval, and implementation stages are incorporated into the proposed budget package.

Practices of Public Participation at the Sub-National Level:

While the laws and policies aim to legalize and systematize the practices of public participation in local development and sub-national PFM, the actual practices lack behind and vary significantly from one location/context to another.

General public participation in civil, developmental, and political activities at the sub-national level is uneven at best. As for quantity of public participation, while there is no consensus among related studies, there is some indication of local citizens participating in village and commune/Sangkat meetings. For instance, a survey of 2,121 citizens in three provinces of Battambang, Kampong Chhnang, and Pursat showed that up to 74% of citizens engaged in local meetings in 2010 (Kang and Liv 2011). In addition, there is anecdotal evidence of regular meetings between provincial TWGs on education (PTWGE) and provincial NGOs in Battambang and Kampong Cham, for instance.

In terms of quality of public participation, extensive literature shows that it has generally been poor. It is found that many citizens who attend local meetings do not speak, or attend local meetings to receive snacks and gifts, or that village and commune chiefs dominate discussions, leaving little room for citizens to contribute opinions and inputs (Heng, Kim, & So, 2011; Kang & Liv, 2011; Plummer & Tritt, 2012; Thon, Ou, Eng, & Ly, 2009). Other studies show that general public participation was high at the beginning of the decentralization reform (from 2002) but the participatory momentum has faded away over time; that is partly because local authorities have inadequate resources to fulfill promises (such as to build local infrastructure) and have little power to resolve conflicts (such as over land and natural sources) (Kim & Öjendal, 2007). Our fieldwork to a commune in Kandal province confirms the low quality of participation. A caution here is that while the low quality of public participation is mainly determined by the sub-national democratic reform, other factors such as poor livelihood of some rural population, indebtedness, rise of social media as a new means for public

engagement, migration⁸, and change in political environment may have contributed to poor public participation.

On budgeting: While the sub-national legal and policy frameworks create space for public participation in the budget process (budget preparation and M&E), varied related research and assessments available and opinions of some experts and practitioners illuminate that the practices of such public participation are quite limited and varied (e.g. depending on availability of external support), and SNA’s feedback to inputs provided by citizens and civil society does not exist.

However, there has been anecdotal evidence documented by an NGO⁹ and a United Nations agency¹⁰ that public participation in Commune Investment Program (CIP) has improved in some locations yet similar progress is not noted at the upper levels, namely district/municipality and provinces/capital. Progress in public engagement at the commune/Sangkat tier is seen in the preparation and approval of CIP and annual Commune/Sangkat budget—at various degree, citizens participate in commune/Sangkat councils’ process of preparing and adopting CIP and their budget.

Table 03: Commune/Sangkat Budget Calendar (for the fiscal year “n”):

	Tasks	Official in Charge	Timeframe
1	Draft budget	C/S Chief	July – 15 October Year (n-1)
2	Draft budget disclosed to public	C/S Chief	No later than 15 October (n-1)
3	Adoption of draft budget	C/S Council	Not later than 31 October (n-1)
4	Submission of draft budget to provincial/capital governor	C/S Chief	5 November (n-1)
5	Approval of draft budget	Provincial/Capital governor	No later than 30 November
6	Budget implementation	C/S Chief	January – December (n)
7	Budget amendment (if any)	C/S Chief and C/S Council+ Approval by Provincial/Capital governor	June-July (n)
8	Budget closing	C/S Chief and C/S Council+ Approval by Provincial/Capital Governor	January-March (n+1)

Source: (MEF 2002).

The progress in public participation in CIP and commune budget preparation/adoption still requires fine-tuning—while commune/Sangkat is ideally supposed to develop and approve

⁸ Interview 01, PFM, January 07, 2019.

⁹ Interview 08, NGO, January 17, 2019.

¹⁰ Interview 11, DP, January 14, 2019.

CIP before the preparation and adoption of the annual Commune/Sangkat budget, the practices vary: in some communes/Sangkats, preparation of CIP is conducted before the approval of the budget, in other cases, it is prepared simultaneously along with the budget, and for the rest of the cases, the budget is approved even before CIP is prepared. Obviously, the commune/Sangkat budget could be prepared, adopted, and implemented following a calendar guided by MEF (see table 03); however, a similar calendar is not produced for the conduct of CIP¹¹. Besides, according to the Budget Working Group, the inconsistency in the practice can be explained by the novelty of the Joint Ministerial Prakas on Guidelines for Preparation and Production of 3 Year Rolling CIP, which was just implemented in 2018, and hence its smoother implementation will require further guidance and support.

Likewise, the Promoting Citizen Engagement in Democratic Development (PROCEED) project implemented from 2016 to 2018 by Pact Cambodia has produced some positive outcomes in its target communes/Sangkat in terms of enhanced understanding of roles, rights, and responsibilities of the demand side of governance (citizens) and the supply side (commune/Sangkat and district/municipality), and the subsequent improved citizens' engagement¹² with authorities at the two levels.¹³ Such progress is not found in other localities where PROCEED or other similar projects are not available.¹⁴ The next section examines the cases of public participation in Indonesia and the Philippines.

¹¹ There is no universal standard calendar across all communes/Sangkats for developing CIP. Commune/Sangkat development planning calendar is set by individual province—each provincial administration (planning and investment division) sets the calendar for all communes in its own province to follow.

¹² Interview 08, NGO, January 17, 2019.

¹³ Within this NP-SNDD (2010-2019)'s framework, Social Accountability Framework (SAF) was set up; one of the SAF's objectives is facilitating engagement of state and non-state actors in social accountability process. The Social Accountability Framework Implementation Plan (I-SAF), carried out between 2015 and 2017, was assessed by the World Bank (2018). However, overall the level and quality of public participation did not grow following the implementation of I-SAF, according to the assessment. Therefore, I-SAF's lessons learned are not documented in this report.

¹⁴ Interview 08, NGO, January 17, 2019.

CHAPTER III: BETTER AND BEST PRACTICES OF PARTICIPATION IN PUBLIC FINANCE AND BUDGET PROCESS IN INDONESIA AND THE PHILIPPINES

3.1 Precaution on the cross-country comparison

The sole intention of the comparison is to explore ‘good practices’ as well as key issues of public participation in PFM, which Indonesia and the Philippines face, so as to draw implications to inform and improve public participation in Cambodia. A caveat is that these two countries may have, in broad terms, different political, economic and social systems and structures, which may make the adoption of some of their practices in Cambodia a challenge. In Indonesia, for instance, severe natural catastrophes and the need to accommodate the local elites’ interest to end civil conflicts have facilitated local participation in the affair of the government, although public participation in PFM still needs to be greatly improved (Ahmed and Weiser, 2006; Kristiansen, et al., 2008; Sopanah, 2012). In the Philippines, at least four related factors facilitated the PFM reforms since early 2000s: (1) President Aquino’s election political platform on anti-corruption and transparency, (2) his appointment of a reform-minded Secretary for Budget and Management, who had former experience in the NGO sector and who was ready to embrace participation from CSOs in the budget reform, (3) the government’s commitment to improving performance in OBS, and (4) the Philippines being a founding member of the Open Budget Partnership Initiatives (Capistrano, 2017; Magno, 2015; Marchessault, n.d). This said, Cambodia can certainly learn a lot from their experiences to improve public participation and the survey performance.

3.2 Survey results on public participation in Cambodia, Indonesia and the Philippines

Before exploring the practices in Indonesia and the Philippines, it is important to get an overall picture of public participation in PFM in these two countries and Cambodia, through the analysis of their performance in OBS. The Philippines and Indonesia (Table 04) had outperformed Cambodia in providing opportunities for participation to their citizens and CSOs throughout the budget cycle and beyond.

Table 04 shows that Cambodia’s overall performance on public participation is the lowest, while the other countries performed much better. Whereas the score on public participation is unavailable for the first four surveys, the results in the last two indicate that the other two countries have outperformed Cambodia to a large extent. The Philippines, in particular, had performed well, especially in the past three surveys. In 2012 and 2015, it provided ‘moderate’ and adequate opportunities. In 2017, it provided ‘limited’ opportunities (adequate for SAI).¹⁵

¹⁵ However, were the 2015 methodology used in 2017, it would have rated to provide adequate opportunities.

Table 04: Score on Overall Performance and Public Participation in Cambodia, Indonesia and the Philippines

	Cambodia			Indonesia			Philippines		
Year	Overall Score	Participation Score	Remarks on Participation	Overall Score	Participation Score	Remarks on Participation	Overall Score	Participation Score	Remarks on Participation
2006	-	-		41	(N/A)		51	(N/A)	
2008	11	(N/A)		54	(N/A)		48	(N/A)	
2010	15	(N/A)		51	(N/A)		55	(N/A)	
2012	15	(weak)		62	(weak)	(with overall participation score below 34)	48	(moderate)*	(with score between 34-66)
2015	8	8	Overall = weak; E=weak; L=no; A=weak	59	35	Overall = weak; E=weak; L=limited; A=limited	64	67	Overall = adequate; E=adequate, L=limited, A=limited
2017	20	4	Overall = weak; E=few (6); L=few (0); A=few (0)	64	22	Overall = few; E=few (8); L= few (18); A= limited (56)	67	41	Overall = limited; E=limited (42), L=few (8), A=adequate (78)

Source: Compiled by authors from Open Budget Indexes and Open Budget Surveys for Cambodia, Indonesia and the Philippines (2006-2017).

NB: Few = 0-40, limited = 41-60, adequate = 61-100; weak = 0-33 moderate = 34-66, high = 67-100; E = executive, L = legislature, A = audit authority

Overall, findings from the analysis of all surveys indicate that the three countries still need to provide more opportunities to their citizens and CSOs to participate in the budget preparation and implementation monitoring throughout the budget cycle. Nevertheless, amongst the three, Cambodia has persistently provided the least opportunities – almost none – to its citizens and CSOs to participate in PFM activities of all branches of the state and thus got a score of zero for a majority of the questions. Indonesia, albeit receiving a score of zero (poorly) for some questions, scored better than Cambodia in some other questions (mostly average or below). The Philippines initially got an average or below average score on many items in the first two surveys. However, unlike Cambodia and Indonesia, it had continued to improve its performance steadily and drastically especially since the Aquino's administration, receiving full or above average score on a majority of the questions, in later surveys. The score for the audit authority had especially seen the most remarkable progress.

3.3 The Philippines and Indonesia: Reforms towards Greater Public Participation – Progress and Issues

The section to follow examines key reform measures towards greater public participation in Indonesia and the Philippines. It looks into the key areas in the participation (achievements and remaining issues) covered in OBS with regards to the executive, legislature, and SAI.

Indonesia

The Executive

Three points Indonesia did quite well were the enactment of the law on access to information, establishment of ‘practical and accessible mechanisms to identify public’s perspectives on budget priorities’, and the number of topics covered in the engagement during budget preparation. All other points need significant improvement.

A good practice from Indonesia is the legal requirement for, actual access to, and release of government information. It scored poorly on this item in the first two surveys and got an average score on the legal requirement and actual practice in 2010, the last time this point was assessed. However, the Act on Access to Information mandates government agencies to release public information and codifies citizens’ rights to access such information. The Act was passed in 2008, pending implementation by all levels of the governments from 2010. In practice, except for in 2006, in the subsequent surveys, it was rated to provide partial access to financial and non-financial information of the national budget in disaggregated form (for programs covering less than 2/3 of expenditures). Some hurdles in access to public information, especially financial, existed (IBP, 2010e; Kristiansen, et al., 2008), yet access to ‘such information is available...and relatively easy to access’ (IBP, 2006e).

Besides, it did quite well in the establishment of ‘practical and accessible mechanisms to identify public’s perspectives on budget priorities’ and the number of topics covered in the engagement during budget preparation. Indonesia scored above average in these two regards. This was especially the case since 2015; before then it scored poorly. Still, while some mechanisms existed, they were not widely used by the public, and only around half of the important topics for engagement identified in the surveys were covered. Before 2015, the public only engaged in preparation of the Mid-Term National Development Planning (RPJMN) through the Deliberation Forum for Development Planning (Musrenbang), which was used to guide annual spending priorities through RKP [annual development plan] (IBP, 2012e) rather than engaged throughout the annual budget process itself.

While there had never been any codified requirement to engage the public and CSOs in the budget process, especially at the national level, in practice, mechanisms existed for their participation, particularly in the last few years. The participation opportunities had been evolutionary, and existing mechanisms were expanded to accommodate the engagement. Musrenbang managed by the National Development Planning Agency (NDPA) was tasked to conduct long, medium and ‘annual work plans’. Preparation of the annual budget plan is divided into two stages: development of the ‘technical’ plan (annual work plan) under Provincial and National Musrenbang, which handled the development planning from the sub-national to national levels, and budgeting of the plan under collaboration between NDPA and MEF, before tabling the plan for enactment by the parliament. Initially, preparation of the annual work plan was the sole affair of the state, with no legal requirement on public engagement or actual engagement (IBP, 2006e; IBP, 2008e). From 2008, the government gradually opened the forum to participation from ‘invited’ segments of the public (including universities) and CSOs, at every level of the government (from village to national levels). The legal basis for the engagement was codified in Law 25/2004 (IBP, 2008e). Over the years, more

and more segments of the public and CSOs had been invited to participate in deliberations of national priorities.

One concern about the mechanism was that participation of the public and CSOs was not very active and the platform was still dominated by the government and ‘ceremonial’ (Ahmed and Weiser, 2006; IBP, 2015e; Kristiansen, et al., 2008; Sopanah, 2012). Besides, the engagement opportunities were not widely disseminated. A bigger critique was that while the government had opened up the space for engagement in the ‘technical’ aspects of the planning, the budgeting of the plans was still done without their participation, creating ‘a broken link of public engagement’ (IBP, 2015e). Together with the selective participation, this formed the basis for Indonesia to receive above or below average score on public engagement in the executive’s PFM activities.

The country still needs to address other areas which it had serious shortcomings, including: legal requirement for public participation in budget preparation and implementation monitoring, articulation of purposes for engagement and provision of prior information, pinning down engagement in the budget preparation calendar, and engagement of marginalized groups. It scored poorly in these areas. Public participation in budget execution (e.g. capturing of the public’s perspectives on the budget) and budget implementation of line ministries were other areas requiring significant improvement as well. Some ad hoc mechanisms existed for budget monitoring, yet well-organized mechanisms and legal requirement were absent. The “LIPOR” application hosted by the Presidential Office is an example. People can send in their opinions, including budget execution, via the application. Its usage, nevertheless, is still limited (IBP, 2017e).

To ensure transparency and benefit of the public participation, the survey assessed if the executive provides feedback on how inputs from the public are used for budget formulation and implementation since 2012. The country overall scored poorly on this. It had never provided such feedback. The only year it issued a brief report describing the consultation process and a summary of results from the budget preparation consultation was 2014.

The Legislature

In the section on public participation in decision of the legislature (mainly legislative committees), OBSs focused on participation by the executive and public in public hearings conducted by the legislature on the macroeconomic and fiscal framework, individual budget of central government agency units (CGAUs), and in the last survey audit reports and whether it released reports or provided feedback of the hearings to the public. The Indonesian legislature generally scored below average on all four points, although some nuances are worth highlighting below.

From 2012, the legislature began to open up some space for the engagement of the public and CSOs and got some score (below average) for this point. The legislative committees held separate hearings with the executive and the public on individual budget of some CGAUs. In the former, the public was not invited to testify, but in the latter some invited CSO representatives (and concerned CGAUs) were invited to testify or provide inputs to the deliberations. Participation existed but was not open for everyone, and whether the meeting was closed or open was at the discretion of the committees. The participation was only later codified, with reservations. The Law on Legislative Institutions instructed that the public can

attend the meeting or join from a live broadcast, but testimony is not allowed, and only a few invited people can provide inputs (IBP, 2017e).¹⁶

Since 2012, the legislative committees that held public hearings often released reports on the hearings. However, shortcomings included: release of a summary rather than detailed reports; reports for only open hearings, and reports not easily located on the website (of www.dpr.go.id). They never provided feedbacks on how the inputs were used to improve the budget plans. Thus, the legislature generally scored poorly on provision of the feedback.

The Audit Authority

The focus on engagement with and of the audit authority has changed to a large extent over the years. However, generally the four key areas were: whether mechanisms for the State Audit Board (SAB) to receive inputs into its audit programs/process existed, whether the public can get involved in audit investigations, whether SAB provides feedback on the inputs it receives, and whether it maintains mechanisms to disseminate its audit findings.

Except for involvement in audit investigations, which SAB scored poorly given that it did not involve the public in its investigations, there had been good progress for the other three areas. To receive inputs for its audit programs/process, SAB maintained a website, including a complaint section (<http://www.bpk.go.id/formpage/complaints/>) and another section for suggestion of issues and topics for its audit programs. It had an Information and Communication Center in Jakarta (as mandated by the Act on Access to Information), where the public can make complaints or suggestions in person. From 2014, SAB issued feedback reports, although their quality had been ‘inconsistent’ and lack some important details (IBP, 2017e). Hence, generally Indonesia had consistently received full score on mechanisms to disseminate its audit reports beyond making them publicly available. SAB had some mechanisms and outreach activities to disseminate audit results. Besides releasing comprehensive audit reports regularly, these included the website and Information and Communication Center (through which the public can inquire about audit investigations and reports); and publication of press releases, bulletins and magazines.

The Philippines

The Executive

The executive generally performed well in a majority of other areas, namely legal requirement for public participation in PFM; articulation of engagement purposes and provision of prior information; putting the engagement into the budget preparation calendar; establishment of practical and accessible mechanisms to identify the public’s perspective on budget priorities during budget preparation and implementation monitoring; public engagement with line ministries in budget preparation and implementation; and engagement of marginalized groups in the budget process (except for implementation).

The Philippines does not have an Act on Access to Information. However, access to and release of public information are guaranteed in other laws. The 1987 Constitution granted the

¹⁶ Indonesia scored poorly on participation in legislative hearings in the first two surveys. The public was not allowed to attend nor provide testimonies. They were never invited to attend hearings on the macroeconomic framework nor provided inputs to hearings on audit reports too.

right to citizens to access government information and to be informed on matters of public interest. Besides, the Act on Code of Conduct and Ethical Standards for Public Officials and Employees requires that they make public documents available within 15 days. Despite the absence of the act, it managed to have the public participate in its decision to a large extent and generally received full score on access to information. Citizens can obtain financial and non-financial information on expenditure for individual programs in a highly disaggregated format from an absolute majority of government agencies.

Unlike Indonesia, the Philippines scored exceptionally well (full or above average score) in almost all the years with regard to public participation with the executive, namely legal requirement for participation, articulation of engagement purposes and provision of prior information, putting the engagement into the budget preparation calendar, establishment of practical and accessible mechanisms to identify the public's perspective on budget priorities, and engagement of marginalized groups in the budget process (except for implementation).

Some notes are worth highlighting. First, the legal requirement is codified to a large extent. It is broadly guaranteed in the Constitution. Besides, in 2012 the Department of Budget and Management (DBM) encouraged government agencies at the national and sub-national levels to engage citizens and CSOs in their budget preparation –via issuance of the National Budget Memorandum on Guidelines on Partnership with CSOs and other Stakeholders in Preparation of Agency Budget Proposals¹⁷ and Joint Memorandum Circular on Policy Guidelines and Procedures in the Implementation of the Grassroots Participatory Budget (GPB) Process¹⁸, respectively (IBP, 2012f). This practice was piloted with 6 departments (i.e. ministries) and 3 government corporations in 2012, while others were encouraged to engage citizens and CSOs on the voluntary basis. It has been codified each year with issuance of the memoranda and rolled out to all government agencies and corporations. The engagement in budget execution is covered by the National Budget Circular on Guidelines on Partnership with CSOs and Other Stakeholders in Execution of the Agency Budget and National Budget Memorandum on Guidelines for Implementation and Monitoring of Grassroots Participatory Budgeting Projects¹⁹. These guidelines are executive orders, not a law.²⁰

Second, the purposes of engagement are clearly and timely articulated; however, the number of topics covered is quite limited. The invitation letter from DBM not only outlines purposes but also instructions on how to participate, and this letter is posted on its website prior to the meetings too. Some agencies have entered into formal agreements with selected CSOs

¹⁷ For a sample memorandum, see <https://www.dbm.gov.ph/wp-content/uploads/Issuances/2012/National%20Budget%20Circular/NBC536/NBC536.pdf> and <https://www.dbm.gov.ph/wp-content/uploads/Issuances/2019/National-Budget-Memorandum/NBM-No-131-26Feb2019.pdf> as of March 20, 2019.

¹⁸ For a sample joint memorandum, see <https://www.dbm.gov.ph/index.php?pid=8&xid=28&id=38&page=#2012> as of March 20, 2019.

¹⁹ For a sample memorandum, see <http://omcrs.nia.gov.ph/?q=content/mc-2014-014> as of March 20, 2019.

²⁰ In mid-2018, the House of Senate initiated an 'Act Institutionalizing People's Participation in the Budget Process, Appropriating Funds thereof, and for Other Purposes'. The bill is currently pending committee's review. For the draft bill, see <http://www.senate.gov.ph/lisdata/2778424053!.pdf> as of January 23, 2019.

and such a Budget Partnership Agreement (BPA)²¹ outlines the objectives, coverage, and roles and responsibilities of the agency and CSOs, prior to actual consultations (IBP, 2012f). The shortcoming of the current mechanism is that discussion does not cover all six key budget-related topics: i.e. only social spending and public investment projects in the BPAs and monitoring meetings. Other participation mechanisms in the budget process organized by DBM include the People's Budget Forum, CSO Briefing, and Open Government Partnership Platform, and prior to such consultation meetings, the purposes and scope of the meetings are notified. The government has created an enabling environment for citizens and CSOs to participate through virtual modes too, e.g. via the establishment of and engagement via the OpenBuB Portal (www.openbub.gov.ph) for budget implementation and monitoring.²²

Until 2010, the Philippines scored poorly on involvement of the public and CSOs in its budget preparation, implementation and monitoring. Before then, the consultation with some of them covered only general development issues, for instance, through participation in the National Economic and Development Authority (NEDA) and on program thrusts (except budgeting) of some departments (OBI, 2010). *The participation had been deepened and systematized with the introduction of a few policy guidelines above.* Amongst others, through BPA, CSOs and other stakeholders had participated in determining annual budget priorities of central government agencies. Government agencies also have hotlines and websites wherein citizens may send in comments, questions and suggestions, and social media platforms which are open to the public. Through the Guidelines and Procedures on GPB Process, local CSOs and other stakeholders, including local business associations and representatives of marginalized groups, were not only consulted on budget priorities but could also decide on the budget proposals. GPB required the creation of Local Poverty Reduction Action Teams (LPRAT) to identify local priority projects, which would be integrated into relevant central government agencies and government corporations. LPRATs comprised of equal number of government representatives and elected CSO representatives, with one of them sitting as the co-chair. These CSO representatives had a vote in identifying priority projects on LPRATs. The budget proposals of regional agency offices and government corporations then needed the endorsement of the respective Regional Development Councils (RDCs), 25% of whose members came from the private sector, before they submitted the proposals to the central agencies.²³ In submission of the budget proposal to DBM, each central agency and corporation was required to consolidate and submit to DBM a budget preparation form which contains reports of inputs, recommendations and feedbacks from the local and national CSOs it had consulted.

The Philippines scored above average on public participation in budget execution and monitoring, including identifying public's perspectives in budget execution, topics discussed with them and provision of prior information before the meetings, and implementation monitoring. Generally, the main mechanisms used for budget preparation were also used for

²¹ For a sample agreement, see <http://www.nia.gov.ph/?q=budget-partnership-agreement> or http://philssa.org.ph/wp-content/uploads/2013/09/BPA_PHILSSA-2013-2015.pdf as of March 20, 2019.

²² For other and details of these initiatives to improve transparency and participation, see Magno, F. A. (2015). *Public Participation and Fiscal Transparency in the Philippines*. The Global Initiative for Fiscal Transparency.

²³ For more information about RDCs, see <http://caraga.neda.gov.ph/regional-development-council/composition-2/> as of December 22, 2018.

budget execution and monitoring, and these include BPAs, RDCs and LPRATs. For example, government agencies that entered into BPA with CSOs were required to provide information to the latter to help them produce ‘evidence-based’ evaluation of the projects and programs. Under the Executive Order No. 325 on Reorganization of RDCs, the councils were tasked to coordinate monitoring and evaluation of development projects. Under GPB, CSOs could take part in monitoring and review of the implementation of the approved budget under LPRATs. The websites, hotlines, and social media mentioned above serve budget execution and monitoring purposes too. DBM had taken other initiatives to enable the public to scrutinize the budget implementation and monitoring. An example was the requirement for all government departments and agencies to post key basic information about their projects and programs on their websites, per the 2011 General Appropriation Act, and non-compliance may result in project/program suspension (IBP, 2012f). The OpenBuB portal also allowed the public to monitor and provide comments on the implementation of active projects. Despite the progress over the years, some issues included lack of a systematic codified mechanism for public participation; limited participation of marginalized groups in budget implementation and monitoring; and irregular meetings of LPRATs (IBP, 2012f, IBP, 2017f, Capistrano, 2017, Magno, 2015).

Many ministries used participation mechanisms that allow the public to provide inputs in their budget formulation and implementation too. An example was the CheckMySchool Program, a collaboration between the Department of Education and the Affiliated Network for Social Accountability in East Asia and the Pacific Foundation Inc., which allowed citizens to participate in monitoring budget implementation for school improvement projects (IBP, 2017f). Another example was the collaboration to monitor textbook procurement, which had resulted in shorter delivery times, better quality textbooks, and elimination of ‘ghost deliveries’ (Merchessault, n.d., p. 15).

Provision of feedbacks on inputs which state agencies received from the public and CSOs is an area that it needs some improvement. While the country scored high on public engagement in budget preparation, implementation, and monitoring, *its score on provision of feedbacks on how inputs from the public were used for budget formulation and execution was below average in 2012 and 2015 and nil in 2017.* In the first two surveys, it only issued a summary of the results from the consultation without adequate details and issued nothing in the last survey. The National Budget Memorandum required that the government agencies and corporations provide partner CSOs with results of the consultations immediately after the submission of the budget proposals to DBM and produced a document entitled “Summary of RDCs/CSOs Feedback on Agency Ongoing Programs and Projects”. Besides, DBM may also conduct separate focus group discussions or ‘rapid reviews’ with the agencies and CSOs to discuss the results of the consultations and effectiveness of the mechanisms (IBP, 2012f). A related issue was that CSOs with no national networks may not receive feedback from the agencies and LPRATs may not receive reports on how their inputs were used (IBP, 2015f).

The Legislature

Opportunities for the public to participate in legislative hearings had been relatively more limited. The only two areas the country had done well were the public hearings on the macroeconomic and fiscal framework, in which the public was given some opportunities to attend, and the hearings on the individual budget of CGAUs in which the executive testified.

Public participation in the hearings on individual budget of CGAUs and the audit reports and provision of comprehensive feedbacks on the hearings were three areas that need significant improvement.

The Filipino legislature generally provided rather wide opportunities for the public and CSOs to participate in hearings on the macroeconomic and fiscal framework. Except for 2008, when it got a score of below average for the legislative hearings on the macroeconomic and fiscal framework in which testimony from the executive and public, the score for other years were good: full score for 2006 and above average for 2010, 2012, 2015. The inability to get full score was because the public was allowed to participate in the hearings but was not provided the opportunities to enter into discussion or testify. Since 2010, the score had increased, partly because of the creation of the Alternative Budget Initiative (ABI), a coalition of CSOs working on the budget. Since its creation, it had advocated for more CSOs' participation in PFM, high social expenditures, and addressing financial issues related to the Millennium Development Goals (MDGs); it had so far made some inroads into budget deliberations in Congress (IBP, 2008f). In 2012 and 2013, for example, a separate hearing was organized by the House Committee on Appropriations where CSOs, including ABI, were allowed to present their alternative budget and views on the macroeconomic assumptions used in the budget proposals (IBP, 2012f; IBP, 2015f).

The legislature had held extensive public hearings on individual budget of CGAUs in which the executive testified. On this count, it had received full score in all surveys. Such sessions were broadcast extensively in local media too. In some sessions, CSOs were allowed to participate as observers.

A controversial issue was the participation of the public and CSOs in such hearings. It had generally scored rather low on this count, as the public testimony had been consistently low. It got a score of zero in the first two surveys. The score had only slightly improved since 2010, partly because of the advocacy from ABI as briefly discussed above. 2010 was the only year when it scored above average, mainly because of the opportunities for CSOs to present the alternative budget proposal. In all subsequent surveys, its score on this question had been deteriorated (below average), mainly because of the limited opportunities for CSOs to testify and ask questions.

In 2017, the survey asked about legislative hearings and/or use other participation mechanisms on the audit report in which the public were allowed to provide inputs during the deliberations. The country scored poorly on this item as the committee did not organize any hearings on the report where the public or CSOs were asked to testify.

The legislature generally scored poorly (nil) when it comes to providing feedback to the public on the hearings via issuing a comprehensive report as no such reports had ever been issued. In 2015, the House Appropriations Committee and the Senate Finance Committee produced a summary of deliberation results and the Congress issued a report on the proceedings of the budget hearings (IBP, 2015f). As a general practice, the chairman of each committee conducted press conferences or media interviews on the proceedings of hearings. These mechanisms, however, failed to provide comprehensive information on the hearings. Additional information such as committee reports, journals or official transcripts may be accessible upon request, although the response was usually 'very late' (IBP, 2015f).

The Audit Authority

Two areas the Commission on Audit (COA) had done well were maintaining formal communication mechanisms to receive inputs for its audit programs/process and involvement of CSOs in its performance audit investigations. Two other areas need significant improvement: mechanisms to make audit reports widely available beyond making them available to the public and provision of feedbacks on inputs from the public on their complaints.

The Philippines had maintained formal communication mechanisms to receive inputs for its audit programs or process. And hence, it had received either full score or above average on this point (not full mainly because some mechanisms were not widely used by the public). On the website of COA, there was a Fraud Alert section, an email address and a hotline for the public to communicate with the commission, including lodging complaints or providing suggestions. It had Citizens' Desk (<https://pis.coa.gov.ph>), whose function included receiving complaints. The inputs had been used to determine its audit programs.

Unlike Indonesia, *the Philippines provided opportunities for the public to engage in its audit investigations. It scored fully on this point.* Mechanisms for the public and CSOs to engage in performance audit investigations existed and they were used widely by CSOs in a pilot project started in 2012. Fraud alert and audit requests could be done via the Fraud Audit Office or Citizens' Desk in person or on the website. The State Audit Code of the Philippines makes no mention of public participation in audit investigations. However, through the Citizen's Participatory Audit (CPA) Guidelines, the public and CSOs were able to partake in the audit process, including the performance audit investigations. Through this program, they could partner with COA to form special audit teams to audit selected government projects.²⁴ Reporting fraud cases and volunteering to be citizen auditors can be done via i-Kwenta.com. Between 2012-15, three participatory audits were conducted (IBP, 2015f; Magno, 2015).

The score on mechanisms to disseminate the audit reports beyond making them publicly available had varied over the years. In the first three surveys, which measured only whether the report was released, it was reported that the report was published but it 'lacks important details'. On this count, it got below average score. Since 2012, the question slightly changed to whether there were other mechanisms to disseminate the results, leading to poor score (zero) in 2012. Yet, the country received full score in 2015, the last year when this question appeared, mainly because of the rare press briefing to discuss a Special Audit Report on the fraudulent transactions in the use of pork barrel funds in 2013 (IBP, 2015f). There is a Public Information Office, but there were no formal mechanisms to ensure that the public would be aware of the audit findings. The most COA had been doing was to present audit findings in public events or press conferences (IBP, 2012f).

The point it had done poorly is the provision of 'formal, detailed feedback to the public' on how their inputs were used for audit programs. It got score of below average (2012, 2017) and nil (2015). The feedback from COA, which lacks details, had changed over time. In 2012, it only provided a summary of the fraud complaints on "Fraud Alert". In 2015, this feature was changed to Public Information System (<http://pis.coa.gov.ph/pis/view.php>), and citizens wanting to receive information on audit or non-audit related concerns could create a ticket to

²⁴ For the audit reports, see <https://www.coa.gov.ph/index.php/reports/citizen-participatory-audit-reports> as of January 17, 2019.

receive information and view the status of their concern or complaint. In 2017, it did not produce a list of the inputs received, but for audit conducted under the CPA mechanism it provided a written CPA report that included inputs received from citizens and a detailed account of how they were used to determine its audit program.

CHAPTER IV: CONCLUSION AND POTENTIAL WAYS FORWARD

Public participation in PFM (including budgeting) is believed to be a right, but Cambodia's public participation in these respects has been narrow. However, this is not to downplay the effort of the concerned state institutions in improving access to information, transparency and public participation in their respective activities and PFM in particular. The intention of MEF to improve OBS assessment performance is also laudable. This report first aims to review related laws and policy frameworks at the national and sub-national levels to unpack the extent to which and how the concerned regulations permit participation in PFM and budgeting. Second, the study seeks to identify practical ways forward as informed by this review.

Cambodia's relevant legal and policy frameworks provide few detailed provisions on public participation at the national level in PFM. However, regulation at the sub-national level offers some opportunities and mechanisms for citizens and CSOs to engage in the preparation, adoption, implementation, and monitoring. Given the limitations in Cambodia's legal and policy frameworks, Cambodia's executive body, legislature, NAA, line ministries, and SNAs should consider a number of suggestions below, the implementation of which may raise Cambodia's public participation in PFM and budget processes. A caveat should be reiterated: The following recommendations to improve the opportunities for invited participation in Cambodia, summarized in Table 05 and explained in the ensuing sections, are informed collectively by the existing findings from the legal and policy review, the consultation meetings and key informant interviews the research team conducted, and the desk review of practices in the Philippines and Indonesia, with all the limitations discussed in the introduction chapter. In this section, short term refers to a period from now until the next five years, and medium term or longer from six to 10 years.

Table 05: Key Actions to be Taken to Improve Public Participation in PFM

No	Action	Lead Institution	When
1	Amend Law on Public Finance System	MEF or NA	Short term
2	Pass Law on Access to Information	CoM and NA	Short term
3	Synchronize practice of CIP and annual commune/Sangkat budget preparation and re-enforce practice of public participation in sub-national PFM	MoI and MEF	Short to medium term
4	Issue a <i>prakas</i> or notification on guidelines and procedures for public participation in budget preparation and implementation monitoring for MEF	MEF	Medium term
5	Issue a sub-decree on guidelines and procedures for public participation in budget preparation and implementation monitoring of selected line ministries	MEF and CoM (in collaboration with line ministries)	Short to medium term

6	Revise internal regulations of NA and Senate to include guidelines and procedures for public participation and feedback mechanisms	NA and Senate	Short term
7	Involve the public and CSOs in its performance audit investigations through a pilot project	NAA (in collaboration with relevant CSOs)	Medium to long term
8	Update and maintain websites and proactively use social media platforms and hotlines to engage the public and CSOs in budget-related activities	MEF, NA, Senate, NAA (and selected line ministries)	Short to medium term

1. That the government aims to amend the Law on Public Finance System by 2020 is a well-intentioned initiative and opportunity, and effort is required to incorporate stipulation on public participation at least throughout the budget cycle in the law. The Philippines is a perfect example that has continuously gained full or above average score for participation because the country's regulations have provisions on public participation, and are practiced, accordingly. MEF, NA, and the Senate are central actors in taking such amendment initiatives.²⁵
2. Cambodia's public participation would benefit from passing the pending draft law on access to information as Indonesia's score of public participation has risen following the enactment of a similar bill. The Council of Ministers should process the draft bill further, accordingly.
3. While it is understandable that legal amendments take time, at this stage feasible steps, which could be taken to raise public participation score in the short to medium terms, are to strengthen and expand the existing various mechanisms in place. Indonesia and the Philippines have used such workable mechanisms to enhance public participation. Here are several low-hanging-fruit measures.

At the sub-national level, citizens and CSOs already have legal and policy space to participate in preparation of development planning processes, budget formulation and to a limited extent in its M&E. Some implementation of such participatory policies have emerged in some communes/Sangkats as run by/under MoI and several NGOs. The good example is public participation in preparation of CIP and commune budgeting in some localities. The requirement for public participation in the formulation of project proposals for sub-national investment facilities (at the district level) is another good intention of the government to engage the public service users in managing the budget through the use of performance-based funding. The existing good practices can be

²⁵ Some countries include public participation in their public finance laws and lessons can be drawn from them (see de Renzio & Kroth, 2011). According to MEF, the upcoming amendment will focus mainly on social accountability and performance-based budgeting. Should public participation be not covered in the forthcoming reform, another option may be to pass a decree on public participation in PFM as practiced in the Philippines, which has recently drafted an act for this purpose, sometime in the future.

adopted and scaled up, accordingly. However, because CIP and budgeting process are practiced in isolation in many cases, a joint *prakas* between MoI and MEF on guidelines and procedures to streamline public engagement in sub-national budget and CIP preparation may be issued. Further support and guidance to the sub-national administration in the implementation of new guidelines and regulations are needed.

4. and 5. A lesson the national level can learn from the sub-national one, as pointed out in Recommendation 3 above, is to utilize the prevailing TWGs, and/or sub-TWGs, and provincial TWGs as mechanisms to expand public participation in budgeting processes. Here are two feasible ideas:

First, MEF could more meaningfully engage citizen representatives and CSOs through the existing TWG on PFM, or any functioning mechanisms that may fit this purpose, throughout the budget cycle and beyond. Understandably, the roles of TWG in MEF are limited to supporting budget formulation, but not budget discussions and decisions. However, with CSOs' engagement, MEF can hear their concerns and priorities, which can be used for the annual budget prioritization. Lessons learned from CSOs' engagement in TWG in MEF regarding budget formulation could be extended to cover public participation in other areas of public finance, be it implementation, monitoring, and provision of feedback. Other appropriate mechanisms, some of which already exist, could be set up or strengthened respectively to support those new initiatives of public participation. To realize those objectives, MEF may issue a *prakas* or notification on guidelines and procedures for public participation in budget preparation and implementation monitoring.

Second, CSOs may engage with line ministries and provincial line departments through existing structure. Indeed, TWGs, sub-TWGs, the provincial TWGs, and/or other appropriate mechanisms are already operational in the line ministries and their provincial line departments, in which program budgeting is being implemented. With this arrangement, the public and CSOs can engage with the line ministries and concerned provincial line departments, and influence PFM, for example, regarding budget prioritization, early on in the budget process, especially in priority sectors. Going forward, the government, under the initiative of MEF, may issue a sub-decree on guidelines and procedures for public participation in budget preparation and implementation monitoring of the ministries' budget spending and pilot this new initiative with a few key ministries such as the Ministry of Education, Youth and Sport and the Ministry of Health. In addition, the sub-decree may take into consideration the participation of provincial CSOs in the budget preparation and monitoring of the provincial line departments' budget implementation.

6. The legislature of Indonesia and the Philippines have gained higher score following organizing public hearings in which the executive, CSOs, and citizens could engage, provide inputs to their budget oversight work, or even present alternative budgets. Cambodia's legislature could utilize these public hearings as a potential avenue to enhance public participation as well. In the case of the annual budget, NA and the Senate may consider engaging with CSOs and the public even before the arrival of the draft budget law as practiced in the Philippines. In practice, NA is known to have used

less time than the allocated seven weeks for the review and approval of the draft law (RGC, 2015), and hence time for the public engagement still exists and can be used for this purpose. The Internal Regulation of NA and Senate may be revised, accordingly, to include guidelines and procedures for public participation in their hearings and the feedback mechanisms to the public and CSOs. In this regard, the Parliamentary Institute of Cambodia (PIC) can play a significant role in providing NA and the Senate with appropriate information via its research.

7. SAIs of Indonesia and the Philippines have gained higher score by using Information Communication Technology (ICT). The audit authorities in those cases have used their respective websites as well as social media platforms and hotline to seek public complaints and suggestions and provided feedback to the inputs from the public for their audit programs and investigations. In the short to medium term, NAA may consider improving its website and other communication means to improve its engagement with the public and CSOs, e.g. to receive inputs for its audit programs and to provide feedback. In the longer term, NAA may issue a guideline to enable the public and CSOs to engage in its performance audit, and this can start as a pilot project on a specific sector like education or public health.
8. In Cambodia, Prime Minister Hun Sen has already used his Facebook account to seek and respond to complaints and suggestions, and even to modify policies (Vong & Hok, 2018). In fact, almost all Cambodia's state institutions have their own websites and Facebook accounts; therefore, besides NAA, line ministries, NA, and the Senate could benefit from using this effective and low-cost ICT tool to invite participation in their work areas at different stages of the budget cycle and possibly in designing and implementing development plans/strategies or service delivery. In this regard, their websites require update and maintenance and their social media platforms need to be utilized, accordingly, to engage the public and CSOs.

With the need for MEF, NAA, NA, and the Senate to be more responsive, especially through the use of new and social media and to engage the public and CSOs in their budget activities throughout the budget cycle, it is necessary to build capacity of their staff, especially in the areas of budget transparency promotion, public relations, and use and maintenance of ICT tools. In the short to medium term, each institution may consider to include this issue in their annual work plans and short-term plans. NGOs and development partners may want to support these institutions in this area.

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APPENDIXES

1. List of laws and policies reviewed

National level:

- Constitution of Cambodia (1993, amended in 1999)
- Law on Public Finance System (1998, updated in 2008)
- Law on Audit (2000)
- Law on Public Procurement (2012)
- Law on Anti-Corruption (2010)
- Law on Public Procurement (2012)
- Law on Access to Information (draft)
- Internal Regulation of the National Assembly (2014)
- Internal Regulation of the Senate (2014)
- Decision on Roles and Responsibilities of Commission on Economy, Finance, Banking and Audit of the National Assembly (2014)
- Law on Accounting and Auditing (2016)

Sub-Decrees, Policies, and Related Documents:

- Rectangular Strategy (Phases I, II, III, and IV)
- Public Financial Management Reform Program (2004)
- Decision on Establishment of Steering Committee of Public Financial Management Reform Program (2007)
- National Strategic Development Plans: 2006-2010; NSDP Updates: 2009-2013; NSDP Updates: 2014-2018
- Cambodia's Budget System Reform Strategy (2017-2025) (draft)
- Public Audit Standard of the Kingdom of Cambodia (2011)

Sub-national level:

- Law on Provincial and Municipal Budgets and Asset Management Regime (1998)
- Law on Commune/Sangkat Administrative Management (2001)
- Law on Administrative Management of Capital, Provinces, Municipalities, Districts and Khans (2008)
- Law on Financial Regime and Property Management of Sub-National Administrations (2011)

Sub-Decrees, Policies, and Related Documents:

- National Program for Sub-National Democratic Development (NP-SNDD 2010-2019) (approved in 2010)
- Three-Year Implementation Plan (IP3), Phases I, II, and III of NP-SNDD
- Sub-decree on Commune/Sangkat Financial Management System (2002)
- Sub-Decree on the Commune/Sangkat Fund (2001)
- Decentralization and De-concentration Strategic Framework (2005)
- Sub-decree on Roles, Responsibilities, and Communication of Provincial, Municipality, and District Councils, Board of Governors (2009)
- Sub-decree on Financial Management System of Municipalities and Districts (2012)
- Technical document on meetings of capital, provincial, district, and Khan councils (2012)

- Guideline on the Preparation and Implementation of Commune/Sangkat Budget (2002)
- Guideline on the Preparation, Adoption, Implementation of District/Municipality Fund (2013)
- Guideline on the Preparation and Production of 3 Year Rolling Investment Programme for Commune/Sangkat (2016)
- Guideline on the Preparation and Production of 3 Year Rolling Investment Programme for Districts (2016)
- Guideline on the Preparation and Production of 3 Year Rolling Investment Programme for Provinces (2016)

2. Overview of Public Participation in Open Budget Surveys

The results in the surveys are not comparable across the years. Hence, it is practically impossible to present the results (point by point) of the three countries to get the trend of the issue. While the core focus has stayed intact since 2006, survey questions have changed drastically. The questionnaires have been modified three times since then. In the first two versions (2006 and 2008), public participation was not surveyed as a section. It was in 2010 that a ‘public engagement’ section was carved out, and it was revised in 2012 and 2017.

Despite the changes, the core focus has not changed significantly. The section mainly focuses on opportunities for public participation in decision-making on PFM of, release of public information by, and access to information, especially finance-related, from three branches of the state: the executive, legislature, and SAI. What has changed is the weight of the focus – specifically, access to information was downplayed in the last three surveys.

A few points are noteworthy. First, the 2006, 2008 and 2010 surveys focused heavily on public participation in PFM activities of the executive (10 questions, versus 4 questions on the legislature and one or two on SAI). Second, a drastic revision was done in 2012. There was a complete revision on questions on the executive and significant change to questions on SAI. There was a better balance in the number of questions between the three institutions. From 2012, there was an introduction of a ‘chain question’ (in italics in the tables) – i.e. related questions, which can significantly affect the score of subsequent questions. Third, two notable changes in 2015 were the reduction and deletion of questions on the executive and addition of one question on SAI. Fourth, an extensive revision was done in 2017, and this was guided by the principles of public participation developed under GIFT. Like the 2006 survey, it again focused heavily on the executive (11 out of 18 questions). There was almost a complete re-writing of the questions, with heavy use of question chain, focus on the entire process, and inclusion of assessment on consultation with vulnerable and under-represented populations. An overview of this section is below:

2006, 2008 and 2010 Surveys

The table is constructed from questions on public participation in the surveys.

<i>Executive</i>	
1	Publish ‘citizen budget’
2	Publish ‘non-technical definitions of terms’
3	Codify access to government information
4	Obtain financial information on expenditures by individual CGAUs
5	Obtain non-financial information on expenditure by individual CGAUs
6	Release timetable for budget proposal preparation
7	Hold consultations with public on setting budget priorities
8	Release pre-budget statement (when)
9	Release in-year reports on actual expenditure (frequency)
10	Release report on steps taken to address audit findings or recommendations

<i>Legislature (Legislative Committee)</i>	
11	Hold public hearings on macroeconomic and fiscal framework with testimony from executive and public
12	Hold public hearings on individual CGAUs budget with testimony from executive
13	Hold public hearings on individual CGAUs budget with testimony from public
14	Release reports on public hearings
<i>SAI</i>	
15	Maintain formal communication mechanisms for public to engage in audit programs*
16	Release report to track steps taken by executive to address audit recommendations (NAA or legislature)

* The question did not exist in 2006 survey.

2012 Survey

<i>Executive</i>	
1	<i>Provide details in 'citizen budget' [revised]</i>
2	Disseminate 'citizen budget' to public (how) [new]
3	Consider public's priorities in budget information in drafting 'citizen budget' [new]
4	Publish 'citizen budget' throughout budget process (frequency) [new]
5	<i>Formally required to engage public in budget process [new]</i>
6	Timely and clearly articulate purposes of engagement during budget formulation and execution [new]**
7	Establish practical and accessible mechanisms to identify public's perspective on budget priorities [new]
8	Establish practical and accessible mechanism to identify public's perspective on budget execution [new]
9	Provide formal, detailed feedback as to how inputs are used in budget plan development and execution [new]
<i>Legislature (Legislative Committee)</i>	
10	Hold public hearings on macroeconomic and fiscal framework with testimony from executive and public
11	Hold public hearings on individual CGAUs budget with testimony from executive
12	Hold public hearings on individual CGAUs budget with testimony from public
13	Release reports on public hearings
<i>SAI</i>	
14	Maintain formal communication mechanisms for public to engage in audit process [change from program to process]

15	Maintain communication about audit report beyond making it publicly available [new]
16	Provide formal, detailed feedback on how inputs are used for audit programs or in audit reports [new]

** This is broken down into two questions in 2015 survey.

2015 Survey

<i>Executive</i>	
1	Publish ‘non-technical definitions of terms’ [new, recycled]
2	<i>Formally required to engage public in budget preparation and execution [revised]</i>
3	Articulate purposes of engagement and provide enough prior information during budget preparation [slightly revised]
4	Articulate purposes of engagement and provide enough prior information during budget execution [slightly revised]
5	Establish mechanisms to identify public’s perspective on budget priorities
6	Establish practical and accessible mechanisms to identify public’s perspectives on budget execution
7	Provide formal, detailed feedback as to how inputs are used in budget plan development and execution
<i>Legislature (Legislative Committee)</i>	
8	Hold public hearings on macroeconomic and fiscal framework with testimony from executive and public
9	Hold public hearings on individual CGAUs budget with testimony from executive
10	Hold public hearings on individual CGAUs budget with testimony from public
11	Release reports on public hearings
<i>SAI</i>	
12	Maintain formal communication mechanisms for public to engage in audit programs [slight change from process back to program]
13	Maintain formal communication mechanisms through which public can participate in audit investigations [new]
14	Maintain communication about audit report beyond making it publicly available
15	Provide formal, detailed feedback on how inputs are used for audit programs or in audit reports

2017 Survey

<i>Executive</i>	
1	<i>Use participation mechanisms for public to input into annual budget formulation [new]</i>

2	Take concrete steps to include vulnerable and under-represented populations in budget formulation [new]
3	[Number of] topics covered in formulation engagement [new]
4	Provide feedback on how citizens' inputs are used in formulation [new]
5	Participation mechanisms incorporated into timetable for formulating Budget Proposal [new]
6	<i>Use participation mechanisms for public to input in budget implementation monitoring [new]</i>
7	Take concrete steps to receive input from vulnerable and under-represented populations on implementation [new]
8	[Number of] topics covered in implementation engagement [new]
9	Provide comprehensive prior information on engagement process [new]
10	Provide information on how citizens' inputs are used to assist in monitoring implementation [new]
11	Line ministries use participation mechanisms for public to provide input during formulation or implementation [new]
<i>Legislature (Legislative Committee)</i>	
12	Hold hearings and/or use other participation mechanisms for public to provide input during public deliberations on budget formulation [new]
13	[Number of] topics covered in deliberations [new]
14	Provide feedback on how citizens' inputs are used during deliberations [new]
15	Hold hearings and/or use other participation mechanisms for public to provide input during deliberations on Audit Report [new]
<i>SAI</i>	
16	Maintain formal mechanisms for public to suggest issues/topics for audit program [slightly revised]
17	Provide public with feedback on how citizens' inputs are used to determine its audit program [slightly revised, deleted audit reports]
18	Maintain formal mechanisms for public to contribute to audit investigations

3. List of Key Informants and Consulted State Institutions

No		Date of Interview	Interview Code	Number
Informants by Category				
1	PFM specialists/ engaged consultants	January 07, 2019 January 07, 2019 January 09, 2019	Interview 01, PFM, January 07, 2019 Interview 02, PFM, January 07, 2019 Interview 03, PFM, January 09, 2019	3
2	NGO staff	January 11, 2019 January 14, 2019 January 15, 2019 January 15, 2019 January 17, 2019	Interview 04, NGO, January 11, 2019 Interview 05, NGO, January 14, 2019 Interview 06, NGO, January 15, 2019 Interview 07, NGO, January 15, 2019 Interview 08, NGO, January 17, 2019	5
3	Development partners' staff	January 10, 2019 January 14, 2019 January 14, 2019 January 18, 2019	Interview 09, DP, January 10, 2019 Interview 10, DP, January 14, 2019 Interview 11, DP, January 14, 2019 Interview 12, DP, January 18, 2019	4
4	Government Officials	January 10, 2019 January 11, 2019	Interview 13, GO, January 10, 2019 Interview 14, GO, January 11, 2019	2
5	Local citizens	January 10, 2019	Interview 15, LC, January 10, 2019	5
6	Local government officials	January 11, 2019	Interview 16, LGO, January 11, 2019	1
Total				20

Consulted State Institutions				
1	National Audit Authority	January 15, 2019	Consultative meeting 01 with representatives of the National Audit Authority	7
2	Steering Committee of PFMRP, Ministry of Economy and Finance	January 28, 2019	Consultative meeting 02 with representatives of the Steering Committee of PFMRP (MEF) and MEF	8
3	Ministry of Economy and Finance			



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The NGO Forum on Cambodia

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រាជធានីភ្នំពេញ កម្ពុជា ប្រអប់សំបុត្រ៖ ២២៩៥, រាជធានីភ្នំពេញ-៣
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