



វេទិកាសម្រាប់ការចូលរួមរបស់សង្គមស៊ីវិល  
The NGO Forum on Cambodia

ធ្វើការរួមគ្នាដើម្បីការងារវិជ្ជមាន  
Working Together for Positive Change

# A LEGAL AND POLICY FRAMEWORK REVIEW ON PUBLIC PARTICIPATION IN PUBLIC FINANCIAL MANAGEMENT IN CAMBODIA

**Disclaimer:** The views expressed in this report are the result of independent consultant studies and do not reflect the views of the NGO Forum on Cambodia.

## EXECUTIVE SUMMARY

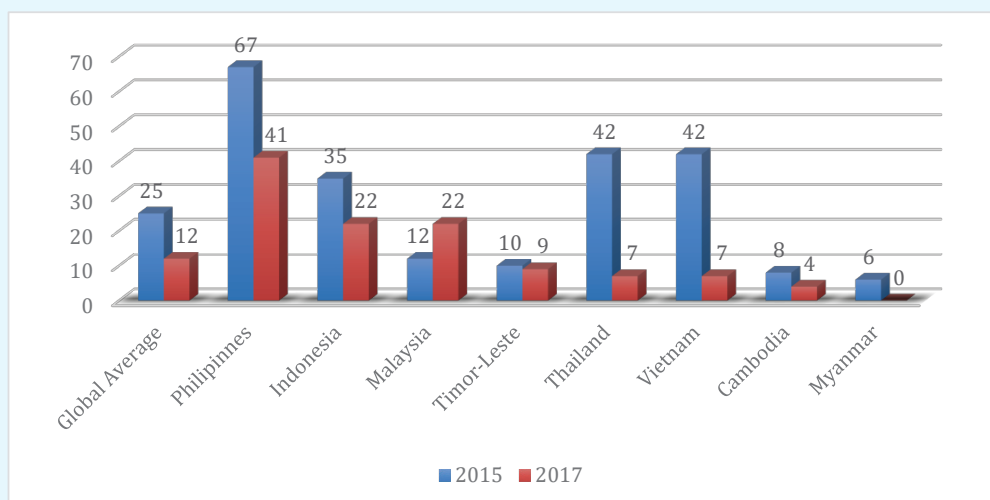
This policy brief examines the legal and policy frameworks on public participation in public financial management (PFM) in Cambodia, together with reflections of better experiences of the public participation from Indonesia and the Philippines, the two top scorers in the Association of Southeast Asian Nations (ASEAN) in the Open Budget Survey (OBS). The research involves three important phases as laid out below. The review indicates that Cambodia law and policies offer limited space for public participation in PFM at the national level. In addition, there are few codified systematic mechanisms and procedures to engage the public in PFM at the national level. However, at the sub-national level, various laws and policies are codified to promote public participation, especially in budget preparation and implementation monitoring. Nevertheless, the implementation of the sub-

national legislation and regulations across the country remains lacking. It is the intent of this brief to lay out some recommendations to improve public participation in the PFM.

## INTRODUCTION

Public participation in PFM is a right and could improve government’s accountability and transparency towards the public, public service delivery, trust in the government, and government’s legitimacy. Public participation in Cambodia’s PFM, including the budget cycle, especially at the national level, is weak and lower than those of the majority ASEAN members. Therefore, to be on par with the average public participation score of the ASEAN members that perform better on this regard, Cambodia has to enhance participation of its citizens and civil society organizations (CSOs) in PFM.

**Graph 01: Cambodia’s score on public participation compared to other countries’ in the region**



Sources: Compiled by the authors from The Open Budget Index and the Open Budget Surveys for Cambodia and ASEAN members (2015-2017).  
Note: weak = 0-33, moderate = 34-66, high = 67-100

For public participation in PFM to happen, the government has to establish favorable legal and policy frameworks and set up workable mechanisms and codify them later. Thus, this study aims (1) to analyze the legal and policy frameworks concerning public participation in PFM, and (2) to identify civic space for the public participation including in the planning process, budgetary preparation, adoption, and the execution of budget at both national and sub-national levels.

## KEY FINDINGS

1. Cambodia's related and major laws, including the Constitution and Public Finance System Law [PFSL] have no stipulations on public participation in relation to PFM. While such a mechanism as the Technical Working Group (TWG) on PFM exists, the degree and quality of public participation remains insubstantial.

2. The internal regulations of the National Assembly (NA) and Senate have some stipulations on public consultation; however, there is a lack of detailed procedures and established mechanisms to meaningfully engage the public and CSOs. Consequently, the quality of actual public participation in this regard is limited, although instances in which the two bodies engage the public and CSOs exist.

3. The Law on Audit does not have stipulations on public participation. While the Public Audit Standards (2011) permits the institution to collaborate with advanced relevant research institutions and professional societies, only a selected group, not CSOs wide, could legally participate in NAA's audit work. Further, the public can lodge complaints via submission to the Administration Office, by email, and via Facebook, however, the degree of public participation through these mechanisms remains low. Other than that, there are virtually no existing

permanent mechanisms or policy instruments set up for or by the NAA to invite citizens and CSOs to provide inputs to its audit programs and investigation.

4. The laws and policies on Sub-National Administration (SNA) 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). Notwithstanding, the implementation of the SNA legislation lacks behind.

## RECOMMENDATIONS

### How can the executive enhance public participation?

1. As the government is planning to amend the Law on Public Finance System by 2020, ensure that public participation is stipulated in the amendment at least throughout the budget cycle. The Philippines is a perfect example that has continuously gained full or above average score for public participation because the country's regulations have provisions on public participation, and are practiced, accordingly. MEF, NA, and the Senate are central actors in moving forward with the provisions.

2. Cambodia's public participation would benefit from passing the pending draft law on access to information as it has happened in Indonesia. 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. Both Indonesia and the Philippines have improved their public participation score using such an approach. Here are several low-hanging-fruit measures.

At the sub-national level, citizens and CSOs already have legal and policy space to participate in development planning processes, budget formulation, and to a limited extent its monitoring and evaluation (M&E). Such participatory policies have been partially implemented in some communes/Sangkats as run by/under the MoI and several NGOs. The existing good practices can be adopted and scaled up across the country. Eventually, ensure full implementation of sub-national legislation that already contains various provision on public participation.

A specific point is citizens have already participated in commune/Sangkat councils' process of preparing and adopting the Commune Investment Plan (CIP) and their budget. However, the quality of public participation is hindered by the fact that CIP and budgeting process are practiced in isolation in many cases. Therefore, the MoI and the MEF may consider issuing a joint prakas on guidelines and procedures to streamline public engagement in sub-national budget and CIP preparation.

4.& 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, the 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 the TWG in the MEF are limited to supporting budget formulation, but not budget discussions and decisions. However, with CSOs' engagement, the MEF can hear their concerns and priorities, which can be used, for example, for the annual budget prioritization. Lessons learned from CSOs' engagement in the TWG in the MEF regarding budget formulation could be extended to cover public participation in other areas of PFM, be it implementation, monitoring, and provision of feedback from the public. To realize those objectives, the 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 the existing structure. Indeed, TWGs, sub-TWGs, the provincial TWGs, and/or other appropriate mechanisms are already operational in many line ministries and their provincial line departments. 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 the 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.

### How can the legislature enhance public participation?

- 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. The Internal Regulation of NA and the 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.

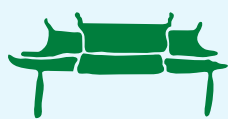
### How can the National Audit Authority (NAA) enhance public participation?

- It is encouraging that NAA is improving its website. Further, Article 29 of the Law on Audit 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 to 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.

### How can the executive, the legislature, and the National Audit Authority (NAA) use Information Communication Technology (ICT) to enhance public participation?

- Almost all of Cambodia's state institutions have their own websites and Facebook pages; therefore, all line ministries, NA, the Senate, and NAA could utilize this effective and low-cost ICT tool to invite participation in their work areas at different stages of the budget cycle and in designing and implementing development plans/strategies or service delivery. The concerned state institutions are supposed to build and enhance capacity of their staff, especially in the areas of budget transparency and accountability, public participation in budgeting, public relations, and use and maintenance of ICT tools. These institutions may seek support from CSOs and development partners where internal resources are inadequate.



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