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THE ROLE OF PARLIAMENT IN BUDGETARY OVERSIGHT



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TABLE OF CONTENTS

Why this booklet?

What is the National Budget?

Who is involved in the budget process?

The Budget Cycle

- Preparation of the National Budget
- Adoption of the National Budget
- Budget Implementation, Monitoring and Control
- Budget Auditing and Assessment

The Role of Parliament in Budgetary Oversight

- Collecting Information about the Budget
- Consulting with the Public and the Government
- Consulting with Civil Society
- Analysing Budget Proposals
- Approving Budget Allocations
- Overseeing Budget Implementation
- Controlling Budget Performance

International Experiences: The Canadian Parliament and the Philippine Senate
Strengthening the Oversight Capacity of Parliament

Why this Booklet?

Parliamentary budget oversight is little known in Cambodia and thus remains weak. This is in part because parliamentarians have little experience and knowledge regarding their budget oversight functions.

This booklet provides an overview of the role of the Cambodian Parliament (National Assembly and Senate) in budgetary oversight, and, to some extent, general information on the budget process. It is not only meant for parliamentarians, but also for government officials and academics who desire to better understand the role of parliament in budget oversight.

The booklet was produced with the following objectives:

- To help strengthen knowledge and capacity of lawmakers in Cambodia regarding their role in national budget oversight;
- To encourage more active participation and exercise of the role of parliamentarians in overseeing the national budget;
- To help promote good governance, accountability and transparency by strengthening the parliament's role in overseeing the government;
- To contribute to poverty reduction and development through parliamentary surveillance that requires budget allocations to reflect attainable priority choices designed for the poor and the development of Cambodia.

What is the National Budget?

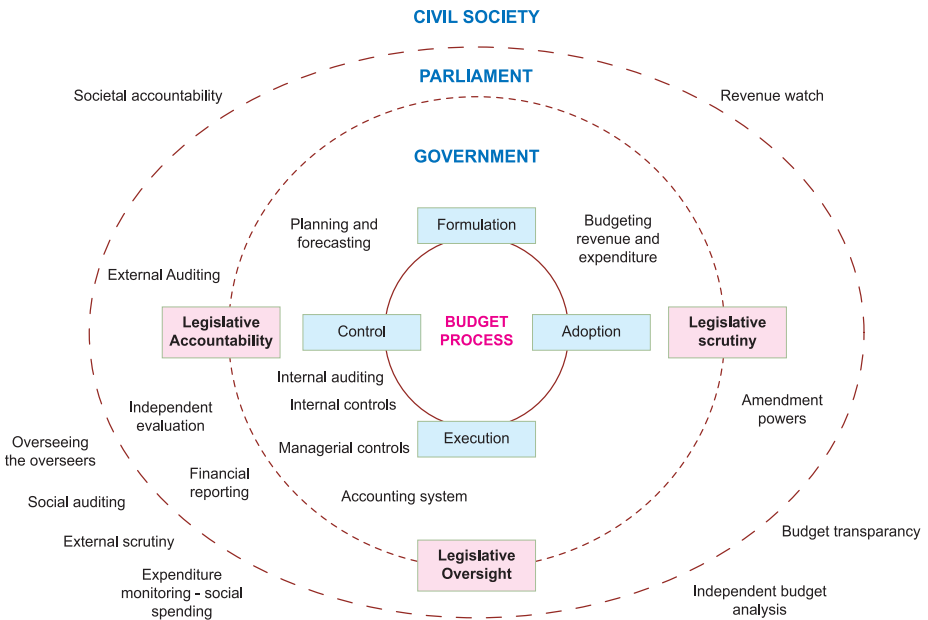
The national budget consists of public revenues and public expenditures. The national budget includes the Government's expenditure and revenue proposals, which reflect its policy priorities and fiscal target.

The national budget sets priority choices for the Government to implement. A well-prepared and implemented national budget can help contribute to economic and social development and poverty reduction, an objective of the Government's priority set of actions, through public service delivery.



Who Can Be Involved in the Budget Process?

The budget process is initiated by the Ministry of Economy and Finance. The Parliament adopts the budget and controls its implementation. The central government (ministries and other government institutions) and local government are responsible for budget implementation. Other actors, such as NGOs, the private sector, the media and donors play an important role in this process, such as providing recommendations on how government funds should be allocated.



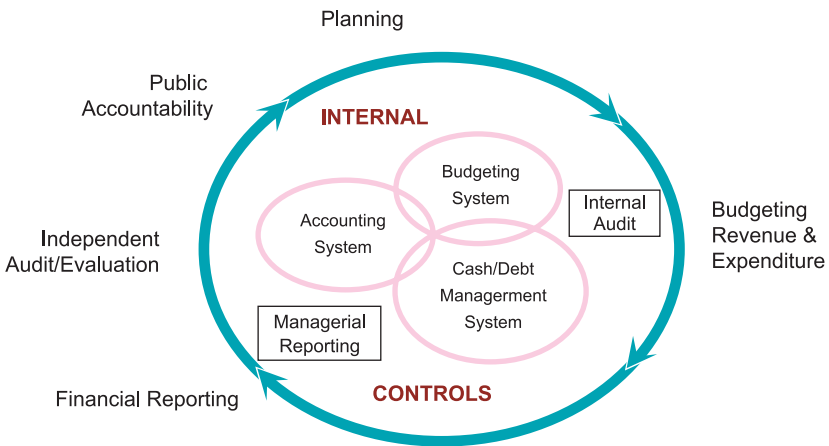
The Budget Cycle

The budget process is not just one event or document, but rather an ongoing process from planning, to resource allocation, to reporting on implementation, to monitoring of implementation and results and independent auditing. Normally, there are four stages in the budget cycle:

- 1. Budget preparation:** The Ministry of Economy and Finance is responsible for preparing the budget for the Government.
- 2. Budget enactment:** The proposed budget is then discussed and debated in Parliament; modified or amended, if necessary; and consequently adopted into law by the Parliament.



- 3. Budget implementation, monitoring, and control:** The budget is implemented by the Government. The Department of Budget and Finance, the Department of General Inspectorate of the Ministry of Economy and Finance, as well as the Department of Internal Audits of all ministries and government institutions exercise internal control over public spending.
- 4. Budget auditing and assessment:** The Government provides reports on its fiscal activities to the National Audit Authority and the legislature. These reports are subject to review and an annual report by the National Audit Authority of Cambodia (External control). The Parliament concludes this auditing process by a discharge in the financial settlement law. Through this procedure, conclusions are made concerning good or unsatisfactory budgetary implementation.



Step 1 of the Budget Cycle: Preparation of the Budget

Under the direction of the Prime Minister, the draft of the national budget is prepared by the Ministry of Economy and Finance and approved by the Council of Ministers.

The Ministry of Economy and Finance drafts an analysis of the budget, taking into account the analysis of the current economic and financial situation and its future prospect for the short and medium terms and any macro-economic constraints.

The Government defines the budget ceilings of each ministry based on its strategies and plan.

All ministries and departments, provincial offices, agencies, and institutions prepare a budget proposal at the request of the Ministry of Economy and Finance, which is taken into consideration when the Ministry prepares the national budget.

The Ministry of Economy and Finance prepares a proposal for the national budget which is submitted to the Council of Ministers after discussion with all ministries involved. In November of each year, the Ministry of Economy and Finance establishes the financial proposal which is checked and adopted by the Council of Ministers and submits it to the Parliament for approval.

Step 2 of the Budget Cycle: Enactment of the National Budget

According to the 1993 law on the Financial System, the budget is submitted to the National Assembly by the Government during the first week of December for discussion and approval before the 25th of December. However, after the adoption of the new budget law in 2007, the budget may then be submitted in November.

The National Assembly has the power to approve the national budget. In addition, members of the National Assembly are entitled to propose amendments to the draft budget proposed by the Government. But this power is restricted: it cannot result in eliminating or reducing public income or creating or increasing public expenditure.

Article 90, paragraph 3 of the Constitution: 'The National Assembly shall approve the national budget, State planning, loans, financial contracts, and the creation, modification and annulment of tax.'

Article 91, paragraph 2 of the Constitution: 'Deputies have the right to propose amendments to the laws but these proposals cannot be accepted if they aim at reducing public income or increasing the burden on the people.'

Source: 1993 Cambodian Constitution.

Step 3 of the Budget Cycle: Budget Implementation, Monitoring and Control

- The Department of Budget and Finance of the Ministry of Economy and Finance allocates budgets to all ministries and other government institutions, which implement them;
- The Department of Budget and Finance also monitors the execution of revenues and expenditures of the budget allocated to ministries, institutions, and provinces/municipalities;

The major functions of the Department of Budget and Finance regarding the management and implementation of the National budget include:

- Development of draft public finance laws and regulations;
- Implementation of the law on the financial system, the law on annual financial management, and the law on the financial regime and provincial and municipal public assets;
- Development of the draft law for the annual settlement of the national budget; and
- Financial control activities.

It should be noted that in November 2006, the Department of Budget and Finance split into two: the Department of Budget and the Department of Financial Affairs.

- In addition, the Department of General Inspectorate of the Ministry of Economy and Finance conducts general inspections of ministries and government institutions on the carrying out of national budget revenues/expenditures operations and the accountability of public fund administrators. It also conducts inspections of all financial operations of public institutions, state enterprises, etc. The Department conducts investigations of claims and complaints made by citizens in connection with economic management and can file complaints to the court;
- Furthermore, an internal audit department within each institution, ministry and public enterprise independently examines and evaluates the effectiveness of the internal control system. These departments ensure that reliable financial reports are effectively carried out, and that operations are in compliance with applicable laws, regulations, policies and procedures, etc.

Step 4 of the Budget Cycle: Budget Auditing and Assessment

Evaluations and audits form an integral part of the overall public expenditure management system and help the legislature to exercise its oversight function.

In Cambodia, the National Audit Authority, an independent public entity, is responsible for executing the external audit function of the Government. The external audit includes the implementation of the following types of audits:

- Audit on financial statements;
- Audit on the management of credit project financed by external sources;
- Audit on management systems and operations of all institutions;
- Audit on evaluation, efficiency and effectiveness of operations.

The National Audit Authority reports directly to the National Assembly, Senate and the Government for information purposes.

The Auditor-General is empowered to conduct audits on accounting records, accounts, management systems, operation controls and programs of government institutions in accordance with generally accepted auditing standards and the Government's auditing standards (Article 1 of the Law on Audit of the Kingdom of Cambodia, 3 March 2000).

The Role of Parliament in Budgetary Oversight

It is the role of the Parliament to approve and legislate how much money the government will receive as income and approve and legislate the allocation of public expenditures. Although the Senate does not have as much legislative power as the National Assembly, it performs an advisory role. As such, it is entitled to gather information about the draft budget, to participate in workshops and to issue advice and suggestions.

There are two basic principles that Members of Parliament (MPs) should take into consideration when exercising their oversight functions:

- The Government should have no income that is not granted to it by the Parliament;
- The Government shall make no additional expenditures to those approved by the Parliament.

Legislative oversight is a constitutional right and helps to:

- Ensure that budget allocations adequately reflect policy priorities, concurrent accountability;
- Improve oversight of budget implementation by the executive; and
- Hold the Government accountable for performance and results, especially in development and poverty reduction.

Collecting Information Regarding the Budget

The Parliament does not have a role in the planning of the national budget; it is the responsibility of the executive branch. However, the Parliament plays a role once the budget is presented to it. Given the time constraints for the Parliament to discuss and approve the budget, the Parliament should be prepared in advance and have overall knowledge of the budget without waiting for official submission of the draft.



The Parliament should attempt to gather information regarding the budget (such as government incomes, the country's priority sectors, economic analysis, budget analysis) from various independent sources including research institutes, NGOs, the media, etc. The collected information can be used to analyze the draft budget law and to ensure that information provided by the Government regarding the budget is accurate.



Consulting with the Public and the Government

Until recently, public participation in the budget process in Cambodia was limited. In addition, there is no formal process of consultation between the Parliament and the Government, particularly with the Ministry of Economy and Finance, prior to submission of the draft budget law to the Parliament.

Increasing public participation in the budget process will help promote transparency which is a cornerstone for maintaining a democratic budget process. Public debates between varied citizens (marginalized groups, private sector, groups of farmers, etc.), the Government, and the Parliament could enhance the Government's accountability, increase support for its decisions, and improve efficiency in government programs and projects.



The Parliament should seek to consult with the public in order to ensure that the budget is well drafted in accordance with the needs of the people and the country's development.



Consulting with Civil Society

Civil society plays an important role in the development of the country. In the context of the budget, certain civil society organizations (CSOs) in Cambodia have started working towards ensuring that public revenues and expenditures are effectively and efficiently collected and spent. In December 2006, the Parliament held its first consultation conference on the national budget with a number of CSOs.



The Parliament should continue to hold consultations with CSOs on the national budget in the last quarter of each year.

Since it is difficult for the Parliament to reach all constituents, consultations with CSOs that work at the grass-roots level provide significant information about public revenues and expenditures, for instance, the financial needs of public schools, health centres, commune councils, etc.



Analysis of the Draft Budget Law

Upon receiving the budget proposed by the Government, the National Assembly analyzes the proposed budget based on the information it has collected. The analysis can take different forms:

Sector analysis: Sector analysis will help the Parliament verify that the proposed budget allocations reflect policy priorities, for instance, how much of the budget is spent on national defense compared to other priority sectors such as health and education. In reviewing spending by sector, the Parliament could verify if the allocated budget responds to the National Strategic Development Plan (NSDP) that aims at reducing poverty in the country.



Analysis of effects on different population groups: This analysis will help the Parliament understand how public spending impacts different groups of people, such as the population living in poverty, ethnic minority groups, children, women, etc.

Gender budgeting analysis: This analysis includes a range of strategies examining whether gender considerations are reflected in government spending and taxation policy. Gender responsive budgets provide a means for determining the effect of government revenue and expenditure policies on men and women. The analysis links gender equality with budgetary spending and promotes a more equitable and transparent budgetary process, as well as more efficient use of public resources.



Approving the Budget Law

This is one of the critical roles that the National Assembly and the Senate play in the budget process. On the basis of the analysis above, the National Assembly first decides, on behalf of its electorate, policy priority choices. The National Assembly assesses whether proposed priorities are coherent and whether specific results can be achieved.

Since the budget is formulated in view of institutional needs, rather than overall government policies, there could be a mismatch between resource allocations and the Government's development objectives and priorities. To overcome this difficulty, program budgeting, which will be introduced in 2007, might help to align the annual budget with development objectives.



If the National Assembly considers the proposed priorities are not consistent, or the resource allocations do not match with the Government's priority plans, such as the NSDP, the National Assembly is constitutionally entitled to exercise its right to make amendments to the proposed budget. However, in practice, the National Assembly has so far never used its power to amend the draft budget.

Article 26 of the Internal Regulations of the National Assembly: All MPs

can propose an amendment of the Drafting law or proposing law. The application for amendment must be written and submitted to any specific, expert commission or to the National Assembly during the plenary meeting.

Source: *Internal Regulations of the National Assembly (1993)*

According to the 1993 Financial System law, the National Assembly has less than one month to discuss and approve the proposed budget. The National Assembly should have more time to discuss and approve the budget.

Following approval by the National Assembly, the adopted or amended draft budget law is sent to the Senate for examination and recommendations. If the Senate gives its approval, the draft budget law is directly sent to the King for promulgation.

However, if the Senate calls for modification, the draft budget law is sent back to the National Assembly. The National Assembly then examines and decides to accept or reject all or some of the provisions or any terms that the Senate calls for.

The process of sending back and forth the draft budget law between the National Assembly and the Senate cannot exceed 10 days.

After the adoption of the law by the National Assembly and the Senate, the King signs and promulgates the adopted budget law.



Overseeing Budget Implementation

In practice, national budgets are not always implemented in the exact form in which they were approved by the Parliament. Allocated funds are not disbursed on time and some institutions spend over the allocated budget. Some allocated funds are not used in the intended purposes of the budget law.



Parliamentary oversight of implementation of the national budget will help to strengthen budget control and reduce mismanagement of public money and eventually corruption. The Parliament must, therefore, continue to exercise its constitutional right to oversee government spending.



Overseeing Budget Implementation: *Individual Control*

All MPs have the right to raise questions to the Government. These questions must be written and submitted through the President of the National Assembly.

The answers can be given, verbally or in writing, by one minister or several ministers, depending on the nature of the question. If the questions concern the general politics of the Government, the Prime Minister himself has to answer.

The above responses must be given to the National Assembly within seven days after receiving the questions (Article 32 of the Law on Internal Rule of the National Assembly).



Article 33: MPs, who raised the questions to any ministers, can withdraw their questions.

Other MPs can get that withdrawn questions sheet and then resubmit it to the National Assembly if understanding that it is necessary.

If there is permission of debate, the owners of the questions, other speakers, Prime Ministers or ministers involved can debate for not more than the period of one meeting. The National Assembly fixes one day a week for answering the questions. Quorum is not required for this meeting.

If the questions are addressed to the Prime Minister and he is occupied, ministers or his representative must come and answer the question.

If the questions are addressed to any member of the Royal Government, that member must come and answer the question at the National Assembly.

Nevertheless, the meeting for answering the above questions has no possibilities of holding any kind of voting.

Source: *Internal Regulations of the National Assembly (1993)*



Overseeing Budget Implementation: *Collective Control*

The Commission on Economy, Finance, Banking and Auditing can invite any minister or figure to clarify any matter related to irregularities of public revenues and spending.

In more serious cases, the National Assembly, upon receiving a proposal of at least 30 MPs, can dismiss a member or members of the Government by adopting a ‘vote of no confidence’ based on the absolute majority of the entire National Assembly (Article 98 of the Constitution).

Article 34: All commissions of the National Assembly can invite any minister or figure to clarify any matter related to specific domains under their responsibilities

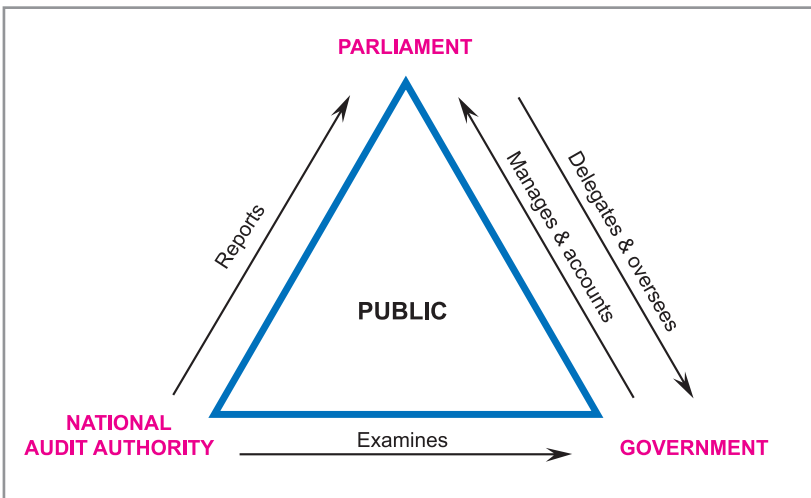
Article 35 New (Amended in 2006): the National Assembly can dismiss any minister or the Royal Government from office by adopting “Vote of No Confidence” based on absolute majority voices of all members of the National Assembly.

The Vote of No Confidence on the Royal Government must be raised to the National Assembly by at least 30 MPs so that the National Assembly can discuss it.

Source: *Internal Regulations of the National Assembly (1993)*

Controlling Budget Performance

The National Audit Authority plays an important role in strengthening legislative budget oversight. The Auditor-General issues a report to the National Assembly, the Senate, the Council of Ministers, the Ministry of Economy and Finance and relevant ministries in regard to any irregularities in the accounting records, as well as in monetary and asset management within government entities. In addition, the Auditor-General makes remarks on matters related to accounting reports, moneys, assets and long term liabilities in accordance with the provisions of the law.



With the Auditor-General's report, the Parliament can exercise its budget oversight functions more effectively. This requires, however, that the report on budget performance by the Government, provided by the National Audit Authority, be delivered in a timely and reliable manner. Ideally, the Auditor-General's report should be sent to the Parliament before the end of

the calendar year (December). However, the National Audit Authority usually is not able to send the report to the Parliament on time. This is because the Government often fails to submit to the National Audit Authority its report on budget performance in September as required by the Law on Audit of the Kingdom of Cambodia, 2000.



Closer links between the National Audit Authority and the Parliament, particularly the Commission on Economy, Finance, Banking and Auditing is therefore necessary.

The report of the Auditor-General provides important information for the national budget process. For instance, the first Auditor-General's report on the Draft Law on the National Budget Settlement for 2004 highlighted some irregularities regarding public revenue management, public expenditure management, management of revenue and expenditure of communes/Sangkats, provinces and municipalities, and management of public assets, etc.



International Experiences: The Role of the Canadian Parliament and the Role of the Philippine Senate

Involvement of the Canadian Parliament in the budget cycle:

In Canada, the Parliament is strongly involved in the public policy debate concerning the budget. The Finance Committee of the House of Commons is requested by the Minister of Finance to consult with Canadians, including the private sector, economists and others, and present its findings to the Minister of Finance. In general, the report made by the Finance Committee makes a significant contribution to the policy development by the Minister of Finance.



A Committee of the House of Commons also takes part in overseeing the Spending Estimates (for each department or agency) made by the President of the Treasury Board. This Committee has the authority to call any Minister or senior government officials to defend the work and the estimates of that particular Department.

In addition, the Public Accounts Committee of the House of Commons, after receiving the audit report prepared by the Auditor

General, holds public hearings with senior departmental officials as witnesses on issues and problems identified by the Auditor General in his or her audit report. After a hearing, the Public Accounts Committee tables a report to the House on its findings with recommendations for change and calls on the Government to table a response in the House within five months.

The Philippine Senate Committee and Oversight Role:

In the Philippines, besides playing a role in lawmaking, the Senate devotes much of its time to investigating wrongdoing through its Committee on Public Accountability and Investigation. The Blue Ribbon



Committee, as it is commonly called, has been perceived as the most powerful committee in the Philippine Senate in terms of investigative power. Its jurisdiction includes matters concerning corruption, crime or wrongdoing. The Committee may compel persons to attend either as witnesses or as the subjects of the investigation themselves, and to testify and produce documents before the Committee.

Strengthening the Oversight Capacity of Parliament

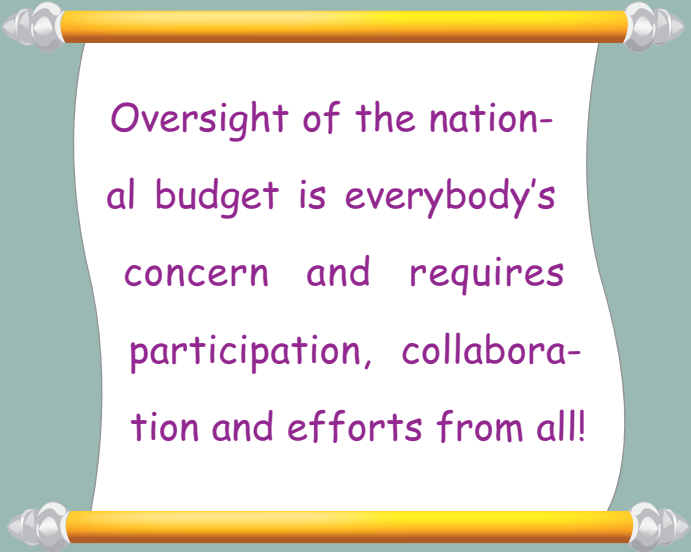
The question of effective exercise of the Parliament's oversight function also depends on its capacity. Even if the Parliament has been equipped with strong oversight power, but its capacity is still weak, it cannot perform its oversight function effectively.



Therefore, the oversight capacity of the Parliament should be enhanced through:

- The development of independent research capacity without relying on the executive;
- Adequate resources to support the Parliament and parliamentarians in all roles;
- Better access to information on government expenditures and impact analyses.





Oversight of the national budget is everybody's concern and requires participation, collaboration and efforts from all!



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