



# POLICY REFLECTIONS

A COLLECTION OF 7 CASE STUDIES ON RELEVANT TOPICS IN CAMBODIAN POLICY REFORM & IMPLEMENTATION



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# Advocacy and Policy Institute

## Organisation, vision, mission, goal and values

The Advocacy and Policy Institute (API) is a Cambodian non-profit and non-Government organisation. Established in July 2003 as part of PACT Cambodia, registered with the Ministry of Interior in July 2007, it became fully independent in 2008. API is a leading advocacy capacity building institution, working on promoting access to information, decentralisation and policy dialogue. The Institute has forged its reputation through the delivery of advocacy training courses and the production of advocacy publications in both Khmer and English to promote understanding of advocacy, access to information and the Government's Decentralisation and De-concentration policy. API is becoming increasingly involved in direct advocacy and policy activities, sponsoring research and functioning as a think tank.

### The vision

API's vision is for a Cambodian nation that through poverty reduction and the protection of human rights creates a national culture of harmony with sustainable democratic, political, and economic stability.

## THE MISSION

The organisation's mission is to serve the long term democratic and social development needs of Cambodia through the empowerment of people to interact with their Government to protect their rights and provide for their needs.

API is committed to working together with all national and international institutions who share its values to advocate for positive and peaceful social change. API seeks to encourage coordination among Governments, citizens and the private sector.

## THE GOAL

The organisation's goal is to increase Cambodia's democratic space by creating more effective advocates and responsive Government institutions.

## THE VALUES

1. All Cambodians have the right to participate, mobilise and express themselves in matters that affect their daily lives.
2. All matters should be resolved peacefully and justly according to the principles of our shared humanity.
3. Building capacity, particularly at the community level, is the most sustainable way of building a brighter future for all Cambodians.
4. Engaging with all social sectors ensures that when solutions are reached, they are of greatest benefit to the community.
5. Being transparent, accountable, independent, and non-partisan helps build an organisation that has the respect and confidence of both the Cambodian people and its international supporters.

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# Foreword

The Advocacy and Policy Institute is a non-profit, non-governmental organization in Cambodia. It was established in July 2003 as a program of PACT Cambodia. It registered with the Ministry of Interior in 2007, and one year later, in 2008, became an independent organization. As its name indicates, API works to build capacity in the area of advocacy and policy by promoting the right to access to information, decentralization, and dialogue. The Institute has built its reputation over the last decade through advocacy training, research, and publications. Its primary aim is to help mainstream awareness about advocacy, right to information, as well as the decentralization and de-concentration policy of the Royal Government of Cambodia.

## Acknowledgements

Advocacy and Policy Institute [API] wishes to express its gratitude to the European Union and DCA/CA for funding the project “Promoting Good Governance Through Increased Access to Information and Strengthening of Independent Media [NSA].” The support is of great significance for encouraging and promoting good governance, transparency, accountability, and democratic development at the sub-national level. API also would like to thank the Cambodian Centre for Independent Media [CCIM] for being a key partner in this project. API wishes to express its gratitude to all donors, all partners, the commune and district authorities, the local residents and their community, and all API staff members who were involved in this analysis.

## Executive Summary

The Advocacy and Policy Institute [API] is a Cambodian civil society organization which has been at the forefront of democratic development efforts for the last decade. Pioneering an approach of constructive engagement which sees the Royal Government of Cambodia [RGC] as a partner in policy dialogue and reform, API is engaged in strategic support to the Government’s National Programme for Sub-National Democratic Development [NP-SNDD 2010-2019] which focuses on ongoing decentralization and deconcentration of government authority, structures, personnel, and services. While there have been great strides in this work over the last decade, numerous challenges and hurdles remain. There are rising expectations of citizens who, as they become more aware of their civic roles, are demanding greater accountability and higher standards of service delivery. At the same time, however, there are significant bottlenecks with accountability mechanisms which do not yet adequately support the necessary flow of information, resources, capacity, and decision-making authority from the central to the subnational levels of government.

**Participation** is a cross-cutting theme in all seven policy studies, and the level, quality, and nature of participation requires more unpacking. One of the key difficulties is that different stakeholders and actors have very different understandings of what is meant by participation. Citizens are described in some analyses as being unwilling [or apathetic] to participate, but when we look deeply we find that this to be a partial picture at best. In fact, they are conscious actors who have concluded that their participation is only token when it is not designed to really engage local decision makers or to hold them to account. In addition, when livelihoods are critical and day-to-day income is the priority for most people, they may stay away from discussions or forums which they do not believe will bring them immediate or even long-term benefits.

Another key cross cutting issue is **access to information** by citizens. Access to information is one of the cornerstones of accountability, and the foundation of a democratic society. On the one hand, Cambodian citizens sometimes lack the capacity, awareness and desire to seek information. On the other hand, national, provincial and local authorities also lack the capacity, resources, and in some cases the willingness to proactively disclose information to citizens. This includes information about public services, education, national and local budgets and commune investment and development plans. Given that 'knowledge is power', any degree of sharing or withholding information becomes a political activity of resource allocation, and points to the need for an investigation of how political economy affects policy reform and dialogue in Cambodia.

There is also a significant lack of clarity concerning **decentralized decision-making powers** at different subnational levels [i.e. district, commune] and among subnational actors [i.e. District or Commune councillors and District Board of Governors] as to roles, responsibilities, and duties. Despite the clear policies stated in the NP-SNDD and its successive three-year implementation plans [IP-III], both local authorities and citizens are often unsure as to who should be responsible for various services. At the same time, central institutions, particularly line ministries have, been slow in their decentralization of resources and fiscal authority, including in the transfer of functions and authority to Districts & Municipalities [D/M] which the government considers to be the center of gravity for the D&D efforts. A key question here is whether this is due to the absence of clarity, capacity and/or political will.

Lack of information, inadequate political participation, and incomplete decentralization ultimately lead to substandard **delivery of public services**. In particular, insufficient shared understanding about subnational roles and responsibilities has resulted in poor service delivery. This means weak accountability of officials [i.e. governors] to elected representatives [i.e. councillors] and in turn the accountability of councillors to the people. Moreover, party politics and patron-client relationships serve as strong ties that bind subnational authorities, not necessarily to the interests of the electorate, but to the interests of party platforms. In addition, these power dynamics often prevent councillors from fulfilling their roles as elected representatives overseeing officials [i.e. governors and line department officials] who are responsible for better service delivery to citizens. This further compounds the accountability challenges between citizens and sub-national authorities, and weakens the feedback loops from constituents to local D/M authorities which are so necessary for effective provision of services.

Another theme which runs across all the policy reflections is the model of **democracy** in Cambodia, and in particular the relationship of the citizen to the state and what is sometimes referred to as the 'social contract'. There are certain assumptions built into present day policy dialogue and reform efforts in Cambodia about how citizens in a liberal democracy should relate to their government. Cambodia has emerged from a communist past where the relationship of the individual citizen to other citizens [the collective] and their relationship with the state is similar to that within a family and particularly the parent-child relationship. In this conceptualization, the citizen cedes a high degree of authority to the state to 'take care' of his/her needs, and the level of participation, accountability, and dialogue required, is therefore low. This understanding of the social contract significantly shapes the institutional environment, where both written and unwritten rules prevail. Meaningful reflection and dialogue among civil society, government and private sector actors on the appropriate model of democracy for Cambodia would help unpack some of these rules.

Such reflection and dialogue however, will need to be situated within an institutional framework which includes a clear understanding of the contrasting [and sometimes competing] claims of social, political, and democratic accountability. Such a framework recognizes that reasons for dysfunction in policy development and implementation are at once often institutional [in terms of structures and mechanisms] and individual.

- ⦿ At the level of structures or mechanisms, there are a number of barriers: 1] insufficient levels of democratic representation and accountability within judiciary, legislative and executive bodies, 2] insufficient technical expertise, capacity, or political will to strengthen these democratic institutions, 3] inadequate or inefficient allocation of human, technical, and financial resources dedicated to democratic development, and 4] the allegiance to the political party which takes precedence over accountability of elected representatives to the people.
- ⦿ At the individual level [among both state and non-state actors] there are a number of hurdles: 1] reluctance of elected officials to deviate from the wishes of superiors [or patrons] coupled with fear of power sharing, 2] insufficient capacity or technical understanding around legal issues or government functions, 3] inadequate financial and human resources at sub-national [commune and district] levels to effectively address local development challenges and therefore enhance democratic accountability, 4] the absence of working models for how to constructively engage citizens in meaningful dialogue,

## Introduction

API has developed a series of 7 policy briefs which concern themes which are considered critical to democratic development in Cambodia and which have emerged organically from discussions with Cambodian citizens across the country. The 7 policy briefs focus on the following topics: 1] public participation, 2] public service delivery, 3] budget disclosure, 4] A2I in education, 5] community forestry management, 6] public road safety, and 7] waste management. These policy briefs were developed from significant document review of relevant legislature and research, consultation with community members, local authorities, and further analysis by API team members and policy advisors. This report represents the synthesis of the key findings and includes recommendations for policy improvement in these 7 areas.

## Purpose

This policy reflection report is intended for Cambodians, local and national authorities, CSOs and donors working in the area of policy dialogue. The primary purpose of this report is to stimulate reflection, debate, and further dialogue on these key policy areas in the Cambodian context. In general, API has found that there is a gap between the formation of policy and its implementation. This gap results from: 1] insufficient capacity on the part of the government as well as civil society, 2] inadequate resources to implement policy, 3] low awareness of the roles and functions of key players in national democratic development, 4] systemic issues of coordination and communication, and 5] institutional, socio-political, economic, and cultural constraints.

This report is designed to present a series of reflections on policy and can be read as an entire report, or each case study can be taken separately. The recommendations are aimed at local commune and district councillors, as well as national level policy makers, those who have the authority and decision-making power to change the policy landscape in Cambodia. The recommendations are also framed with civil society in mind, as local CBOs, NGOs, and international actors have a role to play in supporting democratic development and decentralization in Cambodia. The objectives of this report therefore are:

- ⦿ To explore the realities of SNDD reform, in the local context, including administrative and resource decentralization;
- ⦿ To examine the nexus of roles and responsibilities among all sub-national and national actors and civil society organizations with regards to service delivery;
- ⦿ To deepen understanding of how cross-cutting issues like participation, access to information, and civic awareness affect democratic governance.

API hopes that these policy reflections will serve the basis for continued dialogue about how to improve the quality of service delivery, the accountability of the government to its people, and the overall framework for democratic governance in Cambodia.

## Methodology

API has adopted a participatory methodology to produce this report, with the aim of encouraging civic engagement and reflection among citizens around these issues. API has also brought local authorities together, increasing their awareness and ownership of these issues, and stimulating their involvement in finding solutions. As a result, the hope is that the findings of these reports will be useful to a wide range of stakeholders. The methodology itself consisted of 5 key steps, which are outlined below. The limitations are discussed afterward.

- ⦿ **Step 1: Data gathering and identifying issues**  
Consisting of consultations and forums with local authorities and community members in each of the geographic locales in order to determine priority issues.
- ⦿ **Step 2: Review of legal framework, policy, and other research papers**  
A comprehensive review of existing legal frameworks at the national and subnational level, as well as current research on the relevant policy area [a list of documents is in Annex 2].
- ⦿ **Step 3: Meetings with local authorities:**  
Following the desk review, additional discussions were held with local authorities, in order to present their preliminary findings.
- ⦿ **Step 4: Meeting with representatives of community-based organizations:**  
Following meetings with the government, API met with CBOs to discuss the preliminary findings and to validate them.
- ⦿ **Step 5: Analysis and report writing:**  
After these meetings, API began the work of synthesizing the data, analyzing it, and producing this report. This report will be produced in both Khmer and English and disseminated widely.

The primary limitation to this methodology is that policy issues are focused on a specific geographic area, and so nationwide generalizations cannot be assumed. On the other hand, as with most small scale, case-based research, 'reliability' is equally, if not more important than 'generalisability'. In this case findings are useful in considering how an issue might be tackled in other locations, without assuming it will necessarily have the same features in each locale. The review of the research and policy documents is also constrained by the availability and accessibility of literature, and the time available to conduct the review. Finally, due to the dual languages of the report, it is possible that some meaning may be lost in translation from Khmer-English language and vice-versa.

## Conceptual Framework

**Three key forms of accountability exist, to varying degrees, within a democratic context:**

**Democratic Accountability** which concerns itself with the commitments of government to deliver services to people and to ensure human rights and social justice. Democratic accountability in the decentralized context is the accountability of government, civil servants, and politicians to the public through the elected Council. It is viewed as external to government and 'Vertical' as in bottom-up [from people to their representative] with traditionally, democratic elections being the main mechanism of such accountability;

**Political Accountability** is accountability of the government, civil servants and politicians to the public through legislative bodies such as a congress or a parliament. Political accountability refers to the set of 'checks and balances' [oversight mechanisms] within state structures that ensure this accountability of public officials and government institutions. It is viewed as Internal [to government] and horizontal [accountability across government agencies] and examples include anti-corruption commissions, auditors-general, human rights machineries, ombudsmen, legislative public-accounts committees and sectoral regulatory agencies;

**Social Accountability** [which in recent years has become more popular in the Cambodian context] describes efforts by citizens and civil society organization [CSOs, Media etc.] to hold the state accountable combined with actions by government and other actors [private sector, donors] to respond to and support these efforts. It emphasises constructive engagement [rather than confrontation] between state and non-state actors and is intended to complement [rather than replace] democratic and political accountability.

In a public sector context, social accountability refers to a broad range of mechanisms which citizens, communities, independent media and civil society organizations [with active and constructive engagement of government] can use to hold public officials, public servants and policy makers accountable. To date, such social accountability mechanisms have included a wide range of initiatives including participatory budgeting, public expenditure tracking, citizen and community score cards, public hearings, monitoring of public service delivery, information for citizens [I4C], public commissions and citizen advisory boards. Social Accountability can be initiated by the state and always needs the support or participation of the state. In many transitional democracies these processes tend to be somewhat more demand-driven, external to [but supported by] government and operate from the bottom-up [Malena et al 2004: 3 ].<sup>1</sup>

<sup>1</sup> Carmen Malena, Reine Forster Janmejy Singh 2004, Social Accountability: An Introduction To The Concept And Emerging Practice, World Bank, Washington

In Cambodia, the RGC in partnership with development partners and a wide range of civil society organisations has developed a joint and integrated Social Accountability Framework [I-SAF]<sup>2</sup> in 2014, which built on and enhanced of the Government's 10 year National Programme for SNDD [2009-2019]. The I-SAF consists of four components of action: [i] access to information and open budgets, [ii] citizen monitoring, [iii] facilitation and capacity building, and [iv] learning and monitoring. All four components are inter-linked and mutually reinforcing.

Social accountability activities under the I-SAF are undertaken through a cycle of activity which mirrors ongoing local governance planning processes and focuses on increased accountability and improving of services in the health and education sectors as a starting point. The ISAF focusses on the commune and the districts<sup>3</sup>, with the latter viewed by the government as the 'center of gravity' for effective local democratic governance. The ISAF includes information sharing and budget literacy work, implementation of social accountability practices [i.e. citizen monitoring], facilitation and capacity development, as well as learning and monitoring. The timing of the activities in each component is critical and where possible they have been aligned with the timing of existing government decision-making processes.

Social accountability activities currently underway in the ISAF [2014-2016] are to be undertaken by government, civil society actors and jointly. In practice, some activities described in the four integrated I-SAF components above will be undertaken by government actors, some by non-state actors and other actions will be undertaken jointly to optimize the integrity and impact of each activity. Evidence shows that some social accountability actions must be led by government [e.g. issuing guidelines to ensure the disclosure of supply-side information] while other activities [e.g. citizen monitoring and assessment] are best undertaken independently [although in consultation and with agreement from both sides] with the support of civil society actors. For maximum impact activities are developed to provide capacity, feedback and inputs into existing local systems. Over the period 2014 to 2016, the social accountability activities described in the I-SAF plan were implemented in approximately 120 districts [out of a total of 165 districts] and 26 cities with a tentative plan to expand to all districts in the coming years.

And yet, aside the very positive work undertaken thus far through the ISAF to take forward social accountability practice at sub-national level particularly, it is important to note that the promotion of social accountability through the ISAF has lead to questions as to what extent social accountability [in its current form] really addresses political dynamics at local and national level. Given that in many local contexts in Cambodia, politicians operate a 'clientalist' or patronage approach to addressing local issues, some argue that a focus on a wider civic education may be more appropriate. Others question how advisable it is to focus on and channel funds into 'alternative' accountability mechanisms such as the ISAF, in locales where capacities for democratic/political accountability [through elected representatives] remain the key challenge. This is especially true at sub-national, given the very limited discretionary funding currently available to D/M councils.

A further concern is that confusion among citizens, representatives and officials around social accountability mechanisms and how they fit with and relate to other democratic and political accountability mechanisms, could result in an incoherent approach to developing more democratic governance at a time when an effective, democratic D/M and/or Commune Council should be the

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2 [http://www.ncdd.gov.kh/jdownloads/Strategic%20plan-policy/implementation\\_plan\\_i-saf.pdf](http://www.ncdd.gov.kh/jdownloads/Strategic%20plan-policy/implementation_plan_i-saf.pdf)

priority. There is also concern among some actors that the ISAF defines social accountability too narrowly and is too utilitarian in its overall approach, too prescriptive in its methods [‘training on a set of tools’] and ignores the institutional development challenges [the unwritten and written ‘rules of the game’], which undermine inclusive participation, and the responsive institutions this requires.

There is also conceptual misunderstanding among some analysts who often present social accountability in terms of ‘supply and demand side’ governance. These theorists describe the challenges to policy development and implementation somewhat simplistically and instrumentally in terms of ‘supply’ [government] vs. ‘demand’ [citizens and CSOs] side actors, when in fact both government and citizens are each responsible for the supply of and demand of accountability. In addition, in Cambodia the challenge of accountability is also often viewed solely as a lack of capacity, awareness, or resources. From the perspective of local authorities, they report they are fulfilling their roles as duty bearers [i.e. budget disclosure, access to information] but note their own capacity and resources are inadequate. At the same time, from the citizen’s perspective as rights holders, they are not able to access information and services, due to what they term insufficient efforts on will on the part of local authorities. This apparent contradiction in the narrative of social accountability needs further investigation.

In this vein, a range of practitioners and academics have in recent years offered a critique of such disaggregated models and have instead suggested developing a more integrated range of approaches to addressing both the ‘demand’ and ‘supply’ side of governance. This critique of ‘one-sided’ or ‘unbalanced’ approaches by practitioners and policy makers has led to the development of a range of models, tools and approaches described by different agencies as participatory governance, social accountability, accountability and voice, democratic governance and civic education/participation. They share in common a focus on developing an integrated approach to democratic development by linking the supply and demand sides of democratic governance, viewing them as the responsibility of both state and non-state actors, both demanding and supplying governance that fosters participation, transparency, and accountability.

In summary, the conceptual framework offered for these policy studies is one where social accountability measures complement and reinforce conventional democratic and political accountability mechanisms. In order to do this, social accountability practice needs to incorporate a focus on both institutional and capacity development underpinned by political economy analysis to ensure an enabling environment for democratic reform in Cambodia. Action research can be a key part of this process which will require a greater degree of analysis, reflection, ‘lesson capture’ and adaptation. Such an approach would focus on increasing momentum toward policy reform. It would also be based on a deeper understanding of the political economy including the motivations and power differentials of the various actors in democratic development in Cambodia.

## Summary of Key Issues

The Royal Government of Cambodia is pressing ahead with its decentralization and de-concentration reform. In this regard, the law governing the capital, provincial, municipal, district, and khan administration and the commune/sangkat law [2008] requires the local councils to respond to the needs of citizens in their jurisdiction and to represent their needs. The laws also provides the opportunity for citizens to engage in the decision-making process in order to ensure that their concerns and needs are adequately addressed. In order to realize this goal, the sub-national administration must establish appropriate mechanisms to facilitate citizens' engagement in the decision-making process of the local commune [and to some extent district] councils . In this case, engagement means more than just gathering information, listening to feedback, and receiving proposals from the citizens. It requires close cooperation between sub-national authorities and citizens in the process of planning and decision making by local authorities. The RGC recognizes that promoting people's participation has the following benefits: 1] strengthening local democratic development; 2] improving the formulation of local policy; and 3] enhancing faith in the local administration process. Despite the government's intentions, however, the level of citizen participation in local development remains low overall. This is a matter of concern as civic engagement is one of the cornerstones for democratic and social accountability. This policy reflection looks at the issues of public participation in Bakan district, Pursat province.

## Findings & Analysis

The First Three-Year Implementation Plan [IP3 2011-2013] of the Government's National Programme for Sub-National Democratic Development [2010-2019] led by the National Committee for Sub-National Democratic Development [NCDD] states that citizens' engagement constitutes an essential mechanism for elected D/M local councils to receive information about the needs of the citizens and their communities, as well as to listen to and receive views and feedback about the performance of the government in local development. During the first IP-III, a legal framework outlining mechanisms for the sub-national level to directly engage local citizens in democratic development was put in place. This framework closely reflected Articles 34, 36, 38, 41, 43, 52, and 99 of the law governing the capital, provincial, municipal, district, and khan administration otherwise know as the Organic Law [2008]. This law in essence requires that sub-national councils be direct accountable to the people within its territorial jurisdiction. All preparations to implement development plans must be done in consultation with local people and stakeholders. The Organic Law [OL, 2008], is the basis by which District and Municipal councils were [indirectly] elected in May 2009 and the second term D/M councils were elected in 2013.

<sup>4</sup> Technical document on citizens' participation, NCDD 2014





investment program must be communicated publicly to the people and all stakeholders. Moreover, RGC guidelines for formulation of commune development plans and commune investment plans require participation of at least 60% of the families from each village, and 30% of these participants should be women<sup>7</sup>. The council must also seek the views of the public about information outreach within its jurisdiction.<sup>8</sup> In order to achieve this, each year the council must arrange 12 meetings, regular and extraordinary, organize public forum and consultation to formulate annual development and budget plans<sup>9</sup>. In terms of the commune/sangkat development plans, Article 64 of the Law governing communes/sangkats [2001], says that locally elected representatives “must also establish ways and means to enable participation from citizens of its commune/Sangkat in the whole process.”

In recent years, there have been reports by a number of agencies on the patterns of citizens’ engagement in local development. A report by the Economic Institute of Cambodia in 2010 found that citizens’ participation in local development processes was very low during the first mandate of the commune/sangkat council [2002-2006]. The trend improved slightly during the second mandate of the commune/sangkat [2007 to 2012]. Forty-one percent of interviewed respondents reported they had taken part in the village meeting but they did not know clearly the reason for their participation, nor the purpose of the meeting<sup>10</sup>. They attended simply because the village chief told them to. Similarly, a 2011 COMFREL report found that people attended these public meetings only to listen to the discussion and that they rarely raised any issues or concerns to the local council for consideration. NCDD’s report in 2012 found that, among 1,412 people surveyed, 40.7% reported that they had attended meetings of the local councils. It also found that 28.4% of those who attended the meetings expressed their views to the local officials. Not surprisingly, young people were more active than old people. API’s own research reveals that 42.6% of citizens interviewed [N=1520] said they were aware of the commune and district development plan and investment program. 58.1% of respondents stated that information was received through the authorities, 34.4% through dissemination meetings, 23.8% through word of mouth, and 13.4% through the information board<sup>11</sup>. On the face of it, these statistics seem to show that there is a healthy rate of participation by local citizens in the development processes. The question then which needs consideration concerns the quality of participation, and what outcomes, if any, emerge from their engagement.

More recently, in 2015 CDRI found that citizens feel hesitant to engage in the democratic process, while some local officials are reluctant to offer any cooperation with any NGO-implemented projects without approval from their superiors. The study also showed that it is highly problematic to expect local commune councils to ensure accountability of the state to its citizens. The study notes that commune/Sangkat council remains unable to play a key role in facilitating discussions between the citizens and wider state institutions, or in representing the interests, benefits, and voices of the citizens in dialogue with the national government. One of the key reasons for this is the fact that local councils are required to be accountable firstly to the party, and then to the citizens. Secondly, there is also confusion regarding the levels at which people can and/or should participate. While many CSOs continue to support public participation at C/S level, the IP3s had a preference for the D/M level as the focus of the reform. In addition, as mentioned above, there is the question of the quality of citizen participation which in many cases may lacking in real substance, meaning, or relevance for themselves or the local authorities.

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7 For details of each article, see Annex 1.

8 Ibid, Article 8

9 Law governing the capital, province, municipality, district, and khan, 2008

10 41%, Comfrel Report in 2013 page 29 line 7

11 API’s report “Accessibility of Information and Effectiveness in Enforcing Existing Laws for the Public To Obtain Information - 2015”

When API spoke to local authorities in Bakan district, we learned they feel they are doing their part to facilitate citizens' participation in the local development process. These efforts include conducting public forums, planning, preparation of investment programs, dissemination meetings, inauguration of construction projects, project appraisal exercises, and other meetings. But authorities still face a number of challenges. Sometimes information about these meetings reaches people late and lacks specific details since it is communicated verbally by village chiefs. This is despite the fact that government internal rules state that citizens should be informed three-working days in advance about meetings so they can be prepared to attend. As a result, citizens find it difficult to decide whether attendance is relevant or useful for them.<sup>12</sup> Another key factor in mobilizing and encouraging people's participation is the venue. Despite the efforts of local authorities, sometimes only a few people participate, either because they live far from the venue or don't have resources for transportation. Another systemic problem is that local authorities lack mechanisms and communication means to follow up with villagers on previous discussions, future meetings, or local development issues in general. In addition, financial, human and technical resources at the local level are inadequate for local authorities to address the needs of citizens. As a result, the citizens themselves lose faith and interest in engaging with local officials about development processes.

From their point of view, community-based organization representatives reported a lack of cooperation between them and commune as well as district councils. CBOs felt that the councillors did not appear to appreciate CBO involvement in development processes. CBO members said they rarely received opportunities to attend local council meetings, and when they did the invitation lacked specifics about the purpose and time, or it arrived late. Moreover, the content and agenda of the meetings were usually of little relevance to the needs of the local CBO members, making them disinterested in participation.

From the citizen's side, the livelihood factor also plays a major role in the decision whether to participate in meeting.<sup>13</sup> Since many people are poor, they prefer to use their time to do work to earn income for their families instead of attending meetings. Similarly, some have migrated to faraway places to work, leaving behind their small children for their elderly parents to look after. They are thus not physically present in their village of origin, and so cannot meaningfully take part in discussions. In terms of capacity, the limited education of most citizens also means they may not fully grasp the importance of engaging with local councils. Sometimes they attended meetings but seemed to pay little attention to the discussion or voice any substantive opinion that could be used to address issues. It is important to note, however, that while these appear as outward reasons for non-participation, there are also complex decisions that citizens are making. They may be weighing their experience with a history of non-performance, non-accountability of local actors, and deciding that it is not worthwhile to attend these local forums as very little, if any change is likely to result.

What emerges from a synthesis of views from both sides is that there is a gap in relationship between local authorities at commune and district levels and the citizens. This divide is caused by poor information flows, mismatched expectations, untested assumptions, lack of motivation, and unmet capacity needs. This weak relationship has caused misunderstandings and missed opportunities for participation and engagement. As developing and maintaining close relationships between local elected representatives and their constituents is the foundation of democratic governance, more effort needs to be invested in these processes.

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12 Information shared by the participants

13 For details, please see Annex 4

## Conclusion & Recommendations

Facilitating citizen participation in democratic processes is a duty local authorities are required to fulfil under the NP-SNDD. Together with civil society organizations, stimulating civic engagement can help them to address the needs of the people in a more effective, transparent, and accountable manner. The process involves gathering their viewpoints, concerns, and other issues – through meetings, forums, consultations and outreach activities. The challenge remains, however, how to transform the gains made in ‘access to participation’ to gains in ‘quality of participation’. The needs and requests of citizens should feed into the formulation of development plans and the three-year rolling investment program. Local authorities in Bakan district have been striving to fulfil this duty but their efforts are still limited in scope at the moment and in general it can be said that the level of citizen engagement [not only mere participation] is insufficient. The following suggestions are drawn from the analysis to improve the current practice:

- 1.** Based on a clear understanding of the NP-SNDD, IP3-II and the ISAF, all sub-national councils with the assistance of DPs and CSOs should establish common understanding at D/M and C/S levels, regarding the level, type and quality of people’s participation they are aiming for and the specific mechanisms which would enable this, which should then be communicated widely to citizens.
- 2.** CSOs and councillors should help reinforce through public awareness, capacity efforts, and ongoing education the important concept that the locally elected representatives – the District Councillors and Commune Councillors – are the gateway for local citizens to hold the governors [District and Provincial] to account.
- 3.** Civil society should continue its efforts to refine the model of constructive engagement where citizens and local authorities can find specific, relevant, and concrete issues which they can take forward in a collaborative, productive, mutually beneficial way. The model which API has developed is useful in this regard.
- 4.** National Assembly and/or Senate should also enact political party law reform that prioritizes civil servant accountability to the executive and the executive to the people through their public representatives. In specific, this would mean repealing or amending the political party loyalty law.
- 5.** CSOs should assist with carrying out relationship-building or confidence building activities between citizens and their elected officials – which are non-formal, apolitical [i.e. meet your councillor, open office hours, social events, etc.]
- 6.** Local councils should strengthen mechanisms for public outreach; messages should be communicated to local residents with specifics about the agenda of planned events, together with venue and time in order to secure their interest and ensure the highest level of participation.
- 7.** The Royal Government, Ministry of Interior, and NCDD should consider increasing budgets for and strengthening capacity of the local authorities. Work underway on the sub-national investment fund is a step in the right direction.
- 8.** In keeping with its capacity building function, the district councils should provide greater support to both district and commune councillors and governors on information disclosure [with the support of CSOs]. The aim should be to improve the quality and quantity of information outreach to the public in order to create an atmosphere for meaningful participation of citizens in development processes.



# POLICY CASE: **2** PUBLIC SERVICE DELIVERY

## Summary of Key Issues

As part of the RGC's on-going decentralization and decentralization efforts, local authorities, D/M councils [particularly], commune councils and line departments, are being given greater roles in the provision of services. Local health centres, clinics, and schools are also being held to greater account for their performance. Enhanced performance in terms of service delivery depends not only on the capacity of the service provider, but also on the quality of feedback mechanisms from citizens to their local government. With minor exceptions, most efforts at improving public service delivery [the ISAF, etc.] have been initiated and facilitated by donors and other development partners. A notable example is the One Window Service Office, which was developed under the non-state actor component of the World Bank funded DFGG project. Some of these donor funded projects have seen notable improvements in the efficiency and effectiveness of locally delivered services. But the required inputs [both technical and financial] from external actors have been critical to any gains made. Moreover, the political will of the state to hold itself accountable to citizens by improving service delivery is still underdeveloped. This willingness to improve service delivery has improved somewhat since the 2013 elections, motivated by the a desire on behalf of government to be seen as responsive to local needs. However, in general, service delivery by government actors at national and subnational levels is hampered by inefficiency, use of public goods for private gain, low capacity, inadequate feedback mechanisms, and insufficient resources. This policy reflection concerns public service delivery in Phnom Srok district, Banteay Meanchey province.

## Findings & Analysis

The law on commune administration [2001] explains the main role of the commune council which is "to serve local affairs for the interests of Commune/Sangkat and of citizens in its Commune/Sangkat" [Article 41]. This includes the following key roles: 1] Maintain security and public order; 2] Manage necessary public services that these services work well; 3] Encourage the creation of contentment and well-being of the citizens; 4] Promote social and economic development and upgrade the living standard of the citizens; 5] Protect and preserve the environment and natural resources; 6] Reconcile people's concepts for the sake of mutual understanding and tolerance; 7] Perform general affairs to respond to people's needs.

The strategy of the NP-SNDD has been to decentralize the ministries of health, education, agriculture, rural development, and water resources in the first phase.<sup>14</sup> What this meant in practice is that the functions of health and education, which were previously housed in the district health and district education departments, would now come to be under the jurisdiction of the concerned municipal or district administration. The original intention behind the NP-SNDD and democratic reform, was to have the citizens elect the councils, who would in turn elect the D/M/K councils. The D/M/K councils

14 COMFREL report on CCC performance, 2013

would then be directly accountable to the elected CS councils. This was to include engagement and interaction with citizens [through DM-Citizen Forums], and increased responsiveness to citizens demand for better services through social accountability mechanisms. It has taken time, however, for progress to be made in terms of this accountability. ISAF was implemented during the second phase of IP3, and has included the engagement of CSOs in the ISAF steering committee with NCDD at national level. There have been increases in average numbers of citizens and CSOs attending District Forums to discuss plans, budgets and quality of services or performance of their local officials and representatives. At the same time there has been a decrease in the number of citizen complaints to the Provincial Accountability Working Groups with a simultaneous increase in the number of complaints to DMKs. This could potentially indicate a somewhat higher level of understanding of DMK roles and responsibilities on behalf of citizens.

Notwithstanding these gains, the pathways to accountability are not always clear, information and feedback mechanisms are inadequate, and as a result public service delivery at the sub-national level still faces challenges and major gaps. In the mean time, functional transfer [as envisaged under the NP] continues to be a major hindrance to implementation of the policy for sub-national reform<sup>15</sup>. The NCDD's IP3-II and Budget for 2015 showed the challenges sub-national authorities continue to face. These challenges emerge when functions are transferred downstream without accompanying financial or human resources. The C/S Fund for example remain quite small, and even with sub decree 36 on the establishment of the DM funds [implemented as of 2013], substantial gains have yet to be realized in local development or service delivery. This is because most of the funds go for recurring administrative expenses, or in the case of the commune level these funds have historically been used for small scale infrastructure.<sup>16</sup> In truth, while considerable reassignments of personnel have taken place [from the center to the subnational level]<sup>17</sup>, there has been minimal functional transfer to date<sup>18</sup>. And in some cases, the transferred function is very technically complex in nature and has to go through many layers of discussion and consultation with relevant ministries and institutions.

15 CDR's report "Social Accountability in Service Delivery in Cambodia 2015" [p. 39 & 40]

16 ADB's report "Decentralization and Deconcentration Reform in Cambodia", 2011, p. xii

17 *ibid*

18 NCDD's Implementation of Action Plan and Budget for 2015 [p. 18]



COMFREL's report [2013] based on interviews with 853 people living in 64 remote communes, including indigenous people, found that public service delivery by sub-national authorities in those areas was poor due to lack of budget, limited capacity, inadequate information, and people's low engagement in the process<sup>19</sup>. Yet another study revealed that 18.5% of the respondents said they had difficulty in seeking information from the commune and district authorities, and among them 60.5% reported having to wait a long time to be served by a service officer, 20% having to travel long distance, and 17.5% saying that service officer did not keep his/her words from previous appointment.<sup>20</sup>

It is important to note here the linkage between access to information and public service delivery. Access to information enables citizens to become aware of the availability and pricing of services, and in turn to hold officials to account for delivering these services. These can range from everything to securing a birth certificate to better schooling. However, increased information does not automatically lead to improved service delivery. Moreover, information flows need to be bi-directional, not just from the service provider-user [i.e. price and protocols for services], but also from the user-service provider in the form of feedback on the quality of services received. In the absence of feedback mechanisms from the citizens on civil servant and service provider performance [through the aforementioned scorecards, comment boxes, public forums], service delivery is unlikely to improve.

In 2015, for example, API found that citizens' awareness of their right to information about public service fees still remains low. Only 38% [N=1520] said they have understood their right to information, 27.5% said they were not aware of the commune service fee, and 18.5% said they used to receive commune services but with some challenges. The difficulties they experienced included long wait times for services, long distances, and broken promises by commune officials. Moreover, citizens often faced officials who were unwilling to provide them with information about services<sup>21</sup>.

Of citizens API randomly interviewed in Phnom Srok, 76.5% [N=19] said they previously received information about public services from commune and district authorities while 23.5% said they have never received any information at all. Out of this group, 84.21% suggested that information outreach about public services be made available more often, while 47.37% asked for more explanation about the procedures to deliver and receive public services, as well as for broader dissemination of various laws and policies adopted by the government. Approximately 52.63% wanted the service price list posted on the information board and updated regularly, and another 10.53% proposed strengthening the capacity of local officials to address issues of concerns for the local residents. Among the interviewees, 58% said they were somewhat satisfied with the service delivery by the commune and district authorities.

As a counterpoint, 2013 COMFREL study found that of 853 respondents from 64 remote and indigenous areas, 60.5% of respondents thought that their councils had succeeded in building and maintaining local roads. These are quite good results considering that in general, commune councillors are constrained by the small budget in their C/S funds, and often have to rely on party finance to achieve other goals such as schools, irrigation and roads. In a survey conducted by NCDD [2012], commune councillors are rated poorly when trying to deal with land disputes, for which they actually have no legal mandate.<sup>22</sup> In general it appears that councillors perform better

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19 COMFREL's report "Assessing the 2nd Term of Decentralization in Cambodia, Performance of Commune/Sangkat Council, and People's Participation – 2013", [p. 18 & 22]

20 API's report "Information Accessibility and Effectiveness in Enforcing Existing Cambodian Laws for the Public to Obtain Information, 2015"

21 API's report "Accessibility of Information and Effectiveness in Enforcing Existing Laws for the Public To Obtain Information - 2015", [p. 6]

on administrative services such as birth certificates, registration, and even infrastructure, but with larger collective issues involving resource allocation [i.e. irrigation, land conflict, NRM management], etc. their performance drops considerably. Given their capacity and mandate, this is not surprising. This is also combined with the gradual emergence of the district councils as the center for gravity which would make for a more feasible local governance model that can address these larger issues.

At the same time, local residents, seem to have little motivation to understand the nature and significance of public service delivery and sometimes prefer to rely on the local authority to tell them everything. This relates in part, to the historical nature of the social contract between citizen and state, where in communist times that relationship was much more of a patronage relationship. It also probably directly relates to the citizens' experience with poor performance in the past, and to their low expectations for improvement based on past feedback which may [not] have been taken into account. In general, local people suggested that the local authorities should: 1] Provide more information about all development activities, as well as local revenues and expenditures; 2] Strengthen measures to prevent irregularities in service delivery [i.e. solicitation of fees beyond the official rate]; 3] Improve the attitude of local officials toward local people; 4] Enhance the capacity of its officials to do their jobs; and 5] Encourage community participation in local development.

Local authorities on the other hand report that they are working hard to strengthen enforcement of policies on public service delivery. District and commune councils stated that they have conducted numerous activities in cooperation with relevant partners including holding council meetings, meetings of the Committee for Women and Children, forums with provincial organizations; dissemination of leaflets, posters, village outreach activities, and posting notices on information boards. Despite these activities, they continue to experience difficulties in delivering services effectively due to their limited knowledge about relevant laws, and being unclear about their responsibilities. According to API's report from 2015<sup>23</sup>, the capacity of commune councils is still limited in terms of understanding concepts such as social development and human rights, project formulation/good governance and the citizen's right to access information. Their limited capacity also makes it very difficult for them to fully grasp the SNDD policy framework and translate it into real action<sup>24</sup>. In view of this situation, the local authorities have requested help from the national government to strengthen the capacity of their officials in functional roles and in legal awareness. In addition, within the NP SNDD it is not realistic to expect that the district councillors can mentor and support commune councillors unless the district councillors themselves receive extensive mentoring and support. Local authorities and elected representatives have also made requests to higher levels of government for budget increases and material support for local officials to strengthen mechanisms for citizens' participation in local development process.

A key finding from the discussions and research is that constructive engagement is central to democratic development. 31.58% of those interviewed proposed strengthening of local relationships between citizens and authorities to benefit development at the sub-national level. On the whole, it is noted that relationships between citizens and authorities have improved where local authorities are more open to participation by citizens, civil society organizations, and other local stakeholders. Networking should also be encouraged between state institutions and civil society actors in order to identify strategies that could respond to issues at the national level and the needs of sub-national decision-makers<sup>25</sup>.

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22 COMFREL report on CC performance, 2013, p. 29.

23 API's report "Accessibility of Information and Effectiveness in Enforcing Existing Laws for the Public To Obtain Information - 2015"

24 Ibid., [p. 33]

25 CDRI's report "Social Accountability in Service Delivery in Cambodia 2015" [p. 41 & 42]

## Conclusion & Recommendations

Local authorities have implemented many activities aimed at improving awareness about public service delivery through information board postings, information banners, picture posters, village meetings, monthly council meetings, campaigns, and public forums. But they experience constraints such as limited resources, capacity and support from the national level which prevent them from effectively serving the citizens. The slow progress of functional transfer from Line Ministries to districts also presents a problem because Ministries sometimes attempt to make functional transfer conditional on the pre-existing capacity of D/M officials. The paradox is that capacity cannot be developed significantly until the function is transferred and D/M Councillors or staff have the opportunity to learn in the process of performing their duties. This in turn affects the credibility of D/M Councils among both citizens and Line Ministries, who perceive that the councillors don't have the capacity or resources to fulfil their roles. Increasing capacity will require institutional development and the willingness and understanding of both Line Ministries and citizens to engage effectively with the new D/M structures. And this will also be shaped by their understanding and awareness of what is already in place in terms of regulation, systems, agreements and successes to date. The following recommendations should therefore be taken into consideration:

- 1.** Concerned Ministries and NCDD should adopt an approach of strengthening capacity through mentoring coupled with transfer of functions to D/Ms, and through providing the necessary budget support and human resources to the D/Ms to fulfil their duty as service providers for the people.
- 2.** The Ministry of Civil Service should conduct a human resource audit to look at issues of capacity and human resource development. This could include government-wide incentives which place a priority on meritocratic promotion of staff and incentivising through reward.
- 3.** Subnational actors – CSOs as well as local authorities – should join in legislative debate about sub-national resources allocated at the national level, and try to advocate for higher portions of local budgets to be earmarked for social development.
- 4.** Ministries or the NCDD should consider issuing guidelines on public service delivery – in particular what services are available and how to access them, and for what fees - and encouraging the citizens to use them, with special attention given to vulnerable groups.
- 5.** D/Ms and C/S councils should enhance current feedback mechanisms at the sub-national level by increasing the flow of information outreach, consultation and discussion with citizens, communities, civil society groups, private sector, ministries, and relevant institutions in order to identify potential strategies or actions that addressing deficits in public service delivery.
- 6.** D/M/K and Commune Councils should strengthen their own internal coordination and communication mechanisms and procedures so that together they can provide, monitor, and improve service delivery in conjunction with relevant line Ministry departments.
- 7.** District, Municipality and Commune Councils with support from national government should improve their communication strategies and monitoring guidelines in order to evaluate public awareness and participation in addressing gaps of service delivery.

# POLICY CASE: **3** BUDGET DISCLOSURE

## Summary of Key Issues

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Disclosure and transparency are relatively new terms in the Cambodian policy lexicon. The law on public finance systems defines transparency as “all laws, regulations ... and their implementation broadly disseminated to ministries, institutions ... or the public.” It goes on to define accountability as “the responsibilities of ministries ... and individuals concerning roles and responsibilities assigned to undertake these through a reporting system.” Both these definitions fall short of meeting acceptable standards, but they do shed some light on the current level of understanding regarding these terms in public sector financial management. Historically speaking, public sector finance reform has been an opaque realm where everything from national to local budgets have been debated and passed at the national legislature with little debate, discussion, or constructive engagement by key civil society actors or the public. The most powerful ministries, such as the Ministry of Economy and Finance, and the Council of Ministers, have tremendous say how these resources are allocated, with the actual vote within parliament being little more than a formality. In fact, the 2017 budget is somewhat indicative of a lack of transparency in resource allocation at the national level given that, of the \$5 billion budget, 17% of it is allocated to reserve funds. Although this is a common practice of many governments, it is unclear how this discretionary amount can be subject to proper oversight and accountability.

In 2002, the Royal Government embarked on a long process of administrative reform to decentralize functions, roles, duties, and resources to sub-national levels, culminating in the NP-SNDD in 2009. The NP-SNDD which launched a 10 year process of quite radical decentralisation reform. Despite numerous reform efforts [cited elsewhere in this report], disclosure practices by the government are still far from being effective. This is affected by institutional challenges, people’s limited awareness about their rights to information, and limited capacity of the authorities to share relevant information with the people. In particular, local authorities [commune and district councillors in particular] tend to be wary of public disclosure of budget information, for a number of reasons: 1] they fear it may compromise their ability to allocate resources as they see fit [sometimes contrary to public interests,] 2] they are concerned they will provide information which is not sanctioned by central authorities , and 3] they simply do not have the capacity, including practices, procedures, and mechanisms, for openly disclosing this information. On the other hand, the lack of transparency about expenditures and revenues makes it very difficult for citizens to demand accountability. The local authorities in Thmar Puok district, Banteay Meanchey Province, decided to look more deeply into the issue of budget disclosure. The aim of this case study is to identify good practices and areas that need to be improved in the interest of democratic participation, transparency, and fiscal accountability.

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26 Law on Public Finance Management [2008]

27 API’s report “Information for the Citizens towards Improving Local Governance, 2014-2015” [p.12]

## Findings & Analysis

For this analysis four legal frameworks are considered which address the issue of budget disclosure: 1] the law governing the capital, province, city, district, and khan; 2] the Law on Public Financial Management System; 3] Law on Financial Regime and Asset Management of the Sub-National Administration; 4] and Implementation of the Social Accountability Framework [I-SAF]. According to these laws, the sub-national administration has the role and duty to provide budget information to citizens who live within their jurisdictions. Article 6 of the Law on Financial Regime and Asset Management of Subnational Actors [2011] sets the stage for transparency and accountability, as follows:

*Each Council shall represent and take action on behalf of the citizens and shall manage public financial affairs in order to promote democratic development in a sustainable manner within its jurisdiction. The Council shall manage its public financial affairs effectively, transparently and accountable for its citizens and for the Royal Government with the Ministry of Economy and Finance as its état-major.*

### Other articles which follow suit are:

- ⦿ Article 43 of the Law governing the capital, province, city, district, and khan [2008] states that the council must manage its finances with transparency and accountability to their constituents.
- ⦿ Article 35 of the Law on Financial Regime and Asset Management of the Sub-National Administration states that the sub-national administration budget must be drawn up between June and September each calendar year. It adds that the governor of each sub-national administration governing board must make public this budget plan in order to solicit views from the people and other relevant entities within their jurisdiction.
- ⦿ Article 43 states that financial inspection and audit report to which the sub-national administration council has given its feedback must be made public.
- ⦿ Article 84 of the Law on Public Financial Management System says that all records of revenues and expenditures of the national and sub-national administrations must comply with





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- ប្រើប្រាស់ប្រព័ន្ធគ្រប់គ្រងសម្រាប់ការងារ  
- បង្កើនប្រសិទ្ធភាពការងារ  
- បង្កើនការងារដែលមានលក្ខណៈសំខាន់ៗ  
- បង្កើនការងារដែលមានលក្ខណៈសំខាន់ៗ

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- ប្រើប្រាស់ប្រព័ន្ធគ្រប់គ្រងសម្រាប់ការងារ  
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accounting table and budgeting items, and all accounting and financial reports must be transparent and made public.

- ⦿ In the sub-decree 219 on preparation of development planning and investment program for the capital, provincial, municipal, district, and khan council, Articles 13 and 21 encourage participation by the people in the consultation process to formulate development planning. The three-year rolling development plan and investment program must also be communicated publicly to the people and all stakeholders.
- ⦿ In the sub-decree number 172 on the financial management structure of municipal and district administration, Article 17 calls for participation of the people and stakeholders in the process of formulating budget through public meeting of the local council.

In terms of technical support and coordination, The National Committee for Sub-National Democratic Development [NCDD] has been established as a mechanism to provide legal, technical, budgetary, material, and capacity-building support to the sub-national level. To date, the NCDD has been pressing ahead with the Implementation of the Social Accountability Framework [I-SAF], whose objective is to increase people's access and usage of public information [including regular budget planning] and increase their knowledge capacity in how to use such information.

At the local level, discussions were facilitated with 12 citizens [two females] from five communities in Thmar Puok district. They said they have received, through public forums and other outreach activities, information about budget from the commune fund. But they also added that the local citizens still feel hesitant to inquire about the oversight and management of the commune and district budget. This is perhaps because citizens consider it an internal matter of the commune and district councils wherein they have no right to intervene. Another challenge is that the district council chief and commune council chief usually do not open the floor of meetings for citizens to voice their views or raise issues for discussion. The issue of budget is rarely brought up for discussion in the council meeting, and when it does arise, the chiefs usually make unilateral decisions. Random interviews with local citizens also revealed that information disclosure about local budgets prevents them from participating meaningfully in development processes. Among the 19 respondents, 94% said they were not aware of information about commune and district budget for 2016. 63% said they never received any information about the commune and district budget. 67% had never taken part in either the commune or district budget planning process. 41% expressed medium satisfaction with the management of development budget by commune and district authorities, 47% showed little satisfaction, and 12% were not satisfied at all.

When asked how to improve the situation, community representatives requested commune and district councillors to disseminate wider information about the budget so as to increase people's understanding of the matter. This information could include the following details: 1] budget allocation amounts from the central government, 2] revenues from public services and 3] revenue from other sources. In this connection, it is important to recall that the law on Commune Administration [2001] gives the commune the rights to collect land taxes, taxes imposed on immovable properties, and rental taxes. It is not known how much this is practiced in reality. Citizens also asked that authorities respond in a timely manner to their requests for information, and effectively implement the laws and policies of the government. These findings confirm that people's awareness about the budget for sub-national administration remains low which, in turn, does not enable them to monitor or track the way local development budgets are managed.



As a potential solution for low participation rates, District and Commune councillors should reach out more to citizens, and share with them meaningful, relevant budgetary information. It is also important to define expectations of and motivations for people's participation which affects the quality of participation. One of the major challenges of citizen participation across all sectors is that expectations are left undefined or vague. Many questions need to be asked when inviting citizens to join a forum to discuss budget issues. Should citizens participate in order to: 1] Just listen and understand the budgeting process? 2] Act as watchdog and monitor spending? 3] Propose their own requests for budget expenditures? 4] Support the councils to use budget resources efficiently? In the absence of clearly defined reasons and mechanisms for community participation in budget formulation therefore, the risk is that only token participation results.

Consultations were conducted with 14 commune and district officials and one female council chief. It is apparent that authorities believe they have carried out a number of activities to disclose budget information to citizens within their jurisdiction. This information includes details about the budget package allocated by the national government, revenue from provision of public services, charitable contribution from individuals, assistance from development partners, community contributions, and reports about revenues and expenditures. These details were made available through public information boards, community posters, the council's monthly meeting, village outreach activities, dissemination campaigns, and public forums. However, the officials also mentioned the challenges they faced in conducting these activities due to lack of resources, limited capacity of the outreach officers, delay in budget disbursement for the activities, and indifference of local residents to take part in community development. According to them, the key factor preventing dissemination of budget information is the limited capacity and resources that the sub-national officials have to perform their duties.

District and commune officials also acknowledged that the central government has transferred many functions and activities down to the local level, but budget, materials, and other means are still far from being sufficient to meet the local needs. The transfer of budget and other technical resources is also very slow, preventing local officials from responding to the needs of the local population in a timely fashion. District and commune officials called on the national government to accelerate the transfer of functions and roles from the central government to the sub-national authorities. Alongside this functional transfer they need strengthened capacity, and increased resources to support dissemination of budget information to local citizens.

In practice when one looks at the commune and district investment plans, very little if anything is allocated in the budget for social service purposes and is mainly pre-determined. Though citizens in API forums requested that local authorities devote more of their budget to local development activities, this is a constant struggle for local authorities, given that they do not have the resources to do so, with the lack of discretionary funds provided by central government. Historically almost 60% of local council expenditures are for small scale infrastructure projects, and the other 40% is spent on administration and councillor's allowances. All local development activities

are therefore usually funded by civil society organizations. One positive development in this regard is that the I-SAF mechanisms provide for some sub-national technical and material support for primary school facilities, health centers, commune office buildings, and regular dissemination of revenues and expenditures.

## Conclusion & Recommendations

RGC legislation and policy require that sub-national administration actors to disseminate public and budget information to citizens. However, the dissemination mechanisms are far from being effective and people's awareness about the budget for community development remains low. As a result, they have little interest in monitoring the local development budget of commune and district councils. At the same time, the capacity of the local officials needs to be enhanced to increase the awareness of the local population, especially concerning information about the budget for community development. The following recommendations are made:

- 1.** The MOI, or provincial councils should raise awareness among commune and district councils concerning RGC policy and legislation to help them understand and reflect upon their own role in budget disclosure, and to feel more confident about revealing information
- 2.** The national government, especially the Ministry of Interior and the NCDD, should increase technical, material, and budgetary support for information outreach activities as well as for raising awareness about the policy of democratic development and other relevant laws at the sub-national level.
- 3.** In connection with public participation, local councillors together with civil society organizations should develop clearer guidelines for community participation in decisions on local resource allocation. What does it mean for citizens or CBO members to be able to view the budget in a CIP or CDP? What role do they have to play in influencing it or creating it?
- 4.** Central ministries and the MEF should step up efforts to implement the SNIF facility, and think of alternative ways in which funding can be directly channelled to the subnational levels. Donors and development partners should also explore innovative ways in which technical and financial resources can be allocated directly to provincial and district administrations.
- 5.** CBOs and CSOs should strengthen the capacity of their own constituents in financial and accounting understanding, so that they have more ability to engage with local authorities and to question the formulation and allocation of budget resources.
- 6.** Commune and district authorities should strengthen information distribution mechanisms, including ease of reference, understanding, and accessibility, to make it easier for people to receive budget information which meets their needs.
- 7.** The Ministry of Interior, Ministry of Economy and Finance, and NCDD should provide additional training to strengthen the capacity of the sub-national officials on budget management, in particular allocations for social development.
- 8.** District and commune authorities should encourage local residents and communities to participate more in regular meetings to plan development budgets and to monitor and evaluate progress and other activities within their locality.
- 9.** The government, particularly the Ministry of Interior and the NCDD, should continue implementing and expanding the scope of I-SAF nationwide.

## Summary of Key Issues

The Constitution of the Kingdom of Cambodia guarantees every Cambodian citizen the right to a free basic education. Moreover, the National Supreme Council on Education is charged with ensuring that this education contributes to the development of human resources in the country. It must include education on morality and civics, education on how to live together, education for peace, education for sustainable development, and education to respect cultures and traditional values. The main Ministry occupied with these affairs is The Ministry of Education Youth and Sports. It is moreover recognized within the ISAF framework and laid out in the D&D planning processes that the functions of the Ministry of Education shall be decentralized to the subnational levels. This is to be a cooperative effort among the Ministry of Education, the Ministry of Interior, the Ministry of Economy and Finance, the Ministry of Civil Service, and the NCDD.

Closely linked with provision of education services is the citizens' rights to obtain information about those services. The right to information is one of the cornerstone elements of Cambodia's democracy. Cambodian citizens have the right to receive and request information on certain topic – education, health, agriculture, tourism, industry, trade, etc., from local authorities<sup>29</sup>. The challenge in Cambodia is that the government does not always practice full disclosure, for a variety of social, cultural, and political reasons. In addition, the majority of citizens are hesitant to seek information, or are not aware of their right to information or in engaging with the government. Some of the core reasons for lack of information flow include: 1] insufficient capacity or will of the local authorities to disclose, 2] lack of citizen knowledge about right to information, 3] hesitance of citizens to seek information, and 4] limited capacity to use information effectively. Social norms also play a role in hindering people's access to information. In a society where information is knowledge and knowledge is power, Cambodian citizens often feel they have no right to request information from their locally elected representatives.<sup>30</sup>

With regards to service delivery, in particular education, lack of access to information prevents citizens from demanding better services – such as higher quality education, more teachers, better facilities, enough textbooks. On the other hand, when the government freely discloses information and citizens use it for their own good, a virtuous cycle of better service delivery and civic engagement can result. This policy reflection focuses on the situation of access to information on education in Prasat Balank District, Kampong Thom Province.

<sup>29</sup> API's report "Accessibility of Information and Effectiveness in Enforcing Existing Laws for the Public To Obtain Information - 2015"  
<sup>30</sup> "Connecting the people with the government in Cambodia", World Bank 2009

## Findings & Analysis

There are comprehensive local and international legal frameworks guaranteeing Cambodian citizens the right to access information, in particular within the education sector. Article 19 of the Universal Declaration on Human Rights 2015 states that each person has the right to express his/her view and opinion, which includes the right to subscribe to any view without interference, and to seek, receive, and share information through any medium. Article 41 of the Cambodian Constitution [1993] states that the Cambodian people are entitled to the right to express their opinion, disseminate information and to gather or hold meetings. Article 52 of the law governing the capital, province, municipality, district, and khan administration number 556 [2008], states that each council must have an information board or other medium at its central office and other venues within its jurisdiction for the local population to receive public information.

Moreover, the Organic law and later, the inter-ministerial Prakas number 3856 on public service delivery by sub-national administration [2013] states that local councils must create enabling conditions for the public to receive information about reports, meeting agenda, meeting minutes, writ, laws, royal decree, sub-decree, and other documents pertaining to the council's work<sup>31</sup>. This also includes a list of administrative services, forms, procedures, and revenue collection from those services. Each council must have an information board or other medium at its central office and other venues within its jurisdiction for the local population to receive public information<sup>32</sup>. The board of governors must provide adequate access for the public to check the information board as well as to ensure its proper safeguard<sup>33</sup>. To ensure transparency and accountability to the people, all of these administrative authorities must also set up a system for monitoring, evaluation, assessing, and addressing any irregularities that might occur in rendering services within their jurisdictions<sup>34</sup>. The Organic Law also states that district councils must consult with commune/sangkat councils and relevant stakeholders to make regular assessments of the capacity of commune/sangkat council, its personnel, and to provide training to the people in each location on a regular basis<sup>35</sup>.

Articles 35 and 36 of the Law on Education [2007] state that pupils and their parents, or guardians have the right to receive information and reports about the performance of their children in school. Article 43 of the law defines the right to receive education information from public education



31 Law governing the capital, province, municipality, district, and khan, 2008 [Article 51]

32 Ibid, Article 52

33 Ibid, Article 169 and 170

34 Inter-ministerial Prakas number 3856 on service delivery by sub-national administration, 2013 [Provision 2]

35 Law governing the capital, province, municipality, district, and khan, 2008 [Article 99 & 100]

institutions. Point 4 of Article 37 talks about the rights and duties of education personnel, including the right to organize meetings on matters related to public education. Article 29 requires the state to open up space for participation of all stakeholders – public and private sectors, NGOs, and communities – in developing, drafting, monitoring, and evaluating implementation of all proposals, as well as in reviewing and recommending measures to improve education policies, plans, and strategies.

Interestingly enough, however, another article in the Education Law which would seem to contradict Article 19 of the UDHR and Article 41 of the Constitution is Article 42 and Article 43, which restrict the right of publishing educational information to the Ministry of Education. “All advertising and propagandizing of educational information shall be authorized by the Ministry in charge of Education.” It would seem, then, that citizen’s rights to receive and impart information are limited by this Article. And Article 53 provides for punishment in the way of a fine of up to \$2,500.

API has found through consultation with local community members that by engaging with local authorities, citizens can receive and request information about education, health, agriculture, tourism, industry, and trade<sup>36</sup>. More than half [57.1%, N = 1520] of the participants in a local study said they had received education-related information from local authorities. The number of men who received the information was higher than women. The information that they received was usually about age, enrolment, significance of education at secondary and tertiary school levels, and vocational skill training. People also sought information about scholarships to study abroad. Some citizens are aware of their right to participate, able to express their opinions, and advocate for what they need. They take part in those meetings but the quality of participation is low. They rarely raise questions to the speakers or do not understand the topics being discussed. Sometimes this hesitation is caused by a fear of the local authorities. Citizens in Balank District reported that access to education-related information faced many challenges:

- ⦿ Lack of encouragement from local authorities [11%, N=250]
- ⦿ Low awareness of the citizens about the benefit of education [36%, N= 250]
- ⦿ Low education levels of citizens themselves [30%, N=250].
- ⦿ Livelihood preoccupation [rice farming, cassava planting, fishing, etc.] prevents citizens from taking part in the public forum where information is shared



<sup>36</sup> “Accessibility of Information and Effectiveness in Enforcing Existing Laws for the Public To Obtain Information”, API 2015

- ◉ Limited capacity of local and education officials in disseminating information about education

Education service providers, teachers, education officials, and council members report that they always try to work together to organize meetings to disseminate education information to the local residents. People from all walks of life – Buddhist monks, men, women, people with disabilities, youth – are invited to the meetings or take part in outreach activities. Meanwhile, commune and district authorities regularly organize forums and meetings with teachers to discuss education issues and ways to communicate messages to the villagers. Topics include the importance of education, how to enrol children in school, coaching, the annual education budget, the school development plan, and parents' contribution.

However, local authorities also reported a number of challenges. The district councils need to strengthen their own capacity in management skills, knowledge management, reporting, needs assessment, communication, and understanding of policy and plan of the government. Although they have received training from NGOs on how to perform their jobs, only a few could apply what they learned. This speaks to the need to revisit the capacity building approach of government and civil society organizations, and possibly to redesign the frameworks and methods for developing capacity of subnational actors. In many cases local authorities themselves do not actually have the information which they need to provide to the people. This is due partly to the inability to determine which information should be disclosed, partly due to hesitation, and partly due to lack of understanding of their own roles and responsibilities in providing information to citizens. Political will may also be a factor, given that disseminating information shifts the power balance and potentially causes local authorities to lose their power, authority, status, or access to resources. A possible remedy for this would be for the central government to actively promote disclosure by mandating that all necessary information should be released.

Local authorities in the study area attempted to disseminate information about education, but it is not clear how much of this was at the insistence of external actors [like NGOs, for example], and how much was from their own interest and will. Due to capacity limitations and resource constraints, accessibility of the information for citizens in those areas remains a big challenge. In trying to address these challenges, the Ministry of Education, Youth, and Sport, its local offices, and local authorities have initiated cooperation with several NGOs to more proactively implement information outreach activities. As noted elsewhere, The ISAF framework in particular is working on this. The approach could create opportunities for local officials to better understand the importance of disclosing education-related information to the citizens. It could also lead to greater participation by the citizens in various information outreach activities.

What also emerges from this policy reflection is that not all information is of equal value. With respect to education, there are different types: 1] information about resource allocation [e.g. textbooks, teachers], 2] information about opportunities [e.g. scholarships], and 3] awareness raising information designed to stimulate demand for services [i.e. the importance of education]. If we consider that knowledge is power, and access to resources and opportunity potentially causes shifts in power, we can understand that local officials might be more willing to disclose 'neutral' information such as that about the value of education. Yet they might be more hesitant to disclose information about opportunities [i.e. scholarships] because they want to direct these opportunities to those from whom they can receive some benefit in return [i.e. patronage, vote support, etc.]. In general, there is an assumption of low capacity on the part of education officials and councillors to disseminate information. This misses the underlying reason that officials may be hesitant to distribute information in a transparent fashion because it is either detrimental to their personal interests or will affect them in ways which they don't fully understand. There is also a tendency

to focus only on the link of information disclosure from local government officials to the citizens. This assumes that the local officials themselves are receiving this information from higher levels, which is not always the case. In some cases it is a problem of poor knowledge management and coordination.

## Conclusion & Recommendations

Education is a fundamental right for all Cambodian citizens, and can open doors to future opportunities and economic advancement. As such, it is an important public service that needs to be equitably allocated. There is recognition among actors within the ISAF framework that information concerning education needs to be more openly and proactively disseminated. At the individual level with elected representatives and officials, behavior and attitudinal changes may be required to bring about a shift in greater disclosure. At the same time, systems, policies, and mechanisms need to be put in place that mandate the sharing of broadly different types of education information – and not only those about the importance of education, but also those that have to do with resource allocation. The following are recommendations for moving forward:

- 1.** Rather than waiting to solve information disclosure on a macro level, local education service providers should take simple requests from the people and respond to these on a case-by-case basis. For example, a public forum could generate some specific questions and then education officials could seek to return replies to those answers. This could build greater trust and understanding between duty bearers and rights holders.
- 2.** Civil society need to invest in participatory action research involving disclosure agents themselves [i.e. councillors, education officials] to understand the difference between: 1] failure to disclose because of lack of capacity, 2] failure to disclose because of lack of resources, 3] failure to disclose because systems are not developed enough, and 4] failure to disclose due to lack of personal or political will. Each of these requires a different response mechanism.
- 3.** Both RGC and CSOs efforts should put students and parents, as the users of the education system, at the centre of all access to information efforts. In particular youth themselves could be engaged to work with their teachers and find out answers or seek information which they wish to know. In this way, they could function as active agents in the context of a rights based approach.
- 4.** Local elected representatives and education officials should be integrating information related to primary education into the agenda of the regular meeting of the district/commune councils and into their information outreach plan as well.
- 5.** Local officials should engage in greater efforts to encourage citizens to take part in the district/commune council's monthly meeting and information outreach activities.
- 6.** Ministry of Education, Youth, and Sports should consider enhancing mechanism and information outreach activities at primary school level so that they become more effective with a wider reach.
- 7.** NCDD and MoEYs should increase their joint work to strengthen the capacity of the local education officials and other stakeholders so that they can work more effectively to respond to the citizens' needs for information. This should be accompanied by an increase in financial resources for information outreach and improved cooperation with CSOs

# POLICY CASE: **5** COMMUNITY FORESTRY

## Summary of Key Issues

Cambodia is endowed with natural resources, including forestry areas, which provide an important base for socio-economic development. According to data from Open Development Cambodia [ODC], until to 2013 Cambodia had a forest cover of 8,413,908 hectares. In the 1990s, the government of Cambodia began issuing forest concession licenses to private companies, in hopes of generating revenue for the national budget. But expectations were never realized since the country had a weak forest management system. The fees generated from the concessions were very little, and the environmental damage done was great.<sup>37</sup> By the end of the 1990s, the RGC tried to put in place a number of legal and regulatory frameworks to slow down deforestation, but by then it was already too late. Due to insufficient protection and preservation efforts on the part of the government, between 1990 and 2005 Cambodia lost about 25,000 sq. km of forest cover.<sup>38</sup> As a result, Cambodia now has one of the highest rates of deforestation in SE Asia.<sup>39</sup> This prompted the government to reverse decision and declare a logging moratorium in 2002, and most forestry concessions had stopped by 2006. But later it started issuing economic land concession licenses instead, which allowed companies to clear forest to use land for growing rubber trees and other crops. This brought with it a whole host of social and environmental issues that were negative and detrimental to both people and the local ecosystems.

After more than nearly two decades of staunch protest from local and international CSOs, forestry networks, and activist groups, the RGC is finally embarking on reform, with the recent creation of units such as the high profile Anti-Logging Task Force. More recently, in response to strong protests and demand from civil society groups, the government approved the creation of a wildlife sanctuary covering 431,683 hectares of land stretching from Stung Treng, Kampong Thom, Kratie and Preah Vihear.<sup>40</sup> In June of this year, moreover, in order to more effectively separate the functions of the two ministries, the Prime Ministry transferred control of all economic land concessions from the Ministry of Environment to the Ministry of Land, and all protected land and forest that was once under the Ministry of Land is now under the control of the Ministry of Environment. In the past the FA and MAFF played two simultaneous but contradictory roles: 1] conservation and 2] development. Now MAFF is playing the development role only, and MOE only the conservation role, which is supposed to make things clearer and prevent conflicts of interest. The MoE is recognized as being more reform minded and progressive than MAFF, and with technical support from UNDP and others is drafting an environmental code which will may give forestry networks a role to co-manage forests with the MoE.

37 RECOFT Report

38 Source: Open Development Cambodia

39 <http://theredddesk.org/countries/cambodia>

40 <https://opendevdevelopmentcambodia.net/topics/concessions/>





## Findings & Analysis

The legal and regulatory framework concerning natural resources, and forestry management in general, is complex and dates back to the mid-1990s. The broad legal frameworks are the 1998 Royal Decree No. 35 on Effective Forestry Management, the 1993 Royal Decree on Protected Areas, and the 1996 Law on Environmental Protection and Management. Historically the Ministry of Forestries and Fishery Administration has been charged with the stewardship of forests in the country. Specifically, Article 3 of the Prakas number 059 on the management and role of forestry administration states that the forestry administration has the role to: 1] investigate, prevent, and take legal measures against any activities that cause forest destruction, wildfire, and land encroachment; and 2] to educate people, using various means and activities, about the benefits of engaging in the management and conservation of forest, and in rehabilitation of the eco-system and forest protection. Article 7, point 9, of the forestry law number 182, also states that the Forestry Administration should educate people through various programs on the importance of forest management and preservation, and take measures to rehabilitate the natural eco-system and preserve the forest.

Article 59 of the Law on Forestry, number 182, states that people, armed forces, and authority at all levels have the duty to engage in tree planting and reforestation. Article 9, point 8, says that all forest management plans should include elements that enhance forestry knowledge, and that engagement of local community members is crucial for successful management and protection of the forest. Article 215 of the law governing the capital, province, municipality, district, and khan [2008] says: In reviewing function of ministries, institutions, departments, and agencies, priorities should be given to issues relating to forestry, natural resources, and the environment. Article 43, point 5 of law governing commune/sangkat [2001] states that commune/sangkat administration must protect and conserve the environment, natural resource, culture, and national heritage. However at the same time, commune councils have no jurisdiction concerning forestry management according to the Organic Law. Article 78 stipulates that, in case local officials encounter illegal activity in the forests, they should: 1] urgently inform forestry administration officials; 2] temporarily detain the offenders and send evidence to the forestry administration to take further legal action.

The sub-decree on community forestries [2003], which is relevant here, gives broad powers to community members to manage their own community forestry areas, including the following roles and responsibilities: 1] Participate in developing and implementing Community Forestry Regulations, 2] Community Forest Agreement and Community Forest Management Plan in compliance with Prakas of MAFF; 3] Participate in forest resources management in compliance with Community Forestry Regulation, 4] Participate in sharing benefits from the community forest; 5] Participate in monitoring the use of community forest resources by secondary users; and 6] Participate in conserving, protecting and planting the forest to ensure the sustainability of forest resources and environment. It is important to note here that there has been some controversy concerning the CFs, as the process for registration is very long and bureaucratic, and some argue has distracted forestry communities and activists from focusing on the longer term vision of co-management. Article 40 of the Forestry law [2002] also gives traditional communities the right to access their forests in connection with their cultural and spiritual beliefs, and to collect NFTP [Article 40]. Article 53 obliges them to engage in reforestation and Article 60 to celebrate the forests on certain specially appointed holidays.

A very recent policy development [September 2016] has been the issuance of Circular 5, which is directed at measures to strengthen the management of natural resources. In the context of SNDD the circular broadly speaking gives more roles and responsibilities to the provincial governors. Circular 5 directly requests provincial governors to take action against illegal logging activities. The circular has the following main points: 1] District and provincial governors together with DoE and DoA must act to NRM crimes; 2] They must encourage local communities and CSOs to help them in this task; 3] These officials must collaborate to prevent illegal export of wood, and capture of wildlife; 4] MAFF officials must control the issuance of timber licenses to prevent illegal activities; 5] MOE must work with local DoE officials and support them to prevent NRM crimes; 6] Ministries and relevant authorities must cooperate with subnational authorities in carrying out these tasks; 7] If necessary, the provincial authorities may request the assistance of the military to help them curb NRM crimes.<sup>41</sup>

The three community forestry in Santuk District, Kampong Thom, selected for this analysis were established under the approval of the Ministry of Agriculture, Forestry and Fisheries. Each community forest group was formed by an internal agreement recognized by the Forestry Administration. Each CF is managed by a committee operating on a set of internal rules and regulations. There are other groups in the districts that are keen to formally register with the Ministry of Agriculture, Forestry, and Fisheries – a legal necessity that would allow them to have full control in managing of their community forest. It is important to note that these procedures have changed since June of this year, however, since the government transferred control of community protected areas to the Ministry of Environment. As a result, there are actually different legal protections for: community forestries [MAFF], community protected areas [MoE] and community fisheries [MAFF]. How these areas will be managed and the policy framework uniting the two in the future is unclear at the moment.

There are a number of key challenges facing community forest groups in Cambodia: growth of population and urbanization, climate change and food price instability, land encroachment, illegal logging, wildfire, and ELCs<sup>42</sup>. Sixty-five percent [65%, N=230] of participants interviewed for this study reported that their community forest is being threatened by encroachment from villagers who have rice farmland around it. Thirty percent [30%] said the second main challenge is illegal logging. Four percent [4%] said burning forest to catch wildlife is also a problem. The problems of deforestation are vast, and range from large scaled companies with sawmills inside the forest who are clearing land and exporting trees, to individual community members who are illegally accessing NTFP and trees as a means of livelihood. The problem is compounded by immigrants from other parts of the country, who resettle within the forest and compete for natural resources. To make matters worse, local officials are often involved and complicit in illegal logging activities. In terms of how to address these issues, forty-three percent [43%] said they often take part in patrol of their forest. Thirty percent [30%] said they participate in tree planting activities. Twenty percent [20%] said they disseminate information to other people so that they can understand the importance of protecting the forest.

The forestry administration and local authorities said they are working together to protect the community forest. This is done through joint patrols with community members to reduce illegal logging, organizing forums or meetings, conducting outreach activities, taking part in tree planting exercises, and raising people's awareness about the importance of forests and the related

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41 <http://vayofm.com/news/detail/72395-292551888.html>

42 Due to a number of factors, including the failure to protect and preserve these areas, between 1990 and 2005, Cambodia lost about 25,000 sq. km of forest cover.

laws. Representatives from the three selected community forest groups confirmed that there are public forums and outreach activities undertaken by API in cooperation with the local forestry administration and local authority. Many issues raised by the villagers at these events have been resolved. M'lop Baitong based in Kampong Thom province reported that it has enjoyed a smooth cooperation with district/commune councillors and forestry administration authorities in their work to raise people's awareness about importance of community forest and why it needs to be protected. They regularly share information about forest offenses and conduct joint patrols to try and crack down on illegal logging. Offenders are arrested and sometimes even sent to court.

In general, villagers regularly report illegal logging activities to local authority or local forestry officials, and request intervention. In response, the officials claim they have taken necessary action to investigate on site and, in some case, compiled legal case to send the offenders to court. Despite their efforts, however, local officials reported challenges they too face in their work, such as intervention from powerful people [at provincial level]. Whenever they arrest forest offenders or get into a feud with a company illegally felling trees in the community forest, these offenders are often released by orders from powerful people. Local officials also cited the challenges they face in conducting outreach activities. This includes lack of personnel at the local forestry office to do the job, low turnout of local residents to take part in outreach activities, and lack of budget to support local patrolling. Moreover, despite their awareness about the need to preserve forest, some local residents continue to cut trees to sell to traders. Due to these constraints, local authority and forestry officials are unable to patrol all community forestry groups, leaving them often vulnerable to poaching and illegal logging.

## Conclusion & Recommendations

The citizens in the three communes are working hard to protect their community forestry on which their livelihoods depend. Often working within their own means and resources, community members take turns patrolling the forest to try to control illegal logging. Tree planting has been implemented wherever appropriate and feasible. But in spite of their hard efforts, illegal acts continue: felling of



trees, forest burning to catch wildlife, and land encroachment by the powerful. On their part, some local authorities and forestry officials actively engage with the local communities in conserving the forest. They conduct information outreach activities to educate people about the importance of forest conservation and participate in joint patrols to crack down on illegal logging. But their work also faces enormous challenges. There aren't enough villagers engaging with local officials to protect the forest due in part to the lack of awareness about the importance of forest conservation. In part this is also due to the livelihood constraints mentioned elsewhere, and the feeling on the part of local community members that some local officials are not sincere in their efforts. There are also concerns about whether or not local officials [i.e. forestry rangers, local police, customs officials at the border] have been doing enough to uphold the government policies to prevent deforestation and illegal export of wood. Budget constraints and lack of human capacity are also a major problem. Most importantly, intervention from powerful elites to have forest offenders released discourages local authorities, forest rangers, and forestry community members from doing their jobs effectively. Also local villagers themselves often engage in illegal logging because they have no other livelihood options. In order to improve conservation work for community forest sites:

- 1.** The RGC, including MaFF, MoE, and MEF should consider policy reform efforts which could focus on regulating the trade of timber through taxation, and distribute benefits to the local citizens. From this perspective, levying sufficiently high taxes on the export of trees could be an effective way to reduce the rate of illegal logging.
- 2.** NGOs and RGC should work together to raise understanding and awareness as to alternative mechanisms for dealing with powerful offenders – when there is weak rule of law it will be necessary for civil society and government to work together and strengthen mechanisms for consistent, fair and equal application of all laws and policies for all offenders.
- 3.** Any policy dialogue or reform on forests must include conversations with the Ministry of Environment, as well as the Ministry of Forestry and Fisheries, and possibly the Ministry of Land Management, and in general include larger concerns about sustainable biodiversity, environmental protection, and economic justice with regard to land and natural resource distribution.
- 4.** Ministry of Environment and Ministry of Interior should consider increasing budgetary, material and technical support for the sub-national authorities and local forestry offices. More personnel should also be deployed to the local forestry offices to enhance cooperation with all stakeholders in safeguarding and conserving the forest.
- 5.** MoE and MAFF should cooperate to clarify roles and responsibilities, and smoothen the hand over of functions between the two ministries, in particular confirming the status of existing community forestry's, community protected areas, and what the changeover will mean for those already registered with MAFF.
- 6.** Ministry of Environment together with the Anti-Logging Task Force should put an end to the culture of intervention by punishing powerful individuals who intervene to have forest offenders released after they were arrested for illegal logging
- 7.** The work on the environmental code, which includes a co-management arrangement between local community volunteers and MoE rangers, should be concluded and awareness raising begun so that local forestry networks are recognized by the government as co-equal players in the conservation of the forest.

# POLICY CASE: **6** PUBLIC SAFETY

## Summary of Key Issues

Cambodia has seen tremendous progress in economic development over the last two decades. The nation's infrastructure has been upgraded with the construction of new schools, hospitals, roads, and bridges. But the expansion of road networks which was meant to ease travel and transportation has brought some unexpected consequences. In particular, there has been an increase in road accidents that cause fatalities, injuries, and millions of dollars in economic losses every year. In 2014, there were 4,745 cases of road accidents that resulted in 15,315 casualties out of which 2,226 people died and 6,005 people sustained severe injuries<sup>43</sup>. This was an increase of 17% from previous years. In 2015, Pursat logged 61 cases of traffic accidents in which seven people, including three women, were killed. 69 people, including 13 women, were severely injured and 28 slightly injured. In an effort to address the problem, the Cambodian government began enforcing a new traffic law in January 2016.<sup>44</sup> This was a nationwide campaign involving authorities at national and sub-national levels. However, there has been low compliance by citizens with this law. For example, despite the fact that it is illegal, underage driving still continues, causing accidents and fatalities. Drunk driving is another pervasive issue; alcohol is widely available and plays a major factor in many accidents resulting in loss of lives, disability, property damages, fines, and jail terms for offenders<sup>45</sup>. In addition, despite compliance requirements in the new law most vehicles in use do not meet proper safety standards. These vehicles also contribute to increased accidents.

A very recent development in the area of road safety is that the National Assembly has passed some sweeping amendments to the road safety law which have given concern to NGOs and CSOs. One of them is the waiver on requirements to have a license for motorcycles under 125cc. Another one of the amendments will lower the driving age from 16 to 15. The proposed strategy to accompany these amendments, according to lawmakers, will be to increase the education and safety awareness programs for the public. However, this move is widely seen by political analysts and critics of the ruling party as an attempt by the ruling party to curry favour in advance of the upcoming 2017 and 2018 elections.<sup>46</sup> In the wake of these developments, there is uncertainty about the policy of road safety. In light of concern on this policy topic, this study attempts to look at some of the local level issues. It covers a wide geographic range: Samrong Torng and Phnom Sruch [Kampong Speu]; Rolea P'ear and Baribo [Kampong Chhnang]; Krong Pursat and Bakan district [Pursat]; Mongkul Borey [Banteay Meanchey]; Chongkal [Ouddar Meanchey]; Santuk [Kampong Thom]; and Chtre Borey [Kratie]

## Findings & Analysis

The drive to promote road safety is present in five legal framework or documents. One of the nine points in the safe village/commune policy states that a good village/commune is one that doesn't

43 Report of Road Safety Committee 2015

44 New Land Traffic Law

45 API's report

46 [http://www.phnompenhpost.com/national/no-licence-no-problem?utm\\_content=buffer264d7&utm\\_medium=social&utm\\_source=plus.google.com&utm\\_campaign=buffer=](http://www.phnompenhpost.com/national/no-licence-no-problem?utm_content=buffer264d7&utm_medium=social&utm_source=plus.google.com&utm_campaign=buffer=)

have any traffic accidents. Article 43 and 44 of the law governing commune/sangkat outlines the importance of local authorities to ensure security and public order. Article 35 and 154 of the law governing the capital, provincial, municipal, district, and khan administrations states that the sub-national councils must be accountable in enforcing the constitution, laws, and other legal documents. Governors must represent the royal government, ministry, and relevant institutions in works relating to enforcing security, public norm and order, laws, and rights within their jurisdiction. The road safety law itself, passed in early 2016, addressed safety gaps in a number of areas, including a requirement to wear helmets, regulations on speeding, driving under the influence of alcohol, not driving in the correct lane, [driving] overloaded or poorly loaded transport vehicles and vehicles in unsafe conditions. Another article in the road traffic law gives guidelines for how to handle roadside events – such as cultural/sport activities, exhibition, or festivals – to ensure traffic safety. One article in the sub-decree number 141 talks about inspection of transport of goods that exceed the permissible weight.

A survey conducted by API in 2015 found that 97.6% of the interviewees supported the government's enforcement of the new land traffic law. Only one year later after the passage of the law in 2016, the Institute did another survey with 993 people – 313 representatives of the local administrations and 680 local residents. More than half of the respondents [52.27%, N=993] had little awareness about the new traffic law and 9.97% had never read it at all. Only 37.97% showed a significant awareness about the law. The level of understanding of the traffic signs was extremely low – 0.4% of the interviewees. Only 19% of them could give correct answers about half of the number of the road signs. Those who gave completely wrong answers about the signs comprised 14.6%. Almost two-thirds of the respondents, or 73%, said the law is being implemented indiscriminately for all, while 27% said it is not. This demonstrates an uneven application of the law, and serious gaps in awareness among the public in understanding it.

On the other hand, the same survey concluded that citizens are strongly in support of the law's enforcement. 68% of people [N=933] reported having high confidence on the ability of police to enforce the law. A significant 83% felt the law is important, and 78.8% supported the passage and implementation of the law. In terms of violations, when referring to themselves, 37% of respondents agreed that if they abused the law, police should fairly punish them and the fine should be paid at police office. As to how the law is being enforced, 45% believed law enforcement officials are doing an average job, and 73% stated that the road traffic law implementation is fair. Another 60% requested for additional provisions in the law. So while there may be limited understanding of the law, there seems to be a fairly substantial degree of support for the law.

There is a legal framework in place concerning subnational dissemination of information, as far as road safety is concerned, there has yet to be any clear instruction concerning the roles of subnational actors. Despite the absence of clearly defined roles, sub-national authorities have begun engaging in the work of road safety. They have conducted outreach activities about road safety and the concept of safe villages and communes through forums, local campaign, leaflet distributions, and radio broadcasts. Resources have come from their own budgets or financial support from civil society organizations. Ten [10] forums were organized by APII [in 2016] to discuss traffic safety issues with local authorities, experts, and relevant officials in 10 municipality-districts. The following challenges were found in the enforcement of the law:

- Local authorities officials still have low awareness about the new traffic law;
- Local police do not have a clear understanding about how to enforce the law;
- Local councils are unclear about the division of tasks between them and the police;

- ⦿ Information flow between traffic police and public transport institutions is poor;
- ⦿ Local authorities lack budget and equipment to effectively implement road safety work;
- ⦿ The law is still not equally applied to powerful and influential people;
- ⦿ Corruption persists in enforcing the traffic law;
- ⦿ Low awareness among the people results in low compliance with the law;
- ⦿ An absence of laws to curb the sale of alcohol makes it easy for people to drink and drive;
- ⦿ Low fine rates means there is no effective deterrent for violations;

Additional discussions with CBOs revealed that no organization or government institution has ever provided any training about the law to the villagers. Instead these villagers learned about the basics of the law – such as safety helmets, seat belts, and fines – through TV and radio broadcast or word of mouth information from local officials or traffic police. These CBOs also reported that local authorities did occasionally carry out some outreach activities but never explained in great detail about the content of the law. They only explained about some parts of it, such as provisions concerning safety helmets, seat belts, and fines for driving under the influence of alcohol. One of the key barriers to enforcement in their opinion is weak rule of law; the deterrents to non-compliance are insufficient or unevenly applied.



The fact that road safety, a policy which enjoys substantial popular support, has yet to be effectively implemented, points again to systemic and/or institutional deficits in the democratic development process. While the public road safety issue has high levels of political will and public support behind it, it still fails to achieve its objectives. This policy is different from others [i.e. budget allocation] as it does not involve sensitive issues of resource allocation. The fact that public road safety is a non-sensitive policy issue, but still cannot be adequately implemented, would seem to challenge the notion that political will is the problem with other policy reform areas. It also points to the need for a complete package of policy integration by the RGC, for every new law or policy, which should include as a minimum: 1] resources for implementation, 2] guidelines for awareness raising, 3] coordination directives among different SNAs, 4] provision for periodic review and evaluation of policy, and 5] capacity development for implementing agencies.

## Conclusion & Recommendations

This analysis demonstrates that the sub-national authorities have currently limited ability to fulfil their role in information outreach on the new traffic law for citizens within their jurisdiction. Having little budget of their own, their activities must rely on financial support from civil society organization sand are limited in scope. They can address basic legal points only, such as the importance of safety helmets, seat belts, fines, and the danger of driving under the influence of alcohol. For the most part, local authorities are still unclear about the division between their role and that of the traffic police in enforcing the law. Moreover, while the development plan of the sub-national administration contains a provision for work relating to road safety, it lacks any accompanying budget. The following recommendations are suggested:

- 1.** The RGC should use the road safety legislation as a test case to understand what the correct elements are required in terms of a 'policy development package' of resource allocation, awareness raising, capacity development of local actors, and coordination mechanisms.
- 2.** CSOs, in addition to allocating resources to help SNAs implement the law, could also support local officials C/S level to advocate to central level for greater resources to carry out this needed work.
- 3.** Media efforts have been successful in raising awareness among the public. CSOs should explore [with Donor funding] social marketing techniques using social media, videos, pictures, and other online platforms, in particular to encourage compliance among youth.
- 4.** Ministry of Interior, NCDD, and Ministry of Public Works and Transport should clearly define the role between the sub-national authorities and traffic police in enforcing the traffic law.
- 5.** The royal government, Ministry of Interior, and NCDD should provide budget and technical assistance and training for the sub-national administration in addition to the function of traffic law enforcement that has already been transferred to it.
- 6.** Ministry of Public Works and Transport and sub-national authority should cooperate with civil society organisations in enforcing the law and raising people's awareness about it.

# POLICY CASE: 7 WASTE MANAGEMENT

## Summary of Key Issues

The littering of garbage has become a recurrent scene in Cambodia, especially during public holidays. The country's major tourist sites are getting increasingly polluted by garbage – plastic bags, bottles, foam food boxes discarded by holiday-goers. In 2014, the number of people living in the capital Phnom Penh was estimated to be about 2.2 million compared to 1.3 million in 2008. The population has almost doubled within a span of seven years. The increase in the population has led to greater consumption and more refuse. In urban areas and other population centers people are living in close proximity to one another, especially in areas surrounding markets. If solid waste around these sites is not properly managed, there is the potential for disease to spread. In a country where health services are generally underdeveloped, this presents a significant risk to public health. Moreover, there is a high level of informal recycling that takes place in the solid waste dump areas, much of which is done by scavengers at extraordinary risk to their own safety and personal well being.<sup>47</sup>

Solid waste management falls under the mandate of the Ministry of the Environment. However in practice these functions are decentralized to the provincial/city level. And the communes/sangkats have a role to play in mobilizing grassroots level cooperation and contribution in the effective management of waste. While this sounds efficient in theory, what this means is that for cities or provinces with insufficient resources, the service delivery and waste collection can be unevenly dispersed across the population. For example, according to a report by Urban Voices in August 2014, sometimes waste, including hazardous materials, is burned in the open, emitting smoke which is harmful to public health and the environment<sup>48</sup>. But this problem is not confined to Phnom Penh alone and is happening in provincial urban centers across the country as well, such as in Kratie. This policy reflection focuses on Chetr Borey district within Kratie province.

## Findings & Analysis

There is a strong legal framework for solid waste management in Cambodia. Under the Law on Environmental Protection [December 1996], the purpose of environmental management is to preserve a clean environment and protect people's health through reducing and controlling pollution. Article 8 [Sub Decree No.113] states that the provincial environment department has the duty to promote, through education and outreach, citizen awareness about environmental hygiene, handling of solid and liquid waste, including recycling and reuse. The department should also encourage members of the public to provide feedback to help the government improve management of urban solid waste. Local CBOS should have the opportunity to engage in the sub-national planning to manage solid waste, monitor and evaluate environmental work, and participate in enforcing fine measures for any violation.

47 CICIP Working Paper 27, Solid Waste Management in Cambodia, Keo Rathna, 2009.

48 Urban Voices, August 2014

Moreover, on 27 August 2015, the government issued a sub-decree on management of garbage and solid waste in urban areas. The sub-decree assigned broad roles and responsibilities to municipal and provincial administrations to provide support, coordination, and encouragement to the solid waste management in their town/municipalities and districts [Article 7]. This includes mobilizing financial resources, education and awareness raising, and issuing necessary laws and regulations at local level. The town and district administrations have a more direct role to play in the actual management of solid waste. They can also delegate this to Khan and Sangkat administrations. One of the key Articles, article 30, states that: "Municipality, town, and district administrations shall be responsible for garbage and solid waste management in urban areas under the scope of their authority in an effective, transparent, accountable and environmentally safety manner." This can be done through subcontracting, which has to follow appropriate procurement procedures and respect environmental safeguards.

This is in addition to an inter-ministerial prakas [6 February 2015] authorizing the sub-national administration to use 'hygiene and environment budget' to manage solid and liquid waste in their respective urban centres. The decision was part of a larger move to strengthen transparency, accountability, and effectiveness by decentralizing hygiene, environment, and solid waste functions. Despite the issuance of this sub-decree and the accompanying transfer of functions, the problem of waste management still persists due to inadequate human and financial resources, lack of technical support, and not enough outreach activities to raise awareness.

This study was conducted in Chetr Borey district, where there is a currently unresolved problem involving provincial authorities, municipality authorities, and a garbage collecting company. The garbage collecting company and the provincial city authority have decided to dump garbage at a site near the border between Da and Kantuot communes. Two nearby villages are being affected by the new garbage dumping site, which was opened in 2014. Residents reported that they have to breathe foul smelling refuse on a daily basis, and the garbage is polluting water sources and causing illness to both humans and animals in the two villages. The garbage collecting company burns trash in the open, which in turn emits toxic smoke that is hazardous to people's health. Moreover, they are careless in the transportation of waste which often drops along the way as it is not properly covered. In the absence of containing systems, dirty liquid seeps into the ground and makes its way to the nearby stream where the villagers fetch water for household use. These citizens expressed concern that such contamination could cause diseases such as diarrhea or cholera. This improper solid waste management is therefore a public health emergency and as well as a waste



management problem. As a result, the citizens have asked that the local authorities address these issue as a matter of the highest priority.

According to the guidelines that were jointly developed by the Ministry of Environment and Recycling and Cambodia Study organization in 2006, there are certain requirements concerning the construction and maintenance of landfills.<sup>49</sup>Article 37 states concerning the garbage collection company – which is also the operator of the landfill, that, ‘the landfill operator must comply with technical requirements and environmental safeguard measures imposed by the Ministry of Environment. In any case of environment pollution occurring as a result of the operation, the landfill operator must take immediate action to stop it and urgently report the incident to the capital, municipal, district, and khan administration and environmental department in the capital or province’. However the garbage collection company in Chetr Borey has failed to comply with these guidelines, and has failed to answer for its non-compliance to date.

Article 38 of the same sub-decree states that, the ‘Ministry of Environment and capital and provincial administrations must conduct regular monitoring of the practice of the owner of the landfill and enforce measures to prevent and reduce environmental impact resulting from this operation<sup>50</sup>’. It appears then that the provincial level is taking certain decisions – like the procurement of the garbage collector, and the consequences of those decision has fallen on Chetr Borey district. This again speaks to the gap, despite the NP-SNDD stating that the D/M level is the centre of the reform, between policy rhetoric and practice.

As a result of this situation, the Chetr Borey district authority finds it very difficult to hold the garbage collecting company to account for non-compliance since the company’s contract was signed with the provincial authorities who have never disclosed the procurement arrangements with the district authorities. Unfortunately this non-disclosure of contracts is common practice in Cambodia.<sup>51</sup> This is in direct contravention of sub-decree number 113, Article 18 requiring provincial and D/M/K administrations to disseminate documents about waste management to the local residents as widely as possible. It also goes against Article 7 of the Sub decree on Waste Management which clearly assigns a role for support and coordination to the Provincial administration with respect to waste management and the district level.

49 Environmental guideline for Solid Waste Management in the Kingdom of Cambodia 2006, Ministry of Environment and Recycling and Cambodia Study organization

50 ibid

51 Survey on Waste Management in Cambodia, NCDD and League of Commune/Sangkat, 2016



When API held discussions with commune officials in Chetr Borey district and Kantuot commune, they said they had not yet received any transfer of functions to manage urban solid waste. Both Chetr Borey district and commune authorities feel that solid waste management should be the responsibility of the provincial authorities. This clearly goes against the sub-decree on waste management, however, which assigns those roles to the municipalities and districts [Articles 30, 36]. Chetr Borey officials did cite a number of challenges, such as the shortage of human resources and technical support, and lack of transparent procurement practices relating to the garbage collection company. Local officials have relayed their concerns as well as those of their citizen constituents to the provincial level seeking its support and coordination to resolve these issues, but to date there has been no response.

Closer cooperation is therefore needed between the authorities of Chetr Borey district, Kratie municipality, provincial administration, provincial department of environment, and the private garbage collecting company. According to an NCDD survey earlier this year, lack of subnational cooperation on how to manage waste is common<sup>52</sup>. In this particular case, Chetr Borey district authorities never received any advance notice or decision about the relocation of the garbage disposal from its previous location. Article 7 of the sub-decree on urban solid waste management states that 'Provincial authorities shall provide support and coordination to city/district authorities, encourage cooperation between them in solid waste management, and instruct them to prepare annual budgets and action plans for this purpose'<sup>53</sup>. If the different levels of government cannot cooperate with respect to solid waste management, then it is not realistic to expect that commune levels can in turn mobilize communities to cooperate in waste management, which can also benefit poverty reduction.

Additionally, there is no sub-decree or legal document with guidelines for communication between different sub-national authorities on waste management. Sub-decree No.113 has not clearly defined the role of city and district administrations to conduct regular monitoring of landfills within their jurisdictions. Prakas number 073 on the transfer of functions regarding urban solid waste management to the municipal administration also applies to the district administration. However, districts which have not yet received any transfer of functions, budget, human resources, and technical support find it very difficult to manage urban solid waste. In a nationwide survey, 25 out of 36 districts/cities reported they have not received any technical support from provincial or local environmental offices. Five municipalities/districts reported receiving budgetary and technical support from development partners and NGOs<sup>54</sup>. This again speaks to the wide gap between policy



<sup>52</sup> Ibid.

<sup>53</sup> Sub-decree on Management of Solid Waste in Urban Centers, 2015

formulation – in this case the sub-decree on waste management, and the practice – which is the actual transfer of personnel, functions, financial resources, and technical support to carry out these policies at the sub national level. It is important to note, however, that while waste management is being piloted with clear resources in 26 cities, Chet Borey is not yet one of them. This could explain some of these aforementioned gaps.

Without adequate technical and financial support, effective oversight by sub-national administration of company's practices, as guided by the MoE's sub-decree, is very challenging. Article 258 of the Law Governing the Capital, Provincial, City, District, and Khan administration [2008] reads that, "In case the Council receives one or many functions but has insufficient resources for managing those functions, the Council must receive financial resource to address the shortages to meet its immediate needs<sup>55</sup>. According to provision 13 of the inter-ministerial prakas on the use of environmental hygiene budget for managing solid waste, there is a budget allocation for liquid and solid waste management,<sup>56</sup> but sub-national authorities said the budget is inadequate to meet the need to tackle the challenges. In a waste management survey of 36 cities/districts, only 10 of them reported having received a budget for managing waste. Later verification revealed that there were problems with disbursements and spending for a number of reasons<sup>57</sup>.

## Conclusion & Recommendations

The sub-decree and prakas have clearly outlined the roles of the provincial and district authorities in monitoring, disclosure, and technical support for solid waste management in urban centres. But in Chetr Borey, lack of transparency, poor communication among local authorities, inadequate human and financial resources, insufficient technical support, and ineffective monitoring mechanisms all hamper efforts to properly manage the solid waste. This policy reflection also reveals that the central government has not been effective or efficient in terms of decentralizing functional authorities, furnishing human and financial resources, and providing technical assistance and oversight. All of these factors have resulted in a hazardous public health situation that is not being properly addressed by the relevant subnational authorities. The following recommendations are forwarded for consideration:

54 Survey on Waste Management in Cambodia, NCDD and League of Commune/Sangkat, 2016

55 Law governing the capital, province, city, district, khan, 2008

56 Inter-ministerial prakas on the use of budget for environmental hygiene for sub-national authorities to manage liquid and solid waste in urban centers, 2015

57 Survey on Waste Management in Cambodia, NCDD and League of Commune/Sangkat, 2016

- 1.** MOE should include in the new environmental code guidelines for communication between sub-national authorities on waste management.
- 2.** MOI and MEF should develop protocols and enforcement mechanisms to raise awareness among SNAs as to the expected standards of transparency and accountability in government procurement procedures.
- 3.** MOE and subnational authorities and councils together with CSOs should strengthen communication and accountability mechanisms between local authorities, stakeholders, and waste collecting companies.
- 4.** Ministry of Environment and sub-national authorities should strengthen capacity building for local authorities to manage solid waste in urban centres
- 5.** Ministry of Environment and the central government should provide adequate financial resources for solid waste management at sub-national levels.
- 6.** Studies have shown the community participation and mobilization is important in solid waste management<sup>58</sup>. MOE and local authorities should expand successful pilot models of community involvement such as the one which has been developed in Kampot.

58 Kampot baseline survey.

# Conclusion

These policy briefs are based on the issues raised by these community members and local authorities. They are provided here to encourage policy reflection and dialogue, around the SNDD reform, and to offer suggestions on closing the gap between policy rhetoric and reality. One overall recommendation which emerges is that the RGC or Mol/NCDD should create mechanisms to regularly follow up and have dialogue and reflection with sub-national authorities to elaborate on and address these issues and close that gap. Even though they are presented here as separate policy issues, the cross-cutting themes of public participation, access to information [disclosure], and social accountability intersect all of the 7 policy reflections. The added value of this report is that it brings an increased focus on the institutional nature of the issues under study, and a closer look at the social, cultural, and economic factors, which affect the process of sub-national democratic development. We hope that it can serve as a platform for further policy dialogue and democratic development in Cambodia.

## List of Annexes

Annex 1 – Overview of different types of Accountability

Annex 2 – List of policy documents, legal frameworks, and research report.

# Annex I – Overview of Different types of accountability

## Types of Accountability

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The term 'social' accountability is used in order to contrast it with other forms such as accountability such as :

- ⦿ Democratic Accountability which concerns itself with the commitments of government to deliver services to people and to ensure human rights and social justice. Democratic accountability in the decentralized context is the accountability of government, civil servants, and politicians to the public through the elected Council. It is viewed as External to government & 'Vertical' as in bottom-up and traditionally, democratic elections have been the main mechanism of such accountability;
- ⦿ Political Accountability which is accountability of the government, civil servants and politicians to the public through legislative bodies such as a congress or a parliament. Political accountability refers to the set of 'checks and balances' [oversight mechanisms] within state structures that ensure this accountability of public officials and government institutions. It is viewed as Internal [to government] and horizontal [accountability across government agencies] and examples include anti-corruption commissions, auditors-general, human rights machineries, ombudsmen, legislative public-accounts committees and sectoral regulatory agencies;
- ⦿ Hybrid/Diagonal Accountability which has emerged in recent years in response to concerns that citizens must exert pressure on governments to live up to their obligations and promote



## Public service delivery

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19. The Constitution of the Kingdom of Cambodia
20. Law governing the capital, province, municipality, district, and khan, 2008
21. Inter-ministerial Prakas number 3856 រៀបរយ on administrative service delivery at sub-national level, 2013
22. Results of the public forums held in all six target communes in Phnom Srok and Thmar Puok districts in 2015
23. API's report "Accessibility of Information and Effectiveness in Enforcing Existing Laws for the Public To Obtain Information - 2015"
24. API's report "Information for the Citizens towards Improving Local Governance, 2014-2015"
25. NCDD's annual report "Implementation of Action Plan and Budget for 2015"
26. CDRI's report "Social Accountability in Service Delivery in Cambodia 2015"
27. ADB's report "Decentralization and Deconcentration Reform in Cambodia", 2011
28. COMFREL's report "Assessing the 2nd Term of Decentralization in Cambodia, Performance of Commune/Sangkat Council, and People's Participation – 2013"

## Budget Transparency

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29. Law governing the capital, province, city, district, and khan, 2008
30. Law on Public Financial Management System, 2008
31. Law on Financial Regime and Asset Management of the Sub-National Administration, 2011
32. Circular on the implementation of the sub-national budget, 2013
33. Implementation of the Social Accountability Framework [I-SAF], 2014-2018
34. Results of public forums API organized in the six target communes in Phnom Srok and Thmar Puok districts in 2015
35. Report "Accessibility of Information and Effectiveness in Enforcing Existing Laws for the Public To Obtain Information", done by API in 2015
36. Project report "Information for the Citizens towards Improving Local Governance 2014-2015"

## Education

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37. The Constitution of the Kingdom of Cambodia
38. Law on Education, 2007
39. Law governing the capital, province, municipality, district, and khan, 2008
40. Subdecree on the assignment of various functions related to the management of early childhood education, primary education and non-formal education to the municipal–district administrations
41. Accessibility of Information and Effectiveness in Enforcing Existing Laws for the Public To Obtain Information, API's report, 2015
42. Access to Information, API's report, 2011
43. Connecting People with the Government in Cambodia", World Bank's report, 2009

## Forestry management

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44. Prakas on the management and role of Forestry Administration 2003, number 059
45. Law on Forestry 2002, number 182
46. Prakas on the management and role of Forestry Administration 2003 , number 059
47. Report "Focus on Precious Forest of Cambodia: Livelihoods and Management", CDRI 2004
48. "The Size of Forest Cover in Cambodia", Open Development Cambodia
49. Report "Third Regional Forum on People and Forest" RECFTC 2014
50. Report on Partnership for Development of Community Forest in Cambodia, 2009
51. Law governing the capital, province, municipality, district, and khan 2008
52. Law governing commune/sangkat 2001
53. Sub-decree on community forestry management [2003]
54. Order on The Managing and Monitoring of Chainsaw use No. 02 [2006]
55. Royal Government of Cambodia Declaration on Management Forests and the elimination of Forest Illegal Activities [1998]
56. Prakas on Suspension of Forestry Concession No. 5721 MAFF [2001]
57. Land Law 2001
58. Circular #5 on the Decentralization of Powers on NRM to Provincial Governors

## Public safety

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59. Law governing commune/sangkat administration, 2001
60. Law governing the capital, provincial, municipal, district, khan administration, 2008
61. API's report on traffic situation, 2015-2016
62. Pursat municipality's report on traffic accidents, 2015
63. API Presentation: "Civil Society Supporting Government Implementation of the Road Traffic Law in Cambodia" powerpoint presentation.

## Waste Management

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64. Sub-decree number 113 on management of solid waste in urban centres, 2015
65. Inter-ministerial prakas on the use of 'budget for environmental hygiene for sub-national authorities to manage liquid and solid waste in urban centres, 2015
66. Law governing the capital, provincial, municipal, district, and khan administration, 2008
67. Law governing commune/sangkat administration, 2001
68. Waste Management in Phnom Penh, 26 August 2014, <https://urbanvoicecambodia.net/waste-management-in-phnom-penh/?lang=en>
69. Study on Waste Management, CICIP 2009
70. Ministry of Environment and Recycling and Cambodia Study organization: Guideline for Management of Solid Waste in the Kingdom of Cambodia, 2006
71. Initial Survey on Management of Solid Waste by Recycling and Community Hygiene organization, September 2011
72. Survey on Waste Management in Cambodia, NCDD and League of Commune/Sangkat, 2016

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