



**វិទ្យាស្ថានសភាកម្ពុជា**  
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STRENGTHENING PARLIAMENTARY CAPACITY

## Briefing Note

### National Assembly Commission 6

# Budget of the jurisdictions in Mondolkiri and Thbaung Khmum provinces

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## 1. Introduction

In order to prepare a study mission to Mondolkiri and Thbaung Khmum provinces from 6 to 9 August 2019, National Assembly Commission 6 asked PIC to provide a brief study on the budget allocated to the provincial courts in these two provinces.

Members of the Commission have often faced questions or concerns about the budgets of courts, prosecutors and judicial administrations in the provinces where they have previously been on mission. This budget information would help them to better understand and clarify issues and concerns that may arise during their next mission.

The purpose of the study is to support the Commission by providing it with as much information as possible to address the three research questions below on this subject, and to inform them of what information is not available so that they can, if necessary and in accordance with the National Assembly's procedure, carry out an inquiry with the competent authorities to obtain clarification:

- What is the legal framework for financing the courts of first instance and the prosecutors' offices at these courts?
- What is the budget allocated and actually provided to them?
- Is this budget sufficient to fulfil their mandates?

## 2. Legal framework

Article 79 of the Judiciary Act of 16 July 2014 [1] provides that "the courts of first instance and the public prosecutors at the courts of first instance, the courts of appeal and the public prosecutors at the courts of appeal, as well as the Supreme Court and the public prosecutor at the Supreme Court, shall have their own operating budget, allocated from the budget of the Ministry of Justice".

The Finance Act establishing the 2019 budget [2] indicates in the budget of the Judicial Sector the sub-budgets allocated by the State to the Ministry of Justice, the Supreme Court, the Court of Appeal and the Specialized Offices of the Capital and the provinces.

These budget lines contain the amounts allocated to the courts and prosecutors attached to these courts, without it being possible to know the details of the budgetary breakdown between the courts of the different provinces and in the capital, and the prosecutors attached to these courts.

There are three sub-decrees, all dated 4 February 2016, relating to the organization and functioning of the administrative secretariats of the courts of first instance, the Court of Appeal and the Supreme Court, indicating that the administrative secretariats of each of these courts have jurisdiction over both the courts and the prosecutors' offices attached to these courts with regard to their administration, both personnel and financial, in accordance with the laws and regulations in force<sup>1</sup>.

Article 79 of the Law on the Organization of the Courts of 2014 provides that the presidents of courts at all levels are delegated authorizing officers of the Minister of Justice for the administration and management of the budgets of courts and prosecutors attached to these courts, complying with article 128 new of the Constitution (independence of the judicial power). The same provision also states that a sub-decree shall govern the administration and management of the budgets of courts and prosecutors. This sub-decree has not yet been enacted.

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<sup>1</sup> For example, Article 4 of Sub-Decree 21 ANKR/Bk on the Organization and Functioning of the Administrative Secretariats of the Courts of First Instance dated 4 February 2016 (see in Appendix).

### 3. Justice Sector and the Budget

This section examines spending on justice nationally and at the provincial courts in Monduliri and Thbaung Khmum provinces. The Ministry of Justice provides all three tiers of Cambodia’s court system with their own budget to manage [1]. Table 1 shows that total expenditure for the justice sector has increased considerably over the past five years, from 66,048 million riels in 2015 to a budgeted 157,327 million riels in 2019—an annual increase of 24 percent on average. Total national budget expenditure has grown by 15 percent annually over the same period. The share of spending devoted to the justice sector as a proportion of total national expenditure has therefore grown over time from 0.45 percent to 0.61 percent. Of total spending on justice, the capital/provincial courts account for almost 50 percent, while the Appeals Court, Supreme Court and Supreme Council of Magistracy receive 6 percent, 5 percent and 4 percent, respectively. The remainder is spent centrally by the Ministry of Justice.

**Table 1: Share of Expenditure by Institution/Type to Total Expenditure in Justice Sector**

Expenditure	Implementation			Law		Average
	2015	2016	2017	2018	2019	
Total budget for Justice sector (Million Riel)	66,048	103,974	112,698	147,566	157,327	
Annual growth		57%		31%	7%	24%
Ministry of Justice	36%	26%	28%	29%	31%	30%
Supreme Council of Magistracy	6%	4%	4%	4%	4%	4%
Supreme Court	5%	5%	5%	5%	5%	5%
Appeal Court	6%	6%	6%	5%	5%	6%
Specialized Offices of the Capital and the Provinces	45%	44%	54%	51%	51%	49%
Capital Expenditure	3%	15%	2%	6%	4%	6%
Total National Expenditure	14,660,147	16,927,545	20,016,007	23,428,298	25,758,028	
Annual growth		15%	18%	17%	10%	15%
Share of Justice Sector to total National Expenditure	0.45%	0.61%	0.56%	0.63%	0.61%	0.57%

*Source: Budget Implementation Laws 2015-2017 and Budget Laws 2018 and 2019 [3, 4]*

### 4. Budget for Provincial Courts in Thbaung Khmum and Monduliri

National budget expenditure on Thbaung Khmum provincial court has grown faster than total expenditure on provincial courts, at 44 percent annual growth compared to 28 percent on average from 2016 to 2019. This has resulted in Thbaung Khmum’s share of total provincial justice spending growing from 2.6 percent to 4.5 percent during the same period.

National budget expenditure on Monduliri provincial court has roughly tracked total budget expenditure on provincial courts over the last three years but is budgeted to decline by 6 percent this year. Monduliri’s spending as a share of total provincial justice spending has remained roughly constant at 2.7 percent on average, but is forecast to decline to 2.4 percent in 2019.

Table 2: Budget Expenditure for Capital/Provincial courts in Thbaung Khmum and Mondulkiri (million riels)

Expenditure		2015	2016	2017	2018	2019	Avg
<b>Total capital/provincial courts (1)</b>	Budget expenditure on capital/provincial courts	29,524	45,699	61,165	75,227	79,959	-
	Year-over-year growth	-	55%	34%	23%	6%	28%
<b>Thbaung Khmum</b>	Budget expenditure for Thbaung Khmum provincial court (2)	N/A	1,187	1,929	3,150	3,580	-
	Year-over-year growth	N/A	-	63%	63%	14%	44%
	Share of national budget expenditure on capital/provincial courts (2/1)	N/A	2.6%	3.2%	4.2%	4.5%	3.6%
<b>Mondulkiri</b>	Budget expenditure for Mondulkiri provincial courts (3)	901	1,260	1,647	2,033	1,903	-
	Year-over-year growth	-	40%	31%	23%	-6%	21%
	Share of national budget expenditure on capital/provincial courts (3/1)	3.1%	2.8%	2.7%	2.7%	2.4%	2.7%

Source: Budget Law 2015-2019 [5]

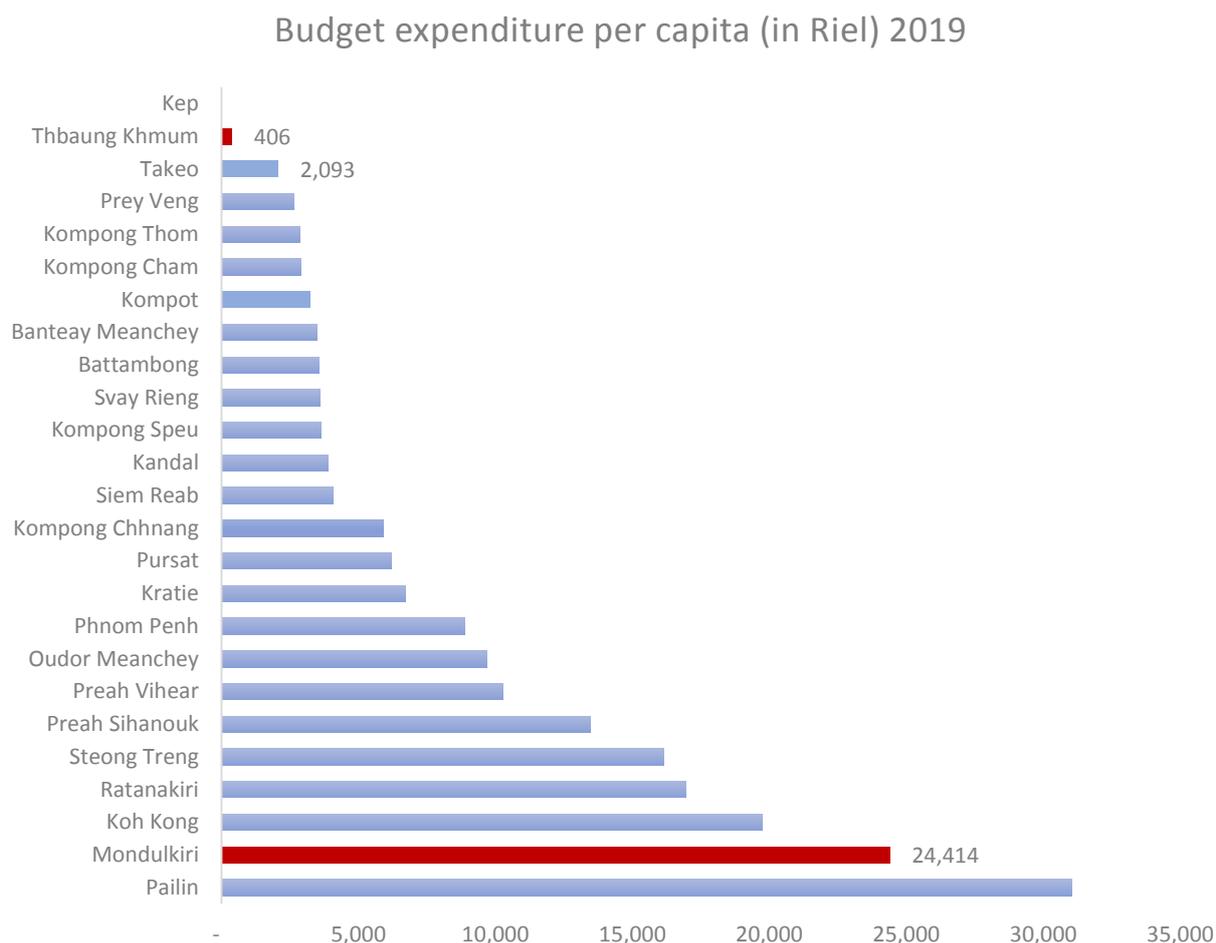
## 5. Per Capita Provincial Court Budget by Provinces

Figure 1 compares per capita budget expenditure on capital/provincial courts across provinces. Thbaung Khmum's expenditure per capita is the lowest among capital/provincial courts (except Kep, which does not have a provincial court), with per capita spending of 406 riels followed by Takeo (the second lowest of 2093 riels).

Mondulkiri's per capita budget expenditure was the second highest, with per capital spending of 24,414 riels. Expenditure growth that matches total national expenditure growth on average and a decline in spending for 2019 could reflect the fact that per capita spending was already high in the province.

Other factors that could explain per capita differences in spending could be the frequency of per capita disputes and crime in each province, but PIC is not able to retrieve this data presently.

**Figure 1: Per Capita Budget Expenditure by Capital/Provincial Court in 2019 (in Riel)**



Source: Budget law 2019 and Ministry of interior and demographic data in 2014 of Ministry planning [6, 7]

## 6. Breakdown of Provincial Court Expenditures in Thbaung Khmum and Mondulkiri

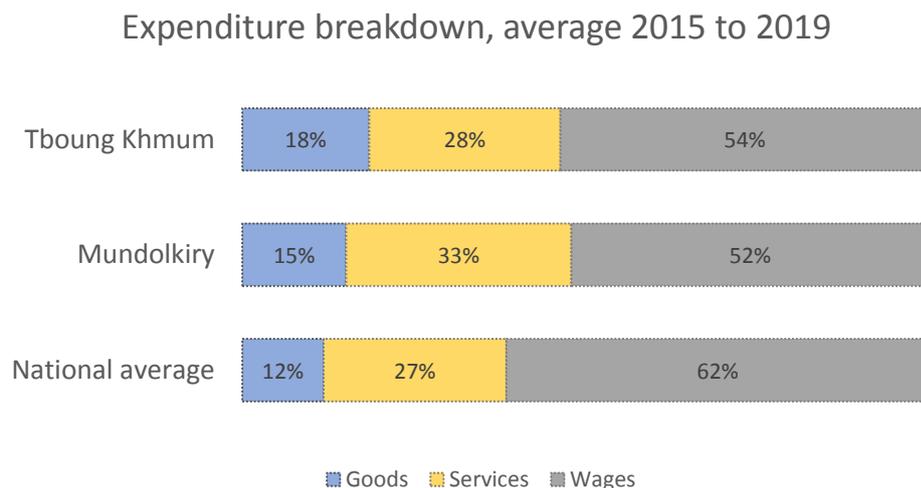
Figure 2 shows that the largest spending share of both provincial courts is on wages, accounting for 52 percent and 54 percent on average in Thbaung Khmum and Mondulkiri, respectively. The second largest share of spending is on services<sup>2</sup>, accounting for 33 percent and 28 percent on average over the same periods. Remaining spending is on purchases of goods and services.

Both provinces spend a large share of their budgets on purchases of goods and services (roughly 45 to 50%) compared to the national average of below 40%.

There is no systematic difference between the proportion of wage spending in the two provinces. Spending on the Justice Sector does not appear to include budget line items for social programs to support low-income Cambodians in accessing its services, as is the case in the health and education sectors.

<sup>2</sup> Spending on services include: maintenance and repair, public relations and advertisement, newspaper and document subscription, local transportation and oversea mission, post and telecommunication charge.

Figure 2: Expenditure Share of Provincial Courts in Thbaung Khmum and Mondulkiri



Source: Budget law 2015-2019 [5]

## 7. Conclusion

The national budget expenditure for Thbaung Khmum has outpaced total spending growth over the last four years but expenditure per capita remains the lowest in the Kingdom.

The national budget expenditure for Mondulkiri has roughly matched total spending growth over the last three years but is expected to decline in 2019. Expenditure per capita remains the second highest in the Kingdom.

Both provinces spend a high share of their budgets on purchases of goods and services (roughly 45 to 50%) compared to the national average of below 40%. Parliamentarians may wish to inquire why the share of their budgets that goes to non-wage expenditures is so high.

There is no systematic difference between the breakdown of wage spending in the two provinces, but parliamentarians may wish to ask follow-up questions about why Mondulkiri purchases goods and services in balanced proportion to the implementers at the provincial level. It is important to note that Thbaung Khmum has appeared to spend more heavily on services in recent years.

Spending on the Justice Sector does not appear to include budget line items for social programs to support low-income Cambodians in accessing its services, as is the case in the health and education sectors. Parliamentarians may wish to ask whether specific funding in this area could be considered.

It would also be useful to understand on what basis the Presidents' of the Courts requests for the budget last year were made, in order to determine whether they corresponded to the needs of litigants and judicial officers responsible for implementing the law. The study missions to the provinces can help to gather this information from stakeholders to help assess the needs of individuals and judicial officials for greater quality, equity and efficiency in allocating budgets.

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