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Acronyms and Abbreviations

ADB	Asian Development Bank
ADHOC	Cambodian Human Rights and Development Association
BFD	Buddhism for Development
CAR	Council for Administrative Reform
CBO	Community-based Organization
CCB-NREM	Community-based Natural Resource and Environment Mainstreaming
CCDP	Commune Council Development Project
CCSP	Commune Council Support Project
CDAS	Commune Decentralization Accounting System
CDC	Commune Development Committee
CDRI	Cambodian Development Resource Institute
CDP	Commune Development Plan
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CIDSE	International Cooperation for Development and Solidarity
COM	Council of Ministers
COMFREL	Committee for Free and Fair Elections in Cambodia
CPP	Cambodian People's Party
CSF	Commune/Sangkat Fund
CSO	Civil Society Organization
CWS	Church World Service
D&D	Decentralization and Deconcentration
Danida	Danish International Development Agency
DFID	UK Department for International Development
DFT	District Facilitation Team
DIW	District Integration Workshop
DoLA	Department of Local Administration (MoI)
DoLF	Department of Local Finance (MEF)
DPA	Development & Partnership in Action
DSP	Decentralization Support Project
EC	European Commission
EU	European Union
FCs	Female Councilors
FUNCINPEC	National United Front for an Independent, Neutral, Peaceful, and Cooperative Cambodia
GTZ	German Technical Cooperation
IFAD	International Fund for Agricultural Development
IMC	Inter-Ministerial Committee
KAS	Konrad Adenauer Stiftung Foundation
LICADHO	Cambodian League for the Promotion and Defense of Human Rights
M&E	Monitoring and Evaluation
MEF	Ministry of Economy and Finance
MoI	Ministry of Interior
MoWA	Ministry of Women's Affairs
MoP	Ministry of Planning
MRD	Ministry of Rural Development
NCSC	National Committee for Support to Communes
NCDD	National Committee for the Management of D&D Reform
NGO	Non-governmental Organization
NSDP	National Strategic Development Plan
PADEK	Partnership for Development in Kampuchea
PAP	Priority Action Program
PAT	Permanent Advisory Team to PLG/Seila
PFT	Provincial Facilitation Team
PLG	Partnership for Local Governance
PRDC	Provincial Rural Development Committee
PSDD	Project to Support Democratic Development through D&D
RGK	Royal Government of Cambodia
RILGP	Rural Investment and Local Governance Project, World Bank
SEDOC	Socioeconomic Development Organization of Cambodia
Sida	Swedish International Development Cooperation Agency

SRP
STF
STFS
TAF
UN
UNCDF
UNDP
UNFPA
UNICEF
UNTAC
USAID
WVI-C

Sam Rainsy Party
Seila Task Force
Seila Task Force Secretariat
The Asia Foundation
United Nations
UN Capital Development Fund
UN Development Program
UN Population Fund
UN Children's Fund
UN Transitional Authority in Cambodia
US Agency for International Development
World Vision International Cambodia

1. Introduction

The two commune council elections in Cambodia have represented an important step towards local democracy and decentralization. Although accountability and local participation are vital to the country's development, practice has illustrated some of key difficulties and challenges in getting achieving accountability of elected leaders towards citizens and better integration of local priorities into the plans and activities of the higher-level administration. Current decentralization & deconcentration (D&D) policy of the Royal Government of Cambodia (RGC) outlines major medium term results to be expected in the 'initial phase' (2007-2009). This is complicated by the fact that frameworks for decentralization, commune council performance and citizens' participation are shrouded in ambiguous policy language.

An important role for COMFREL is in understanding the current implementation of decentralization and the situation of commune council performance and citizens' participation. As a result, COMFREL conducted an assessment of the first term of decentralization for the period 2002-2007. The assessment study was prepared by a team made up of: Mr. Khieng Sochivy, Local Consultant, Mr. Tem Pharath, CPLG Project Officer, Mr. So Men, Senior Research Officer, and Mr. Kim Chhorn, Senior Program Coordinator, under the advice of Mr. Koul Panha, COMFREL Executive Director. It was edited by Ms. Roo Griffiths.

The assessment explored data produced by ongoing COMFREL research into its experiences countrywide. Within the investigation, the team also collected and studied previous reports arising from other studies/research projects related to D&D and commune council performance.

As such, the analysis first involved searching for and studying the secondary literature and documents that could provide background information related to the topic. The study team then explored these sources and analyzed strengths and weaknesses in D&D, commune council performance and citizens' participation.

This study aims to define and assess practices of decentralization in comparison with the D&D framework and policy. Section 2 goes on to look at a summary of the findings of the report. Section 3 then covers the background and evolution of decentralization and commune council elections in Cambodia. Section 4 discusses and assesses practices of decentralization in comparison with the framework and policy. Section 5 looks at commune council performance and citizens' participation in decentralization. Finally, Section 6 draws lessons learned and identifies areas where there is a plausible need for improvement.

The findings of this study (analysis) are available to all readers, including NGO actors and other relevant stakeholders. The study may also be of use to donors and the D&D Working Group in terms of information provided on D&D, commune council performance and citizens' participation. Research institutes and organizations may like to use the findings of this research as a case study or as reference for their own research. Findings may also be useful in future strategic planning for various actors.

2. Summary of Key Findings

The History explained that the process of Cambodian commune council elections and decentralization forward has continued to occur top-down, taking place among a circle of high-level decision makers, initially from the French protectorate, and more recently made up of donor representatives and key RGC officials in Phnom Penh.

The RGC of Post UNTAC has detailed a national strategy to reduce poverty and meet other key development targets. A feature of the RGC's reform program is decentralization. The first election for the 1,621 commune councils was held in 2002, and represented a first step forward in the RGC's effort to move towards and strengthen decentralization.

The process of implementing reform towards decentralization was slow in the initial phase. Administrative decentralization and fiscal decentralization were yet to be clearly designed. There was an absence of a clear, coherent policy and strategy framework for the decentralization reform process under a clear legal framework, which led to the ad hoc nature of initiatives, a lack of consistency and problematic sequencing. Political decentralization was implemented with limited accountability, with a system for elections based on political party lists. Recently, the RGC and donors have been working towards taking the next steps in the process and have introduced an additional feature, namely 'deconcentration', but there is still a lack of political will in place and a shortage of comprehensive legislation encompassing the entire D&D framework.

However, over the past five years, decentralization has contributed to increasing the accountability of commune councilors and citizens' engagement in local decision making. Each commune has implemented a number of projects. Most of these are related to rural infrastructure, and it is generally believed that they have created more opportunities in various sectors, such as agriculture. It is also felt that local residents have better access to markets, hospitals and other services, and that transportation of goods and service delivery are more convenient. There are some good examples available on contributions to rural infrastructure and on work on administration services, for example civil registration.

Although the preparatory phase of decentralization has been achieved, major constraints and challenges remain to be addressed. It is imperative that a number of issues related to fundamental policy and institutional arrangements now be dealt with and integrated within the next steps of the D&D reform process, so as to be able to further realize the potential inherent in the reform process and to connect the reforms more effectively with broad-based improved governance and institutional reform.

3. Background to Commune Elections and Decentralization¹

Cambodian commune is sub district which per commune is composed of 8-9 villages in average. Looking at the history and the mountain of literature on available on commune administration reform, it is clear that the process has been ongoing. The generation of ideas regarding moving the process forward has continued to occur top-down, taking place among a circle of high-level decision makers, initially from the French protectorate, and more recently made up of donor representatives and key RGC officials in Phnom Penh.

3.1 French protectorate

Different commune election laws were adopted and some attempts were made to organize elections during the period of the French protectorate in Cambodia, but these laws were not implemented effectively. These were as follows:

- The Royal Decree of June 15, 1908, was the first legal framework regarding commune administration in Cambodia. It aimed to i) define the commune (a commune divided into villages); ii) delegate administrative power and provide funds and resources; and iii) enable the election of a commune chief by the people of the commune.
- The Royal Decree of September 24, 1919 delegated commune financial management and passed on some assets to ensure that they were closer to the people.
- The Royal Decree of November 15, 1925 proposed commune council elections and clarified financial, mediation and conciliation tasks as well as administration.
- In 1948, commune council elections were canceled and commune chiefs and deputy chiefs were appointed by the government.

3.2 Post-independence

In 1955, a regulation was brought into action to reinforce the extent of commune council elections, but it was not possible to carry this out.

The Law on the Election of Commune Councils (*Krom Chumnum Khom*) of September 1959 attempted to clarify legal status, wealth and functions for the development of the commune. In November 1959, a public opinion poll suggested dissolution of the commune councils, and commune chiefs continued to be appointed by the relevant governor.

In 1981, the Constitution in place suggested commune and sangkat elections through a system of direct and universal suffrage, although the 1981 elections were regarded as not direct, free and fair.

3.3 Post-UNTAC to the present day

¹ Most information from before the UNTAC period is drawn from a paper on the history of governance and decentralization in Cambodia by H.E. Sak Setha (2007).

The idea of holding local elections was tabled at the Paris Peace Negotiations in 1991. Discussion emerged again during the 1993 elections. At the time, FUNCINPEC (the National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia), led by Prince Norodom Ranariddh, won the 1993 election. A power-sharing agreement was made between the CPP (Cambodian People's Party) and FUNCINPEC, but the latter was pushed out of the coalition government by a CPP coup d'état in 1997. Under intense international pressure, the CPP agreed to go ahead with the elections scheduled for 1998, this time coming out on top, with 41% of the vote. The subsequent coalition government reversed the roles of the CPP and FUNCINPEC, with the CPP clearly dominant. Discussion regarding the power of the communes involved talk about implementing commune council elections and decentralization reform. Beyond the political rationale, the reason that the RGC and the international community focused on elections and decentralization at such a level of government was because some attempts at commune elections and commune administration reform had already been made by the French.

Decentralization reform has been a major policy of donors – see, for example, the UNDP Seila Program experiment in 1996 designed to formulate and test systems for decentralized and deconcentrated planning, financing, management and implementation of local development at commune and provincial levels. However, decentralization policy is considered by the RGC to have been born out of a political rationale, not guided by a clearly stated vision that makes explicit the broader objectives and how the RGC intends to approach the devolution of administrative and service delivery responsibilities.

In January 2001, two major laws covered political decentralization reform. The first was the Law on the Election of Commune Councils and the second was the Law on the Administration and Management of Communes/Sangkats. These laws provide citizens and those they elect to represent them (commune councilors etc.) with more power in public decision making. In 2002, the first commune council elections took place. The establishment of supporting regulatory structures and mechanisms took place, including the inter-ministerial National Committee for Support to Communes (NCSC) and its Secretariat; the Department of Local Administration (DoLA) in the Ministry of Interior (MoI); the Commune/Sangkat Fund (CSF) (for administrative and local development); and the Department of Local Finance (DoLF) within the Ministry of Economy and Finance (MEF). In accordance with the delegated functions and mandates of national agencies, provincial rural development committee (PRDC) structures were established in all provinces.

The Strategic Framework for Decentralization and Deconcentration Reforms was approved by the Councils of Ministers on June 17, 2005. This defines the goal of D&D as 'democratic development', and outlines objectives, priorities, phasing and arrangements to achieve this. A Royal Decree (August 18, 2006) established the National Committee for the Management of Decentralization and Deconcentration Reform (NCDD), to replace the NCSC and take charge of D&D.

4. Current Phases

Over the past five years, various legal and regulatory frameworks for implementing decentralization have been developed, as noted in Section 3. In 2005, the RGC took its next step for decentralization reform, which involved the creation of a framework to guide deconcentration reforms related to management systems at provincial and district levels. The Strategic Framework for Decentralization and Deconcentration Reforms suggests that the Cambodian government develop management systems at provincial, district, khan and commune levels, based on the principle of ‘democratic participation’. The system is to operate with transparency and accountability in order to promote local development and delivery of public services to meet the needs of citizens and contribute to poverty reduction within the respective territories.

The NCDD was established to replace the NCSC. Its composition, powers and functions are defined by Royal Decree. The NCDD is responsible for policy direction and oversight of D&D reform; members include the Minister of the Interior (Chair), ministers of the Council of Ministers (COM), MEF, the Ministry of Rural Development (MRD), the Ministry of Planning (MoP), and the Ministry of Women’s Affairs (MoWA), as well as a Secretary of State of the Secretariat of Public Work and a Secretary of State of the MoI. The NCDD is now the agency responsible for drafting D&D laws and regulations, preparing a national D&D program, donor harmonization, and coordinating and aligning a wide range of donor-financed projects, including those that used to fall under the Seila Task Force. The phasing-out of the Seila Program and the establishment of new systems and structures under the NCDD Secretariat began in early 2007, as the start date of the Project to Support Democratic Development through D&D (PSDD). The Partnership for Local Governance (PLG) has now been extended for one year.

The NCDD has adopted and recognized the phases of D&D according to the findings and recommendations of the Independent Study on Options for Future Donor Support to D&D, May 2006 (Rohdewohld and Porter, 2006; see the below table). However, the NGO Statement in 2007 at a national convention to assess the preparatory phase indicated that the government had not fulfilled its commitments in this area. One of these commitments is to submit a draft framework to the National Assembly before the end of 2006. A preliminary draft Implementation Framework for Sub-national Democratic Development (Preparatory Phase, 2006-2007) was released on June 2, 2006. Information now available suggests that this is still in draft and not yet submitted to National Assembly.

In a different meeting of the Civil Society Organizations and their Contributions to Support Decentralisation and De-concentration, it was also indicated that the government planned to hold public consultation on the draft organic law² but would require a mechanism for public consultation. A draft of the organic laws has been prepared. The development of these and of supporting laws and regulations is a complex undertaking, one which implies the resolution of many practical and political issues affecting the roles and functions of administrative and political structures at all levels, and one which will have a broad impact on the lives of Cambodian citizens. The

² The Government names the law on management the administration of District and Provincial Council to support D & D.

implementation of this law will need momentous restructuring and reformation of the current provincial and district governance system. This law may also need to respond to urbanization, which is growing rapidly in Cambodia's major cities.

Table: *Phases of the D&D Reform*

2006	2007–2009	2010-2012	2013-
<i>Preparatory Phase</i>	<i>Initial Phase</i>	<i>Transition Phase</i>	<i>Transformation Phase</i>
<ul style="list-style-type: none"> ▪ Consultation on draft organic laws ▪ Approval of organic laws ▪ Design of Implementation Strategy ▪ Design of Implementation Authority ▪ Information campaign ▪ Preliminary design of donor modalities to support Initial Phase ▪ Pledges of external assistance 	<ul style="list-style-type: none"> ▪ Commune elections 2007 ▪ Design of modified sub-national structures and systems ▪ Establishment of the Implementation Authority ▪ Establishment of policy management process ▪ Establishment of RGC/donor instruments and facilities ▪ Indirect election of district and provincial councils (2008-2009) ▪ Functional assignments, structural changes, transfer of resources ▪ Inter-government fiscal arrangements ▪ Capacity building (national, sub-national level) ▪ Review/redesign of donor modalities 	<ul style="list-style-type: none"> ▪ Continuation of reform process (especially in additional priority sectors) ▪ Capacity building (national, sub-national level) ▪ Review of fiscal decentralization framework ▪ Review of impact of changes in complementary areas ▪ Commune election 2012 ▪ Review/redesign of donor modalities 	<ul style="list-style-type: none"> ▪ Consolidation of reforms ▪ Readjustments of systems and structures ▪ Election of district and provincial councils

Source: Rohdewohld and Porter (2006).

5. Assessment of Reforms: Key Issues and Challenges

5.1 Political decentralization

Political decentralization is often referred to as follows:³

- Transfer of power and functions from central to local government is based on political representation. Commune councilors are locally elected on a proportionate basis, which means more than one political party can be represented by local people who live in the area of territorial jurisdiction of the local government.
- *Devolution of power*, in which resources and political decision powers, and thus empowered decision making, are transferred to a separate lower tier of government. Devolution thus refers to decision making by a semi-autonomous government authority with its own juridical status and its own resources⁴.
- *Democratic decentralization*, in which local people can use elected representatives to solve local problems⁵. The participatory decision-making process is better informed and local government is more responsive to local needs and circumstances.

Commune elections aim to provide the foundation for decentralized development and future political decentralizations.

Through the 2002 commune council elections, 11,262 councilors were elected by the people through party lists. Based on the election results, the CPP, FUNCINPEC and the Sam Rainsy Party (SRP) obtained the following:

- The CPP received 1,598 seats for commune council heads, equal to 98.58%, and 7,703 seats for commune councilors;
- FUNCINPEC won 10 seats for commune council heads, equal to 0.62%, and 2,211 seats for commune councilors;
- The SRP won 13 seats for commune council heads, equal to 0.8%, and 1,346 seats for commune councilors.

There was a situation of gender inequality in election to decision-making positions. Although women constitute 51% of the electorate, only 12% and 14.5% of the National Assembly and of local council membership, respectively, were taken by female candidates. According to UNDP's Human Development Index 2006, Cambodia has among the lowest levels of gender equity in Asia, as measured by the gender development index (0.578) and the gender empowerment index (0.373). Social attitudes and tradition deem women to be of lower status than men. Although some progress in formulating policies promoting gender equality has been achieved, mainstreaming gender is a serious challenge, and the political will to implement policies and reform remains weak. A study of commune level political participation by Cambodian NGO Committee on CEDAW, November 2006 found out that 55% of female councilors (FCs) engage in politics because they wanted to contribute to the development of their community. 22% of FCs reported that they were motivated to work on the commune council because they wanted to demonstrate that women had the same capacity as men

³ Rondinelli, 1999 quoted in Ayres. A Review of Literature of Decentralization, 2001, Robert Work, The Role of Participation and Partnership in Decentralized Governance, UNDP New York

⁴ Stoop. 2002,

⁵ Eriksen et Al. (1999)

and by demonstrating this fact, they would contribute to a reduction in discrimination against women in leadership position and political participation.

Major specific challenges related to political decentralization

In the first mandate of commune council, ninety percent of commune chief is the member of ruling party (CPP) and performed by follow the pervious practice. Commune election law, enacted by the year 2001, required commune candidate to be literate only and did not require the qualification and skills. In addition, the election system required the commune candidate must be member of any political party. This is a barrier to an individual group and independent candidates—newly graduate—who do not want to be member of political parties but they want to engage and develop the community rather than installed by political parties. Low education of councilor are affected to an institutional growth and development of commune, as result, the commune councilor seemly do not have their own initiative in term of external communication, ability in mobilizing resources and encouraging outsourcing to local participation.

- The governance system at the provincial and district levels is highly centralized. The provincial governor's position is complex, involving potential contradictions in policy making, technical assistance, control, security, development program, execution, etc. The system of checks and balance and downward accountability to the people is weak.
- There is a lack of transparency and exchange of information with citizens. People are not involved and not aware of major decisions such as project preparations, planning, implementations and monitoring and evaluations.
- There is a need to enhance the capacity of commune councils to function more satisfactory in the next mandate. Some studies indicate a lack of understanding of the councilor's new democratic roles, (e.g. planning and financial procedures) and a lack of cooperation in the councils and to the citizens.

5.2 Administrative decentralization

Driven by an administrative rationale, the decentralization reforms in Cambodia are still not guided by a clearly stated framework that makes explicit their broader objectives and how the RGC intends to approach the devolution of administrative and service delivery responsibilities and related fiscal resources. On the administrative front, however, major critical questions have been asked on what could actually be the role of local councils in provision of public services, particularly in the major sectors that are crucial for the national poverty reduction strategy.

For instance, the public sector set-up is reflected at the provincial and district levels through department offices such as those for health and education. At the moment, the province and district are not locally representative institutions, meaning that they are not elected by the people but employed by sector ministries. In essence, D&D may allow locally placed commune councilors to make decisions on provision and production of public goods and service delivery.

Major next steps related to administrative D&D in Cambodia have been identified by **National Strategic Development Plan-NSDP (2006-2010)**:

- Adopting the organic laws to guide the devolution process;
- Delegating line ministry responsibilities, development and operational funds to sub-national levels;

5.3 Fiscal decentralization

Fiscal decentralization involves transfer of funds and tax-raising powers from higher to lower levels in political systems (Rusten et al., 2004: 22). This is because local governments must have adequate revenues that are locally raised or transferred from the central government, in order to be able to make expenditure decisions.

H.E. Prum Sokha, MoI Secretary of State, said recently (2007):⁶

... inadequate fiscal decentralization is the main factor restricting activity and growth by commune/sangkat councils. Having wide discretion to select and set priorities is an empty power for councils with virtually no revenue. Cumulatively, councils can play a major role in advancing national development, including contributing to poverty reduction. However, they must first be allocated appropriate and reliable local and national financial resources. Commune financing is a clear priority for the immediate future, bearing in mind that the nature and extent of fiscal decentralization is probably the best indicator of the nature and extent of decentralization, and the true commitment of the national government.

Currently, communes have already started assessing and collecting fees and levies associated with some of the (essentially administrative) services that they perform. The transfer of commune funds from central government is the only local government revenue. These funds are limited and not always distributed fairly. For commune councils to have incentives and to generate revenues and control expenditures, the government must establish the law on 'commune own source revenue' as soon as possible.

However, doing this is difficult, as it is largely thought that there is not a clear legal framework in place to regulate this. At the same time, commune councils are currently requested to mobilize local resources as counterpart funding to the transfers of the CSF. There is a general lack of clarification and delineation of mandatory and optional tasks in service delivery. This has a negative impact on accountability and on the opportunity to establish proper linkages between functions and funding arrangements. A detailed fiscal decentralization strategy is planned for under the Fiscal Decentralization Support Program of the MEF, expected during 2005-2006; it has still not been done.

It is also difficult for each government tier to be responsive and provide efficient services given the great disparities in both size and capacity of the unit in each tier. Provinces do not have incentives to develop a well coordinated development program, owing to lack of funds. Provincial public infrastructure depends on central government finances and maintenance plans through the sectors. Transparent and approved service delivery plans are nonexistent.

The centralized and delegated system of service delivery is considered not sufficiently demand-driven or based on local priorities, with flexibility and adjustments not ensured.

Quality of service delivery is difficult to judge and sometimes unacceptable. Monitoring performance systems are weak. Payments of unofficial fees are common in many sectors. There is a need to clarify the areas and sectors where user payments and charges are applied formally and informally and where the services are provided free of charge. This practice need to be further regulated.

⁶ The statement quoted from the Opening The Democracy Door D&D in Cambodia, Joel Rocamora, February 2006,

Major specific challenges related to fiscal D&D that have been identified⁷:

- The overall structure of sub-national governance is unequal, and there are some small and financially non-viable communes.
- There is unclear division of expenditure assignments across levels (vertically and horizontally) and lack of realistic standards and guidelines for service provision.
- A clear relationship between expenditure and revenue assignments is lacking, in terms of size, type and composition of revenues.
- The intergovernmental fiscal transfer system needs to be reformed in the light of the new structure and functions of each tier of government.
- The current fragmentation of the budget at the provincial/municipal level limits options for a consolidated overview of all resources utilized at provincial level and poses risks of double counting and lack of coordination, as well as high fiduciary risks.
- There is a lack of a regulatory and legal framework for revenue mobilization (user charges, taxes, co-funding/matching contribution for CSF, etc.)
- There is inappropriate organization of financial management issues at the provincial/municipal level, with numerous actors⁸ and many formal control procedures but weak coordination, actual control and lines of accountability.⁹
- Incentives are lacking to improve on performance within revenue mobilization and financial management procedures.
- There is insufficient coordination of the main reform issues within fiscal D&D. The CSF Board is still not operative and has a rather limited mandate.

5.4 Legal framework and mechanisms supporting decentralization

A number of emerging key issues and challenges have identified in the existing sub-national governance system and in legal frameworks and support mechanisms.

Legal frameworks¹⁰

More than 80 guidelines and procedures related to the commune development planning process, financial management and project implementation, as well as M&E, have been formulated and adopted. However, crucial pieces of legislation are needed to move deconcentration forward, such as the organic laws, as required by the Constitution. Organic laws define the roles and responsibilities of provincial/municipal and district levels of government.

- An absence of a clear, coherent policy and strategy framework for the D&D reform process within a clear legal framework leads to ad hoc initiatives, a lack of consistency and problematic sequencing.

⁷ The below summary were drawn from some parts of different sources such as the report of Interior Ministry on achievement of first commune council mandate, August 2006, The NSDP report 2006, Independent Study on Options for Future Donor Support to D&D, May 2006, Opening The Democracy Door D&D in Cambodia, Joel Rocamora, February 2006,

⁸ These actors include the governor, line ministries, the provincial treasury, the district finance office, the local department of economy and finance, etc.

⁹ For more detail, see Bartholomew and Betley (2004).

¹⁰ The below summary were drawn from some parts of different sources such as the report of Interior Ministry on achievement of first commune council mandate, August 2006, The NSDP report 2006, Independent Study on Options for Future Donor Support to D&D, May 2006, Opening The Democracy Door D&D in Cambodia, Joel Rocamora, February 2006, and NGO statement, 2007

- Various legal frameworks related to D&D developed by various ministries and sectors need to be harmonized within the principle of D&D. The absence of a clear vision and an overall policy and strategy to guide D&D has led to various ministries and sectors moving in different directions, with little or no horizontal coordination. These line ministries and sectors, as a result, have developed various legal frameworks that are not consistent with the principles of D&D.
- A legal framework for the law on ‘commune own sources revenue’ has not been formulated. During the past four years, commune councils have been allocated very limited funding from central government to solve many priority issues at commune level.

Support mechanisms

Commune councils need support from relevant mechanisms, such as the NCDD and its Secretariat; the MoI DoLA; the CSF; and the DoLF.

Shared jurisdiction among key agencies at **national level** regarding decentralization policy and the regulatory framework is already leading to inconsistencies and lack of clarity on the whole public administration reform, and particularly on decentralization. There is an absence of a clear division of roles and functions among the levels of institutions involved in service delivery. As a result, confusions and misunderstandings arise among line ministries, which result in various sectors moving in different directions on deconcentration with poor horizontal coordination, in terms of structural, organizational and personnel management issues.

Several weaknesses have been highlighted by the RGC in order to improve policy coordination on decentralization reform in Cambodia:

- The mechanisms become a permanent body, such as the NCDD, with wide representation and the authority to bind all institutions and government agencies. Appropriate capacity development should be provided to the NCDD and its subcommittee members.
- The status of the Department of Local Administration (DoLA) should be revisited as part of the long-term decentralization strategy and implementation plan process. Options should be explored to elevate the status of the Secretariat and to grant it the authority necessary to perform its roles and communicate more efficiently and effectively.
- New systems of provincial and municipal governance that incorporate sufficient accountability of departments to governors are necessary to enable coordination at the provincial and municipal levels.

At **local level**, the provinces are an important supporting mechanism for decentralization. However, the current management structure of the provincial governor’s office is incompatible with the governor’s new roles and responsibilities, for the following major reasons¹¹:

- The governor is in charge of the legal supervision of administration and general financial monitoring, including the approval of sector budgets, but has no power to change them. Detailed supervision of line ministry departments and deconcentrated services is not clearly defined within the current governor’s

¹¹ The below summary were drawn from some parts of different sources such as the report of Interior Ministry on achievement of first commune council mandate, August 2006, The NSDP report 2006, Independent Study on Options for Future Donor Support to D&D, May 2006,

mandate. Seila/PRDCs are in not in a strong position to coordinate and plan major government activities.

- A lack of resources for operational activities often creates bottlenecks, poor performance and lack of information.
- There are no clear checks and balances for provincial governance. Roles and tasks assigned to the provinces are not supported by financial resources. The provincial administration lacks human resources.
- Services are arranged within hierarchical and discrete systems guided by sector ministry objectives. Security, policy and registration affairs are closely connected with provincial and lower-level development activities in a fragmented administration and financial management system at the provincial level.
- Relationships are unclear between governors and technical departments and between the governors and the central government.

6. Commune Council Performance

6.1 Accountability

Accountability is emerging as a crucial concern and is gaining more significance in Cambodian governance reforms.

Box: The concept of accountability

The concept of accountability is not easily understood by the person in the street. Local people tend to understand the Khmer translation of ‘accountability’ as something similar to ‘accounting’. They do not link the word with traditional Khmer values for governance, such as responsibility (*kar totuol khos chom pos mok*), honesty (*smos trong*), helpfulness (*jes jouy tok tu-reak*), or serving people (*bom-reu pro-chea-jon*). Considering this difficulty and the huge range of definitions offered, it is useful to focus accountability in the Cambodia context on two core aspects: answerability and enforceability, without which accountability can not be maintained (Schedler, 1999).

The differences between the notion of accountability in the wider literature and accountability as practiced in Cambodia are critical to understand. Political, personal, subjective and patronage-driven relationships of power, kinship ties and influence drive informal processes that directly influence an individual’s ability to be accountable. The desired state of accountability that the reforms seek to foster is a practical departure from the latter toward the former.

Source: Horng et al. (2005).

COMFREL’s reports describe accountability from commune councils to their electorates as an improvement compared with the former commune authority of the CPP in the 1980s. For the past five years, it is noted that commune councilors have fulfilled a number of their promises and plans. Although most of these are in rural infrastructure projects, it is generally believed that improvement in this area has created more opportunities in various sectors, such as agriculture. Local residents also have better access to markets, hospitals and other services, and more convenient transportation of goods and service delivery. All this contributes to rural economic development and poverty alleviation.

In the absence of information about commune performance, however, downward accountability of the provincial authorities is hindered by a lack of coordination in planning and implementation between line departments and commune councils. The studies by COMFREL Research Team (CRT) note that there is no mechanism currently in place for commune councils to express satisfaction or dissatisfaction to provincial departments. Not do the central ministries have mechanisms to incorporate external evaluation into their M&E. This problem has hindered the accountability of service providers to consumers.

In this regard, however, 25% of Female Councilors (FC) reported that their responsibilities have increased during the course of the current term and that their area of increased responsibility related to “problem solving”. The problem that FCs were asked to handle included cases of domestic violence and domestic violence prevention, health care issues, and land conflicts. They also reported as their capacity increased over time, their male counterparts and colleagues delegated more work and responsibility to them (the survey of Cambodian NGO Committee on CEDAW, November 2006).

6.2 Decision-making process

Blunt and Turner (2005) point out that ‘the D&D reforms in Cambodia have been carried out within a historical, cultural, institutional and governance context that inhibits

decentralization. The reforms also operate in a deeply embedded culture in which communal participation is historically weak and strict observance of hierarchy is considered part of core social values.¹²

Previously, the commune council's decision making was influenced by the decision making of central government, province or district level, in order to keep public order or work on the commune development plan. Now, commune councils have regular meetings and decisions are taken through discussion and adopted by majority vote. Decision making defines clear goals for projects and can be implemented according to the opinions and the basic needs of the local constituency. Furthermore, decision making by majority vote can demonstrate a good working relationship among commune council members, even across parties. Councilors then have to implement and support what they have approved.

However, COMFREL's research and local watchdog reports note that this form of decision making on activities just shows that all commune council work comes from the majority vote, even though, in many cases, commune work plans are only shown or announced to councilors, with the commune chief still the biggest influence over decision making. Often, councilors from minority parties are unable to raise their views. Decisions made by the council conform to the position of the majority party; if others express their views and opinions, councilors do not consider these or implement what they have raised.

6.3 Dispute resolution and problem solving

COMFREL's public forum reports and The Asia Foundation (Ninh and Henke, 2005) reveal that the most common types of conflict at village level are caused by youth gangs, domestic conflicts (e.g. inheritance, divorce, violence), small land conflicts (e.g. boundary demarcations), and small neighborhood conflicts (e.g. defamation, destruction of crops). Kim Ninh and Henke (2005) in the TAF survey find that Cambodians usually first approach the village chief for mediation, although commune councils rank equally high in terms of dispute resolution. Conflict mediation at the village and commune level is seen as easier, cheaper and more effective than mediation at higher levels.

Cambodians are generally positive about the enforcement of mediated agreements by commune councils: 74% of voters and 95% of councilors believe that such agreements are likely to be implemented. However, citizens see corruption, nepotism and impartiality as important problems in commune council mediation; councilors view a lack of legal knowledge/respect for the law, a lack of knowledge/skills on the part of the council and a lack of resources as most challenging. (in TAF survey, 2005).

COMFREL found that around 30% of the problems raised in the public forums in 2006 were solved on the spot by commune councilors; 40% of commune administration performance problems were answered by councilors. For example, in answer to accusations that they were charging money for birth registration, councilors answered that they had no intention of charging people for registration unless people came outside working hours. There was improved accountability of commune councils in solving problems that citizens raised in the forum (around 28% were solved). Most of the problems that the commune councilors were able to solve completely were in terms of

12 See Blunt and Turner (2005) for a detailed discussion of issues preventing post-conflict Cambodia from achieving strong forms of decentralization.

development work, such as infrastructure, pond and well digging and irrigation. Councilors had more opportunities to discuss with citizens face-to-face regarding citizens' needs and to provide a report on plans and achievements of the commune to citizens.

However, some problems were not able to be solved, such as electricity, land issues, illegal fishing, poverty, unemployment and deforestation. Councilors also contended that land disputes were one of the biggest problems that Cambodia is now facing. Councilors are not able to solve every problem the people in their commune are facing. If the problem is too serious, councilors advise the parties to go to court. At the same time, people are encouraged to find a solution in collaboration with the council, as trials can turn out to be a very long process and very expensive. One problem, according to councilors, is that people do not always respect and follow their advice. Whether or not this is true, the fact that the public often appeals to the council for mediation is a sign that councilors are respected members of the community, and are likely to have some influence over how people act.

In the meantime, the commune council has played very important role in solving disputes. One councilor interviewed stated that the council was practicing alternative dispute resolution, with the goal of finding compromise instead of having people take revenge on each other. In some communes, there is a commission to take care of problems, consisting of village elders, village chiefs and monks. In others, it is the chief or deputy chief or COMFREL's local watchdog whose task it is to advise and settle disputes.

6.4 Communication within the commune council

Internal communication within the councils is seen as a sensitive issue, one which may affect administration regularity and development processes in the communes if problems are not solved. According to interviews with councilors, issues such as amount of commune council members, discrimination and rivalry between councilors still exist. Most problems occur when the commune chief, first deputy chief or second deputy chief come from different parties, which leads to a lack of communication between councilors of different parties. Commune chiefs seldom delegate to first or second deputy chiefs as their representatives. As a result, commune work can become blocked. The Law on the Administration and Management of Communes/Sangkat does not clearly define the role of the first and second deputy commune chiefs in the absence of the commune chief, as to whether commune work is automatically performed by his/her assistant or not. Furthermore, communes led by the ruling party see almost all work run by the commune chief and members of the ruling party, while members from other parties are not supported or provided with work. In communes where the chief comes from an opposition party, there is little support and cooperation from the top levels, such as the district authorities.

6.5 Commune/Sangkat Fund

Commune councils need to generate sufficient funds for themselves through local contributions. At the beginning of the decentralization process, people strongly trusted the commune councils, but they have come to feel frustrated with councilors. Citizens do not know about CSF allocations and whether these are wisely managed.

The commune fiscal situation, whereby the council has many functions and very little money, is a major obstacle. Most councils do not even have their own office facilities and have to use space in political party and school buildings and in pagodas. Councils are not permitted to use their development grant from the CSF to construct office buildings.

Rusten et al. (2004: 92) say:

In principle, the average funds available per commune in 2003 were \$5,000 for development and \$3,000 for administration. With a shortfall of approximately 50 percent and 40 percent respectively for the development and administration funds of the CSF, the available amount was an average \$2,500 per commune for development and approximately \$1,800 for administration. With the increase of the local government share of the domestic revenue from 2 to 2.5 percent in 2004, and anticipating funds distribution as planned, the average development fund per commune is estimated at \$6,000.

The KAF occasional paper, 2007 found that 96.9% see the lack of funding as the biggest impediment to fulfil their tasks and as the biggest obstacle to decentralization. 73.4% of commune councilors said that the available funds were not sufficient at all the completed projects in a reasonable way. 31% of councilors received funds from NGOs.

6.6 Local development planning process

Decentralization reform in Cambodia has focused heavily on commune-level planning. A mandatory responsibility of councils during their first year in office is to prepare and adopt a long-term strategic development plan. Great efforts have been made and significant resources mobilized to enable councils to meet this responsibility.

The existing guidelines are still considered broad and do not cover all sectors of development. Physical infrastructure is often prioritized while social issues have not been given adequate attention during the formulation of the plan¹³. Several positive aspects about the commune planning process have been observed:

- All councils have prepared a long-term plan that reflects local needs, aspirations and priorities.
- Participation of citizens has enhanced public awareness and developed capacity on local development planning at the local level.
- A culture of coordination and partnership among councils, provincial development stakeholders and NGOs has been introduced.

However, there are major limitations. One of these is an absence of mechanisms to communicate local needs and priorities, expressed in the commune planning process, to higher levels of government for incorporation into ministry and department activities and resource allocation. On planning implementation, the following limitations have been identified.¹⁴

- The planning process is complex and does not correspond to the capacity of councils, citizens and government departments. The process therefore runs the

¹³ UNFPA, October 2006

¹⁴ The below report of legal framework were drawn from some parts of different sources such as the report of Interior Ministry on achievement of first commune council mandate, August 2006, The NSDP report 2006, Independent Study on Options for Future Donor Support to D&D, May 2006, Opening The Democracy Door D&D in Cambodia, Joel Rocamora, February 2006, and COMFREL's research reports *Assessment of the First Term of Decentralization in Cambodia, 2002-2007*

risk of being driven by technicians (such as PFTs and DFTs – provincial/district facilitation teams).

- The process is time consuming, costly and prone to creating high public expectations that may ultimately lead to a lack of public confidence in councils.
- There is no flexibility in the process enabling accommodation of local circumstances and differing capacity levels.
- Annual review of plans requires retracing of all steps in the initial process.
- The planning process presumes active coordination between councils and government departments. These links are weak and department participation is ceremonial. There was still not clear criteria for selection of priority projects--some places use majority vote whilst others use different methods
- Commune development plans are activity-focused rather than designed as strategic long-term plans that except their one-year development and investment plan;
- Long-term plans focus heavily on physical infrastructure development, particularly post-DIW (district integration workshop). Opportunities are missed to develop overall strategic development plans that include sector/service-specific needs and priorities for which resources and partners can be mobilized.
- Needs identified are not incorporated into sectoral plans and resource allocation at the provincial level, hence the DIWs have only a top-down impact.
- There is a large discrepancy between available resources and local priorities. There was not well understood by commune and village representatives as throughout the past 5 years the focus has unremittingly been on infrastructure projects
- There is no mechanism for follow-up on commitments made by government departments to commune councils.
- Inter-commune links are weak and public awareness remains low.

6.7 Public service delivery

The Law on the Administration and Management of Communes/Sangkats envisages a leading role for councils in service provision and local development. The law is crucial for developing local accountability: only when councils are given clear service delivery responsibility and adequate resources can they be held accountable for their performance. The law, however, remains broad in terms of mandates for specific responsibilities.

Although a variety of public services, such as voter registration, civic registration and social and development services (education, health and infrastructure) are delivered at the commune level, the institutional arrangements used to deliver them are not well understood. H.E. Prum Sokha, MoI Secretary of State, providing day-to-day leadership of the D&D process, says in his own recent assessment (2007)¹⁵:

No significant public services have been deconcentrated to commune/sangkat councils ... Deconcentration to these councils has been confined to relatively routine activities such as civil and voter registration and the collection of basic statistical information related to development planning. The present low level of deconcentration to commune/sangkat councils is therefore not simply caused by a lack of capacity in commune councils nor is it caused by a preference on the part of ministries to establish their own branch offices. Instead, it reflects a much wider hesitation or unwillingness of most national ministries – at least until now – to delegate substantial powers to any sub-national agency. The attitudes of national ministries must change in order to accelerate development and poverty reduction.

¹⁵ Below statement quoted from the Opening The Democracy Door D&D in Cambodia, Joel Rocamora, February 2006,

Furthermore, more direct involvement of councils in services has not been sought systematically. Major challenges on public service delivery are summarized below¹⁶:

- There is a general lack of clarification and delineation of mandatory and optional tasks in service delivery. This has a negative impact on accountability and opportunities to establish proper linkages between functions and funding arrangements.
- It is difficult for each government tier to be responsive and provide efficient services, given the great disparities in size and capacity of the unit in each tier.
- Provinces do not have incentives to develop a well coordinated development program, owing to lack of funds. Provincial public infrastructure depends on central government finances and maintenance plans through the sectors. Transparent and approved service delivery plans are nonexistent.
- The centralized and delegated service delivery system is considered not sufficiently demand-driven or based on local priorities, with flexibility and adjustments not ensured.
- Quality of service delivery is difficult to judge and sometimes unacceptable. Monitoring performance systems are weak.
- Payments of unofficial fees are common in many sectors. There is a need to clarify the areas and sectors where user payments and charges are applied formally and informally and where the services are provided free of charge.

6.8 Capacity of the commune council

Cambodia suffers from serious problems of human capacity at all levels of government. Effective capacity development in Cambodia is constrained by a host of factors at various levels. One problem is the low level of government salaries, which average between 80,000 and 120,000 Riel a month (US\$20-30/€15-23 a month), making it difficult to hire and retain qualified staff. A COMFREL interview with 34 commune chiefs in Pursat province revealed that the overwhelming majority had attained only primary school education. The low educational level of commune councilors leads to people raising questions and doubts, for example regarding capacity to take part in intensive training courses provided by the government.

COMFREL's research indicates similar issues to those raised by Rusten et al. (2004): councilors state that government's training courses are very helpful in allowing them to understand their roles. However, councilors complain that training courses are too intensive, too broad and not sufficiently tailored to the local situation, and that timing is often too short to cover the training materials well. They suggest that training be made more effective by enhancing peer learning through more interaction among councilors.

CCs find it difficult to apply what they learn in training and complain about difficulties establishing communication with government departments and poor communication with provincial treasuries. Councilors are not sufficiently knowledgeable to demand accountability from providers of health and education services, such as through participation in meetings of health center management committees and school support

¹⁶ The below summary were drawn from some parts of different sources such as the report of Interior Ministry on achievement of first commune council mandate, August 2006, The NSDP report 2006, Independent Study on Options for Future Donor Support to D&D, May 2006, Opening The Democracy Door D&D in Cambodia, Joel Rocamora, February 2006, and NGO statement, 2007

committees. The support the councils receive from P/DFTs is typically oriented towards infrastructure projects, not social services (Rusten et al., 2004).

According to COMFREL’s reports through research and observation, councilors’ ability is limited, they have unclear roles and responsibilities, and their grasp of the concept of development is vague. Of all commune chiefs, 90% are members of the ruling party (CPP), carrying out their job by merely following previous practice.

Councilors lack the ability to influence and demand from central government in response to the needs of local residents. In other words, a weakness of the proportional and party list system is that councilors have to respond more to the parties than the citizens who elected them. Those who do not do this may face a removal from their position. Commune council performance still requires further coordination in terms of enforcement of role and duties in response to local development. Communes often have several NGO program interventions to contribute to local community development, but NGOs are seen to be in a weak position in terms of encouraging the voice and demands of councilors to central government. Furthermore, NGOs often seem to lack coordination among themselves in their interventions.

7. Citizens’ Participation

Decentralization requires a high level of participation by the people. If citizens are passive and do not participate, it will not be possible to successfully implement the decentralization of political power in Cambodia. It is for this reason that information relating participation is crucial for an understanding of the current state of the decentralization process. This section examines if and how people participate in elections and in activities between elections, what councilors think about this, and where it is necessary to improve cooperation between elected councilors and citizens. This report summarizes survey data and incorporates additional refinements of the analysis by TAF (Kim Ninh and Henke, 2005). Among the findings are the following:

- Cambodians are generally very satisfied with the performance of their commune councils and perceive performance as improved since the 2002 elections.
- Citizens are generally well aware of the functions of the commune councils.

7.1 Popular participation in commune council elections

Table: Number of Cambodians going to the polls

1993	1998	2002	2003
4,764,430	5,395,595	5,190,307	6,341,834

The above table shows the number of Cambodians going to the polls over the years. This has increased each time there has been an election, which marks both an improvement in and consolidation of democracy. However, caution must be exercised, as both the 1993 and the 1998 elections were affected by the Khmer Rouge conflict and account must also be taken of the general increase in population and the full repatriation of refugees. COMFREL observations are that the 2003 popular vote was almost certainly down on what it should have been, and that there are early signs of voter apathy creeping in.

The 2003 elections, as with the 2002 commune council elections, were the best in terms of geographic coverage and accessibility for parties and observers. In 1993, owing to the ongoing conflict, not all provinces were covered; in 1998, the Khmer Rouge ‘defections’ to the government were still recent in some areas. Also, of course, the 1997 political confrontation meant that opposition parties were often only just starting from scratch in terms of their countrywide party machinery.

In the 2002 commune council elections, around 30,000 people filed their candidacy for 10,000 commune councilor positions, showing an increased interest in holding commune public office.

7.2 Citizens’ participation between commune council elections

Citizens’ awareness of commune council functions

An assessment of decentralization implementation also considers physical space for citizens’ participation between elections. In fact, communes are required by law to include villagers in their work and, in many cases, they make great effort to do so. However, if the physical conditions for doing so are not acceptable, they may have a hard time achieving this goal. For example, if the council holds meetings far away from people’s homes, this might have a negative effect on attracting people to attend.

It is often reported that in 2003, early on in the mandate of commune councilors, citizens were unaware of their rights to participate in council meetings (NCSC, 2004). However, at the end of the first term, local residents were generally able to identify activities that their council had proposed and implemented.

Close to the end of the first commune council mandate, TAF’s 2005 survey (Kim Ninh and Henke, 2005) found that 60% of voters were aware of the existence of village planning meeting (VPMs); among these, a vast majority knew their specific rights regarding VPMs. Less than 10% did not know they had a right to attend. Among the 90% who knew of their rights, 76% had taken it upon themselves to attend a VPM. COMFREL’s local watchdog reported similar finding: around 40% of voters had attended a VPM at least once. KAF occasional paper, 2007 also found that 63.1% of the people have heard about the work of commune council. This shows that awareness of local meetings and procedures is quite high.

Citizens’ involvement with councils through NGOs

Increased citizen action and engagement with commune councilors has occurred through NGOs. Forum Syd and Diakonia’s Evaluation Report of October 2005 (Logarta et al., 2005) found out that there was an ‘increase in men and women’s participation in public forums; in villages, respondents report more active participation in public forums called by commune councils and public forums sponsored by NGOs on general development issues concerning their respective communities’.

According to COMFREL interviews in five communes in December 2005, the relationship between the people and the councilors is still often poor, especially with regard to people’s involvement in commune work. There are still not enough face-to-face interactions between commune councilors and their constituents. Respondents said that they had chosen councilors and given them decision-making power, and did not take further part in commune work. In addition, people are interested in or submit their

comments to councilors, but no account is taken of these and there is no follow-up. For example, when meetings take place or councilors visited the citizens and ask what they want them to do, citizens raise issues and ask for help; councilors promise to bring requests to commune council meetings but nothing further is heard. Living conditions are considered a primary factor preventing people from participating in the commune. For instance, when people participate in commune council meetings or development planning, they can not make money through work and can not feed their family.

Meanwhile, councilors also face problems encouraging people to get involved in council meetings. For a variety of reasons, people often have no interest in the work of the councilors, only being interested in their own life and business. Reasons for this lack of participation are mostly attributed to the fact that people are poor and can not have an interest in participation.

Feedback from commune councilors involved in COMFREL forums, trainings and other activities shows, as do other research reports, that councils welcome NGOs to help with development work and encourage good relationships among NGOs. TAF's 2005 survey (Kim Ninh and Henke, 2005) showed, for example, that the country's two largest human rights NGOs (ADHOC – Cambodian Human Rights and Development Association – and LICADHO – the Cambodian League for the Promotion and Defense of Human Rights) have cooperated with councils and support councils' work.

Relationships between councils and NGOs are more open if councilors who are former members of community-based organizations (CBOs) and local networks link with NGOs. Such practices encourage participation and civil society engagement.¹⁷

COMFREL has contributed to increasing the engagement of local people with commune council development plans and communication between commune councils and citizens, given people an opportunity to raise problems and local issues for response. In the first mandate of Commune Council, COMFREL conducted 259 local public forums with the attendance of commune councilors and citizens in 259 communes (each forum saw the attendance of around 60 local residents, five commune councilors and three to four village chiefs). Commune councilors recognized the credibility of these forums and paid attention to them; there was also a noticeable attitude change, whereby commune councilors became more active in attending activities organized by COMFREL afterwards.

Some COMFREL local watchdogs have been invited by councils to participate more in discussions on general commune council development, which has led to an improved relationship between COMFREL's local network and councilors. COMFREL local networks and watchdogs observe and report that they are now more visible and active in commune affairs.

However, some people still complain about the slow decision making of commune councils and upper levels. In addition, standards of living for many people remain poor. The progress of commune development is still slower than anticipated. People attending COMFREL's public forums constantly raise issues concerning land disputes, domestic violence, environmental problems, civic registration, development issues, illegal fishing

17 This was seen in communes and CBOs supported by Partnership for Development in Kampuchea (PADEK) and DPA (Development & Partnership in Action)/CIDSE Cambodia (International Cooperation for Development and Solidarity) in Kratie, Battambang, Siem Reap and Kampot.

and logging, but some problems are beyond the ability of councilors to respond. People who attend the forums request more meetings of the kind. Such forums are said to promote democracy and participation at commune level, and provide an opportunity for people to express their opinion and concerns.

8. Lessons Learnt

1. Poverty reduction through improved and decentralized local governance:
 - There is a need to target disadvantaged and socially excluded groups, such as people in rural areas, disabled people, or those who face extreme poverty.
 - A long-term learning and development process requires a sustained political commitment and strengthened capacity of each government tier. Without political commitment from the top leadership, it is difficult to ensure that institutions function effectively and that the interests of the most impoverished people are addressed. Strong political decision making and leadership, a clearly defined strategic focus, and real technical and concerted efforts are needed.

2. Political decentralization alone is not sufficient for poverty alleviation; attention must also be given to administrative and fiscal decentralization. Political and administrative decentralization are currently in place while fiscal decentralization is still lagging behind.

3. Political will, attitudes and behaviors of major actors at all levels of government have been identified as a hindrance to further reform. Since they are key stakeholders involved in the D&D reforms, it is critical that the mindsets of decision makers and administrators be adjusted to the D&D principle and objectives. Without these changes, devolution of real responsibilities and funding can not happen.

4. Decentralization is only effective if adequate emphasis is given to ensure participatory monitoring and evaluation in each government tier. There is a need to monitor work performances at the local level to ensure accountability, and to build the required capacities for such responsibilities.

5. There should be a conscious effort to bring decision-making processes nearer to the grassroots beneficiaries, thus improving upward demand-driven planning of development initiatives. At the same, enhancement and the empowerment of civil society need to be supported to realize improved rights and livelihoods.

6. Civil society is an indispensable partner in the decentralization reform process. Civil society organizations (CSOs) play an important role in strengthening social capital by facilitating local dialogue and promoting self-help, through interaction and partnership among members of local communities and between communities and local authorities. During the past two years, CSOs have played an increasingly active role in the decentralization process by facilitating capacity development, through partnership with commune councils, training and empowerment of local communities, by developing capacity for local mediation, advocacy, participatory planning and social mobilization, among others.

Annex A: Summary of D&D Key Actions in National Strategic Development Plan: 2006-2010

NSDP key strategies and actions

1	Factor poverty reduction and gender equity concerns into all activities.
2	Ensure speedy reforms in all sectors, which will yield long-term benefits, however painful they may be in the short term.
3	Foster and facilitate equitable and spatially and sectorally well spread economic growth and opportunities for all.
4	Significantly increase 'real investments' for growth such as in infrastructure (urban, rural, national), productive sectors (agriculture, industry) and human development (health, education).
5	Target the most needy and least served people, including those with disabilities and indigenous people, and areas to help rapidly reduce poverty.
6	Maintain a judicious balance between top-down (macro-level reforms) and bottom-up (grassroots) approaches.
7	Focus on well tried, low-cost activities with potentially high returns at the grassroots level, where speedy changes are possible and will have a profound and positive impact, and/or that will directly benefit the poor.
8	Optimize factor productivity – capital, labor, land and natural resources inputs – in all activities.
9	Rely as much as possible on human labor for all construction work to boost household incomes, especially in rural areas.
10	Stress building of institutional and human capacity in all sectors and at all levels to create and sustain a critical mass of expertise and human capital.
11	Evolve mechanisms to ensure as much funding as possible is routed through sub-national levels for implementation of development activities.

NSDP key actions for D&D

1	Draft and pass organic laws to clearly delineate the basic concepts of <i>subsidiarity</i> to provide clear guidelines for the devolution process and to specify functions, roles and responsibilities at various levels of the administration.
2	Delegate responsibilities and make available development and operational funds from line ministries to the provincial and other sub-national levels in accordance with the organic laws and related regulations/rules.
3	Build upon the considerable progress already made through individual initiatives of line ministries including the Priority Action Program (PAP) ministries – Education, Health, Agriculture and Rural Development – as well as Ministry of Land Management, Urban Planning and Construction, to better define a framework under which deconcentration of services can develop more coherently.
4	Systemize and better institutionalize the allocation mechanism to ensure full and timely transfer of funds and strengthen the 'block grant' system (e.g. already developed CSF) from national budget to commune councils; develop block grant and sectoral allocations for provincial and other sub-national levels to ensure accountability and transparency of revenue collection and expenditures to citizens and other stakeholders.
5	Increase and target provision of such funds on a priority basis, particularly to remote areas and other regions where poverty levels are high, to help meet in a significant way local needs for infrastructure and other development.
6	Explore appropriate avenues for provincial and other sub-national levels, including communes/sangkats, to develop their own resources, including revenue generation from taxes to be collected at local levels, service charges and tax sharing for local budgets.
7	Steadily implement a commune decentralization accounting system (CDAS) in provincial

	treasuries.
8	Build up institutional capacity at all sub-national levels.

Annex B: Institutional Arrangements for Management of Program to Implement National D&D Strategy

The NCDD's composition, powers and functions are defined by Royal Decree. The NCDD is responsible for policy direction and oversight of D&D reform and members comprise of the Minister of Interior (Chair), ministers of the COM, MEF, MRD, MoP and MoWA, and Secretaries of State of the MoI and the Secretariat of Public Work. The NCDD's mission (Royal Decree, Art. 3) in summary includes:

- Assuming the functions of the NCSC and the Inter-Ministerial Committee (IMC) of the MoI for drafting the organic laws.
- Preparing and implementing strategies for transition, integration and phasing-out of the Seila program at the end of 2006.
- Developing and implementing a national, initial-phase program for democracy development at sub-national levels.
- Developing and implementing an initial-phase framework, components, timeframe and temporary activities of D&D reform before promulgation of the organic laws.
- Designing and making recommendations for establishment of a fund for D&D reform, to mobilize and allocate donor assistance.
- Preparing agreements between the RGC and donors on supporting D&D reform to promote harmonization and alignment of donor support.
- Ensuring coordination among NCDD and central ministries/institutions in delegation of functions, powers and resources to sub-national levels.
- Organizing appropriate forums for the RGC and donors to coordinate cooperation and mobilize resources to support D&D reform.

The Royal Decree (Art. 8) provides that the NCDD mandate will end when a new mechanism for managing implementation of the organic laws is established by the organic laws. It is expected that PSDD policy direction and execution responsibilities will then be assumed by that new mechanism.

Figure: Institutional arrangement for management of the program to implement the national D&D strategy

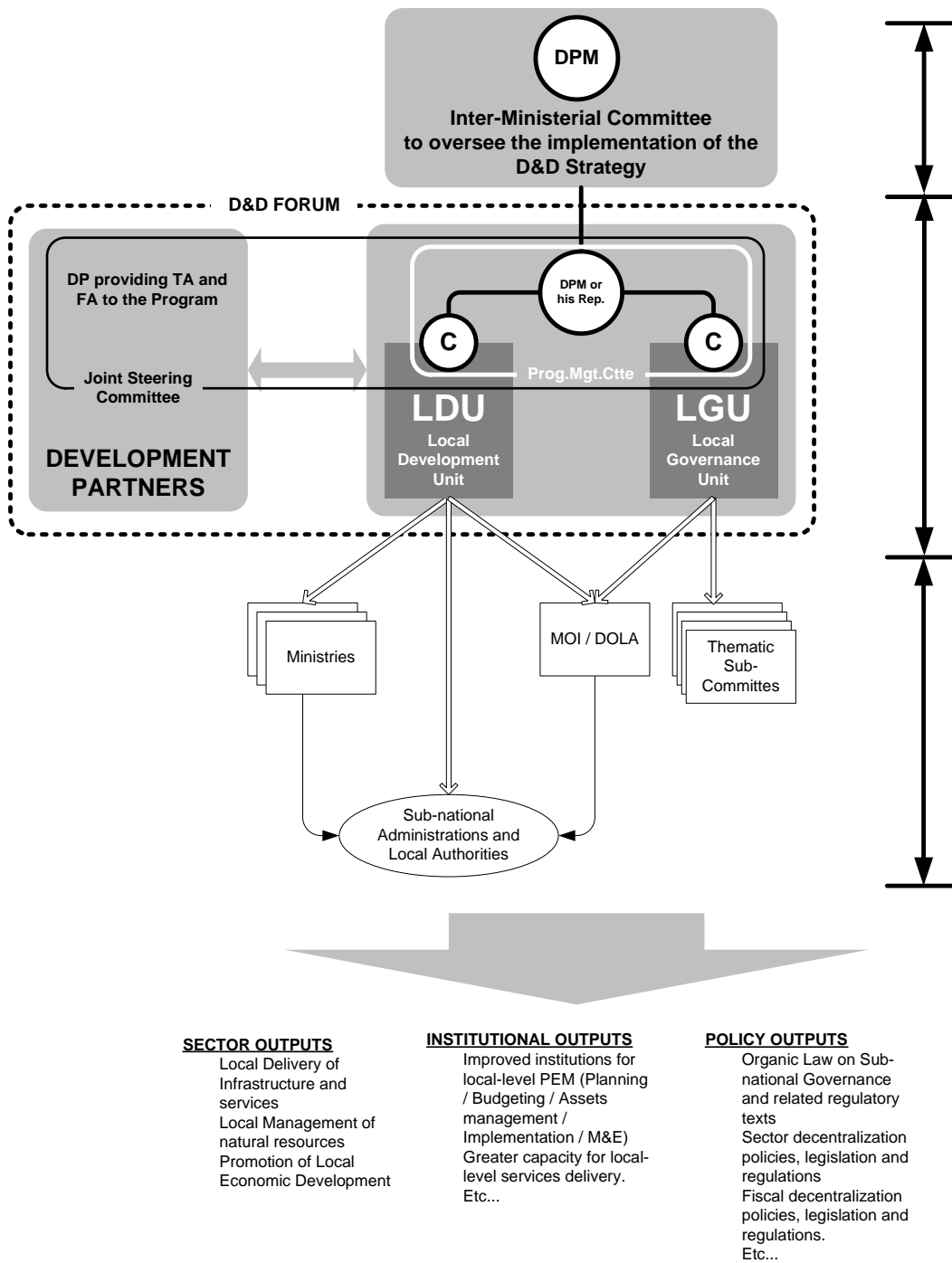


Diagram adopted from PAT Study on Seila/PLG support and execution, 2005.
 Source: RGC Strategic Framework for Decentralisation and Deconcentration, Draft March 2005, Annex 2

Annex C: Ongoing Donor and NGO D&D Projects

D&D reforms are being supported by a number of ongoing donor programs

1. The **Seila Program**, 2001-2005, extended to 2006, is a national program whose goal is to contribute to poverty alleviation through improved local governance. Management of the Seila Program is the collective responsibility of an inter-ministerial body, the Seila Task Force (STF) chaired by the Minister of Economy and Finance with membership from 10 ministries. The STF has established a Secretariat, the STFS, to manage overall program execution. Through an annual programming process, all resources under the Seila framework are systematically transferred to ministries, provinces and communes responsible for implementation. Core technical support to the STF, the STFS and the 24 provinces/municipalities is being provided through the **Partnership for Local Governance (PLG)**, co-financed by **UNDP, Sida and DFID**.
2. Specific donor support executed under the Seila framework includes the **World Bank's Rural Investment and Local Governance Project (RILGP)**; three **IFAD** projects supporting agricultural and rural development; the **Danida Commune and Community-based Natural Resource and Environment Mainstreaming (CCB-NREM) Project**; and the **UNICEF Seth Koma Program**. Note: In its draft document, Danida will also share cost of US\$61 million with DFID to give support to one of its three components from 2006-2010 for the framework.
3. **Asian Development Bank (ADB)** support to decentralization is through the **Commune Council Development Project (CCDP)** co-funded by Sida and the Netherlands. The projects provide support to policy, capacity building, civil registration, aerial mapping, implementation and infrastructure facilities, e.g. construction of commune buildings, in partnership with the MoI.
4. **GTZ** provides technical assistance for decentralization in two provinces in support of the **IFAD Community-based Rural Development Project** in Kampong Thom and Kampot. GTZ also has **Administrative Reform and Decentralization**, providing policy advice on D&D to the MoI and the Council for Administrative Reform (CAR).
5. **UNDP's Decentralization Support Project (DSP)** provides technical assistance to the MoI in decentralization policy and to MEF in partnership with the **UN Capital Development Fund (UNCDF)** for fiscal decentralization. DSP's ongoing assistance to the MoI includes: support to the formulation of a policy framework for a provincial/municipal governance system; preparatory consultations for the establishment of the National Association of Commune Councils; and pilot implementation of inter-commune joint project undertakings. UNCDF is assisting the MEF in the development of commune own source revenue, refinements in the CSF regulations and the commune finance system, and identifying the role of councils in service delivery.
6. The **EU-UNDP Strengthening Democratic and decentralized Local Governance in Cambodia (2006-2010)** is being implemented.

7. **Konrad Adenaeur Foundation (KAF)** is supporting D&D reform in Cambodia through its **Provincial Town Reform Project** and **Reform of Battambang Provincial Administration**. The former is aimed at pilot testing an administrative system for two urban districts of Battambang and Siem Reap. This includes the setting-up of a district council, a people's office and a one-window service office. The latter is aimed at piloting an administrative reform system at the provincial level in Battambang. Both projects are partially funded by the EC and implemented in the framework of the EU's Asia Urbs Program.

Other initiatives on decentralization implemented by NGOs include the following:

8. A local think-tank, the **Cambodian Development Resource Institute (CDRI)**, is implementing a four-year policy research program on local governance reforms. The research program is funded by Sida and DFID.
9. The **Working Group on Decentralization Partnership** and the **Working Group on Decentralization Forum** are initiatives coordinated by PACT, an international NGO. The former undertakes publication of research on decentralization and local governance experiences. The latter sponsors public forums to discuss a wide range of issues on decentralization reform implementation in Cambodia.
10. The **Commune Council Support Project (CCSP)** is supported by a number of donors and co-managed by a consortium of international NGOs. CCSP's donors include AusAid, DFID, USAID through TAF and Oxfam GB, and Canada Catholic Association for Development and Peace. CCSP is co-managed by CIDSE, Concern Worldwide, NGO Forum, Oxfam GB, COMFREL, SEDOC, World Vision International Cambodia (WVI-C), Church World Service (CWS) and Buddhism for Development (BFD). CCSP is implementing provincial and district forums in selected districts, a commune scorecard system (five communes in 10 provinces), and a DFID-funded regional initiative on civil society participation in local governance, and is planning to implement an awards system patterned after the Philippines' 'Galing Pook' Award for Local Governments).¹⁸

¹⁸ <http://www.galingpook.org/>.

Annex D: Documents Reviewed

- ADB and UNCDR (2004) 'Local Government Initiative, Pro-Poor Infrastructures and Service Delivery in Rural Asia', Synthesis of Case Studies, Regional Seminar and Learning Event on Local Governance and Pro-Poor Service Delivery, February.
- Andersen, H. (2004) 'Strategic Response to Poverty Alleviation through the Seila Framework', Final Draft for UNOPS, UNDP.
- Ayres, D. (2001) 'Decentralization: a Review of the Literature', for CCSP.
- Bartholomew, A. and M. Betley (2004) 'Decentralization: Provincial Budget Operations', Final Report, RIPLG.
- Biddulph, R. (2006) 'Through the Looking Glass: the Seila (2002-2005) Story as Told by Fifty Three Consultants', DFID/Sida PAT to Seila Program, February 3.
- Blunt, P. and M. Turner (2005) 'Decentralisation, Democracy and Development in a Post-conflict Society: Commune Councils in Cambodia', <http://www.gsdrc.org/go/display/document/legacyid/1411>.
- CAMBODIA NGO COMMITTEE ON CEDAW (November 2006), Women and Political Participation in Cambodia: A study of commune Level Political Participation in twelve Provinces.
- COMFREL Research Team (2005a) 'Commune Council Performance', Research Study March.
- COMFREL Research Team (2005b) 'Assessment of COMFREL Local Watchdog's Performance', August (Khmer version).
- COMFREL Research Team (2005c) 'Involvement of Civil Societies in Commune Council Development', Research Report, December (Khmer version).
- COMFREL Research Team (2007) 'Decentralization Implementation', Research Study, October (Khmer version).
- Danida (2005) 'Human Rights, Democratization and Good Governance Program (2006-2008)', Danida Program Document.
- CCSP (2007) 'Decentralization and Deconcentration', NGO Statement to the 2006 Cambodia Consultative Group Meeting, Phnom Penh
- DFID/Sida PAT (2002) 'East and Southeast Asia Conference on Decentralization', Phnom Penh, May 6-7.
- EIC (2005) 'Public Administration Reforms: Decentralization and Deconcentration Reforms', Phnom Penh.
- El Mensi, M. (2003) 'Commune/Sangkat Own Source Revenues'.
- Forum Syd and Dianokia, an Evaluation Report 'Democracy and Human Rights', 2005
- Hughes, C. and T. Conway (2004) 'Understanding Pro-poor Political Change: the Policy Process', Third Draft, ODI, London.
- Hun Sen (2002) 'Opening Speech', 2006 Cambodia Consultative Group Meeting, Phnom Penh, March, 2.
- H.E. Prum Sokha (2000) 'Presentation', Workshop on Impacts of Decentralization and Elected Commune Councils on the Development Programs of NGOs, NGO Forum on Cambodia.
- H.E. Prum Sokha (2002) 'Closing Remarks', East and Southeast Asia Conference on Decentralization, Phnom Penh, May 6-7.
- H.E. Prum Sokha (2007) 'Democratic Development in Cambodia through Decentralization and Deconcentration', Lecture at Royal School of Administration, January 30 (unofficial/draft English translation).
- H.E. Sak Setha (May 2007) paper on the history of governance and decentralization in Cambodia and scrutiny to the framework for D & D reform.

- H.E. Sar Kheng (2002) 'Keynote Speech', East and Southeast Asia Conference on Decentralization, Phnom Penh, May 6-7.
- H.E. Sok An (2006) 'Speech', 2006 Cambodia Consultative Group Meeting, Phnom Penh, March 2.
- H.E. Sak Setha History of governance and decentralization in Cambodia and scrutiny to the framework for D & D reform by May, 2007.
- Hong, V., Pak Kimchoeun, S. Ann and N. Ngo (2005) 'Decentralization and Deconcentration Reforms in Cambodia: an Early Review', in K. Murshid and B. Ballard (eds) *Annual Development Review*, Phnom Penh: CDRI.
- Kim Ninh and R. Henke (2005) 'Commune Councils in Cambodia: a National Survey on their Functions and Performance, with a Special Focus on Conflict Resolution', TAF, with CAS.
- Independent Study on Options for Future Donor Support To D&D (May 2006)
- Joel Rocamora, Opening the Democracy Door D&D in Cambodia, Feb.,2007
- Kaufmann, D., A. Kraay and P. Zoido-Labaton (1999) *Governance Matters*, Policy Research Working Paper No. 2196, Washington, DC: World Bank.
- Kaufmann, D., A. Kraay and M. Mastruzzi (2003) *Governance Matters III: Governance Indicators for 1996-2002*, Policy Research Working Paper No. 3106, Washington, DC: World Bank.
- Kato, T., J. Kaplan, Chan Sophal and Real Sophea (2000) *Cambodia: Enhancing Governance for Sustainable Development*, Manila: ADB.
- Khieng, Sochivy (2001) 'Building Management Capacity of Local Democratic Institutions for Enhancing Public Service Delivery', Policy Analysis Exercise for Masters in Public Policy, National University of Singapore.
- Khieng, Sochivy (2005) 'Decentralization and Deconcentration: a Gradual and Momentous Reform at Sub-national Level of Governance', *Cambodia Economic Watch*, Issue 4, EIC.
- KAF (2007) *Cambodian Commune Councils: First Steps*, Occasional Papers on Democratic Development Vol. 1, Phnom Penh: KID.
- Litvack, J., J. Ahmad and R. Bird (1995) 'Rethinking Decentralization at the World Bank', Discussion Paper, World Bank.
- Logarta, M., Seng Hong, A. Cruz and R. Catalla (2005) 'Evaluation of the Human Rights and Democracy Program', by Crossroads to Development for Forum Syd and Diakonia.
- Mathews, V. (2007) 'Cambodia: the Changing Political Landscape', *Online Opinion*, Australia's E-Journal of Social and Political Debate, January 9: <http://www.onlineopinion.com.au>.
- NCSC (2004) 'Review of Decentralization Reform in Cambodia: Policy and Practices' Technical Assistance Report to MoI Task Force and IMC: www.ardp.org.kh/documents.html.
- NGO Statement for CDCF meeting Medicam, NGO forum and CCC, June 2007
- Park, K. et al. (2007) *Accountability and Neo-patrimonialism in Cambodia: a Critical Literature Review*, Working Paper No. 34, Phnom Penh: CDRI.
- Partnership for Decentralization and Deconcentration Reform (2005) 'Reports of D&D Consultants', Phnom Penh.
- Pol Ponnlorck Toch (2004) 'Enhancing Partnership of Local Government-Private Sector in Provision of Public Services', National University of Singapore.
- Pellini, A. (2002) *Decentralization Policy in Cambodia: the Main Actors*, Manila: ADB.

- Porter, I. (2006) 'Opening Statement', Cambodia Country Director, World Bank, 2006 Cambodia Consultative Group Meeting, Phnom Penh, March 2.
- RGC (2001) *Law on the Administration and Management of Communes/Sangkats*, Phnom Penh: RGC.
- RGC (2005a) *National Strategic Development Plan (2006-2010)*, Phnom Penh: RGC.
- RGC (2005b) *Strategic Framework for Decentralization and Deconcentration*, Phnom Penh: RGC.
- Robertson Work, The Role of Participation in Decentralized Governance, UNDP New York
- Rohdewohld, R. and D. Porter (2006) 'Independent Study on Options for Future Donor Support to Decentralization and Deconcentration: Contributing to Democratic Development', Final Report, April 28: www.ardp.org.kh/documents.html.
- Rudengren J., H. Andersen and J. Durant (2005) 'Review and Assessment of STFS and PLG support and the Seila/PLG Execution Systems', DFID/Sida PAT to the Seila Program.
- Rusten, C. and J. Ojendal (2003) *Poverty Reduction through Decentralization? Lessons from Elsewhere and Challenges for Cambodia*, Phnom Penh: CDRI.
- Rusten, C., Kim Sedara, Eng Netra and Pak Kimchoeun (2004) *The Challenges of Decentralization Design in Cambodia*, Phnom Penh: CDRI.
- STF (2001) 'Seila Program Document (2001-05)', Seila Task Force, RGC.
- Turner, M. (2002) 'Decentralization Facilitation: Study of Decentralization in Cambodia with Specific Reference to Education', Phnom Penh, Ministry of Education, Youth and Sports.
- UNDP (2006) *Human Development Index 2006*, New York: UNDP.
- Work, R. (2002) 'Federalism: the Future of Decentralizing States?' Second International Conference on Decentralization, Manila, Philippines, July 25-7.
- World Bank (2004) 'Cambodia at the Crossroads: Decentralization: Enhancing Accountable Service Delivery for the Poor', Report prepared in collaboration with the IMF for the 2004 Cambodia Consultative Group Meeting, Phnom Penh, December 6-7.
- World Bank (2005) *East Asia Decentralizes: Making Local Government Work*, Washington, DC: World Bank.
- World Bank and ADB (2003) *Enhancing Service Delivery through Improved Resource Allocation and Institutional Reform, Integrated Fiduciary Assessment and Public Expenditure Review*, Phnom Penh: World Bank and ADB.