

# Democratic Development through Decentralization in Cambodia

## *A Progress To Be Sustained*

*The five-year decentralization implementation has brought greater local democracy to Cambodia. Yet, adequate managerial and financial empowerment of local governments needs further attention to make this democratic governance system sustainable.*

The political regime change in 1993 allowed the Cambodian government to reform its structural and governance system based on principles of democracy and pluralism. With good governance as its core reform strategy, the Government views Decentralization and Deconcentration (D&D) as crucial tools for democratic development and to enhance service delivery at the local level.

Decentralization and deconcentration consists in a governance system by which some levels of functions and responsibilities are transferred from the central government to local administrations. By moving the government closer to the people, D&D theoretically enhances people's participation in public decisions and allows public services to correspond better to local needs. In a stricter concept, decentralization refers to the most complete form of power devolution including political, administrative and fiscal autonomies transferred to local governments. A deconcentrated administration enjoys only the delegation of administrative power and acts as the agency for the central government. In practice, the level of autonomy transferred and terms used vary from country to country.

### Why D&D in Cambodia

The need for pursuing decentralization in Cambodia acquires no clear explanation. In broad terms, the government views decentralization as another step forward to democratization, in addition to promoting good governance and improving local service delivery.

In its pure concept, decentralization is most appropriate for a country which is large and thus difficult to be managed centrally or where prefer-

ences for public services vary across regions due to different economies, cultures, or other socio-economic factors. In contrast, Cambodia is relative-

### Box 1: Historical Perspectives of D&D in Cambodia

The concept of power transfer from the King to *Sdach Tranh* (land governor) has existed since the Pre-Angkorian period. But the then territorial administration was not integrally coherent and there were not a clear central administration which is comparable to the present system.

The current three-tier territorial administration has been in place since the French colonization where communes (Khum) were first created. According to two Ordinances of 1908 and 1925, the commune was headed by a Commune Chief elected among councilor (Krom Chumnum) who themselves were elected by the people. The communes were empowered with a wide range of managerial functions. However, apart from tax collection, the managerial duties were not put into practice and the commune remained under the authority of the then French Resident. The real intention was only to make the system easier to govern and to make tax collection more efficient.

During the Sangkum Reastr Niyum period of 1953-1969, some reforms were made to the communes' administration. The communes with their universally elected Councils had double functions, both as agencies of the central government and representatives of local population. Though elected and assigned with local functions, Commune Chiefs were put under the control of district and provincial governors who were appointed by the central government. However, participation of people in public decision-making was then remarkable and regular. Due to political instability, a constitutional amendment in 1969 suspended the popular vote and the communal authorities then became appointed by the central government and lose their own-revenue function.

In 1970, a coup d'État changed the regime from a monarchy to a republic, though, the territorial administration remained the same. During the Khmer Rouge regime from 1975 to 1979, the country's administrative system, infrastructure and manpower were almost completely decimated. Thereafter, the governance system was restored under a communist style and met confronting challenges due to isolation from the international community and prolong civil war.

Following the Paris Peace Accord, the first national election was held in 1993 and the country adopted a constitutional monarchy based on principles of democracy and pluralism. However, the administrative system during the whole 1990s remained highly centralized. The concept of decentralization was initiated in 1999 and clearly introduced in 2001. The local election was then held in 2002, giving birth to the first local governments in Cambodia at the commune level. This leaves the district and provincial administrations remaining basically centralized. In June 2005, the Government adopted a strategic framework for D&D reforms, based on which a unified deconcentrated administration will be established at the district and provincial levels. The organic law which will transform this strategic framework into operation is now in its drafting process at the Ministry of Interior.

Source: Literature Reviews on Various Sources

ly small in size with a homogeneous ethnic and religious population.

Comparative reviews show that decentralization in Cambodia is driven more by political force rather than based on organizational or managerial requirements. This pattern is not unique to Cambodia, with most East Asian countries following the same trend as decentralization has recently acquired popularity among developing countries and aid agencies.

Despite this, closer reviews of theoretical decentralization components suggest that the system is not an inappropriate one for a newly emerging democratic country such as Cambodia.

### Current Legal and Organizational Framework

The sub-national administration in Cambodia finds its constitutional basis in Article 146 of the Constitution. This article provides for the adoption of an organic law to govern the territorial administrations. Until today, this constitutional requirement remains to be completed. Currently, communes (khum/sangkat) have been chosen for the setting up of decentralization while the other two higher units - districts (srok/khan) and provinces/municipalities - are to be managed under deconcentration.

#### *Decentralization at the Commune Level*

A wide range of laws and regulations have been in place in support of decentralization. These importantly are the two fundamental laws on the Administration and Management of the Commune and on the Election of the Commune Councils, both adopted in 2001. In addition, a number of mechanisms in support of communal decentralization have been set up both at the national and local level.

Under the law, the communal governments are to be headed by a Commune Council directly elected by the local population and empowered with autonomous functions and

responsibilities over local affairs, and possess their own-source revenue. However, as will be examined in the next section, the reality is that the communes enjoy limited autonomy due to an incomplete legal framework and some other operational constraints.

#### *Deconcentration at the District and Provincial Levels*

At the district and provincial levels, the legal framework has greatly lagged behind decentralization though the need for an integrated deconcentration at these levels has been repeatedly mentioned by the government. Currently, no legal text specifically covers the overall deconcentration at these levels.

In this absence, the Provincial Budget Law adopted in 1998 forms

the most important legal instrument which provides some legal basis for deconcentration at the provincial level. The law assigns the collection of some tax and non-tax revenues to the provinces/municipalities, acting as state agencies. Aside from this, deconcentrated roles of provincial and district administrations are occasionally mentioned in some legal texts in support of the communal decentralization.

In the absence of an integral legal framework, the management systems at the district and provincial level remain basically centralized. The territorial authorities are vaguely assigned with overall duties to coordinate, promote and guide the objectives of sectoral departments in their locality without any clear obligatory functions and responsibilities. This leads to

#### **Box 2: Important Legal Instruments Covering Sub-national Administrations**

- Cambodian Constitution, dated 21 September 1993
- Law regulating Financial System and Municipal/Provincial Assets, dated 10 December 1998
- Law on the Election of Khum/Sangkat Councils, dated 18 January 2001
- Law on the Administration and Management of Khum/Sangkat, dated 12 January 2001
- Royal Decree on the Establishment of National Committee for Support to Khum/Sangkat (NCSC), dated 18 May 2001
- Sub-decree on the Establishment of Department of Local Administration (DOLA), dated 3 July 2001
- Sub-decree on Establishment of Khum/Sangkat Fund, dated 25 February 2002
- Sub-decree on Decentralization of Powers, Roles and Duties to Khum/Sangkat Councils, dated 25 March 2002
- Sub-decree on Khum/Sangkat Financial Management System, dated 2 April 2002
- Prakas on Roles, Duties and Rights of Khum/Sangkat Clerks, dated 19 December 2001
- Prakas on Delegation of Powers to Provincial/Municipal Governors in Support of Khum/Sangkat Council, dated 18 April 2002
- Inter-ministerial Prakas on Khum/Sangkat Development Planning, dated 7 February 2002, amended on 26 August 2002
- Prakas on the roles, responsibilities and organizational structure of the Provincial and Municipal Administrations, dated 15 February 1994

Source: Official Gazettes

overlapping duties and structures causing difficulties for coordination and accountability. In practice, sectoral units execute policies and plans of their line ministries with weak coordination and monitoring from territorial authorities.

Recognizing these current weaknesses, the government has recently adopted a Strategic Framework for Decentralization and Deconcentration Reforms dated June 2005. This strategic framework forms a policy foundation for the establishment and adoption of the organic law which will govern the overall sub-national administration as required by the Constitution since 1993. The organic law is now still in its drafting process at the Ministry of Interior.

Under this strategic framework, a unified deconcentrated administration will be established at the district and provincial levels to coordinate public administrative activities within their territories. These unified administrations will be accountable both to the central government and local citizens who will indirectly elect the district and provincial councils of their localities.

### Lessons Learned from Communal Decentralization

Now in its fifth year of implementation, decentralization is currently among the most successful reforms in Cambodia. The current legal framework provides for a complete form of decentralization to the commune governments which are entitled to political, administrative and fiscal devolution. However, concrete empowerment of its local governments remains practically weak, considering their limited administrative and fiscal functions and other practical constraints.

#### *Political Empowerment*

The communes have been empowered with executive and legislative bodies through the establishment of the Commune Councils representing their local citizens.

Since February 2002, 1,621 Commune Councils have been directly elected by local citizens based on a proportional electoral system.

Under the electoral rules, the Commune Chief will be automatically the top candidate of the winning party while the position of First and Second Deputy Commune Chief will be respectively given to the top candidates from the second and third winning parties even if these candidates obtain less votes than other councilors from the winning party. The intention is to promote the sharing of responsibilities and cooperative behavior between opposing political parties. In principle, this electoral system favors the association of minority parties to the management of the Councils but does not allow for any possibility for the citizens to recall their representatives once the election is finished.

Compared to before the communal election, it is commonly accepted that decentralization has improved the overall democracy aspect at the commune level. Though, improvement seems not yet to have reached a basic level necessary for adequate decentralization. Discussions with Commune Councils members and local NGOs show that commune officials are not yet familiar with this newly democratic system and tend to follow the past centralized hierarchic mechanism both during the meeting among councilors and in coordination with higher-level authorities. The level of people's knowledge of their civic right vis-à-vis

local authority remains limited, especially in remote areas, and results in low interest and weak participation in the local governance affairs.

#### *Commune's Administration and Service Delivery*

The commune offices have been made responsible for duties related to the general management and development of the local community's livelihood. However, the legal framework remains extremely vague with regard to the actual responsibilities of the commune for service delivery.

In the absence of clearly defined managerial roles, the communes have been more involved in the local development affairs of their community. Besides, the commune also performs some agency functions such as civil registry and electoral registration services. As shown by EIC survey conducted in August 2006, the large majority of the local population acknowledges that much improvement has been made by Commune Councils concerning local development after the communal election in 2002. In contrast, local stakeholders observe that the administrative service delivery process at the commune office appears to be more complicated and the unofficial fees payment is widespread.

To perform its administrative tasks, commune offices are mainly assisted by one commune clerk appointed by the Ministry of Interior though they have the right to recruit some contractual assistants when needed. This

**Table 1: Distribution of Seats in Commune Councils  
(First Mandate 2002-2007, by Political Party)**

|                                    | <b>CPP</b> | <b>FUNCINPEC</b> | <b>SRP</b> | <b>Other</b> |
|------------------------------------|------------|------------------|------------|--------------|
| <b>Commune Chief</b>               | 1,598      | 10               | 13         | 0            |
| <b>1<sup>st</sup> Deputy Chief</b> | 789        | 547              | 285        | 0            |
| <b>2<sup>nd</sup> Deputy Chief</b> | 154        | 852              | 615        | 0            |
| <b>Other Councilors</b>            | 5,162      | 802              | 433        | 1            |
| <b>Total Number of Seats</b>       | 7,703      | 2,211            | 1,346      | 1            |
| <b>Percentage of Seats</b>         | 68.4%      | 19.6%            | 12.0%      | 0.0%         |

Source: National Election Committee & Seila Task Force

mechanism reduces the communes' managerial autonomy as their administration's staffing is more accountable to the central government. The limited number of administrative permanent staff makes the commune administration weak and reliant on political changes at each course of election.

Besides, some other factors were highlighted by local stakeholders as critical to the performance of service delivery process at the commune offices. Low staff salary makes commune officials reluctant to perform their duties in a committed way and also leads to the practice of unofficial fees payment. There exists no clear guideline determining the procedures for the service delivery process. The accountability and transparency mechanism remain weak, undermining people's participation and complaints or suggestions for rectification.

## Commune's Fiscal Autonomy

The commune is legally entitled to three main sources of funds: own-source revenue, funds transferred from the central government and local contribution from people. Though, the current commune financial system greatly depends on funds transferred from the central government. In 2006, the average amount of funds transferred from the central government to each commune accounted for approximately US\$11,700, of which up to one third is to be used for operational administrative costs including staff salaries and the remainder for local development.

Commune's own-source revenue, critical for a decentralized government, is very small in Cambodia if compared with its neighboring decentralized countries. Under the law, the commune has the right to collect direct revenues from taxes and fees, and may be entitled to some tax sharing with the national government. Therefore, the commune presently cannot yet exercise these own-revenue collection functions as there does not exist yet any implementing regulation to make these functions operational.

Concerns have also been raised over the viability of the communes if they are assigned to these fiscal functions. With their limited human resource capacity and economic potential of their community, the majority of communes, especially those in rural areas, do not believe that their communes could stand without support from the central government, even though own revenue collection roles are provided. Only some communes in the urban areas believed they could possibly become financially autonomous. It is also believed that many communes are too small to be able to operate effectively as units of local government that are capable of providing adequate basic services and generate autonomous incomes.

Within the framework of the coming D&D organic law, commune own-source revenue presents an important issue and needs adequate steps and strategies of reform. While some outstanding urban communes can be empowered with maximum financial autonomy, the fiscal delegation to rural communes would be provided in strategic phases, accompanied by provision of appropriate technical assistance, staff training and adequate salaries. The design and implementation of some pilot communes would be desirable for the whole system to be applicable nationwide.

## Concluding Remarks

D&D in Cambodia is viewed as a democratic development strategy. The first stage of implementation of the communal decentralization has made local public authorities and population increasingly familiar with democratic governance. However, the focus on political/democratic decentralization without adequate administrative and financial empowerment would form a risk for local governments to be sustainable.

To make this managerial empowerment operational, a green light from the legal framework is critical. Clear responsibilities and rights need to be assigned to all stakeholders including territorial authorities, line ministries, state agencies in support of D&D and civil society.

In this context, the coming D&D organic law and the second communal election would create important events and opportunities for the Government to take adequate measures to remove those legal and practical constraints. Inputs from related state institutions and close consultation with civil society would be of benefit for the law-making process as well as other practical next-steps.

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**Table 2: Estimated Annual Budget per Commune in 2006  
(Average in US\$)**

|                                             | Phnom Penh    | Provincial Town | District Town | Rural Commune |
|---------------------------------------------|---------------|-----------------|---------------|---------------|
| <b>Transfer from the National Budget</b>    | <b>11,700</b> | <b>11,700</b>   | <b>11,700</b> | <b>11,700</b> |
| <i>Commune Staff Salary</i>                 | <i>1,780</i>  | <i>1,780</i>    | <i>1,780</i>  | <i>1,780</i>  |
| <i>Other Operational Cost</i>               | <i>1,820</i>  | <i>1,820</i>    | <i>1,820</i>  | <i>1,820</i>  |
| <i>Local Development</i>                    | <i>8,100</i>  | <i>8,100</i>    | <i>8,100</i>  | <i>8,100</i>  |
| <b>Paid by Local Households</b>             | <b>9,100</b>  | <b>6,210</b>    | <b>3,520</b>  | <b>2,050</b>  |
| <i>Local Development Funds</i>              | <i>660</i>    | <i>410</i>      | <i>250</i>    | <i>250</i>    |
| <i>Official Fees</i>                        | <i>440</i>    | <i>300</i>      | <i>170</i>    | <i>100</i>    |
| <i>Unofficial Fees(*)</i>                   | <i>8,000</i>  | <i>5,500</i>    | <i>3,100</i>  | <i>1,700</i>  |
| <b>Total</b>                                | <b>20,800</b> | <b>17,910</b>   | <b>15,220</b> | <b>13,750</b> |
| <b>% of Unofficial Fees on Total Budget</b> | <b>38%</b>    | <b>31%</b>      | <b>20%</b>    | <b>12%</b>    |

Source: EIC's Survey, July-August 2006 & Seila Program  
Note: (\*) Excluding Land Transaction Fees