

Is there anything you would like to
know about decentralisation and
the Commune/Sangkat Councils
in Cambodia?

PARTNERSHIP FOR LOCAL GOVERNANCE
REFERENCE COPY

EDU/MAN-0074



354. 968
DEC

Some frequently asked questions ...
... and some answers to them

This publication was made possible with support provided by
the Federal Republic of Germany through



Pictures have been contributed by
the Cambodian Institute for Human Rights (CIHR).

Published February 2002

Dear Reader,

The elections for the Commune/Sangkat Councils were a major step towards putting decentralisation into practice in Cambodia. These new developments raise a lot of questions.

What is decentralisation all about?

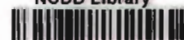
What can we expect from the Commune/Sangkat Councils?

What do they expect from us?



This brochure deals with some of the most frequently asked questions about decentralisation. On the following pages you will find answers to these questions. Hopefully they provide clarification on the issues you want to know more about.

NCDD Library



000601

These are the questions, to which you will find answers in this brochure:

Page:

What does decentralisation mean?.....	5
What is the structure of a Commune/Sangkat Council?.....	6
What are the roles and responsibilities of a Commune/Sangkat Council?.....	6
Are there limits to the powers and duties of the Commune/Sangkat Councils?....	8
What will be done to help the Commune/Sangkat councillors perform their duties?.....	8
When people talk about decentralisation we also hear them talking about deconcentration. What do they mean?.....	9
There is a lot of talk about participation. What does this mean in practice?.....	9
Why is it important that women and men participate equally in the decentralisation process?.....	10
How does the Commune/Sangkat development plan meet the needs of the people?.....	11
Why is it important that citizens take part in the preparation and implementation of the Commune/Sangkat development plan?.....	12
It is said that decentralisation can contribute to poverty reduction. How can that be done?.....	12
How often and where will the Commune/Sangkat Councils meet?.....	13
Can citizens observe the Commune/Sangkat Council meeting?.....	14
What happens if there are only a few members at the meeting of the Commune/Sangkat Council?.....	14
How will Commune/Sangkat Councils make their decisions?.....	15

Will the Commune/Sangkat Councils have money to perform their duties?.....	15
What is the Commune/Sangkat budget?.....	16
Commune/Sangkat Councils are to promote good governance. What does this mean in practice?.....	16
Who is the Commune/Sangkat chief?.....	17
Are there also deputy Commune/Sangkat chiefs?.....	17
What is the role of the presiding councillor of the Commune/Sangkat Council?.....	18
What will happen if a councillor fails to perform his duties?.....	18
Are Commune/Sangkat Councils allowed to have committees?.....	18
What is the Commune/Sangkat Council's report about?.....	19
What happens if a Commune/Sangkat Council fails to implement its duties?.....	19
How do the villages link with the Commune/Sangkat Council?.....	20
How will the village chief be selected?.....	20
Who is the Commune/Sangkat clerk?.....	20
What can be done if a Commune/Sangkat Council wants to replace the clerk?.....	21
Will decentralisation affect only the Commune/Sangkat Councils?.....	21
What can I as a citizen do when I feel something is going wrong with the Commune/Sangkat Councils?.....	22

What does decentralisation mean?

Decentralisation means that certain rights, responsibilities and resources are transferred from the central level of government to democratically elected Commune/Sangkat Councils.

Decentralisation aims to promote democracy and improve the living conditions of the population. Citizens are given greater opportunities to take decisions on local matters that affect their lives.



Decentralisation means that people are given the right to elect the members of the Commune/Sangkat Councils. In the performance of their duties the council members are fully responsible to their citizens. The primary task of the Commune/Sangkat Councils is to support the development of the Commune/Sangkat and the well-being of the citizens. The councils are close to the citizens and therefore in a good position to find out about their needs and interests and to develop programmes that improve the living standard of their people.

Commune/Sangkat Council members represent the citizens of their Commune/Sangkat. They must ensure that local communities participate in a proper manner in the decision-making processes of the Commune/Sangkat Councils. This is very important because the councillors make decisions that have an impact on the lives of their citizens; for example, they make decisions on how they spend the resources that are available to them.

All this will bring a lot of changes that affect everyone.

What is the structure of a Commune/Sangkat Council?

Each Commune/Sangkat has an elected Council. In total there are 1,621 Communes/Sangkats covering Cambodia. Depending on the size of the area and the number of people living in the Commune/Sangkat, the Councils have 5, 7, 9 or 11 members. Both men and women can be elected as members of the Councils. The Councils have a mandate for 5 years. Then elections will be held again.



Each Council has a chairperson, who is called the presiding councillor. The Commune/Sangkat chief performs the role of the presiding councillor. The Commune/Sangkat chief has two assistants, a first deputy chief and a second deputy chief. They are elected councillors. The chief can also appoint advisory committees.

In order to be able to carry out their duties the Commune/Sangkat Councils have their own financial resources and staff to support them. They have a clerk who is appointed by the Ministry of Interior.

What are the roles and responsibilities of a Commune/Sangkat Council?

The role and duty of a Commune/Sangkat Council is to actively promote the development of the Commune/Sangkat and the well-being of its citizens. The Councils have to make proper use of all the resources available to them. They have to use these resources to serve the needs of the Commune/Sangkat and their citizens.

Commune/Sangkat Councils have to deal with local affairs. Their duties include:

- To manage essential public services, e.g. the local garbage collection, and to ensure that these services work well;
- To protect the environment and natural resources; e.g. the Councils should support citizens to keep the rivers and the environment of their village clean;

- To promote social and economic development; e.g. the Commune/Sangkat Councils can facilitate good co-operation between civil-society organisations, and they can encourage businessmen and women to settle in their area and carry out their businesses.
- To improve the living standard of the people; e.g. the Commune/Sangkat Councils need to plan for the implementation of what the people see as their priority needs. It may be good drinking water, educational or health issues etc.
- To promote tolerance and good understanding among the citizens e.g. the Commune/Sangkat Councils should help in settling disputes that may emerge among citizens etc.
- To maintain security and public order. This task, however, should only be done in a non-violent manner. The Commune Councils cannot establish their own police force or army.



In addition, the Commune/Sangkat Councils have duties that they perform on behalf of the central government. These are called agency functions, such as issuing birth, marriage and death certificates. When the Commune/Sangkat Councils do something on behalf of the state, they are also supported by the state e.g. they will be given training, materials and finance to carry out these tasks.

In order to carry out their duties Commune/Sangkat Councils are given legislative and executive powers. This means that they have the power to formulate resolutions and to implement their decisions. The resolutions are effective only within the territory of the Commune/Sangkat. They have to be adopted by the Commune/Sangkat Council and signed by the Commune/Sangkat chief. They have to be published immediately after their adoption by the Council. The Commune/Sangkat resolution may not be contradictory to the national Constitution, laws and royal decrees, or international treaties and conventions etc. Otherwise it will be null and void.

Are there limits to the powers and duties of the Commune/Sangkat Councils?

Yes, for some issues the Commune/Sangkat Councils have no power. These are issues of national interest that lie outside the responsibility of the Commune/Sangkat Council.

A Commune/Sangkat Council therefore has no power in the following areas: forestry, postal and telecommunications services, national defence, national security, monetary affairs, foreign policy and fiscal tax policy.



What will be done to help the Commune/Sangkat councillors perform their duties?

The elections for the Commune/Sangkat Councils are the first of their kind in Cambodia. This means that more than 10,000 men and women in the country will take on the new position of councillor. They do not only require resources to promote the development of their Communes/Sangkats, but they also need to acquire knowledge of what the decentralisation process is about. They need to have the necessary skills to prepare and adopt development plans that reflect the interests and needs of the citizens. They need to have the right attitude, i.e. they are responsible and accountable to the citizens of their Commune/Sangkat.



The central government and non-governmental/civil society organisations are committed to building and enhancing the capacity of the Commune/Sangkat Councils so that they can carry out their responsibilities. They are in the process of developing training programmes and handbooks. The Commune Clerks have already been trained. Training of Commune/Sangkat councillors will start soon after the elections.

When people speak about decentralisation we also hear them talking about deconcentration. What do they mean?

Deconcentration means that duties that in the past were undertaken by national agencies or ministries are brought closer to the citizens. This can be done by locating their staff at the provincial, district or communal level or by giving this task to the Commune/Sangkat Councils. In this way it is possible to maintain a national standard. Since the Commune/Sangkat Councils are closer to the people, they can be more sensitive and responsive to their citizens.

There is a lot of talk about participation. What does this mean in practice?

Participation is at the core of decentralisation, democracy and good governance. Without the participation of all citizens, decentralisation will not work. Participation means that people are given the chance to take control of their lives and determine their own future. Participation means that everybody



must be heard and that everybody's contribution is valuable. Without the participation of the people the development programmes of the Communes/Sangkats could fail because they may ignore the needs and interests of the people. If the citizens are not involved, they will not feel responsible for the development of their area.

Making participation real is a demanding task for everyone. Commune/Sangkat Council members and village chiefs need to learn to acknowledge the value and benefit of involving people. They need to learn how to facilitate participation in the planning and implementation of development activities; citizens themselves need to learn how they can play an active role.

There are many ways and means for citizens to participate in commune life: they can attend the meetings of the Commune/Sangkat Councils; they can give their comments on the development plan and the budget; they can monitor

the progress of the implementation of development projects in their area; they can get organised with others and approach the Council when they see that things are not moving as they should; they can register to vote or stand as a candidate for election.

Sometimes, however, it may be difficult for people to participate directly. For example, poor people may be too shy to speak out directly, or it may not be possible for everybody to be involved in the deliberations on the development plan. It can be helpful to involve or talk to organisations, such as non-governmental organisations that represent the interests of these people. Poverty reduction efforts will only be effective when the real needs of the poor are addressed.

Why is it important that women and men participate equally in the decentralisation process?



The main purpose of decentralisation is to create a Cambodian society that is better for everyone: one that meets the human rights of its people, enables all to participate in development and ensures that the benefits are enjoyed equally among its citizens.

The Constitution of the Kingdom of Cambodia particularly guarantees equal rights for women and men. Cambodian citizens of either sex have the right to participate actively in the political, economic, social and cultural life of the nation. Both men and women have the right to vote and to stand for election. The Constitution also says that all forms of discrimination against women will be abolished.

The equal participation of women and men in all issues that have to do with decentralisation and the Commune/Sangkat Councils promotes the well-being of the entire country and its democratic development. But more than this: it can also

improve the economic development of the country. If women are given the same access to resources their productivity will increase.

Commune/Sangkat Councils can play an important role in ensuring that women and men participate equally in development e.g. they can encourage women and men to participate in community meetings and ensure that they are given a chance to talk there. They can make sure that the interests and needs of both women and men are reflected in the development plan. They can promote equal access to services, such as education, health facilities and finance for economic activities, for both women and men.

How does the Commune/Sangkat development plan meet the needs of the people?

A Commune/Sangkat Council must prepare and implement a Commune/Sangkat development plan. This plan is intended to show the programmes and activities that the Commune/Sangkat Council wants to undertake in the future.

The programmes and activities must respond to the needs of the population. The plan must also be in line with the national economic and social development plans.

It's very important that Commune/Sangkat Councils get to know our needs.



There are a lot of preparations and steps necessary to make the Commune/Sangkat development plan. For example the Commune/Sangkat Council has to assess the level of development in their area, they need to know what the most pressing needs of the population are, and they need to design development programmes that respond to these needs. The interests of both women and men, and particularly of poor people, need to be considered.

The plan then has to be implemented with the resources that are available to the Commune/Sangkat Council. Women and men have to benefit equally from the development programmes that the Commune/Sangkat Councils undertake. The results of the implementation have to be reported to the citizens.

Why is it important that citizens take part in the preparation and implementation of the Commune/Sangkat development plan?

The activities and programmes that are described in the development plan have to benefit the population of the Commune/Sangkat. The Commune/Sangkat Councils therefore need to know what the most pressing needs of the population are.



The Commune/Sangkat Councils can only get to know the needs of the citizens, both male and female, when they involve them and when the citizens express their interests from the very beginning. The citizens will also feel more responsible for projects in their area when they are involved in the decisions, implementation and evaluation of development programmes. They are best able to say whether the projects and services have improved their living conditions.

The law says that the Commune/Sangkat Councils need to ensure ways and means for the population to participate in the whole process of development planning and implementation. One idea could be to have community meetings in which men and women discuss their needs and interests. The people could also support the implementation of projects by contributing their labour.

For the citizens it means not only to have the right but also the responsibility to take an active part in development.

It is said that decentralisation can contribute to poverty reduction. How can that be done?

Decentralisation can have a positive impact on poverty reduction, however this will not happen automatically.

Commune/Sangkat Councils are close to the people; therefore they are in a good position to know what the needs of the poor people are and to design

programmes that seek to improve their living conditions. They can promote good conditions for economic development. The local population can watch how the resources are spent and whether they are really spent for the benefit of the people. Resources are, therefore, not wasted but spent in a more efficient and effective way. People are given a voice and a choice and can have a direct say in decisions that affect their lives.



Poor people may, however, be too afraid to speak about their needs; they may not be used to standing up for their interests. Commune/Sangkat Councils need to be trained in how to find out about the needs of the poor and how to develop programmes that are in their interest. They need to know how to deliver services that are accessible to the poor. They need to know how to liaise with local development groups and civil society organisations that work

together with the poor. Civil society organisations have to know how to lobby and advocate for the interests of the poor. And the poor themselves need to be trained and encouraged to speak out about their needs and interests.

How often and where will the Commune/Sangkat Councils meet?



Commune/Sangkat Councils must meet at least once a month. They have to meet at the office of the Commune/Sangkat Council. If an office is not available when the Commune/Sangkat Council starts functioning, the chairperson of the meeting may choose another place in the Commune/Sangkat to hold the meeting. In this case they may even rotate their meeting place from one village to another. This may have the advantage that the councillors get to know the different villages in their area. For the citizens it will be easier to get to know their Commune/Sangkat Councils.

Can citizens observe the Commune/Sangkat Council meeting?

Yes, normally the meetings will be held in public. The people have the right to sit and listen to the discussions and deliberations of the council members.

However on specific occasions the public may not be allowed to attend the meeting.



What happens if there are only a few members at the meeting of the Commune/Sangkat Council?

A meeting of the Commune/Sangkat Council is only valid when it is attended by more than half of the total number of councillors. This means, for example that a Council with 5 members needs to have at least 3 of its members attending the meeting; a Council with 11 members needs to have at least 6 members attending the meeting.



The Councils can adopt some matters only when the majority of all Commune/Sangkat councillors vote. This refers to the adoption of the Commune/Sangkat development plans, the Commune/Sangkat budget, the imposition of local fiscal taxes, non-local fiscal taxes and other service charges, internal rules and regulations, resolutions of the Commune/Sangkat and any other matter prescribed by the Minister of Interior.

How will Commune/Sangkat Councils make their decisions?

As a general rule the Commune/Sangkat Councils have to make their decisions in a democratic manner. This means that everybody's voice and opinion has the same value. When the members vote, the proposal that receives the majority of votes will be the one to be implemented.

For certain decisions of the Councils it is required that more than half of the total number of councillors vote in favour of the decision that is made. This applies, for example, when the Councils adopt the development plan, the budget, the imposition of taxes and charges or other Council resolutions.

If the votes for and against the motion are equal, the chairperson of the meeting has the casting vote. This is to avoid a deadlock.

Will the Commune/Sangkat Councils have money to perform their duties?

The Commune/Sangkat Councils have a lot of duties to perform. They have to put into practice development programmes and projects that meet the needs of their citizens. They need to employ staff. All this will require financial resources.



The law states that Commune/Sangkat Councils will have three major sources of income. First, they will be empowered to collect direct revenue. That means that they will be allowed to fix local taxes, e.g. for land or buildings. They will be allowed to take fees when they deliver services. Secondly, they will receive a proportion from the national revenue for their activities. The transfer from the national government will be done on the basis of a transparent formula. And thirdly they will be entitled

to take fees when they perform duties on behalf of the national government, the so-called agency functions, as mentioned above. However, it will take time for the Commune/Sangkat Councils to have sufficient funds to deal with all the problems in the Commune/Sangkat. Therefore it is important to decide on the real priorities to be implemented.

What is the Commune/Sangkat budget?

Each year Commune/Sangkat Councils have to prepare a budget. The budget shows how much income the Commune/Sangkat Council expects to have and how it wants to spend it. The Commune budget must reflect the priorities and needs of the Commune development plan.



Commune/Sangkat Councils are to promote good governance. What does this mean in practice?

Decentralisation is seen as an effective way to promote good governance. This has to be reflected in the way the Commune/Sangkat Councils perform and how they exercise their power.



Commune/Sangkat councils and their members have to comply with the law. The law spells out their powers, roles and functions. The law is also the reference for the public to see what the Commune/Sangkat Councils are supposed to do.

Commune/Sangkat Councils will have been democratically elected and given their mandate by the local population. Their task is to work for the benefit of the people. Therefore in everything they do they are fully accountable to their citizens. This means that they have to plan in a way that meets the needs of the people; they have to make use of the resources that are available to them to the utmost benefit of the population.

They have to be transparent in all they do. This means that they have to inform the public about the issues they discuss or on decisions they have taken.

For example, when the Commune/Sangkat Council adopt a resolution the public has to be informed immediately. The Council have to inform the public about what they plan to do and how they intend to spend their resources.

Commune/Sangkat Councils also have to involve their citizens, e.g. when it comes to development planning and implementation.

However, good governance will not increase by itself. It demands an ongoing effort by Commune/Sangkat Councillors and by the public. Furthermore, citizens have to learn how to participate, to ask for information and to draw the attention of the Councillors to their needs and interests.

Who is the Commune/Sangkat chief?

Each Commune/Sangkat will have a Commune/Sangkat chief. The councillor, whose name is at the top of the candidate list of the party that received the highest number of votes in the election of the council, will become the chief. Both women and men can become Commune/Sangkat chief.



The chief has to perform additional functions. That means for example that he/she has to ensure that the decisions of the Councils are put into practice. He/she has to report monthly to the Council on the progress of work. He/she has to make recommendations to the Council on issues of planning, finance or other functions that are to be performed by the Councils. The Council can also assign him/her other duties.

Are there also deputy Commune/Sangkat chiefs?

Yes, there is a first and a second deputy chief. The first deputy chief assists the Commune/Sangkat chief on issues that are related to finance and economic development. The second deputy chief assists the chief on issues that relate to administration, social development, public services and public order.

The first deputy chief is the male or female councillor whose name appeared at the top of the candidate list of the party that received the second highest number of votes. The second deputy is the councillor whose name was at the top of the candidate list of the party that received the third highest number of votes.



When there was only one candidate list, the first and second deputy chiefs are taken from that list. If there were two lists, the first deputy is the candidate who was second on the list that received most votes. The second deputy chief in this case is the candidate who was on top of the list that received the second highest number of votes.

What is the role of the presiding councillor of the Commune/ Sangkat Council?

Each Commune/Sangkat Council has a chairperson who is also the chief of the Council. The chairperson is called presiding councillor. He/she has to ensure that the Council meets at least once a month. He/she has to preside over the meetings and ensure that they follow the agreed rules and regulations.



What will happen if a councillor fails to perform his duties?

If a councillor does not act according to the law he/she will face disciplinary action. This means that he/she may be reprimanded at the Council meeting. If he/she repeats the offence, a deduction will be made from his/her allowance. If these disciplinary actions do not prevent the councillor from committing the offence again, he/she can be removed from the council. This will, however, require an absolute majority of votes of the entire Commune/Sangkat Council.



If the person committing the offence is the Commune/Sangkat chief, any other councillor or an official appointed by the Minister of Interior may conduct the meeting that will enforce the disciplinary actions.

Are Commune/Sangkat Councils allowed to have committees?

Yes. The chief of the Commune/Sangkat Council may appoint committees. A committee is a group of people who go more thoroughly into certain issues and provide advice and assistance to the Councils. Members of the committee can be councillors, but may also other citizens who are entitled to vote. They can be of either sex.

What is the Commune/Sangkat Council's report about?

Good! The Commune Council's annual report describes in detail what they achieved and what the objectives are for next year.



Once a year the Councils have to submit a comprehensive report. They need to report on their objectives for the last year and what they were able to achieve. They also need to describe and report in detail the objectives and plans for the coming year.

One copy of the report is kept in the Commune/Sangkat office. The public can have access to the report whenever they want; they have the right to visit the office and read through the report. The public, organisations and associations can have a copy of the report if they pay the production cost. One copy of the report has to be sent to the Ministry of Interior and to important organisations and associations that can assist in the development of the Commune/Sangkat, e.g. civil society organisations, donors, local development groups.

The Commune/Sangkat Councils must take into consideration any comments made on the report.

What happens if a Commune/Sangkat Council fails to implement its duties?

The Minister of Interior needs to intervene immediately if a Commune/Sangkat Council fails to implement its duties. Any intervention undertaken must be proportional to the failure of the Commune/Sangkat Council. The Council must be given the necessary support in order to perform their functions. The Minister of Interior may give government officials at the provincial and district levels the task of undertaking interventions on his/her behalf.



In the event that a Commune/Sangkat Council acts against the Royal Government and national interests, the Minister of Interior has to immediately dissolve the Commune/Sangkat Council. By-elections must then be held for that Commune/Sangkat Council in accordance with the law.

How do the villages link with the Commune/Sangkat Council?



Each village in the territory of a Commune/Sangkat must have a village chief. Both women and men can be a village chief. The village chief himself/herself must appoint a deputy chief and an assistant. They can also be of either sex.

The village chief is the formal link between the village and the Council. He/she makes submissions or representations to the Council on behalf of the village. He/she can also ask for advice from the Council.

How will the village chief be selected?

The Ministry of Interior will prescribe the way in which a village chief must be elected, the required qualifications of a village chief, the procedures for election and other matters.



Who is the Commune/Sangkat Clerk?

Each Commune/Sangkat Council will be assisted by a clerk. The Commune/Sangkat clerk is a civil servant from the Ministry of Interior. The position of clerk can be given to a woman or a man. The task of the clerk is to assist in the affairs of the Commune/Sangkat and to ensure the sustainability of administrative affairs of the Commune/Sangkat.



The clerk acts as an adviser to the Commune/Sangkat Council on legal and administrative issues. The clerk has to be absolutely neutral and impartial towards all members and political groups of the Council and committees.

What can be done if a Commune/ Sangkat Council wants to replace the clerk?

The Commune/Sangkat clerk can be changed at the request of the Commune/Sangkat chief. This has to be based on a decision by the councillors. The request for a change of the clerk must specify reasons in accordance with the relevant laws and procedures and shall be decided by the Minister of Interior.

Will decentralisation affect only the Commune/Sangkat Councils?

Of course the newly elected Commune/Sangkat Councils are at the centre of the decentralisation process, but it is not only the Council members who have to learn about a lot of new issues. If the positive aspects of decentralisation are to have any impact, changes are required in the attitude and behaviour of citizens and of government staff at the national, provincial and district levels.

People have to learn how to become active and responsible citizens. They cannot just sit back and wait for the development projects that the Commune/Sangkat Councils are to bring. They need to understand that they have rights and responsibilities as citizens, i.e. the right to know where the money is going that the Communes and Sangkats are receiving, the right and responsibility to speak out when there is indication that these monies are not used for the benefit of the people, the responsibility to pay their taxes, to participate in community meetings and so on. The active participation of the people promotes democracy and good governance.



Government staff at the various levels have to acknowledge that there are now Commune/Sangkat Councils that have been democratically elected by the citizens. The Communes/Sangkats will undertake duties that have formerly been performed by provincial and district-level government staff. These staff now need to supervise and support the Commune/Sangkat Councils in the performance of their new duties.

What can I as a citizen do when I feel something is going wrong with the Commune/Sangkat Councils?

There may be occasions when you feel that the Commune/Sangkat Councils are not performing properly. When you are not well informed about what the councils are doing, you may wonder where the money is going and you may think that there are no developments in the area as promised.

Of course the first place to go and inquire is at the Commune/Sangkat Councils themselves. It is their first time in office and it may well be that not everything is perfect. Your comment or complaint could be of help to them on issues they may not have been aware of. You can talk to the councillors, you can ask for their reports or you could make a submission through your village chief.

There is a good chance that the councillors will listen to you since they know that people will not re-elect them again if they are not satisfied with their performance. Making yourself visible as a citizen will give the councillors the feeling that they had better take their job seriously. In case of serious misbehaviour that cannot be settled locally, you can also make a report to the provincial or district governor, or the Department of local Administration in the Ministry of Interior.



