The Challenges of Decentralisation Design in Cambodia

Cambodia Development Resource Institute

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Executive Summary

Cambodia embarked on its decentralisation reform with the enactment of two laws in 2001, the Law on the Administration and Management of Communes and the Law on Commune Elections. In 2002 Cambodia held its first free and fair commune elections. The decentralisation builds extensively on the lessons learned through the CARERE/Seila programmes, which were collaborative efforts between the Cambodian government and its donor partners.

The aims of the recently launched decentralisation in Cambodia are to establish a pluralist democracy and reduce poverty. This study therefore sets out to answer what the major challenges are in achieving poverty reduction and building and improving good governance within the current political and institutional environment. The study focuses on three levels: the national level (mainly strengths and weaknesses of the policy environment, and visions and strategies for the reform), central-local relations (how the design itself intends to achieve the aims of the reform) and local-local relations (collaboration between stakeholders in the communes and horizontally between the communes, and autonomy of local government).

This report focuses on challenges faced by the reform. These challenges can be understood only in the light of the achievements of the government in addressing the reform.

The Report Emphasises the Following Achievements:

- Cambodia conducted some landmark piloting of the decentralisation through its CARERE and PLG/Seila programmes. Lessons learned here have been translated into a comprehensive reform aiming at improving local decision making and development implementation.
- In support of the legal framework, more than 30 regulations have been issued since 2001. Also, further commitments have been made by the government in

- order to address the remaining challenges of the legal framework.[1]
- All 1621 commune/*sangkat* councils have, as part of their devolved functions, developed five-year commune development plans and three-year rolling investment plans and annual budgets. These plans allowed the commune/sangkat councils to agree on in excess of 40,000 (2003) and 32,000 (2004) local development projects financed by NGOs, line ministries and donors. In addition to this, the commune/*sangkat* councils have initiated local projects funded by their own Commune/*Sangkat* Fund, which is a fund transferred to the councils largely from the government's own revenue and some additional donor funding.[2]
- Transparent and accountable usage of the Commune/*Sangkat* Fund has hindered elite grabbing of the development projects.
- As part of their delegated functions, all the communes carry out election registration and civil registration.
- Technical staff in support of both the province and the commune assist the governor in the facilitation of the commune councils and assist the commune in carrying out its roles and functions.
- In order to follow up on local activities and challenges, the Ministry of the Interior, with support from other ministries involved in the decentralised reforms, has carried out an annual review of decentralisation, which provides recommendations for the National Committee for Support to the Communes (NCSC).
- As part of the preparation for the deconcentration of sector functions, several ministries are currently piloting activities, the most prominent being the ministries of Health, Education, Youth and Sport and Agriculture.
- Several of Cambodia's donor partners are jointly funding decentralisation activities through the Seila programme. These funds, coupled with the

[1] Speech by H.E. Sar Kheng on the closing of the CDRI/CPD Election Seminar on 24-25 November 2003 at Sunway Hotel, Phnom Penh.

[2] Approximately a 16 percent share of the Commune/Sangkat Fund (CSF) is donor contribution (i.e. $2 million of a total of $12 million) (see STF 2003b:6).

- government's own resources, have greatly increased the opportunities for Cambodia to make strategic and comprehensive interventions.
- The learning-by-doing approach of the government to the decentralisation has allowed for a useful flexibility that in practice has enhanced improvements of the reform.

The Remaining Major Challenges of the Reform Are Divided into Four Categories and Summarised Below:

- Legal framework, vision and strategies. The election law enhances *upward accountability* by councillors to the party rather than to the electorate. A lack of certain regulations in the Law on the Management and Administration of Communes and government employment of the clerks hinders accountability of the "bureaucracy" to the elected representatives. Compared to other countries, these are typical examples of decentralisation working less than well.[3] A dynamic of change may be in the making here, as from 2004 the village chief will receive his salary from the commune/ sangkat council, which may in practice make him accountable to the commune.[4] A lack of overall policies and vision leads to a bureaucratisation of decision making or no decision making at all. The challenge is to use the policy process to develop a vision and policy to guide the reforms. This would in turn allow the bureaucracy to develop a necessary strategy to achieve the policy.
- Institutional design. Conceptualisation of the decentralisation and deconcentration reforms as *separate rather than interlinked,* the consequent establishment of two separate inter-ministerial committees and donor support to one or the other reform, rather than both, complicate coordination of activities. *Seila activities and structures are seen as an integrated part of the government structure.* It is anticipated that the support functions to the province and the commune through the ExCom will continue in substance, but that in the future these *support functions may be further integrated* into formerly

[3] So far, the "bureaucracy" at the local level is limited to the clerk and the village chief.

[4] It is important to note that this is related to his salary only. It does not give the commune the authority to hire or fire the village chief, nor does it solve the question of whether or not he should be elected.

existing structures, perhaps into the salakhet.[5] This further integration awaits the development of the Organic Law on Deconcentration. This law will regulate only the provincial and district administrations, not the broader issue of deconcentration.[6] This implies that it may clarify and strengthen the role of the *salakhet* and may also strengthen the relative autonomy of the provincial departments of the line agencies vis-à-vis the governor. It may not address or solve the issue of delegation of functions for provinces/districts, as the commune law did not address or solve it for the communes. The current *salary support mechanisms common in Cambodia may complicate this integration* because they create discontent amongst civil servants who are excluded from the supplement schemes. It is necessary to strengthen *partnership* between communes, NGOs and the private sector. There is, furthermore, a need to enhance the *use of existing commune regulations for funding local development activities.* The current Commune/Sangkat Fund is regulated only by a sub-decree in effect to 2004. To ensure a continuous channelling of government and donor funds to the local level, *this fund needs a higher legal status and should be regulated by law.* Furthermore, the Commune/Sangkat Fund Board is not yet in place to regulate this important fund.

- Mechanisms to achieve the aims of the reform. Capacity-building seminars are as yet *not sufficiently adjusted to the local scene and to the capacity of the councillors.* Although sub-national governments have a facilitation and supervision role towards the commune, placing of support functions in the district rather than in the commune *reproduces the dependency on higher authorities,* which is common in the Cambodian political culture. This dependency is one of the chief challenges for the creation of autonomous communes. This is compounded by the lack of inter-communal collaboration or horizontal peer learning. This would be important in order to enhance shared learning across the communes. Participatory commune development planning is *too comprehensive and extensive compared with the actual responsiveness* through the District Integration Workshop and the Commune/Sangkat Fund, and unintentionally builds high expectations that in turn *may undermine trust* of

[5] The provincial governor's office. See also Seila/PLG MTR 2003.

[6] Referring to the process of intra-ministerial division of responsibilities for resource allocation and program implementation.

the council amongst the electorate. The solution is not to simplify or scale down planning, because its conceptual framework is vital to the decentralisation, but *to create the conditions (local capacity and external responsiveness) that enable planning fully to develop its potential.*

The mechanisms of building trust in the local council may be further challenged by *late and insufficient funds disbursement.* This affects the local private sector contractors. The burden caused by funds not flowing to the communes in 2003 due to government funding shortfalls impacts on the communes, which are largely at a loss as to why funds do not materialise or with whom they should raise their concerns. *Increased predictability of domestic funds will help alleviate this potential development of mistrust. A lack of power to make decisions on revenue collection by the councils* further enhances the dependency by the communes on external agents and higher authorities.[7] One of the most important tasks for the government in the near term is to start identifying own sources of revenue for local government. Communes are generally seen to be far too small to allow for comprehensive capacity building and for provision of any substantial own source revenue. An extensive *commune amalgamation* might be necessary in the near future. This requires a debate on the future role of the districts, and what criteria to use for such amalgamation.

- Local dynamics. While much concern by observers focuses on local dynamics and conflicts, a more urgent concern might be the practical day-to-day life and work of a councillor and clerk. The clerk and the councillors experience a *heavy workload* due to the many and extensive tasks they engage in, and because of the time they need also to make a living. Those without a clear portfolio often refrain from council work. This is a challenge currently being met with a number of *initiatives to pilot devolution of responsibility and delegation of agency functions.* These are not all well coordinated. It is difficult to get women to run for election, and when in position, the *female councillors are frustrated by lack of influence* and not very keen to remain. It is an open question whether there is increasing willingness among political parties to ensure placing of female councillors high up on the election

[7] Although the Commune/*Sangkat* Fund consists of domestic revenue and hence is the people's money, it is largely perceived as a gift from above.

lists. Conflicts between politicians and NGOs are mostly related to the bypassing of local government by NGOs that make agreements with the province or the district for work in the commune. Conflicts between politicians and civil society organisations are mostly related to *issues of party funding* of particular projects and a feeling amongst many that while these projects should be presented as commune projects (because local business people often are asked to contribute), today they are presented as party gifts. Although politically motivated violence is occurring, local conflicts between political parties might have been overstated, and seemed to be a lesser challenge locally than nationally. *A greater focus might better be placed on sharing amongst the communes the inspiring lessons learned from collaboration between parties.* The local dynamics are also likely to be strengthened by the establishment of a *National Association of Cambodian Communes,* as an instrument of voice and self-help of the local government sector. The local dynamics may also be strengthened by a permanent *Committee on Local Affairs of the National Assembly* as a mechanism for firmer and more continuous support to the reform.

Structure of the Report

Chapter 1 presents the background and progress of decentralisation in Cambodia together with research questions and their policy relevance. This chapter also presents an introduction to the basic concepts used in decentralisation and a short discussion on how these concepts are used in Cambodia.

Chapter 2 elaborates the research methodology and research framework.

Chapter 3 addresses the contextual framework. The report asks what overall political cultural issues should be understood by the reader in order to understand the design of decentralisation and to capture its challenges. In attempting to do this, a discussion on the strategy of consensus is provided, followed by a discussion on political will and passive resistance. Furthermore, the report presents an attempt to understand the building of new structures whilst retaining old structures. These three issues are followed by some more specific discussions on strategy to achieve aims, and on how learning takes place.

Chapter 4 describes the policy and regulatory framework of the decentralisation, the implications of the Cambodian Millennium Development Goals (CMDG) for decentralisation and the strengths and weaknesses of the policy environment. A recent report by Oberndorf (2004) comprehensively

addresses the regulatory framework of the reform. This aspect is therefore handled quite briefly here.

Chapter 5 addresses central-local relations, including an overview of actors and responsibilities, engagement of inter-ministerial committees and the collaboration amongst them, ministerial engagement in the reforms and temporary or disjointed structures. It also addresses the delivery of support between levels of government.

Chapter 6 looks at the characteristics of the Cambodian commune, its historical backdrop and evolution, its demarcation and its functions. This is linked to chapter 7 on local-local relations, which addresses the capacity of the communes, the extent to which they are able to carry out their functions and make decisions, the internal collaboration of the commune and links to the lower levels. Furthermore, it discusses the main mechanisms for trust building in the commune.

Chapter 8 addresses fiscal and financial issues related to the commune. It looks at what types of service delivery the sub-national governments provide, the different revenue sources available to sub-national governments, the Commune/*Sangkat* Fund and how it is accessed and disbursed. Additionally, it focuses on the type of taxes sub-national governments collect at the moment and on potential sources of revenue for the commune councils.

Chapter 9 provides a summary analysis of the main points. Important points include how the design itself aims at achieving the reform, strengths and weaknesses of the institutional structures, issues of political will and donor support, elite capture and democracy, the patronage system and local autonomy, bureaucracy and policy environment, resources and local taxation, and issues of trust, accountability and participation. This chapter also presents overall and specific policy options.

Abbreviations

ADB	Asian Development Bank
ADD	Accelerated District Development
ADESS	Agricultural Development Support to Seila
ASEAN	Association of South East Asian Nations
CAR	Council for Administrative Reform
CARERE	Cambodia Resettlement and Rehabilitation Project
CAU	Contract Administration Unit (PRDC ExCom)
CBRD	Commune Base Rural Development
CC	Commune Council
CCDP	Commune Council Development Programme
CCs	Commune Councillors
CCSP	Commune Council Support Project
CDC	Council for the Development of Cambodia
CDP	Commune Development Plan
CDRI	Cambodia Development Resource Institute
CIHR	Cambodian Institute for Human Rights
CIP	Commune Investment Plan
CMDGs	Cambodian Millennium Development Goals
CoM	Council of Ministers
CPP	Cambodian People's Party
CS	Commune/*Sangkat*
CSF	Commune/*Sangkat* Fund
DAC	Decentralisation Advisory Committee (to PORDEC/ CDRI)
DANIDA	Danish International Development Assistance
DFID	Department for International Development (of the UK)
DFT	District Facilitation Team
DIW	District Integration Workshop
DOLA	Department of Local Administration
DOLF	Department of Local Finance
EQIP	Education Quality Improvement Project
ExCom	Executive Committee (of PRDC)
GAP	Governance Action Plan
GTZ	(German) Society for Technical Cooperation
HCMC	Health Centre Management Committees
IFAD	International Fund for Agricultural Development
IFAPER	Integrated Fiduciary Assessment of Public Expenditure Review
ILO	International Labour Organisation
KAF	Konrad Adenauer Foundation
KID	Khmer Institute for Democracy
LAMC	Law on Administration and Management of Communes and *Sangkats*
LAU	Local Administrative Unit (of PRDC ExCom)
LCSC	Local Cluster School Committees
LNGOs	Local Non-Government Organisations
LWS	Lutheran World Service

M&E	Monitoring and Evaluation
MAFF	Ministry of Agriculture, Forestry and Fisheries
MDG	Millennium Development Goals
MEF	Ministry of Economy and Finance
MIME	Ministry of Industry, Mines and Energy
MLM	Ministry of Land Management
MoC	Ministry of Commerce
MoEYS	Ministry of Education, Youth and Sports
MoH	Ministry of Health
MoI	Ministry of Interior
MoP	Ministry of Planning
MRD	Ministry of Rural Development
MWVA	Ministry of Women's and Veterans' Affairs
NCSC	National Committee for Support to the Communes
NPRS	National Poverty Reduction Strategy
NVDP	Northern Village Development Projects
OWSD	One Window Service Delivery
PAP	Priority Action Programme
PAT	Permanent Advisory Team (of the Seila programme)
PBC	Planning and Budgeting Committee
PC	Procurement Committee
PDRD	Provincial Department for Rural Development
PFT	Provincial Facilitation Team
PIF	Provincial Investment Fund
PLG	Partnership for Local Governance
PMIS	Poverty Management Information System
POLA	Provincial Office for Local Administration
PORDEC	Policy Oriented Research Programme on Decentralisation
PRDC	Provincial Rural Development Committee
RCAF	Royal Cambodian Armed Forces
SEDP II	Second Socio-Economic Development Plan
SIDA	Swedish International Development Cooperation Agency
SPPA	Seila Provincial Programme Adviser
STF	Seila Task Force
STFS	Seila Task Force Secretariat
ToT	Training of Trainers
TSS	Technical Support Staff
TSU	Technical Supporting Unit (of PRDC ExCom)
UNCDF	United Nations Capital Development Fund
UNDP	United Nations Development Programme
UNOPS	United Nations Office for Programme Support
VAT	Value Added Tax
VDC	Village Development Committee
VDP	Village Development Plan
WFP	World Food Programme
WVC	World Vision Cambodia

Khmer Word List

Salakhet	Office of the provincial governor
Salasrok	Office of the district governor
Sangkat	Subdivision of a municipality (differs from the commune, which is a subdivision of a province)

Chapter One

Introduction

1.1 Background to the Cambodian Decentralisation

With the local elections in 2002, Cambodia reached its first official milestone in the reform to decentralise power and functions from central to local government. Cambodia's decentralisation includes devolution of power to elected local councils, and deconcentration of functions and power from central government to provincial and municipal governors.[8] The current decentralisation has grown out of the CARERE/Seila initiatives since 1996 (see Rudengren and Ojendal 2002), as well as from the initial agenda set by the government in 1999, with its first steps towards putting the legal framework in place for decentralised governance.[9]

The Ministry of the Interior (MoI) has taken the lead in the reform. Two forces were driving decentralisation within the MoI. The senior level of the ministry had a clear objective of extending and deepening democracy in Cambodia by pushing it out from the centre and down to the local level. The other intention of the MoI was to ensure a greater delivery of services to local people along with a change of attitude. It was the perception of the MoI that villagers were not used to taking part in decision making and implementation, and therefore a culture of demand was more common than a culture of initiative and participation. The centralised system had reduced people's feelings of ownership, and the government realised that this attitude needed to be changed. An internal process with the aim of increasing the perception of ownership was generated in the MoI. In order to involve all the ministries, the National Committee for Support to the Communes (NCSC) was established as an inter-ministerial committee responsible for the decentralisation. Between 1999 and 2001, the MoI and other central ministries decided on the basic form that the decentralisation should take.

First, the government decided that Cambodia should have elected councils. This was followed by discussions regarding the electorate: should it be the district or the commune?

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8 See definitions further below, sub-chapter 1.3.

9 Cambodia Repatriation and Rehabilitation Project.

While it was recognised that the district might create a financially more viable local government and also initiate a tearing down rather than building of administrative boundaries, the government believed that the communes could create small and stable units after decades of civil war.[10] Also, the CARERE/Seila experience (see section 1.4.1) indicated that decentralisation at the commune was feasible. The present Seila/PLG programme has become an important funding mechanism and donor coordination body, and represents an important aspect of the decentralisation.[11]

With the Law on Election of Commune/*Sangkat* Councils of 14 February 2001 and the Law on Administration and Management of Communes/*Sangkats* (LAMC) of 19 March 2001, crucial legislation was put in place to carry out the first commune elections in February 2002. These elections are regarded by most as successful. They also represent a significant step towards attaining the goals of the reforms. Along with the devolution of power to commune/*sangkat* councils, functions and power have been deconcentrated to provincial and municipal authorities through sub-decrees in support of the commune/*sangkat* councils. However, as pointed out elsewhere in this report, a continuous delay in further delegation of functions and power to provincial and municipal authorities is one of the key problems.

Three objectives emerged from discussions on decentralisation within the government. First was the strengthening democracy in Cambodia by enhancing party collaboration. This was seen as necessary to remedy party conflicts after decades of civil war. Second was creating ownership of decision making, by putting people in charge of their own development. Third was creating ownership of development in order to contribute to a reduction of poverty.

The government believes that capacity, understanding of decentralised governance and intergovernmental fiscal transfers that go along with the responsibility allocated to the commune/*sangkat* councils will be addressed in the course of decentralisation. This learning-by-doing approach has been seen as crucial in the context within which the reform evolved. In this light, a mandate has been given to the communes although several capacity building, finance and legal issues are still to be addressed.

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[10] Interviews with Sak Setha (22 April 2003) and Paddy Roome (24 April 2003).

[11] Partnership for Local Governance Project, jointly funded by UNDP, DFID and SIDA.

The context of the government's reform programmes is stated in the Government Action Plan (RGC 2001b) and outlined in the "Triangle Strategy" of the Second Five Year Socio-Economic Development Plan (SEDP II) for 2001-2005 (RGC 2001c). The Triangle Strategy addresses (i) restoration of peace and stability, (ii) Cambodia's integration into the region and normalisation of relationships with the international community, and (iii) promotion of economic and social reform through extensive reform programmes.[12] The adaptation of a Poverty Reduction Strategy Paper in 2002 (RCG 2002f) forms part of this third leg of the strategy. Decentralisation takes place within this overall policy context. Cambodia has not, however, a single decentralisation policy document, such as a white paper on local government, which clarifies the visions of the reform and guides the decentralisation, which is common in Anglophone traditions.[13]

Decentralisation is seen by the government as having three main objectives:

i) Promoting pluralist participatory democracy locally (including local democracy and good governance) by creation of popularly mandated and autonomous local governments (communes/) that are responsible to citizens, represent and address their interests and make decisions on delivery of public goods and services.
ii) Promoting a culture and practice of local participatory development (planning, management, resource mobilisation) through the commune councils for social and economic development of people, and
iii) Contributing to reduction of poverty in the country through improvement of service conditions, creating access and opportunities for the poor and deprived in local development and delivery of services (inclusiveness in practice) (Sar 2002:2)

Basically, these three objectives can be interpreted to make one major point: that pluralist participatory democracy is going to lead to poverty reduction through increased service delivery

[12] Cambodia regained a seat at the UN, became a member of ASEAN and has been accepted as a member of the WTO. At the time of writing, the WTO membership is yet to be formally approved by the National Assembly.

[13] See Ministry of Provincial Affairs and Constitutional Development, South Africa (1999), "The White Paper on Local Government."

and local investment. A recurrent theme in the debate on democracy in the third world is whether local democracy is a development objective in itself, or just one leading to poverty reduction. The answer to this in the Cambodian context is not simple. However, it seems that the decentralisation in practice addresses both. For example, the extensive participatory planning and the training interventions have undoubtedly improved councillors' understanding of what local democracy is. Whether this helps secure peace and stability in the long run is for the future to answer, but clear indications are given by the recent study by Hughes and Kim (2003) that local conflict management among political parties seems to be improving. This is one of the significant local developments and can be seen as an example of a reform that addresses local democracy as an objective in itself. But there are also several examples of attempts to achieve poverty reduction through the Commune/*Sangkat* Fund and the District Integration Workshop (DIW).[14] Although no one would dispute that the funds that reach the local level are still modest, it should be recognised that a tremendous effort has been put into ensuring that the commune/*sangkat* councils have resources available to plan with (i.e. to exercise a democratic planning procedure) and also some funds for implementation (anticipating that these project will help reduce poverty).

While decentralisation and development of democracy in Cambodia take place within this overall policy context of poverty reduction (in agreement with the common objectives of the decentralisation reforms sweeping the developing world, and in agreement with the Millennium Development Goals), in effect, at this early stage of the reform, local democracy must be seen also as a development objective in itself. With the legacy of decades of civil war, the objective of improving democracy is very relevant.

The hypothesis underlying the policy context in Cambodia is that local elected representatives are better able than the central government to understand and address the needs of the people. The assumption, therefore, is that (i) planning is open and transparent, with equal access for every citizen; (ii) the identified priorities of the majority of the constituency are the chief arguments guiding council resource allocation; and (iii) the local authorities establish a certain degree of autonomy, integrity and trust. These issues are the key challenges for success.

Success in addressing poverty reduction is important in any developing country. In a postwar society like Cambodia, the

[14] See further sub-chapter 5.5.

aim of decentralisation, dating back to the period of repatriation of refugees and rehabilitation in the early 1990s, is also to build a culture of peace. In the young Cambodian democracy, this aim remains relevant.

There is no evidence, however, suggesting that there is a clear connection between decentralisation and poverty reduction (Crook and Manor 1998, Crook and Sverrisson 2001, Rakodi 2002, Schou and Steffensen 2003, Rusten and Ojendal 2003). This may be due to the fact that a causal link is very hard to demonstrate. It has furthermore been argued that there is a need for decentralisation to be 10 to 15 years in motion before any effect on poverty reduction can be fairly judged (Schou and Steffensen 2003). Quite a number of challenging assumptions need to be met for decentralisation to be regarded as successful. In Cambodia, this has only just started. A number of issues need to be addressed along the way. This is recognised and planned for in the Governance Action Plan (GAP) (see RGC 2001b). Also, Ojendal (2001) notes that the important prerequisite for decentralising Cambodia, namely the political will, is present. This will, particularly rooted in the MoI, is an important factor pushing for a relatively speedy decentralisation. It remains to be seen, however, which activities, functions and powers the sector ministries will decentralise to the provinces, districts and communes.

1.2 The Research Questions and Policy Relevance

Two parallel factors promoted the decision to study the design of decentralisation in Cambodia. One was the lack of understanding of roles and responsibilities and the confusion over the legal framework emphasised by many stakeholders during the design of the research framework for the Policy Oriented Research Programme on Decentralisation (PORDEC) (Ojendal *et al.* 2002). The other was the extensive emphasis on the actual decentralisation design by many authors (e.g. Smoke 2003; Turner 2002a; Crook and Sverrisson 2001; Crook and Manor 1998) in their discussions of major challenges in decentralisation in other countries. Their chief arguments have been that the possible effects of decentralisation on poverty reduction (which is then one of the important aims of the government, see sub-chapter 1.1) depend on the actual management of the reform and on central-local relations.

The overall research question in this study is: With reference to the decentralisation, what are the major challenges in achieving poverty reduction and building and improving good governance within the current political and institutional environment?

The policy relevance of this study therefore resides in its information and analysis of institutional overlaps and gaps, parallel activities, unsustainable functions and potential

undermining of local government. Through this analysis will emerge policy options to take the decentralisation forward.

The aims of the study are (i) to assist the government in making informed decisions as decentralisation progresses, and (ii) to share with a wider international audience the Cambodian decentralisation experience and lessons learned.

The study focuses on three levels:

- The national level, addressing the strengths and weaknesses of the policy and regulatory framework, visions and strategies for the reform, ownership of the decentralisation and access to the bureaucracy and policy environment.
- Central-local relations, examining how the design itself intends to achieve the aims of decentralisation, and the strengths and weaknesses of the institutional structures in delivering support.
- Local-local relations, focusing on horizontal and vertical collaboration and support related to support staff, inter-communal collaboration, hierarchical structures and autonomy of local government.

Within these three levels, several research questions were identified to help understand the design of the decentralisation. The main research questions for this study are:

1. What is the coherence between the decentralisation objectives and the overarching regulatory framework?
2. What are the challenges faced in the planning and implementation of the decentralisation programme, and what are the strengths and weaknesses of the policy environment, including the needs and remaining gaps?
3. What are the challenges faced by different institutions in the implementation of the reform?
4. What funds are available to the communes, what are the potential revenues, and what kinds of taxes are currently being collected?
5. What are the capacities of the commune, what type of support do they receive, and to what extent does this enable the communes to carry out their duties?
6. To what extent do the commune councils make decisions themselves on issues within their authority?
7. What types of inter- and intra-communal collaboration can be identified?

8. What are the main developments, challenges and changes in the relations between local actors?
9. What are the mechanisms by which commune councillors build trust among their constituencies?

1.3 The Conceptual Framework

Some critical concepts need to be discussed to establish a conceptual framework for the study. The following sections address what local governments are, and what deconcentration and decentralisation are.

1.3.1 What Are Local Governments?

The local government in Cambodia is the commune/*sangkat* council. As in all other countries with local government, the commune/*sangkat* councils play a double role (Eriksen *et al.* 1999). They are on the one hand local institutions that represent local interests and relate to specific local problems. This is most clearly expressed in the case of local political institutions that are based on representative elections. They are institutions for self-governance with their own priorities. They derive their power from the people they represent. In their capacity to serve and represent the interests of the local community, they are supposed to defend local interests within the national system.

Local governments also derive their authority from the central government. They will partly serve as agents for this centre. In Cambodia, the functions that are derived from the central government are called "agency functions." In this way, local governments, through the work of the commune clerk, are a part of the public sector.

1.3.2 Decentralisation: Devolution, Deconcentration and Fiscal Decentralisation

This section will explain the meaning of many of the concepts that are used in the decentralisation debate. The aim of presenting them here is to create an overview that can assist policy makers in their discussion of how to decentralise. Some of the concepts (such as "integrated decentralisation" and "sector decentralisation") may be particularly relevant for policy makers to look at in the current discussion of what functions to deconcentrate and how to do it.

The relationship between the state and the local government can be organised in many ways. In modern states, the relationship between the state and local governments is usually one in which certain powers and functions are decentralised. Generally, the term *decentralisation* means two things: *political decentralisation* and *administrative decentralisation*. Other variations of decentralisation go hand in hand with political and administrative decentralisation. These are *privatisation,*

sector decentralisation and *integrated decentralisation.* A third concept, mainly addressing the resource base of the institutions, is *fiscal decentralisation.* Below, these concepts are explained in further detail.

"Political decentralisation" occurs when power and functions are transferred from central to local government. The local government is based on political representation, in which councillors are locally elected representatives of the people who live in the area of territorial jurisdiction of the local government. Political decentralisation is sometimes referred to as *devolution* (Conyers 1983), and more recently as *democratic decentralisation* (Manor 2003). According to Eriksen *et al.* (1999), devolution is often seen as a more real form of decentralisation in which local people, through elected representatives, are given the power to decide how problems should be dealt with and what the priorities should be. Devolution may, however, create space for the central government to push difficult and unpleasant decision making onto local government. It is therefore vital that this decision-making power go hand in hand with the responsibility for raising necessary resources (Eriksen *et al.* 1999; Schou and Steffensen 2003).

"Administrative decentralisation," also referred to as "deconcentration" (Cohen and Peterson 1999), refers to delegation of tasks and transfer of authority from central government to sub-national governments, which can be seen as branches of the central government. The public sector set-up is usually reflected at sub-national levels through department offices, such as Department of Education, Department of Health etc. The sub-national governments, i.e. the provinces and the districts, are not locally representative institutions. This means that they are not elected by the people but employed by sector ministries. Deconcentration may allow locally placed state officials to make decisions over service delivery, and these officials may also create important links between local and central government. A common argument that the central government might have against deconcentration is that it runs the risk of losing control over government apparatuses to local institutions (Rueschemeyer and Evans 1985). Bayart (1992) observes in his analysis of African institutions that local government institutions with deconcentrated powers become arenas for power struggles. Rather than being local representatives of state functions, he argues, they create space for the conflicts of society at large to be reproduced within the state apparatus.

There are also other forms of decentralisation that come in combination with devolution and deconcentration. One of these is *privatisation.* In the context of decentralisation, privatisation is concerned with contracting out (or outsourcing) state functions to privately owned companies and deregulation of

activities (Turner 2002a). A typically outsourced function is refuse collection. More commonly too, especially in modern states, water and electricity provision is outsourced to private companies. Tax collection, however, in modern states is usually a state function. Many developing countries, including Cambodia, have privatised tax collection. Responsibility for service delivery can also be *delegated* to parent associations or religious committees. Services can also be delivered through *co-production,* in which different institutions are involved with different aspects of the service delivery and which is characterised by a partnership between local authorities, civil society and the private sector. Co-production is broadly understood as a contribution by different organisations of inputs which are used to produce a service (Evans 1996; Ostrom 1996). Privatisation, delegation and co-production usually respond to perceptions of state imperfection or inefficiency and lack of local governance capacity.

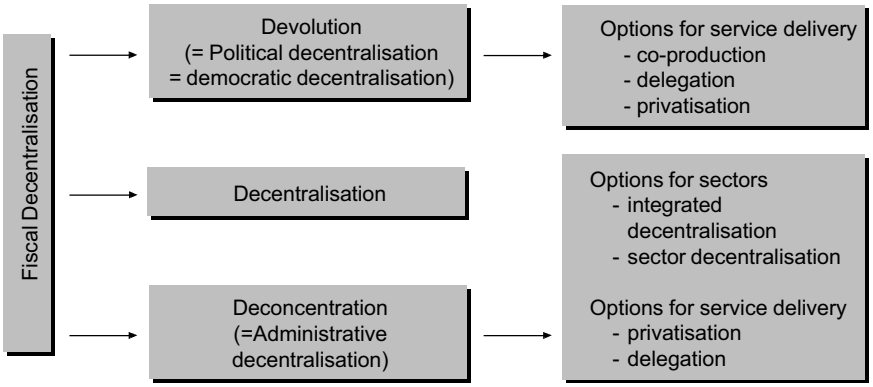
One of the major unresolved issues in Cambodia's decentralisation is deconcentration, particularly sector decentralisation, as well as the role of the provincial administration vis-à-vis sectors. The questions being asked are: what type of responsibility should be placed with the provinces and the districts, and what type of sector functions should be placed at what level of government? The discussions of what functions to place where may seem to be a technical issue. One challenge, however, is that these discussions cannot take place before political decisions are made on the powers of the province and the district. Another challenge often mentioned by policy makers in Cambodia is that even when supportive institutions and laws exist, there is often limited knowledge of *how* to implement. Some common concepts in terms of options to deconcentrate are debated in the following pages. These are merely examples of options for policy makers to consider.

Integrated decentralisation occurs when functions are transferred to lower institutions that have an integrated task of fulfilling multiple functions within their territorial jurisdiction. This is what Turner (2002a) calls territorial decentralisation, reflecting the territorial boundaries of the institution's jurisdiction, such as provincial or district boundaries. This is, according to Eriksen *et al.* (1999), not very useful terminology because all decentralisation is inherently territorial. Integrated decentralisation takes place when an institution, for instance the province or the district, makes decisions regarding a number of activities or sectors. In Cambodia today, all sector functions are represented in both the provinces and districts through provincial line departments and district line offices, but the head of the institution (the provincial or the district governor), has no authority over sector functions.

Sector decentralisation takes place when the responsibility for one sector, for example education or health, is transferred to one institution with this single responsibility. Sector decentralisation is useful when the state wants to ensure that similar sector approaches and activities are implemented across territorial variation. Turner (2002a) would call this functional decentralisation. This may be an effective form of decentralisation to achieve standardised approaches to development in a specific sector. This also points to its weaknesses, as Eriksen *et al.* (1999) argue, because sector decentralisation makes coordination across sectors difficult.

Fiscal decentralisation involves transfer of funds and tax-raising powers from higher to lower levels in political systems. Fiscal decentralisation can include both elected bodies and administrative institutions. It is generally argued that successful decentralisation depends on the local ability to engage in own-resource revenue collection (see e.g. Schou and Steffensen 2003).

Figure 1.1: Schematic Overview of Decentralisation and Deconcentration



In general, the concept of decentralisation usually encompasses both political decentralisation (devolution) and administrative decentralisation (deconcentration).[15] In Cambodia, rather than "devolution" and "deconcentration," the two concepts commonly used are "decentralisation" and "deconcentration."

[15] In its design of the decentralisation process, a country needs to make decisions on how to decentralise the sectors. As the decentralisation process in Cambodia is still young, the discussions on sector decentralisation have barely started.

1.3.3 Decentralisation Goals in the Context of the Conceptual Framework

Let us now attempt to understand the goals of decentralisation in Cambodia in the context of the conceptual framework outlined above. The goals are to improve participatory democracy, promote a culture of participatory planning and contribute to the reduction of poverty through improved service delivery. These goals reflect the broadly accepted advantages promoted in the decentralisation debates, identified by Smoke (2003:9) as *improved efficiency, governance and/or equity*. Recent research in Africa and elsewhere shows that realisation of these goals would significantly depend on *devolution* (Smoke 2003; Manor 2003).

Manor (2003) has summarised lessons learned on local governance and highlighted indicators for decentralisation that works well and decentralisation that works "less well." He argues that *when it works well*, it has the following virtues:

- It stimulates greater participation in local politics and policy;
- Larger numbers of people participate (in voting, election campaigning, voicing demands, protesting and appreciating and attending mass meetings);
- It stimulates civil society activity as more people join voluntary associations, and such associations become more active and numerous;
- It enhances government transparency and increases information flows; and
- It tends to enhance accountability of bureaucrats to elected representatives and of the latter to the citizens.

According to Manor (2003), governments that create such systems also gain greater legitimacy, because the systems create space for political activists and hence defuse tensions.

Democratic decentralisation seldom works well. *When it works less than well*, Manor argues, it is mainly because:

- Lower elected bodies do not have substantial resources and powers;
- Bureaucrats are not accountable to elected representatives;[16] and
- Elected representatives are not accountable to ordinary people.

[16] If the example was used in the context of commune/*sangkat* councils in Cambodia, "bureaucrats" would then refer to employees at the lower levels, i.e. the clerk and the village chief.

The decentralisation design study, as it will unfold in the following chapter, will create some of the basis to understand accountability in decentralisation in Cambodia. This issue will then reappear in the concluding chapter (chapter 9). Although it is no surprise to anyone that decentralisation generally works less than well, for many reasons that will be explained in the following pages, the report will issue concrete policy recommendations that may make it work better.

1.4 Review of the Progress of the Decentralisation Reform

It is clear that Cambodia's quite impressive record of achievements (see section 1.2.4) would not have been possible without many years and careful trials of giving the communes the authority to manage own funds, ensuring participation in development planning and building capacity at many levels of government in support of this. Below is a presentation of the Seila programme followed by an overview of the achievements of decentralisation.

1.4.1 The Seila Programme

The process referred to immediately above has taken place through three phases, each of which is marked by an ability to adapt to the rapidly changing needs of local development. *The evolution of the Seila programme is characterised by an evolution from disaster relief and direct implementation to experiments in local governance and nationwide reforms.*

The First Phase: CARERE I

The first phase took place from 1992 to 1995 under CARERE I. This phase focused on quick implementation of infrastructure projects and schemes for the resettlement of refugees and internally displaced people. CARERE I was supported by UNDP. Given the extreme nature of the situation during this time and the urgent need to reintegrate and repatriate refugees and internally displaced people, CARERE I was not set up to foster sustainable development (Rudengren and Ojendal 2002:10). Although it was implemented with little local participation, CARERE I nevertheless got project development on the ground and local work started. It was soon realised that more sustainable efforts were needed and also that the government needed to be involved.

The Second Phase: CARERE II/Seila

The second phase, CARERE II/Seila, took place from 1996 to 2001. This phase focused on rehabilitation and *regeneration.* It also focused on new initiatives under the Seila programme, which was developed in support of the government's strategy for rural development as outlined in the first five-year plan of

1996-2000. The objectives of the CARERE II/Seila programme were poverty alleviation and the spread of peace.

While the CARERE programmes were supported by UNDP, the Seila programme, which then developed in parallel with the CARERE implementation, was a collective undertaking by seven ministries, which made up a national Seila Task Force (STF) (Rudengren and Ojendal 2002). This task force is supported by the Seila Task Force Secretariat (STFS), located in the Council for the Development of Cambodia (CDC). The total funds available to the CARERE II/Seila programme were $84 million, including a contribution from the government as counterpart funding of $2.2 million, with the larger share of the support through the UN system ($27 million), followed by SIDA ($22 million), and the Netherlands ($11 million). Allocations to support the local development funds were provided by the government ($1 million), UNCDF ($4.4 million), IFAD ($5.6 million earmarked for agricultural development and technical assistance) and the World Bank ($2.1 million). UNOPS executed the CARERE II programme.

CARERE II and Seila were based on the same programme document and are viewed as being the same programme, the only difference lying in their administrative structures, CARERE II providing support structures while Seila comprised the government structures. CARERE II pursued planning and financing for the long term, focused on human resource development and good governance and was executed to support government structures. It marked a new step with a long-term focus for sustainable local development.

The Seila programme started as an experiment in decentralised planning and financing of development in five provinces.[17] The goal was to achieve this through capacity building addressing both provincial departments and local governments, and participatory development planning and predictable fund allocation for investments.

The Third Phase: Seila/PLG

The third phase, called the Seila programme (2001-2005), at the time of writing the project document, had a projected budget of $95 million, which by the end of 2003 had already been exceeded. The Partnership for Local Governance (PLG) is the donor support programme to Seila, established in a consortium by UNDP, DFID and SIDA. The PLG funds are deemed core funds to Seila over this period and are $37 million. Other donors to the Seila framework are DANIDA, IFAD, AusAID, UNICEF, WFP and the World Bank. GTZ collaborates with the STF but does not channel funds through it.

[17] Battambang, Banteay Meanchey, Pursat, Ratanakkiri and Siem Reap.

The aim of the Seila/PLG programme is to contribute to poverty alleviation through local governance. The immediate objective was to institutionalise the appropriate decentralised systems, delivering public goods and services effectively. The idea was to achieve this by strengthening and decentralising local institutions and effectively implementing devolved systems, providing public goods and services for local development and improving national policy and regulations for decentralisation and devolution (see discussion of these concepts above). The Seila programme was designed by the government to coordinate external assistance and national development efforts with regard to the decentralisation.

1.4.2 Understanding Seila in the Context of Government Reform and Dynamics of Change

Several interpretations of Seila have surfaced over the years. Perhaps due to the preoccupation with infrastructure during CARERE I and the current tendency of communes to prioritise infrastructure projects, many perceive Seila as a rural development programme (see Pellini 2002). If one looks at the development of the governance aspects of Seila and the efforts made in the communes to collaborate in development planning, it could also be regarded as a reconciliation and peace-building programme. It also has a clear responsibility to contribute to building governmental institutional capacity (Rudengren and Ojendal 2002).

Characteristic of Seila is that it entails a *multidimensional approach to governance* through its overall approach to addressing structural poverty.[18] This is done through (i) emphasis on capacity development at all levels of government in recognition of the need for capacity in support as well as in implementation, and (ii) extensive participatory planning based on predictable fund allocation. Seila should not be seen as an operational programme because it is government institutions that carry out each and every step. These institutions are supported and facilitated by the Seila programme, but not operated by it.

The following characteristics seem to mark the current Seila programme:

[18] The legacy of decades of atrocities in Cambodia is a poverty problem that goes beyond income poverty. Cambodia battles a kind of poverty that perhaps only capacity building, democracy building and structural change can address, namely *structural poverty*. Poverty is always the result of a complex combination of structural factors, some of them general (such as income inequality and underdevelopment) and some culturally specific. In Cambodia, the culturally specific factors are related to fear, general fatigue and lack of trust in government institutions.

- *Concepts:* Several common good governance concepts were alien in Cambodian governance when Seila was initiated, such as participation, empowerment, gender equity, predictability, transparency and accountability. Seila adopted four principles that would guide its interventions. These were dialogue, clarity, agreement and respect (Evans 2000). Planning and prioritisation were supposed to come about through a dialogue among local stakeholders. There was a focus on clarity of known resources so that funds would be predictable, allowing targeted and meaningful planning; agreements should be made between partners in development, i.e. between NGOs, donors or line departments that wanted to implement some of the prioritised commune development projects; and respect and inclusion among stakeholders were to be emphasised in the entire programme.
- *Development and support of systems and structures:* Development of new support structures in the provinces and districts was needed to embark on local management and prioritisation of local development funds. The following are some examples of this. Nationally, the Seila programme has assisted in designing the structure of the Commune/*Sangkat* Fund (CSF), which at the moment is the only fund that the local government has the authority to manage. At the provincial level, because the provincial governor had no institution to facilitate the support of the commune, the Executive Committee (ExCom) was established as part of the Provincial Rural Development Committee (PRDC) with facilitation mechanisms for both the province and the commune. The ExCom, its Local Administrative Unit (LAU) and the technical support staff (TSS) provide the temporary human resources to let the governor fulfil his mandate in support of the commune while awaiting the Organic Law on Deconcentration. The ExCom provided an opportunity for a horizontal cross-sector approach, as opposed to the previous single vertical line. At the commune level, the Seila programme supported the initiation of participatory planning and local prioritisation of needs, as well as the merging of local planning with the planning of NGOs, donors and line departments through the DIW. Planning in Cambodia slowly began to be marked by totally new approaches, those of empowerment and integration.
- *Donor coordination mechanism:* The STFS coordinates donor approaches and funding of decentralisation. This arrangement ensures that donors comply with government structures and reforms and it allows the

government to ensure a targeted and coordinated intervention.

1.4.3 Seila: An Integrated Programme and a Lesson Learned

The above overview indicates that *Seila is an integrated part of the government.* Seila's history as emerging out of the CARERE programmes and the fact that it is listed as a separate name on many local development projects and offices around the country may add to the perception still held by some that it is a separate programme.

The multidimensional approach to decentralisation is a crucial lesson learned from Seila. This could be shared with Cambodia's neighbours and other countries. Another lesson is that experimentation and wide participation create a good basis for scaling up and spreading out nationwide.

1.4.4 Summary of Current Progress

With the major laws for decentralisation and elections put in place in 2001, the government believed that Cambodia was ready to *start* decentralisation and that remaining issues could be worked out along the way. The starting points, namely the urgent need to make local people owners of their own development, and the fact that Cambodia is now at the beginning of its decentralisation, are crucial to keep in mind when discussing progress and challenges.

Quite a number of reports have surfaced recently which attempt to give an account of the progress and challenges of the decentralisation in Cambodia. A review of this literature is available (see Kim and Pak 2003). On fiscal decentralisation and taxation, the body of documents available on Cambodia is quite meagre, but Eng (2003) has made a review of this literature, including some key documents on the topic from elsewhere in the world.

The following is a summary of the progress of the commune/*sangkat* since the 2002 local elections (Rusten *et al.* 2003, RGC 2003b):

- All commune/*sangkat* councils have prepared their five-year commune development plans, three-year rolling investment plans and annual budgets.
- Two functions have been delegated to the communes: civil registration and election registration.
- All the communes are now included in the Seila programme and receive funds for administration and development.[19] Through the implementation of the

[19] On average, $5,000 per year for development and $3,000 for administration in 2003. However, communes without experience

Sub-Decree on the Commune/*Sangka*t Fund, they have access to the CSF. In addition, all commune/*sangkat* councils have had access to training and capacity building approved by the NCSC, as well as to support and supervision from the sub-national level. Some communes also have access to capacity-building programmes supported by other donors and NGOs, but these do not have nationwide coverage.

- For 2003, 41,754 projects were approved for the communes through the District Integration Workshop. These were supported:
  - 46.3 percent (19,000) by sector ministries,[20]
  - 24.4 percent (10,000) by NGOs/donors,
  - 29.3 percent (12,000) by the CSF (national government transfers and donor funds) (see chapter 5 for further details on actual implementation).[21]

  The number of projects agreed to for 2004 through the DIW was significantly lower than the previous year, namely 32,688 (of which 34 percent were commune priorities).[22] This is a 22 percent decrease in project commitment.
- A number of provincial and district technical staff were recruited and trained to assist the communes/sangkats.
- The NCSC has issued 30 regulations and procedures to support the operations of the communes/sangkats.
- The MoI is also examining the demarcation of commune boundaries because it is anticipated that in order to achieve viable communes, demarcation will be necessary before the second mandate of the communes, i.e. the next commune/*sangkat* elections in 2007. So far, the NCSC subcommittee on the demarcation has had a few meetings, although no action plan is in place and no decisions have been made yet (Oberndorf 2004).

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did not receive development funds in 2003. Furthermore, each province receives $12,000 in provincial funds. As the share of domestic revenue for the CSF increases from 2 percent in 2003 to 2.5 percent in 2004, the average of *development funds* per commune is estimated at $6,000.

[20] Fieldwork for this current study indicates that many of the line ministry investment projects that have been agreed between the line ministries and the communes at the DIW are not being implemented. The implementation relates chiefly to capacity-building projects (see further, chapter 5).

[21] Interview with Sak Setha, 15 January 2003.

[22] Presentation by Chieng Yanara at the Seila Forum, 11 December 2003.

- The MoI has also carried out some interesting activities with the aim of improving the management of decentralisation. Two examples can be cited. One is its facilitation of discussions among commune councillors regarding the establishment of a local government association, which would help the commune councils to share information and collaborate. It is, however, a huge challenge to get this type of collaboration in place, because currently, horizontal collaboration is non-existent in Cambodia (see chapter 5). The establishment of an association might enable the communes to network with similar institutions elsewhere in the world. Second is the MoI's review of decentralisation, which was carried out in 2003 (RGC 2003b).
- As part of the preparation for the deconcentration of sector functions, several ministries are currently piloting activities. The Health Sector Strategic Plan (RGC 2003a), which aims to establish sector-wide management, is an example. It is not yet clear how and where functions will be placed. Another is the Priority Action Programmes (PAP) within health and education. A third example is the Ministry of Agriculture's Agricultural Development Support to Seila (ADESS) programme, which delegates training and extension services in support of the communes to the district and programme implementation to the PRDC ExCom and the Provincial Department of Agriculture.
- The Council for Administrative Reform (CAR) has started to establish a policy for deconcentration. The CAR was to present a draft policy and strategy on deconcentration in August 2003.[23] Reading from the current draft strategy, however, and bearing in mind the issues for discussion at the seminar, it appears that the CAR is only at the very beginning of a long journey that so far has suffered from a lack of leadership and political will, and has been characterised as "piecemeal managerial vogue" by Rudengren et al. (2003). The drafting of the Organic Law on Deconcentration has now largely been taken over by the MoI.

1.4.5 Current Status of the Administrative Reform

Progress on deconcentration has been very slow. Work is in progress to develop the organic law, but no overall vision yet guides it, and the timeline for it seems to be 2005 (see Evans 2003). Some line ministries have implemented pilot projects, most notably the Ministry of Youth, Education and Sport through its PAP and Education Quality Improvement Project

[23] Interview with Hok Peng Se, 5 May 2003.

(EQIP) (see Turner 2002a). The Ministry of Health has strengthened its operational districts, and the Ministry of Agriculture has piloted the ADESS programme (for more details, see section 3.5.3 below).

The MoI (RGC 2003b), provincial and district governors,[24] donors[25] and consultant teams (PLG 2003; Evans 2003) have aired frustration over the slow progress. With technical assistance from GTZ, UNDP and the World Bank, the CAR is struggling to find a way to address deconcentration.

On 11 June 2003, the government issued Decision No. 47 (RGC 2003b), addressing the structure and administration of two pilot districts for implementation of the One Window Service Delivery (OWSD) project, supported by the Konrad Adenauer Foundation (KAF). The aim is to create a role for the districts in servicing the people by simplified procedures in matters that are currently under the provincial authorities, such as land registration and vehicle registration. Interestingly, the pilot includes the establishment of new district councils headed by the district governor and a number of deputies (in total five appointed staff) and 12 elected councillors drawn from the commune councils (the commune chief and the deputies).[26]

One of the potentially conflicting aspects of the OWSD is how the districts will finance these services. One solution emphasised by the project is to look for potential taxes. As it is not yet clear what taxes the communes will be entitled to collect, tax collection by the district may end up overlapping with potential commune taxes. There might be a contradiction between the LAMC, which places taxation responsibilities with the commune, and new projects that look for potential revenue in the same "market." In this aspect, it is therefore not clear what the role and function of the district councils would be as compared with those of the commune councils.

The OWSD pilot is an unfortunate example of the conflicting results produced by the conceptualisation of deconcentration and decentralisation as two separate reforms, with donors supporting one or the other but not both, and driving their own agenda rather than supporting the actual reform, which indicates that the commune shall collect its own revenue (not the district). The functions of the district councils as compared with those of the commune councils have not yet been worked out. It is a danger that decisions regarding district budgets, user fees and taxation base, among others, are made without

[24] Workshop for provincial and municipal leaders, Phnom Penh, 14 May 2003.
[25] Seila Annual Forum, CDC, December 2002.
[26] Introduction by Sak Setha at Workshop arranged by CAR, 14 August 2003.

clarifying the functions of the district as compared with the functions of the commune. It seems beyond doubt that the OWSD project is counteracting the decentralisation policy.

With the establishment of the pilot district councils, is there a tendency towards reducing the potential power of the commune councils and increasing the role of the districts? Or is it just an unfortunate example of disjointed reform? Either way, it is a serious problem and one that should be addressed urgently as it confuses the current initiatives by the MEF to establish local government own sources of revenue.[27] The critical issue here is whether Decision No. 47 is a pretext to allow the district, rather than the elected commune council, to collect local taxes in the future.

1.5 Current Decentralisation Research in Cambodia

Prior to the local government elections in 2002, very little was documented on roles and functions and inter-governmental relations. Following the local elections in 2002, Cambodia experienced a sudden blossoming of research related to several aspects of the decentralisation design. A common theme has been the necessity to clarify the roles and responsibilities of actors and stakeholders. GTZ's project on "Decentralisation and Administrative Reform" released a draft version of a database on the power and functions of various actors (2003). This comprehensive tool under development will become very useful to researchers in decentralisation.

Furthermore, the Department of Local Administration (DOLA) has initiated research on this topic as part of its decentralisation annual review in order to identify indicators to be used in a functional analysis (MOI *et al.* 2003).[28] Other activities include the SIDA/DFID Permanent Advisory Team's (PAT) research on empowerment (Biddulph 2003) and a study on partnership between commune councils and NGOs (Mansfield 2003). The need for information and data on decentralisation remains significant in relation to potential local revenues and the capacity of the commune to deliver services. Such information will be crucial in order to make policy decisions.

Other CDRI research projects scheduled for beyond 2003 include fiscal decentralisation; local government responsiveness, accountability and conflict resolution; and service delivery and poverty reduction.

[27] The MEF is currently collaborating with CDRI and a team of UNDP and UNCDF advisers to collect information on potential local government own-source revenue that can be used in the development of a local government taxation policy.

[28] Interview with Kiv Horn, DOLA, 29 May 2003.

Chapter Two

Methodology

2.1 Introduction

This chapter will elaborate on the methodology chosen for the decentralisation design study. As shown in the conceptual framework above, decentralisation has many dimensions. The variation of aspects of decentralisation across time and space makes it difficult not only to design but also to study. This is, according to Smoke (2003:8), compounded by the tendency of disciplinary specialists to compartmentalise decentralisation. In terms of implementation, these issues must be considered together. When studying decentralisation, however, economists tend to focus on fiscal and economic development; political scientists work on intergovernmental relations, elections and accountability; and public administration experts study institutional structures, processes and procedures.

The current study is an attempt at an interdisciplinary focus and analysis of decentralisation in Cambodia. While intended to be policy relevant, the study aims to contribute to the further development and improvement of the decentralisation strategy. This is done in two ways: first, by contributing to the wider understanding of contexts and processes, and second, by providing some overall recommendations that may feed into decentralisation.

2.2 Discussing the Research Framework

During the study design, the following dichotomies were discussed:

Monitoring progress versus providing analysis for longer term understanding of the decentralisation: In the attempt to provide policy-oriented research, early drafts of the research design focused more towards monitoring aspects of the decentralisation. Although this type of information will be useful to some actors, it was decided that the research project should be inclined more towards providing information that would help stakeholders to understand the underlying dynamics of change, and that this information would be useful to policy makers. The team has tried to strike a middle ground, focusing on current relevant processes but avoiding getting into an assessment of how far the decentralisation has come.

Hypothesis versus letting the field rule: Based on experience from other countries (Rusten and Ojendal 2003), it seemed one relevant option would be to base the research on hypothesis. However, the potential dynamics of change were captured better by a realistic approach whereby experiences in the field guide the approach. Furthermore, to begin the fieldwork with already formulated hypotheses might have biased the research towards the stereotypical view that the political culture—relating to the legacy of violence, distrust and the overruling of the small—would determine the course and outcome of the decentralisation. Choosing the second option, allowing experiences in the field to guide the study, would provide an opportunity to challenge this stereotyped view. The danger with this approach, however, is that it might render the research unstructured and open to opinionated analysis, and rule out the possibility for comparative analysis.

In an attempt to avoid this, a two-step approach was adopted. First, the team carried out pilot interviews with a very limited set of stakeholders at all levels of government and with donors and NGOs. The methodology used was the interview guide approach. The aim was to get impressions of the processes, which then guided the second step, which was the development of semi-structured questionnaires, which were used for the larger part of the research.

Based on a comparative analysis of the data gathered in this way, the team attempted to develop indicators that can be used by the government, donors and the commune itself in assessing transparency and accountability of council activities (and to some extent activities of other institutions, limited to the flow of funds), as well as ownership and maintenance/ follow-up of investment projects in the communes.

2.3 Selection Criteria

Discussion of selection criteria has focused on two major issues. One is whether to base the criteria on the so-called *typical selection criteria.* These criteria would be provincial features such as experience with the CARERE/Seila experiments, geographical variation, accessibility, economic and political variations, historical background, government interest in the area and minority groups in the area.

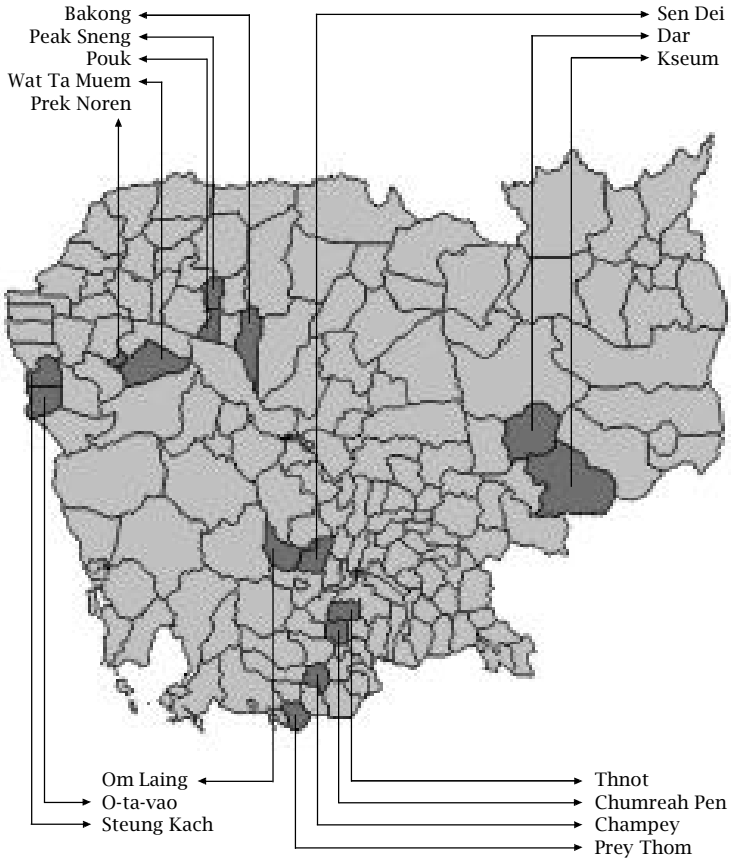
The other criteria would be the so-called *strategically situated criteria.* These criteria would base the selection on criteria such as success in management and problems of tax collection and lack of capacity. The challenge of choosing strategically situated cases is to ensure that the microcosm presented represents a bigger whole. In order to defend this, one would need to argue what characterises the bigger whole and how the microcosm (village or commune) represents this.

The Following Cases Were Selected:

			SPECIAL	SELECTION	CRITERIA
Province	**District**	**Commune in Seila**	**Integrated parties**	**Political**	**Other characteristics**
Battambang	Ek Phnom	Prek Noren	1996	CPP	Previous CDRI research.
	Sang Ke	Wat Ta Muem	2001	CPP	Good leadership of CCs
Siem Reap	Prasat Bakong	Bakong	1997	CPP	3 female CCs
	Angkor Thom	Peak Sneng	1998	CPP	Good model of CS organisation
	Pouk	Pouk	2002	CPP	FUNCINPEC district overnor
Kompong Speu	Somrong Thong	Sen Dei	2002	CPP	Potential economic ctivities
	Tpong	Om Laing	2002	CPP	Female chief
Kampot	Angkor Chey	Champey	2002	CPP	GTZ CMRDP
Kep	Kep	Prey Thom	2003	CPP	Municipality
Takeo	Bati	Thnot	2003	CPP	Local collaboration
	Somrong	Chumreah Pen	2002	CPP	Several NGOs working
Pailin	Pailin	O-ta-vao	1999	CPP	World Vision, LWS and demining NGOs.
	Salakrao	Steung Kach	1999	CPP	LWS, WVC and demining NGOs
Kratie	Snuol	Kseum	2002	Fun	Good example commune and NGOs
	Kratie	Dar	2002	CPP	NVDP project of MRD

It is far easier to use the first group of criteria, as it is more objective than the second group. It may be argued that use of such technical criteria may not allow many of the interesting aspects of the reform to surface. The research team eventually decided first to determine what characterises the bigger whole, before deciding on the microcosm. The team decided to use the typical selection criteria for the decentralisation design study. With more familiarisation with the field, criteria for developing strategically situated cases will be developed to allow for such selection criteria for studies planned for 2004-2006—the fiscal decentralisation study and the local government performance and responsiveness study (see Rusten *et al.* 2003).

Map of the District Including Names of the Communes Where Fieldwork Took Place



The final selection was based on a mix between the two categories. The initial selection, that of which provinces to work in, was based on the typical selection criteria. The second step, the selection of communes, was based on strategically situated criteria. These were political set-up, indications of intra-communal collaboration and some degree of social capital, the presence of local donor activities and previous experience by CDRI in working in the area. Fifteen communes in 15 different districts in eight provinces were selected.

2.4 Selection of Respondents and Studying Power Relations

In order to study power relations in the context of central-local relations, the study made use of a combination of a vertical and a horizontal approach. Here, relevant actors in the hierarchical line as well as horizontally in the commune in selected provinces were interviewed. The interviewees were:

- Provincial governors,
- Members of the ExCom such as provincial facilitators and technical support staff,
- Provincial treasury staff,
- District governors,
- District facilitators,
- Commune councillors,
- Female councillors,
- Commune clerks,
- NGOs and civil society actors,
- Village development committee members,
- Village chiefs,
- Old respected people in the villages,
- Vendors at markets.

All together, the PORDEC team carried out 165 interviews with 294 respondents. In addition, selected interviews were carried out with central government officials, donors and NGOs.

This approach has enabled the research team to get some understanding of power relations among institutions and among individuals, which tend to be the individual effects of structural power relations.

The team aimed at methodological triangulation, mainly of qualitative research. Some quantitative data were collected, particularly for the market surveys. The pilot study indicated that semi-structured interviews with one or a very small number of respondents were the most fruitful. Interviews with focus groups were useful only in non-hierarchical settings, such as with a group of vendors. In focus group interviews with a commune council or a group of employees, the highest ranking person would always take charge and respond to all questions. Questions could, of course, be directed at others present, but this would render the respondent uncomfortable and hamper the likelihood of an open response. In-depth interviews with one interviewee were useful and constructive in situations where we realised that sensitive points might not be conveyed in the larger group. The clerks, the female councillors and some other councillors were interviewed individually. Feedback was given as a summary of the discussions, as well as in discussions with governors and PLG staff. More comprehensive and structured feedback would, however, have been more constructive. To compensate for this, and to ensure a wider spread of information to the local level, feedback seminars based on the

written report took place at the district with representatives of all stakeholders. Feedback seminars and meetings to discuss draft versions have been organised with the Decentralisation Advisory Committee (DAC).[29]

The fieldwork/interviews can be classified into two phases. The first phase was the piloting, which involved development and testing of an interview guide. During this phase, the team worked together to build a common understanding of what were the crucial issues and hence discussed the approach by which they might be best addressed. During the second phase, the team used several methodological approaches: (i) semi-structured interviews were conducted with key persons at all levels of government and with local people; (ii) structured questionnaires were used to gather selective information, such as on education, training and skills development; (iii) informal discussions were held with many of the stakeholders as a supplement to the semi-structured interviews; (iv) observation technique was used for some meetings (i.e. DIW and the weekly district meetings between the commune chiefs and the district governor) in order to observe participation and power relations; and (v) time management by diary writing by civil servants was utilised as a way of identifying client orientation.

The pilot also showed that time was a crucial factor to consider when discussing relatively sensitive issues. The team had fewer problems getting valuable information once quite some time was spent explaining the aspirations of the study, which institution the researchers came from and for what purposes the results of the study would be used. The confidentiality aspect was also emphasised, as was the fact that this study was part of a broader approach that would cover other villages and provinces. The interviews were also quite time consuming, considering all the follow-up questions necessary to get deep into an issue. Misunderstandings due to translation were reduced to a minimum after the pilot testing. However, repetition of answers and continuous feedback were necessary, and these proved useful in detecting potential misunderstandings.

2.5 Challenges for Policy-Relevant Research and Government Ownership

One major challenge for policy-relevant research is that while there is a need for quick feedback on "here and now" issues, shorter term consultancies rather than research may be more appropriate to respond to many of these urgent needs. Research

[29] DAC is an advisory committee for CDRI/PORDEC. See www.cdri.forum.org.kh for more information on DAC.

is better placed to fill the gap of information and analysis needed to understand the broader challenges of such reforms, making it policy relevant also in a longer term perspective rather than risking becoming outdated three months after the printing of results.

Through the involvement of government staff in the fieldwork, PORDEC has to some extent managed to create a mutual environment for learning as well as government ownership of the results of the study. This will be conducive to the attempt to translate research findings into policy changes, as is already evident in CDRI's input to the Seila/PLG Mid-Term Review (MTR) (2003) and to the MoI's usage of CDRI research findings in presenting priorities for the Seila programme for 2004.[30]

[30] Presentation by Sak Setha, Seila Forum, 9 December 2003.

Chapter Three

Contextual Framework

Several processes need to be conceptualised in order to understand the challenges of the decentralisation, and in order to understand the decentralisation design itself. Some political cultural issues need to be understood in order to capture the challenges of the decentralisation. These are (i) the attempts among policy makers to ensure political consensus; (ii) the issue of political will and translation of this into workable institutions; (iii) the building of new structures combined with the difficulty of reforming old ones; (iv) development of reforms with limited overall guiding visions and strategies; and (v) learning and capacity building.

3.1 Strategy of Consensus and Local Power Brokering

A strategy of consensus underlies several political processes in Cambodia. Following the Paris Peace Accords in 1991, which attempted to bring to an end decades of civil war, many prioritised reunification of political factions for peace and stability. Cambodians were struggling to free themselves from the legacy of the Khmer Rouge regime (1975-1979), which combined local anarchy and crude dictatorship with horrific consequences, eliminating existing social, economic and political institutions, and leaving between one and two million people dead from forced starvation and executions. Before this time, Cambodia had been ruled in a dictatorial manner by various regimes.

Despite its complicated past, Cambodia has shown that it is able to arrive at consensus. This can be exemplified by the following.

When the time came for Cambodia to draft a new constitution, it was paramount to ensure stability in the country and eliminate the possibility of future dictatorship. A two-thirds absolute majority for government formation was written into the constitution. This was meant to ensure peaceful collaboration and consensus across party lines, and avoid factional fighting.

At the turn of the 20th century, during the negotiations for the LAMC (2001), another strategy for cross-party collaboration found its way into the law regulating local political institutions. This time, the law ensured that the three major political parties represented in communes would gain major positions,

notwithstanding the actual allocation of votes.[31] Both of these moves were strategies to promote and ensure consensus. One may argue that Cambodia faces an *emerging democratic political culture* materialised in the actual distributions of parliamentary and commune council seats and positions.

Parallel with this strategy of consensus is power brokering at central and local levels. The ideas rooted in a strategy of consensus, typically participation in decision making and local prioritisation, are currently implemented on the ground (in the village and the commune).[32] In Cambodia, where "You have to ask permission to make noodles," as one provincial governor put it, democratic procedures are foreign.[33] In a patrimonial culture, people are used to directives from the top. Today, with an emerging local democracy initiated *from the top* and *from without,* as is common in many new democracies (see Braathen 2002), how does power brokering take place? One can argue that local politics and power brokering take place within what is commonly termed *neopatrimonialism*.

This concept has been widely discussed in the analysis of emerging democracies in Africa (see Chabal and Daloz 1999). Neopatrimonial states are characterised firstly by *blurred lines between public and private spheres* in which modern and legal administrative systems are invaded and co-opted by local "big men," where there is a general disregard for rules and where politics becomes business because it is political resources that give access to economic resources. It is neopatrimonial because the emerging modern administrative systems become assimilated with traditional patrimonial logic. This leads to public disorder as evidenced by governmental and administrative inefficiency (Braathen 2002:25). Second, lack of rule of law leads to *political clientism,* in which political power resides with personal power. Local patrons use state resources not only for themselves but also for their supporters (their clients) for political legitimacy. In Cambodia, many provincial governors are of the opinion that local politicians are accountable to the party rather than to the government or to the public.[34] This is because of the current blurred lines between the private and public domain, and because power and resources reside with the main political parties, rather than with the

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[31] These parties are the Cambodian People's Party, FUNCINPEC, and the Sam Rainsy Party. The three major positions in the council are those of the commune chief and first and second deputy. The total vote allocation would determine the constitution of the rest of the council, but not the three top positions.

[32] Through the Seila programme.

[33] Interview with provincial governors in nine provinces, March-September 2003.

[34] *Ibid.*

government *per se.* In addition to this, these accountability lines are supported by the election law design. The third issue is *informal rent seeking rather than legitimate taxation.* Economic reproduction in Cambodia clearly takes place to a great extent through rent seeking, nurturing the patronage system (see examples in Prom and McKenney; Yasuo *et al.* 2003), while taxation opportunities are largely unexploited.[35] When taxation does take place, anecdotal information indicates it is chiefly implemented according to standards of nepotism and patronage or in non-transparent and unaccountable ways.[36]

Decentralisation in Cambodia takes place within the context of an emerging democratic political culture meeting a patrimonial culture. The neopatrimonial culture thus develops, fuelled by donor funding. Will, as widely discussed in Africa (see Braathen 2002) a *patrimonial democracy* develop in Cambodia? This would include elements of the patrimonial state, while at the same time there emerge elements of civil society organisation, an increasingly independent media and an increasingly informed electorate. Do the measures and strategies put in place to guide the transferring of power from the central to the local government have sufficient checks and balances to allow for local development and hinder elite capture (see Crook and Sverrisson 2001), while at the same time providing sufficient flexibility to allow local initiatives and interventions to guide local development? In Cambodia, as will be explained in further detail below, massive capacity-building efforts through various donor-supported programmes aim to ensure that some development takes place locally.[37] It is questionable, however, whether the strict, albeit perhaps necessary, control and directives give sufficient space for local initiatives and interventions.

3.2 Political Will

Political will can be treated as a process because it can be assessed only as a function of time and of negotiated results of laws, regulations and, not least, actual implementation. Smoke (2003:12) argues, "One of the most ubiquitous claims about decentralisation is that the lack of political will is the greatest impediment to progress and the principal requirement for success". He continues by saying that, although political will is important for decentralisation to succeed, it is not sufficient by itself. Several countries (e.g. Ethiopia, South Africa, Ghana and Uganda) could show clear political will and also

[35] Such as property taxation.

[36] Market survey in Kep, 27 August 2003, and Battambang province, 29 April 2003.

[37] The Seila/PLG 2001–2005 programme, and the Commune Council Development Programme (CCDP) supported by ADB/SIDA.

made progress, but none of these countries had attained the system they claimed to have attained.[38] Also, sector legislation reflected a re-centralisation rather than decentralisation. Smoke's explanation is that the political will to decentralise may often be rooted in an intention to reduce instability and regional ethnic challenges. Additionally, reform policies often greatly outpace the capacity to implement, while at the same time, central government agencies may lose power and influence more rapidly than they can accept, and commonly cling to the myth that there is no local capacity.[39]

Furthermore, due to international influence and guidance of the reforms, it may not always be opportune for central government agencies to flag their opinions. For instance, Cambodia faces the challenge of having a law that authorises local government taxation, but almost three years after the promulgation of the law, no progress has been made in issuing the regulations that stipulate what can be taxed. The delays are due to a lack of technical knowledge at the ministerial level to identify which taxes the communes can collect and the need for technical assistance; a lack of willingness of Ministry of Economy and Finance (MEF) officials to assist in local capacity building; a lack of local capacity; and generally, a meagre tax base, which leads to a scramble for resources at each level of government and very little interest in letting go of current tax bases.[40] While there might be a perception among many that there is resistance within the government to allowing local taxation, it is clear that recent initiatives to establish the local revenue base for the communes have been welcomed by the MEF and the MoI. Additionally to the causes identified above, the delays are also due to slow progress at UNDP, which was to provide the technical assistance to government in this field. From early 2004, UNDP and UNCDF are now making progress on this assistance in collaboration with the MEF and MoI.

Taxation is not simply an issue of political will or passive resistance. It is also one of local political culture, i.e. the culture that would make taxpayers owners of not only the development process but also the development project. If taxation is limited to the few who can afford it, for example businesspeople, rather than to everybody, it is likely that those few will gain control of the process and the project. In other words, taxation by the locally elected body has the potential to enhance elite capture.

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38 Referring to articles by Onyach-Olaa (2003), and Crook (2003).

39 E.g. research in Malawi (Rugumayo *et al.* 2000) indicated that the educational level of ministerial officials was at the same level as those in "lower" levels of government. Hence, differences in capacity applied only to differences in exposure to decision-making processes rather than actual differences in training.

40 Interview with Department of Local Finance, MEF, 8 September 2003.

This would be a relevant concern as long as the communes collect "taxes" in the form of local contributions to specific projects (which is what happens today), and the concern would be more prominent in urban areas (*sangkat*s) with bigger businesses than in the communes. The moment taxation by the commune is extended beyond that of local contribution to specific projects and ploughed into service delivery more generally, this concern would no longer be relevant.

3.3 Building the New while Keeping the Old: Institutional Design at the Central and Sub-National Levels of Government

The third consideration is the institutional design and the division of responsibility among agencies. As Smoke (2003:13) notes: "Rarely is any single agency clearly in overall charge and even if one institution nominally has a coordinating role, it often has its own agenda or lacks enforcement authority." He continues by saying that key dimensions of decentralisation that must function in concert are often at the mercy of several agencies that may have different visions and ideas of decentralisation, and which may also compete for the same resources. This often leads to a lack of coordination among the actors involved and a consequent failure to link crucial components of decentralisation among central, intergovernmental and local levels.

In Cambodia, this is compounded by the fact that decentralisation and deconcentration have been treated as two separate rather than interlinked reforms handled by two separate inter-ministerial committees, the NCSC and the CAR, respectively. Lack of coordination is even further fuelled by the fact that these two reforms largely have access to different sources of funding and to donors who are heavily focused on one of them rather than both.

This potential confusion is exaggerated by the fact that Cambodia tends to build new structures without simultaneously reforming the old ones. Lack of reform of old structures can be exemplified by the lack of reform of the district along with the current transfer of power to the commune. It can also be exemplified by the continuous existence of political party funding to commune or district projects along with the strategy of building autonomous communes, which are supposed to make their own priorities through participatory planning. One major reason for the difficulty of letting go or reforming institutions is the culture of power sharing. Firing people or downsizing institutions would make people lose face and lead to the creation of enemies. A more common "solution" is therefore either to put people on hold or to push people up in the system to positions without influence.

Another issue is that formation of new institutions is sometimes incorrectly viewed as duplicating the roles of old ones. While the provincial PRDC and the ExCom structures supported by the Seila programme (see section 5.4.2) are seen by many observers as new systems, it should be emphasised that there was no horizontal dialogue between sectors before the PRDC ExCom was established, and there was furthermore no institution that could assist the governors to fulfil their support function vis-à-vis the commune. The PRDC ExCom has allowed this coordination and support function to take place. The challenge remains, however, to have more sectors buying into it in order to ensure a further collaboration between the line departments and a further integration of the ExCom into the provincial structures.

3.4 Vision and Strategy

The fourth issue concerns the vision and strategy for the reform. It has been argued (Smoke 2003) that some clear strategic means are needed to guide the decentralisation. One might argue that, for Cambodia, one of these means is a vision and a general reform framework. South Africa is an excellent example of the development of a strategic framework, where a lengthy procedure resulted in academic and political discussions through a green paper, which allowed inter-ministerial and transparent negotiations over content. The final result of this negotiation, the White Paper on Local Government (see Ministry of Provincial Affairs 1999), gives a clear framework and the vision guiding the decentralisation. It has proved a very useful and visionary document that guides many current initiatives. Moreover, it was developed *within* the country by academics, advisers and policy makers working in tandem.

In Cambodia, there is as yet no strategic plan or overall official guiding vision of implementation. Inter-ministerial negotiations over the content of the reform take place during the development of the legal framework. This is the case both with the demarcation of the commune boundaries and with local taxation. This renders the strategy unclear and vulnerable to hijacking by specific sectors or interests. This is because the potential consequences of various details of the laws may not be very clear to those who negotiate them. It is easier to negotiate the content of a law if one knows the vision it is meant to support. Furthermore, it puts the process more in the hands of bureaucrats than policy makers. It is the policy makers, rather than the bureaucrats, who need to confirm what vision is to guide the decentralisation and deconcentration.

However, the fact that Cambodia has been able to move ahead with decentralisation, despite the absence of a clear vision and a policy document guiding the work, reflects a unique feature of the Cambodian political culture, namely the ability

to move ahead with reforms despite a lack of clarity of direction. Perhaps this is the very same feature that allows space for the creation of new functions within institutions without downsizing or reorganisation of other institutions that are affected. For example, a change of the roles and responsibilities for the districts would therefore not be negotiated as a direct effect of the new roles placed with the communes. The role of the district would be negotiated over time because of the fact that its role will have changed, rather than because of any explicit statement that the role of the district *needs* to change to adjust to the current reform.

This aspect of the political culture creates severe difficulties for policy formation in Cambodia, and represent, in many respects, a hindrance and often a cost burden to meaningful development.

One of the important aims of decentralisation is to build the credibility and trust of local governments with their constituents (Rusten and Ojendal 2003). Smoke (2003:14) argues that a crucial element in this is to ensure a gradual transfer of responsibility so as not to stretch the often meagre capacity of the local government too thin. For the building of trust between the local government and its constituents, it is vital that the local government is seen to support the community constructively. Overwhelming responsibilities followed by few resources tend to leave the local government with meagre opportunities to satisfy even the most modest expectations. Higher levels of government may often blame lack of implementation and trust on meagre local capacity. Equally common, however, is that structural design leaves local governments with responsibility they have no means of handling, partly due to a lack of resources, but partly, too, to a lack of space for manoeuvre.

It is a current challenge for the government that more and more stakeholders, in the wake of the severe shortfall of funds for the communes in 2003, will start asking whether the government really has a vision for decentralisation, and whether it is really focused on the building of trust between the local government and the electorate.[41] Many stakeholders may perceive the low levels of disbursement of funds as an indicator that the government does not have sufficient will to carry this through. It is extremely important that the government address this to avoid, as pointed out by the Seila/PLG MTR (2003), an erosion of years of progressive work and trust building among people and local governments.

[41] Only 50 percent of the administrative funds and 40 percent of the development funds had been released to the provincial treasury for the communes by the end of October 2003 (Seila/PLG MTR 2003:10).

3.5 Horizontal Learning and Peer Learning

The fifth issue is the scientific management principles that transcend the local planning and capacity building. This is rarely addressed in the context of decentralisation because it is often seen as an intra-institutional issue. However, such discussions provide a constructive context in which to understand the dichotomies of control and flexibility.

When post-apartheid South Africa started decentralising, the central knowledge of how to manage it was as weak as the local knowledge. Although the level of education among ministerial staff was quite high as compared with that of the large group of illiterate commune councillors, the transformation of governance opened up participation in decision making by previously disadvantaged groups. This introduced a completely new scene at all levels of government. Now, a largely white male bureaucracy was on the payroll of a black council. In acknowledging that many of South Africa's challenges had to be met locally, a white paper on local government introduced the concept of *horizontal learning.* Horizontal learning means that learning and sharing of experiences take place between institutions at the same level of government, or between people within these institutions. Another word for this type of collaboration is *peer learning.* This was seen as an effective way to build social capital.

In this report, the term *peer learning* will be used to cover learning that takes place between people from similar institutions. For example, peer learning takes place when councillors from one commune learn from councillors from other communes. It takes place when facilitation is conducted on the job by people who are perceived by the learners to be facilitating learning and not controlling or directing the learning and the outcome. This is important in Cambodia because local leaders tend to look upward for solutions. This habit is one of the challenges to combat in decentralisation.

Rather than relying entirely on capacity support from higher levels of government, South African councillors would share learning with colleagues from other areas who were facing largely similar issues. This was incredibly important in order to build confidence among councillors and to create space for them to find their own ways of addressing the many challenges faced by the council. Although horizontal learning is the chief concept for learning among South African local governments, learning also took place with assistance from the outside, through local government associations' capacity-building programmes, which were tailor made for the South African reality.

The challenges of capacity support in Cambodia have been enormous, and huge efforts have been put into informing councillors about roles and functions, as well as teaching them some of the basics of commune management. A question asked in Cambodia is how one can find a balance between too much and too little support (Rusten and Ojendal 2003). This is a relevant question because, although the current massive support may help ensure that development planning and implementation avoid many of the pitfalls (such as elite grabbing), this type of support nevertheless impedes local government flexibility. There is a danger that blueprint planning will take precedence over local space, knowledge and initiatives. There is a danger, too, that a strict management of planning and development will hinder the dynamics of change that would naturally unfold in various areas. However, the extreme poverty and meagre social capital available locally may defend the use of a structured approach due to the capacity better to manage and control the uncertainty about funds, roles, regulations and power that is common in Cambodia.

Capacity support has not yet taken place as horizontal or peer learning to any large extent. However, there have been examples in some provinces of commune council congresses in which all councils come together annually and share their achievements and challenges. Other small-scale examples are visits from one commune to another to share experiences. One of the challenges in the years to come will be to further enhance confidence and shared learning among local leaders. In its recent review of the decentralisation, the MoI *et al.*,(2003) emphasised the importance of learning and sharing of experience between commune councils in order to enhance good governance. Communes that take such initiatives will be selected as champions and good examples for other communes.

Chapter Four

The Policy and Regulatory Framework for the Decentralisation Reform

4.1 Introduction

This chapter addresses the first major aspect of decentralisation in Cambodia, *namely the strengths and weaknesses of the policy and regulatory framework, and the types of visions and strategies that are guiding the reform.* This, coupled with the analysis of local-local relations, enables the report to discuss matters of ownership of decentralisation and access to the bureaucracy and policy environment.

4.2 Description of the Policy and Regulatory Framework of the Decentralisation Reform

Oberndorf (2004) provides a systematic and comprehensive overview of the legal framework in support of decentralisation, as well as overlaps and gaps. While some summaries are provided here, the major focus of this chapter is on the policy environment.

Oberndorf states that the following rules and regulations are enacted in support of decentralisation:

- Law on the Administration and Management of the Commune. *This law regulates roles, duties and functions of the various stakeholders involved in decentralisation.*
- Law on the Election of Commune Councils. *This law spells out the rules and provisions for election of the commune/* sangkat *councils.*
- Royal Decree on the Creation of the NCSC. *This outlines the roles of the NCSC.*
- Sub-Decree on the Decentralisation of Powers, Roles and Duties to Commune Councils. *This explains in more detail some of the power and roles of the commune/*sangkat *council, as well as the clerk.*
- Sub-Decree on the Commune Financial Management System. *This provides details of commune financial management.*

- Prakas on the Roles, Duties and Structures of the Department of Local Administration. *This spells out the delegation of communication, monitoring and evaluation roles by NCSC and MoI to DOLA.*
- Prakas on the Delegation of Powers to Provincial Governors in Support of Commune Councils. *This is a temporary* prakas *to function while awaiting the Organic Law on Deconcentration. It delegates communication, monitoring and evaluation functions from NCSC, MoI and DOLA to the provinces.*
- Prakas on the Roles, Responsibilities and Organisational Structure of the PRDC of the Seila Programme. *This is also a temporary* prakas *until the organic law is in place.*
- Prakas on Roles, Duties and Rights of Commune Clerks. *This outlines the functions of the clerks.*
- Inter-ministerial Prakas on Commune Development Planning. *This outlines the structure and procedure for the commune planning.*

4.3 Decentralisation and the Millennium Development Goals

Cambodia has, as of August 2003, presented its localised Millennium Development Goals (MDG).[42] The Cambodian Millennium Development Goals (CMDG) are:

- *CMDG1: Eradiate extreme poverty and hunger;*
- *CMDG2: Achieve universal primary education;*
- *CMDG3: Promote gender equality and empower women;*
- *CMDG4: Reduce child mortality;*
- *CMDG5: Improve maternal health;*
- *CMDG6: Combat HIV/AIDS, malaria and other diseases;*
- *CMDG7: Ensure environmental sustainability;*
- *CMDG8: Forge a global partnership for development.*

A ninth CMDG has been suggested by the government on demining. No agreement has yet been reached on this. The document also points out the importance of monitoring the progress of the CMDG.

The achievement of the CMDG targets is likely to be spurred by increased participation of a wide range of stakeholders in

[42] MDGs are an ambitious agenda for reducing poverty and improving lives that world leaders agreed on at the Millennium Summit in September 2000.

development and greater popular involvement in decision making. Generally, effective decentralisation, which brings service providers closer to users, has the potential to increase the transparency, efficiency and quality of services provided, the main conditions leading to the achievement of the CMDGs.

Local government is expected to play two major roles in reaching the CMDGs: (i) dissemination of information; and (ii) assisting in monitoring the progress of the CMDGs. Firstly, in order to increase participation from local people and based on its present capacity, local government is expected to play an active role in disseminating information and educating people so as to improve their awareness of certain development issues. This is important for achieving not only the overall CMDG but also each individual goal. For education, health, environment and gender issues, local government will act as a player in a partnership. Its main role is expected to be disseminating information to people about: the importance of sending their children to school and keeping them in school; giving girls the same opportunities and access to education as boys; how to improve maternal heath and reduce the child mortality rate; how to protect themselves from deadly diseases such as HIV/ AIDS and malaria; how to provide care for persons suffering from such diseases; how to abolish violence against women; and their land rights.

In addition to disseminating information and educating people, the local government, depending on its continually improving capacity, will continue to partner other stakeholders in planning, implementing and facilitating development activities such as school maintenance and education planning, and assisting in the implementation of the newly enacted land law.

Secondly, local government will also play an important role in monitoring the progress of achieving the CMDGs. Monitoring will be integrated within a national monitoring and impact assessment system coordinated by the government. Cambodia has chosen to set up a Poverty Management Information System (PMIS), which will take the form of a national data warehouse and be well integrated into existing national structures. Monitoring at the sub-national level of programmes and policies is also crucial. The challenge here might be that the communes are burdened with poverty monitoring for the CMDG, more than for their own planning purposes, without corresponding resources.

4.4 Strengths and Weaknesses of the Policy Environment

The strengths of the policy environment are that two important laws as well as a large number of regulations have been issued

since 2001. The government has taken a keen interest in making progress on the legal basis for the reform. According to Oberndorf (2004), the current body of rules and regulations can be implemented, and there are few stumbling blocks that are the result of unclear laws and regulations.

The critical issue at the moment, Oberndorf argues, is missing rules and regulations particularly related to decisions on whether the mandate of the NCSC (see below, sections 5.3.1 and 5.3.4) should be extended or whether its roles and duties should be transferred to permanent government institutions. Other missing legislation includes rules and regulations to regulate taxation by the commune. Research is now in progress to help identify such sources of revenue;[43] this is crucial background information to help inform the regulation of local taxation. Another issue is that the CSF is not regulated by law, and the sub-decree establishing it stipulates the domestic revenue share allocated to the CSF only until 2004.

Another important gap is the lack of an overall policy document for the decentralisation (this is discussed further below). There are, furthermore, some quite straightforward legal documents needed that can be enacted quite quickly and which would assist the commune councils in their current work. These are *prakas* on the selection/election of village chiefs, a sub-decree on administrative fees for commune councils carrying out delegated agency functions and guidelines on commune councils' hiring of staff.

4.5 Bureaucratising the Process? On the Absence of Policy Vision and Strategy for the Reform

While the aims of the decentralisation have been established, there is no overall policy vision for it, and the actual implementation of the reform is therefore characterised by an enormous effort to work out strategies to reach the aims. The implementation, however, is hampered by an absence of such overall policy vision, which in turn would allow the bureaucracy across the sectors to develop strategies and time lines for reaching the goals.

Some very crucial elements cannot be addressed before this has taken place. There is, for example, a need to discuss the future of the districts. Is it likely that they will survive the commune amalgamation and, if so, in what form (see further sub-chapter 6.4)? Is there the political will to transfer tax authority to the commune council? What role will be assigned to the governor? Is there the political will to amend the legal framework and fill the legal gaps in order to enhance the

[43] A collaborative effort between MEF, CDRI and UNCDF.

autonomy of the communes? Is there the political will to engage in a comprehensive debate to put the administrative reform (i.e. deconcentration) on track?

The absence of a politically approved vision to guide negotiations on decentralisation and deconcentration issues has some important implications. It creates space for decisions and regulations to be made outside an overall vision and strategy, potentially leading to fragmentation. It might also create space for the hijacking of certain processes and the securing of certain results without widely based consultation. In the absence of a thorough discussion about overall vision, decisions can be made in negotiations over the content of laws and sub-decrees, for example, without reference to other relevant issues. By way of illustration, there is a project to design OWSD in some urban districts, and, coupled with this, a discussion of district taxation to finance these activities. In this case, a programme for district activities is developed before we know what the future role of the districts might be.

Furthermore, what is the vision behind placing decentralisation and deconcentration under different inter-ministerial committees? On what argument is this based? In the presence of an overall policy identifying the institutions and their roles, the government and its partners would be better prepared to strengthen and develop systems and structures at the right level of government to take on these roles. This issue has hitherto received little attention in Cambodia. Rather, some observers look at the design of an overall vision as unnecessary theorising and argue that the focus should be on implementation. Although a stronger focus on implementation is certainly needed, one might argue that the chances of an improved implementation would be enhanced by a vision guiding it.

Finally, as long as a vision and strategy are lacking, decentralisation is bureaucratised. This means that it is the bureaucrats, rather than policy makers, who push it forward. In order to achieve a coherent reform, policy makers need to establish these visions.

Chapter Five

Central-Local Relations: A View of Roles, Responsibilities and Relations

5.1 Introduction

This chapter addresses the second major aspect of the design of decentralisation in Cambodia, namely central-local relations. It includes an examination of the strengths and weaknesses of the institutional structures in terms of delivering support to other levels. The chief questions to be addressed are: (i) *How is the decentralisation design itself intended to achieve the aims of decentralisation?* and (ii) *What are the strengths and weaknesses of the institutional structures in delivery of support?* These two issues will provide some insight into the major challenges faced by the different institutions in the implementation of decentralisation. In order to be able to answer these questions, the research has focused on the functions of institutions and the relations between them, and how these issues play themselves out in the implementation of the reform.

Such relations are increasingly seen as the essence of good governance. There is currently a move away from the mainstream view of static and formal institutions managed by functionalist rules. The emerging view of institutions is that they need to be rethought, as they are negotiated products of conflicts that have emerged through social interaction in practice; they are the results of struggles over meaning. This is very relevant when we look at the commune councils, the districts and the provinces, and the many unresolved questions of where power should be placed and whether the autonomous councils really are empowered.

This emerging view of governance has also begun influencing development project implementation in Cambodia. Best practice experiences of an International Labour Organisation (ILO) project, which aimed at improving working conditions and labour law compliance for garment factory workers, show that good governance is about relations between actors, rather than about rules and regulations.[44]

[44] Presentation by Lejo Sibbel, ILO, at an IDP workshop on successful good governance projects in Cambodia, 13 August 2003.

5.2 Overview of Actors and Their Responsibilities

First, there is a need to present an overview of the main actors, who they are accountable to, their main responsibilities, and chief challenges:

Type of actor	Accountable to	Responsibility	Challenges
CAR	The Council of Ministers	- In charge of the deconcentration reform - Formulate policy/guidelines/ capa-city-building plan - Coordinate and work with other stakeholders - Civil service reform	- Less organised and lack of collaboration with institutions working on the decentralisation reform - Capacity and resources available are insufficient
NCSC	The Council of Ministers	- In charge of the decentralisation reform - Formulate policy/guidelines/ capa-city-building plan - Coordinate and work with other stakeholders	- Has a responsibility for state reform. A challenge is to meet regularly and make increased use of its status. - Need for better coordination between subcommittees
Ministries	Government	- Involved in different committees and working groups relevant to their sectors for both decentralisation and deconcentration reforms - Each ministry is in charge of its ministerial reform policy	- Lack of commitment and collaboration among different ministries in the reform - Because deconcentration is lagging behind decentralisation, the communes have not been included in the line ministries' activities - Individual ministries have piloted their own reform agenda and policy, partly because there is no overall policy for sector reform
Provinces (*Salakhet*)[45]	MoI	- In charge of provincial affairs including development - Supervise and work with district offices to achieve national policies - Coordinate with the line departments - Facilitate and assist the CS on relevant issues and affairs - On behalf of the government, oversees the communes	- Lack of clear roles and responsibilities; delegation necessary for the province to fully work in the reform - Legacy of top-down decision making vis-à-vis the commune - Issues of collaboration and authority sharing with the line departments
Districts	Province	- In charge of district affairs including security, administration, and social affairs - Facilitate and assist the CS in capacity building and development activities	- District does not have decision-making authority - CS does not cooperate and sometimes bypasses the district including CS planning and development - No clear delegation and assignments to the district after the commune election

[45] The office of the governor.

Type of actor	Accountable to	Responsibility	Challenges
Commune Councils Village Chiefs	Constituencies MoI Communes	- In charge of planning, budgeting, development and implementation of commune plans - Responsible for administrative and social affairs of the commune - Collaborate and work with the different actors and stakeholders in ensuring national policy implementation	- Commune clerks employed by MoI, not the commune; therefore, s/he is not accountable to the elected local representatives - Weak capacity and lack of resources commensurate with CS responsibility- Election Law potentially makes councillors accountable to political parties, not the electorate - At present the CS takes up some of the monitoring and data collection tasks of the line departments without resources, delegation and decision-making authority
		- Collect village data and information on various issues to be used by the commune and higher levels- Disseminate information to the people - Act as gatekeepers for both in - and outsiders	- Village chiefs are not elected; therefore they are more accountable to the MoI - In some places village chiefs can be too powerful and authoritative in decision making, such as on land management issues

5.3 Engagement of Inter-Ministerial Committees and Ministries

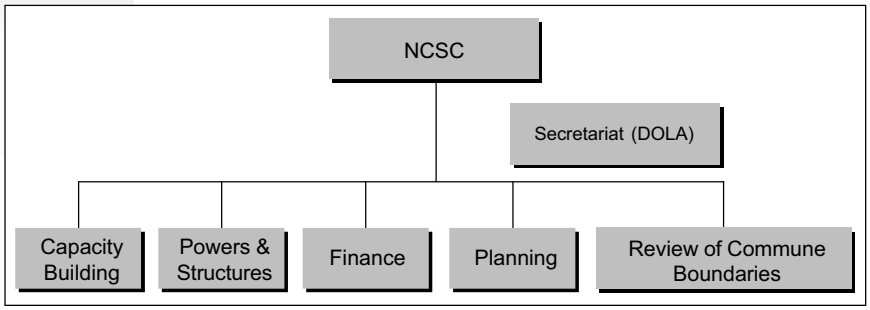
In most countries, deconcentration is treated as part of decentralisation, and therefore delegation of functions and powers would be handled as part of increasing the responsibilities of lower levels of government (such as the province and the district) and other spheres of government (such as the commune). In Cambodia, two inter-ministerial committees address decentralisation. The NCSC addresses all issues related to the communes (in the Cambodian usage of the terminology, these would be all the "decentralisation" issues). The CAR addresses all issues related to the powers and functions of the district and provinces (in the Cambodian usage of the terminology, these would be the "deconcentration" issues).

The Seila Task Force supports the government in implementing both reforms.

5.3.1 NCSC

Following the establishment in 2001 of the legal framework for decentralisation, the NCSC was established to ensure cross-ministerial support to the development of the communes. The NCSC drafts the legal framework and is mainly concerned with the creation of basic administrative institutions and capacity of the commune councils for the entire country (STF 2000:55).

Figure 5.1: NCSC



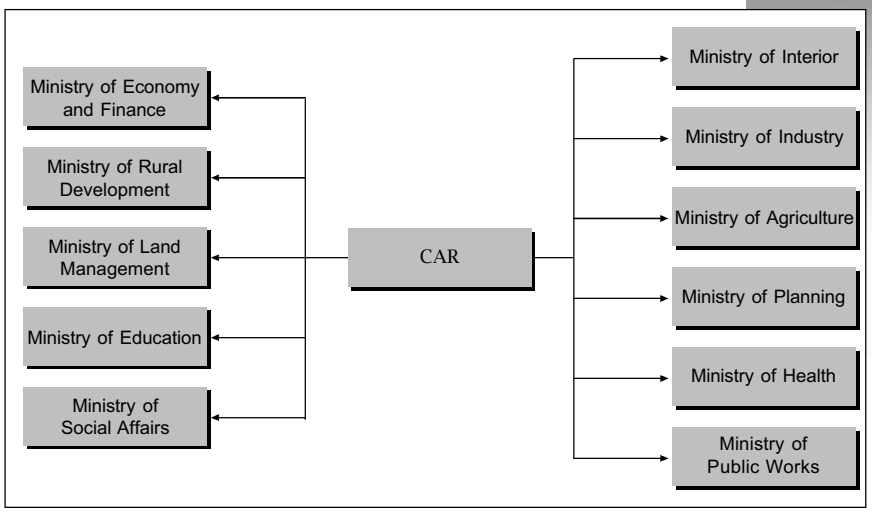
The figure displays the NCSC, its secretariat, which is the DOLA within the MoI, and its five subcommittees. The NCSC and its subcommittees are made up of representatives from the following ministries: Economics and Finance (MEF), Planning (MOP), Women's and Veterans' Affairs (MWVA), Land Management (MLM), Rural Development (MRD), the Council of Ministers (COM) and MoI. The MoI jointly chairs.[46] Although the NCSC creates the necessary base for coordination and collaboration between the ministries, the MoI is the driving force behind NCSC. The subcommittees can include other stakeholders in their meetings.

5.3.2 CAR

The CAR is responsible for the deconcentration. Its role is to decide on the regulations and functions to be devolved to sub-national governments. The civil service reform is also placed under the CAR.

[46] According to the royal decree that sets out the NCSC, Article 3, the members of the NCSC are as follows: i) Sar Keng, deputy PM (co-chair), ii) You Hock Kry, senior minister of Interior (vice-chair), iii) Sok An, deputy PM, minister in charge of CoM (vice-chair), iv) Keat Chhon, senior minister of MEF (member), v) Chhim Siek Len, senior minister of Rural Development (member), vi) Im Chhun Lim, minister of Land Management (member), vii) Chhay Than, minister of Planning (member), viii) Prum Sokha, secretary of state, Ministry of Interior (permanent member).

Figure 5.2: CAR



The CAR, with its secretariat general, has an inter-ministerial working group collaborating with working groups of 11 ministries regarding decentralisation and deconcentration issues. Those 11 ministries are Health, Education, Public Works, Social Affairs, Rural Development, Planning, Economy and Finance, Land Management, Industry, Interior, and Agriculture. It is expected that more ministries will join this working group as the decentralisation and deconcentration move forward.

The challenging issue for the CAR is to ensure that the line ministries decide on devolving of budgets and functions (Evans 2003). A main concern of the PLG (2003) is the continued lack of progress on deciding deconcentration policy. This was repeated in the Seila/PLG MTR (2003). Up to now, no overall decision has been made on the type of decentralisation that will be selected for the various sectors. For example, will there be an integrated decentralisation or a sector decentralisation? At this stage there has been no public debate around these issues. The CAR has not been able to move this forward. It is the MoI, not the CAR, which is drafting the Organic Law on Deconcentration, which is expected to be enacted sometime in 2005 (Evans 2003).

Perhaps one of the problems is that there has been an attempt to solve divisions of roles and functions nationally without experience of what might work. Evans (2003) has suggested options for taking deconcentration forward; one is that the MoI continue the work with the organic law, and parallel

with this, experimentation continue and lessons be documented. Services for sub-national levels could be defined, as could the role of the administration in this context and the structures it requires. Such experimental approaches seem to work well in Cambodia, as evidenced by Seila.

Since no overarching vision for deconcentration guides current activities, negotiations on the functions and responsibilities of the provincial governor and sub-national governments take place as part of law development. It has been argued elsewhere in this paper that a lack of an overall guiding vision may leave the deconcentration piecemeal and incremental. Furthermore, it might be difficult to summon further donor support for it without such an overall guiding vision.

A number of observers are doubtful of the future role of the CAR due to the slow progress of deconcentration (see Evans 2003). The CAR must (i) be strengthened, (ii) have its functions placed under a strong ministry, perhaps the MEF, or (iii) merge with the NCSC. Since it is unlikely in Cambodia that an institution will be dissolved, the first scenario is more likely.

5.3.3 Seila Task Force (STF)

The Seila programme is presented at length in a number of documents. Rudengren and Ojendal (2002) deal extensively with the historical background and the Seila principles. Programme issues are dealt with in STF (2000, 2003), and current challenges and advice can be found in PLG (2003), Seila/PLG MTR (2003) and Evans (2003). As a result, no detailed account of these matters will be given here.

The main aims of Seila have changed over the years. In 2000 the aims were fostering local development and poverty alleviation through a multi-sectoral approach, building capacity in provinces and communes and generating lessons for the development of national deconcentration and decentralisation policies (STF 2000:10).

The goals, development objective and expected outputs of the Seila programme today are (STF 2003b:1):

- *Goal*

  Contribute to poverty alleviation through good governance.

- *Development Objective*

  Institute decentralised and deconcentrated systems and strategies to manage sustainable local development.

- *Expected outputs*

1. Related institutions at all levels strengthened and the decentralised and deconcentrated systems effectively implemented;
2. Efficient and effective services and investments provided for local development; and
3. Contribution made to the improvement of policy and regulations for decentralisation and deconcentration and poverty alleviation.

It can be seen that with the development of decentralisation and the establishment of many of the structures and systems necessary to carry it out, the goals and expected outputs of the programme have become more ambitious.

The STFS manages Seila. It has UNOPS advisers and local staff and is based in the CDC. The STF involves the MAFF, MRD, CoM, MoI, MEF, MWVA, MoP, and the Ministry of Water Resource Management (MWRM) (STF 2000). With the exceptions of the MWRM, these are also members of the NCSC. Seila receives funding from the PLG, which consists of UNDP, DFID and SIDA. The PAT provides ongoing external advice to the STF and PLG.

The Seila programme was never meant to substitute for government institutions, but rather to strengthen them, and to provide the capacity support necessary to carry out the decentralised functions at different levels of government. There is no doubt that the STF is integrated into government structures. The current set-up, however, with salary supplements, nevertheless leads to a questioning of the sustainability of the Seila programme. It has been argued by the Seila/PLG MTR (2003) that there might not at the moment be any alternative to the salary supplement system. However, these issues may create discontent among provincial staff who contribute to the decentralisation but are not part of the salary supplement system (such as staff at the treasury who are not commune/*sangkat* accountants but still are involved).[47] Most stakeholders are aware of the need to streamline functions, but the question remains how to do it (Evans 2003). It is likely that this will come after a civil service reform, i.e. probably sometime beyond 2005, after the organic law is enacted.

5.3.4 Collaboration between NCSC, CAR and STF

A common feature of the collaboration between the CAR, NCSC and STF is that it is based on focal points, networking and membership in committees, but there are no formal reporting lines between them.

Collaboration between the CAR and STF is envisioned to take place: "STF experience in deconcentrated planning,

[47] See more on this in chapter 8.

financing, and management at the province and district levels will be fed into the CAR" (STF 2000). The CAR sits on the STF and is hence able to make a contribution. Also, the CAR has the opportunity to learn from Seila's experiences in its work.

There might be space for increased collaboration in the future between the CAR and STF. If the CAR and MoI agree to experiment on devolution of functions to sub-national governments, the STF might be well placed to assist. Furthermore, there might also be a need for more comprehensive and coordinated donor involvement in the deconcentration, and the STF would be the most relevant institution to arrange this.

Collaboration between the CAR and NCSC is through MoI as a focal point. Apart from this link, there is no coordination of activities between the two institutions. The reasons for this might be (i) that the reforms are regarded as separate, (ii) competition for funds and support from different donors, (iii) the large stake that decentralisation so far has taken in the government's agenda for addressing democracy (election of commune councillors) and reduction of poverty (CSF and development of the CDPs).

Collaboration between the STF and NCSC and its subcommittees and secretariat (DOLA) takes place through a number of focal points, with representatives on the NCSC and its subcommittees and in the MoI. Furthermore, there are individuals in the MEF, DOLA, MoI and MWVA who have experience with Seila, and these are therefore informal but important links between the two institutions.

5.3.5 Work in Progress on Decentralisation and Deconcentration at Ministerial Level

The MoI has taken the lead role in the decentralisation. Through the DOLA and its provincial offices for local administration (POLA), it aims to implement the government's decentralisation policy. The MoI collaborates closely with both the NCSC and CAR and is a meeting point for discussions. To be sure, advisers to the CAR and NCSC are placed at the MoI. The MoI has come up with a summary of different viewpoints of the future directions of deconcentration.[48] This is based on involving working groups in all ministries in the CAR.[49] The overall trend is that more human resource development tasks will be shifted to lower levels while the management will be placed mainly at

[48] Currently being translated into English.

[49] It is the perception of some of the working groups that the process remains slow due to poor communication between the working groups and the CAR and between the working groups and other technical committees within each ministry.

the provincial level. The MoI is also organising a series of discussions on the role of the governor and on relationships between the centre and provinces, as preliminary steps towards the drafting of an Organic Law on Provincial Management and Administration (Evans 2003:6).

Despite the MoI's strong position in the NCSC, it has been unable to come to agreement with the MEF on regulations for taxation. The support from the MEF to the OWSD pilot (supported by KAF), and the opportunities discussed within this programme to allow the districts to look for tax opportunities, may signal that the decisions on which governments can collect the different types of taxes remain time consuming and complicated.

The ministries outside the NCSC are more concerned with deconcentration and are naturally less engaged in the decentralisation debate.[50] The negotiation on the degree of devolution and decentralisation of roles and functions of the various sectors takes place through the current discussions and negotiations of the law on managing provinces and districts.

Several ministries have engaged in projects that delegate responsibilities in different ways. These range over experiments in policy and programming (including assignment of responsibilities, planning, supervision and financial management). As noted by Evans (2003:15-18), the MAFF allows provincial departments of agriculture to determine the use of funds in accordance with programme guidelines in a participatory manner.[51] Also, under the ADESS programme, responsibility for training and extension services to farmers has been transferred from the provincial department to the district agriculture office.

An interesting observation is that the same ministry is going through institutional changes that complicate deconcentration. The Forestry Administration (which is a department in the MAFF) controls four inspectorates, which in turn control *khans* and then "sections" all over the country.[52] No forestry task is any longer under the authority of provincial or district forestry departments or offices but under a separate line of authority. Although this is no contradiction with the LAMC, since forestry is not under the commune, this form of sector decentralisation to institutions other than provinces and districts is not helpful to the challenge of moving deconcentration forward.

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50 Ministries that are not part of the NCSC: Public Works, Health, Education and Tourism.

51 The MAFF has used the method developed under the PIF grant system, which extends from the provincial departments to the communes and below.

52 This is the former Department of Forestry

The Ministry of Health (MoH) has focused its deconcentration efforts on health centre management committees (HCMC) and feedback groups, and is, according to Turner (2002b:357), keen to deconcentrate its budget to budget management centres placed at each of the 74 "operational" districts. At the moment, the operational districts have been given the responsibility to plan according to allocated budgets (Evans 2003:15).

The greatest advances in deconcentration have, according to Turner (2002b:358) been made by the MoEYS. The Education Strategic Plan 2001-2005 and the Education Support Sector Programme for the same period emphasise partnership with stakeholders such as parents, committees and NGOs. They also include provisions for strengthening provincial education departments and delegation of responsibilities to districts, cluster schools, communes and education institutions. Another initiative is the EQIP, which allocates grants to provinces to facilitate improvements in schools.[53] Local cluster school committees (LCSC) identify priorities and apply for grants to pay for staff training, improvement to the school environment and additional teaching and learning materials. The project has been evaluated positively. The MoYES is reportedly aiming to stop the linking of teachers' salaries with civil service pay scales, which will result in a 40 percent increase in primary school teachers' salaries (Evans 2003:16).

5.4 Structures in Support of Decentralisation at Central, Provincial and Local Levels

5.4.1 At the Centre: The Inter-Ministerial Level

Because the decentralisation and deconcentration have been conceptualised as two separate rather than interlinked reforms, Cambodia has two inter-ministerial committees which bear separate responsibility for decentralisation and deconcentration. The NCSC drafts the legal framework and discusses strategic plans and progress related to decentralisation. The CAR is responsible for deconcentration and civil service reform, and thus for the drafting of the organic law. The STF provides capacity support to these institutions at various levels, as well as acting as a coordinator of donor funds for the reforms.

Few ministries have established internal structures for dealing specifically with local government. The most prominent is the MoI with its DOLA, followed by the MEF, which established the Department of Local Finance (DOLF) in early 2003. Other ministries have established working groups, which operate as task forces to address specific issues related to decentralisation/ deconcentration. One major sticking point at the NCSC is the

[53] Begun under a World Bank credit in 1999.

inability to address local finance and taxation, largely due to delays in the issuing of regulations to allow transfer of these powers to the communes. The delay is caused by a lack of agreement among key actors on what will be taxable and by whom. Donors have not played a strong role in moving this issue forward. UNDP has been tasked with this. The lack of progress in the CAR in dealing with deconcentration further complicates several decentralisation activities, especially those related to the roles and functions of the provincial governor, and the role of the district, in support of the communes.

The most important discussion with reference to these inter-ministerial committees is whether it is imperative that each of them deal with different aspects, or whether their activities might be streamlined so that one inter-ministerial committee handles both the legal and the practical aspects of the decentralisation and the deconcentration. This might, for example, facilitate knowledge about participatory procedures with stakeholders in the development of the legal framework, and strategies for implementation, to be shared by the STF with the NCSC and CAR. It seems likely that the most relevant option is to streamline the NCSC and CAR activities on decentralisation and deconcentration into *one* institution and have SFT continue its supporting role. For instance, provincial development planning may be experimented with to allow the province to respond better to the CDP than happens at the moment through the DIW (see further discussion in sub chapter 5.5).

5.4.2 At the Province: PRDC, ExCom, the Salakhet and the Line Departments

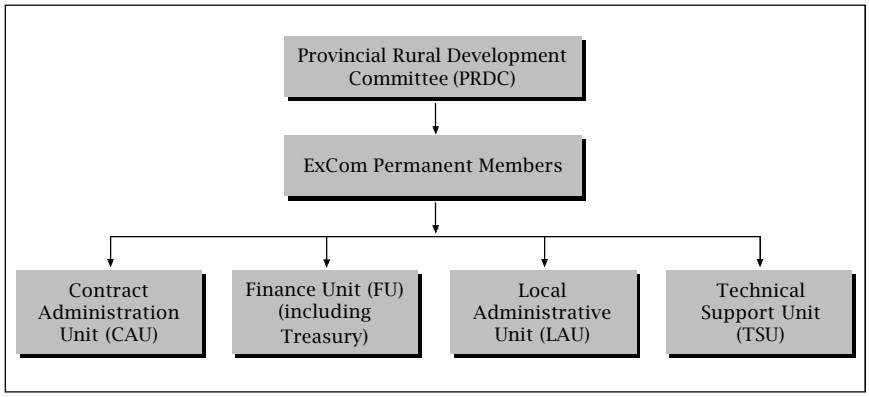
The PRDC and its ExCom were established through the Seila programme as a way of giving the provincial governor the opportunity to provide capacity support to the communes. The PRDC approves of and decides on redistribution of the funds it receives from the STF. By *prakas* from the STF, the ExCom is engaged by the PRDC to function as the provincial support structure to the communes and line departments. This structure gave the governor the opportunity, for the first time, to provide cross-sectoral capacity support to the communes. This might be stronger through the sectors that are part of the PRDC and ExCom. However, as the provincial investment fund (PIF) is available to all line departments in the province and often allocated to health and education, these line departments use the Seila procedure for planning, financing, reporting, procurement, monitoring and evaluation and service delivery. With the enactment of an organic law, it is likely that more sectors will be included in this structure. It would probably be necessary, however, that the ExCom be placed in the *salakhet* to give the governor more cross-sectoral authority. Cross-sectoral authority for the governor needs to come through the

organic law and deconcentrated functions from line ministries. The ExCom units will provide management, contracting and financing options embedded in governance principles for sectoral investments.

The POLA is located in the ExCom's LAU (see figure 5.3). The POLA is the provincial office of the DOLA, with the responsibility to supervise the communes in their decentralisation. This responsibility has been delegated from the governor. In the provinces, the POLA has only two staff. Hence, the ExCom provides the POLA with essential human resources.[54]

The ExCom has 10 permanent members and four units.[55] The roles and responsibilities of the ExCom were discussed and agreed at the Seila national workshop forum in 2002, and again in 2003. This participation in discussing roles and responsibilities has been positive for feelings of ownership of the decentralisation, which are high at all levels.

Figure 5.3: Structural Overview of the PRDC and ExCom



[54] Interview with the POLA, Kompong Speu province, 30 September 2003, in collaboration with Dr. Joakim Ojendal.

[55] The provincial governor is the chair; the deputy governor is the deputy chair; the director of the provincial Rural Development Department is the second deputy. Other permanent members of the ExCom are the directors of the departments of Planning, Water Resources, Women's and Veterans' Affairs, Agriculture, Economics and Finance, and Treasury, and the POLA chief.

The CAU is in charge of contract management and administration between line departments and the PRDC and M&E and information of all line departments on contracts with Seila. The Department of Planning heads the CAU. The FU is in charge of all provincial funds to the departments and of the CSF,[56] and is headed by the provincial Department of Economy and Finance. The LAU is in charge of all training and facilitation of the commune through its provincial and district facilitators,[57] who are the support staff for commune planning, and is headed by the POLA. Finally, the TSU is in charge of all technical support staff (TSS) dealing with feasibility studies and quality control of commune projects, and bidding and contracting between the commune and the contractor on CSF projects[58]. The provincial Department for Rural Development (PDRD) heads the TSU. In effect, some provincial departments are involved in this structure, while others, especially the social sectors, have not yet considered what functions to devolve or deconcentrate. There is a need for a more consolidated approach across the ministries on what type of functions can be deconcentrated and what type of functions can be devolved.

The number of staff within these units varies between provinces, depending on an agreed formula and workloads, but it appears that the old Seila provinces have considerably more staff on salary supplements than do the newer ones. The CAU and FU have been established principally to strengthen the provincial/municipal support functions for the communes, while the LAU and the TSU have been established to support the commune/*sangkat* councils. The Seila set-up has built on lessons learned from elsewhere and recognised the need to strengthen capacity at higher levels to support lower levels.

This structure in the provinces has enhanced two reporting lines. All Seila staff report on Seila issues via the Seila structure, and on governance issues through the provincial governor.[59] Two reporting lines also exist for general activities in the province, with managerial reporting to the provincial governor and technical reporting through the line departments to the line ministry.

One of the most challenging activities is the technical support to the communes for the local development projects

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[56] The Finance Unit as part of the Department of Finance usually has five staff, while the Treasury, dealing with the CSF, usually has seven.

[57] Usually between 50 and 60 staff. The number of PFTs varies between one per district and two for the entire province. The DFTs would be responsible for between two or three communes and the entire district.

[58] The TSU has one staff member per district.

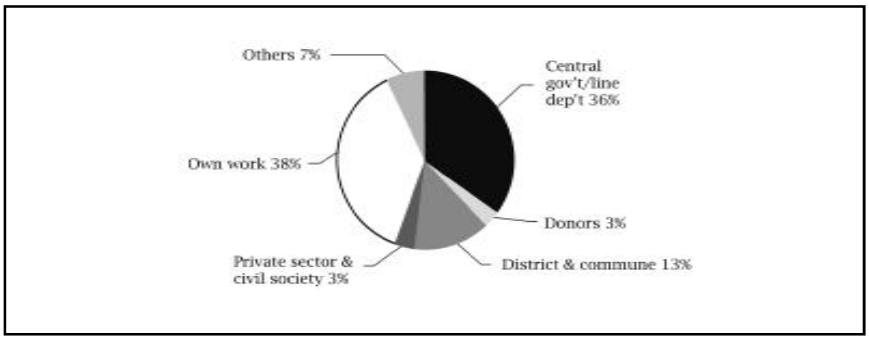
[59] Interview with TSS staff, Siem Reap, 16 June 2003.

funded by the CSF. Often, the TSS hires staff from the provincial technical departments for assistance. A relevant question might be whether there is time to transfer some of these functions from the ExCom to be integrated into the regular work of the provincial government. This, however, rests on two major issues. One is the organic law regulating the deconcentration and the roles and functions of the province and district. At this stage, no participatory exercise has secured input from the district and the provincial governors, despite their demands, on many occasions, for this to take place urgently[60]. This engagement by the governors indicates the dynamics of change. Given a conducive environment, the governors might be likely to engage in the debate on the future role of the province. This is one of the encouraging results of Seila's support of democracy building. Another issue relating to transfer of functions to line departments is the willingness and ability to become more client oriented and less oriented towards servicing donors and the bureaucracy.

Client Orientation of the Province

The following time management pie chart shows downward client orientation versus upward orientation in four line departments in one selected old Seila province.

Figure 5.4: Client Orientation of the Province



This model is based on diaries filled in by 17 respondents in one old Seila province. The respondents were selected from four departments, and five staff from different levels completed the diaries. It is a first attempt to record the way the provincial staff use their time in an attempt to identify their client orientation. A cautionary note should be made of the small

[60] Governors' workshop in Phnom Penh, May 2003; Seila national workshop in Siem Reap, September 2003; interview with provincial and district governors in Pursat, Kompong Chhnang, Siem Reap, Battambang, Kompong Speu, Kampot, Kep, Kratie and Pailin, March–September 2003.

sample, which means that the results may not be representative. Another caution is that the information is based on a randomly selected month, disregarding, for example, peak times such as early project cycle periods.

On average, provincial staff work 121 hours a month.[61] As figure 5.4 shows, provincial staff use 38 percent of their time on workshops and training organised by central government agencies, and on reporting to their respective line ministries. Three percent of their time is used for meetings with consultants and donors, and 14 percent is used dealing with the districts and the communes, chiefly related to visits to the district and the commune, and participation at the DIW.[62] Four percent is spent with civil society organisations and the private sector. This is mostly related to meetings with NGOs that wish to establish village development committees (VDCs). Included in the 4 percent are participation in campaigns and public rallies related to issues such as AIDS and paperwork related to NGO activities. Forty-one percent of their time is spent on work related to their own department, such as receiving and writing letters, writing reports to the heads of departments, sharing line department information internally and with colleagues at the district office. Seven percent e was recorded as spent for private business, such as working in the rice field, family affairs and sick leave.

It seems that meetings between the province and the district are geared towards sharing information from the ministry, and giving advice and orders rather than discussing critical issues. Most notable is that relatively little attention is given to the private sector and civil society. In terms of time management, 39 percent of the time is upward client orientation and 16 percent of the time is downward client orientation.[63]

5.4.3 At the District: Facilitation Delivery

For the purpose of capacity building by the district in support of the communes, district facilitator teams accountable to the ExCom and not to the district governor have been established. No other support function for the commune has been defined for the district. The district plays a facilitating role, which involves inviting the commune chiefs for weekly meetings and

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61 The lowest recorded working hours were 84, the highest 168.

62 During the month that the diary recordings took place, the DIW was being undertaken. Hence, in any other month the client orientation towards the commune is likely to be lower than 14 percent.

63 Downward client orientation relates to the communes and the districts, and upward client orientation relates to the central government and donors.

briefings, as well as hosting the DIW.[64] It cannot be argued, however, that any of these roles are sufficiently prominent to justify the existence of the entire secretariat of the district governor and 14 technical offices.[65] The number of staff varies, with approximately 60 staff who report directly to their respective provincial line departments.[66] According to some district governors, the technical offices of the district play an important support role in commune planning.[67] It is clear, however, that apart from the district facilitation teams (DFT), no district staff participate in this. The paradox is that while district staff with technical capacity are abundant and have little to do, the communes lack technical capacity to fulfil their functions. Some agency functions are perceived to create a heavy workload for the commune, especially election registration. Another agency function that the communes perceive as difficult is civil registration. In practice, it cannot be characterised as a heavy workload because so few have used the opportunity to register.[68] In terms of agency functions, there is also a tendency for technical line departments to use the commune councils to collect data rather than collecting it themselves.

With the anticipated amalgamation of the communes before the next mandate (i.e. in 2007), another relevant question is what effect this will have on the district. Amalgamation will create space for more people to be hired by the commune. One constructive way of doing this would be to start deploying district staff to the commune. With civil service reform and increased capacity and experience in the commune, these deployed staff could in the future be hired by the communes.

Through decentralisation, the role of the district within the targeted areas has changed from planning and implementation

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64 At these meetings, the district governors ask the commune chiefs about development progress in the commune and inform them about what security measures they must put in place. (Meeting observation in a district in Siem Reap province, June 2003.)

65 The district governor's office has on the average 17 staff. The departmental offices at the district level are the departments of Health, Education, Customs, Police, Military, Culture, Environment, Transport, Public Works, Women's and Veterans' Affairs, Rural Development, Social Affairs, Land and Urbanisation, Industry, Agriculture, Finance and Religious Affairs.

66 Agriculture, Education and Public Works are the largest offices (often 10–15 employees), and the number of district staff often depends on how many teachers are attached to the district.

67 Interview with district governors in Battambang, 29 April 2003, and Kompong Speu, 22 April 2003.

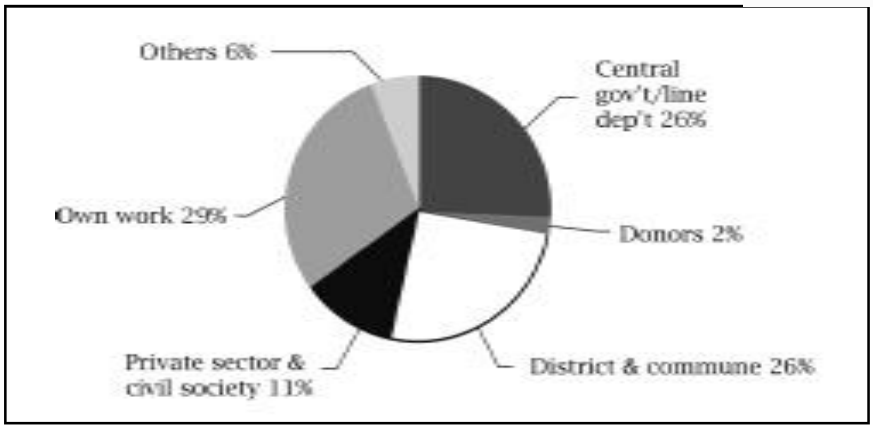
68 While the clerks emphasise that people are not used to registering and do not see the point of doing so, anecdotal information suggests that charges far in excess of the compulsory 400 riels keep people from using the civil registration process.

to facilitation, while the institutional structure of the district remains the same. However, in one district in an old Seila province, an institutional change is taking place. Here, the DFT *has acquired the responsibility for rural development*.[69] This does not seem to be a general trend, but indicates that the district views the DFT as a facilitator of rural development projects. Should this tendency spread, it is likely to result in the continued dominance of rural development projects rather than a greater variation in projects, such as health and education, i.e. those areas targeted by the CMDGs.

Client Orientation of the District

The following pie chart stresses client orientation versus that of orientation towards serving the bureaucracy and donors.

Figure 5.5: Client Orientation of the District



A cautionary note should be made similar to the one above (see 5.4.2.1). On average, district staff work 126 hours a month.[70] Fifteen respondents from district offices filled in the diaries. Here, 26 percent of the time is used on working with the provincial government, 26 percent in support of the commune, and 13 percent in discussions and meetings with civil society and the private sector, mainly related to meetings with taxi drivers, fishermen's associations and individual vendors to solve complaints. Thirty percent of the time was spent on own office work, and 6 percent on private businesses and family affairs. In effect, more than a quarter of the time of district officials is used in support of the commune, equal to the time spent serving the provincial line departments. In terms of time management, upward client orientation of the district appears to be 28 percent and downward client orientation 37 percent.

[69] Interview with district governor, Angkor Thom, 17 June 2003.
[70] The fewest hours recorded were 93 and the highest 150.

5.4.4 In the Commune and Village: Elected and Appointed Institutions

In both the commune and village, elected and appointed leaders co-exist in a single structure. The commune council is elected, while its only staff member, the clerk, is appointed by the MoI. In effect, therefore, the leaders are elected but staff appointments are made by another authority. In the village, however, the leader (the village chief), is appointed by the MoI while the VDC (which in many places functions as the *de facto* executive committee of the village chief), is elected. The position of village chief is an old institution, while the VDCs were established by different programmes to suit specific needs and are not part of the formal decentralisation structure. The village chief's position and line of reporting have not changed with decentralisation.

The village chief has an administrative function, while the VDC has a development function. The roles of the village chief are to:

- *Ensure safety and security;*
- *Be part of the development activities of the village;*
- *Monitor the activities of the VDC;*
- *Assist the VDC to gather people to collect commune data.*

The village chief reports to the commune council chief at weekly meetings. S/he receives a salary supplement of 22,000 riels per month, paid by the commune clerk. This salary comes out of MoI allocations to the provincial treasury and not from the CSF administrative fee. From 2004, however, the salary of the village chief will come from the CSF administrative fee. It is not clear, however, whether the administrative allocations to the CSF will expand in order to capture this new budget line. Furthermore, it is not clear whether this will give the council the opportunity to hire and fire the village chief or whether s/he will in fact be selected by the commune/*sangkat* council, as stipulated in the LAMC.[71]

VDCs usually consist of two or three members, depending on the size of the village. They are volunteers. It seems to be a largely unpopular position due to the amount of work involved and the lack of compensation.[72] It is also difficult to attract volunteers, because they need to be literate.

[71] See Article 30.

[72] Interviews with VDC members in old Seila communes (June 2003).

VDC members in Seila communes integrated in 2002 and later have been appointed by the village chief.[73] VDC members in older Seila communes are elected.[74] However, Seila no longer supports the VDCs.

The village chief and the VDC perform similar jobs, i.e. to be a liaison point for development in the village, to mobilise people for meetings, collect local contributions, attend the CDP and assist in security matters. In many areas, the village chief has become part of the VDC and in effect functions as its leader. This is not true everywhere, because different NGOs and organisations have different ways of organising the VDCs. A variety of VDC arrangements therefore exists across the country. In cases where the village chief acts as the leader of the VDC, liaison between the village and the commune takes place between the appointed village chief and the elected commune chief. In these cases, the VDC does not liaise with the commune chief directly. The commune council could, however, appoint a VDC as a subcommittee for liaison.

Across the provinces, the village chief, often advised by respected old people, is the one who makes decisions in the village, while the VDC members are left to execute most of the work, especially collection of local contributions, collection of data for the commune data bank[75] and monitoring of projects.[76] It appears that, rather than being a locally elected institution that takes an active part in designing the development of the commune, the VDC has taken over the roles that the village chief used to have in the implementation of projects. The VDC, therefore, can be viewed as the executive arm of the village

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[73] Interviews with VDC members in six old and nine new Seila communes, April–September 2003.

[74] The election takes places by the listing of 10 popular names, regardless of party affiliation, of whom two or three, depending on the size of the village, are elected. All villagers above the age of 18 are eligible to vote. Voting takes place in two ways. In some areas (Siem Reap province), the ballots are often small tin cans, one for each candidate, and voting is conducted by dropping one rice corn into the preferred candidate's tin can. In other places (Takeo), the DFT helps divide the villagers into groups. Each group writes the names of eligible candidates on a board, after which voting takes place.

[75] The commune data for the entire country are available at Seila. The intention is for the data to be used as a tool in commune development planning, but in practice a direct application of this data does not seem to occur.

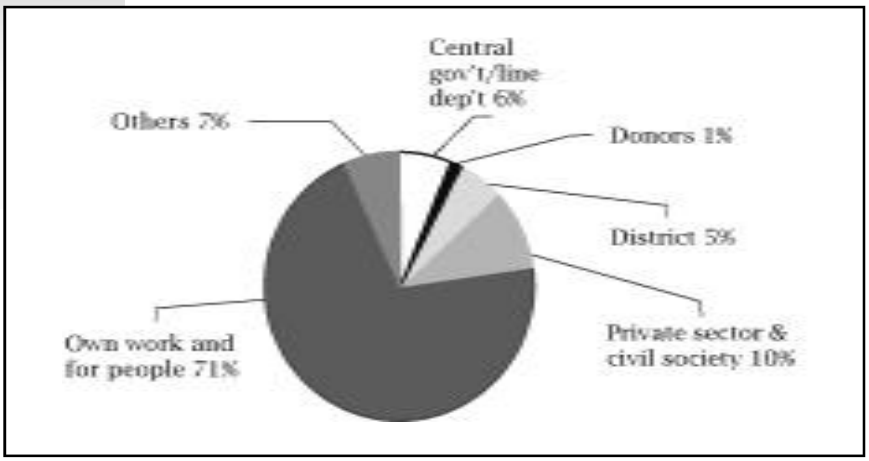
[76] Communes with GTZ support have acquired two monitoring committees, one is the *project owner committee* (based on the VDC structure) and the other is the *user committee* (based, for example, on people who live along a road or those who use a well).

chief. Therefore, one may argue that there is still some way to go for the notion of pluralist democracy to be captured at the village level.

5.4.4.1 Time Use and Client Orientation of the Commune

On average, commune councillors work 130 hours a month.[77] Eleven respondents in two communes filled in the diary.

Figure 5.6. Time Use and Client Orientation of the Commune



A cautionary note related to representativity should be made, similar to the one emphasised in sub-section 5.4.2.1 above.

On average, 6 percent of the time is used to service the province; this is chiefly to join provincial teams that come to visit the commune, collect information and data on behalf of the province and attend training provided by provincial line departments. One percent of the time is used to receive and accompany donors and consultants who come to look at projects. Five percent is used for the weekly visits to the district and to accompany the DFT. There are big variations here since the commune chiefs spend significantly more time with the district than the councillors, who spend little or no time with it. Ten percent of the time is spent with civil society/private sector, for example with women's associations, pagoda committees and the VDC. About a tenth of this time (one percent of the total) is spent with the private sector, which indicates little interaction between the commune councils and the private sector. A larger part of the time, 71 percent, is used for commune council work and visits to the villages. Seven

[77] Our records show a variation between 103 hours at the lowest and 144 hours at the maximum.

percent is used for private businesses and family affairs. In terms of time management, upward client orientation is 12 percent and downward client orientation is 81 percent.

5.4.5 Summary: Reforms Disjointed at the Central Level, Merged at the Provincial Level

Below is an attempt to visualise the complicated and disjointed structures of the decentralisation and deconcentration. As this figure indicates, decentralisation and deconcentration are separate at the inter-ministerial and central government level. They are *disjointed* because they address separate parts of a reform that cannot practicably be separated into different institutions. They are not parallel because they carry out different activities. The separation into different institutions may, however, lead to some degree of *overlap,* which is evident in the two parallel current efforts to identify new sources of tax for the communes (through the NCSC) and the district (through the CAR) within the same "market."[78]

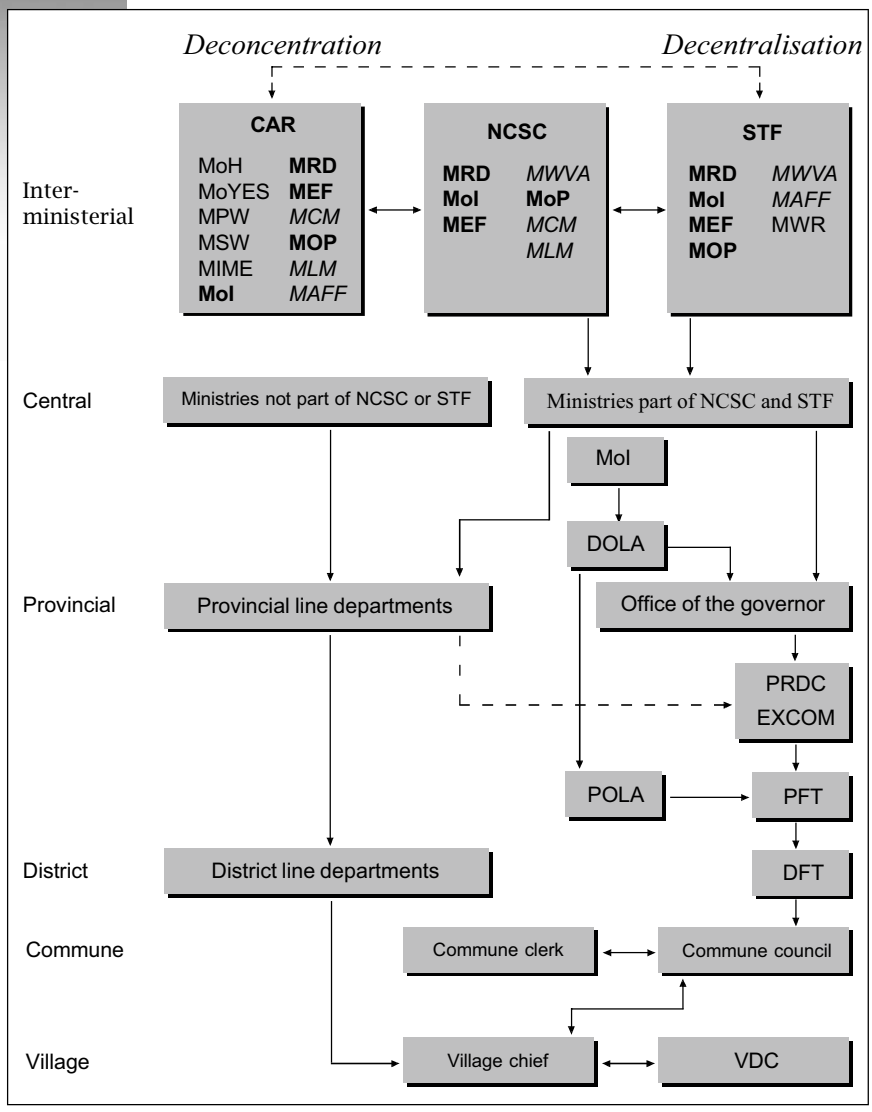
In the provinces, there is an attempt to tie the processes together. It has succeeded in merging the activities of several provincial departments into the functions of the PRDC and the ExCom, although many of the provincial line department functions are not yet included.

The MoI retains an influential position in this set-up, in which the governor (as an employee of the MoI) is in charge of PRDC ExCom. The line departments that have not bought into this structure risk being left out. Furthermore, they are most likely to miss out on resources from donors, which in the future are increasingly likely to go to the communes.

It is clear that the programmes linked to the CSF constitute the majority of activities in the commune and village. Before the introduction of the CSF, the activities of the sectors invariably stopped at the district or even above. The Department of Agriculture, most notably through the ADESS programme, is one of the departments that has been able to secure a local role for itself. A likely scenario for the district may be that after amalgamation of the communes, its role will have been severely reduced and many of the sector functions may in fact stop at the province. The danger for the line departments is that they, through lack of progress or willingness to reform, are being left behind in the reform and will have few if any functions in the commune. The challenge in the near future is therefore to make the different sectors more visible and functional in the commune through concrete investments.

[78] See section 1.4.5.

Figure 5.7: Disjointed at the Central Level, Towards Merging at the Provincial Level



Lines of command — *Collaboration with focal points*

Formal collaboration — *Lines of advice*

Bold *Ministry sits in all inter-ministerial committees*

Italics *Ministry sits in two of the three inter-ministerial committees*

Normal *Ministry sits in one inter-ministerial committee*

It could be argued that once the line departments have bought into decentralisation, it would be time to normalise the current temporary ExCom structures and fully integrate them into the regular structures. On the other hand, a more progressive approach might be to start this integration now and hope that, coupled with the development of the organic law and experimentation with deconcentrated activities, it might lead to a quicker and more effective integration.

5.5 Delivery of Support between Levels of Government: Commune Development Planning and the District Integration Workshop

One overall strategy emphasised by the government has guided the decentralisation: to build capacity and learn as it implements. This strategy is emphasised by the MOI and the CAR[79]. It is also obvious from the implementation of the CARERE/Seila programmes. Implementation is so far mainly in development of the CDP and funding of projects through the CSF.

Capacity support to the communes is supposed to come from two major sources. One is the established government structure through line departments, and the other is through the Seila/PLG structure. In addition, capacity support is delivered by various civil society organisations across the country, with various degrees of local government ownership and with great variation in coverage.

5.5.1 Support through Line Department Structures

Across the communes in this study, it is clear that visits to the commune by line departments are either non-existent or rare and irregular. When they do take place, it is with the aim of collecting data and information. Developmental efforts from line departments are chiefly limited to awareness programmes. The communes receive visits principally from the provincial departments of Agriculture, Health, Rural Development, Education, and Women's and Veterans' Affairs.[80]

5.5.2 Capacity Support through the Seila Programme

The main capacity support takes place through the Seila programme. The commune planning is an exercise with the overall aim of introducing the communes to participatory planning. This nationwide exercise starts with village prioritisation meetings called by the village chief in August

[79] Opening speech by Prum Sokha, MoI, Decentralisation Inception Seminar (27 March 2003). Opening speech by Sum Manit, CAR, Preparatory Workshop on OWSD (14 August 2003).

[80] Interview with commune councillors in all communes, March–September 2003.

each year. The meetings are managed and chaired by the commune chief, with attendance by the relevant DFT. While the provincial departments of agriculture and of rural development make use of the DFT, this is not the case with the departments of health, education, and women's and veterans' affairs.[81] In most communes visited, the councillors argued that these provincial departments usually would come for half-day meetings during which the villages identify projects. According to the Seila regulations, 70 percent of the village should be present for the village prioritisation to go forward. This is to ensure local participation and avoid capture of development by an elite few. The villagers are supposed to brainstorm over relevant projects and decide upon a priority list. These lists are then assembled into a priority list in the CDP. The CDP is sent via the DFT to POLA, which in turn distributes it to the line departments. The CDP is also sent to the governor, who in principle can accept or reject it.

The line departments are supposed to use the CDP to inform their own planning. The CDP is supposed to merge with the plans of the line departments, NGOs and donors every year at the DIW. Here, the communes present their priority lists, and the other stakeholders can agree with the communes on which projects to support. The communes can use the CSF for projects that are not supported by the DIW, which takes place between October and December every year.

The commune councillors have been given extensive training, and despite the fact that they all attend the training seminars, they emphasise that it is very difficult for them to remember all that they are taught. Part of the reason is that the content of the seminars is complicated, and partly they complain that there are no brochures with pictures that would help them understand and remember the issues addressed at the seminars.[82]

The research shows that while new Seila communes strictly follow the suggested prioritisation methods, a new dynamic seems to have evolved in the old Seila communes. Two alternative strategies have been observed. One is to list a number of projects recommended by the commune chief and the DFT, sometimes also the PFT, and then allow the village assembly, by majority vote, to prioritise projects.[83] Another strategy is that rather than the chief calling the entire village assembly, the prioritisation is conducted in a smaller group consisting of

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81 Interview with DFTs in Siem Reap, 18 June 2003.

82 Interviews with commune clerks and commune councillors in 14 communes, and with DFTs in seven provinces, April–September 2003, and with Leng Vy, director of DOLA, 13 August 2003.

83 Interview with villagers in an old Seila commune in Pursat Province, May 2003.

the commune council and the VDCs only.[84] Hence, specific internal dynamics seem to develop. Is this a sign of exclusion of local participation or of creativity in changing institutions? Should the autonomous local government be able to determine just how participatory these processes should be, or should they be required to follow prescribed systemic management procedures that are similar across time and space? It is worth considering that the survival of institutions depends on their ability to adapt to changing environments (Fairhead and Leach 1996; Stacey 2003).

5.5.3 Participation in the CDP: Is Elite Grabbing an Issue?

Common to all but two communes in Kompong Speu and Siem Reap is a perception of absence of the rich and participation by the poor in the village prioritisation. However, according to Biddulph (2003), 32 percent of the very poorest participate, while the average is 49 percent for the average villager. As the majority of the people are poor, it is a question whether the distinction between the poorest (widows and disabled) and the poor is a very relevant one. Perhaps the most important consideration should be avoidance of elite capture. Generally, the rich are described as owners of larger market stalls, while widows are regarded as the poorest. The general perception of all commune councillors, as well as the DFTs, is that the projects are generally considered too small to make any impact on the situation of the rich, while the poor believe the projects might benefit them and therefore participate in the prioritisation. This is quite surprising, given that most projects are road development and waterway projects, which are likely to benefit the "rich" as well as the poor, and therefore one might assume they would take an active interest.

It was emphasised by all commune councils that the rich (businesspeople) do not participate in commune planning. Looking at all the projects implemented over the past eight years and comparing the location of these with the villages from which the commune councillors come, there is no sign that the villagers who are represented on the commune council are over-represented in terms of development projects. Even in one commune in Kratie, where all the councillors come from the same village, no correlation could be found between location of projects and villages represented on the council. Therefore, there is no evidence of elite grabbing of development projects.

The Seila programme has been geared towards hindering elite capture, and thus the awareness of this danger among the DFTs might be a crucial explanatory factor. The extensive guidance by the DFTs of the communes can, however, be characterised as a large-scale administrative grabbing. This

[84] Interviews with village chiefs in Siem Reap province, 18 June 2003.

might be difficult to avoid at this stage, since most commune councillors argue that they would be utterly uncomfortable on their own. With the tendency, however, in some older Seila communes of excluding the general public and assigning the prioritisation to the commune council and the VDCs, *political elite grabbing* may be in progress. This development should be carefully monitored.

5.5.4 The DIW

The DIW is one of the important steps in planning. Here, the plans of the communes are supposed to be streamlined with those of line departments, donors and NGOs. Information from the fieldwork seems to suggest that, on average, 20 percent of the prioritised projects were granted funding at the DIW. These numbers are based on what commune councillors remember from 2002.[85] According to the government (RGC 2003b), 71 percent of the projects presented at the DIW have temporary agreements signed. Therefore, the gap between the temporarily agreed and the implemented projects is quite large. One reason for this may be that the DIW takes place in October/November, before the provincial department receives its funds in December. Since the provincial department enters into temporary agreements based on budgets rather than actual allocations to the commune, many of the projects agreed to at the DIW cannot be implemented. It was clear from the fieldwork that while awareness campaigns were implemented, most other temporarily agreed projects were not. This may be explained by the fact that awareness campaigns are likely to be less costly than many other projects that the communes have taken to the DIW. This might indicate that very meagre sector development funds reach the local level.

Anecdotal information indicates that the line departments present at the DIW are the provincial departments of Planning, Education, Health, Water Resources, Agriculture, and Rural Development.[86] This implies that ministries that are not part of the STF also use the DIW as an avenue to fund the communes. This is encouraging. Although the political parties support on average 8 percent of the commune projects, none of them take part in the DIW.[87] At the DIW, there seem to be no discussions about what should or should not be funded. The line departments have already prepared their plans before they come to the DIW, and since they receive all the CDPs two weeks before the DIW, the opportunities for the CDPs to inform the departmental planning are limited. The challenge here is to

[85] They were asked to list all provincial projects in 2002 and then mark those that were granted temporary contracts at the DIW, and finally to mark those that had actually been implemented.

[86] Based on observation of a DIW in Kompong Speu, 29 October 2003.

[87] Own field observations.

improve the opportunities for the provinces to respond to the needs identified in the CDPs.

5.5.5 Does Capacity Building Lead to Greater Autonomy?

Since the commune councils are autonomous by law, changes are inevitable. From field observations during the last few years, the changes that seem to take place in the commune and village are increased participation, reduction of fear of authorities and development of increased local understanding of democratic governance (Ojendal and Kim 2004). However, the degree of autonomy can be observed only when changes appear also in the commune councils' dealings with higher levels of government, such as the districts (see below). At the moment, the weekly meetings, in which orders are given by the district governor and information shared by the communes, indicate that Cambodia remains a centralised democracy.

Despite this eagerness to build capacity along the way, central, provincial and district authorities all underline the fact that the chief challenge to the decentralisation is a lack of local capacity.[88] Although this is true to a large extent, blaming lack of progress on lack of capacity is playing along with the myth that the higher the government, the greater the capacity. This is not always the case and certainly not within decentralisation, which is, in Cambodia, new to everyone and where central government agencies (except for those actively engaged in the design of it, such as the MoI) do not necessarily possess more knowledge of the reform than lower levels of government (Rusten and Ojendal 2003; Smoke 2003). The challenge is rather that the local level is much less comfortable making autonomous decisions, and hence time is needed for it to fully grasp this responsibility. With facilitators in place to provide support every step of the way, change may be smoother and faster, albeit perhaps not sustainable. What must be considered, however, is that commune councillors are still largely influenced by the political culture of patronage, and the presence of facilitators from higher levels of government sustains the reluctance of the councillors to make independent autonomous decisions.

5.6 Summarising the Main Points

The question posed in the beginning of the chapter was how the design itself is intended to achieve the aims of the reform and what are the strengths and weaknesses of the delivery of support. This question can be answered in the following manner:

[88] Interview with Leng Vy, director of DOLA, 13 August 2003, and interviews with DFTs and commune councillors in Battambang and Siem Reap provinces, May and June 2003.

- The institutional design has come a long way to ensure government ownership of decentralisation. Institutions that evolved under decentralisation responded to the malfunctioning existing system and weak governance. Cambodia's institutions are to some degree disjointed, and further integration and increased political will are necessary to enhance the progress of the reform. While reforming the existing system, there will be a need to pilot the mainstreaming of these activities into formerly established institutions.
- The capacity support system is one of the main vehicles by which to achieve the aims of the reform. A relevant question concerns the balance between too much and too little support. Obviously, the strength of the capacity support by the DFTs lies in assisting the councillors to understand the tasks they are supposed to carry out. Its weakness, however, lies in its limited space for local initiative. The autonomous commune might, in the near future, as part of an internal dynamic of change, wish to prioritise other ways of using the funds and other means of prioritising. Will the current system accept these dynamics? Could, for instance, the commune council enter co-production agreements with civil society and the private sector for delivery of services (e.g. building of a road)? The time may have come, at least in the old Seila provinces, to redesign the capacity support and focus on horizontal rather than vertical learning, as well as to give space for new initiatives for service delivery to flourish. This could, for example, be done by identifying resource persons in the commune who can be vehicles in a new mode of sharing experiences and learning through critical discussion. While the change dynamics already rooted in the Seila programme most probably could cope with this type of change, it is an open question whether this is equally so within the existing structures of a largely upwardly accountable local government.
- Localising and integrating planning. Current planning faces two major challenges. One is that it provides little space for local adaptation. For instance, the plan will not be accepted by the provincial facilitation team (PFT) unless 70 percent of the village households are represented during the prioritisation meetings. This high degree of participation is often difficult to secure, but participation still seems to be relatively high (approximately 50 percent). Rather than presenting the challenges in ensuring this participation and coming forward with the actual number of households represented, all communes falsely say they have this number of participants. Another example of a lack of localisation in planning is that infrastructure takes precedence over all other projects, rather than there being a good mix that

reflects local needs. Second is the integration of the CDP into general planning in the province. There is clearly a need to integrate the CDP and enhance the possibility of planning from below. Although the DIW works to coordinate the CDPs with provincial and other planning, the DIW nevertheless is more an auction than a place for integrated planning.

- A further issue is coordination. With the current decentralisation design, the Department of Planning (province) and the Office of Planning (district) do not have a complete and comprehensive overview of development planning in the area. This is because the DFT and POLA access information on the use of development funds, while the provincial and district line departments access information on line ministry projects. This is compounded by the fact that no one has a complete overview of NGO- and party-supported projects. Both sector-specific and sector-wide planning suffer from this. The DIW mitigates this problem to some extent by merging the current parallel planning of line departments, communes, NGOs and donors. However, it has been argued by some provincial governors that there is a great need to merge these processes before the DIW to allow the commune to plan within areas where funding is available, and to ensure that sector planning captures the needs identified by the communes.
- Another important aspect of the decentralisation design is the reporting and meeting culture. Across the country, communes meet at the district every Tuesday to report on development progress and on security matters. Communes in Kratie report in district meetings up to two or three times a week. This seems to be far in excess of what might be needed, and it also reproduces the dependency of the commune on higher authorities. Coupled with this is too little emphasis on development.
- A very important question for the future of decentralisation in Cambodia is: how will the line ministries fit into the existing structure? Will they integrate with the decentralised structure, will they create their own parallel lines all the way down to the commune, or will their functions stop at the province (or district)?

Chapter Six

The Cambodian Communes

This chapter provides a background understanding of the commune in Cambodia. It discusses the local government reform and whether it should be at the village, commune or even district level. The chapter gives an overview of the communal institution and a typical Cambodian commune, its size and structure. This is linked to a discussion of the anticipated future commune amalgamation. Finally, there is a discussion on the links between the commune and civil society, and the observed politicising of civil society.

6.1 The Level of the Local Government Reform

While commune councils are not new to Cambodia, freely elected commune councils are. During the colonial period, the commune chief was also elected, but his candidacy needed the approval of the district governor. The commune councils existed from the early 20th century during the French colonial period, but were created for policing and security issues, not for development purposes (Sreang 2003). The current commune councils, with devolved powers, have a developmental function, and their responsibility for security functions as directed by the district governor remains.[89] In pre-election times, this was most notably arms collection and assistance in village security.

In the attempt to increase the developmental role of commune councils and enhance the opportunities for participation by disadvantaged groups (typically these are understood as women, the disabled and widows), the electorate has been an important issue. In Cambodia, the electorate is the commune, with an average population of approximately 15,000–20,000 people. In many Anglophone countries, the electorate is the village or the ward.

A relevant issue is the level of autonomous local government. Although the commune by law has been selected as the appropriate level, there is nevertheless an acute awareness that the communes are small, and that re-demarcation of their boundaries might be relevant before the next mandate of local governments. Blunt (2003:61) suggests this because he sees

[89] Observation of the weekly meeting between commune councillors, police and military units, line departments and the district governor in Angkor Thom District, 17 June 2003.

the reduction of the number of communes as the single most effective means to improve staffing and capacity.

The legal adviser to MoI recommended the *district* as the electorate in order to enhance the possibilities of achieving viable local government.[90] The arguments supporting the district rather than the commune were that selection of the commune would lead to too many urban social and economic units, and that boundaries should be broken down rather than constructed. The MoI's political decision to place it at the commune was rooted in very careful consideration by the government, which saw the need to create small and stable units after decades of civil war and thus bring decision making closer to the people.[91] An important part of this attempt to create stability was the need to strengthen democracy by enhancing party collaboration. The government was of the opinion that party collaboration in the communes would enhance mutual understanding and collaboration and reduce politically motivated violence. Although party relations are crucial determinants for collaboration at all levels of government in Cambodia today, party-related *violence* decreased significantly between the 1998 and the 2003 national elections (Hughes and Kim 2004).

Was the placing of the autonomous local government in the *commune* a bold move, as some observers have suggested (Rusten and Ojendal 2003)? The decision to place the autonomous unit there was met with surprisingly little resistance given that Cambodia would develop very small units that would have no means in the foreseeable future to hire their own staff. Or maybe the lack of resistance was a function of a lack of understanding and apathy. Less than six months before the elections, many observers were still of the opinion that decentralisation would not happen. It was clear that this level of government would have to rely heavily on support structures. This, in turn, widens the space for top-down dominance, the very system that decentralisation was supposed to combat. Furthermore, the selection of the commune as the electorate further marginalises the already weak position of the district, whose role in decentralisation and deconcentration has not been resolved. There seems, however, to be a scramble to try to revitalise the districts, at least in the urban areas.[92] Given this, is the selection of the commune as the electorate a huge risk? After all, capacity support from staff placed in the district has been enormous, and the demand for capacity support is high and will continue to be so for many years to come. These are relevant discussions for addressing the lack

[90] Interview with Paddy Roome, April 2003.
[91] Interview with Sak Setha, April 2003.
[92] See section 1.4.5.

of capacity in the communes. If, however, we focus on democratic participation, another set of concerns will be relevant. In that case one might consider smaller rather than larger electorates.

One can also ask whether the selection of the commune as the electorate is too remote a level of decision making for villagers, and whether, therefore, there should have been provision for *village elections* and representation in the commune council. However, as the party lists appear to include representatives from all villages in the top-level posts,[93] it is clear that the councillors usually come from different villages. In effect, therefore, the council as a whole seems to represent most villages in a commune. However, as long as all villages are not represented in the council, there is a danger that underrepresented villages risk being at the losing end for development opportunities. Although this seems not to have influenced decisions about the location of commune projects during the past few years, it is nevertheless an issue that needs to be watched carefully.[94]

An argument for selecting the village as the electorate would be that the village, through its pagoda, was the centre of service delivery and cultural capital throughout the history of Cambodia until the Khmer Rouge era. Therefore, to place responsibility for local development with the village would be an act of revitalisation of what was destroyed during the devastation of the Khmer Rouge.[95] However, a problem with this would be that the area of the pagoda does not always coincide with the administrative boundaries of the village. It appears that the village as the electorate was never really up for debate, because this clearly would have required too extensive capacity.

In the current institutional set-up, it would to a large extent have been possible to elect one representative from each village to sit on the commune council (most communes have from eight to15 villages; see below). In larger communes (those with 12–25 villages), two villages could select one representative. This rethinking of the election system will be increasingly important with the commune amalgamation (see below) because

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93 Fieldwork in all the communes indicates this. It is also emphasised by an interview with the commune council in Thnot, 18 August 2003.

94 An overview of commune council projects, their location, financing, local contribution etc. was conducted for all the communes in this study.

95 According to Kent (2003), it is believed that more than one-third of the monks were executed or forced to break their vows, and many died from starvation and disease. More than half of temples were razed, damaged or desecrated.

with the current election law, commune amalgamation will increase the number of underrepresented villages on the commune council.

6.2 A Typical Cambodian Commune: Size and Structure

The commune administration was pioneered by the French colonial regime in 1908 (Sreang 2003). It is widely recognised that the Cambodian administrative system is a replica of the French. The first commune reform in post-colonial Cambodia took place in 1959 (Roome 1999), followed by the 1986 commune demarcation during the Vietnamese occupation. It was during the latter reform that the number increased to the current 1621 communes/*sangkats*. The main reason for this change was security. The number of provinces and communes was increased to create smaller, more manageable units. Banteay Meanchey was at this time separated from Battambang province and Oddar Meanchey from Siem Reap province. A number of communes were also divided. Attempts were made to form new administrative towns and communes, which would increase economic activities at the front lines and hence push the front lines further away from inhabited areas. At this time, the communes could recruit young men for military service.

Today, an average commune has between eight and 15 villages. Some communes in densely populated areas, such as Kompong Speu province, have up to 25 villages in a commune, while in sparsely populated areas there are sometimes only three villages in a commune, as examples from Pailin show. On average, there are in each commune 2500–3000 households with about 15,000–20,000 people. The commune has a council with between five and 11 councillors. The number of councillors depends on the population of the commune.

The commune council consists of a chief (from the top of the list of the political party securing the most votes), a first deputy (from the top of the list of the party securing the second most votes) and second deputy (from the top of the list of the party securing the third most votes, if that party manages to get enough votes to be represented at all).[96] The rest of the councillors get seats according to number of votes. In practice, 98.6 percent (1599 communes) of the commune chiefs are from

[96] According to the Election Law 2001, Chapter IV, Article 23, the quota required for a candidate list of a political party to win one seat is determined by dividing the total number of valid ballots by the total number of seats of the commune council. The formula for this calculation is: Qs=Vab/Scc. (Qs=quotient of a division with no remainder; Vab=total number of valid ballots cast for all candidate lists of political parties participating in the election; Scc=total number of seats on the commune council.

the CPP, 0.6 percent (10 communes) from Funcinpec and 0.8 percent (13 communes) from the Sam Rainsy Party.[97] A typical commune would have a CPP commune chief and a Funcinpec first deputy in communes where that party is represented. In communes where the Sam Rainsy Party is represented, the second deputy would be from the Sam Rainsy Party. Eight percent of councillors are women.

As mentioned above, the councillors usually represent different villages.[98] This is by default rather than design, as the election law does not regulate how the parties put together their lists, neither in terms of geographical representation nor gender.

6.3 The Commune Institution: A Permanent Coalition Government with Legislative, Executive and Monitoring Roles

With representatives from different parties (see sub-chapter 6.2), the commune council is a permanent coalition government. The commune employs no staff. The MoI employs the one administrative staff member of the council, the clerk. Although the village chiefs, according to the LAMC, are supposed to be selected by the commune council, almost two years into the first mandate of the commune councils, the village chiefs are still MOI appointees. Although the village chief from 2004 will receive the salary through the CSF administrative budget, s/he is still employed by the MoI. The councillors receive their payment through the CSF administrative budget.

According to the 2003 budget for the CSF, the contribution from the national revenues to the CSF should be 2 percent in 2003 and 2.5 percent in 2004. This contribution is regulated by a sub-decree valid only through 2004. Donors have agreed to contribute 16 percent of the total CSF. In 2002, the expenditure of the CSF was 95.72 percent of the budget.[99] This is quite impressive. In 2003, however, the government's part of this transfer dropped dramatically due to a shortfall in government funds. Explanatory factors for this shortfall were the SARS outbreak in the region and its dramatic effect on Cambodia's tourism industry, the anti-Thai riots with an estimated cost for the RGC of around $50 million and finally the cost of the 2003 national elections.[100] The shortfall of funds indicates the need to institutionalise the CSF by law.

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97 National Election Council press release, 26 February 2002.

98 The fieldwork shows that in only one of 15 communes all councillors came from the same village.

99 NCSC 2002. Unpublished overview of the 2002 CSF transfers and expenditures by province.

100 Prime Minister's speech to the Seila National Forum, Siem Reap, 16 September 2003.

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.

Since the commune is short of administrative staff, the councillors themselves do executive work. The Cambodian commune council can be described as a one-legged body, which is a *legislative*, an *executive* and a *monitoring* body. In other words, the councillors are entitled to make their own by-laws, they do executive work, and they perform their own quality control of projects.[101] This is an important feature of the councils. Accountability is likely to be difficult to maintain for this reason. However, a mitigating factor may be that subcommittees provide one accountability mechanism.

6.4 Commune Amalgamation

When the political decision was made to choose the commune as the constituency, it became clear that commune amalgamation would be needed before the second mandate in order to build viable local governments. Provision for this was even included in the law. It was clearly emphasised by the MoI that the decentralisation could not wait until new commune boundaries were in place. This remains an important unresolved issue. There has been little progress on the amalgamation (Oberndorf 2004). As mentioned above, it is raised by Blunt (2003) as an important action to speed up the capacity building of the communes. It can be seen as a way to increase the number of staff and available resources for each commune. No thorough debate has taken place, neither in written documents nor in seminars, on the challenges involved with a potential commune amalgamation.

The first question that amalgamation will raise is whether the district as we know it will survive. Already the district is a weak institution with limited impact on decentralisation, despite some facilitating functions, as funds and resources move between the commune and the province. It is likely that commune amalgamation will further reduce the facilitating role of the district because increased capacity in the communes

[101] Quality control is outsourced to the VDC, which receives technical assistance from the TSS.

will increase the opportunities for peer learning and horizontal collaboration between communes. A further reduction of the role of the district could come from the likely deployment of district staff to the communes, particularly within sectors that are actively engaged at this level. For example, apart from the district Education Office with all the teachers, the district Agriculture Office and the district Public Works/Transportation Office have most staff among the sector offices.[102] With commune amalgamation, these staff could be directly deployed to communes without any further hiring of staff. Even at the present time, with the current number of communes, these district staff (due to their sheer number) could be deployed to the communes in districts with up to eight communes.[103] In other sectors, such as Water Resources, Rural Development, Social Affairs, Planning and Statistics, Environment and to some extent Industry, such deployment would be more problematic due to the relatively small number of staff in these offices.

A second important question is what criteria to use for the commune amalgamation. For instance, it is likely that availability of natural resources will be considered one criterion. This would require a whole set of data to help make the selection. It could be done fairly easily by using updated aerial photographs to determine availability of natural resources such as water and forest. The ADB/SIDA Commune Council Support Project (CCSP) addresses this, and according to our information, parts of the country have been overflown already for this purpose.[104] Even with this information available, however, the challenge of choosing criteria still remains.

A third challenge might be that little information is available at present about the economic potential of the communes. There are ongoing efforts to map this as a basis for potential local government own revenue (see chapter 8).[105] A fourth challenge is that commune amalgamation needs to be coordinated with the current efforts within MoI to draft the Organic Law for Deconcentration, setting out the roles and functions of the provinces and districts.

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[102] An example from Samrongtong district in Kompong Speu indicates that the district Agriculture Office has 11 staff, followed by Public Works with eight, Industry with five and the rest of the offices with two or three each.

[103] Calculated on the basis of current number of staff in these two offices at the district level (see footnote above).

[104] Interview with Rottanak Keo, ADB, January 2003.

[105] Collaborative effort between MEF, UNCDF and CDRI initiated in January 2004.

6.5 Politicising Civil Society?

A new issue for debate is whether civil society in the village is being politicised. Two trends have been observed. One is that commune councillors seem to play an important role in civil society organisations, including the wat committees.[106] In some of the communes we visited, all the councillors were also serving in the wat committee. This limits the opportunity for civil society organisations to play the role of effective watchdog of local government activities. With the current call to strengthen civil society and enhance Cambodia's social capital, these blurred lines between the state and civil society must be taken into account.

Another is the politicising of the pagoda. It is a common understanding that pagodas are influenced by politics, and the pagodas are commonly named according to the party supporting them. Religion is used as a vehicle in the political machinery. While the pagoda used to be the centre for cultural and social capital, it is now increasingly struggling to remain independent of political parties. This has been vividly expressed in Kent's (2003) narrative of political parties' investment in the pagoda. For decentralisation, the pagoda is perhaps the most interesting local institution due to its role in delivering education and as a cultural and religious meeting place. There might be space to revitalise the role of the pagoda in the continuing expansion of the responsibilities of the communes, especially related to service delivery within certain sectors. However, information and analysis so far are anecdotal and inconclusive, but this issue should be explored further.

[106] Interviews with commune councillors in Kompong Speu, 30 September 2003, and with commune councillors and civil society representatives in Kompong Speu, May and September 2003, and Kep, 28 August 2003.

Chapter Seven

Local-Local Relations

Decentralisation is seen as an alternative system of governance in which *a people-centred* approach to resolving local problems is followed to ensure economic and social justice. The entire mechanism aims to locate people at the centre of power so that they become the basic engine of development and not merely its beneficiaries (Kothari 1996). This is supposed to be the driving force of poverty reduction.

7.1 Introduction

Decentralisation in Cambodia is a subsidiary factor, not *a panacea* that will heal all ills. The rationale for decentralisation, to enhance the well-being of citizens, is recognised as critically needed in Cambodia. Involving people in decision making is the backbone of political decentralisation, and there is an urgent need to articulate or respond to the demands and aspirations of local people.[107] A credible assessment of local needs requires a decentralised presence, including clear responsibilities and roles for local authorities. These also need to be rules and regulations that are acceptable to all parties concerned, appropriate training for the councils, enough funds to carry out projects and rules and a regulatory framework that are progressively enforced.

One of the most crucial tasks in Cambodia is deepening the efficiency of public institutional functions. The main problem may be to ensure good governance at all levels. This chapter describes and analyses *local-local relations* in some communes in a number of provinces and municipalities. *Local-local relations* are referred to as the relationships between commune councillors and clerks, village chiefs, VDCs and other committees such as informal associations and NGOs.

The following research questions are answered in this chapter:

1. What is the capacity of the commune councillors, and to what extent does the capacity support enable them to carry out their functions?
2. What types of inter- and intra-communal collaboration can be identified, and to what extent do the commune councils make decisions themselves on issues within their existing authority?

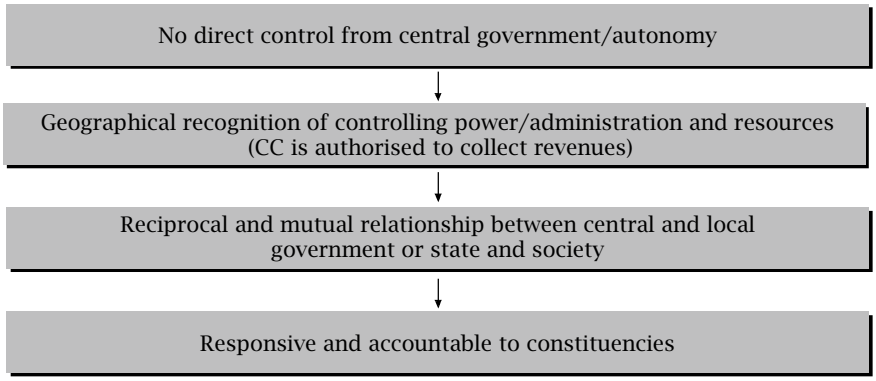
[107] CDRI (2003).

3. What are the main mechanisms by which commune councillors build trust among their constituencies?
4. What are the main developments, challenges and changes in the relations between local actors since the election in February 2002?

In order for commune councils to be viewed by constituencies as responsive bodies, they need to be seen as successfully handling the devolved power from the national government. Many observers ask whether devolution in Cambodia has created the necessary space to allow the elected councils to be autonomous and independent, and, through this, be perceived by the electorate as a separate level of government that is predominantly downwardly accountable. The commune council boundaries were drawn up before the local elections. These are, however, hand-drawn boundaries, and no reliable central database of them exists. In the further attempt to amalgamate or collect commune taxes, this lack of a clearly recognised and available database is a challenge. The ADB/SIDA CCSP is currently addressing this.

This is also relevant to the issue of community access to resources. It is anticipated that, given financial autonomy, commune councils could develop self-sufficient institutions perceived by local constituents as a legitimate authority that can respond to the needs of the local community. A challenge in Cambodia is that the meagre resource base will leave the communes largely dependent on central government transfers. More powers and resources for the communes are remedies that may bridge the gap between state and society, yielding mutual benefits for both (see Figure 7.1).

Figure 7.1: Functional Aspects of Devolution (Khan 1996)



This figure indicates that local autonomy and geographical recognition, along with authority to collect revenues, are supposed to enhance responsive local governments that are accountable to their constituents. Through this, the development of reciprocal and structural relationships between the state and the society will be established.

Decentralisation, therefore, ideally involves political change characterised by autonomous local government and economic change characterised by viable local communities with their own funds. However, in the case of Cambodia, the domestic political institution remains inept – particularly at the local level (see Rustet *et al.* 2003). Maintaining autonomous power is one of the most vital aspects for commune councils in order to build trust and be accountable to their constituency. There is a perception among civil society organisations and village representatives in the study sample that the affiliation of commune councils to different political parties has created scepticism among their constituents. It is recognised, however, that many of the challenges for local government's ability to be responsive and accountable rely on local-local relations (Crook and Sverrisson 2001).

The following text will address these issues. A clarification of roles and responsibilities will be provided (sub-chapter 7.2). This may be seen as an introduction to the four main questions presented above, each of which will be addressed in sub-chapters 7.3 to 7.6.

7.2 Responsibility of Commune Councils: Intra- and Interrelationships

This sub-chapter presents different aspects of the roles and responsibilities of commune councils, including relationships between commune councillors and clerks, village chiefs, VDCs and local NGOs. It will also illustrate the conceptualisation of *participation* and the conflict of interest among councillors with regard to party affiliation. As economic potential is crucial to local development, this chapter also offers a preliminary view on whether commune councillors are sufficiently informed about the resources available in their community.

The elected councillors, in principle, are expected to identify and articulate the needs and aspirations of the people, formulate projects on the basis of these needs and then implement them. In doing this, they are expected to involve, and be accountable to, local people and various civil society associations (wat committees, women's associations, LNGOs, parent associations).

7.2.1 Roles of Commune Councillors and Subcommittees of Communes and the Relationship between Them

This section presents the roles and responsibilities of the

commune councillors and the clerk, as well as many of the challenges related to these roles.

7.2.1.1 Commune Councils

The councillors are expected to mobilise financial and human resources, build development-oriented infrastructure, take up production-oriented projects on agriculture and improve or provide basic amenities such as drainage, hygiene and educational facilities. They are also charged with the agency functions of civil registration and election registration. A generally acknowledged challenge is to convince people to participate in civil registration, because many people seem not to understand its importance. Another responsibility is collection of local contributions and organising the bidding for development project contractors. In most of the communes visited, councillors (except for the chief and the first and second deputy) complain that they do not have a specific role to play, and that, due to poverty, they need to spend their time making a living. They do not feel the benefits of being a councillor compensate fully for the work involved in performing their duties. Many of them say they are reluctant to stand as candidates in the next election. Some more encouraging observations are made in communes in Pailin, where all councillors have their own portfolios.[108] This seems to increase their eagerness to participate in the council.

The high expectations and demands placed on the councillors and their inability to meet all of them, at least in the short term, is part of the reason for the perception that decentralisation is moving slowly. Under the concept of decentralised governance, the commune councils were conceived as a necessary means of initiating and promoting village community and economic development.

The responsibilities of commune council members are divided as follows:

- The chief is responsible for overall supervision of the commune.
- The first deputy is responsible for agriculture, economics and collecting data for possible use in development schemes.
- The second deputy is in charge of public works, social order and security.

All councillors have one common task, which is to disseminate information related to development and other advocacy activities from the government to the people. The

[108] Interview with Seila, 11 November 2003.

councils on many occasions assign certain villages to each councillor.[109] If the number of villages in a commune is high, each councillor is responsible for two villages; otherwise one councillor is in charge of one village. There is no evidence, however, that this happens universally. The most common development schemes undertaken by commune councils are constructing and repairing roads, wells, water-gates and schools, engaging in small-scale irrigation projects, promoting hygiene by building health centres and conducting other advocacy training on gender, agriculture and health care.

In the communes visited, there seems to be unclarity among councillors as to their roles and responsibilities. In some areas, the practical day-to-day activities of the commune councils usually involve councillors working together on all tasks, as exemplified in the statement below:

> *Some people say it is difficult to understand the roles, and we all prefer not to take a clear share of responsibility because sometimes we are not certain about making decisions. And another issue, many councillors cannot come to work in the office regularly. They need time to make a living. Only the chief and deputies come almost every day, and whoever is available can share the work. Therefore, how can we come with specific roles and responsibilities? (Commune councillor in Takeo, 18 August 2003.)*

In other areas, they make a clear division of responsibility and rely heavily on the DFT in decision making. This is exemplified in the following statement:

> *Literally, we have divided quite clear responsibilities among all the commune councillors. However, as we are all new to the system of decentralisation, we are not sure, and we from time to time seek advice from the district governor, DFT and PFT. They do not control us, but we count on them. (Commune councillor in Siem Reap, 18 June 2003.)*

In principle, councillors involved in this study seemed to know their roles and responsibilities, but for the time being they are reluctant to make decisions, and they rely on assistance from DFT and district offices. However, they all think this is only a short transitional period, and after a few years they will be able to manage the work themselves.

In the context of the decentralisation design, the most relevant relationship to discuss at the moment is that between the commune council and the district.

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[109] This was common practice in all fieldwork communes.

It is clear that reluctance and a lack of self-confidence on the part of the councillors are caused by their limited capacity and the fact that they are used to looking upward for decisions to be made. This is common in all the communes visited. For example, a commune chief in Siem Reap explained:

> *We do know our role as the elected councils and the role of the district authority. However, we still consider the district as former boss, and we are in the same locality so we must keep our relationship in a peaceful manner. (24 June, 2003).*

Most councillors express similar views on the relationship with district authorities. One of the challenges of the decentralisation is to enhance the opportunities for councils to collaborate with each other and to lessen the dependency on the district.

7.2.1.2 Commune Subcommittees

In this study, two subcommittees were observed, the planning budgeting committee (PBC), and the procurement committee (PC). These two committees are under the direct supervision of the commune chiefs and the deputies. Because the communes are allowed to establish subcommittees as they deem necessary, several other types of subcommittee can be found across the country, for example on conflict resolution (see Mansfield 2003). The following text will address the PBC and the PC only.

According to MoI/MoP (2002), the PBC consists of:

- The commune/sangkat chief as head of the PBC;
- Three representatives from among the members of the commune council elected based on their abilities;
- Two representatives of village authority from each village chosen by the members of the council;
- Between two and four ordinary citizens, both male and female, selected by the commune/sangkat chief and based on the total number of villagers;
- The commune/sangkat clerk as secretary.

The research has revealed that the commune council chief heads the PBC. Members include commune councillors, all the village chiefs and members of the VDC. It should be noted that some villages do not have a VDC, in which case representatives of villagers or the village chief serve as the members.[110] However, in Kompong Speu, a village chief is not required to sit on the PBC, and instead there are two representatives from each village. The core responsibility of the PBC is:

[110] Interview with commune chiefs in Battambang and Kompong Speu.

- To mobilise people for meetings in order to elicit information regarding the demands from people for the annual development plan;
- To disseminate information from higher authorities such as the commune council;
- To raise local contributions and write down development plans with assistance from TSS and DFT;
- To collect and make a list of the businesses located within the commune.

A PBC chief reported:

We are working closely with the village chiefs and VDC members in all villages in this commune. First, we set up meetings with villagers to gather their demands and ideas. We write everything that they say on a white board and ask them to raise their hands if there is something that interests them. After the meeting, we bring all information to the commune office and with the support of DFT, TSS and the clerk, all together we draft a report and submit it to the commune chief. (12 May, 2003).

Empirical findings of this study reveal that the current implementation and existence of PBC do not comply with the *prakas*. According to the regulatory framework from DOLA, the commune chief represents the project owner. The PC, headed by the commune chief, consists of all the village chiefs (those from the villages that receive projects) and the VDC members.[111] This committee gets technical assistance from TSS. But in Kompong Speu there is a slightly different procedure, according to the explanation of commune chiefs. There the PC consists of the commune council chief as the head, commune deputy chief as a member and the clerk as the secretary.[112] The key responsibility of this committee is to assist the commune council to organise the bidding and supervise construction projects. However, the PC exists only during the bidding, after which it is automatically disbanded.

7.2.1.3 The Clerk

Clerks are appointed and employed within the administrative structure of the MoI. They tend to be young and reasonably well educated: all have completed high school. Some have also completed a first degree. The responsibility of the clerks is to assist the commune councils with their office work by:

[111] Interviews with commune chiefs in Battambang and Pailin (May and September 2003).

[112] Interview with commune chiefs in Kompong Speu (8 December 2003).

- Keeping files;
- Assisting in all office activities, including taking minutes of meetings, cashing money from the treasury, writing reports, assisting in paperwork for bidding and keeping the official stamp;
- Conducting voter registration;
- Conducting civil registration (such as issuing birth and death certificates and marriage licences); and
- Serving as a liaison for different government agencies and NGOs that from time to time come to the communes to conduct different projects.

All of the commune councillors we talked to say that they have smooth relationships with their clerks.

7.3 Capacity of Commune Councils

This sub-chapter will address the issues of the capacity of the councils and to what extent the capacity-building support they are offered enables them to carry out their functions. In doing so, it addresses (i) education, (ii) training, (iii) adaptation to the changing management system and (iv) capacity support from the DFTs.

7.3.1 Education of the Councillors

Capacity building for elected leaders (commune councillors) is one of the most important aspects of decentralisation in Cambodia. Amalgamation of communes has been emphasised as one of the vital measures to help allocate and build capacity in the commune (Blunt 2003). Most of the 15 commune chiefs interviewed for this study have only a primary school education.

7.3.2 Training

In an attempt to help councillors deal with the tasks at hand, many training courses are being offered to the commune councils on decentralised leadership; basic orientation on decentralisation, administration, budgeting and planning; gender mainstreaming; hygiene; and agriculture. The knowledge of the new system is only slowly being picked up by the councils. This is partly because the old system is embedded and possibly also because of the limited education of the councillors.

The district staff or NGOs, and some technical line departments from province, usually conduct the training courses.

The current national training programme is placed under the NCSC, and implemented as part of the Seila programme.

There have been some issues around a multiplicity of training courses being conducted by different institutions. In addition to Seila, different local NGOs have carried out the training courses. These are Khmer Institute for Democracy (KID), Cambodia Institute for Human Rights (CIHR), Oxfam and the Training Institute for Management of Organisations Working for the Development of Cambodia (VBNK). These NGOs also carry out information dissemination and awareness raising exercises among commune councillors and local people, as well as conducting research and engaging in advocacy work, while the Khmer Women's Voice Centre (KWVC) focuses more on gender issues. While the Seila training is available nationwide, the NGOs operate only in certain provinces. It is clear from Mansfield (2003) that communes working in partnership with NGOs seem to gain a lot from this collaboration.

The councillors emphasise that these training programmes are vital and have helped them understand their roles. However, all commune councillors in this study perceive the NCSC training courses as too intensive, too broad, not sufficiently adjusted to the local scene and containing too much information shared in too little time. Training could also be more helpful and enhance peer learning if more interaction between participants were included as part of the approach.

There are some vital areas of training that they argue are not yet sufficiently addressed, for example, how to compose by-laws, how to perform conflict resolution and how to carry out administration. There may also be other topics that need more focus, but the councils themselves do not always know what kind of training they need.

Also, it is not easy for them to relate the training to the necessity of being responsive to people's demands. One commune councillor put it this way:

> *Each commune has a different social and economic context even if we are in the same district. My experience from different training courses is that they are all perfect if we can do exactly what is in the content. However, villagers must be consulted on everything, and we are facing problems in mobilising people for meetings. The suggestions from people make it difficult to strike a balance between training and the needs of people. (A commune chief in Battambang, 29 April, 2003).*

Many people feel there are too many training sessions, and also that sometimes the trainers do not have the capacity to elaborate on issues, with the result that councillors get confused about the relevance of this for their work and their local context. This indicates that although they have gone through many training courses, they think some training provides inadequate

preparation. For instance, some councillors do not know how to write monthly reports, a task which is the responsibility of the commune clerks, albeit done with a DFT's assistance. They do recognise, however, despite their limitations, that without the training courses they could not manage their daily work. A female commune councillor's account is as follows:

> *Without such training, commune councillors do not know where to start. About 50 percent of training is useful in our daily work, but our forgetfulness and our lack of in-depth understanding, make us confused. (A female commune chief in Kompong Speu, 16 June 2003.)*

As time passes, the capacity of commune councils has been improving through the principle of learning by doing, and this will continue (Rudengren and Ojendal 2002). A commune chief in a former Khmer Rouge area said:

> *I have been a commune chief since 1996. This has been a good experience, allowing me to learn how to implement my job in the commune. Before, I was not brave enough to hold a microphone in front of many people. But now, I can even write my own speeches and I feel confident talking in front of 200 people during a meeting. (Commune chief in Battambang, 10 September 2003).*

Trainees seem habitually to regard themselves as ignorant, and they are not used to posing questions or striving to interact during the courses.

In most communes visited, it is clear that a number of land conflict cases are brought to the council to be resolved. This is a major challenge because the councils are not equipped with the legal knowledge to resolve these issues and instead use traditional reconciliation methods. This kind of training is essential for almost every commune in the country. If the councillors could identify the areas in which they need training, it would be easier for trainers to respond to their needs and adapt the content of their courses to the local context.

7.3.3 Adaptation to a Changing Management System

All of the commune chiefs in this study, except for those in the former Khmer Rouge area, Pailin, either worked in the commune offices since the early 1980s or their relatives worked in the commune in the early 1950s or 1960s. This experience implies that they are used to a top-down system in which they depended on higher authorities and merely executed orders. Retired soldiers, especially in the former Khmer Rouge strongholds, often head the communes. They recognise that the new decentralised commune system is completely different from the old one. A commune chief in Pailin said:

I joined the Khmer Rouge in 1974 (…). Of my kinship folk, only I am literate and working for the government as the commune chief. It was easier to be a military commander than being a commune chief. As a military commander, command was what we exercised. However, being a commune chief is very difficult. I must be patient and listen to the majority of the people. This is not an easy task. (A commune chief, 8 September 2003).

Many councillors lack self-confidence in implementing the decentralisation on their own. This is partly due to their long exposure to a hierarchical system. As a result, they frequently seek advice from higher authorities. Many commune chiefs say they normally seek advice from the DFT because they are the most approachable. The DFTs come to the commune every week, but district officers seldom come to meet the councillors to listen to their concerns. This indicates that the commune councils are reluctant and/or incapable of working independently; they still expect decisions to be made by the district authorities.

Because decentralisation is a new local governance system for Cambodia, it will take time for it to become embedded. Nevertheless, many commune councillors appreciate that this bottom-up system may be a very effective means of promoting democratic governance in rural Cambodia. However, people also adhere to traditional values that have been practised in the country for many generations. There is recognition among the councillors that the best way to successful decentralisation is to be able to combine the two poles—i.e. to pursue decentralisation while retaining some of the traditional values.

7.3.4 Capacity Support from the DFT

A DFT might be composed of a deputy district governor, senior staff in the district office or staff/head of a district technical office. Hence the DFTs are civil servants and on salary supplements from PLG. The role of a DFT is:

- To conduct training courses for commune councillors;
- To help to organise project bidding;
- To help to digest comments in order that commune councils can make informed decisions;
- To monitor and participate in development activities carried out by the commune councils and also attend meetings in the villages;
- To help the councils to collect and analyse data for use in development work;
- To assist the commune clerks in writing reports;

- To act as a facilitator during a DIW;
- To make sure that the commune councils formulate their development plans properly before they are forwarded to the ExCom;
- To give advice to the councils on collecting local contributions;
- To disseminate information from district offices or PLG to the people; and
- To help commune councillors to prepare a matrix for economic development projects.

According to the account of a DFT:

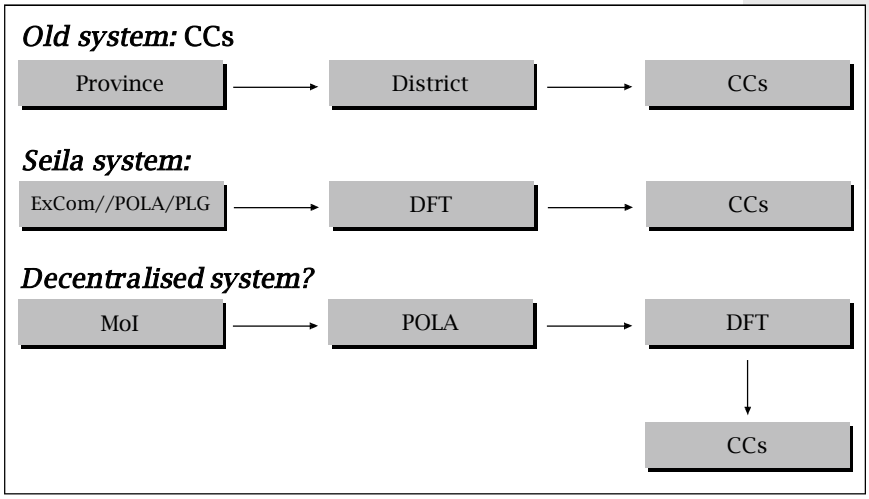
As we have seen, the progress of commune councils so far is not satisfactory in terms of outcome, but it is progressing well. There are many problems that the commune councils are facing, for example, the capacity to articulate laws and regulations and having enough funds to implement projects that have been planned. My job as a DFT member in assisting the commune councils is to conduct training in decentralisation orientation, explain project implementation, go to have village meetings with the commune councillors and analyse commune data. The commune councillors always need assistance in terms of decision making because they are not sure whether their decision is according to the laws. I also help to act as liaison to disseminate information or submit documents from the district to commune or commune to the district. POLA and PLG are also very helpful to assist the commune councillors. (A DFT in Kampot, 27 August 2003).

This quote reflects the opinion of all DFTs interviewed. The responsibility on the DFTs is heavy and, as has been shown above, they are the key players in managing the overall development plans of the communes. It is most likely that commune councillors seek advice from DFTs and district governors particularly when it is related to large-scale development projects because of their lack of technical competence. Besides helping the communes, DFTs spend at least one or two days a week executing their regular job in the district office. Most DFTs hold high school diplomas.

The key to understanding the nature of the DFTs may be to note that in their role they are not acting out of the district office as such, but for POLA and under PRDC ExCom. There have not been complaints from the commune councillors that the DFT is controlling the work of the commune. Rather, the councillors are impressed by the work of the DFT. It is very clear from the fieldwork, however, that the DFTs influence the prioritisation of planning, and that clear advice is given by them

to prioritise infrastructure. Thus, the old system of patron-client is still present in the new decentralisation through a continuation of district dominance over the communes (see figure 7.2). However, recent research indicates that a dynamic of change is in the making here, and that civil society demands will increasingly influence the decisions made by the communes (Rusten and Ojendal 2004).

Figure 7.2: The Government-Supported Supervision of the Commune Councils



It is anticipated that within a decentralised system in which Seila activities are further integrated into government activities, POLA would play an increasingly important role.

The old system is slowly being replaced, via the temporary institutions of the Seila programme. Eventually to replace the "Seila system" with a "decentralised system" of support may be important for sustaining the capacity support system in the long term, although, for the time being, it is not clear how this can be organised or what long-term plans the government has for this.

7.4 Relations between Local Stakeholders

7.4.1 Relationships within Commune Councils

Because commune councils are often made up from the three main political parties, and the system is still in its infancy, councillors are still learning how to work together across party lines. After almost two years of implementation of decentralisation, some progress has been made by councillors in distinguishing between the private (for political party) and public domains (for community). One significant change in

political culture and politics can be observed in the communes in the survey sample. Councillors are starting to recognise the conflict of interest between political party affiliation and their role. The councillors are very conscious of their interaction with political parties because they know that people are watching their performance, as explained by a councillor in Kompong Speu:

> *Of course each commune councillor is affiliated to a political party, but we are elected by the people and we must be accountable and work hard for the benefit of the people. So far, we have not had serious problems related to conflicts of interest and bias in favour of a political party and forgetting the responsibility for commune work. Every commune council is now worried that we do not have funds to respond to people's needs; this is the main problem. (Commune chief, 23 September 2003.)*

Obviously, this may simply be a response to what people want to hear. However, the commune chiefs in Takeo and Pailin also made similar observations. Based on this, it is possible to draw a conclusion that this is a concern among commune councillors in many areas. There are, however, also some signs of political patronage and elite domination in local politics. The dominant political party can respond to the demands of people, while other parties often cannot. During field interviews, one of the key questions was aimed at understanding who the main sponsors of commune development are besides the CSF. Obviously, there are different sources of funding—for example, private donations, NGOs and political parties. Some communes receive development project funds from political parties. A problem with this is that a specific party rather than the commune gets the credit, although such projects often involve some work by civil society associations, such as parent-teacher associations, as well as contributions from businesspeople in the area.[113] This has created discontent among councillors. Bypassing local government could undermine the role of the commune councillors and the mutual collaboration they are striving to establish.

7.4.2 Relationships between Commune Councils and Clerks

The main challenges in the relationship between clerks and commune councils are:

- The disparity in education—normally clerks hold higher educational qualifications than commune councillors;

[113] A brick maker in one commune in Siem Reap had to contribute bricks for free for projects which were later donated as party projects.

- Clerks are usually younger than the commune councillors, which can cause difficulties in terms of their being respected by the councillors;
- Clerks are overloaded with work because councillors are too reliant on them. Many clerks have complained about this since it consumes a lot of time. Clerks are always asked to get involved in development projects, in preparing documents, and in drafting reports;
- People do not participate enough in registration.

The relationship between the clerks and the councillors is vital. Because the clerks are recruited centrally, there has been a degree of scepticism about where their allegiance lies. This worry may have been overstated. The following is what a commune chief said:

> *In daily work for the commune, the councillors have good relationships with the clerks. We have different roles and responsibilities. For example, the clerk is employed by the MoI and has a higher educational ability, but we are elected, and therefore clerks do not have the right to make decisions. The clerk keeps track of all the office work, including keeping the stamp. If the clerk is absent, he has to pass down the stamp to the first deputy, not the commune chief. (A commune chief in Pailin, 9 September 2003.)*

The clerks complain about the lack of training given to them, for example, on fiscal management, administration and good governance. Moreover, a lack of logistical support is common, especially in terms of office supplies and transportation. To keep the commune functioning well, both the clerk and the commune chief are key players. So far, there have not been any reports of serious obstacles to relationships between clerks and commune councillors. A commune clerk described his situation:

> *I have many responsibilities in the commune, especially filing and documenting, taking minutes of meetings, and depositing and cashing money from the treasury. The greatest difficulty for me at the moment is civil registration and election registration. These two happened simultaneously and overloaded me. For civil registration, I face some technical problems, and some people do not come to do it. I have to work full time, and my capacity needs to be increased in some areas. (A clerk in Kampot, August 26, 2003.)*

According to the view of this clerk, the main challenges that clerks face are time, capacity and logistical constraints. Nevertheless, as long as the accountability legally rests with the MoI, it may contribute to decentralisation working "less than well." This concern needs to be addressed in the coming

years. As the commune councils gain more capacity, it is possible to consider them as becoming responsible for hiring and firing the commune clerks.

7.4.3 Relationships between Female and Male Councillors

The election law does not require a minimum number of female councillors. Since only eight percent of councillors are female, many communes do not have female representation in the council. Difficulties in engaging women in local development and administration might have to do with social, traditional and economic/family aspects of Cambodia in general. In a social context, Cambodian women are still largely lacking in self-confidence, even though they are capable of taking part in socio-political activities. Although there is a gap in education between men and women in rural Cambodia, female councillors are generally not less educated than their male counterparts. Moreover, they usually have NGO experience and can contribute significantly if given the space to do so. In some provinces and municipalities, women are more active in development programmes than men.

However, it is difficult to get women to run for election, since in Cambodian tradition women are not encouraged by their husbands to join in political work, and this remains to a large extent a social norm.[114] Cambodian women are more responsible for the family and the economics of the household, in addition to taking care of their children and extended family members. Socioeconomic obligations make women more vulnerable and reduce their opportunities to take part in socio-political activities. Another challenge relating to the role of female councillors is that the law assigns the responsibility for women and children's affairs to female councillors. This may be a paradox since hardly any funds are allocated to such affairs. This naturally reduces their influence in other important areas where funds are allocated. A female councillor expressed the following:

> *I became a councillor in this commune after the commune election in February 2002. Before I became a councillor, I was a volunteer for the Provincial Red Cross and also a medical practitioner. (...)*
>
> *I did not know much about decentralisation before, and it was not my decision to run for councillor for this commune. It was the villagers who thought that there was supposed to be a woman representative in the commune. They pushed me and put my name on the list. My responsibility in the commune is gender and health. I am also one member of*

[114] Interviews with female councillors in Siem Reap (June 2003) and Battambang (May 2003).

the monitoring and evaluation committee in the commune. I always try to voice my opinion during the meeting, but it seems like I am just a minority. Other male councillors still think that women are not capable, and not given full priority yet. Every 10 words I say, they listen to only three words. I am just a useless person from their point of view. They just put me there, but they never let me know the details of the project. For instance, there was a project to build a 672 metre road in the commune. The commune chief saw irregularities in the project but did not inform the other councillors like me, who are also on the M&E committee. The road ended up not meeting the standard, after the new TSS evaluated the road. Even if I had had a chance to talk to the contractor, they would not have listened to me either. They listen only to the commune chief. Not only am I just a female figure for this committee, but also in my role in gender and health. In fact, I went to many training courses on gender, and I think I have enough knowledge to fulfil my duty as a commune councillor properly. But I never get financial support to implement my work. So I never get to the remote villages to disseminate information.

I am very happy and feel really relieved that you take me out to interview one on one. I have thought two nights already about whether I should reveal all my problems or not. I know that if I speak out about the problems, it is just like throwing water to each other. But I will not rest in peace if I keep everything inside my mind. Yesterday, the chief said that if we were interviewed tomorrow, answer only what is asked, do not say anything outside the topic. "If they ask cow, answer cow, don't answer buffalo." (...). Other commune councillors blamed me that I do not come to the commune office every day. But I know my role clearly; I have to come to the office only for meetings. I don't have to stay here every day. If they expect me to come every day to sweep the floor and to make tea, I will not come. It is not my responsibility. I am afraid that if I am too outspoken, I will be wiped away, and there will be no one taking care of my children. If I interviewed inside together with other councillors, I would not be able to tell you all the problems. I am a CPP candidate but I do not really care what party I am in or the others are. All the parties in the commune council work together well. The only problem is me and other commune councillors, because I cannot shut up all the time. And I know no one can force me to keep my mouth shut.

The most difficult problem, besides all the above, is the standard of living. I get only 70,000 riels a month salary. Just to spend for transport to come to a meeting four times a month, it is almost finished already. (...). I do not want to work as a councillor at all, and I really want to resign. I will

never stand for commune councillor again next term. (A female councillor in Kratie, 17 September 2003.)

This councillor's background as a volunteer in the Red Cross allowed her to get more exposure to the villagers, enabling her to build up good relationships with them. This was obviously beneficial for her as a councillor. For instance, mobilising people is not a problem for her since she is very well known by the villagers. Despite these advantages, she faces constraints, the views of her male counterparts on the council being one of them. Their mind set is that women are not competent to do certain jobs. In other words, they undermine her attempt to get her job done. This is clearly illustrated by the fact that her male colleagues in the council do not support her in her role, or empower her in her work. Poverty is another factor that restricts her from fulfilling her job properly. This is obviously an issue that affects the best implementation of decentralisation. In order for decentralisation to be implemented successfully at the grassroots, these issues need to be addressed.

As can be seen from the above example, female councillors still face challenges from their male counterparts. Their voices and decision-making authority are not well recognised by the majority of male councillors. This has created disappointment and a lack of self-confidence and a desire on the part of women to interact with the community as well as with commune authorities.

7.4.4 Inter-Commune Relationships

Common to all the communes visited is that there is no collaboration with other communes. Furthermore, the communes are not concerned with inter-communal collaboration. The lack of collaboration between communes is leading to a weak institutional horizontal coherence. The creation of a strong local government requires a strong or large-scale institutional collaboration, for example, between communes, to create a stronger impact on the central government. According to the research findings of this study, the commune councillors are not very keen to build this larger collaboration; their relationship is mostly with the district offices and villages. Communes have a chance to meet each other during monthly and weekly district meetings, but they do not have a chance to discuss and learn from each other, since the purpose of these meetings is to report on development programmes and security rather than to enhance collaboration and discussion among the communes.

We do not have the opportunity to meet each other often. The only time that the commune councillors can meet with other commune councillors is during the monthly and

weekly meeting at the district office or occasionally at a regional seminar in Phnom Penh or in other provinces. However, each of us has a lot of things to deal with in our commune, so there is no time to meet. We do know that if we had a chance to meet, it would be interesting to learn from each other. However, this is not our responsibility; it is up to higher authorities to arrange it. (A commune chief in Battambang, 25 May 2003.)

The only collaboration between communes observed in this study was in Siem Reap, where some councillors from Banteay Meanchey had come to conduct an exchange programme with a commune in Siem Reap. This was supported by an NGO. In a pluralist democracy, this horizontal collaboration is an effective element, and one that might make the communes in the future less dependent on patrons. There are encouraging signs elsewhere, where externally initiated district forums allow for horizontal learning No internally initiated initiative is, however, found. A nationwide horizontal communal collaboration is planned by MOI and UNDP. Again, it was not originated by demands from below.

7.4.5 Relationships between Commune Councils, Village Chiefs and Village Development Committees

One important way for commune councils to be able to work effectively is via village chiefs and VDCs. According to the regulatory framework of the MRD, the VDC has a key role in ensuring sustainable rural development. VDCs are independent local rural development institutions working in the direction, administration and management of village development activities. Each VDC is created through a democratic, secret and free election by the villagers. VDCs in many areas exist only in name and play no significant role in local governance or development planning. Some VDCs, such as those sponsored by CIDSE, are regarded as civil society institutions, with the village chief not a member. In areas where the village chief acts as the chairperson, the VDC is the main agent of the commune council in the village. VDCs are here part of the planning and budgeting committee of the commune council, on which two VDC representatives sit. There are about 8,000 VDCs among the 13,694 villages in the country.[115] According to the NCSC, there is a lack of clarity with regard to the role and responsibilities of village chiefs and VDCs and their relationship to the commune council.[116] This view was confirmed by interviews in Pailin. The confusion is caused by different types

[115] Ngy Chanphal, Commune Council Support Project: Lecture Series on Decentralisation, 14 November 2003.

[116] Sak Setha, permanent member of NCSC and director general of MoI, presentation to the Seila Forum, 9 December 2003.

of VDC; for example, there are VDCs created by Seila, VDCs created by the MRD and those created by NGOs.[117]

A village chief is appointed and s/he is the lowest grassroots administrative authority of the government. The role of a village chief is to serve as a direct secretariat to the commune authority for various responsibilities including overall supervision of administrative activities, maintaining social order, being a liaison for all contacts to the village and mobilising people for meetings. Village chiefs normally do not need to produce a written report to the commune office, but s/he can present an oral report during the monthly meeting at the commune office. If there is something urgent, s/he can report to the commune directly. Officially, village chiefs do not have a salary from the government, but they get a supplementary fund of 20,000 riels per month (approximately $5). A village chief in Kompong Speu says:

> *As a village chief, my role is to conduct general supervision in the village, mobilise people for development meetings and maintain security and social order in the village. But now my tough job is helping to raise local contributions. And sometimes I face difficulties answering questions that people pose. Another main responsibility is helping to disseminate information from the commune to villagers because the commune councillors seldom come to meet people directly in the villages. (A village chief, 25 May, 2003.)*

While the village chief is appointed by the central government, the villagers elect the VDC members. Usually, a VDC consists of three to five members who are literate and committed to working for the village, including female members. The role of VDC members is to encourage people to be active in development projects in the village, for example, mobilising people for meetings related to development, disseminating information on development projects and helping to raise local contributions. In the VDCs created by the MRD, the VDC members do not have the authority to make decisions, but have to consult with the village chiefs. In other instances where the VDCs have been created by NGOs, the village chief is not a member but seems to function as an adviser.

Many observers have emphasised that village chiefs and VDCs may be in conflict with one another. However, due to friendship and kinship ties, such conflicts seemed not very apparent in the study material. Anecdotal information indicates that villagers think that VDCs are just a supporting body for the village chief.

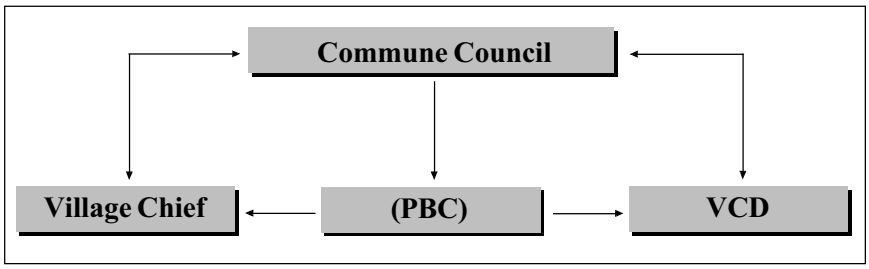
[117] Sak Setha, at the Seila Forum, 9 December 2003.

Despite their participation in the articulation of the commune development plan (CDP) and in maintaining infrastructure, neither VDCs nor village chiefs know the policies or regulations of the commune well. They are not well aware of the activity of the DIW—for example, the fact that NGO projects are also decided upon in the DIW. Limited financial and human resources capacity is the major constraint for the VDC and the village chief in fulfilling their jobs. There is a danger that the extensive prioritisations with meagre responses may cause a loss of confidence in the local authority.

> *There are a lot of demands, but we have meagre funds or none, so we cannot meet all of those demands. Last year, we were very active in prioritising demands. But in the result, not many were met. This year people will lose trust in us; maybe no one will come to participate in any development projects any more. (A VDC member in Kratie, 17 September 2003.)*

There is a lot of confusion about the roles of the VDC and the village chief. Villagers tend to recognise only the village chief, who is in charge of everything in the village. Both serve as an executive branch of the commune. From the view of the commune councils, village chiefs have a heavier workload than the VDCs and are, since they are employed by MoI, accountable to the rule of law. Furthermore, commune councils have a direct relationship to the village chief, not to the VDC. The following diagram illustrates the relationship (see figure 7.3).

Figure 7.3: Structure of Information Flow



As indicated in this figure, there is no formal contact between VDCs and commune councillors except during monthly meetings in the commune office. However, there are naturally plenty of opportunities for informal interaction in the course of daily life in the villages. There is also the potential of the VDC to be appointed as a commune council subcommittee.

Some preliminary progress is being made by the commune councillors in establishing the subcommittees, identifying development priorities based on the voice of the majority and fulfilling core administrative tasks on civil registration and most recently on voter registration. The reciprocal tie between

commune authorities and their constituencies is intact. Looking at the experiences from field research in 2002 as compared to today, it seems that a trend of more collaboration and better relationships between the commune councillors and village chiefs is emerging, and that establishment of informal groups in communes is increasingly taking place. These are all indicators of a move towards an increasingly democratic society (Ojendal and Kim 2004).

7.4.6 Relationships between Commune Councillors, Informal Associations and NGOs

Aside from obligatory relationships with various administrative subcommittees and village chiefs, the commune councillors also have direct and indirect interaction with informal associations and NGOs. It was evident during the field interviews that the relationships of the commune councillors with these associations and NGOs are beneficial for community development. It has also been emphasised by Mansfield (2003) that partnership between commune councils and NGOs matters.

Local and international NGOs from time to time cooperate with the commune councils, although they often prefer to work separately in order to protect their financial and technical autonomy. Most of the NGOs working in communes are focused on irrigation systems, hygiene, gender and advocacy training on democracy and human rights. They have their own staff, mostly local villagers. Although many NGOs work independently of the commune authority, they do need permission to be able to work in the commune. All of the councillors interviewed appreciate that NGOs come to their communes to help in development work. The relationship between NGOs and VDCs, village chiefs and commune councillors appeared to be relatively smooth, although commune councillors sometimes felt that NGOs sideline the communes by seeking permission to work in the commune directly from the provincial or district offices.

The most viable informal associations/committees in the communes are: (i) wat/pagoda committees, (ii) women's associations, (iii) parent and school committees, and (iv) environmental associations. In the interview material, there were no reported conflicts between these associations and the commune councillors. The fact that no conflicts were reported does not mean there are no conflicting issues. The relationships between these actors are characterised by little interaction and no debate.

The recruitment of members of the associations is based on popularity, length of work experience, levels of motivation and activity in the community and level of education. They are not elected, but most of them are selected by a majority of people based on the above criteria. Each committee has different roles and responsibilities. For instance, the wat committees are

in charge of Buddhism, raising money for repairing temples and organising traditional ceremonies; the women's associations are active in mobilising women to be involved in development and decision making and act as the liaison team for gender advocacy; the parent and school committees work closely with school principals to raise money for fixing schools and mobilising people in the village to safeguard school buildings.

Many of these associations serve as the main source of information and a good partner for PBCs, village chiefs and VDCs. CCs normally view these committees as helpful for community development and endeavour to support them.

A member of a wat committee who was formerly a deputy district governor in Siem Reap said the following:

> *As an old person, I know this community very well. I hardly have any time to rest; the commune councillors come to seek advice from me, especially ideas for community development and conflict resolution. It seems these days that the main problem is how to convince people to take part in the development of the commune. Another main issue is the relationship between the commune and the central authority. One does not trust the other; the central authority blames the local level for lacking in capacity, and the local blames the central for being authoritarian and power-hungry. (Wat committee member, 71 years old, 19 June, 2003.)*

Although it seems that many civil society institutions are now emerging in communes, lack of unity and cohesiveness between stakeholders there remain a challenge. Despite this challenge, there seem to be an emerging, constructive relationship between the Commune Councils and civil society (Ojendal and Kim 2004).

7.4.7 Information Flow and Relative Influence

7.4.7.1 Village Representation on the Commune Council

Another issue in decentralisation in Cambodia is information flow and village representation on the commune council. There are two issues here. Although the village chief is the most influential villager, s/he is not elected. Also, not all villages are represented on the commune council. A relevant question, therefore, is: what access to information and influence do the villagers have in villages that do not have representatives in the commune office?

There are basically two ways in which information is disseminated. The first is dissemination from the commune councils to the village via village chiefs, VDC, CDP and the heads of informal associations in the villages. The other is information

flow from the district to the commune (see "The District as Gatekeeper" below).

Information flow from the commune to the village is not problematic because there is close contact between village chiefs and the commune councils. Information can be disseminated by the councillors to villagers via the VDC and village chiefs. The mechanism for bringing information to villagers is village meetings. During fieldwork, the research team tried to scrutinise the understanding that villagers have of the commune budget. Through village assembly meetings, villagers have been informed about the Commune/*Sangkat* Fund and the amount the commune receives annually. Also, many communes keep this information in the commune office, so that it is accessible for those who want it.

Another way of spreading information is via informal associations/committees in the village, but this is mostly through word of mouth. According to Biddulph (2003), 38 percent of the villagers randomly selected during his study were informed about the CSF. Meetings organised by village chiefs and VDCs are the main way to ensure that information gets to every villager, but much of it also gets passed along informally.

7.4.7.2 The District as Gatekeeper

The second type of information flow is that from higher authorities such as the district office, POLA, DFT and PFT and direct contact by NGOs with the commune council.

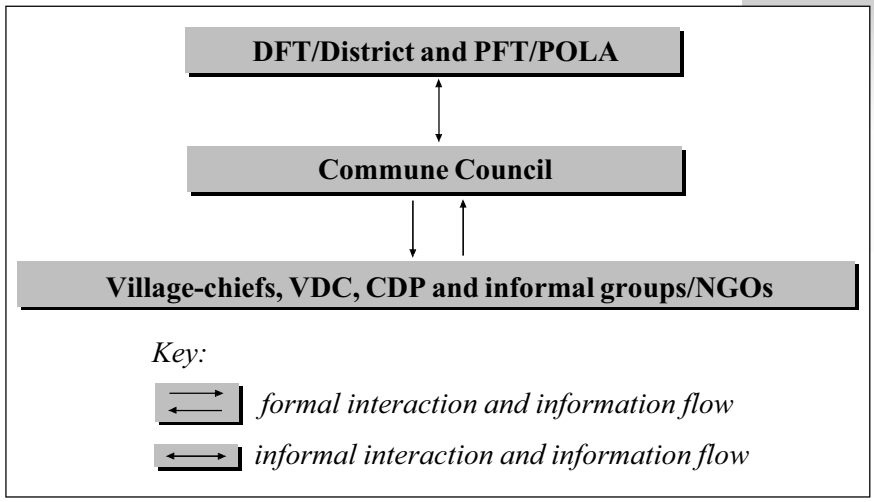
It appears that the district authority remains a gatekeeper for most contact and other sources of information before it flows into the communes. For example, if an NGO wishes to work in a commune, it has to consult with the district authorities first. POLA rarely makes contact directly with the commune authority because it works through the DFTs. The DFT is the most relevant unit for transmitting information from the higher authorities to the communes because its role is to assist the commune councils.

Another way of bringing information to the commune council is via NGOs that conduct development projects in communes. The reporting from commune to district authority is done through monthly and weekly meetings at the district office. This is the only chance that commune councils have to report directly to the district governor and district technical offices. Some commune councils complain that when technical staff come to the communes, it is not for the purpose of disseminating information, but rather to collect data for their own annual reports.

Usually in rural Cambodia, information is conveyed outside the official channels. Local leaders can access information via

their personal contacts and relatives, all by word of mouth. The flow of information from the commune to higher authorities is likely to be dependent on the district authorities, especially the DFT. The key point here is the potential for a conflict of interest in the DFTs, which divide their time between the district authority and their role under PRDC ExCom.

Figure 7.4: Information Flow of Commune Councils



This figure shows that the information flow between the commune and above is sometimes formal via DFT and monthly meetings, while information flow between the commune councillors and below is more often carried out in an informal manner. In many communes, each councillor is assigned responsibility for one or two villages within the commune, with the obligation to disseminate information to those villages and serve as their representatives. Although the information from the study indicates that flow of information between the commune and the villagers is relatively smooth, it appears that, in other places, information dissemination is a problem (Biddulph 2003).

7.4.8 Concept of the Khmer Term "Chol Ruom" (Participation)

In order to understand whether people are interested in participating in commune development activities and whether the sense of popular participation has a tangible impact on the community, we should put some efforts into explaining a Khmer term, *chol ruom* (participation). During our fieldwork, we took the opportunity to observe and interview people and local leaders, and asked them the exact meaning of the term. Local leaders view the term as having two different meanings: (i) just being present, not necessarily interacting and (ii) active

participation, asking questions and sharing comments. Practically speaking, most villagers who come to a meeting are there just to be present and listen. As one commune chief explains:

> *Based on my personal observation of many years working directly with villagers, people do know that they are supposed to share comments and raise questions during meetings. But it is a habit that they take things for granted and they suppose that the chair of the meeting already knows everything. (A commune chief in Pailin, 8 September 2003.)*

According to village chiefs and CDP members, when they explain to people that they are there to address their needs, there has been some improvement in interaction during meetings, especially during development planning.

7.5 Mechanisms for Building Trust

Accountability and trust are the most vital elements of decentralisation; therefore commune councils must be accountable and able to respond to a high level of demand from the electorate, able to collect local revenues and able to arrange proper fiscal management. The commune councillors must minimise elite power and avoid conflicts of interest with political parties. The commune councils can build trust and generate a broad-based legitimacy only if they can do this, allowing for equal participation by all political parties to influence decision making. With the actual performance of commune governance reforms, in what sense have political and development-oriented decisions been influenced by local activities and initiatives? Responding to these mechanisms of building trust, this sub-chapter will address:

- The politics of transition and the role of the local elite;
- The view of local people towards local authorities (commune councils);
- Whether commune councillors have the ability, or are permitted, to collect local revenues and mobilise their own resources to respond to demands and meet the expectations of the electorate;
- The empirical strategies that the commune councillors use to build trust with villagers.

7.5.1 The Politics of Transition and Local Elites

In Cambodia, the existing institutional set-up is enough to instigate decentralisation, but there are some practical issues that remain a problem. The move towards greater local democracy is occurring slowly, and unless there is some strategic intervention regarding service delivery and addressing

reform, the decentralisation could turn into a *permanent transition*. The overwhelming poverty in rural areas, combined with the possibly unrealistically high expectations placed on the commune councils to reduce poverty, could easily alienate councils from the electorate.

There are two important issues. On the one hand, elite capture of local development has not taken place. This is because the funds available locally (to the commune) are as yet quite small and their use is fairly well regulated from above, so they are thus of little interest to the local elite. Elite capture of development may therefore be a premature concern, but elite capture of the local political arena is taking place. In Cambodia, having local power is not important in terms of development funds, but it is important because of the access to political leaders and decision makers at higher levels and, therefore, access to resources. Local businesspeople who have good access to powerful political figures could bypass the commune authority. This undermines the trust of the electorate and the elected councillors. Avoiding elite capture by enhancing accountability will be one of the main challenges in the further development of the communes and their efforts at building trust.

With decentralisation reforms through commune elections, the horizontal collaboration between the commune council and the electorate is growing via different participatory development activities. People are no longer kept in the dark about decision making. Although participation remains a problem for most development schemes, all kinds of development activities involve the people. The following section will seek to ascertain the views of people towards local authorities.

7.5.2 Building Trust through Performance

The difficulty in building trust between councils and their constituency is caused by the poor performance in addressing the many identified needs of the commune during the prioritisation meetings.

Many councillors feel that people do not trust the commune council to respond to the community's needs because it does not have much influence compared to higher authorities. They also feel that this lack of trust in the commune makes people lose interest in participating in commune development planning. However, according to Biddulph (2003), 49 percent of randomly selected people had taken part in village planning prioritisation meetings.[118]

[118] The number was slightly higher for people with positions on the council (50 percent) as compared to the very poor (32 percent).

It is essential to improve the commune councils' ability to respond to the demands of their constituents. At the same time, it would be helpful if prioritisation could deal with a smaller number of projects. DFID/SIDA PAT (2003) has also suggested this. This might improve the balance between the number of prioritised projects and the actual implementation and would in turn help build trust in the ability of the council to respond to the needs of the community. This would avoid creating the impression among the constituency that local government is in a state of *permanent transition* in terms of building capacity to deliver.

Many commune councillors have complained that it is difficult to encourage people to participate in development schemes in communes. One councillor expressed this concern in the following manner:

> *It is difficult at the moment to persuade people to participate in the development of the commune, especially the rich, who do not care. They are busy with their businesses, and the poor come expecting donations. The rich do pay local contributions, and the poor contribute labour. Commune councils face problems in dissemination of information regarding development to people if they are not interested. (Commune chief in Kompong Speu, 17 June 2003.)*

As we have seen, some people lose interest in taking part in development activities under commune leadership, because of perceived slow or inadequate responses of the councils to their demands. It is mostly women and old people who are available to participate in commune development planning, since young people, especially men, are occupied with making a living outside of the villages. Those who are better off are not dependent on commune councils because they have their own connections and ability to access outside resources. This has contributed to creating a weak position for the commune councillors. The next section will point out how commune councils can build trust by being the main delivery channel for services.

7.5.3 Building Trust through Being the Main Delivery Channel for Services

The commune councils' ability to deliver services will play a large part in building trust. If other institutions take this role upon themselves, people will look towards those institutions rather than the councils for solutions.

Fieldwork in the 15 communes indicates that in our commune sample, during the last eight years, 45 percent of projects were funded by the commune through the CSF or the local development fund during CARERE II, 29 percent were funded by international organisations and NGOs, 8 percent by

political parties and 18 percent by line departments. It is not clear how many of these were actually defined as priorities by the communes, since no record exists of prioritisation before 2002. According to our fieldwork, about 20 percent of the projects taken to the DIW receive funding guarantees. However, as government budgets are approved *after* the DIW, line departments enter into contracts before their budgets are approved, with the result that, in 2002, very few of the line department projects were implemented, except for those dealing with awareness building.

This is very significant in terms of the opportunity for the commune to build trust with its constituency. If the majority of projects are delivered by institutions other than the commune councils, and if these projects were not among those prioritised by the communes, it is likely that the council will lose the trust of the people. People will begin to look to other institutions to satisfy their needs, causing the work of the councils to become irrelevant to them.

7.5.4 Building Trust through Fund and Project Management

Another way of building trust is well-conducted fund and project management. The commune council puts enormous effort into managing project implementation by contractors and collecting local contributions for this. Delivery of these projects is therefore crucial to the building of trust in local government. Two major external threats pose the greatest current challenge in this regard. One is that a shortage of government funds seriously delays payment of local contractors. The other is that quality control by the TSS without reference to the VDCs has in some places led to projects of poor quality being approved. The TSS does not check with the VDC before signing the papers that allow the contractor to get the payment order from the commune chief.[119]

7.5.5 Building Trust through Interaction with the Electorate

For commune councillors to maintain or build trust is a difficult task because of a lack of funds and capacity. In the study sample, some inquiry was undertaken on the strategies that commune councils use to explain about their difficulties in maintaining good relationships with people (*trust*). The findings of the study reveal a great deal of change among local leaders.

- Before the commune elections, not all people were informed about the development planning that occurs in the communes. But now, the commune councillors must involve people in this and make the plans apparent

[119] Interview with GTZ advisers in Kampot, August 2003.

through regular meetings. By doing so, they can demonstrate what funds they have available and for what projects they will be used.

- Councillors must inform people about the sources of funds of the communes, especially development funds. This helps to reduce corruption and scepticism.
- Another way of building trust is for elected councils to ensure good interaction with people by listening to their needs and concerns. This is a notable change emphasised by councillors in former Khmer Rouge areas. This communication between leaders and constituents did not occur much before the commune election. Although this might also be the case elsewhere, it was emphasised only by councillors in former Khmer Rouge areas.

One major point of concern, however, is that it is possible that the extensive prioritisation initiated by Seila, coupled with meagre funds for decentralisation, will undermine confidence in local government.

7.6 Evolution of the Reform

This sub-chapter will address the issue of the extent to which commune councils make decisions themselves on issues within their existing authority.

To be accountable and trusted by constituencies is the most important aspect of the commune/*sangkat* councils. However, the councils have limited resources and capacity to respond to the high demands both from their constituencies to deliver local democracy and services, and from the central government to deliver certain functions. Nonetheless, in just over two years of evolution, some notable achievements have been made by the decentralisation.

Some of these improvements are as follows:

- Basic training: all the communes in the country have been through four basic training courses conducted by the MoI and some NGOs. These four courses are: (i) general orientation on decentralisation, (ii) administrative management, (iii) fiscal arrangements and (iv) development planning. These have helped them to understand their role, but they still have problems with implementation.
- The drafts of by-laws prepared by MoI have been formulated to match the local context and are being used as the main guidelines for internal arrangements within the commune councils. There is no evidence as yet that the councils on a wider scale have started making their own by-laws. In the study sample, the councillors say

they still rely on their own past experience and tend to operate in traditional ways, with upward accountability. This makes it difficult to exercise the power of autonomy.

- Establishing various development plans: all communes have finished their three- and five-year development plans and submitted them to the DIWs with technical support from DFTs and PFTs.
- After DIWs in October 2002, most of the communes have received approval of some of their projects, and furthermore received some other projects they had not requested but which were suggested by some NGOs.
- Commune clerks are actively conducting their core responsibilities such as civil registration, and successfully fulfilled their roles in conducting voter registration for the national election in 2003.
- Implementing development schemes using the CSF: smooth progress is being made in the construction of infrastructure. This is implemented by the councils with participation from the people. Based on preliminary progress, village representatives in the study sample seem to be pleased with fiscal transparency in the form of bidding contracts and the fact that they are informed about the CSF every year. In all communes visited, information about the CSF is displayed in the council office, available for anyone to read.
- There is also active participation in terms of local contributions. For example, in Kompong Speu, contributions are 10 percent in cash while in Battambang local contributions are 7 percent in labour and 3 percent in cash. In some communes in Kampot, the rate of local contribution may be higher than other provinces, 15–20 percent. This is related to GTZ's activities in the province. Other progress has also been made, such as in improved relationships between commune councils and various civil society organisations.

However, these preliminary outcomes will not be solidified unless there is a real transfer of responsibilities and capacity to the local councillors and local actors.

7.7 Dynamics of Change

This sub-chapter will address the question: what are the main development challenges and changes in the relationships between local actors since the election in February 2002?

The ability to mobilise people to participate in various development activities is one of the most crucial factors of local governance. In some areas of the country, the notion of

self-reliance does not exist. People are used to depending on logistical support from NGOs (food for work, for example), which is different from the core idea of decentralisation, which requires voluntary participation and local contributions in the form of labour or cash. The practice of direct donations by political parties continues and leads to bypassing of local governments, and also creates an attitude of dependency among commune councillors. However, because of the great efforts on the part of the councils to explain the new procedures of decentralisation, there are increased signs of participation from people in all activities.

Switching from a top-down to a bottom-up system is not an easy task for local leaders. Most of the commune leaders have been working in the commune offices since the early 1980s and therefore are accustomed to old/traditional norms of working. Both the central and sub-national governments recognise that this attitude is hard to change. Nonetheless, the councils have demonstrated a great improvement in articulating the main legal aspects into practical outcomes, but there continue to be problems of understanding and adaptation to bottom-up and participatory approaches. This is particularly the case in localities where many of the councillors are former Khmer Rouge commanders.

Local leaders and people are seriously considering the bottom-up approach. At the moment, communication between authorities and people is good, and the culture of participation has improved. In many communes there has been a scramble to get women to run in the local elections, and they are increasingly engaged with local development.[120] It is crucial to take advantage of this positive attitude and optimism. The danger is that delays in other necessary reforms jeopardise the decentralisation and the changes it has so far secured.

7.8 Challenges

Laws and training courses are not entirely pertinent to local conditions. Many commune councils are playing a conflict resolution role especially regarding domestic violence and land conflicts. There is no training on legal issues given to commune councillors in order to solve conflicts based on the rule of law, and therefore many commune councillors still practice traditional methods of conflict resolution, mainly by applying the concept of reconciliation.

The following are a number of challenges worth mentioning:

[120] Interview with female councillors in all studied communes, March–September 2003.

- Some guidelines are not adapted to the local context, e.g. reporting and monitoring systems, most of which are too complicated for the councillors to understand.
- Poor collaboration from different policy makers such as line departments and district technical offices is still an issue.
- For development of their communities, the commune councillors are still in a recipient position, waiting to get funds from the national level and NGOs. This reinforces a lack of self-confidence on the part of the councillors, who have never been fully allowed to exercise their power.
- The commune councillors have been on different training courses provided by government institutions or NGOs, but this still does not sufficiently contribute to local progress due to their lack of full autonomy in decision making and finances, and the different training schemes are not directly pertinent to the local context. Also, the presence of district facilitation teams and the sometimes unsupportive attitude of the district further hamper change toward taking more initiative and risk.
- Clerks and commune councillors know from previous knowledge or recent training how to do their jobs, but the lack of participation from local people, who are not so well educated and informed on development issues, is still a problem.
- The relationships between communes and NGOs or informal associations are very limited.

7.9 Summary of Main Points

The research findings at this stage are primarily aimed at raising further discussions in order to improve the decentralisation. The account of decentralised governance presented above (*local-local relations*) shows that there are some problems that have undermined the development of local government by elected commune councils, causing uncertainty for the future:

- The capacity building given to commune councillors is not sufficient. Low capacity among councillors is one of the elements that make councils reluctant and lacking self-confidence in making decisions. An increased focus on peer learning may help build confidence.
- Political commitment to devolution of power to the commune councils to achieve legal autonomy has been limited, especially the power to collect local revenues and other financial autonomy. This is a potentially divisive issue because currently there are many local

actors, some collecting formal taxes and others collecting informal fees.

- The affiliation of councillors with political parties has not been conducive to fostering people's active participation in local development and council affairs. To some degree councillors face difficulties distinguishing between party and commune tasks. In reality, the real power and decision-making ability lie with locally influential persons (elites) who have good access to powerful persons at the central level and in political parties. Notwithstanding this, elite capture has not emerged within decentralisation.
- The analysis of intra- and inter-communal structure and functions shows that there is little problem in transparency from commune to the electorate. However, information flow to the commune council is still dependent on the district, which puts the councils in an awkward situation in terms of making reliable decisions about the villages. High demands on people with a limited ability to respond and the ultimate reliance of local bodies on national government funds make them heavily dependent on government agencies, in particular the line departments. This is also seen at the central level, where there seems to be a struggle between line ministries and central ministries over the right to interact with the commune. This is a situation that does not allow elected commune councils to act accountably and respond well to the needs and expectations of the people.
- Many observers have been concerned about female participation because only 8 percent of female councillors are women. Forty percent of VDC members are women. One main concern is their difficulties in voicing opinions in the company of men. This is exacerbated by the fact that among councils with women councillors, only very few have more than one woman. Female councillor associations may help build capacity and confidence among female councillors.

It is clear that political reform has encouraged the growth and functioning of grassroots democratic institutions in just over a year. Much successful democratic governance and horizontal collaboration can be understood as emanating from this effort:

- Decentralisation efforts have formed an elected local democratic institution (commune councils), which never existed in Cambodia in the past. Various subcommittees within councils are responsive to their role and function. All of the activities of the council are carried out with

interaction from local people. This is to be further encouraged. However, to avoid the danger that people lose trust in the ability of the council to deliver, it is urgent that resources be provided to increase the response to commune needs as identified in the CDP.

- Although they have limited capacity and few financial resources available to them, as long as the commune councillors are honest vis-à-vis their constituencies with regard to information dissemination and transparency of fiscal management, they will win the people's confidence. On top of this, the elected councillors are brave enough to admit that they cannot always respond, but still they listen to the demands and concerns that the people voice. People seem to appreciate the opportunity and are learning the culture of trusting their elected leaders.
- The roles and responsibilities of elected councillors (influence of the democratic process) force them to distinguish between the private and public domains. The performance in the community of elected councillors is watched carefully by their electors, particularly in terms of their affiliation with political parties. However, there will be a need to focus increasingly on transparency of resources other than the CSF, such as the civil registration fees. With a potential for the commune to collect own-source revenues, a focus on funds transparency will be increasingly important.
- Decentralisation in Cambodia plays a role in motivating local leaders to work hard for their communities rather than just to act as power brokers. As we have seen in this chapter, local leaders have heavy obligations to their communities, often without commensurate benefits from the central government and community. They face criticism and take on a heavy responsibility. Their commitment should be supported by further attempts to ensure a predictable and increased flow of resources from central to local government.

Chapter Eight

Service Delivery and Commune Finances

8.1 Introduction

Most of the countries presently involved in the decentralisation initiatives recognise the importance of providing service responsibilities and financial resources to decentralised institutions to carry out the roles and responsibilities devolved to them. Fiscal decentralisation consists of service delivery assignment and assignment of own sources of revenue to local governments. Intergovernmental transfers are key ingredients to help local governments bridge the fiscal gap between their expenditure responsibilities to provide services and the assigned revenue sources. Fiscal decentralisation in Cambodia can be highlighted within this context.

This chapter examines the current structure of commune/*sangkat* financing, the roles and responsibilities of the different levels involved in this structure and accessibility to and availability of the different sources of funds for the commune councils. It also presents the challenges of the current system of local financing in terms of management and its strengths and weaknesses.

The chapter is organised into five areas, and attempts to answer the following questions:

i) What types of service delivery do sub-national governments provide?

ii) What are the different revenue sources available to sub-national governments?[121]

iii) What is the Commune/Sangkat Fund? How is it accessed and disbursed?

iv) What types of taxes do sub-national governments currently collect? What are the potential sources of revenue for the commune councils?

[121] In this monograph, sub-national governments are defined as governments lower than the central government.

v) What recommendations can be drawn from the above analysis?

8.2 Service Delivery of Sub-National Governments

The rationale for fiscal decentralisation has been to move government closer to the people by promoting revenue mobilisation, local accountability and grassroots participation in governance, with the ultimate goals of strengthening local democracy and reducing poverty. Whether success is realised for such reform experiments depends on many variables. Among them is the devolution of revenue and expenditure responsibilities from central to local governments. This is a difficult task. Revenue and expenditure assignments within multilevel government structures are by no means clear in principle and are generally controversial in practice. Likewise, assignments of responsibilities for service provision are essential and challenging issues.

This sub-chapter will answer three questions: (i) What is the division of service delivery responsibilities of the different levels of government? (ii) What types of service delivery are provided by the commune? (iii) What are the policy challenges in service delivery?

8.2.1 Responsibilities in Service Delivery

In Cambodia, the LAMC provides the overall legal framework guiding the distribution of responsibilities between levels of government. Historically, the communes delivered no public services. They are now assigned demanding responsibilities previously met by higher levels of government. In fact, communes have broad permissive responsibilities for promotion of local development but no specific responsibility has been mandated under current law. Higher levels of government, under the relevant sector policies, control the major service delivery aspects. Assignment of certain revenues and service delivery responsibilities to local government is at the discretion of the centre and, to an extent, the provinces. In general, service delivery functions are poorly developed in Cambodia.

Provincial governments have responsibility for a full range of service delivery. Most important among them are schools, health centres, transportation, water, electricity, sanitation, garbage collection, parks, markets etc. Actual service delivery provided by the province is mostly in public services and social activities. Most public services provided by the province are financed by user charges and fees. The fact that some provinces have more revenues of their own means that they can take increasing responsibility for their own development, especially to improve public services. Examples can be found in improved infrastructure, markets and garbage collection in the provincial

towns. In addition, the provinces are involved in monitoring and ensuring that basic standards of good governance, service delivery and financial discipline are being met locally. The branch office of the province is placed at the district level. The district office has minimal responsibility for service delivery in the current structure. The most important roles that the district plays in this set-up are to provide safety and security, to collect data on rice cultivation and related agricultural activities for the relevant actors, to be involved in small projects and maintenance activities in collaboration with the province and line ministries and to some extent to facilitate and assist local councils with commune project implementation.[122]

The communes are responsible for duties that are relevant to the overall management and development of improved livelihoods for the people, which include security and public order, protection of the environment and natural resources, promotion of social and economic development, general affairs of the commune and the required public service delivery. These are all the sectors and issues that communes are allowed to engage with by law; however, until now, civil registration has been the only mandatory responsibility assigned to the councils. These service delivery responsibilities are very broad and cover most sectors, including roads, small infrastructure projects, irrigation, school buildings and maintenance of public properties, but excluding the education and health sectors. The commune's roles will increase to include responsibility for planning and implementation and monitoring of educational services, as new roles and responsibilities are further defined and delegated to each level of government under the decentralisation and deconcentration reform policy of the education sector.[123]

Comments on Service Delivery Responsibilities

Currently there is a lack of clarity in the roles and responsibilities as well as in the distinction between capital investment and recurrent functions of the different levels of government in service delivery. It is crucial that these be identified in order to ensure that these roles are best matched with the resources and capacity of each level of government, and also to apportion revenues for implementation. This is not only to promote efficiency and effectiveness of service delivery but also to strengthen accountability vertically and horizontally. Usually the national government takes on the provision of public goods and services that benefit the entire nation, and the services and functions that cannot be explicitly given to one

[122] Interviewed with district governors in the eight provinces during the research fieldwork.

[123] As stated in the Education Strategic Plan of 2001-2005 of the MoEYS.

council or another, in order to ensure that collaborative work among levels of government exists and is effective.

The clear assignment of functional responsibilities to different levels of government is considered one of the fundamental steps in designing and determining intergovernmental transfers. Experience from many countries in Latin America shows that it is a mistake to have decentralised revenues and transfers in the absence of decentralised expenditure responsibilities (McLure and Martinez-Vazquez, 2000:1). Responsibility for service delivery is one of these.

Another common challenge local government faces should also be noted. When there is no clear delegation of responsibilities to provide services, local governments are likely to lose the opportunity to secure funds from other institutions and organisations. The potential result of this is that higher levels of government take control of access to funds and project implementation. According to Seila practice and argument, transfers to the commune would enhance its revenue-generating capacity and service delivery functions. The DIW and the CSF set-up have clearly helped to address the reluctance among NGOs and donors to give the communes the trust and resources to implement projects. However, it remains a challenge that commune capacity at present falls into the trap in which continued central government control reinforces local government incapacity to manage.

Commune planning in Cambodia exemplifies this. The current planning, the development of project identification and the implementation and monitoring of projects tend to be much focused on ensuring that the commune follows the existing guidelines and the specific format that has been prepared. With the focus on the need to follow procedures, less attention has been given to how the commune can respond to the demands of villagers. For instance, commune councils lack the capacity and resources to respond to the many projects identified in the commune development plans. Added to this, responsiveness from the province to these demands is also meagre because the commune and province planning are poorly integrated. There is minimal initiative by elected councillors in mobilising resources and capital in the commune for local development. To fit with the "finance follows function rule" of revenue assignment, the communes should be capable of providing at least the basic services demanded by the people.

Further discussion on the types of service delivery in the commune is presented below.[124]

[124] It is clear that further research on service delivery of the different levels of government is needed. A CDRI research programme on service delivery and poverty reduction will address these issues.

8.2.2 Delivery of Services at the Commune

Public service delivery in Cambodia is a high priority.[125] Similar projects and types of service delivery take place in all the provinces. Common to all the communes, these projects include the construction of wells, school buildings, pagodas and roads, on the premise that these have a big impact in terms of the number of beneficiaries. One of the reasons for this, according to the respondents selected for the research, is the common expression of a preference for tangible projects. Development activities need to be categorised as either tangible or less tangible, such as educational projects, awareness raising campaigns or natural resource conservation programmes. Most of the time, villagers perceive development activities as something involving physical structures such as school buildings, dams, roads etc. As a result, many of the priority needs identified for the communes do not include less tangible development activities even though conflicts related, for example, to land and domestic violence and HIV/AIDS seem to be important and relevant issues in most areas.[126]

Typical service delivery by the commune councils thus far has been small basic infrastructure projects such as wells, water pumps and cement ring bridges and minor constructions like classrooms, roads, water channels and public toilets. These important projects, which also receive the most funds, can be categorised into three areas: roads, schools, and water supply sources. Implementation of these small-scale projects in the commune has not changed for the last five years.[127] This can be attributed to (i) the minimal amount of funds available to the commune leading to a focus on visible projects, such as physical infrastructure; (ii) infrastructure projects being encouraged and better understood by the technical support staff available to the commune, in contrast to "softer" projects; and (iii) unclear assignment of service delivery responsibility.

The fact that 99 percent of the communes in Siem Reap are categorised as 1A communes and receive more development funds than communes in Kratie province does not result in huge differences in the number or type of projects and activities

[125] The results from another research programme conducted in early 2003 also confirm these points (Chia *et al.* 2003).

[126] As exemplified by interviews with a female councillor in Battambang, May 2003, and a female commune chief in Kompong Speu, 23 May 2003, and with councillors in Kratie and Pailin, September 2003.

[127] Table 8.1 lists the different types of projects for 11 communes in the six provinces.

implemented by the commune councils.[128] The list of projects in table 8.1 demonstrates that although there is a big gap in the amount of funding allocation, the types and number of development activities and projects in communes today do not vary much from one another.

This challenge can be explained by the experience of several countries in Latin America (Peterson, 1997)—that problems occur in the implementation of decentralised service delivery when the law leaves functional responsibility unclear or assigns the same functions to many levels of government, and when the councils lack long-term plans. It is quite clear that the communes try to invest in projects that are visible and that can benefit as many people as possible. However, due to limited funds, it is hard to secure longer term costly projects, such as those related to education and health. It is therefore tempting for any level of government to walk away from costly service delivery projects.

Experience from Latin America also shows that there is the potential for efficient and effective service delivery despite poor public administration or adverse macroeconomic effects (Bird and Vaillancourt, 1998:11). A well-designed system that provides incentives for public participation and contribution, as well as a means for monitoring and evaluation of local government performance, will help to create an environment for better use of funds to meet the demands of contributors and beneficiaries. The Seila programme in Cambodia aims to ensure the local capacity to implement programmes supported either by outside agencies or by the CSF.

8.2.3 Commune Priority Projects

This section provides an overview of the apparent commune priorities, and whether and by whom the priorities are responded to. The types of development activities taking place in the communes are categorised as:

- Category 1: infrastructure projects such as roads, water supply sources and buildings;
- Category 2: training, extension programmes and workshops;
- Category 3: provision of service programmes such as awareness activities;
- Category 4: provision of equipment and materials.

[128] 1A communes have sufficient capacity to receive both development funds and administrative funds. 1B communes receive administrative funds only, but can still attract project funding through the DIW. From 2004, all communes receive both administrative and development funds.

Table 8.1: Commune Priority Projects

Commune name	The first 5 prioritised projects from the CDP	Project category	Funded by	CSF Development Fund for 2003 (riels)
1. Thnot in Takeo	Road repair	1	No	5.5 m
	Ponds (5)	1	One by CSF	
	Wells	1	No	
	Schools	1	No	
	Sanitation class	2	No	
2. Chumreah Pen in Takeo	Road repair	1	CSF	36 m
	Restoration of canal	1	No	
	Public toilet	1	No	
	Pond	1	No	
	Fertiliser for paddy field	4	No	
3. Prey Thom in Kep	Build & restore road	1	No	26 m
	Waterway across road	1	DoRD[129]	
	Repair dam & restore canal	1	DoAgr[130]	
	Watergate	1	CSF	
	Build dam	1	No	
4. Champey in Kampot	Cover road with laterite in 3 villages	1	CSF	33 m
	Cover road with laterite in 3 villages	1	CSF	
	Cover road with laterite in 3 villages	1	CSF	
	Waterway	1	CSF	
	Waterway	1	CSF	
5. Kseum in Kratie	Road	1	CSF	26 m
	Health services (training & doctors)	3	No	
	Watergate	1	No	
	School	1	DoEdu[131]	
	Water for paddy field	4	No	
6. Dar in Kratie	Road	1	CSF	28 m
	Watergate	1	No	
	Water reservoir	1	No	
	Water pump	1	No	
	Tractors	4	No	
7. O-ta-vao in Pailin	Road	1	CSF	22 m
	School building	1	No	
	Wells	1	No	
	Agricultural programme	3	DoAg	
	Health programme	3	DoH[132]	
8. Steung Kach in Pailin	Road	1	CSF	28 m
	Wells	1	No	
	Health programme	3	No	
9. Bakong in Siem Reap	School building	1	DoEdu	25 m
	Irrigation and toilet	1	CSF	
	Health centre	1	No	
	Agriculture training	2	Yes by DoAgr	
	Road	1	Yes by DoRD	
10. Peak Sneng in Siem Reap	Watergate	1	No	20 m
	Demining	3	No	
	Wells	1	Yes by CSF	
	Fish and cows for raising	4	No	
	Road	1	Yes by WFP	
11. Pouk in Siem Reap	Canal	1	No	9 m
	Watergate	1	Yes by CSF	
	Bridge	1	No	
	Road	1	No	
	Dam	1	No	

[129] Provincial Department of Rural Development.
[130] Provincial Department of Agriculture.
[131] Provincial Department of Education.
[132] Provincial Department of Health.

The table indicates that all CSF projects in the communes visited were infrastructure projects.[133]

8.2.4 Policy Challenges in Service Delivery

The overall policy in service delivery is stated in the NPRS as aiming to achieve equitable growth distribution and promote the access of the poor to basic social services, including specifically health and education. These basic social services need to be in place for easy access by the poor in rural areas. In education, for example, the Education Strategic Plan 2001-2005 states the overall policy goal as achieving education for all by 2015. This policy also ensures equitable access and quality improvement in the nine-year mandatory schooling target for both formal and informal education.[134] To achieve these goals, the spending on education in the annual recurrent budget will be increased from 244 billion riels in 2001 to 541 billion riels in 2005 (MoEYS ESP 2000) in order to reduce the cost burden on the poorest families (the family bears 70 percent of the cost of basic education). If achieved, this increase will help to reduce contributions of parents (who have always contributed a majority of education costs) from an annual average of 40,000 riels per student in 1997 to 26,000 riels in 2005.

In the health sector, the Ministry of Health's commitment in service delivery indicates clearly that poor citizens should receive free medical consultations in any public hospital. The health sector has implemented a user fee system since 1997 and, as a result, availability and accessibility of quality service have shown positive progress. At present, these services are expensive in the Cambodian context. The average total cost for health care service a patient bears is 57,000 riels, which usually includes transportation to the health centre, consultation fees at public hospitals and consultation fees before coming to the health centre.[135] Also, patients bear all the expenses for medicines.

Generally, the services available and accessible to people are minimal and limited. The provision of "free and basic services" has long been proposed for citizens at large, but is yet to be put into practice. A policy on service delivery could provide a clear definition and explanation of the extent and meaning of "free basic services" available to the public. Currently, it is not obvious and publicly known what services are provided by whom and whether these services are free of

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[133] Records from the first sample communes were not collected; therefore the sample here is 11, not 15, communes.

[134] The MoEYS defines basic education for all as free for every child who attends grades one to nine in any public school.

[135] This is a case study in Maung Russay Health District in Battambang province. Detailed information and analysis of costs for hospitalization can be found in table 6 in Jacobs (2000).

charge. The challenge has been that the free basic service policy is not clear, and the situation is exacerbated by corruption within the bureaucracy of the service providers.

The fact that people have been charged user fees for a long time for the supposedly "free services" has eroded trust in public services. This lack of trust stops local people from engaging in commune development activities. People complain about local contributions in which each household is required to contribute matching funds for the commune development fund. They perceive that goods and services provided through the development fund of their commune should be free of charge for their use because previously no such contribution was mandated.[136] Villagers do not always know whether it is a legal obligation to pay the commune for development activities. In order to avoid confusion, increase participation and create trust, the local people therefore need to be made aware of their obligations. In addition, a clear national policy on service delivery would potentially impact two areas of local government; one is the capacity to raise revenue by providing public services, and the other is a possible increase in the role of local government and therefore in corresponding transfers from the central to the local government.

Case Study of Service Delivery

The education sector in Cambodia has relied significantly on three sources of funding: government (50 percent), parental contribution (35 percent) and donor funds (15 percent).[137] Present changes to the Educational Strategic Plan and the inclusion of the priority action programme (PAP) of the MoEYS have relieved the burden of parental contribution and resulted in deletion of school registration fees. This has had a great impact on the enrolment rate of primary students. In addition, most schools now receive direct funds from the government, which encourages management and accountability of the schools.

Service delivery in the different sectors can be provided in two major ways: by retaining a centralised system or decentralising the system. In order to ensure a national standard, a common practice is to allocate sectoral transfers. If any particular sector or service is to be provided by local governments to national standards, the national government can allocate transfers for those sectors (education and health, for instance). These transfers will immensely enhance the capacity of the local government in its service delivery and revenue generation, and reduce its service delivery expenditure.

[136] Interviewed with chief of POLA in Kompong Speu on 20 May 2003, and interviews with all commune councils throughout the study.

[137] The figure is in percentage of total education expenditure for 2002. A joint report from the World Bank and ADB, 2003.

Furthermore, an opinion survey conducted by the World Bank (1995) showed that sectoral allocation of resources is consistent with community preferences and results, in most cases, in increased trust of citizens in their local governments for service delivery, more so in fact than in the national government (Bird and Vaillancourt 1997:10). Another argument for devolving service delivery to local government is two-fold: (i) investing in spending for local service delivery rather than at higher levels means these services are more accessible to villagers, especially the poor; (ii) local service delivery is less expensive for both the recipients and the providers because users minimise their expenses, e.g. for travelling to access the services, and any charges for these services can be reduced.

This challenge is quite common in most developing countries, especially in the transition from a planned to a market economy, in which problems emerge, for example, with respect to service delivery, privatisation and the allocation of assets among levels of government. In the near term, this policy can probably best be developed following an assessment of potential local revenues.

Summary of main issues

- Currently, the different levels of government have not been assigned clear roles and responsibilities with regard to service delivery. The communes are responsible for duties that are relevant to overall management and development with the aim of improving people's lives. The potential outcome of this is that local governments are likely to lose the opportunity to secure their own funds from other institutions and organisations.
- Public service delivery in Cambodia is a high priority. We can categorise the important and most-funded commune development projects into three areas: roads, schools, and water supply sources. The nature of these small-scale commune projects has not changed for the last five years. In addition, development activities should be understood as both tangible development projects and less concrete projects such as educational projects, awareness raising campaigns or forest conservation programmes.
- Although the absolute amounts of allocated funds vary widely, the types and number of development activities and projects in the Cambodian communes do not differ much from one another.
- Currently, it is not obvious and publicly known what services are provided by whom and whether these services are free of charge. The fact that people have been charged user fees for a long time by ineligible agents

for services that are ostensibly free has eroded trust in public services. Increased focus on service delivery by the commune council has two potential impacts on local governments. The first is increasing the capacity to raise revenue by providing public services. The second is the possibly increased role of local government and corresponding transfers from the central to the local government.

8.3 Revenue Sources of Sub-National Governments

This section will address the different revenue sources available to sub-national governments. Within this context, the relevant regulations concerning the different sources of revenues and transfers available for provincial and commune councils are discussed. The section also discusses sub-national governments' use of and access to different types of revenues, and highlights the use of funds from line ministries for development activities.

The chief questions to be answered are: (i) How does a sub-national government accesses funds? (ii) What are the sources of these funds? (iii) How are these funds managed? (iv) What are the conditions for development spending? In addition, the section discusses the revenue available from NGOs and political parties. It will look at the channelling and flow of funds from NGOs and political parties to the commune, who manages these funds and for what they can be used.

8.3.1 Overview of the Formal Sources of Revenue of Sub-National Governments and Particular Challenges Related to Them

8.3.1.1 Provincial and District Office

The provinces and municipalities have their own budget package, which is brought into the provincial finance law by the National Assembly on an annual basis. The budget package usually consists of two major sources of funds: (i) provincial own-revenue from taxes and non-tax sources, and (ii) transfers from the national budget to fill the fiscal gaps of the province.[138] On average, central government transfers account for 41 percent of total provincial expenditure and revenues from provincial own sources for 48 percent (World Bank and ADB 2003).[139]

The total own-revenue collection for the provinces in 2002 was 44 billion riels (Dom et al., 2003). Provincial own-revenue

[138] Fiscal gaps are defined as fiscal needs minus fiscal capacity. Fiscal capacity includes local own-source revenues, grants and transfers from higher levels of government.

[139] The figures in fiscal year 2001 were consolidated in the Integrated Fiduciary Assessment of Public Expenditure Review (IFAPER) report 2003.

sources have been quite significant, varying between provinces but averaging a 50-50 division between own-source and central transfers. The own-source share ranges from more than 80 percent (the highest) to 20 percent (the lowest). For instance, own-revenues of Siem Reap province accounted for 83 percent of total provincial revenues for FY 2002 (the total amount being to 3000 million riels compared to 605 million riels from national government transfers) whereas they are only 23 percent in Kratie.[140] The ability of a province to collect more own-revenues depends on potential sources and the revenue structure of that province.

Authorised by the Provincial Finance Law 2002, the province can levy any taxes within its territory except value-added taxes, personal and corporate income taxes and custom duties.[141] The types and amounts of different taxes, licences, charges and fees vary between provinces. In spite of the large number of tax sources, there are three main sources of revenue in the provinces. These are taxes on means of transportation (average amount of 150 million riels), unused land and registration fees (60 million riels), market fees or *pheasi* (50 million riels) and patents (80 million riels).[142]

Another major source of revenue for the provinces is transfers from the national government. Expenditure for the provincial offices was 20 percent of total central government expenditure in 2001. These transfers are mainly to provide bridging finance. In 2002, 31 billion riels in subsidies were transferred to the province.[143] The province has access to these transfers through the MoI. Each fiscal year, provincial budget proposals are completed in accordance with national guidelines. The provincial budget is approved and adopted by the National Assembly as part of the annual national budget. The transfers are made quarterly, with the first an unconditional transfer of one quarter of the full year requested amount. Transfers for the other three quarters are based on submission of provincial revenue and expenditure reports to the MoI and MEF. All revenues and transfers to the province are kept at the provincial treasury. The province can borrow money from other sources to finance its projects or expenses.

The province has three budget lines, none explicitly earmarked for development spending. These are:

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[140] These are figures received from the Treasury offices of Siem Reap and Kratie province. Interviews in June and August 2003.

[141] A detailed discussion of provincial tax collection is in sub-chapter 8.5.

[142] These numbers are averages based on information in all the provinces where the study was conducted.

[143] Presented by Chou Kimleng during the national workshop on IFAPER organised by the MoEF on 20 October 2003.

- *Salaries* (budget line #10) for provincial office staff and district office staff, and staff in district offices other than offices of the line departments.
- *Administration and development* (budget line #11) includes provincial administration expenses and renovation for roads, provincial halls, gardens, office stationery, transportation costs and others.
- *Social intervention fund* (budget line #31) is used for social insurance and assistance to the provincial and district staff, other activities like humanitarian contributions and disaster relief.

A fourth budget line on *commune and village expenses* (former budget line #12) was closed in 2003 because this became part of the commune councils' budget from FY 2003. This budget line was specifically used for commune chiefs' salaries and village chiefs' supplements before the February 2002 commune council election.

It is clear that, despite the province having some funds for development, unless these funds are earmarked, they will never be used for development activities. On average, the administrative and operational expenditure of the province accounts for two-thirds of the total provincial expenditure.[144] The reason for low development spending is that salaries and social security and intervention expenditure are given higher priority when there are insufficient resources (especially for provinces that have fewer own-revenue sources). As the deconcentration unfolds, more systematic and results-oriented provincial and district budgets will need to be defined for their potential new roles and responsibilities in service delivery. The identification of this has already started[145], but much research is still needed to provide background information to help the government identify potential new and/or shared responsibilities.

8.3.1.2 Line Departments

Line departments have access to two sources of funds. The main one is the national budget, which funds the line departments through their respective ministries. The line departments can request funds for the expenses of their office through annual preparation and submission of budget proposals to the MEF and their particular ministries. The line departments have three main budget lines: social intervention, administration and development. Each budget line has its own

[144] The figure is the authors' calculation based on interviews with treasuries in seven provinces. The annual spending on these budget lines is about 3 billion riels per province.

[145] UNCDF will address this issue in 2004.

earmarked sub-items. In 1998, the line departments' budget for development was eliminated because the central ministries, rather than the line departments, are responsible for planning development activities. The central ministries plan, decide and monitor their development budgets, even deciding on contractors, while the provincial line departments supervise the implementation and technical service for the projects. However, funding for the line departments is released by the provincial Department of Finance, not the central ministries.

The challenge with this set-up is that the available cash is first disbursed to meet local priorities identified by the province, leaving some priority sectors under-funded. This is made worse by the fact that there is little coordination between the central ministries and the provincial governors, with the result that the line departments are not clear to whom they should be accountable. Consequently, the performance of the line departments is almost impossible to evaluate, and public services delivered by the line departments are minimal.

As a result, budgets and funding are separately prepared and allocated for a few priority sectors of the departments. These different funding sources allow the line departments actually to implement some concrete commune development activities and projects.

The Department of Education and the Department of Health are among the four departments entitled to receive some of the funds allocated for development activities, as part of the PAP. The PAP is the first real development fund available to the line departments.[146] The PAP fund can be used directly to support the expenses and activities of schools and health centres. Budget items include small-scale construction and renovation of school buildings and health centres, supplemental fees and equipment to support the functioning of schools and health centres, salary and administrative costs for schools and health centres and support for expenses of students and patients. In addition, there are other development funds contributed by IFAD that are earmarked for national sector development. These include ADESS projects implemented by the Department of Agriculture in five provinces, and community-based rural development (CBRD) projects implemented by the Department of Rural Development in two provinces.

Another source of funds at the line departments' disposal is the PIF. This is mainly donor funds to help the sub-national line departments to implement their own local programmes. The PIF can be used only to support priority development programmes, and on projects addressing the three categories

[146] The commune councils do not have access to PAP funds.

of poverty, environment and gender.[147] The decision on fund allocation and programme selection is made by the PRDC ExCom in parallel with the commune development funding at the DIW.

All these differently sourced revenues for the line departments are kept at the provincial treasury. The governor of each province authorises payment for expenses requested by the line departments. At the end of the fiscal year, each line department is required to prepare and submit a summary report to its ministry and the MEF.

It should be emphasised that these development funds are very important and have increased the quantity and quality of public services specifically in education and health. Also, the delivery of public services at the grassroots by the line departments has substantially improved. However, public services could have been improved further had there not been the problem of many development funds disappearing in irregular activities. It is a constant complaint voiced by all the provincial treasuries that the funds set aside for development spending are not used as such, a large part of development funds being absorbed by administrative expenditure. It is also noted that the limited success of the PAP has been due to the fact that it is a separate measure to fill a gap rather than an initial phase to introduce changes in a long-term and systematic way for priority sector spending (Dom *et al.* 2003).

Below are examples of the line departments' fund sources and their uses. There are four prioritised line departments selected to pilot some specific development programmes with additional sources of funding.

- The Department of Education has four budget lines: administration (budget line #11), salary (budget line #10), social intervention fund (budget line #31) and PAP (budget line #13). Salary is for both provincial and district staff; administration is for both the province and district; social intervention can be used for social insurance and assistance to provincial and district staff; the PAP fund is used to supplement school registration fees and classroom materials, to provide a full range of services to primary schools, to strengthen vocational and informal schooling, to raise awareness and provide educational activities on issues such as HIV/AIDS and to fund small renovation expenses.
- The Department of Health has the same budget lines as the Department of Education, including the PAP. The PAP fund for the health sector is called Accelerated District

[147] The PAP and PIF are for development activities and are donor funds earmarked for specific sectors, as agreed by the Seila National Forum 2002 and 2003.

Development (ADD). This special donor fund covers the administrative costs of health centres, treatment for patients who cannot pay their bills, some small-scale renovation and construction and office stationery. The ADD fund is transferred directly to health centres at the "operational" district level.[148] On average, each health centre receives 33 million riels annually (author's calculation).[149]

- The Department of Agriculture also receives similar budget items, except the fund for economic sector assistance (budget line #30) which provides rice seeds to villagers where needed, funds to buy petrol for water pumps for farming, funds for fertiliser for farmers and funds for planting trees and also covers the administrative spending involved.
- The Department of Rural Development has the same three budget lines as the above. There are no funds earmarked for development activities and projects for this line department. However, most of the funds allocated to the communes through the CSF (see further below) are used for typical rural development projects. The department has long been working with the Seila programme in establishing village development committees. The department has also implemented CBRD projects in Kampot and Kompong Thom province since 2000. The projects have four components: community development, agricultural and livestock development, rural infrastructure and support to institutional development.

8.3.1.3 Commune and Sangkat Councils

As an autonomous level of government, the commune/*sangkat* councils are entitled to their own budget and sources of funding to finance their operations and their service delivery responsibilities. Currently, however, the commune has three major sources of funds. First, Article 75 of LAMC specifies the right of the commune/*sangkat* to receive grants from the national revenue. Also, the national government is obliged to create a Commune/*Sangkat* Fund which can both receive deposits and function as a source of transfers for the commune and *sangkat*. A second source of funds is fees from civil registration and other appropriate fees and payments for the commune's performance of agency functions, delegated by ministries and other institutions. Pending the issuance of

[148] This is not an administrative district in the sense we know it. One operational district can have 10 to 15 health centres, each covering 10,000 people.

[149] For these two departments, the PAP fund can shift the remaining balance from the last period to the next period.

necessary regulations to back the LAMC, the communes are entitled to a third category of funds, namely that from own-source revenue, through the collection of taxes, non-taxes and service charges. These categories of funds are explored in more detail below.

(i) Central Transfers (currently called CSF)

The CSF includes both national transfers and donor funds for the commune/*sangkat* earmarked for development and administration. The CSF was set up by the Seila Task Force under the guidelines of the Law on Commune and *Sangkat* Financial Management. This issue is dealt with in a detailed analysis in the following sub-chapter 8.4.

(ii) Own-Source Revenues from Taxes and Non-Taxes

Currently the commune does not collect any tax except for local contributions for development projects. The local contribution can be seen as the first stage in a local taxation system. Local contribution is mandated by a sub-decree to function as a matching fund with the CSF development fund, which is collected from local citizens. This matching fund is to involve villagers in responsibility and ownership for development project implementation within their communes. It is a way of cultivating relationships between commune councils and people with regard to public service delivery for the benefit of the local community. It is also a way to promote accountability, wherein beneficiaries are responsible for payment for services (marginally) and councils are responsive and responsible to their constituencies. This local contribution cannot be used for any purpose except to finance the development programmes/projects of the commune. Therefore, it is a form of commune own-source revenue although it is restricted to development expenditure.

Usually the total amount of local contribution to be collected is determined by the provincial treasury and required before the commune bidding and contracting can take place. The total contribution required is 10 percent of the amount of CSF allocation for the development fund, and communes can collect more than the required amount if they choose to do so. After the collection, all the revenue is transferred to the provincial treasury. The total collection varies from 400,000 to 5,000,000 riels depending on the amount of the development fund allocated to that commune. In practical terms, the local contribution varies between provinces; some places collect 3 percent in cash, some places collect 7 percent in cash, and others collect 10 percent in cash. Currently there is no national formula for calculating the total amount of local contribution, nor are there guidelines for how the collection should be carried out. This creates problems because not all villagers pay the local contribution. There are arguments and disagreements between

councils and the treasury on this issue. In Kep, for instance, the treasury office has its own formula for calculating local contribution, with figures of more than 10 percent.[150]

Moreover, the amount collected from each household also varies. Most communes collect an equal amount of cash from every family that resides in that commune, regardless of the direct benefit they will derive from the project, while others use some criteria to determine more collection from well-off families. Several communes collect cash contributions only from those families that explicitly and directly benefit from the project. These different practices seem to work well. However, they can potentially create disincentives for equity in development expenditure between the rich and the poor, and also between well-off communes and poor communes. Villagers and commune councils often suggest that the amount of local contribution should be reduced from 10 percent to 5 percent so that resistance to contributing from the poorest villagers can be minimised. A draft *prakas* to regulate local contribution collection has been circulating for final approval.[151]

(iii) Revenues from Performing Agency Functions

The communes and *sangkats* are entitled to receive revenue for any functions and activities assigned to them by the central government and line ministries. Currently the only fees and revenues received by the commune for performing agency functions are civil registration fees. At present, civil registration fees come from birth, death and marriage certificates, for which people have to pay a flat fee of 400 riels per certificate, excluding payment for the application and form and handling fees, to the clerk or councillor in charge. These fees and charges vary from place to place. Usually, the application form can cost from 1000 to 2000 riels, and the handling fee varies from 500 to 1000 riels. These are semi-informal fees because the clerk uses this revenue to cover administrative expenses such as photocopying of the application forms.

The civil registration revenue is collected and kept by either the commune clerk or the councillor in charge. Under the guidelines, all revenue collected is to be deposited in the treasury at least by the end of each quarter. In the meantime, as the commune houses have no safety boxes, the clerk keeps the cash that has been collected at his house. No receipts are issued. Average annual revenue for civil registration is 40,000 riels in the communes we interviewed. For most communes, the revenues received from registration and stamp fees are minimal, amounting to about 2 percent of the CSF, which is an

[150] Interviewed with DFT in Kep, August 2003.
[151] National Workshop on IFAPER in October 2003, organised by the MEF.

insignificant source of revenue for the commune. Hence, other own-source revenue candidates need to be identified.

The commune councils are from time to time asked to perform other agency functions, without corresponding transfers to cover the administrative costs. An example is election registration. Furthermore, the line departments frequently involve the commune in data and information collection. This responsibility also comes without corresponding resources to cover the costs. There are also ongoing initiatives to involve the commune in poverty monitoring and data collection. There seems, therefore, to be a trend whereby an increasing amount of "registration" work is delegated to the commune without transfer of resources.

8.3.2 Other Parallel Systems of Funding and Main Challenges of These

Other parallel systems of funding also exist at the commune level. One common characteristic is that these types of funding are not integrated into the commune development planning, and are cash and in-kind transfers without clear objectives or transparent systems. Typical agents for such projects are political parties and wealthy people (who aim to make merit through generous acts). This applies also to some smaller NGOs. Most of the development projects implemented in the communes by these types of actors take place outside the commune/*sangkat* structure.

This process is quite explicit for communes that have close connections with representatives of the central ministries and political parties. This is for two major reasons: rent seeking and fame for well-placed bureaucrats and politicians, and the blurred division of the public and private domains, which lead to state resources being used to help family and friends. This patron-client relationship influences who is selected to represent the commune. This takes place by two main processes. One is the "formal" representation exemplified by the ruling party selection of popular local representatives for the commune election list. This relationship is characterised by an exchange of "gift," thereby creating space for interpersonal collaboration with mutual obligations (between the party and the individual). The other is the more informal representation in which influential representatives of the community can be used to attract investment funds or development projects. In practice, this is the foundation of a reward system in which development takes place not because there is an equal distribution of development or public services, but because certain communes are able to mobilise these sources of funding.

This type of interpersonal relationship is less accessible to women than to men, making it more difficult for women to be placed high enough on the party list to secure influential

positions in the commune. This is exacerbated by the fact that the law assigns the responsibility for women and children to female councillors. Therefore, the opportunity for them influence issues such as finance and procurement is limited.

This structure of parallel funding undermines, to a great extent, the further development and consolidation of the present decentralised governance approach of participation and bottom-up planning. The commune and people may depend on and favour the structure of either NGOs or political parties because they are not mandated to contribute own-resources and they do not have to follow the CDP processes. Some villagers resist paying local contributions and participating in village priority meetings because they get free and ready-to-deliver projects from political parties. Even monitoring and maintenance costs are covered by the funding sources.

The problem with such parallel systems existing within the commune structure is that the commune's role in responding to its constituencies' needs is weakened. Most communes can implement only a few small projects, whereas the money available from political parties, wealthy people and small NGOs results in a greater number of larger projects. It is likely, therefore, that these parallel funding systems will continue to operate. On the one hand, this can be seen as a strength of the councillors in attracting and mobilising resources from outsiders for the development of the commune (albeit usually understood as individual councillors, not the councils). On the other hand, this is a threat to the efforts to strengthen the capacity and relationships of the councils with their electorates, since these parallel systems pervasively undermine the commune's credibility.

Case Study of Local Ownership

A common way of financing local projects is through a mixture of local contributions with political party money and/or funding from the wealthy.

Local villagers often make cash and in-kind contributions. However, a finished project is often presented on delivery as a one-person effort rather than a community effort.

A brick maker in Siem Reap told the story of a small construction at a pagoda in the village in which the costs were borne mainly by local businesspeople; however, the local officials claimed that a political party generously funded the project. In this case, businesspeople could not refuse to give contributions to the officials, because the rule of law is not respected and a lack of compliance with their requests would harm their businesses. The result is a deception that causes villagers to believe that the project was funded by a political party.

In addition to the funding mechanism of the political parties and NGOs, local communes have pagodas and village associations involved in the development of the community and addressing social needs. The issue of local contribution and local initiative is not at all new. In the village, the pagoda committees have always been responsible for social service delivery (such as schools run by the pagoda), and for fund mobilisation for village development.

This demonstrates that there have been and still are local structures in place for service deliveries that are now assigned to the commune. It should be noted that the decentralisation has failed to address that (i) a local service delivery structure already exists, and (ii) there is local capacity for service delivery.

Summary of main challenges

- It is clear that although the province has some funds for development expenditure, unless these funds are earmarked for development, they tend to be used for administrative purposes. Generally, the administrative and operational expenditure of the province accounts for two-thirds of the total provincial expenditure. The reason for low development spending is that salaries and social security and intervention expenditures are given higher priority when there are insufficient resources (especially for provinces that have few own-revenue sources).
- The line departments' budget for development was eliminated in 1998. This is because the central ministries rather than the line departments are responsible for planning development activities. The central ministries plan, decide and monitor their development budgets, even deciding on contractors, while the provincial line departments are involved in supervising the implementation and providing technical services for the projects. However, funding for the line departments' budget is released by the provincial department of finance (not the central ministries), and creates competition for priority disbursements of cash.
- It should be emphasised that these development funds for priority activities programmes are very important and have increased the quantity and quality of public services, particularly in education and health. Also, the line departments' delivery of public services at the grassroots has substantially improved. However, public services would have improved even further had there been less disappearance of development funds in irregular activities. It is also noted that PAP's limited success has been due to the fact that it is a separate measure to fill a gap rather than an initial phase to

introduce changes in a systematic way for priority sector spending.

- The collection of a local contribution is designed to involve villagers in taking responsibility for and ownership of the development project within their commune. There is no national formula or common practice in the collection; some places collect 10 percent and others 7 percent in cash contributions. A draft prakas to regulate local contribution collection is awaiting final approval.
- For most communes, the revenues received from registration and stamp fees are minimal, amounting to about 2 percent of the CSF, which is an insignificant source of revenue for the commune. Also, there seems to be a trend in which an increasing amount of registration work is delegated to the commune without coordinated transfers of resources.[152]
- At the commune level, other parallel systems of funding also exist, most commonly not integrated into commune development planning. This funding is quite explicit for communes that have good connections with representatives of the central ministries and political parties. However, this space is less accessible to women than to men. The problem with such parallel systems within the commune structure is that they weaken the communes' ability to respond to their constituencies' needs.
- Local communes have pagodas and village associations involved in development and in providing for the social needs of the community. This implies that there have been and still are local structures for service deliveries that are now assigned to the commune.

8.4 The Commune/Sangkat Fund and Its Management

The purpose of decentralisation is to ensure local governments' autonomy, although higher level government transfers are important to make sure that some national standards and national policy are available locally as well as to guarantee the distribution of income from well-off to poor areas. In Cambodia, the transfers from central to local government take place through the CSF. The CSF is the main source of funds for the communes for financing their operations as well as their functions, particularly service delivery responsibilities.

[152] For example, the Community Based Poverty Monitoring Programme linked to the National Institute of Statistics (NIS) and Seila, and the GTZ poverty registration project to support the health sector (see Lanjouw 2003).

This section will address (i) the nature and role of the CSF, (ii) the CSF funding mechanism and the ways in which these funds are accessed and managed, (iii) the CSF allocation and disbursement procedures and (iv) the district integration workshop.

8.4.1 The Nature of the CSF

The key financial resource for decentralisation is the Commune/*Sangkat* Fund. With these funds, the elected councillors can proceed with the actual implementation of the development plans that have come out of a long process of consultation and broad participation. The initial objectives of the CSF are three. The first is to create ownership and responsibilities by the elected councils for the development of their localities. This is to be done through developing the commune plan and budget, and implementing those development activities which address priority needs identified in the CIP. Second, the fund aims to reduce developmental differences between jurisdictional areas. All communes now receive a proportional sum of money to finance local development programmes and initiate local participation in own-development activities. Third, the fund provides incentives for building the capacity of the newly elected councils to perform their roles for the commune.

The CSF has been seen as a means to place local elected councils in charge of the development of their localities. It has so far established an environment for substantial success in the communes in terms of mobilising people at the grassroots to be involved in the affairs of the commune. The councils implement development projects identified in the CDP while the villagers take part, albeit in a limited way, in monitoring and maintenance for the projects. Overall, it is the impression of the provincial and district facilitators that the CSF has had a strong influence on the building of democratic decision making, and rather less on poverty reduction.

8.4.2 Sources and Allocation of the CSF

At present, the main sources of funds for the CSF are national transfers and donor funding. The CSF is a step forward in terms of fund consolidation. Several donors that used to fund local activities separately now channel resources through the CSF, and the government has made a commitment to put resources into this as well. Transfers from the national government in 2002 amounted to 20,000 million riels, or 1.5 percent of total current revenues, and increased to 40,000 million riels for the year 2003, equal to approximately 2 percent. The contribution from UNDP/PLG is 7,800 million riels ($2 million); i.e. 16 percent is donor funding. For 2004, the budget allocations have increased to 50,000 million riels from the national government—2.5 percent of total national current revenues—

and 8,000 million riels from UNDP/PLG.[153] As noted in chapter one, there were serious shortfalls in the disbursement of the government's share of these funds in 2003.

The total CSF budget was 48,000 million riels or $12 million in 2003. Of this amount, one-third is for administrative costs and the remainder is development funds. The allocation of the CSF is based on the commune councils' categorisation as 1A or 1B. There are 1,037 communes/*sangkats* which have been classified as 1A and receive larger transfers for their development fund, at an average of about 27 million riels ($6,846) per year per commune/*sangkat*; the other 584 commune/*sangkats* are classified as 1B and receive development funds on average of 7 million riels ($1,897) (STF 2003b).

The CSF transfers are made in three instalments, in March (50 percent), June (30 percent) and September (20 percent). The three instalments help to ensure that the commune has fulfilled its responsibilities ahead of further disbursement. However, lack of liquidity at the national level prevents prompt and timely disbursement of funds from the national treasury to the provincial treasury. In addition, the CSF disbursement problems reflect a lack of understanding by the MEF that CSF resources are an entitlement of a separate level of government. The lack of disbursement signifies that the MEF continues to treat the communes as any other line item in the national budget.

For FY 2003, the government was not able to fulfil its obligation to the CSF. In fact, of the 40,000 million riels only 17,000 million were transferred (up to September 2003). However, no detailed account of the expenses or lack of revenue has been given. The lack of disbursement may undermine the decentralisation. In order to avoid a total collapse of trust in local government due to payments not being made to local contractors, PLG and the World Bank have agreed to help temporarily to meet the shortfall. The lesson of 2003 is clear: a national shortfall of funds will directly affect the communes and local business. This threatens the trust that the commune councils so desperately need to establish with their constituencies.

8.4.3 Access and Management of the CSF

The CSF, according to the Sub-Decree on Commune/*Sangkat* Financial Management, is to be managed by the CSF board, which has several responsibilities: to advise the government on the amount that needs to be allocated from current national revenues for the CSF, to mobilise and monitor other sources of

[153] Article 19 of sub-decree 16 on the Commune/*Sangkat* Fund, 25 February 2002.

funds for the CSF, to issue guidelines and regulations necessary for the management of the CSF on behalf of the government, to decide on annual plans for allocation of the CSF to each commune and *sangkat* and to follow directly the progress and flow of fund transfers to the communes/*sangkats*. Currently the CSF board has not been established, and the NCSC has been taking its role.[154] Therefore, the annual allocation of the CSF is currently performed by the STF. There is no clear timeframe for when this set-up will be complete, and no decision on whether a permanent institution should be established.

Communes need to follow an 11-step procedure to get access to the CSF as outlined in the *prakas* on commune development planning (RGC 2002e). These include participatory planning, budgeting and implementation of their projects. They are required to finish all the reports on budget expenditure and the execution of the commune development plans, and they have to mobilise local contributions for development expenditure. Within this context, a bottom-up planning is adopted. There is active local participation in identifying development needs and formulating a plan, which takes place in every village and which 70 percent of households must attend.

It is not just the commune councillors and the villagers who are involved, but also provincial and other relevant institutions. To ensure that communes are on the right track, the province, especially the governor, provides support and follows up on the commune's progress, making sure that all conditions are fulfilled by the commune before a recommendation for a transfer of funds can be made to the MoI. The MoI is furthermore responsible for preparing the relevant reports and documents for advising the national treasury to transfer funds to the provincial treasuries, and to follow up on the actual transfers to the communes.

This method of accessing funds prepares the communes for a further delegation of fiscal responsibilities in which they will be charged with a higher degree of accountability for expenditure management and a heavier burden in mobilising different local sources of revenues, including tax collection for own-development.

8.4.4 Channelling of the CSF: The Role of the Provincial Treasury

In the absence of commune banks, the provincial treasury is responsible for commune accounts. Each commune is required

[154] The MoI claims that the main cause for delay in the establishment of the CSF board is the delay in selecting the commune representative on the board, in the absence of a National Association of Communes that could designate one.

to open an account at the provincial treasury in which the commune funds are kept. Currently the CSF cash allocations are directly transferred from the national to the provincial treasury. The commune accountants are based at the provincial treasury. The provincial treasury manages expenses and revenues for the communes, helps commune chiefs to prepare the monthly commune financial report, assists communes in processing payments and provides short training courses to councillors and clerks on accounting and finance. Each accountant is in charge of a number of communes.[155] The fact that commune accountants are part of the salary supplement system (while other staff at the provincial treasury are not) has created discontent, even though those on supplement agreements have clear terms of reference worked out for their support to the communes.

The commune accountants have an immense workload providing substantial assistance to the communes. One of their responsibilities is to provide training. With the POLA, they have provided a few short training courses to commune councils and clerks on issues such as understanding commune spending and how to prepare and request payments. These courses have proved to be useful because they target issues that arise on a daily basis, because only relevant people attend, including the commune chiefs and clerks, and because the training is short and precise. According to the commune accountants, the capacity of the commune in finance and accounting issues is limited to knowledge of which forms are to be filled in and who can support them in this exercise. Across the provinces, the commune still depends on the support provided by the DFT and the treasury for all aspects of financial procedures, including how to fill in the forms, the exact use of the administrative fund, the preparation of the payment order and the commune financial report.[156] These problems are partly due to a lack of practical on-the-job training, and the fact that the procedures and forms are often remodelled. This last aspect may be a consequence of the learning-by-doing approach of the Seila programme.

During the peak time of disbursement and reporting, the commune accountants are very busy going through the paperwork of each commune. In order to meet deadlines for reports and other tasks, the accountant needs to process documents quickly even when those documents are not very well prepared. The current emphasis on short-term training in large groups limits the opportunity for practical introduction of these financial procedures. With more practical on-the-job

[155] The size of a district varies; it can have 6 to 12 communes

[156] Interviews with commune accountants at provincial treasuries in Battambang, Kompong Speu and Siem Reap.

training, the workload of the accountants related to the capacity building of commune councils would be reduced.

Dissemination of information and communication between the commune and the treasury are difficult partly because most communes are far from the provincial office. There is no postal service and only limited telephone service to allow them to communicate. The flow of information has been through the DFT/PFT and the clerks who visit the treasury regularly. A lot of the information the commune receives from the treasury is still via word of mouth. The communes are rarely sure whether their allocation is actually sitting in the treasury. It is common for communes to go to collect their money only to find that no funds are available. The treasury in Kampot complains about shortages of administrative funds to handle its service delivery to the communes.

8.4.5 The Commune/Sangkat Budget: Preparation and Transfer from one FY to Another

The commune budget is prepared based on the priority projects identified in the CIP, which is prepared with broad public participation in which the majority of the villagers are invited to give feedback and opinions about how the funds can be used. With the exception of the members of the VDC, local people are not aware of the details of the spending. They are, however, informed through village chiefs and commune councillors about funded projects and the annual development fund. Information about the commune fund usually spreads out through village meetings and gatherings as well as through collection of local contributions.

The commune/*sangkat* chief is responsible for the formulation of the budget. It is required that a finished draft of the annual budget be ready for consultation and approval by commune councils before the end of October. The approved commune budget is then sent to the provincial governor for clarification and acknowledgement, and the commune receives comments by the end of November. The commune chief has responsibility for following up and making corrections if necessary. Following this, the commune has to readjust its CDP and proceed with implementation. When it comes to payment, only the commune chief can authorise payment and issue payment orders. The commune clerk is usually given the role of cashier and has the responsibility of registering, depositing and withdrawing money for the commune, more specifically for the administration fund. In a few cases in Siem Reap, commune councils have hired another individual to take care

of the accounting and financial affairs of the commune.[157] This does not yet seem to be common.

The budget preparation and execution are time consuming and complicated, leaving little space for the communes to implement and monitor their projects. Nonetheless, the communes maximise the use of what little development funds they have to implement as many projects as possible. In some cases, the commune is encouraged to spend the CSF within one fiscal year, even though it might not be economically efficient to do so. One reason for this is that it renders closing the commune account less complicated for the treasury. In principle, if there is a balance remaining for the current fiscal year, as an elected body of local government, under the existing regulations, the communes are allowed to carry forward their balance to the next fiscal year. Generally, there is still a lack of understanding on the part of the commune of how best to use funds, taking into account both short- and long-term perspectives. A pilot opening of commune accounts at commercial banks might be implemented in 2004.[158] Although the introduction of this system would allow the commune to be more independent and efficient, a relevant concern might be whether the commune would be able to ensure sufficient accountability. In addition, strengthening of the commune's own personnel is likely to take place.

8.4.6 The Use of the CSF

This section addresses the two procedures with which the communes have to comply in order to disburse their CSF. The first part covers the disbursement of the administrative fund, and the second part presents the disbursing of commune development funds, namely through bidding and procurement.

8.4.6.1 Administrative Fund

The administrative fund is allocated proportionately to the number of councillors and village chiefs on a commune council, which is in itself a function of the commune's population.

Administration expenses and salaries for councillors and village chiefs are cashed monthly by the commune clerk. The salary for a commune chief is 100,000 riels; first and second deputies receive 80,000 riels; commune councillors receive 70,000 riels; and the village chief's monthly supplement is 22,000 riels.[159] In order to cash money, the commune cashier (who is usually the commune clerk armed with a letter of

[157] Interview with the director of the Provincial Treasury in Siem Reap, 22 June 2003.

[158] UNCDF- planned Decentralisation Support Project.

[159] The decision has been made that from 2004 onwards the village chief's salary will be incorporated into the CSF administrative fund.

appointment from the commune chief) needs to present a payment order.[160]

A commune's administrative expenses on average vary from 2 million riels for a council with five councillors, to 5 million riels for a council with 11 councillors. These administrative expenses can be advanced and used as petty cash at the communes for office stationery, small renovations and equipment and travel allowances for commune staff. Late disbursement of funds is common. As discussed elsewhere, only about 40 percent of the total CSF allocation had arrived at the provincial treasuries by the end of August.[161] The communes are informed by the treasury that the reason for late disbursement is that donor funds for the CSF have not yet been provided. There is some misinformation about the real reason for the lack of disbursement.

General challenges for a transparent use of these funds are identified. By the time the administrative fund is available to the commune, the treasury has to start preparing the year-end closing of the accounts. In effect, therefore, hectic administrative spending in the course of a few weeks encourages fake receipts and misuse of funds.[162]

8.4.6.2 Development Fund

The development fund, in principle, differs between communes in terms of capacity in service delivery and handling of guidelines and procedures. The development fund allocation is based on three criteria: equal share (40 percent), population (40 percent) and poverty index (20 percent).[163] The allocation for each commune is from 5 million to 40 million riels. Based on the last period review, it was decided at the Seila national workshop 2003 that no classification of communes would be done for 2004 and all the communes would receive their development fund allocations based on a single formula (no

[160] In order to cash salary at the treasury, the councils need to prepare forms including i) payment order, ii) mission order and approval and iii) accompanying letter for payment order.

[161] Interview with the treasury offices in Takeo and Kampot, August 2003.

[162] Interview with GTZ adviser in Kampot, August 2003.

[163] The poverty index is constructed from the commune database information. There are 10 criteria used to rank the poverty index of each commune: (i) female-headed households, (ii) number of children aged 5–14 who cannot attend school, (iii) to (v) number of households without means of transportation (such as bicycle, motorbike or car), (vi) houses with no electricity, (vii) houses without access to clean water, (viii) houses far from schools, (ix) houses far from roads and (x) number of doctors and nurses in the commune. (Interview with permanent member of ExCom in Battambang, May 2003, reflects this nationwide system.)

1A or 1B communes), with an average amount of 24 million riels.

The commune councillors authorise payments of the development fund but are not involved in its direct management and control. The development fund can be accessed only through a two-sided process: bidding and procurement, and contractors' implementation of a commune project.

8.4.7 The Challenges of the Bidding Process

The bidding and contracting start at the provincial level. The PRDC and the ExCom select a number of contractors who are eligible to bid on development projects put forward by the commune councils. Every year the PRDC, through the ExCom, selects contractors who have applied. The application and selection are open, all contractors being selected based on information about (i) machinery and material capacity, (ii) number and quality of personnel, (iii) past project achievement and work experience and (iv) certificates/diplomas and licences. A list of all eligible contractors is distributed to the communes and stakeholders for their reference.

The actual bidding starts after the completion of the annual CIP. In principle, the commune can go ahead with bidding before the first CSF allocation arrives at the treasury. However, the practice varies. Some communes wait until the first instalment of the development fund is released to the provincial treasury, because this is what they were (mistakenly) taught by DFT/PFT during the commune training on bidding and contracting.[164] However, the commune bidding guidelines do not prohibit communes from conducting bidding before funds are received by the treasury because contractors do not get their money until they finish 30 percent of the job (depending on the individual terms of the contract).

On the one hand, it makes sense for communes to wait before signing contracts until funds are placed in their accounts, because the communes can then avoid letting down contractors when there are shortfalls of funds, as was the case in 2003. On the other hand, should the funds run smoothly, delays in bidding unnecessarily slow the completion of projects. In Kampot, the treasury had indicated to the communes that funds must be used by the end of the year, leading to rushed spending by the communes at the end of 2002. This was not an issue in 2003 due to the shortfall of funds.

When the bidding starts, the commune chief announces it through fliers, radio or television. S/he provides information on the scope of work, the date of the bidding and the eligibility

[164] Field trip of PORDEC with PAT in Pursat and Kompong Chhnang in March 2003.

of contractors. The bidding takes place at the district level, all the communes within a district joining together for the event (in the municipalities, all *sangkat*s participate in the bidding at the municipality office). Attendees usually include PRDC staff, the district governor, the commune procurement committee, POLA, DFT/PFT, TSS and contractors. The bidding is organised to allow each commune to conduct its own; contractors bidding for a commune's projects submit their bid in a sealed envelope. The only information provided in the envelope is the bid price. Afterwards the commune procurement committee (which usually includes commune chief, first and second deputy and clerk) makes its selection and announces the decision.

The selection is based on the lowest bid from among at least three contractors.[165] The official acceptable cost range is between the estimated costs and 15 percent less. This information is published on the bidding invitation notice. It is common for contractors to bid at the lowest acceptable cost and then they negotiate among themselves. The criteria for selecting contractors in Kampot are different from elsewhere: the councillors use three criteria: bid price (accounting for 70 percent), councillors' evaluation of contractors (20 percent) and eligibility approval by the PRDC (10 percent).[166]

The following problems are common in bidding. In terms of the list of eligible contractors, there are two problems. First, in at least two of the provinces, the commune councils suspect that the list contains ghost companies, because they have discovered, after bidding has taken place, that separate bidders are in fact part of the same company. Second, the requirement of having contractors accepted by the province has reduced the opportunity of a village group or company to carry out small-scale projects.[167]

In the sample communes, the most prominent form of bribery in the selection of contractors occurs when a contractor contributes money to make up the remaining local contribution necessary for the commune development fund matching to occur. This relieves the commune of its responsibility in collecting local contributions, which is considered to be one of the most challenging tasks faced by commune councils. It also allows the commune to start implementing its projects early. Moreover, as the contractor is selected before the local contribution is collected, this creates space for rent seeking.

The contractors must complete 30 percent of their work (for a project cost above 5 million riels) before the first payment

[165] Under the commune bidding guidelines, no bidding can take place unless three contractors are involved.

[166] Interview with Seila provincial programme adviser (SPPA) of PLG staff in Kampot, August 2003.

[167] Interview with a rural development adviser in Kampot, August 2003.

can be made. In principle, a progress report prepared by the contractor needs to be approved and signed by the TSS before they can approach the commune chief to provide a payment order. With this payment order the contractors then collect their payment directly from the treasury.

The contractors face challenges in this relationship with the commune. It is currently a serious problem that late and largely insufficient disbursement by the government threatens the collaboration between the local private sector and the councils. Furthermore, the contractors have to provide some rents or informal fees to the treasury and to the commune clerk in order to get payment.[168] While these obviously are corrupt activities, it is regarded as a "matter of courtesy and fast facilitation," and seems to be generally accepted locally. Often, too, the payment orders and forms are, according to the provincial treasury, not "correctly" prepared and turned down. This enhances the space for increased rent seeking by the treasury.

Inadequate collaboration and communication between the commune and the provincial treasury are also a hindrance. To facilitate the payment of contractors, the commune chief needs to provide the treasury with a list of all contractors the commune engages. The commune usually provides a list of all investment projects, project contracts and payment terms. This is also important for the accountant to monitor payments and to follow the progress of projects for which further development funds will need to be transferred. In return, the commune accountants need to provide the commune with the forms and reports to be prepared and submitted in order to make payments. For example, by the end of August 2003, none of the 137 projects in Kampot and Kep had requested payment because of technical problems with forms and confusion related to the feasibility studies of the projects.[169]

This situation clearly threatens the legitimacy of the commune councils. Rather than addressing their complaints to the treasury, in Tnout commune in Takeo, for example, contractors requesting payment made daily visits to the councillors, who had to deal with them.[170] Trust is being eroded by a lack of funds to pay for work being done and a lack of collaboration between treasury offices and the communes. Participation and relation building between the commune councils, their constituencies and the private sector are being undermined. The problem is further exacerbated by complaints from villagers that commune projects are not good quality work.

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[168] Examples from Battambang shows contractors there pay 5,000 riels to the treasury and about 2,000 riels to the clerk.

[169] Interview with the treasury and the TSS in Kampot, August 2003.

[170] Interview with the village chiefs and the councillors in Takeo, August 2003.

It might be argued that the VDC should take an active part not only in the monitoring but also in the accepting of projects. Today, the quality control is done by the TSS, who rarely visit the commune.

8.4.8 Funding through the District Integration Workshop

The DIW is the venue in which the CIP is supposed to be aligned and matched with line departments' planning. This is also where the commune can seek line department and NGO funding for their CIP. The DIW takes place annually with two key objectives. One is to align development activities of the provincial line departments, non-governmental organisations, donors, and other groups relevant to the development activities of the commune. The second to ensure that provincial line departments, non-governmental organisations and others are more responsive to the needs identified by the communes.

The commune prepares for the DIW by prioritising its needs as identified in participatory planning (described above). These priority lists are often forwarded to the ExCom and to the line departments and NGOs for review. The line departments are also required to prepare their own sector priority list. The ExCom and the line departments organise meetings where decisions regarding 80 percent of PIF allocation are made in the selected priority sectors, conforming to the provincial development plan. At this point in time, the communes are not aware of the priorities of the line departments or funding availability.

Participants in the DIW include the planning and budgeting committees of the commune, the district governor, provincial line departments, NGOs, and PFT/DFT/TSS. Each Commune Council takes turns to present its development needs in the form of projects and programmes selected from the CDP. If line departments, NGOs and donors are interested in funding any of these prioritised projects and programmes, both parties then sign a temporary agreement.

Although most communes prioritise their projects, DIW funding does not necessarily pay attention to these priorities. As a result, projects receiving funding do not represent the most prioritised projects of the commune. The communes have to rely on other funding sources for their development activities in addition to the CSF because these disbursements are minimal. Any project that can attract funding may support development, and is therefore welcomed by the commune. The commune can then use the CSF to fund high priority projects.

A large number of commune projects were funded by the line departments and NGOs during the 2002 DIWs. The results clearly demonstrate that communes currently receive less funding for projects proposed by the commune than projects

initiated by the line departments and NGOs (STF 2003:16b). Of the 13,567 line department-funded projects, more than half (7,839), were not commune-identified priorities. Likewise, 5,930 projects funded by NGOs out of a total of 8,874 were primarily initiated by NGOs themselves (STF 2003).

In fact, of the priorities proposed by the communes, schools, wells, water-gates and roads were not funded by either the CSF or the line departments and NGOs.[171] During the research, commune councillors were asked to name the five most prioritised projects that the communes presented during the DIW. It turned out that 90 percent of all the projects were infrastructure, and the rest were training and awareness-raising activities. All of the communes were able to secure at least one project for implementation using their CSF allocation, and seven of the total of 11 communes received support for two projects from either NGOs or the line departments (results of CS projects in Table 8.1).

When looking at funding of local government, it is important to note that, on average, only about 20 percent of the commune-prioritised projects were funded in 2002 (Table 8.1). Overall, the line departments tend to fund training and awareness-raising activities, which commonly include vocational and skills training and gender/health seminars. One of the reasons for the small amount of funds received is the meagre availability of funds for such development activities. Another perhaps equally important reason is that only a few of the line departments and NGOs are interested in taking part in the annual DIW, and when they do participate, it is often with the aim of presenting their priority activity plans to the commune and proposing programmes for implementation. Thus, more involvement with the communes might improve this process.

There is currently a discussion in Cambodia as to whether local needs identification can really take place within the context of predetermined overall donor funding, since this is not supportive of bottom-up planning. An argument against this is that in reality all donors, NGOs and the line departments have overall policy priorities, and planning needs to take place in this context. In order for local needs identification to be able to influence this policy, a system in which local needs can inform policy must be put in place. This does not currently exist. The establishment of a commune council association may influence this.

[171] Only HIV/AIDS awareness and educational programmes were provided by the Department of Women's Affairs. This is quite common for most of the provinces in which the study was conducted. Birth control and hygiene training are also common activities provided by NGOs and line departments.

Summary of main issues and challenges

- The CSF has been seen as a means for local elected councils to be placed in the driver's seat for the development of their localities. It has so far been successful in mobilising people at the grassroots to become involved in the affairs of the commune.
- National liquidity issues prevent prompt and timely disbursement of funds from the national to the provincial treasury. In addition, the government has not been able to fulfil its obligation to the CSF for FY 2003. The lesson from 2003 is that a national shortfall of funds will directly affect the communes and the local business community. This threatens the trust that the commune councils so desperately need to establish with their constituencies.
- There is no clear timeframe for the establishment of the CSF board and no decision has been made on whether a permanent institution should be set up.
- Budget preparation and execution are time consuming and complicated, leaving little space for the communes for actual implementation and monitoring. In some cases, the commune is encouraged to spend the CSF allocation within one fiscal year even though it might not be economically efficient to do so. Hectic administrative spending over the course of just a few weeks encourages fake receipts and misuse of funds. In order to meet the deadline for final reports and other tasks, the commune accountant needs to process documents quickly even when those documents are not very well prepared.
- Currently, the CSF cash allocations are directly transferred from the national level to the provincial treasury. The commune accountants are employed by and work at the provincial treasury.
- The commune accountants have an immense workload due to the substantial assistance they provide to the communes. One of the burdens of the commune accountants is to provide training.
- The capacity of the commune in financial and accounting matters is limited to knowledge regarding which forms must be filled in and to whom they can look for support. Across the provinces, the commune still depends on the support provided by the DFT and the treasury for all aspects of the financing procedure, including how to fill in the forms, the exact uses of the administrative fund and preparation of payment orders and the commune financial report.

- Dissemination of information and communication between the commune and the treasury is difficult, partly because most communes are far from the provincial offices. Information flows through the DFT/PFT and the clerks who visit the treasury regularly. Much of the information the commune receives from the treasury is still via word of mouth.
- The bidding starts after the completion of the commune annual investment plan (CIP). There is no requirement for a commune to wait until funds are deposited before it starts the bidding. As a result, the government in 2003 faced the situation in which 90 percent of the 2003 development allocations were contracted but less than 50 percent has been disbursed from the national treasury. Some communes waited to start the bidding until the first development funds had arrived at the provincial treasury. Due to the shortfall of funds in 2003, there is a concern that this type of situation might very well become a trend. Even if fund disbursement runs smoothly, delays in bidding cause projects not to be completed within the current financial year.
- Contractors bid for a commune's projects by submitting sealed bids. The only information provided in the envelope is the bidding price. The selection is based on the lowest bid from among at least three contractors. The official acceptable cost range is between the estimated cost and 15 percent below. This information is published on the bidding invitation notice. The following problems are common. First, in at least two of the provinces, the commune councils suspect that the list of eligible contractors contains ghost companies. Second, the requirement to have contractors accepted by the province has reduced the opportunity for village groups or companies to carry out small-scale projects. Another major problem in the selection of contractors is that they may contribute money to make up the remainder of the local contribution.
- The contractors face challenges in their relationship with the commune. The legitimacy of the commune councils is clearly threatened by this, with contractors addressing their complaints to the councils rather than to the treasury. Another challenge is from villagers who complain that commune projects are not of good quality.
- Although most communes prioritise their projects, DIW funding does not necessarily heed these priorities (despite the line departments and NGOs receiving the CIP in advance). Commune projects supported by either NGOs or the line departments commonly provide

vocational and skills training, and fund awareness-raising seminars related to gender, health, agriculture etc.

- Line departments and NGOs do participate in DIW, although often with the aim of presenting their priority activity plans to the commune and proposing programmes for implementation. There is currently a discussion of whether local needs identification can properly take place within the context of predetermined overall donor funding, because in reality, all donors, NGOs and line departments have overall policy priorities, within which planning, including local planning, needs to take place. Local priorities need to be able to influence this. Again, this is an area where a local government association might play a significant role.

8.5 Current Tax Collection of Sub-National Governments and Potential Local Revenue Sources

This sub-chapter will answer the two questions posed in the introduction. What types of taxes do sub-national governments currently collect? What are the potential sources of revenue for the commune/*sangkat*? Specifically, it will register the current local tax structure and tax collection at the sub-national levels. It also looks at the different types and amounts of taxes being levied by different levels of government. In addition, it identifies potential tax revenues for possible commune council management and control, and finally the issues of accountability and transparency of tax collection are discussed.

8.5.1 Current Tax Structure and Its Challenges

Sub-national governments levy a large number of taxes, licences, fees and charges, some of which are listed in Table 8.2.[172] The distinction between taxes, fees/charges and licences is unclear. A number of levies are referred to as charges although in reality they are taxes, since no service is rendered directly or indirectly to those paying the levies. In addition, there are a wide variety of fees for forms and permits.

The provincial tax department is responsible for tax collection. The district office does not collect any tax except for the branch offices of the tax department, and all the collected income is transferred to the provincial treasury. Other line departments collect some fees and charges in the commune. Most tax collection is the responsibility of the MEF, while other ministries are involved in specific management aspects. For example, national resorts are supervised by the departments of Tourism and Environment, forests and fisheries are

[172] The table lists six taxes, six major categories of licences, eight major groups of charges and fees and four items of other revenue sources.

controlled by the Department of Agriculture and Wildlife, and businesses are managed by the Inspection and Tax Department

Case Study of Non-Uniform Tax Collection

Current tax collection management does not encourage transparent and proper tax collection, and a neutral relationship between tax collectors and taxpayers does not exist.

Brick makers are forced to comply with several tax authorities on different issues. One brick maker in Peak Sneng commune pays 5,000 riels in monthly tax to the district office; $50 in annual patent taxes to the provincial Department of Industry; 125,000 riels for an annual permit to use wood/forest products to the provincial Department of Forestry and Wildlife; 50,000 riels to the district office for a monthly permit to use/benefit from forest products; and 240,000 riels to a joint body of MEF and MoP for a business licence.[173] Aside from all these regulatory taxes, the brick maker is required to get permission from the commune (20,000 riels), the Department of Forestry and Wildlife (17,000 riels), and the province (20,000 riels) in order to be able to transport truckloads of bricks from place to place.

In practice, tax collection organisation varies according to the types of taxes and the places of collection. In some areas, and for certain taxes, collection is delegated to the district. Some is delegated to private companies. This division of assignments between the different levels of government is due to incentives brought about by involvement in tax collection. The legal framework clearly assigns responsibilities to specific institutions. However, it is very common for each sub-national government to be involved in tax collection. It is clear neither to the tax collectors themselves nor to the taxpayers which institutions are actually responsible for the different types of collection.[174] This extensive involvement creates space for rent seeking. Civil servants who become involved in tax collection seek to find benefits for themselves as a payment for their "responsibilities," often responsibilities that they have manoeuvred themselves into (often through payment) in order to benefit.

Some taxes are levied on a daily basis, others annually. In addition, some taxes and fees are imposed on individual transactions. For example, sand and wood fees are levied per full truckload of sand/wood. Market fees are in general levied on a daily basis on people selling their goods at the marketplaces. Most taxes are paid in cash on the spot. Other fees and taxes on permits and licences are paid at the district

[173] Interview with brick maker in Siem Reap, 17 June 2003
[174] Interview with district governors and councillors in the provinces visited during this study..

and provincial offices. The amount of tax collected varies from business to business and between places. Bargaining or negotiation is possible. The negotiations can be done collectively (e.g. groups of rice millers, all sellers at a market) or individually. There might be established regulations in a system for assessment of taxes that are in place but not in use. This non-uniform tax collection can be seen from the following example. Rice millers are categorised into a few categories according to horsepower, but these are not necessarily reflected in tax collection. Interviews with other small businesses in the study sample show that no fixed assessment system for levying taxes on businesses is used. This might also be a result of the structure of the markets and businesses. Some well-structured markets have regular taxation while other markets rarely pay, and when they do, the enforcement of tax collection is hampered by nepotism and lack of transparency.[175] This illustrates that the rate and amount of tax levied vary between tax authorities across time and space.

The challenge in tax collection identified in Cambodia is also commonly found elsewhere. Fiscal corruption is extensive and pervasive within tax collection authorities. It takes many forms and varies by type of tax, method of collection and location. These problems cut across all levels of governments, from the village to the national.

Case Study of Tax Collection

A wood seller in Kompong Speu reported that the better the roads, the more police and authorities request fees.[176] If people refuse to pay the amount demanded, the police either take the vehicle or shoot the tyres, and then the owner has to pay even more to get it back and repair it. The wood seller took a complaint to the commune chief, who said the council has no authority over such matters and therefore cannot do anything about the problem. Most of the decisions regarding who can do what along the road can be approved only by the district chief or even by someone at the provincial level. Higher ranking officials admit this takes place because they need income to survive.

For instance, Prud' Homme (1992) found that the most common factors contributing to fiscal corruption in developing countries are low official wages, lack of strict control and complicated and non-transparent tax structures. This is also noted by Fjeldstad and Samboja (2000). Although it is generally required that collection of taxes be accompanied by receipts

[175] Market survey in Battambang province, May 2003, Kep municipality, August 2003, and Kompong Speu province, June 2003.

[176] Interview with an owner of a firewood business in Kompong Speu, June 2003.

and proper documentation, in practice this rarely happens. Rent seeking in tax collection is common. As the revenue collection is rarely translated into service delivery that benefits people, dissatisfaction with the performance of government and poor quality of service delivery lead to resistance to paying taxes.

A perception among most of vendors and small businesspeople interviewed is that people are more compliant in paying taxes to higher authorities than they would be in paying taxes to the commune.[177] There are two major reasons for this. One is that there is less space to negotiate tax payment with high authorities because taxpayers have the impression that these authorities have more sanctions at their disposal than the local government. The other reason is that higher levels of government are generally seen to provide more services than lower levels. This is because, historically, people have never expected much from the commune. This may change along with the increasing investment through the CSF.

Vendors seem to support tax collection by commune councils rather than by the district authorities, and are more willing to pay taxes and fees, at least if they are given proper explanations of why the tax is collected, and business is going well.[178] All the vendors interviewed in this research were of the opinion that local people would be willing to pay tax to the commune according to indicators such as fairness, equality, transparency, service delivery and re-investment. These indicators can be explained as follows:

i) Fairness: in selecting criteria used to calculate the amount of tax, including the variables used in the formula, different categories of businesses, site of the businesses, seasonal variation etc.

ii) Equality: refers to objectivity of tax collection and accessibility and availability of service delivery provided to taxpayers.

iii) Transparency: in tax collection, with proper documentation and evidence presented by institutions, and in how the collected money will be spent.

iv) Service delivery: provision of good quality and appropriate services.

v) Re-investment: this includes both development and capital investment with the goal of improving service delivery and the environment for more income/growth.

[177] Interview with a VDC chief in Battambang, 28 April 2003, and market surveys in all provinces where fieldwork took place.

[178] Interview with a group of vendors at Slor Kram market in Wat Ta Muem commune, Battambang.

8.5.2 Actual Tax Collection

Most provincial revenue comes from tax sources, although it varies between provinces. The Province Finance Law of 2002 allows the province to collect a number of taxes. These are listed below.

Table 8.2. Provincial Tax Collection

Name of Tax	Explanation[179]	Rate (Figures are in riels)	Takeo figures (Riels, 2002)
Tax on Means of Transportation	This tax is collected by the customs officers of the MEF. It is collected annually during July. All revenue collected is deposited in the provincial treasury. Objects subject to tax are motorbikes, cars, tractors, boats and various other means of transportation. *This tax imposes a number of statutory fees on the registration of certain transportation vehicles, including trucks, buses, motor vehicles and ships.*	The annual amount of tax collection varies: motorbikes (4,000), cars and small trucks (100,000), and ships/trucks (700,000).	422 million
Tax on Unused Land	This tax is collected annually by the customs officers of the MEF. The tax base depends on land value, the location of the land with regard to national routes, size of the land etc. Presently, revenues from this source are minimal because assessment is expensive, time consuming and not yet fully in place. *Land in towns and other specified areas, without any construction, or with construction that is not in use, and even certain built-upon land, is subject to the Tax on Unused Land.*	The tax is calculated at 2 percent of the market value of the land per sq. m. as determined by the Commission for Evaluation of Unused Land on 30 June each year. The first 1200 sq. m. of land is free of tax. The owner of the land is required to pay the tax by 30 September.	2 million

[179] Further explanation of these taxes can be found in the Pocket Tax Book prepared by PricewaterhouseCoopers (Cambodia) 2003.

Name of Tax	Explanation	Rate (Figures are in riels)	Takeo figures (Riels, 2002)
Pheasi Tax	This type of tax is collected by a contractor who wins the annual bidding to collect the tax for that particular market. The value of the contract put out to tender is assessed by a national property team. *Pheasi* is collected daily from all vendors. *Vendors also often pay a monthly fee collected by tax officers of the district; however, this monthly fee is illegal.*[180]	Average daily rate varies from 200 to 1,000 riels depending on the size of the vendor's business and the market agent.	243 million
Tax on Parking Space for Cars and for Boats	This type of tax has to go through processes similar to the *Pheasi*.	Tax is collected based on a daily or monthly rate, varying by type of object.	28 million
Patent Tax	This is an annual tax collected from specific types of business such as market stands, business at home etc. It is collected by tax authorities of the district office and provincial department. Different provinces apply different rules. In some places, both the Department of Commerce and Department of Economy and Finance collect patent taxes.[181] *Registered businesses must pay a (relatively nominal) patent tax on initial business registration and annually thereafter. Patent tax is levied with reference to prior year turnover or estimated turnover.*	Calculation varies on the size and type of businesses ranging from 5,000 to 40,000 per year.	66 million

[180] Interview with head of treasury in one of the provinces.

[181] The example of the market in Pouk commune is discussed in the following pages.

Name of Tax	Explanation	Rate (Figures are in riels)	Takeo figures (Riels, 2002)
Slaughter Tax	Quite similar to the previous tax, although it is under the close supervision of the Department of Agriculture. Collection is shared between the province and the Department of Agriculture.	Calculation of this type of tax depends on the types and size of the business.	64 million
Natural Resource Tax	This tax revenue is shared between the national and provincial levels. The MEF has the authority to determine what is subject to this tax, and how much should be taxed per cubic metre. Sand and rock business activities are usually taxed per truckload.	Usually the calculation of tax is based on truckload of the resource product, and varies from 10,000 to 30,000 per truck.	Collection of this tax varies hugely across provinces. Takeo collects about 1 million vs 150 million in Kompong Speu.
Stamp and Civil Registration Fees	These are taxes collected by the provincial customs officers on civil registrations that are not done by the commune level, such as property transfers. By law this type of revenue is to be shared between the province and the commune, but this is not being implemented.	The total collection of 10 million is shared among province, line department and commune. So far communes do not receive any of this.	12 million
Public Lighting Tax	Changes to the Financial Law of 2002 authorised the province and municipality to impose a 3 percent tax on wine, beer and cigarettes. Revenue collected from this source can be used only for public lighting.	Some provinces are yet to implement the collection of these taxes.	2 million

8.5.3 Potential Sources of Local Revenue

The debate on taxation by the commune often produces arguments that the local level cannot sustain taxes. This is often portrayed as a poverty issue. However, studies conducted by CDRI on the resin trade and fish products show that an

"informal" tax and fee system is common. Individuals in these businesses have to pay fees to many different officials for all types of required permissions for transporting their products to the markets (Prom and McKenney 2003). There is no need to impose new taxes and fees since, as shown in Table 8.2, many activities in the commune are already being taxed. By measuring the revenue-raising capacity of local government, a clear picture can be formed of how much tax and non-tax revenue is being collected locally. This also provides some guidance on the opportunities open to the communes, provided some of the taxes are shared or reassigned to them. For effective revenue collection, the commune needs improved administrative capacity, especially related to tax collection. There is a need to formalise all the current formal and informal collections of fees and taxes, and create a mechanism that ensures accountability and transparency of collection.[182]

For piloting purposes, common sources of revenue for local councils are user fees for services provided by the councils and tax collection from simple tax bases and small businesses. Well-designed *user fees* could potentially improve the benefit incidence of public services, particularly in health and education spending, but this decision must be taken with great care to ensure that the poorest groups do benefit and have better access to quality services. Currently a user-fee system is applied for services, such as water and electricity, in which the province and municipality are the implementing agencies.

Case Study of User Fees in Health

The Ministry of Health has been piloting its decentralisation approach with district health centres, some of which have been given some authority to decide how to use their funds. Health centre management committees have introduced user fees at a level that are acceptable to the community. About 99 percent of the total revenue received from user fees is used to finance health staff salary supplements, and the rest is spent on office supplies. Users and people in the areas express willingness to share some of the costs in order to receive better quality service in return. So far, a number of health centres have operated under this programme and have substantially improved the quality of service and work satisfaction of the health staff (Turner 2002a).

The second potential source of commune own-revenue is tax collection. A number of activities and businesses within the communes and villages (in the provinces under this study) have high potential as revenue sources (excluding big industries and companies). Tax collection from markets may be the biggest source of own-revenues for the commune councils. Markets in Cambodian rural areas are generally small and scattered around a common ground in the centre of a village or located in the

[182] See Eng and Rusten (2004).

most central areas of a commune. Usually these markets operate during the morning only; they may have as many as 40 stands and dozens of other houses around. The markets are commonly managed and run by the district or provincial agents. Agents who are assigned as government fiscal agents collect market fees (the *pheasi*). Anybody wishing to become a state agent must submit a bid to the government specifying how much they are willing to pay for the privilege of market tax collection. In principle, the highest bidder will win the contract for a one- or two-year period.

Table 8.3 Example from Vat Ta Muem Commune in Battambang

Types of Taxes	Market (Figures are in riels)	Explanation
Pheasi - Daily collection is 200 from each vendors - There are 80 taxed vendors and businesses	- Daily collection is: 200 X 80 = 16,000 - Annual collection: (I) 16, 000 X 360 = 5,760,000	Fees are levied directly by the market owner on a daily basis on all sellers at the market. These fees are intended to be used for maintenance and daily cleaning. However, sellers complain that no such services have been provided so far because sellers are currently responsible for that. They have complained about it to the commune councils but receive no response.
Pounda[183] - Monthly Fees Yearly Fees	- Monthly from stands: 4,000 X 50[184] = 200, 000 - Monthly collection from houses[185]: 8,000 X 20[186] = 160,000 - Annual collection: (II) 360, 000 X 12 = 4,320,000	These fees are collected by the district tax authorities, levied only on permanent sellers. They are mandatory but if a seller is absent on the day the tax authority visits the market, she can potentially get away with it because tax authorities do not remember exactly who has paid and who has not. There is supposed to be a receipt given for payment of the tax, but in practice this is not often followed.
Total annual tax collection for this market:	Not yet introduced (III) (I) + (II) + (III) = **10,080,000**	In principle, sellers at any market have to pay annual fees for patents. The reason that this market has not levied patent taxes might be because of its organisational management and coordination with the district office. Their introduction is being considered. This commune received 43 million riels from the 2003 CSF for development. The total revenue of 10 million Riel from this market is equal to **23 percent** of the development fund allocation.

[183] The head of the treasury in Kompong Speu informed the researchers that the monthly tax (*pounda*) levied at the market is illegal. However, sellers do pay pounda in Kompong Speu.

[184] Refers to number of stands in the commune.

[185] One person we talked to pays only 5,000 riels per month because she can negotiate the amount.

[186] Refers to number of houses that run a business in the commune.

Typical communes in Cambodia are poor and mostly rural. Most have only one or two morning markets. The survey found that fewer than half have proper markets.[187] The reason for the establishment of such markets is to create a place where villagers and businessmen can exchange basic goods and services. Normally, the commune offices are walking distance from most of the markets in the commune. The creation of a market in the commune depends on (i) area and size of the commune, (ii) population and demand of the commune for a market, (iii) accessibility and distance from the commune to the centre and (iv) economic activities and livelihoods of the people.

A commune with no market is generally seen as extremely poor, in remote rural areas, with a small population and low demand, where most villagers are farmers with additional income primarily from common property resources, and accessibility is difficult and distances to district or neighbouring markets long. This type of commune can only sustain mobile sellers of goods. However, for most rural areas, there might be one or two district markets used by villagers from different areas. This type of market is described below in the example from Pouk commune.

In addition to tax collection from markets, there are several other sources for tax collection from some of the most commonly found taxable businesses at the commune level,[188] including rice millers, winemakers, brick makers, ice makers, catering service providers, grocery stores, firewood and forest products sellers, businesses related to natural resources and battery chargers. These businesses in general pay patent taxes, the amount collected varying from 5,000 to 30,000 riels per year. Rice millers, for example, usually pay only patent taxes in an amount ranging from 3,000 to 15,000 riels per year. Average numbers of businesses per commune can be summarised as follows:

- three to five rice millers per village (up to 10 per commune)
- three to four battery chargers
- one to two brick makers, winemakers and ice makers
- a couple of other service providers such as catering services

[187] Of the 15 communes, six have established markets. These communes are 50 percent rural and 50 percent semi-urban. Bigger communes closer to central areas can have two proper markets.

[188] Not all businesses and markets are being taxed, although most of these businesses do currently pay taxes.

- at least two businesses related to natural resources for some communes.

Table 8.4 Example from Pouk Commune in Siem Reap

This commune has one big market, which is shared by a few other communes around. Several stalls and shops sell goods along the streets.

Types of Taxes	Market	Explanation
Pheasi - Daily collection is 200 from each vendors - There are 470 taxed vendors and businesses	- Daily collection: 200 X 470[189] = 94,000 - Annual collection: 94,000 X 360 = (I) 33,840,000	Fees are levied directly by the market owner on a daily basis on all sellers at the market. These fees are used for maintenance and daily cleaning.
Pounda - Monthly Fees	No (II)	No monthly fee is collected at the market.
Patent - Yearly Fees - Only immobile businesses are subject to tax	- Total patent collection: 30,000 X 400[190] = 12,000,000	These taxes are imposed on every seller, with an equal amount collected by officials from the Department of Commerce. A patent permit is provided when taxes are paid. Occasionally the tax authority comes to check for patent permits.
Business Taxes - Yearly Fees	- Total business collection: 5,000 X 400[191] = 2,000,000 Annual collection: (III) 14,000,000	These taxes are levied on every seller at the market, and a business licence is provided. The licence is issued by the Department of Economy and Finance. At several markets, we visited no business taxes were being collected from sellers.
Total annual tax collection for this market:	(I) + (II) + (III) = **47,840,000**	This commune received 9 million riels from the 2003 CSF for development. The total revenue of 48 million riels from this market is **five times more** than the development fund allocation.

Case Study of Village Established Tax System

A local community has started some initiatives to establish local tax collection and to self-finance services that the community needs. Several provinces implement what they call "village rice banks," which serve as village rice savings accounts to support needy villagers in the form of loans, provide catering services and fund community burdens in the form of local contributions to the commune councils.

[189] Number of *pheasi* taxpayers.
[190] Number of patent taxpayers.
[191] Number of business taxpayers.

This programme was initiated with assistance and funding support from GTZ. A village committee of five to seven members is elected to oversee the rice bank. GTZ first deposits an amount of rice in the bank, and covers 70 percent of the starting investment in a rice barn and other operational costs, while the remaining 30 percent comes from villagers' contributions. Before the villagers can get a loan, individual families need to form teams, usually consisting of four to five families with a team leader, in order to ensure that responsibilities are shared to guarantee repayment of the loan, which is seen as a team loan, not an individual one. Each family can borrow up to 16 kg of rice, and return it with a 25 percent interest charge. This interest rate, set by the village committee, is the result of a discussion meeting of all villagers.

Each family opens an account with the village rice bank as a means to ensure that everyone (both the rich and the poor) participates in the activity. For the last few years, only the poorest families have taken loans.

The village rice bank has accumulated its interest income. It is decided by the villagers to use the 25 percent income in the following ways: (i) 7 percent to support bank committee salaries and natural loss, (ii) 3 percent to fund social activities such as a fire service and to help sick villagers etc. and (iii) 15 percent to finance community development activities. So far, the funds from the bank have been used to finance small-scale renovation and construction in the village, catering services for wedding and village ceremonies and village contributions to the CSF development fund. According to the villagers interviewed, this initiative has facilitated access to rice and cash credit when shortages are experienced, reduced costs for catering services, helped relieve the burden of paying local contributions to the commune councils and taught villagers to work together in the common interest.

This is obviously a simple village taxation system and a good example of local knowledge. The challenge for such a system is that only the poor and the poorest of the groups pay taxes, because the better-off families do not need to borrow rice. Therefore, these families do not contribute to the services and benefits provided by the rice bank.

8.5.4 Summary of Main Issues

- In practice tax collection organisation varies according to the types of taxes and the places of collection. For some taxes and areas, district staff are delegated to levy tax; some taxes in some areas are collected by both central and provincial staff. It is very common for each sub-national government to be involved in tax collection. It is clear neither to the tax collectors themselves nor to

the taxpayers which institutions are responsible for the different types of tax collection.

- The amount of tax collected varies from business to business and place to place.
- Tax collection procedures are rarely followed. Rent seeking in tax collection is common. Since revenue is not often translated into service delivery that benefits people, dissatisfaction with performance of government and poor quality of service delivery lead to resistance to tax payments and space for negotiation.
- Market vendors seem to support commune council tax collection rather than collection by district authorities.
- The debate on taxation by the commune often produces arguments that the local level cannot sustain taxes. However, the above presentation indicates that there is no need to impose new taxes and fees because many activities in the commune are being already taxed. Instead, there is a need to formalise the current formal and informal fees and taxes under one system and create a mechanism that ensures accountability and transparency of the collection.
- A potential source of commune own-revenue is tax collection. A number of activities and businesses within the communes and villages (in the provinces in this study) have a lot of potential as revenue sources (excluding big industries and companies). Tax collection from markets may be the biggest source of own-revenues for the commune councils. Others include rice millers, winemakers, brick makers, ice makers, catering services, grocery stores, firewood and forest products sellers, businesses related to natural resources and battery chargers.

8.6 Progress and Challenges of Fiscal Decentralisation in Cambodia

The LAMC gives communes permissive authority to collect taxes. However, implementation of this is pending, and regulations are yet to be finalised. Therefore, the ability to collect taxes is not yet in place. Two years after the election of the commune/*sangkat* councils, there have been few decisions and little progress in establishing guidelines and regulations to allow communes to collect their own revenue.

Several factors have slowed this, the most important being lack of available data and information to identify potential local government own-source revenue. The idea is that one might identify tax candidates for reassignment from the province to the communes and for sharing between the province and the

communes. For example, the LAMC gives communes permissive authority to collect land taxes, taxes on immovable property, rental taxes and user charges, but the issuing of actual mandates through sub-decrees remains to be done. Discussion within the MEF has specifically identified some further potential taxes for communes, including taxes on unused land, taxes on means of transportation, taxes on business licences, slaughtering taxes, a betterment levy, entertainment taxes and shared taxes on turnover and value added tax (VAT). There are other potential sources of funds, including fees for services. Concerns have been voiced regarding the types of taxes because of the potential conflicts of interest these may cause among different institutions. Taxes that are likely to face resistance from the national level are property and land taxes, which would affect the policy of not taxing farmland and agricultural property.

Another matter that has slowed the identification of local government own-source revenue is the current practice of informal taxation. Establishment of formal taxes and levies may to some extent lead to a degree of "double" taxation, which in turn may be another burden on the poor. The challenge, therefore, is to identify potential taxes and levies that in the current climate can be collected while avoiding this danger. A further expansion of taxation and service levies may then await a greater compliance with the rule of law. This depends on the establishment of greater local accountability. This is a great challenge that cannot easily be addressed, and which will not be tackled by the fiscal decentralisation.

Another challenge is how these own-source revenues should be handled. This is both a logistical issue (since the communes lack safety deposit boxes, and there is no commune banking system) and a capacity issue (commune accountants are not available). However, the arguments for putting such systems in place are strong, experience from several countries indicating that when local councils can retain a large amount of tax for local purposes, it encourages them to demand more autonomy and promote development for markets and other enterprises in their areas (Bloom and Jing, 2003). Pilot experimentation on two options for increased fiscal accountability is in progress. The UNCDF will assist the MEF in 2004 and 2005 to pilot commune banking as one option, and district treasury offices (rather than the current provincial treasury deposits) as another.

Another challenge relates to the capacity and willingness of the national government to address local government own-source revenue issues and options for revenue sharing and reassignment between the province and the commune. This is to some extent made difficult by the OWSD project (see chapter 1), as it is now unclear whether the government will allow a reassignment and sharing of revenues between the province

and the district or between the province and the commune. This matter is still at a preliminary stage.

A common challenge is coordination between national institutions. The decision to go ahead with a proposed plan on commune own sources of revenue rests at the national level, dependent upon the agreement of the NCSC and the relevant line ministries.

The task of strengthening local government finance will need to be led and regulated by a strong central government. The very first step in creating an effective system may be to develop a strong central ability to lead and monitor fiscal decentralisation (Bahl, 1999: Rule 3). The MEF has been the driving force in this. It has so far established an intra-departmental task force on the financing of the communes, which includes the tax and customs departments. It has also established a department of local finance (and a seat in the subcommittee on finance at the NCSC) in 2003. The department is responsible for sub-national financing, which includes the provinces and the communes. The ultimate goal would be to have the Department of Local Finance take over the roles and responsibilities of the CSF board's secretariat.

Chapter Nine

Summary Analysis and Policy Options

This chapter will draw some overall conclusions about decentralisation design in Cambodia. It will concentrate on the question: *What are the policy options for improving the contextual framework in order to improve decentralisation design? What specific options exist for improving the design?*

9.1 Summary Analysis and Questions to Help Take the Process Forward

9.1.1 How Is the Design Itself Intended to Achieve the Aims of the Reform?

The design of the decentralisation is characterised by disjuncture at the central level between decentralisation and deconcentration. At the provincial level, it is characterised by temporary institutions that have enabled the governor to fulfil a support role vis-à-vis the communes. The provincial institutions and structures, such as the ExCom and the DFT support system, should be understood in the context of the urgent need for change. The government was of the opinion that it could not wait for the government institutions to be ready for reform and wanted to go ahead with overlapping institutions rather than not go ahead at all. The fact that a similar set-up was never in place for deconcentration might be one of the chief reasons for its relatively slow progress (compared with decentralisation). The design is intended to achieve *delivery* of services that benefit all. It is also intended to develop a democratic local procedure. Decentralisation has been quite successful in achieving these aims in the short run. The major challenge, however, is to translate this design into permanent government institutions without losing the great momentum it has generated and the trust placed in it both at the local and provincial level and by donors.

Another challenge is that more focus will be needed on ways to enhance local investment and a productive use of human and natural resources that can benefit local communities. There is a danger that in striving to address the MDG focus on service delivery, one tends to forget the importance of enhancing local investments and the need to create opportunities for local growth.

Yet another important aspect of the design is that it was thought that deconcentration could be tackled separately. It seems clear that it cannot be, because these reforms are part of the same process. Furthermore, the speedy development and change in local democracy compared with that at the provincial level may create a greater gap in understanding and mutual trust than can be overcome in a short period of time.

A fourth important aspect of the design is that in the absence of civil service reform that could stimulate self-learning and self-development, the current lack of initiative among district and provincial civil servants to participate and contribute might continue and reproduce the need for salary supplemented support staff.

A fifth aspect is that development across the country of visible projects benefiting all would greatly enhance much-needed trust in local government.

9.1.2 Strengths and Weaknesses of Institutional Structures in Delivering Support to Other Levels

Delivery of support between levels of government in decentralisation is largely facilitated by the support structures that were put in place through the Seila programme. Other major support programmes for the commune are the GTZ community-based management programmes, which also make use of government structures. The support system developed through the Seila programme has major strengths. First, the Seila system of capacity support at the provincial level (ExCom and PLG advisers) caters for capacity support to both the province/municipality *and* the commune. In effect, therefore, it assists not only the lower level in fulfilling its functions but also the higher level in delivering support to lower levels. Second, the DFTs are overall a group of very motivated and supportive staff who collaborate well with the communes. Third, extensive training coupled with the DFT support has made the councillors aware of their roles and functions and of what is expected of them.

The major weaknesses of the institutional structures in delivering support to other levels are, first, that some line departments have not yet bought into the structure provided to support the communes, which in the near future might be a drawback for service delivery by the commune. Second is the dependency on salary supplements to run the support system. Third is the continuous focus on support from higher levels of government rather than a realisation that collaboration and sharing of experiences between the communes is also a way of building capacity and confidence.

9.1.3 Is There Political Will and Donor Support to Link the Reforms?

If one looks at policy documents and considers the many activities addressing decentralisation, the existence of a political will to increase local governance cannot be doubted. However, for political will to influence the outcome, some very crucial measures must be introduced.

It is far from clear how deconcentration is supposed to support decentralisation. A crucial questions is what mandate and responsibilities will be delegated to the province. This question cannot currently be answered at any level of government. It must be solved urgently. Moreover, there is a need to link these reforms to reforms also in the civil service in order to create opportunities for sub-national governments to fulfil functions effectively and efficiently. The current donor support of either decentralisation or deconcentration does not ease the important coordination task that currently lies before the government. The specific questions are:

- Is there willingness by the government and support from its donors to rationalise institutions and streamline responsibility to fewer institutions? Most crucial would be to consolidate the activities of the CAR and NCSC, preferably into one institution. The role of the STF in relation to this needs to be identified and formal links established. This is a comprehensive task.
- Will it be possible to develop a strategy to translate the activities of sub-national temporary institutions (such as the ExCom) into permanent institutions (such as a 'reformed' PRDC)? This is the second most important aspect, pending the progress of the deconcentration reform.
- Is the government ready to start addressing a civil service and payment reform to back deconcentration and decentralisation, and are the donors ready to support this?

9.1.4 From Elite Capture to Pluralist—or Patrimonial—Democracy?

It has been argued that devolution in countries with a powerful local elite has to rely on the intervention of a strong supportive state to ensure equity (Crook and Sverrison 1999). In Cambodia, the institutionalisation of the facilitative role of sub-national governments such as the province and district[192] ensures adherence to the guidelines brought forward. This, coupled with

[192] Through capacity-supporting structures in the PRDC (TSS, DFT and PFT).

a small amount of development funding (and little interest by richer segments of the community in participating in communal development planning),[193] ensures that elite capture of communal funds does not take place. Rather, elite capture in Cambodia takes place along political party lines, although this is a complex process. On the one hand, communes with loyal party cadres are better able to lobby for development projects such as schools and wats than communes lacking such party supporters. On the other hand, interestingly, there are examples in which a political party channels funds to communes that do not lend its support to the party.[194] This is an effective means of increasing party popularity.

In a country so prone to it, the lack of elite capture is surprising. The reasons it has not taken place are:

- The development funds are seen as insignificant for the elite.
- Strict control over planning has ensured space for participation by all.
- Villagers have been willing (through the VDCs and user groups[195]) to act as watchdogs over projects even though they might not have the quality-controlling role (which lies with the TSS).

Does this mean that a pluralist democracy is under way? One might argue that local planning depends largely on the assistance and facilitation of the DFT staff, and although this hinders elite capture, it creates less space for local initiatives to take charge. The challenge is therefore to ensure capacity support at levels and in ways that promote a pluralist democracy.

There seems, however, to be a tendency for bidding to be prone to elite capture, as several contractors operate under many different names. This has allowed them to produce several bids for one project. Also, the fact that the ExCom must approve contractors has ruled out the opportunity for village groups to engage in construction. This limits options for co-production between the private sector, civil society and the commune councils.

Another issue of elite capture that may come as an unintended side effect of local government taxation is that direct taxation of the few, most likely local businesspeople,

[193] See chapter 5.
[194] Interviews with commune councillors in Takeo Province, 25-29 August 2003.
[195] Maintenance by user groups in addition to the VDCs is common in GTZ-supported projects.

might create a feeling of ownership of local development by these same few, and increase the risks of elite grabbing. Ways of preventing this must be considered.

A way of enhancing the development of a pluralist democracy is to limit the *upward reporting culture* while increasing the emphasis on a *culture of inter-communal support and collaboration.*

Another crucial issue of pluralist democracy is to ensure that all villages have a voice despite the fact that some of them are not represented in the commune. This is a matter of *intra-communal participation.* A final aspect is the apparent danger of the politicising of civil society. Legal interventions and public awareness of potential effects might be necessary to help avoid this.

It should be recognised that the path towards a pluralist democracy is long, but that Cambodia has taken a great leap forward from a patrimonial state to a patrimonial democracy. Despite strong elements of a patrimonial system, the media are free, civil society engagement is growing, councillors are largely aware of their rights, and the electorate is increasingly being made aware of the democratic process. In order to avoid the perception of a "permanent transition" towards a pluralist democracy, it is important to focus increasingly on the patrimonial characteristics of the democracy and try to remedy them.

9.1.5 From Patronage to Local Autonomy?

Realisation of the goals of the reform is going to depend significantly on devolution, including fiscal decentralisation. If decentralisation is going to work better than "less than well," there is going to need to be focus on moving decision making closer to the people. This implies not only decision making by the elected institutions (which seems not to be a major problem in Cambodia), but also by the support institutions. The biggest challenges facing the communes' local autonomy today are:

- Central party accountability of commune councillors. A crucial issue is: how important is downward accountability to the government, and is it willing to change the election law to improve the chances for this?
- In order to separate the legislative from the executive, there is a need to allow for more staff to be hired in the commune. A reduction of the number of communes will make this more achievable. This must be balanced, however, with the further reduction of the number of villages represented in the commune. Can a pluralist democracy be achieved with the current accountability structure with village chiefs and clerks accountable to

the central government and the commune councillors accountable to the central parties?

- Politicising of civil society leading to a reduction of its "watchdog" function, and reduction of the potential of the commune council to engage in co-production with other actors for service delivery. Will prevention of this be a priority of the government?
- Presence of higher level facilitators, which reinforce the reluctance of the commune councillors to make independent decisions. Considering the tradition in Cambodia of looking upward for solutions, the government can come closer to the people only when (i) the commune bureaucracy (i.e., the village chief and the clerk) is accountable to the elected representatives, and (ii) the current controlling function of the district is reduced or changed.
- As the CSF has been proved to be efficient, with a 99 percent disbursement (except for 2003), are the government and the donors, in the name of poverty reduction, willing to place more resources into it in order to ensure that an increasing amount of money reaches the local level?

9.1.6 Trends and Possible Future Threats

In the current spirit of decentralisation, which aims at devolving and delegating functions to lower levels, there seems to be an increasing trend for more and more functions to be delegated to the commune. Two concrete examples are the community-based poverty monitoring programme, which assigns responsibility to the commune to collect poverty data, and the monitoring and evaluation guidelines issued by the NCSC (2003), assigning monitoring and evaluation tasks to the council. A potential problem with this is that the councils are overburdened with agency functions without sufficient corresponding funding. This might be compounded by the many uncoordinated activities of the government, donors and NGOs.

9.1.7 Ownership Indicators: Access to the Bureaucracy and the Policy Environment

How do people engage and take ownership of the government's activities?

The communes in the study sample have identified four indicators that can signify the extent to which villagers feel ownership of local projects:[196]

[196] At least two of these indicators must be fulfilled before we can say that villagers have ownership.

- participation in meetings and activities to discuss what and how projects should be done,
- willingness to share the cost of projects or at least pay local contributions as well as labour inputs,
- willingness to take part in the implementation of the project by providing assistance to the communes and contractors in preparing project sites,
- taking part in the maintenance activities for the projects.

Villagers will address problems and issues only to the people who they think hold high enough positions to *respond and make things happen rather than just pass the problem on to another level/person.* It is not important whether this person in fact has the responsibility. That is why strong party association is very important, even within the bureaucracy, where a deputy district governor can be more responsive and effective than the district governor depending on political party affiliations. It is partly resources and partly capacity along horizontal and vertical lines that enable such responses to take place.

Villagers seek *direct access* to the bureaucracy and policy environment rather than through formal lines of bureaucracy. This is done via *the public platform.* The means of direct access would be signified by a community that directly approaches a high official who comes to visit the province. The provincial governor might grant access based on a letter from the community in which it raises its issues of concern and asks permission to use the public platform.[197]

People engage in commune activities and take ownership only when they see benefits. Therefore, villagers are more likely to engage in the decentralisation, for example by participating in village prioritisation meetings, if they believe this engagement will help bring about better services, improve their livelihoods, and influence decision making.

Moving from the individual to the institutional level, what ownership do government institutions have of decentralisation? Since the LAMC has been in place, several voices have argued that there is a need to look at the roles and responsibilities of different actors. This current research strongly indicates, however, that there is a clear perception in the commune and village of their own roles and responsibilities. The extent to which they are able to implement these, however, is another, and very relevant question, since it deals directly with the question of ownership.

[197] It must show, by thumb prints, that it is a petition signed by several members of the community.

At all levels of government there is a tendency to push responsibility upwards in the hierarchy to the national level. For instance, there is no provincial initiative to discuss seriously the role that the province could have. The tendency to wait for the national level to solve this is, on the one hand, a natural effect of the fact that this is a national responsibility. On the other hand, it matches trends observed elsewhere in Cambodia (see Hughes and Kim 2003) in which there is a reluctance on the part of lower governments to resolve conflicts and issues, and these issues therefore are pushed upwards in the system. In this aspect, the deconcentration and the decentralisation reforms differ in fundamental ways because decentralisation has been pushed forward with participation and consensus across hierarchical lines.

9.2 Policy Options

The following policy options are comments on state manoeuvring that impedes the success of decentralisation, but that is not part of the decentralisation design itself:

9.2.1 Overall Policy Observations and Policy Options

1. The establishment of trust in others and in the state is one of the most pressing problems that Cambodia faces today. The extensive decentralisation is one very crucial factor in the establishment of trust in local government. For Cambodia, its ownership at both the central and the local level has been essential. Centrally, this has been emphasised by the large share of funds for local investment provided. Locally, it has been emphasised by the local contribution to projects. The shortfall from the government for the local investment funds in 2003 may therefore undermine the building of trust in local government and the perception by many stakeholders of the political will to create a pluralist democracy and reduce poverty.

2. It is time to return to the issue raised in the introduction, i.e. indicators of decentralisation not working well. As shown above, Cambodia faces many of the challenges of systems that do not work well. One of these is lack of accountability in general and downward accountability in particular. Experiences from all over the world emphasise that where general accountability is lacking, decentralisation *always fails* (Manor 2003). There is therefore an urgent need to focus on accountability mechanisms.

- *The CSF should be institutionalised by law. The domestic revenue proportion of the CSF in the current sub-decree is valid only through 2004*
- *The CSF should have first priority for intergovernmental fiscal transfer. Changes in policy and in disbursement should minimise input that may reduce the trust in local government. E.g. if cuts are needed, then the CSF should be spared because it directly affects poverty at the local level.*

- *Build and enhance partnership between local government and civil society groups. Both donors and the central government should reward local council initiatives that enhance this collaboration.*
- *The communes should seek* partnership *and* co-production *arrangements in its C/S Fund spending with line departments and other institutions (such as the private sector, civil society organisations, NGOs).*
- *Emphasis should be put on building* bonding and linking social capital. *Strengthening of civil society and partnerships/co-production will help create the binding social capital. Inter-communal collaboration will help strengthen the linking social capital.*
- *As direct funding to projects at the commune or village level undermines the accountability and authority of local government, stakeholders should aim at channelling support to the commune through the Commune Council.*

- *The Election Law and the LAMC should be amended to help ensure that councillors are accountable to the electorate rather than to the party.*
- *NGOs should focus advocacy work on helping councillors to become downwardly accountable.*
- *Citizens must be encouraged to use the political process.*

3. Another accountability issue is that the various ministries employ all bureaucrats at all levels of government. All bureaucrats are accountable to the central government and not to the elected local councillors.

4. A fourth issue is lack of resources. The battle over resources has not been solved. Although the communes have been given the authority to collect revenue, little action has been taken to secure this right. Some confusion exists at the moment because there are efforts to find a potential tax base for both the district and the commune. If the district is allowed to collect taxes, it might minimise the opportunity for the commune to deliver services, which in turn puts the legitimacy of the commune in doubt and undermines the building of trust with the local state.

- *The regulations to cater for the election / reappointment of the Village Chief, in accordance with the LAMC, must be issued. Alternatively, the Village Chief should be an employee of the Commune Council rather than the MoI. This goes beyond merely paying his salary, which will be commune responsibility in 2004. It is about the right to hire and fire.*
- *While it may be important from one mandate to the next that the Clerk has secure employment (e.g. through the MoI as currently) it hinders accountability to the commune. In the future, with amalgamation of the communes and when the communes start using their power to hire personnel, the commune should be able to hire the Clerk. This opportunity might come as part of the civil service reform.*
- *The future role of the support staff must be addressed. Downward accountability is hard to ensure when support comes from the 'top' rather than from horizontal institutions. One way of doing this could be to place the support staff at the commune level, but with horizontal responsibility. This would hinder upward accountability, increase opportunities for horizontal learning (i.e. learning between the communes) and in turn increase the sustainability of the capacity support.*

- *The potential own source revenue for the commune should be identified. This may progress with the UNDP/ UNCDF short term input to the MEF. Currently, there are many potential revenue sources for the communes that are already being taxed by others: markets, rice millers, brickmakers, icemakers, catering service providers, grocery stores, firewood and forest product sellers, and business related to natural resources.*
- *There is also a need to ensure a greater accountability of public expenditure through tracking funds from central to provincial to local government or other sub-national institutions.*
- *New sources of revenues could be the pheasi, patent taxes, taxes on natural resources, on transportation, and/ or property taxes.*
- *Regulations should, as stipulated in the LAMC, be issued urgently to allow the commune to collect revenues and expand the current tax base. Prior to this, detailed information is needed on potential local revenues.*
- *A greater percentage of national revenues should be transferred via the C/S Fund to the communes.*

5. The decentralisation design has been *limited to the design of management structures* that implement smaller development projects. Up to now, the design has not captured several other major challenges faced in the commune. One of these is conflict resolution. In former Khmer Rouge areas, especially Pailin, the commune councillors spend up to 50 percent of their time handling land conflicts, despite the fact that the commune has neither control over land nor any capacity for conflict resolution.

6. There is scope for the donors to work more closely with the government in supporting policy development. One way is to assist in the development of the overall vision. Another is to intervene at times that are strategic for the government.

- *The design of CS training should be rethought with options for a more diversified training plan, including conflict resolution, land management and dealing with domestic violence.*
- *Peer learning as a concept should be introduced in the training programme as well as in the way training is conducted. There is space for increasing NGO involvement in facilitating peer learning.*
- *The NCSC training programmes need to focus increasingly on training of trainers (to make them more sustainable), develop handouts and brochures tailored to Cambodian councillors, use video as a means of communicating, use simple language, relate training more to the local context and place special emphasis on training of female councillors and gender awareness training for male councillors.*
- *Improved mobilisation of resources for training as well as increased coordination of current resources in training will be necessary.*

- *The White Paper on Local Government in South Africa could aid a constructive learning process for several levels of government.*
- *Debates among policy makers should be encouraged to enhance establishment of a policy and vision for the reforms. Following this, a strategic plan needs to be developed. The donors to the reforms should increasingly engage in these processes.*

7. Several inter-ministerial committees addressing decentralisation with different donors and different agendas unnecessarily complicate the reform. The Seila programme might continue to be perceived by many stakeholders as a separate programme unless it changes its name and perhaps links more closely to the ministry in overall charge of the reforms.[198] The danger with the latter might be that is loses some of its current inter-ministerial collaboration. However, the composition of the STF need not change even if the STFS is closer linked to a ministry in charge of provincial and local government.

8. There is still a tendency among NGOs, political parties and some donors to fund local activities outside the existing commune regulations and structure. For decentralisation to succeed, it will be important that most stakeholders use these regulations to disburse funds to the commune.

9. With the anticipated amalgamation of the communes, there is a question as to the future role of the district.

[198] The Seila/PLG MTR (2003) has suggested that Seila Task Force become the decentralisation task force to emphasise more clearly that the current Seila activities are integrated activities.

- *The decentralisation/deconcentration reforms should be* one *reform (called decentralisation) under* one *inter-ministerial committee.*
- *With the vision and policies in place, as well as one inter-ministerial committee, the Department of Administration could be transferred to a new Ministry of Provincial and Local Government to ensure a coordinated handling of the reform.*
- *The role of the STF in relation to these institutions should be clarified.*
- *Increased donor collaboration is needed so the donors can speak to the government with* one *voice rather than sending mixed signals.*
- *The establishment of a Ministry of Provincial and Local Government might be considered as a way of streamlining all activities related to decentralisation and deconcentration. If such a ministry is established, it might be crucial to place it under the Prime Minister's office to ensure it remains a strong ministry or else it might risk losing in negotiations with strong line ministries.*

- *NGOs, donors and political parties may assist in enhancing trust in local government and in ownership at the local level by increasingly ensuring that funds are being channelled and managed by the commune/* sangkat *council.*

- *As part of the development of the Organic law for Deconcentration, there is a need to rethink the future role of the district; what services it might deliver as compared to the commune, what role it should play in support of the commune. Obviously, with the meagre capacity at the commune level, the districts must be strengthened and probably assume a stronger role for instance in relation to health and education.*

9.2.2 Specific conclusions and policy options

10. Which aspects of the decentralisation design are conducive to achievement of its aims (democracy building and poverty reduction) and which aspects are not conducive? The strong support from above, through the Seila system, has, on the one hand, proven successful in terms of building capacity and spreading information. On the other hand, this support structure raises the question of the balance between too much and too little support. Commune councillors rely heavily on the DFTs and are wary about making decisions themselves.

11. A huge challenge for commune councillors is too much paper work and changing models and guidelines.

12. The design of decentralisation has enhanced participation in decision making over selection of projects within a specific field, i.e. rural development. It has also enhanced participation in decision making over location of projects. The latter has most probably prevented elite grabbing of the development projects. Hence, the impact in the longer run in terms of understanding among the electorate that participation leads to concrete results that benefit everyone is a crucial prerequisite for democratic participation and local taxation. There are *structural* reasons for the selection of type of projects: the capacity support is drawn mostly from staff who have this type of technical expertise, and decisions over the use of sector funds are still under the auspices of the line ministries and line departments, over which the provincial governor exerts no influence.

- *Horizontal learning, peer learning and reducing the role of higher authorities are vital. They can take place if DFTs/support staff are placed at the commune level and increased networks of learning between the communes are encouraged.*
- *Peer learning and collaboration are also important to strengthen the current weak role of female councillors.*
- *An Association of Female Councillors could be a meeting place for them to share experiences and provide mutual support.*
- *A Local Government Association should be established to assist networking and collaboration between councils and individual councillors. However, an association is no magic bullet for capacity building and peer learning, and it might take a long time to be up and running. Hence, other interventions cannot wait for this institution to be in place.*
- *A niche exists for peer learning for institutions that wish to assist in capacity building of the commune. Best practice communes could be identified for inter-communal sharing of learning and discussions of how they handle planning, management, finance, land conflicts, domestic violence etc. Such collaboration might also create opportunities for collaboration across communes on development projects.*

- *Systems and procedures should be simplified to make it possible for the commune councillors to understand them. This would also help confidence building and give more time for other work.*

- *The DFTs must be advised to 'allow' the communes to prioritise projects other than rural development. Currently such suggestions are often discouraged by DFT intervention.*
- *The communes must be invited to initiate a wider use of the C/S Fund to also address other sector issues.*

13. The current CDP is a wish list rather than a comprehensive plan and vision for development of the commune.

14. The budget preparation of the commune is time consuming and complicated.

15. The use of the provincial treasury for the commune accounts results in loss of potential interest income. It also creates a heavy burden for the treasury. Furthermore, it reinforces the dependency of the commune on higher levels, despite the fact that, according to the sub-decree on financial management, the communes are allowed to manage their own cash transactions.

16. The capacities of the commune in finance and accounting are limited to knowledge of which forms to fill in and who can help them in this task. Complaints from most councillors about the financial training are that it is too intensive, the groups are too large, there is little focus on quality, it is difficult to digest and relate to their work, and documents and explanations are not clear.

17. The technical supervisor (normally the TSS) carries out normal supervision and certification on behalf of the commune council. Although this does not in principle detract from the commune's ownership of and responsibility for the projects, it seems nevertheless that poor-quality projects frequently are accepted.

- *There is a need to introduce longer term expenditure frameworks for the commune to avoid fragmented annual planning.*
- *The commune should also plan activities that can generate employment.*

- *Establish transfer calculations in the MEF and develop medium-term budgeting practices in the communes to ensure income predictability and adequate time for execution.*

- *A pilot opening of commune accounts at commercial banks should be implemented for a few communes with the capacity to do this. These communes must be given sufficient resources to hire private accountants. Alternatively, a restructuring of treasury salary budget lines would be needed to reflect this change in responsibility. Strict auditing will be needed to avoid misuse.*

- *Training needs to be more focused on procurement, finance and management of projects.*
- *Training should be more on the job rather than in large groups.*
- *Simple material which can help councillors in their daily work should be developed.*

- *It might be relevant to include the village beneficiary groups (in addition to the current commune council) in the quality control of projects before payment orders for the contractor are given. The beneficiary groups would have the strongest interest in securing a good-quality project.*

18. There is a great challenge to ensure that communes in the not too distant future are able to play an important role in basic service delivery in key sectors. A danger, however, is that many actors initiate uncoordinated projects to hand responsibility to the commune, leading to a further overburdening.

19. Increase donor collaboration to relieve upward servicing, extensive reporting procedures, a surfeit of recommendations to government and contradictory messages.

20. The current parallel commune and provincial planning reduces the DIW to a place where certain plans can be merged rather than a place where integrated development planning can take place.

21. Currently, the line departments enter into temporary agreements with the communes before their budgets are approved. This seems to affect implementation extensively.

- *Successful line ministry projects should be lessons learned for other sectors in piloting deconcentration of service delivery.*
- *One national-level unit should be responsible for coordination of the current and future piloting of further responsibility delegation to the communes in order to avoid overlapping and excessive challenges for the communes.*

- *Donors should put further and increased emphasis on basket funding arrangements.*

- *There might be a need to further integrate line departments and commune planning. This might best be done if the province informs the communes about the overall strategies and sector plans for the area. This will assist the councils in ensuring that their planning fits within overall planning.*

- *Timing of the DIW should be better coordinated, with the release of the next year's budget to the provincial departments.*

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The Challenges of Decentralisation Design in Cambodia

Cambodia embarked on its decentralisation reform with the enactment of two laws in 2001, the Law on the Administration and Management of the Commune and the Law on the Election of the Commune. In 2002 Cambodia held its first free and fair commune elections. The decentralisation reform builds extensively on the lessons learned through the CARERE/Seila programmes, which were collaborative efforts between the Cambodian government with support from its donor partners.

The aims of the recently launched decentralisation reform in Cambodia are to establish a pluralist democracy and reduce poverty. This study therefore sets out to answer what the major challenges are in achieving poverty reduction and building and improving good governance within the current political and institutional environment. The study focuses on three levels: the national level (mainly strengths and weaknesses of the policy environment, and visions and strategies for the reform), central-local relations (how the design itself intends to achieve the aims of the reform), and local-local relations (collaboration between stakeholders at the commune level and horizontally between thecommunes, and autonomy of local government).

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The Challenges of Decentralisation Design in Cambodia

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