

# 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.<sup>1</sup>

- 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.<sup>2</sup>
- 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 to Support Commune/Sangkat Councils (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

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<sup>1</sup> 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.

<sup>2</sup> 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).

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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.<sup>3</sup> 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.<sup>4</sup> 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

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<sup>3</sup> So far, the "bureaucracy" at the local level is limited to the clerk and the village chief.

<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup> 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

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<sup>5</sup> The provincial governor's office. See also Seila/PLG MTR 2003.

<sup>6</sup> Referring to the process of intra-ministerial division of responsibilities for resource allocation and program implementation.

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*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.<sup>7</sup> 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*

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<sup>7</sup> 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 implication 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

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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.