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## The Challenges of the Decentralisation Design

The Policy Oriented Research Programme on Decentralisation (PORDEC) at CDRI has explored the challenges of the design of the decentralisation reform in Cambodia in achieving its aims of poverty reduction and improved democracy. Dr. Caroline Rusten, Programme Manager of PORDEC, summarises the findings.\*

The decentralisation reform of the Royal Government of Cambodia (RGC) sets out to help reduce poverty and improve democracy in the country. This is a challenging and a long-term task and not always one where the links between the two are easily recognisable. Cambodia has however come a long way in her attempt to establish the institutions and systems that are necessary to help achieve the aims of the reform. However, several pressing challenges remain to be addressed. The following will first explore the major achievements and secondly the current most pressing challenges faced by the RGC in its decentralisation reform.



CDRI/MEF/MOI meeting with commune councillors in Siem Reap province on 3 March 2004.

### Achievements of the Decentralisation Reform

Perhaps one of the most important aspects of the decentralisation reform in Cambodia is the emphasis placed on *learning by doing through participatory processes that involve all stakeholders*. In many other countries, a chief argument amongst government institutions *against* decentralisation is lack of capacity at the local level. In Cambodia, this is not used as an argument against the process to decentralise, despite the fact that much is still to be desired in terms of human resources and flow of funds to the local level. Rather, as a way of ensuring capacity building amongst stakeholders at central, provincial and local level, as well as ownership to the reform, larger aspects of the reform process have been implemented as participatory processes. While this creates

some challenges (see further below), it has nevertheless resulted in an impressive change in governance that not many thought was possible a few years back. Also, this process has prepared the ground for a reform that has many opportunities to continue to move in the right direction.

Other major achievements of the reform have been (i) the creation of ownership, (ii) the building of support structures, and (iii) the establishment of a legal framework. We will deal with each of these three issues. First, the government has, through its Seila programme, managed the very challenging task of *creating ownership* of the decentralisation process, most particularly at the commune level, and to some extent at the provincial

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\* This article is based on a presentation by the author at CDRI seminar of The Challenges of the Decentralisation Design, presented at Sunway Hotel January 29, 2004. A full report of this study, which was funded by the Swedish Government's SIDA and the British Government's DFID will be published by CDRI in March 2004, co-written by Dr. Caroline Rusten, Kim Sedara, Eng Netra and Pak Kimchoeun.

level. This ownership and the demand for change also at the central level is now so strong that it is in fact decentralisation reform that is driving reform in the public sector, not the other way around. This ownership has come through some very distinct activities:

- An extensive national process of involving relevant stakeholders in the design of the reform, and through piloting of decentralisation projects by different ministries.
- Through implementation on the ground from which people see real effects of their participation in commune development planning and financial contribution to local development projects financed through the Commune/Sangkat Fund (CSF).<sup>1</sup>
- Reasonable transparent and accountable usage of the CSF has hindered elite grabbing on the ground and provided projects that to a large extent benefit all.

A second achievement of the reform is that the RGC has managed to *ensure support structures* to the commune that in effect build capacity both at the provincial level, and at the district level, albeit to a lesser extent. These support structures have enabled the provincial governors to fulfil his support role vis-à-vis the communes. It has also enabled the provincial governors to coordinate between some of the sectors, an opportunity that was not available to them some few years back. It has also enabled the communes to have a clearer understanding of what their roles and functions are. Hence, it is important

to emphasise that capacity building also of the support structures to the local government is crucial for the reform process, and one which is lacking in many countries, but one which Cambodia addresses reasonably well.

Third, in quite a short time, the National Committee for Support to the Communes (NCSC) has passed two major laws<sup>2</sup> and a number of sub-decrees regulating the reform. This has enabled the reform to move forward despite the fact that many gaps still remain.<sup>3</sup> Other achievements might also be emphasised, such as the initiation of civil registration and election registration at the commune level.

Having said this, many of the achievements also point to challenges that the reform faces in reducing poverty and improving democracy in Cambodia.

### Major Challenges of the Decentralisation Reform

Four major challenges of the reform are (i) the legal framework, (ii) the institutional design, (iii) mechanisms to achieve the aims of the reform, and (iv) local dynamics. Different policy options are available to the government to address these challenges.

#### *The Legal Framework*

The Election Law (2001) *encourages upward accountability* by councillors to their political party rather than to the electorate because if a political party chooses to

dismiss a councillor s/he will also lose the council position. No councillor has yet been dismissed through the party structure, but the danger is that councillors tow party lines rather than feel accountable to the electorate. In the near future with increasing capacity of councillors and perhaps increased resource flow to the communes, one might expect them to be more able than at the present time to address the needs expressed at the local level. Downward accountability lines will be important to enhance the process of local government responsiveness.

*A policy option to enhance downward accountability of locally elected leaders to local people is to change this aspect of the Election Law.*

Another aspect of accountability is the employment of the Village Chief and the Commune Clerk. Currently, these are the only staff at the local level and they are both employees of the Ministry of Interior (MOI). In the transition to elected local governments this has probably been important in order to ensure continuity at the local level. However, this aspect hinders accountability of the so-called 'bureaucracy' at the commune level to the locally elected councillors. Experiences from other countries<sup>4</sup> show that lack of accountability of the bureaucracy to locally elected leaders is one example of decentralisation working 'less than well'.

***A policy option to enhance downward accountability of locally elected leaders to local people is to change this aspect of the Election Law.***

*A policy option to enhance accountability of the bureaucracy to the locally elected leaders would be to look into the opportunities to elect the village chief (in line with the Law on the Administration and Management of the Commune/Sangkat Council - LAMC), and ensure accountability lines to the council rather than to the central government. Alternatively, the central government could allow for a reappointment of the village chief and make him/her an employee of the council. This could be done fairly soon, not least because the salary of the village chief will be drawn from the CSF from 2004. Likewise, the clerk also needs to be accountable to the council. It might however be too soon to allow the council to employ the clerk due to the importance of continuity at the commune level, and also due to lack of capacity of the councillors to consider the capacity of the clerks. However, with the anticipated and much needed amalgamation of the communes, and hence larger commune entities and more capacity among councillors, it might be possible for the councils to appoint and employ the clerk. This will not be possible in the very near future. Meanwhile, other options to ensure accountability of the clerk to the council should be considered.*

Another major challenge related to the legal framework is the *lack of an overall policy to guide the reform*. Cambodia has laws that regulate the reform. Often policies precede the law and give guidance to the formulation of the legal framework and also to the strategic plans to achieve the aims of the reform. However, it is not always the case that a policy comes before the law, and while it is possible to carry on without a policy, it is

potentially more difficult.

Cambodia has a policy statement<sup>5</sup> (and laws and sub-decrees) that has three main aims guiding the decentralisation reform. These aims say one major thing, namely that pluralist participatory democracy is going to lead to poverty reduction through increased service delivery and local investments. What is a policy statement as opposed to a policy? A policy statement is an indication of intent. It tells us what the government wishes to achieve with the reform, but it tells us little about how this will be achieved. A policy sets out agendas. A decentralisation policy would allow the policy makers to engage more thoroughly in the decentralisation reform and provide necessary guidance such as to how the reform should unfold, which institutions are going to take the lead, and what links that shall join the institutions. Hence, a decentralisation policy could give clearer guidance on the roles of the various institutions, collaboration between the communes, the vision for the future commune, district and province, sector collaboration and so on.

At the moment, many of these decisions are left to the bureaucracy, and without a policy, some decisions cannot be made at all. Rightly, policy makers sit in the NCSC and pass laws, but they are not engaged in the further necessary vision making in terms of the direction of the reform. A policy would allow the government to take a stronger lead in the decentralisation reform. At the moment the bureaucrats have to deal with conflicting and differing signals from donors who, on their part, are not always certain of where the government wants to take the reform.

*In the Cambodian situation it was necessary to get the reform moving and perhaps not wait for a lengthy policy process. This far down the line, however, it is time for the government to start to consider whether to further develop the policy statement through a more comprehensive policy process. This would allow the government to make some overall decisions for example on whether the communes should be amalgamated and what principles shall guide this process, and whether the decentralisation and deconcentration reforms will be treated as one rather than two separate processes.*

### **Institutional Design**

The second major group of challenges can be labelled institutional design. In Cambodia, *conceptualisation of decentralisation and deconcentration as two separate rather than interlinked processes* has led to division of roles between separate interministerial committees, i.e. the National Committee for Support to the Communes (NCSC) and the Council for Administrative Reform (CAR), and donors supporting one rather than both reforms. This has led to difficulties within the government and amongst its donor partners in terms of coordinating initiatives that need coordination. Perhaps the most unfortunate effect of this so far can be exemplified by the

current separate processes at the commune level and the district level to look for revenue sources. One project called the Open Window Service Delivery and linked to the Konrad Adenauer Foundation and CAR aims at improving services at the district level by piloting them in two urban areas. Financing of these services is supposed to be drawn from new revenue sources. At the same time, as a follow up of the LAMC which gives authority to the commune to collect local government own revenue, the Ministry of Economy and Finance is currently engaged in a process to identify potential local government own source of revenue, which can help them give the commune the actual mandate through a sub-decree to collect and manage certain taxes and levies. The idea is to look for taxes that can be shared between the province and the commune as well as taxes that can be re-assigned from the province to the commune. The danger now is that these two interventions look for revenues in the same market. As taxation by the commune has been emphasised as a priority by the LAMC, many stakeholders might have expected that the focus be placed on revenue sources to the commune rather than the district. Perhaps a more coherent institutional design might have helped avoiding such parallel processes.

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*In order to ensure a more consolidated reform process one option for the government would be to consider a reconceptualisation of the reforms into ONE local government reform which can capture the current deconcentration and decentralisation reforms. In line with this it might also be relevant to consider placing this reform under one institution. What type of institution this might be would be a typical and relevant issue for a decentralisation policy process to address.*

Seila activities and structures are an integrated part of government structure. There is, however, a challenge to *further integrate the Seila structure into existing government structures*. We anticipate that there will be a need for the Seila Task Force (STF) and its Secretariat's support to the reform for still some years to come. This is because it provides highly relevant support at many levels of government. At the central level STF collaborates closely with the interministerial committees, the ministries involved and the donor partners. An issue here, however, and really a question for the future, might be on the further integration of Seila into central government structures. At the provincial level one may anticipate that the support functions to the province and the commune through ExCom will continue in substance but that in the future it may be further integrated into the Office of the Provincial Governor, the *Salakhet*.

*One policy option for the further integration of the Seila programme may be anticipated in the near term at the provincial level by increasing the role of the governor in sector collaboration. Piloting of experiments within more sectors may be relevant at this time and it might be useful to use Seila structures for this. Furthermore, a nation wide change of functions and roles of the*

governor related to sector coordination and integration must await the planned Organic Law on Deconcentration, anticipated for 2005. If the government in the future decides to establish a separate ministry of provincial and local government, a further integration of the STF Secretariat into such a ministry might be considered. Such a ministry would however need a solid basis to ensure it enables to coordinate potentially strong sector interests.

Another key issue is *enhancing regulation for funding of local government*. A very urgent challenge is that the CSF is regulated by a sub-decree in effect throughout 2004 only. Beyond this, these transfers, which currently secure some level of development on the ground, might meet an insecure future.

*One policy option would be to give this fund a higher legal status, preferably regulated by Law.*

### **Mechanisms to Achieve the Aims of the Reform**

The third major group of challenges are related to mechanisms to achieve the aims of the reform. A comprehensive challenge is *capacity building* of councillors. A lot of effort has been put into enhancing the capacity of the councillors, and it has largely made them aware of how processes are being run, what is required to move these processes ahead, and which forms to complete in the planning and budgeting cycle. The knowledge gaps lie in the details, such as how to fill in these forms, and whether they can prioritise one thing before another. Hitherto, the communes have depended largely on advice from 'higher levels' of government.

*One option for improving both capacity and not least confidence is to increasingly focus on horizontal peer learning to improve inter communal collaboration and sharing of experiences. This would also help increase the demand from and identification by the commune on what capacity they need. Some argue that this may await the formation of a local government association, but as such formation is a long-term process, peer learning and horizontal sharing of information might be a niche for capacity building focus for the government as well as for actors who are looking for a relevant role to play in the decentralisation reform.*

A crucial aspect of improving local democracy has been reflected in the reform through *the comprehensive planning processes for the Commune Development Plan (CDP)*. The logic for this is to change the mentality of councillors towards participatory processes. While on the one hand this is a crucial part of building democratic procedures on the ground, it nevertheless creates expectations that the council has difficulties meeting, and it also appears very comprehensive compared to what is being received at the commune level in return. The solution is not, however, to simplify the process, as it is an important building block for the development of the local democracy, but rather to enhance the necessary flow

of funds to support it. According to stakeholders at all levels of government that were interviewed during the study<sup>6</sup>, a steady and increased flow of funds will be necessary already in 2004 and 2005. The shortfall of government funds in 2003 due to the Thai riots, effects of SARS and the costs of the election, seriously affected disbursement of the government share of the CSF. The burden of this therefore falls on the communes and the local private sector that largely have been at loss as to why funds are not flowing. The serious long-term effect of this might be that the building of trust in the local government among local people and the local private sector, which the government has spent so much effort in building, is under threat because funds do not flow properly.

*The government faces serious challenges at the moment due to the fact that the new government has not yet been established. This might also have financial implications for implementation. It would however be important that the government give first priority to the CSF to ensure that the momentum is kept up and that the trust that has been built so far is not eroded. This will be crucial in 2004. Another, more long term issue, is to start identifying local government own source revenue as a way of further increasing predictability of commune funds and ensuring a closer link between taxation and service charges and provision of services.*

Linked to both the above issues is the question of *commune amalgamation*, which means that the number of communes is reduced by enlarging the commune boundaries. There are provisions in the law for this. Commune amalgamation has been mentioned by Blunt (2003)<sup>7</sup> as one important aspect to speed up the capacity building of the communes. Four challenges related to such amalgamation can be emphasised. These are: (i) Will the district, as we know it survive the amalgamation? This question is related to what might happen to staff at the district level. For instance, will we see deployment of staff from the district to the commune? Even without amalgamation, deployment of staff for example from the district agricultural office in average sized districts to the communes can take place without further employment of staff. With amalgamation, this might be possible also in other sectors. (ii) What criteria would be used for the amalgamation? If one assumes that some important criteria might be economic potential of the communes, and availability of natural resources, then the question is: (iii) Does Cambodia have data to assist in the selection of the criteria? And finally (iv) this would need coordination with the Organic Law on Deconcentration, setting out the roles and functions of the province and the district, which is anticipated for 2005.

*The policy option available to the government would be to first have a process where the future role of the districts be discussed. This is linked to decisions on what services can be delivered by the commune, and by*

other agencies. The process to start identifying this is likely to start in late 2004, with pilots perhaps in late 2005. Furthermore, data are needed on natural resources and economic potentials of the communes before the demarcation process can start. It is hence not likely that the results of these activities will be available in time to carry out the demarcation before the next mandate of the commune (i.e. the next commune elections in 2007). Perhaps the government should target the third mandate and then give itself time to carry out these processes. Meanwhile, during the second mandate, and in line with the tradition within the decentralisation reform, amalgamation could be piloted in some selected areas. This will provide information on what major challenges commune amalgamation might face, and hence help the government be prepared to meet these challenges.

### Local Dynamics

The fourth group of challenges is related to the situation at the commune level and the many activities going on to try to enhance their role, not all of which are well coordinated. Councillors feel that the workload is heavy and difficult. This is particularly so for women who in many cases feel that their influence is minimal compared to the workload and most of those we spoke with doubted they would have the capacity to run for elections next time. Their capacity, it seems, is not less than men, as most of them have NGO experience and have attended school at least as long as their male colleagues. The issue is not lack of capacity but rather lack of access to decision making. Along with this, female councillors are by law given the responsibility of women's and children's affairs, which further limits their influence as currently there are hardly any funds allocated for such activities.

Another issue at the local level is party funding of local development projects. In many places, businessmen have been asked to contribute to party funded projects that later on have been presented as a party gift. This reduces the feeling of ownership among people who contribute and may not be very helpful to the process that will be initiated in the future, namely local taxation. There are also many cases of NGOs who bypass the local council for project development as permission for such activities often are requested and given by district or provincial authorities.

There are initial and so far anecdotal indications also of a strong politicisation at the local level, where one of the indications seem to be that it is difficult to secure support and local contributions from people whose political convictions differ from those of the commune council

chief. This might indicate that the level of distrust at the local level still runs high, and that it will be necessary to increasingly focus on the development of so-called 'weak ties'. Weak ties are developed through networks and associations. Cambodia is an example of a country with solid 'strong ties' such as family and political party affiliation, and that individual decision making to a large extent is influenced by 'strong tie' structures. What Cambodia does not have, or has to a very meagre extent, is 'weak ties' such as associations and networks, which are typically such institutions that one would label as agencies for social capital. Weak tie institutions work across strong tie institutions and help create loose networks and relations that in turn might reduce suspicion and be conducive to community action. This is very much needed in the current political culture of Cambodia.

*The political parties might take the opportunity to ensure quotas of more women in top positions in the party to ensure further influence by women. Increased use of the commune council for channelling of resources would help build local ownership, which in turn is crucial for the development of the local democracy. Finally, there is a need to support the development of weak tie institutions to help enhance community involvement and action in support of council work.*

### Endnotes & Selected References

1. The Commune/Sangkat Fund is funds transferred from the national government and donors where the RCG puts in a 2,5 percent share of its domestic revenue and donor support covers approximately 16 percent of the total fund transfers.
2. The Law on the Administration and Management of the Commune/Sangkat Council (2001) and the Law on the Election of the Commune/Sangkat Council (2001)
3. See Robert Oberndorf's article in this issue of CDR.
4. Manor, J. 2003. *Local Governance*. Paper presented at a SIDA seminar on Good Governance. Stockholm. September 2003.
5. Sar, K. 2002. Thematic Paper of the Deputy Prime Minister Sar Kheng at the National Symposium on Decentralisation and Local Governance on May 15-16 2002. Unpublished.
6. The study was carried out in 15 communes across 15 districts in eight provinces, and with stakeholders at village, commune, district, province and central government level.
7. Blunt, P. 2003. *The Strategic Management of Capacity Building for Decentralisation and Deconcentration in the Kingdom of Cambodia: Positioning the contribution of the Royal Government of Cambodia/ADB*

### New publications available at CDRI

English and Khmer Working Paper (WP) are WP28: *Trading Forest Products in Cambodia: Challenges, Threats, and Opportunities for Resin*; WP29: *Domestic Fish Trade: A Case Study of Fish Marketing from the Great Lake to Phnom Penh* and Occasional Paper on *Envisioning a New Paradigm of Development Cooperation in Cambodia*. The reprint publication is the four volumes of *Buddha as Peacemakers* in Khmer. Forthcoming publications in English are WP30: *The Evolution of Democratic Process and Conflict Management in Cambodia: A Comparative Study of Three Cambodian Elections* and WP31: *Law Harmonisation in Relation to the Decentralisation Process in Cambodia*