

Decentralizing the State: Key Issues and Challenges for Cambodia

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Cambodia, dubbed in 2002 as one of the poorest developing countries in the world, has taken major strides in restoring and improving its foundations for good governance. In early 2001, two complementary landmark laws were passed, setting the initial step toward decentralizing the state. These two laws were: the Law on the Election of Commune/Sangkat Councils (NS/RKM/0301/04) and the Law on the Administration and Management of Commune/Sangkat (Royal Kram 0301/05). Complementary capacity building and support systems at the national, provincial and commune levels are required to make decentralization fully functional. The medium and long term challenges involve strengthening the process, formulating a nationally-owned vision, and adopting a coherent strategy for decentralization reform implementation. There is a need to clarify the Royal Government of Cambodia's deconcentration strategy to take into account the role of provinces and districts on the one hand, and the relationship of the deconcentrated units with the communes on the other. Moreover, issues concerning urban governance and the viability of the present size distribution of communes as local government units need to be addressed.

The Cambodian Development Context

Socioeconomic and Political Setting

Cambodia is located in Southeast Asia with an area of 181,035 square kilometers. It is the 10th member of the Association of Southeast Asian Nations (ASEAN). It shares common borders with Thailand in the west, with Laos in the north and Vietnam in the east. Cambodia, whose capital is Phnom Penh, is one of the poorest developing countries in the world. It is a country emerging from a situation of a series of internal conflicts during the mid

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1970s. Cambodia's economy is predominantly agriculture-based. In year 2000, agriculture and services accounted for 40 percent and 37 percent of its Gross Domestic Product (GDP), respectively. The country's principal export is garments, comprising 72 percent of total exports. With an estimated population of 13.2 million, its GDP per capita is around \$280, making it one of the poorest developing countries in the world (Economist Intelligence Unit, 2002). Cambodia ranks 130th out of the 173 countries with a Human Development Index of 0.543 (UNDP 2002). The country's state of development is reflected in a high poverty incidence of 36 percent and a level of income inequality of 0.42 Gini ratio. Other social indicators show adult literacy at 21.2 percent and an average life expectancy of 54 years.

The 1993 Constitution of Cambodia declares liberal democracy and a multiparty system as the foundations of the political regime of the Kingdom of Cambodia. Cambodia's present form of government is a constitutional monarchy. The King is the head of the state but does not govern. The government is composed of three branches: the Executive, the Legislative and the Judiciary. The Council of Ministers is the Royal Government of Cambodia (Article 118 of the 1993 Constitution). It is led by the prime minister assisted by two deputy ministers with senior ministers, ministers, and secretaries of state as its members. The Government consists of both the civil administration and the armed forces. The Executive branch of the government is in charge of overall execution of national policies and programs and is accountable to the National Assembly. The Legislative branch of the government is composed of an elected National Assembly and a Senate.¹ The National Assembly is responsible for the approval of laws especially with regard to the national budget, state planning, loans and lending, the creation, change or annulment of taxes, administrative accounts, amnesties, treaties or international conventions, and declaration of war. In Cambodia's legislative process, the Senate's role is to review the draft laws approved by the National Assembly or other issues submitted by the Assembly for examination.

The Judiciary is an independent branch of government (Article 128 of the 1993 Constitution). The authority of the Judiciary rests exclusively with the Supreme Court and the lower courts. The Constitution identifies four distinct components of the Judiciary: (1) the Constitutional Council; (2) the Supreme Council of Magistracy; (3) the courts; and (4) the prosecutors.

Background on Local Government²

The present system of local government in Cambodia is a legacy of Cambodia's historical experience dating back before the arrival of the French in the 19th century. The royal throne exercised supreme authority over its territories through some form of a system that linked villages through a

village headman to the higher authority. Structured communes, as distinct administrative units, did not generally exist until the arrival of the French.

The Royal Decree of 5 June 1908 marked the legislative origin of the Cambodian commune. The decree established a simple administrative framework by combining family units into a commune (*khum*). It provided for the election of the commune chief (*mekhum*), by the inhabitants of the commune.

To bring the administration closer to the people and free the central authority for other duties, the French colonial government between 1919-1943 introduced two decrees. The Decree of 24 September 1919 gave the commune its own budget and finances, and more power to the commune chief. As a result the activities of the communes developed. During this period central authority was strengthened through the introduction of central administrative reforms. This was followed by the Decree of 15 November 1925. This decree gave precise instructions on the administrative, judicial and financial organization of the commune. It established an elected community of councils as a collective body from which the commune chief was selected who was responsible for implementing the council's decisions.

In 1943 there was a reorganization of communes. The community election system was eliminated and the commune chief and deputy (*chumtup*) were appointed by the provincial governor, with the approval of the French Resident. These changes were made in the context of the prevailing environment of war and insecurity. While there was an attempt to restore commune elections in 1955, this was not effectively implemented.

In 1959 a royal decree was passed providing for the "complete overhaul of the law respecting the territorial and administrative restructuring of the Cambodian commune...." The law was designed to restore the legality of the commune as an institution and mandated the election of both the commune chief and the commune council following the lines of the 1925 decree. However, these provisions were suspended for an indefinite period after the referendum in 1959. As a result, community councils were not elected and the commune chief continued to be appointed by the provincial governor. This situation remained until 1970 when fundamental changes in the country's political system were introduced.

Between 1970 and 1992, Cambodia experienced major political changes accompanied by a humanitarian crisis of massive proportion from which the country is only beginning to recover. During that period, the country went through five changes in its constitution. In 1970, Cambodia changed from a monarchical to a republican form of government. A new constitution was adopted on 10 May 1972. Following the adoption of a new constitution on 5 January 1976, Democratic Kampuchea was established under the Khmer

Rouge regime. Local administration was envisaged at three levels: regional or province; district; and collective divided into commune collective and village collective. More than local administration per se, the purpose of this tier also related to military strategy and leadership.

Following the collapse of the Khmer Rouge regime, a new constitution was adopted on 25 June 1981 creating the People's Republic of Cambodia. The new constitution called for the reorganization of the country reflecting the older divisions of provinces into districts and communes; and municipalities into quarters. It required the election of commune and quarter chiefs while provinces had appointed provincial committees and provincial chief—the governor.

The Constitution of 13 April 1989 introduced the "State of Cambodia." It also introduced a new territorial classification. At the provincial level, it introduced provincial towns (similar to municipalities with quarters under its jurisdiction) and district towns (similar to rural towns with commune under its jurisdiction). The provincial towns constituted the seat or capital of the province. The Constitution required election of commune chiefs and quarter chiefs. However, only one election was held under this political dispensation. Governors continued to exercise power over the appointment and dismissal of commune chiefs.

Following the signing of the Paris Peace Accord in October 1991, the present constitution was adopted on 21 September 1993. The constitution introduced a constitutional monarchy. The Constitution divides the territory of the Kingdom of Cambodia into provinces and municipalities. There are currently 20 provinces and four municipalities. Each province is divided into districts (*srok*), and each district into khum. Each municipality is divided into sections (*khans*); each section into quarters (*sangkat*). The Constitution stipulates that provinces, districts, sections, communes and quarters be governed according to an organic law. The organic law is a law voted by the National Assembly that refers to the creation or organization of a state institution and its structures. At present only communes are governed by an organic law—the Law on The Administration and Management of Commune/Sangkat (LAMC).³

It should also be noted that while there have been several laws and decrees relating to local government, previous laws and efforts had been largely aimed at consolidating central government control and supervision of commune councils' activities. Moreover, there is as yet no comprehensive law defining the relationships, powers and functions between provinces, districts and communes/sangkats. Except for the organic law that created commune/sangkats, the provinces and districts remain in "legal limbo"—a critical issue that needs to be addressed in the country's decentralization and deconcentration policy reform.

Cambodia's Decentralization Policy Framework

The Royal Government of Cambodia (RGC) views the promotion of good governance as an essential prerequisite to sustainable socioeconomic development and social justice. To provide a coherent framework for a comprehensive reform of the country's governance system, a Governance Action Plan (GAP) was formulated to guide and monitor the implementation of the reform agenda.⁴ The GAP considers decentralization and deconcentration as instruments to further democratize the country and improve service delivery. Unlike other countries, however, in which decentralization is enshrined in specific constitutional provisions,⁵ the legal foundation for decentralization in Cambodia stands on two complementary laws: the Law on The Election of Commune/Sangkat Council (NS/RKM/O301/04), and the Law on the Administration and Management of Commune/Sangkat (LAMC).

The Law on the Election of Commune/Sangkat Council elaborates on the organization, the administration and the conduct of the election of the Commune/Sangkat Council. Article 2 of the Election Law provides for a "general, universal, just, free and fair, equal, direct, secret in accordance with the procedures prescribed by the law." The law further provides for the election of commune/sangkat council once every five years (Article 3) through a system of proportional representation based on a party list (Article 5). The law also stipulates that the number of commune council seats will be determined by a subdecree within nine months before the day of election. This law provided the legal basis for the nationwide commune council election held on 3 February 2002, which elected 11,261 commune councilors representing 1,621 communes.

The other piece of legislation that underpins the RGC's decentralization policy is the LAMC. The LAMC provides an overarching and a comprehensive general framework for decentralization. Table 1 summarizes the key features of LAMC. Following the legislative process in Cambodia, the specifics and details of the provisions are spelled out in various subdecrees, prakas or declaration/proclamation, and appropriate guidelines and rules and regulations. Therefore reference to these various legal instruments is made in the following discussion of the LAMC.

The LAMC embodies important features of the evolving local governance system in Cambodia. These features are discussed below.

Commune/Sangkat (C/S) as Autonomous Local Governance Units

The LAMC created the communes/sangkats as autonomous corporate bodies. This provision of the law vests C/S with the power to perform their tasks, mobilize resources, manage administration and deliver services to citizens

Table 1. Key Features of the LAMC

<i>Article</i>	<i>Provision</i>
2	Creates the commune as a legal entity of local governance
4	Provides for the election of commune/sangkat council members
9	Establishes a commune/sangkat council
11	Fixes a Five-year term of office for C/S council members
13	Creates a C/S council chairman and defines functions
15	Mandates a system of proportional representation in the election of CCs
25	Designates the appointment of C/S clerk to assist CC administration
41	Lists the general duties of the C/S administration, namely: <ul style="list-style-type: none"> • promote and support good governance by managing and using available resources to meet the basic needs of the C/S • respect national interests in accordance with the general policy of the state
42	Enumerates the role of the C/S namely: <ul style="list-style-type: none"> • to serve local affairs for the interest of the C/S and its residents • to represent the state under the appointment or delegation of power
45	Lists the areas in which the C/S has no power to decide on: forestry; post and communication; national defense; national security; monetary; foreign policies; fiscal policies; and other fields prescribed in laws and relevant legal instruments
53-58	Delegates and describes the oversight functions and powers of the Minister of Interior in the affairs of the CC. These powers include the power to investigate and evaluate the performance of the CCs, and dissolution of the CCs, among others.
59	Provides the basis for the creation of the Department of Local Administration under the Ministry of Interior as secretariat to oversee local affairs
60	Mandates the preparation and adoption of a C/S development plan
74	Specifies that C/S shall be entitled to own source revenue from fiscal taxes, non-fiscal taxes and service charges
75	Provides the basis for C/S entitlement to grant resources from the national revenues for its budget including the mechanism by which these resources will be made available
76	Provides the basis for C/S to receive fees for the performance of agency functions
77	Provides for the legal basis for the establishment of the Commune/Sangkat Fund as the intergovernmental fiscal transfer mechanism
78	Mandates communes to prepare and adopt an annual budget
80	Provides legal restriction on Communes/Sangkat to obtain loans
81	Creates the interministerial committee – the National Committee for Support to Commune/Sangkat
89	Provides for a review of commune boundary before the second commune election in 2007.

Source: The Law on Administration and Management of Commune/Sangkat.

within the designated territory of the C/S. More importantly, however, the creation of the commune/sangkat as a legal entity under the LAMC and the election of Commune Councils (CCs), are significant steps in the promotion and strengthening of local democracy. As indicated in the previous section and until the Election Law and the LAMC, commune council members were appointed by provincial governors.

Accountable, Transparent and Responsible Local Governance

The Commune Council representatives are accountable to citizens through elections every five years. This makes for a system of downward accountability. Furthermore, a defined system of oversight and intervention through the Minister of Interior⁶ makes the CCs vertically accountable to the central government for their performances and decisions. In addition, elected CC officials are also collectively and individually accountable to the government as the latter reserves the right to assess their performance and commitment to the job, and can dismiss them for non-performance. For program, budget, and day-to-day administration, commune officials are responsible to the Councils.

Transparency is also ensured through a system of participatory planning and budgeting process; publication of programs, budget and activities in public places; and legality check by higher authorities. Hence a two-way process—through citizens' participation and government oversight—is put in place to ensure transparency of the CC administration.

Partnership in Local Development

The Commune Council is headed by a commune chief who works with, and through, the Council. The concept of proportional representation (party and popular vote based) and the provision of first and second deputies with prescribed roles and functions help reduce partisan conflicts, encourage consultative decisionmaking and cooperation among members of political parties. The provision of the committee system creates additional opportunity to include local citizens and institutions in CC decisionmaking and mobilization of people's participation. This system, which is based on national practice, is believed to contribute to a cohesive and nonpartisan culture for development at local level.

Synergy and Interface between National Goals, Objectives and Local Priorities

CCs are required to develop plans consistent with national goals, objectives and priorities (LAMC, Article 61). The government has the right to check compliance.

Specificity of Roles and Functions to CCs as Opposed to Broad and Loosely Defined Roles and Functions

The LAMC defines two specific roles and functions of CCs: (a) to serve local affairs for the interests of citizens, and (b) to work as agent of state under the appointment or delegation of power by the state authority. The first role has seven specified areas (see Table 1 for details). The State may delegate agency function to CCs with means, materials and budget. This creates an environment and opportunity for interfacing deconcentration and devolution.

Regular and Specified Mechanism of Monitoring, Control and Intervention

The Ministry of Interior is responsible for the exercise of ministerial oversight of CCs and the minister is the designated official for monitoring, control and intervention (MCI). MCI is undertaken in three areas: (1) the legality of work, management and exercise of power of CCs; (2) the assessment of CC capacity in relation to tasks; and (3) the assessment of required interventions and support to be provided to CCs for their capacity building and improved performance (LAMC, Chapter 5, Article 53). The authority vested in the Ministry and the minister, however is not to be applied arbitrarily. Substitute elected bodies could not be appointed officials without justifiable cause. The whole exercise of this authority is to follow specified legal criteria and hence aimed at deterring central level arbitrariness against Communes. The provisions are the following (LAMC, Articles 55-58):

- Investigation and evaluation;
- Issuance of written instruction to CCs to carry out duties required by law;
- Take over duties required by law; and
- Hold election once a CC is dissolved.

Thus the MCI is an instrument with two objectives: firstly to make CCs serious in performing their mandated functions and, secondly, to make the government take responsibility for capacity building of CCs so that the latter's capacity is matched with expected performance. The act also provides that the minister can delegate some monitoring authority to provinces and districts (Article 53) and hence encourages deconcentration of the minister's authority at provincial and district levels over time. In addition, to look after CC affairs the act provides for the creation of a separate unit within the ministry (Article 87). Accordingly the Department of Local Administration (DOLA) was established for this purpose.

Administrative Autonomy to Communes

C/S councils are vested with some administrative autonomy. C/S Councils can hire their own staff using their own sources of revenue. However, since CCs have yet to develop capacity, the MOI has appointed a Commune Clerk to assist CCs in managing their affairs. The commune clerk is accountable to both the government and communes and the latter has authority to seek the Clerk's transfer. The CC requests are obligatory to the government in this regard.

Participatory Planning and Planned Development Process

C/S Councils must follow bottom-up participatory planning process and work according to the plan document. Under the current system, only commune councils which have an approved development plan undertaken through a participatory planning exercise can have access to the C/S Fund. The commune planning process is an eleven-step process involving intensive consultation with village representatives at the commune and district levels.⁷ During the first year of mandate, CCs are required to prepare a long-term plan with vision and goals that will be the basis of development activities during the mandate. In addition CCs are required to prepare a three-year rolling plan that matches the available resource and budget. These provisions encourage realistic and resource based planning at the local level. Plans are annually reviewed and updated by the CC. Commune Council plans are submitted to the Ministry of Interior for legality check and approval. All CCs are required to submit annual progress reports to the government, their constituencies and face public scrutiny. At the national level the Minister of Interior is to liaise with other ministries for commune level planning processes. Thus the planning process is expected to institutionalize need-based, participatory, coordinated/integrated and target-oriented development processes as opposed to individual centered and client oriented practice in development (for details see LAMC, Chapter 6, Articles 60-72; also, Prakas on Commune Planning). In order to avoid bureaucratic delay a time deadline is set for resource allocation to Communes and for the formulation and approval of plans.

Assured Source of Financial Support to Communes/Sangkats

Fiscal decentralization is a complex process. Indeed the design of the fiscal decentralization system will fundamentally shape the future of C/S councils and the effectiveness of the decentralization process itself. In the context of the LAMC, the law has provisions for: (a) Commune own-source revenue from fiscal and non-fiscal taxes and service charges; (b) government

grant assistance from national revenue; and (c) entitlement to receive fees for the performance of agency function. At the national level the law established the Commune/Sangkat Fund. The C/S Fund is to be funded from a share of the national budget as well as from donor grants and loans made by international financial institutions (LAMC, Article 73-83).

Resources from the C/S Fund are divided into two components: a general administration component and a local development component. The administration and local development components shall not be less than 1/3 and 2/3, of the total distributable resources of the fund, respectively. The administrative allocation is based on the number of commune councilors in each commune while the development component is based on a formula. The current allocation criteria are 50 percent equal share; 30 percent based on population; and 20 percent based on poverty.

All communes/sangkats will receive the general administration component. However, only communes with an approved development plan will be provided with the local development component. For the initial year of implementation, i.e., 2002, only 509 out of 1,621 communes covered by the government's Seila program⁸ qualify for the development component. The number of communes accessing the development component is expected to increase over the years as communes develop the capacity to prepare and implement their development plan. Full coverage is expected by 2004.

The fiscal decentralization policy/legal framework ensures that CCs will have access to regular financial support from the government through the provision of a percentage of the national budget; provisions for taxation, service fee, transfer of state assets among others and the delegation of agency tasks with matching resources. To ensure predictability of resource flows to CCs, the government is expected to provide a forecast of resource availability to CC for a minimum of three years and a maximum of five years. This figure is communicated to the C/S not later than 1 October of every year.

National Level Policy Coordination

The RGC has recognized that the decentralization process requires constant and high-level policy coordination in order to ensure that all actors including sectoral agencies and field units of government understand decentralization reform in its proper perspectives and extend support. In addition, decentralization cannot gain momentum without political will and without the support of all agencies of government. Therefore, the RGC has provided for an interministry policy coordination body called National Committee for Support to Commune/Sangkat (NCSC) under the chairmanship of the Ministry of Interior. This body is mandated to formulate the RGC's

decentralization policy, approve legal instruments, resolve policy related problems at the national level, formulate capacity building programs, and assess the performance of various levels of institutions. To provide technical support five subcommittees within the NCSC have been established. A DOLA within the MOI has been created as its secretariat.

Space and Roles for Political Parties

Political parties have space for performing three roles in CCs: election (seeking verdict of people/key actors); monitoring performance of representatives (watchdog: expulsion or default from party may result in losing elected office); and involvement in decisionmaking through various consultative processes (expected in practice/conflict resolution). These arrangements can be instruments for promotion of good governance and local level participatory decisionmaking and hence strengthen pluralist and tolerant local democracy.

Manageable and Viable Units and Sizes of Local Government

The RGC recognizes that the number of units and sizes of CC must conform to principles of efficient management, self-reliance and effective planning and service delivery. Hence, the RGC has provided for review and redrawing of commune/sangkat boundary before the next local election in 2007.

Concept of Inter-Commune Partnership

Joint planning and development among CCs is expected which opens possibilities of series of opportunities including initiative towards an association of Communes. In fact the subdecree on Commune Fund specifically makes provision for the representation of Commune Association in the Commune Fund Board.

Decentralization Reform in Cambodia: Key Issues and Challenges⁹

Since the passage of the Election Law and the LAMC in early 2001 major progress has been achieved in moving the decentralization reform process forward. In February 2002 voters elected 11,261 councilors to represent them in 1,621 commune councils. Table 2 highlights some of the key achievements made to date. As can be seen from the table, the reform process has been

Table 2. Status of Decentralization Reform Process in Cambodia

<i>Area</i>	<i>Status</i>
Overall policy Framework for Decentralization	<ul style="list-style-type: none"> • On-going implementation of the Law on Administration and Management of Commune (LAMC) • Basic policy framework widely discussed and agreed upon within the RGC
Legal and Administrative Framework for Decentralization	<ul style="list-style-type: none"> • Approved Subdecree issued on the <i>Power, role and duties of C/S Councils</i> • Prakas issued on <i>Delegation of Powers to Provincial / Municipal Governors in support of C/S Councils</i> • Prakas issued on <i>Roles, Duties and Rights of Commune Clerk</i>
Commune Development Planning	<ul style="list-style-type: none"> • Interministerial prakas and guidelines issued on <i>Commune Sangkat Development Planning</i> • Development of commune profile at the Ministry of Planning as input to the commune development planning process
Fiscal Decentralization	<ul style="list-style-type: none"> • Subdecree issued on the establishment of the <i>Commune / Sangkat Fund</i> • Draft rules and regulations on <i>Commune / Sangkat Fund</i> • Sub-decree issued on <i>Commune Financial Management System</i> • Approved Prakas on <i>C/S Financial Management System – Budget Formulation and Implementation</i> • Approved Prakas on <i>C/S Charts of Account</i> • Approved Prakas on <i>C/S Budget Classification and Format</i> • Draft <i>C/S Financial Management System – Payment and Accounting System Guidelines</i> • Draft <i>C/S Financial Management System – Expenditure and Procurement Guidelines</i> • RGC 2002 contribution to the C/S Fund - \$5.0 Million
Institutional Support for Decentralization	<ul style="list-style-type: none"> • Interministerial body <i>National Committee for Support to Commune / Sangkat</i> created and functioning • Five interministerial subcommittees of NCSC created and operational • Fiscal Decentralization Task Force established at the Ministry of Economy and Finance • Commune Clerks recruited, trained and seconded to CCs • DOLA staff recruited; five units established within DOLA • Provincial units of DOLA established in provinces • Expansion of the Seila program to Five additional provinces in 2002 bringing total coverage to 17 out of 24 provinces/municipalities or 80 percent of rural communes
Capacity Building	<ul style="list-style-type: none"> • Capacity building subcommittee of NCSC formed and operational • Standard curriculum for training of CCs developed and approved by NCSC

Table 2 (continued)

Resource Allocation to Communes	<ul style="list-style-type: none"> • Commune Clerks trained • Training-of-trainers/facilitators at national and provincial level completed • Ongoing training of CCs on powers and functions, commune development planning and financial management • Ongoing training of provincial treasury staff on various aspects of commune financial management systems • RGC contribution to the C/S Fund. For 2002 this amounts to \$5.0M or two percent of national budget • External assistance to decentralization mobilized: \$30 Million mobilized for 2003-2005
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positive and encouraging. The basic regulatory framework is now in place. Institutional and administrative systems and procedures to implement the decentralization process are slowly being developed and refined. Capacity building activities are currently being implemented in partnership with donors and civil society organizations. Resources, both internal and through external assistance, are being mobilized to address the resource requirements of the decentralization reform agenda. However, much remains to be done. The challenges ahead are immense and will take time, learning and unfaltering commitment from the RGC. Some of these challenges are immediate or short-term while others are long-term. The following sections elaborate the key issues and challenges for Cambodia.

Short-term Challenges

The short-term and the immediate challenges have two components: (a) to create sufficient mechanisms and instruments/infrastructure (institutions and human/financial resources) to support CCs capacity building so that they are able to assume their mandated tasks, and (b) to begin preparation of a realistic and attainable mid-term to long-term decentralization policy framework with sequenced reform packages.

The first component involves enabling all commune council officials to undertake basic training on local governance, commune management, budget operation and participatory planning process. For this, adequate preparation is required at three levels—national, provincial and local—in various areas ranging from basic training on commune development planning, commune financial management; establishment of the Provincial Office of Local Administration in the provinces; improving coordination among ministries; delegation of authority to provincial governors on CC affairs; and provision of resources to CCs. In other words this means designing and making the system functional.

Since only communes covered under the Seila program have had the experience in preparing and implementing their development plans, an immediate challenge is the training of communes to prepare their development plan. This is critical since only communes with approved development plans will be given access to the development component of the C/S Fund. If a significant number of communes have no adequate resources to implement development activities, this can create resentment and undermine the credibility of the decentralization process. Therefore a key concern of the RGC is to narrow the capacity gap between Seila-supported communes and those outside the Seila program coverage.

Another important area of concern is the operationalization of the C/S Fund and the associated capacity building requirements for its effective implementation. Since the C/S Fund and its systems are still being completed, 2002 is a critical year to test how effective the systems and procedures developed for its operationalization work in practice. Critical in this respect is the timeliness by which resources reach the communes and the systems of financial accountability and transparency in the utilization of resources. This requires, among others, the development of appropriate systems and procedures as well as the training of provincial treasuries on the new system of commune financial management.

Cambodia stands out as one of the countries in Asia which has been able to put in place the basic regulatory framework and administrative system for decentralization over a relatively short period of time. However, as parts of the system are being developed simultaneously from various fronts, policymakers have noted some inconsistencies among the provisions of various legal instruments issued by different ministries. The RGC is taking steps to address this by undertaking a comprehensive review of the various legal instruments (subdecrees, parkas, guidelines, etc.) to ensure internal consistency. Along this line, there may be a need to unify and develop a more comprehensive legal instrument and/or improve internal coordination within NCSC, especially the review process of proposed legal issuances. This requires building up the policy formulation, review and coordination capacity of DOLA.

The second component requires wide articulation of ideas and preparation of a mutually agreed upon and politically owned long-term, sequenced and time bound decentralization policy and strategy that outlines roles/responsibility for stakeholders with benchmark indicators to assess achievements. This requires the identification of the (a) strengths and gaps relating to capacity building in the short term, and (b) the identification of key areas for mid- to long-term reform, responsible institutions and suggested time frame for actions

Mid- and Long-Term Challenges

Experiences gained and lessons learned from the new process will provide further insights in the development of the RGC's long-term decentralization strategy. Over the long term these challenges include the following:

National and Political Commitment. Continued national and political commitment to decentralization reform is a must. Discourse/dialogue and agreement among the political parties, civil service, donors and nongovernment organizations/civil society are essential for continued national commitment. Accordingly, for decentralization to succeed, it requires: (a) broad consensus and common agreement at the political level to maintain national commitment including developing mechanisms by which political parties should address/honor the commitment; (b) the identification of the appropriate ways and mechanisms to effectively motivate and mobilize the civil servants to address decentralization policy goals and objectives; and (c) the identification of policy instruments and the formulation of a coherent strategy to ensure effective partnership/cooperation with donors/NGOs and civil societies in decentralization reform.

Decentralization and Deconcentration Linkages. Decentralization and deconcentration must go together and this is a complex issue. It calls for a clear definition and specific allocation of roles and tasks to different levels of government, sectoral agencies of government, readjustment of civil service, redesign of systems relating to budget, control, supervision and monitoring. In addition it also involves reducing functional overlaps and duplication among sectoral agencies, on the one hand, and between sectoral agencies and CCs, as well as designing horizontal and vertical coordination and accountability systems at all levels, on the other. For Cambodia this issue deserves particular attention. This is because the role and status of provinces and districts remain unclear in the absence of enabling organic laws as required by the Constitution. Some of the issues include: (a) identifying the basic policy and strategic options to initiate effective synergy/linkage between decentralization and deconcentration; (b) what specific roles and functions are assigned to sectoral agencies at various levels (central, provincial, district and local); (c) what institutions can be the most appropriate ones to deliver services at different levels; (d) what procedures and processes are required for effective horizontal and vertical linkages and accountability and what ways and instruments can be developed to reduce overlaps among and between agencies and CCs; and (e) how the NCSC and the Council for Administrative Reform (CAR)¹⁰ should interface in the evolving policy development for deconcentration.

Capacity Building. Capacity building of all levels and units of governance in decentralization is vital. Key issues in this area include: (a) the

needs to be addressed in building capacity for policy formulation and strategy; (b) the institutional arrangement for capacity building; and (c) how to ensure sustainability and cost efficiency in capacity building.

Fiscal Decentralization. Local governments must be self-reliant and less dependent on central government subsidy and grants. This takes time but the government should provide revenue generating opportunities to local governments and also assist them. Generally it is done through incremental fiscal decentralization framework and practices such as revenue sharing, equalization, devolution of more taxation authority. These are complex issues. They call for a comprehensive review of existing taxation, revenue system, fiscal incentives and appropriate decision to delegate certain revenue/taxation authority of central government to communes that are economically viable, productive and efficient. In this regard, it is important to determine (a) the areas that the government should consider delegating to CCs for increased fiscal self-reliance, (b) the system of management, control and supervision, and (c) how the current fiscal transfer system to the communes can be made more effective.

As the government implements reform of its fiscal decentralization program, it is important that it is guided by lessons learned from international experience.¹¹

Delegation of Agency Function to CCs. The LAMC has provisioned for the delegation of agency function with resources and support instruments to CCs. This must be done but it will need adequate preparation and capacity building. This is also a major objective of the deconcentration reform. Key challenges concern (a) the identifying agency functions that can be considered for delegation to the CCs, and (b) what would be an appropriate approach and strategy for delegation of agency functions.

Poverty Reduction, Human Development and Gender Mainstreaming. These are key areas of governance reform and socioeconomic development. Therefore (a) how can CCs contribute to poverty reduction; (b) where would they get resources to contribute to poverty reduction; and (c) how can the CCs play effective roles in human development and gender mainstreaming?

Urban and Municipal Governance. Cambodia is experiencing rapid urbanization. This is likely to build pressure for more effective municipal/urban local governance systems. The LAMC does not make any distinction between rural and urban areas. This distinction is important since urban communes or sangkats face more complex problems than their rural counterparts. Such problems include waste disposal and management, urban housing and settlement; road traffic and congestion, among others. In this regard, some of the relevant issues include: (a) the appropriate system/

organization for municipal/urban areas, (b) the appropriate roles and functions of sangkats, (c) the resource base and management system, and (d) coordination systems with agencies of the central government.

Provinces and Districts. Municipal governance automatically affects all provinces and districts also. Therefore (a) what would be the appropriate organization and management system for provincial and district governance? (b) what can be the roles, tasks and resource base of provinces and districts? (c) what shall be the linkage arrangements/agencies between provinces and central agencies, provincial and district agencies?

At the provincial level, fundamental questions relating to the status and authority of the governor and the provincial body include the following:

- Should the provincial body be a unit of central government administration or an autonomous elected unit of local government? For the time being, we are dealing with an administrative unit, but should the RGC be thinking on a longer term in moving towards an elected body?
- If provinces are to be given greater authority under deconcentration, the role of the governor may need to be reconsidered. Should she/he be (a) an agent of the MOI as at present, or (b) the provincial representative of the Prime Minister, or (c) the leader of an elected provincial assembly?
- To whom should provincial line agency departments be answerable—their parent ministry or the governor? This depends largely on the answer to the previous question.
- What powers and authority should be assigned to provincial units? To perform their roles more effectively, they may need greater scope to introduce regulations and by-laws, set levies and tax rates, and enter into legal proceedings.

Realignment of Communes. Before the second mandate of CCs, i.e., 2007, the government is tasked to realign commune boundaries. There are currently 1,621 communes. Knowledgeable observers suggest that this number is too large with many communes not likely to be viable as local government units. In this regard efforts should be aimed at making communes viable institutions for administration, planning, development, service delivery and resource mobilization. Key questions include criteria for drawing commune boundaries. If the area of a commune is expanded, what is to be done with village development committees and districts (both administrative and service districts)?

Donor Coordination. Donors play three critical roles in decentralization: as providers of knowledge and skills, providers of resources, and oversight to the system and processes. Therefore (a) how can the government best benefit from donor support, and (b) what kind of mechanisms can be developed for optimizing the efficiency and effectiveness of donor support and coordination?

Lessons Learned

Although Cambodia is just starting to implement its decentralization program there are some important lessons that can be drawn from its limited experience. One of the important features of the RGC's decentralization reform process is that it built on pilot-tested models and lessons learned from the concrete experiences of the Cambodia Area Rehabilitation and Regeneration/Partnership for Local Governance (CARERE/PLG) project. The CARERE and its successor project, the PLG project is a multi-donor project that started in 1992. The CARERE/PLG project helped inform the RGC's decentralization policy and system by developing and pilot-testing the implementation of various decentralized mechanisms and systems for local planning, financing, monitoring and evaluation and capacity building activities. These activities were implemented through a deconcentrated structure developed for managing local development activities at the commune and provincial levels. This pilot approach wherein concepts were tested on the ground, coupled with capacity development through "learning by doing" helped build and expand the limited capacity of the government to assume increasing execution functions. It also minimized the risks posed by the very limited human resource capacity in Cambodia. Cambodia's experience is particularly instructive in underscoring the need for adequate preparation before launching a major reform and a highly political process that is decentralization.

Concluding Remarks

The decentralization reform of the RGC is on track and making good progress. It is expected to gain momentum as it proceeds. As the reform process moves forward it is important that the RGC proactively prepare for the next steps and assume forward-looking perspectives. Given the country's development challenges there will be major constraints. The way forward requires staying on course through a strong, visible and broad-based political commitment, both at the highest level and at all levels of polity, strategic decisionmaking; and implementation of innovative arrangements informed by lessons from experience locally and internationally. These actions need to be guided by realities—realities related to decentralization reform objectives of the government in one form or other, that is, local democracy, socioeconomic development and poverty reduction.

Endnotes

¹The 1993 Constitution was amended in March 1999 to establish the Senate.

²This section draws from the Report of the Formulation Mission, December 1998. UNDP Project CMB/97/CDI Assistance to the Ministry of Interior on Basic Legislation for Decentralized Commune Councils.

³Royal Kram 0301/05 passed by the National Assembly on 12 January 2001 and declared constitutional by the Constitutional Council by decision No. 041/003/2001 dated 28 February 2001.

⁴The Governance Action Plan (GAP) outlines short-term and long-term action programs on five cross-cutting issues and on two specific issues. The cross-cutting issues are legal and judicial system; public administration, decentralization and deconcentration; public finance; anti-corruption; and gender equity. The two specific issues are reform of the armed forces and natural resource management.

⁵In the case of the Philippines, Article 10 of the 1987 Constitution makes explicit the provision of local autonomy, taxation power of local governments, and the share of local governments in national taxes, among others. Article 283 of the 1987 Constitution of Thailand provides for a similar provision.

⁶MOI Prakas No. 1884 delegates the oversight of the commune delegates in the provincial/municipal governors.

⁷The commune development planning process is based on the CAREERE project local planning process (LPP) modified and adapted by the national government.

⁸The Sheila program is a national effort to achieve poverty reduction through improved local governance. It is a program for institutional strengthening of local authorities within the context of the decentralization and deconcentration strategies adopted by the Royal Government of Cambodia. As of 2002, the program covers 17 provinces and 85 percent of rural communes.

⁹This section draws some insights from an MOI paper presented at the National Symposium on the Implementation Policy held on 15-16 May 2002, Ministry of Interior.

¹⁰The Council for Administrative Reform (CAR) is one of the reform councils responsible for the overall public administration reform program of the government, including deconcentration reform.

¹¹Some of these lessons are discussed in Bahl (1999).

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