

Opening the Democracy Door Decentralization and Deconcentration in Cambodia

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2007 is expected to be a banner year for decentralization and deconcentration (D&D) in Cambodia. The new Organic Law (OL) on D&D, on which a year was spent in preparation, should finally be submitted to parliament in 2007. The law will provide a legal basis for local government units above the commune. The biggest challenge the new Organic Law is likely to face is its focus: deconcentration. National line agencies will have to relinquish functions and corresponding budgets to provinces and districts. The law also entails streamlining of the national organizational structure for running the complex D&D process. Equally important, a new framework for donor involvement in D&D will be implemented with the phase out of the PLG/Seila structures. Unfortunately, the bill has not been submitted as of June—many months past its framers' deadline.

The second elections for commune councils were held in April 2007. As expected, the ruling party Cambodian People's Party (CPP) won handily, garnering 60.82 (5092 councilors) percent of the total votes. The Sam Rainsy Party (SRP) came in second with 25.19 (1266 councilors) percent, followed by the newly formed Norodom Ranariddh Party (NRP) with 8.11 (62 councilors) percent. FUNCINPEC clinched 5.36 percent (70 councilors). In the election of the important Commune Council chair, however, CPP, with 1591 chairs, took all but thirty (SRP 28, FUNCINPEC 2) of the positions. The CPP also cornered two-thirds of the First Deputy Chair positions with 1125. The SRP only got 403; FUNCINPEC, 47; and NRP, 46. The decline in voter participation from 87.48 percent in 2002 to 67.87 percent this year is cause for concern. (National Election Committee, 2007)

Decentralization is never easy. If anything, decentralization entails groups of people ceding/losing power to other groups of people at lower levels of government. The complexity of the process is, more often than not, determined by the strength of resistance by those losing power, and the pressure that can be mobilized from below by those who will gain power. In Cambodia, there are three major political determinants: (1) the ruling party Cambodian People's Party (CPP)—a former Communist party that has given up its Marxist ideology but retained its highly centralized Leninist organization; (2) decades of war that prevented the development of political institutions especially at the local level; and (3) a war that was ended because of foreign intervention—which continues, albeit diminished, to this day. As a result, decentralization policy-making "...is largely done behind closed doors and is dominated by foreign donors and national officials rather than by politicians and leaders of other Cambodian institutions." (Biddulph 2003:10)

The consolidation of CPP's control of the political terrain in 2006 should have facilitated the passage of the new Organic Law by parliament and other such transitions. Last year, CPP leader Hun Sen pulled off two major feats of political legerdemain, winning back the support of the SRP then using it to table a motion that parliamentary rules to form a government should be changed from two-thirds of the members of parliament to a simple majority of 62 seats out of 123. Under the old rules, the CPP's 73 seats from the 2003 general election was not enough to rule without forming a coalition government to bring it up to the requisite 82 seats. For 11 months, after the elections in 2003, a government could not be formed because of this rule. However, it is not a foregone conclusion whether greater CPP power will accelerate D&D.

With the possible exception of East Timor, Cambodia started its current state-building process with more problems than any other country in Southeast Asia. If we take the 1993 elections as the start of state-building undertakings, we should go back at least 20 years to the massive American bombings of 1973, the Khmer Rouge victory of 1975 and the beginning of four years of genocide, the Vietnamese invasion of 1979, and another decade of civil war before we get to the period of the UN intervention that made the 1993 elections possible. "As Cambodia transits from post-conflict to 'normality', the legacy of the past remains evident. Governance institutions remain primarily oriented to maintaining regime stability, and less to responding to citizen's demands. Government remains weak in terms of its ability to engender the allegiance of its employees and representatives to official norms and rules, to maintain operational coherence around national policy goals, to protect its citizens from predation by government or commercial agents or to ensure that disputes, both within the population and between citizens and government are fairly and effectively redressed." (Independent Study, 2006:12)

Initially, the thrust towards decentralization in Cambodia was driven mainly by donor influence. Decentralization was at its height in donor fashion in the 1990s, when the UN and a host of public and private donor agencies trooped to Cambodia. Unwilling to simply turn over assistance to party-dominated central government agencies, donors required local government agencies to deliver services as close as possible to the recipients—facilitating accountability and generating grassroots democratic process. Since 'decentralization' was accompanied by 'civil society' in donor discourse, and private funding agencies brought significant amounts of assistance, an NGO role in the process was secured from the inception of

decentralization.

However, this does not mean that Cambodian politicians are pushovers. Their specific political interests and bureaucratic central government resistance is evident in the decentralization process and design. Decentralization occurred at the lowest levels of government—the village and commune, .but the higher levels—the district and the province—remain instrumentalities of the central government. It is not just that the commune remains administratively and financially weak, its democratizing thrust as the only directly elected local government, effectively stopped at the district level. A more serious limitation is the commune councils' lack of powers to resolve conflicts involving 'regulation issues, such as contests over land, access to irrigation water, protests over fishing grounds and forests. These are the problems that are supposed to be addressed by the D&D strategy, which has been the subject of intense negotiations in Phnom Penh since 2005.

Prior to the election of commune councils in 2002, there was, strictly speaking, no local government in Cambodia. The success of the elections, the channelling of substantial amounts of development funds through commune councils, and the repetition of the electoral exercise in April this year constitute the main achievements of decentralization in Cambodia. "For the first time, decentralization law empowered men and women to participate in one, permanent and government-owned set of planning and budgetary practises, in concert with accountable, elected local representatives to decide how public resources would be allocated to their priorities for delivery of basic social, economic, administrative, and political entitlements." (Independent Study, p.6) This is the base to which further advances in D&D, through the passage of a new Organic Law, is anchored. The passage the Organic Law is an achievement that may seem modest by international standards but, measured against pre-existing political conditions, is in fact substantial. Though nowhere near 'deepening democracy', it is opening the door to democracy a crack.

The D&D strategy agreed upon in 2005 establish the district and province as local government units, taking them past their uncertain status as local offices of the Ministry of Interior (Mol)—which is also stated in the draft of the Organic Law. This can only be done through some kind of electoral process that links these local government units to citizens in their areas, and sets up a structure of representation. However, what is contemplated on both levels are indirectly elected councils.

The Organic Law bill was supposed to have been submitted to parliament at the end of 2006, but up to now, it is not yet clear when this will happen. One of the reasons why the draft Organic Law has been delayed is that no consensus has been achieved so far as to the roles and functions of the sub-national councils (e.g., district councils vs. the provincial councils and as they relate to the commune councils), roles and relationships of councils and governors and district heads, and the assignment and transfer of functions from ministries to corresponding sub-national levels. The draft law provides the process rather outrightly define what will be assigned to each sub-national level, as it should.

What has been achieved so far stems from the support given by senior RGC officials to foreign donors and consultants that have been pushing the process. Political support is provided at the highest level by H.E. Sar Kheng, Deputy Prime Minister and Co-Minister of Interior, who is widely acknowledged as the second most powerful person in the government and the CPP. Sar Kheng reportedly has close ties to former President Chea Sim, the elderly CPP chairman, as well as president of Cambodia's symbolic senate, and the only CPP leader to have challenged Hun Sen. Meanwhile, day-to-day work is supervised by H.E. Mr. Prum Sokha, Secretary of State of the Mol. Prum Sokha calls the shots in the Organic Law drafting process, his hand strengthened by analysts who assessed that he indeed has close ties to Hun Sen. Another key leader is Sak Setha, Director General of Administration of the Mol, who in turn reportedly has close ties to the Deputy Prime Minister.

While generally judged in the development literature as successful, decentralization in Cambodia has, in practice, been difficult. As H.E. Mr. Prum Sokha, one of the main architects of the Cambodian D&D process put it, "Reference is quite often made to the need for a 'roadmap' that can be used by the Royal Government to guide democratic development... A 'roadmap' implies that there are various roads from which a choice or selection can be made on the best route to get to a particular destination. However, in Cambodia—like many other new democracies—I the hard fact is that *there are no existing 'roads'* to get there...It is therefore necessary to clearly identify the proposed destination and its direction, and then to *build the necessary roads, bridges, tunnels and detours*. This must often be done through extremely difficult – and sometimes nearly impassable - terrain." (HE Prum Sokha, 2007: Part 9, p.4)

The Cornerstone of Decentralization

The initiation of the D&D process in Cambodia can be traced directly to the UNDP Cambodian Repatriation and Resettlement Project (CARERE) started in 1992. The purpose of the project was, as part of the peace process, to support the reintegration of both refugees repatriated from the Thai-Cambodian border camps and

internally displaced persons within the target provinces. CAREERE supported de-mining, rehabilitation of local infrastructure, rural water supply and initial agricultural and social development activities within the rural communities where the target populations were being resettled. CAREERE was implemented in four provinces in the northwest of Cambodia during 1992 to 1995. To facilitate what initially was refugee and rehabilitation work, participatory processes were initiated. The project was then reconfigured into an experiment in the decentralised planning, financing and implementation of local development.

“CAREERE II/Seila commenced implementation at the provincial and local level establishing elected village development committees and commune development committees to manage the decentralised planning process, decision making and implementation of local development activities while at the same time supporting provincial departments in the delivery of services... As a national program, technical and financial resources mobilised under the Seila framework were allocated on an annual basis to NCSC-member Ministries and other key sector Ministries to support policy development, national training programmes and national support and supervision activities; to provinces/municipalities for both the management and support to C/S Councils and the formulation and implementation of annual provincial investment programs; and to the C/S Councils through the C/S Fund.” (Biddulph, 2006: 11-13)

The Commune/Sangkat Fund (CS Fund) is the inter-governmental fiscal transfer mechanism to support the implementation of commune-level investment projects identified through a participatory planning process. Internal sources of revenues and the system for their implementation are yet to be developed. Thus, Commune Councils rely exclusively on fiscal transfers through the CS Fund. In 2004 the CS Fund budget was Riels 58.0 million or around \$14.5 million or an average of 23.9 million Riels or around \$5,970 per commune of which, the national budget contribution was around \$12 million and donor's contribution (UNDP/DfID/Sida) through the Seila program was \$2 million. Although there have been significant improvements in the transfer of government contribution to the CS Fund relative to 2003, the average size per commune is considered low and inadequate relative to the needs of communes. (EU-UNDP, 2006, 7) For 2003, 41,754 projects were approved for the communes through the District Integration Workshop. These were supported as follows: 46.3 percent (19,000) by sector ministries; 24.4 percent (10,000) by NGOs/donors; 29.3 percent (12,000) by the CSF (national government transfers and donor funds) (Rusten, 2005:28-29)

CAREERE expanded its territorial scope slowly. The big leap in expansion occurred in 2001. By the middle of the year CAREERE encompassed 318 communes (22% of the total), 2,814 villages (23% of the total) in 11 provinces and one municipality (Pailin). In early 2001, the program reached 2.2 million people, or 22% of the rural population. (Rudengren, Ojendal, 2002:14) This expansion was likely undertaken in preparation for the elections for commune councils in February 2002. The creation of commune councils throughout the country, in turn, generated a need to expand Seila to all areas. In 2002, the Seila Task Force mobilised additional resources from donor partners, and by March 2003 the Seila Program was operational in all 24 provinces/municipalities supporting all 1,621 C/S Councils. There are currently 20 provinces (khet) and four municipalities (krong) that include the capital city of Phnom Penh and the towns of Sihanouk-ville, Keb and Pailin. There are 171 districts (srok) and 14 khan, 1,510 communes, and 111 sangkats.

From a donor operation, Carere slowly transformed into a Royal Government of Cambodia (RGC) operation, a process marked by its being renamed to Seila ('cornerstone' in Khmer). The movement towards 'national ownership' of Seila required the formation of an inter-ministerial body called the Seila Task Force to guide the entire process on a national scale. It took some time to form the task force because of the tense political situation in 1996-1997. It was finally formed only after the 1998 election, after some lobbying by provincial governors and key line agencies. (Biddulph, 2006: 122) After 2001, much of the policy leadership and coordinative work of the Seila Task Force was taken over by the National Committee for Support to Commune/Sangkat Councils (NCSC), with a secretariat function provided by the Department of Local Administration (DOLA) of the Ministry of Interior.

In Cambodia, coordination problems are compounded by the fact that decentralization and deconcentration have been treated as separate from each other rather than interlinked reforms handled by two separate inter-ministerial committees—the NCSC and the (Council for Administrative Reform) CAR, respectively. Lack of coordination is heightened by the fact that these two reforms largely have access to different sources of funding and donors who are heavily focused on one reform rather than both. Compounding problems even further, key functions such as technical and facilitation services provided to communes by provincial and district administrations continue to be dependent on funding through the mechanism of the Seila programme. (Rusten, 2005:45)

Most of the literature on CAREERE/Seila says that it was a success. “By mid 2002, without a doubt, decentralised and bottom-up principles have been tested and are now institutionally adapted. They serve, moreover, as a strategy for decentralised planning and financing of development, and have been developed

into a national policy. Experience and basic techniques for local governance and participatory development have definitely been gathered. Comparing with the project document, it seems obvious that CARERE2/Seila is a success. As we shall see in the report, it is also a success in a more generic sense, having triggered various indirect processes such as, inter-alliance, opening for a more transparent policy dialogue, having been instrumental in national reconciliation, introduced democratic practices in rural areas, and gathering experience for improved natural resource management.” (Rudengren, Ojendal, 2002: 7-8)

Given the range of functions assigned to commune councils, the combination of cynicism and pessimism about them is understandable. However, the very process of participatory planning—despite its limitations—and implementation of projects—no matter how uncertain its poverty reduction impact—already constitutes democratic practice, which can become a foundation for future work. There are two key sources of optimism, “...councillors involved in this study seemed to know their roles and responsibilities, but for the time being they are reluctant to make decisions, and they rely on assistance from DFT [district field staff] and district offices...” (Rusten, 2005: 99) In addition, there is little evidence of ‘elite capture’. Because the available funds are relatively small, and the allocation process relatively open, local elites have not shown much interest. The very limitations of the councils and the support available to them can become the basis for them to lobby for remedying these limitations. However, there are serious problems.

Impact

A technical audit carried out in 2005 covering 120 projects concluded that, “The results are generally very positive, with all outputs found to be in place and over 80% of projects having a visible quantity of output of at least 97.5% of the contract. On the other hand, the team also found a substantial minority of projects where either poor design or failure to follow the design had led to significant weaknesses in the project and potentially substantial losses of value.” (Biddulph, 2006: 21) The literature does not, however, show significant degrees of corruption. “On the evidence presented, bribes extracted appeared to be rather small (mainly 1-3%) and arguably not in themselves likely to be the single cause of a breakdown in the relationship between what is contracted and what is delivered.” (Biddulph, 2006:29)

The poverty impact of commune development investments is limited. The Commune Sangkat Fund’s contribution is roughly one US dollar per person per year—hardly the kind of contribution that will significantly improve the situation. The contribution to Cambodia’s infrastructure, marred by decades of war, is marginally bigger. In the end, the hope is for the Commune Council experience to make its contribution to governance and later, in development. “Many of the anticipated poverty benefits relate to long-term changes in governance and the distribution of power—with the goal being that citizens are better informed and more demanding, with State and private sector service providers thence becoming more responsive and accountable, leading to an overall improvement in service-delivery on a small-scale and in the management of the nation’s resources on the larger scale.” (Biddulph, 2006:23)

Planning

Development planning process lies at the heart of Seila-designed decentralization. “The participatory planning process starts with village prioritization meetings called by the village chief in August each year. The meetings are managed and chaired by the commune chief, with attendance by the relevant DFT. Village plans are then submitted to a district integration meeting where a commune development plan (CDP) is formulated. The CDP is sent via the DFT to POLA, which in turn distributes it to the line departments. The CDP is also sent to the governor, who in principle can accept or reject it.” (Rusten, 2005: 80) At this point, the governor himself does not have much control over the allocation of resources of the line agencies that have offices at both the provincial and the district levels. In other words, decision-making is top-down with the center making decisions for PRDC, and the PRDC for DIW, down to the village.

Several points can be raised about this planning process. First, the integrity and democratization potential of the village and commune development planning process can be maximized only if the realization of projects does not require extending the process beyond the commune. Given the limited power and resources of communes at this point, this is not doable. One of the problems is that most communes do not have the technical capacity to implement projects. The districts have the capacity, but actually do not have much to do. Until the new Organic Law on deconcentration is passed, the role of the district remains in limbo. The province plays a more substantive role but “Provincial plans of national ministries are still developed without prior discussion and coordination with the communes. Thus, provincial line agency plans are presented during the District Integration Workshop for communes to consider. This puts into question the importance of the participatory planning process itself. The ‘take it or leave it’ principle is pervasive and it would seem that Provincial representatives of line agencies have not internalized the spirit of decentralization.” (NGO Forum, 2004: 8))

Beginning the process at the village level also presented several problems. Cambodian villagers have no

experience of village-level planning, much less a participatory process. To make up for the lack of capacity and to prevent elite capture, a very detailed process starting with PRA-style situational analysis, and very detailed guidelines for decision-making were prescribed. Some of the existing rules mandating popular participation are too bureaucratic, such as the eleven step planning process, the requirement for 70 percent of the population to participate. Because provisions on community contributions are unrealistic, one study showed that "...the only commune/sangkats where local contributions had been collected in full were those where a local official or businessman had paid the contribution on behalf of the people." (Biddulph, 2003: 30)

"Council planning becomes opportunistic: what appears in the CIP is a wish list, either a register of things for which promises of assistance *might* be received, or something to be immediately set aside when a new offer of assistance is made. Councillors who are caught in this situation say their plan or budget is "just a compendium of convenience". Responsibilities become so many that lines of accountability get blurry, and weakened as a result. The business of planning and budgeting, and being accountable for this, becomes less important than learning the political skills of attracting support, and the politics of dishing it out to favoured people in the community, and resolving disputes that result from this. As another Koas Kralor councillor said, 'we don't so much compete as backstab each other'. (Independent Study, 2006: 24)

Fiscal Capacity

The commune fiscal situation, where there exists a lot of functions but very little money to perform these functions, is a major obstacle. Most CCs do not even have their own office facilities and have to set up work areas in political party headquarters, school buildings and pagodas. CCs are not permitted to use their development grant from C/S Fund to construct office buildings. "In principle, the average funds available per commune in 2003 were \$5,000 for development and \$3,000 for administration. With a shortfall of approximately 50 percent and 40 percent respectively for the development and administration funds of the CSF, the available amount was an average \$2,500 per commune for development and approximately \$1,800 for administration. With the increase of the local government share of the domestic revenue from 2 to 2.5 percent in 2004, and anticipating funds distribution as planned, the average development fund per commune is estimated at \$6,000." (Rusten, 2005: 92) This is way too small for a government unit responsible for 2,500 to 3,000 households with about 15,000-20,000 people in eight to 15 villages.

A recent hard-hitting speech by H.E. Mr. Prum Sokha, Secretary of State, Ministry of Interior says it all. "...inadequate fiscal decentralization is the main factor restricting activity and growth by commune/sangkat councils. Having wide *discretion to select and set priorities is an empty power* for councils with virtually no revenue. Cumulatively, councils can play a major role in advancing national development, including contributing to poverty reduction. However, they must first be allocated *appropriate and reliable local and national financial resources*. Commune financing is a clear *priority for the immediate future*, bearing in mind that the nature and extent of fiscal decentralization is probably the best indicator of the nature and extent of decentralization, and the true commitment of the national government." (Prum Sokha, 2007: 19)

Capacity Building

In the end, the biggest contribution of the decentralization process may be the very experience itself and what local officials, especially commune councilors, learn from it. But because the capacity of commune councilors is generally low, most of the attention has been focused on capacity building. The majority of commune council members lack sufficient educational qualifications and skills which will enable them to effectively perform their mandated tasks. Although councilors are required by law to be literate, many of them are not, or at least not at a level that is regarded as functional. Another problem is the low level of government salaries, which average between Riels 80,000 and 120,000 a month (\$20-\$30 a month/16-24€ a month), making it difficult to hire and retain qualified staff.

Reports and evaluations show that councilors take their roles seriously. They are confident about being able to do their plans but feel dependent on the support of district field staff (DFT). They appreciate the training and have concrete suggestions on how to improve them. There have been a multitude of training programs for commune councilors over the years—so many that councilors complain that they sometimes do not have time for their other duties. They are aware that their low-level education gives them difficulty in trainings, but they also point out that some trainers know less about the training subject than they do. They complain that training materials are difficult to understand. Given that councilors have already had five years experience, it may be more useful to get them to help design training materials themselves.

The Latest Phase - D & D Strategic Framework, 2005-06

When the long impasse in the formation of the government after the 2003 elections was resolved in mid-2004, the pace of work on D&D picked up. The first result was the speeding up of the formulation and concurrence on a strategy for D&D. A National Workshop on the D&D Strategic Framework was held on April 1 to 2, 2005 involving RGC officials (Ministers and one Secretary of State from all ministries plus senior policy people;

Governors and First Deputy Governors plus two staff from all provinces) agencies; and NGOs and donors—altogether over 300 people. The purpose of the workshop was to disseminate and discuss the contents of the draft before it is submitted to the Council of Ministers for formal approval. After going through internal consultations and revisions within the government, the Strategic Framework for D&D was formally approved by the Council of Ministers of the Royal Government of Cambodia in June 17, 2005.

This latest phase has had to deal with several interrelated requirements and challenges toward advancing the decentralization process. First, the need to streamline the management and implementation of D&D reforms at the national level. Second, Seila's term being extended for only one year lasting the end of 2006, which required a new framework for donor-RGC cooperation to be put in place. Third, the need to resolve the absence of intermediate levels of local government above the commune, which is a major obstacle to the further advancement of decentralization. "In developing and implementing the D&D reform processes the two main components— decentralization and deconcentration—have not been synchronized. The former has moved considerable faster than the latter, which means that currently greater emphasis needs to be placed on the latter. However, politically this is a much more difficult task as it, amongst-other-things, implies that the line ministries (and political parties) will lose control over implementation of development projects, as well as the fact that the Ministries are politically divided over the D&D reform." (OPM/ SPM Consultants, 2005:5)

This national vision, strategy and policy for democratic development must include—

- *revised structures and systems* for the commune/sangkat councils, and for provincial, municipal, district and khan administrations that will enable them all to promote and facilitate the objectives of democratic development;
- *clear rules and responsibilities* for each of these levels of governance, and for government departments and agencies operating at these levels;
- *a correlation between responsibilities and resources* including:
 - the need to ensure political and macro-economic stability;
 - adequate financial resources through fiscal decentralization; and
 - adequate human and institutional resources;
- *greater coordination and partnership* among the institutions of the Royal Government, and between the Royal Government and its donors and NGO partners;
- the provision of resources and mechanisms to *implement and manage the process*;
- an appropriate *legal framework*;
- *phasing and time frames* for the coordinated and rational implementation of these requirements. (Prum Sokha, 2007: 47-48)

To accelerate the approval of the Organic Law, several changes have already been made. The biggest change was at the national level, with the National Committee for the Management of Decentralization and Deconcentration Reforms (NCDD) taking over the reins and consolidating management for D&D reform from the National Committee to Support Communes/Sangkats (NCSC), the Inter-Ministerial Committee to Draft the Organic Law (IMC). Apart from finalizing the drafting of the Organic Law, the NCDD is also responsible for formulating the implementation framework, and facilitating the approval of the TOR for the formulation of the SNDD (sub-national democratic development) program of government.

Another major change is the reorganization of the Ministry of the Interior to make its departments more responsive and aligned to the needs of D&D, including provision of secretariat services for the NCDD and taking on the functions of the Seila secretariat, which is in the process of being phased out. The proposed D&D/SNDD work plan and budget for 2007 is essentially for 'minimal disruption' at the sub-national levels, continuing with the current sub-national arrangements but starting to introduce changes from the commune level in time for the election of new set of commune councilors by April 2007. (Prum Sokha, 2007: 27)

An initial draft of the Organic Law has been written. It consists of five sections: Sub-national Councils, Sub-national Council Committees, Governor and the Chief Councilor, Sub-national Council Personnel, National Council and processes for implementing the law, and Electoral system of sub-national councils. Although consultations—with donors and at the level of the National Congress of Communes/Sangkats—have been held within the MoI, the public draft of the Organic Law is not yet available. However, there are indications that a decision has been made to iron out contentious issues first, probably at the NCDD level, before submitting the Organic Law to parliament. It is hoped that there will be sufficient time for public discussion between the public release of the draft Organic Law and its submission to parliament. Given CPP control of parliament, it is

not likely to become a venue for discussing issues.

The Organic Law is supposed to provide a comprehensive framework for local government. "In order to make a real difference in the lives of their citizens, sub-national councils must have appropriate *status, functions, powers and resources*. The success of this reform depends substantially on the concept that every sub-national council must have a unified administration. *Unified administration* implies that as far as possible every council should have and control its own comprehensive development plan, budget and personnel for all matters that rightly fall within the jurisdiction of that council. A council with a unified administration therefore has control over the tools necessary to respond to the real needs of its residents. These administrative arrangements must include common compulsory requirements and standards for proper financial management and audits, and monitoring and evaluation of the performance of each council. Mechanisms for citizen participation, transparency, responsiveness and accountability in all aspects of local governance underlie the whole system and concepts of democratic development and unified administration." (Prum Sokha, Part 7, p.2)

The comprehensive changes contemplated for the Organic Law require careful phasing. "A fundamental guiding principle and requirement is that the transfer to sub-national councils of governmental responsibilities and functions, along with corresponding resources, must be undertaken in appropriate phases in order to ensure a smooth transition. Transfers must be introduced in a manner that is planned, phased, rational, coordinated, consultative and transparent. There must be minimal disturbance to on-going governmental operation, including funding, support and participation of international agencies, donors and non-governmental organizations." (Prum Sokha, Part 7, p.2-3) However, the politically correct presentation of Prum Sokha fails to note that hard negotiations on transfers of functions and powers will take a lot of time. Moreover, it does not take into consideration control by the ruling CPP, which entails that the longer the process, the easier it is to control. The decision to make local councils indirectly elected was apparently a decision made by the Prime Minister himself.

Another transition that needs to be carefully managed is the shift away from the extensive donor role in decentralization design. This is an especially sensitive process because of RGC dependence on donor resources. To prepare for the transition away from Seila, the RGC and development partners agreed on a set of guidelines in March 2006:

- development of sectoral plans at national and sub-national level within the framework of the NSDP 2006 – 2010
- respect of RGC ownership and leadership of the development management process
- alignment of donor country strategies with the priorities of the NSDP
- making increasing use of strengthened RGC institutions, systems and procedures
- increasing the proportion of development cooperation through sector/thematic programs and other program-based approaches. (*Declaration by the Royal Government of Cambodia and Development Partners on Enhancing Aid Effectiveness* (March 2006). Independent Study, 2006:10) An Independent Study was commissioned to propose options for new modalities for donor assistance to D&D.

This study was presented by HE Sar Kheng, Deputy Prime Minister and Minister of Interior at a meeting with donors on 24 May 2006. Under the option selected by the RGC it is stipulated that:

- donors would be able to channel funds to sub-national councils through the Implementation Authority or through ministry sector programs;
- donors would be able to provide support at the national level both to the Implementation Authority and to line ministries;
- in order to ensure donor alignment with the Organic Law and the Implementation Framework, all donors would be required to be a party to a "Royal Government-Donor Agreement on D&D Support", whether they are supporting the Implementation Authority or line ministries;
- a D&D Fund could be created for pooling donor resources (a basket fund) for funding to sub-national councils;
- the D&D Fund could also be used for donor support at the national level. (HE Sar Kheng, 2006:7)

At the Consultative Meeting of Government Donors on March 2, 2006, HE Sar Kheng, Deputy Prime Minister and Minister of Interior, laid out the major components and timelines for the implementation of D&D reforms. The Implementation Framework provides the details of the four phases of the implementation strategy for the Organic Law, which were developed and reviewed by the NCDD. The Framework identifies main components, priorities and sequencing of activities for the reform and implementation of the Organic Law and associated policies. The framework provides preliminary guidance, choices and timeframes for ministries, international

agencies and donors to develop flexible short-, medium- and long-term programs that are aligned with the Royal Government's policies and strategies.

2006	2007 – 2009	2010 - 2012	-2013
<i>Preparatory Phase</i>	<i>Initial Phase</i>	<i>Transition Phase</i>	<i>Transformation Phase</i>
<ul style="list-style-type: none"> • Consultation on draft Organic Laws • Approval of Organic Laws • Design of Implementation Strategy • Design of 'Implementation Authority' • Information campaign • Preliminary design of donor modalities to support Initial Phase • Pledges of external assistance 	<ul style="list-style-type: none"> • Commune elections 2007 • Design of modified S/N structures and systems • Establishment of the 'Implementation Authority' • Establishment of policy management process • Establishment of Govt/ Donor instruments & facilities • Indirect election of district & provincial councils (2008/2009) • Functional assignments, structural changes, transfer of resources • Inter-govt fiscal arrangements • Capacity building (national, S/N level) • Review/redesign of donor modalities 	<ul style="list-style-type: none"> • Continuation of reform process (especially in additional priority sectors) • Capacity building (national, S/N level) • Review of fiscal decentralization framework • Review of the impact of changes in complementary areas • Commune election 2012 • Review/redesign of donor modalities 	<ul style="list-style-type: none"> • Consolidation of reforms • Readjustments of systems & structures • Election of district & provincial councils

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The draft Law assumes that this reconstruction and reformation is complex and extensive, and will be implemented gradually and in phases over the next decade or longer. (Prum Sokha 28) While this is undoubtedly true, it is important to underscore that this is an eminently 'political' process. "In developing and implementing the D&D reform processes the two main components— decentralization and deconcentration— have not been synchronised. The former has moved considerable faster than the latter, which means that currently greater emphasis needs to be placed on the latter. However, politically this is a much more difficult task as it, amongst-other-things, implies that the line ministries (and political parties) will lose control over implementation of development projects, as well as the fact that the Ministries are politically divided over the D&D reform." (OPM/ SPM Consultants, 2006:5)

The Organic Law draft goes further than the D&D Strategy paper. Despite the fact that the 'meat' of 'deconcentration', the devolution of functions to SNAs, is still being negotiated, the Organic Law draft has already settled the issue of structure. Both province and district will cease to be outposts of the MoI and instead will have (indirectly) elected councils and executives. Vertical relationships have also been settled— local government will progress from commune to district to province. However, there are election issues that have not been settled, e.g., the matter of who will elect the governor; and the fact that the draft's section pertaining to elections had not yet been finished as of end-2006. The election section of the Organic Law will probably reproduce the formula in the commune election law, which is supposed to enjoin parties to work together and ensure positions for opposition parties but in practice strengthens the CPP all the more. Much of the difficult negotiations will be on pre-submission, and NCDD processes at both formal and informal meetings, most importantly within the CPP. Although it was scheduled for submission to parliament in the last quarter of 2006, it still has not been submitted as of June 2007. Given the consolidation of CPP control over parliament in 2006, the Organic Law bill should pass parliament without much difficulty.

Institutional Design Issues

Cambodian decentralization discourse makes a distinction between 'deconcentration' as, functions and powers being devolved to local units, and 'decentralization' as the devolution of functions and powers to elected local government units. RGC documents say the goal is to 'decentralize' at the provincial and district levels by creating a kind of representative body through elections, and to 'deconcentrate' more functions and

powers to the elected commune council. Distinction is also made between 'administrative development' and 'political development'. "*Administrative development* involves the delivery of real and substantial services, facilities and infrastructure by governance authorities through honest, transparent, accountable and competent administrations that are under their control. *Political development* requires creating autonomous, but not sovereign, sub-national councils, that are directly or indirectly elected. Political development also involves facilitating citizen participation in local governance, including appropriate mechanisms for citizen participation in making choices about the services, facilities and infrastructure that will best contribute to improvements in the quality of their lives. It is crucial to appreciate that democratic development can only be achieved and sustained when adequate *political development* is used to optimize and provide appropriate *administrative development*. Democratic development, therefore, does not simply involve the re-arrangement of administrative structures and systems. Appropriate political development and appropriate administrative development must merge in order to achieve democratic development." (HE Prum Sokha, 2007: 6)

At this point in the decentralization process, the most important institutional design issues are those that deal with matters involving provinces and districts. One of the biggest problems in Cambodian decentralization is, for all intents and purposes, the lack of intermediate levels between the commune councils and the central government. Provinces and districts have neither clear-cut devolved functions and powers from the central government, nor an electoral mandate from the citizenry. This situation creates a problem for communes. While central government policies and orders are handed down easily enough, the administrative and political distance from the commune up is not mediated by intermediate levels of government.

Although provisions on the provincial/district level of government in the Organic Law are apparently still under negotiations, the D&D strategy paper lays out the problems that have to be solved. "In the Provinces and Municipalities, the governance system remains centralized, with central ministries/agencies departments executing national plans and policies. There is no coherent provincial/municipal development planning, budgeting and personnel management system. Currently provincial/municipal governors, as RGC representative, are responsible for maintaining security and public order and for ensuring the legality of the work carried out by the Communes. In addition, the Governors are responsible for promoting and guiding the work of different provincial technical departments in accordance with the policies of the Government. However, at present most sector development programs are planned and managed centrally and the lines of accountability of provincial line departments responsible for implementation remain vertical. Overlaps between various line department functions and structures add to the coordination problem at the provincial and district levels. In the absence of a legal framework that creates a genuinely integrated territorial administration system, the mandate of the Governor to plan and coordinate local development cannot be fully implemented at the present time." (RGC, Strategic Framework, 2006:2)

The **provinces** are an important support mechanism for decentralization. However, the current management structure of the provincial governor's office is incompatible with the governor's new roles and responsibilities due to the following major reasons:

- ❑ The governor is in charge of the legal supervision of administration and general financial monitoring, including the approval of sector budgets, but has no power to change them. Detailed supervision of line ministry departments and deconcentrated services is not clearly defined within the current governor's mandate.
- ❑ Lack of resources for operational activities often creates bottlenecks, poor performance and lack of information.
- ❑ There are no clear checks and balances for provincial governance. Roles and tasks assigned to the provinces are not supported by financial resources. The provincial administration lacks human resources.
- ❑ Services are arranged within hierarchical and discrete systems guided by sector ministry objectives. Security, policy and registration affairs are closely connected with provincial and lower-level development activities in a fragmented administration and financial management system at the provincial level.
- ❑ Relationships are unclear between governors and technical departments and between the governors and the central government.

In conclusion, provinces currently lack management instruments to exert comprehensive administrative and financial planning and management control. The administration is departmentalized and characterized by different management structures. This leads to a lack of overall accountability and transparency necessary for good governance, which has been given the highest priority in the Government's Rectangular strategy." (NCSC, 2005: 23)

In the D&D Strategy paper, decentralization to the provincial level is supposed to be the main innovation. "An

indirectly elected provincial council shall be established. The number of seats in the provincial councils shall be determined on the basis of geographic and demographic considerations... The Provincial Councils shall review and approve the plans and budgets of the Province that shall be submitted to it by the Governor, and shall review and evaluate the activities of the Governor and of the provincial administration and, if necessary, seek clarification on the Governor's administrative decisions. The Council shall also have the right to investigate any issue of importance to the people it represents, publish its findings and recommendations, and make proposals to the Governor." (RGC, Strategic Framework, 2006:8)

Here, similar 'tactical' considerations in the 'strategy' are observable. From these formulations, the provincial council does not have that many powers. What makes it worse is that there is very little accountability to the people in their jurisdictions because the governor is appointed by higher authorities, his budget is derived from the central government and the authority of an 'indirectly elected' council is weak.

The district does not even get much in the way of 'paper' power. "The district integrated administrations shall be assigned specific functions in the provision of public services and management of development programs... In the initial stage of the reforms, however, the integrated district administration shall not have the status of a separate budgetary unit. Its budget and personnel management functions shall be [an] integral part of the consolidated budget and staff management system of the province." (RGC, Strategic Framework, 2006:8) The district will also get an indirectly elected district council which "...shall review and approve the district plans and the district components of the provincial budgets prior to their submission to the Provincial Governor and Council." (RGC, Strategic Framework, 2006:8)

The limited role assigned to the district is problematic for democratizing decentralization because the presence of a powerless intermediate local government increases the political distance between communes and provinces. This problem is recognized, at least in theory, by RGC authorities. "Particularly during the first 5-year mandate, the new and enhanced district councils should assist and support commune councils to establish, promote and sustain democratic development. District councils should promote and facilitate inter-commune cooperation, projects and programs, including commune council participation in the National League of Commune/Sangkat Councils, its Provincial Association and any district networks. The draft therefore establishes a strong link between communes and districts with the aim of strengthening local democratic governance. District councils will also be responsible for delivering district services, facilities and infrastructure in accordance with functions that are transferred to district councils in terms of the Organic Law." (HE Prum Sokha, 2007:39-40)

The **district**, due to its proximity to the only elected government unit, which is the commune, will probably become the center of gravity of the whole system, eventually. The problem is that the district at this time is weaker than provinces. "The *district* level administration is particularly weak in terms of coordination and management systems. Accountability systems are fragmented along sector lines. Not all ministries/agencies maintain units at the district level and some operate outside the administrative districts. A supplementary issue is the lack of consistency between the designated service areas used by some ministries to organize the delivery of their services and the boundaries of the administrative districts. Significant variation in the size of districts is also a problem that makes planning for efficient delivery of basic public services more difficult. Improving the efficiency of the public services delivery at the district levels would also require putting in place mechanisms that will ensure that district administrations are accountable to the people in their jurisdictions." (RGC, Strategic Framework, 2006:2)

According to Biddulph's Executive Summary, the District/Khan level in Cambodia was moribund for the following reasons:

- Decentralization to Commune/Sangkat level had cut off the direct management link from District/Khan to Commune/Sangkat, especially as support to Commune/Sangkats was largely managed from the Provincial/Municipal level.
- Current arrangements emphasise vertical management from Ministry to Provincial/Municipal departments to District/Khan technical offices therefore reducing the role for the District/Khan headquarters.
- Within the sectoral ministries relatively little responsibility and resources have been de-concentrated to District/Khan line offices: most programmes are implemented directly by national or provincial staff. (Biddulph, 2006:122)

The **commune** is, of course, the centerpiece of decentralization at least up to this point. While there is certain logic to this choice, the completion of the process to encompass elected district and province executives and councils should include consideration of size (population and territory) of local government unit that is best from an administrative and democratization vantage point. The Cambodian commune is analogous to the

tambon which has been made the centerpiece of decentralization in Thailand. In the Philippines and Indonesia, however, the center of gravity of decentralization is the *municipality* and *kabupaten* respectively, which is closer to the Cambodian district. The ongoing discussion on commune amalgamation should not preempt decisions on the role of the district and its relation to the commune.

Pending decisions on the role of the district, attention should be focused on strengthening the commune. "It was clear that this level of government would have to rely heavily on support structures. This, in turn, widens the space for top-down dominance, the very system that decentralization was supposed to combat." (Rusten, 2005:88) For a start, the anomalous situation where elected councils have to work with a clerk, its only staff, who is appointed by the MoI, should be corrected. One description of the commune council brings this out starkly. "Since the commune is short of administrative staff, the councillors themselves do executive work. The Cambodian commune council can be described as a one-legged body, which is a *legislative*, an *executive* and a *monitoring* body. In other words, the councillors are entitled to make their own by-laws, they do executive work, and they perform their own quality control of projects. (Rusten, 2005:92)

The commune fiscal situation should be remedied, if nothing else, by granting it appropriate taxing powers. "At the moment, the only fees that the commune can collect are for civil registration. The Commune Clerk collects these fees. According to preliminary indications these are very limited amounts. Currently, the district collects taxes at the village level. Initial scoping by the research team indicated that the market fees paid in a village (daily fee, pause), the monthly fee (pondaa) as well as annual fees (patent) on rice mills and other "mechanised" businesses are quite substantial amounts and may, if regulations are issued for communal collection of these taxes, provide the communes with a tangible income. Hence, there is a need to address the issuing of regulations for communal tax collection, along with systems of transparency and accountability. Until the communes can gather their own funds, it is vital that transfer of agency functions go hand in hand with sufficient resources to handle the responsibility. There is a danger that sector departments offload their responsibilities without accompanying this with necessary resources." (CDRI, PORDEC, 2003: 20-22)

There should be a campaign to amend the legal framework and fill the legal gaps in order to enhance the autonomy of the communes and expand its powers. Article 43 of the Commune Administration Law, for instance, states that "...the Commune administration shall have duties to ... protect and preserve the environment, natural resources, cultural and natural patrimonies." However, counterbalancing these general duties, Article 45 specifies that the Commune/Sangkat administration shall have no power to decide on forestry issues. (Biddulph, 2003: 30) These powers are particularly important because commune councils are increasingly being asked to intervene in disputes on the environment, natural resources, cultural and natural patrimonies. These disputes are increasing as the pace of development intensifies.

The **village** hardly gets attention in government documents. Though village government is not advisable at this stage of the decentralization process, sociologically, it is the village that is the focal point of people's lives. Hence, subsidiarity should start at this level. More importantly, the CPP apparently understands that control begins at this level. Currently, village chiefs are appointed all the way in Phnom Penh by the Ministry of the Interior. (MoI) The Commune Administration Law stipulates that commune councils should select new village chiefs, but this will require a further Sub-decree from the Ministry of Interior before it can be implemented. Calling for the direct election of village chiefs should be continued, but an intermediate campaign can call for Commune Councils to be the appointive bodies for village chiefs instead of the MoI, especially since they are now paid out of the CSF administrative budget. Particular attention should be given to clarifying the role of Village Development Committees (VDC). Although some observers say membership in the VDC is not sought out because it is unpaid, it can be an important tool for popular participation in development work at the village level.

In theory, the government intends to deal with these issues. "The concept of subsidiarity is therefore based on the premise that a function will be most effectively administered by the governance authority that is closest to the people who are affected, *unless it is clearly shown that the function can be better administered at a higher level*. It can therefore be expected that over the coming years more functions will be transferred to commune councils as the governance unit that is closest to the people. However, the viability of many commune councils as development authorities is restrained by their size or locality. It should therefore also be expected that considerable functions will be given to district, provincial and municipal councils as the governance units that are next closest to the people." (Prum Sokha, 34)

This new phase should be directed towards maximizing the democratization gains of the Commune Council experience by focusing on 'horizontal' relations across Commune Councils, and NGOs working at this level. This can generate the potential for 'bottom-up' pressure for simultaneously strengthening Commune Councils and making deconcentration to the district and provincial level more truly 'decentralizing'. Ongoing efforts to create associations of commune councillors, and to provide funds for participatory development planning

among groups of communes, can go a long way towards consolidating decentralization. As long as political practice follows established vertical lines, the political parties will continue to dominate. It is only by pushing and facilitating 'horizontal' relations that an arena for generating a new kind of politics can be developed.

Present allocations to CCs are only for commune-level projects. Many development issues are inter-commune in nature and require inter-commune cooperation. Examples include land disputes, resource management, and various service deliveries channels for health, education, and agricultural extension, among others. Supporting inter-commune undertakings can facilitate local area development by improving local economic infrastructure and access to markets, and can generate potential revenues to communities. The implementation of inter-commune activities also facilitates capacity development for civic engagement through dialogues and interaction among stakeholders. (EU-UNDP, 2006: 7) A UNDP-EU inter-commune project is ongoing. The problem is that work in the five pilot provinces only deals with infrastructure projects although other international donors are also beginning to think of piloting in other services. Moreover, the project to build leagues of commune councillors is being implemented only at provincial level instead of at district level as stated in the original UNDP proposal. Although leagues will be NGOs, initiative to form them comes from the MoI. Specific provincial associations will likewise have to be accredited by the MoI.

Politics of D&D

Looking at the D&D process and the mountain of literature it has generated, it would seem that the process has operated with a considerable degree of autonomy. To some extent, it is true since much of the process of generating ideas for moving D&D forward has occurred in a small circle of donor consultants and key Royal Government of Cambodia (RGC) officials at the Ministry of Interior (MOI) in Phnom Penh. Outside of Phnom Penh, development work and capacity building at the commune council level has mainly been organized by Seila and a few key foreign NGOs. However, this work occurred within rather narrow political boundaries set by the government and, most importantly, by the ruling Cambodian Peoples Party (CPP). The most crucial limit has been allowing decentralization only at the level of the commune council.

Prum Sokha, one of two senior RGC officials providing day-to-day leadership of the D&D process is rather blunt in his own recent assessment. "No significant public services have been deconcentrated to commune/sangkat councils... Deconcentration to these councils has been confined to *relatively routine activities* such as civil and voter registration and the collection of basic statistical information related to development planning... The present low level of deconcentration to commune/sangkat councils is therefore not simply caused by a lack of capacity in commune councils. Nor is it caused by a preference on the part of ministries to establish their own branch offices. Instead it reflects a much wider hesitation or unwillingness of most national ministries—at least until now—to delegate substantial powers to any sub-national agency. The *attitudes of national ministries must change* in order to accelerate development and poverty reduction. (HE Prum Sokha, 2007: 20-21)

The relative autonomy allowed the D&D process generated a 'civilized', largely Western discourse that contrasts sharply with the rough and tumble of party politics dominated by the CPP, FUNCINPEC (National United Front for an Independent, Neutral, Peaceful, and Cooperative Cambodia) headed led by Prince Norodom Ranariddh and the Sam Rainsy Party (SRP), which is led by Sam Rainsy. FUNCINPEC won the election in 1993 and agreed to a power-sharing arrangement with CPP then ended up being pushed out of the coalition government by a CPP coup in 1997. While the CPP only came in second in the 1993 election, it used its military and bureaucratic might to slowly increase its power. Under intense international pressure, the CPP agreed to go ahead with the elections scheduled in 1998, this time coming out on top with 41 percent of the vote. The subsequent coalition government reversed CPP-FUNCINPEC roles, and now the CPP clearly dominates.

The CPP's power was built on the institutional foundations of the Vietnamese imposed Peoples' Republik of Kampuchea (PRK) and the CPP was founded by the Vietnamese first as a communist party. Hun Sen himself became premier before the Vietnamese left in 1985. "The PRK was initially an institutional facade, behind which lay Vietnamese political control and Vietnamese armed and other security forces, which often operated independently of Cambodian authorities, routinising such forces' relative political autonomy. The regime increasingly became an ideological fake, constructed on insincere play-acting and theatrics, and a cover for rising personalised networks of Cambodian bureaucratic, military and economic power. These networks and the armed forces under their command replaced departing Vietnamese controllers, enforcers and troops, taking over the army, police and various overt and covert security organs, leaving the state still an institutional shell playing an ideological shell game." (Heder, Theater, 17)

The CPP 'inherited' these bureaucratic and security structures and, in theory, government structures, despite FUNCINPEC winning the most seats in the first elections in 1993. Ironically, this was made possible by the UNTAC, which earlier, "...instead of neutralizing the CPP, the UN actually arranged for it to be shored up

financially to prevent its economic collapse, which UNTAC feared would mean chaos; and encouraged the CPP armed forces to launch counter-offensives to keep the Khmer Rouge at bay.” (Heder, Theater, 20) Apart from the security apparatus, the CPP also took over the network of village headmen picked in the PRK period and retained until post-1993 elections. In electoral campaigns, this network was used by the CPP, which later dominated the commune councils. At the same time, the CPP used its control of the security apparatus to attack and intimidate the FUNCINPEC and Sam Rainsy parties—its competitors.

In the 2003 elections the CPP again increased its share of the votes, winning 73 out of the 123 seats, but it could not form a government as it was nine seats short of a two-thirds majority, which was the constitutional requirement for a party to form government by itself. If the CPP gradually increased its seats in parliament, FUNCINPEC's share declined and won a mere 26 seats, which is a far cry from the 53 seats it secured in 1993, and the 43 seats in 1998. The SRP, a breakaway group from FUNCINPEC, did relatively well, winning 24 seats, which is nine more than it won in 1998. Together the two parties then negotiated for concessions from the CPP, creating a deadlock that prevented the formation of a government for eleven months. The deadlock was broken when FUNCINPEC abandoned SRP and made a deal with CPP in July 2004. In 2006, the SRP returned the favor by making a deal with CPP and supporting the constitutional amendment that changed the two-third vote requirement to form a government.

The period between 1993 and 2006 was stable, but only relative to the two decades of war that preceded it. In July 1994, a coup attempt was made that sent two CPP officials in exile. In December 1995, Prince Norodom Sirivuth, former FUNCINPEC Minister of Foreign Affairs, was arrested for plotting to assassinate Hun Sen. He too, went in exile. Fighting broke out between FUNCINPEC and CPP forces in 1997. FUNCINPEC was routed and a hundred of its people killed, forcing FUNCINPEC leaders out of the country, and Hun Sen took over as Prime Minister. Earlier, an SRP rally was bombed, killing 15 people. In 2004, Hun Sen went after his main rival in the CPP, Senate president and acting head of state Chea Sim, who refused to sign controversial legislation that allows the new government to be formed. Chea Sim was sent to exile in Bangkok and his replacement quickly signed the legislation. SRP MPs who hoped to prevent the deal by refusing to attend parliament were removed from office. Threatened with arrest, SRP leader Sam Rainsy also left the country, returning only in 2006 after he had made his own deal with Hun Sen.

One political analyst has a particularly harsh judgment of this process. “The UNTAC mandate over Cambodia and the years since have been analogous to the earlier period of contestation for control of a post-colonial state in Cambodia and elsewhere in Southeast Asia. 2004 saw it end with the overwhelming victory of prime minister Hun Sen and his political and economic entourage, self-made men who emerged out of the apparatus created by the Vietnamese and the beginnings of market liberalization in the late 1980s... The old Vietnamese-built state is now a vastly elaborate, more western-looking but still substantively empty shell, a vehicle not for good governance, but for serving the interests of Hun Sen and his entourage, a maze of patronage, corruption and repression. Their decisive triumph may determine the trajectory of Cambodian politics for many years to come.” (Heder, 2005: 113-114) Whether one agrees with Heder or not, it is still imperative to ask why decentralization, with a process fueled by development assistance at the commune level, was allowed to happen at all.

Instead of looking only for the power agendas of key players', whether parties or individuals, it might be more productive to look at an overarching dynamic—state building. The most visible power plays have occurred mainly in Phnom Penh, but any state-building project must address state legitimacy at the most elemental level, which is how ordinary people look at the government. “The upper echelons of Cambodian society have historically been seen as the enemy by rural people, [imposing] taxes, charging for petty services and appearing corrupt, forcibly drafting people into the army, or demanding that people do ‘voluntary’ work. A fieldwork done to monitor the CARERE2/Seila programme left a lasting impression of a rural society who could hardly imagine a benevolent local state (Eastmond & Ojendal 1999). This is understandable, as historically the Lon Nol Republic (1970-1975) turned truly illegitimate, the Khmer Rouge became genocidal (1975-1978), and the KPRP/SOC-regime was authoritarian (1979-1992) and later plagued by petty corruption...In general, the rural population did not engage with the state if they could avoid it. Under these circumstances, it is difficult to envisage a modern state working actively and effectively on poverty alleviation and with participatory methods.” (Rudengren 23)

Rudengren provides the most cogent explanation for why a CPP dominated government, whose practice is some distance from the ideals of participatory democracy, allowed considerable latitude to decentralization. “Despite democratisation, including several decent multi-party elections, creating and maintaining regime legitimacy has been the overall challenge for the post-UNTAC regime(s) in Cambodia. Retaining power through authoritative measures became increasingly untenable as democratic procedures slowly spread through the system. This development of course constituted a problem for the dominating party, the Cambodia People's Party (CPP). The Ministry of Interior (Moi), as early as 1994, was alarmed by the local administration's decline in authority and it was clear that something had to be done (Öjendal 2003). For the

state to become active was especially difficult in the rural areas, where there were virtually no resources for development investment or other legitimacy enhancing initiatives. It seems that the key decision-makers at national level were divided over the issue, but that at the end of the day, the benefits of the rural investments outscored the political risks. Moreover, a project like CARERE2/Seila—possibly enhancing regime legitimacy—could compensate for the risk of declining direct power previously held by local authorities.” (Rudengren, 2002: 24)

Financial incentives for cooperation were indeed considerable. What the central government had to calculate was not just support for decentralization, but its dependence on donors for its national budget. “Between 1992 and 2003, disbursement of external aid totaled US\$5.2 billion. Pledges at the December 2004 and March 2006 Consultative Group meetings reached around US\$504 million and US\$601 million, respectively.” (Independent Study, 2006:9) To put these amounts into perspective, the central government’s budget for 2005 was \$812 million, of which only \$642 was revenue and \$273 million was foreign financing. The balance in foreign financing went to off-budget development projects. Most of the money was allocated by the central government; only 2.5 percent of the national budget went to the commune.

Making the commune the center of gravity in nascent decentralization processes involved considerable risk. “A key role for Commune authorities during the protracted civil war was to exert political control internally and organising the local militia defence during the period of political authoritarianism. Given that the commune chiefs were appointed from above and that their role had historically often included force, the commune authorities were not particularly popular among the population. Furthermore, the commune chiefs were pursuing strategies and approaches with little resemblance to participatory development.” (Rudengren, 2002: 42-43) “While it was recognised that the district level might create a financially more viable local government and also initiate a process of ‘tearing down’ rather than ‘building’ administrative boundaries, the RGC believed that the commune level could create small and stable units after decades of civil war.” (CDRI, PORDEC, 2003:3) While power sharing among the three main parties went into the bargain, the CPP ended up formalizing its control over village politics.

Controlled decentralization at the lowest level of government was especially favorable to CPP. CPP’s control over villages was carried over from the long period under the Vietnamese. This control was made possible by the CPP’s Leninist party structure which, to this day is emphasized in villages. The 2002 Commune Council election enabled the CPP to consolidate its control in the level immediately above the village. The CPP won a resounding victory in the CC elections, garnering 62 percent of the votes, 68 percent of the total seats, and 97 percent of the top offices. (St.John, 2005: 413) Therefore it is not by accident that the CPP won more than half of the seats in the 2003 parliamentary elections. Opposition parties knew this. “The Alliance of Democrats, the 2003 alliance of FUNCINPEC and SRP, also demanded the creation of new village committees with equal representation of all three parties. This reflected AD belief that existing village committees—all controlled by CPP since 1979 — played a key role in skewing election results massively in the CPP’s favour.” (Heder, 2005: 116)

Not all analysts are as unhappy about the role of political parties. “The Mol’s political decision to place it [decentralization] at the commune was rooted in very careful consideration by the government, which saw the need to create small and stable units after decades of civil war and thus bring decision making closer to the people. An important part of this attempt to create stability was the need to strengthen democracy by enhancing party collaboration. The government was of the opinion that party collaboration in the communes would enhance mutual understanding and collaboration and reduce politically motivated violence.” (Rusten, 2005: 88) While requirements of inter-party peace making has ensured to opposition parties second deputy and third deputy positions in commune councils, CPP control remained extensive. Some even argue that commune elections and the commune process have enabled the CPP to consolidate its hold at this level.

The struggle for control over economic resources—contests over land, access to irrigated water, protests on fishing and forest areas—outside the purview of commune councils is another reason why powerful elites have left decentralization alone. “Elsewhere, democratic development has tended to be forged around how the state is equipped to deal with local regulation issues, how rights are contested and protected, how access to and security of tenure over important livelihood assets (land, irrigated water, natural resources, etc) are *claimed* through political action and then *fixed* in administrative norms... A remark by a Commune Councilor in Kum Rou Commune, Banteay Meanchey shows that more can be said about sub-national accountability. “Decentralization”, he said, “has only been about development planning. For those not involved, the forestry or fishery officials, land management officials, its business as usual, they do their own thing”. (Independent Study, 2006: 27)

It was easy for RGC authorities to agree to decentralization because it operated within rather circumscribed limits. While those on the ground cannot be second-guessed, from a distance it appears that more could have

been done by donors to push the limits of the D&D process. This issue, of course, cannot be 'resolved'; how this issue is approached depends on political predispositions. Donors, however, can be made accountable for their part of the equation. "The issue of donor coordination arises frequently in Cambodia, not least because there has been a general tendency for donors to behave in a rather competitive manner in some sectors, and for government to encourage rather than limit this tendency" (Rudengren, 2005:38).

On the impact of donors in general, the Independent Study makes damning judgment. It is important to quote extensively from its conclusions because officially this is a government document even if it was done by foreign consultants.

"...with some notable exceptions, the 'modalities' [policies, planning or financing systems] currently employed by government and donors at the sub-national level have the effect of undermining the primary accountability of local elected leaders to citizens, and will make unified administration extraordinarily difficult. Unless current modalities are fundamentally altered, the possibility of citizen-responsive local politics we believe is very remote. Current systems promote political, administrative and fiscal centralization, or, in another language, they conspire to ensure that resources intended to benefit Cambodia's majority poor are captured, diverted and are otherwise used to reinforce patrimonies which are most often at odds with their interests." (Independent Study, 2006: xi)

The Independent Study then goes on to explain the way that the failure to expand the limits of D&D made it susceptible to corruption. "...a large share of 'governance' in countries like Cambodia occurs through systems of patronage which operate not so much in 'parallel' with official systems, but are thoroughly infused with those systems. How government modalities work in practice, therefore, is as important to understand as donor modalities. D&D reforms are in many countries resisted because they could threaten and disrupt entrenched patronage systems, from the highest level, to the forestry or health worker, the head teacher to public health inspector. But just as often, decentralization reforms are not resisted for the simple reason that, because they tend to be only partially implemented, decentralization reforms can provide so many more opportunities for local corruption or the misdirection of resources that are the hallmarks of neo-patrimonial government systems." (Independent Study, 2006: p.3)

Donors' main interest is to get their projects implemented, and be able to report measurable impact. However, in the Cambodian context, where political institutions are weak, this primary preoccupation among donors has spawned donors to take a variety of administrative shortcuts, such as 'special purpose' arrangements in project implementation, and ascribing and assuming accountability. While donor programs invariably target corruption and various systems of patronage, distorted incentive structures maintained by donors inadvertently promote new forms of patronage and lessen incentives to correct existing patrimonies. In the process, external support systems foster a kind of *administrative* accountability, which gets in the way of developing *political* accountability. Elected commune councilors become more preoccupied with fulfilling donor requirements than worrying about what their constituents think. (Independent, 2006: 7)

The experience of commune councils in development work is the very experience of democratic practice, no matter how circumscribed. Associations of commune councilors being set up will generate the kind of horizontal relations that can help generate pressure from below in what has, so far, been a largely top-down process—but it will take a while to percolate to the top, given that there exists an essentially authoritarian political system. And this is partly the result of decisions made by donors. The participatory thrust of decentralization was compromised in exchange for national policy influence, in the hope that in Phnom Penh influence can result in structural and systemic changes. The Organic Law drafting process that began two years ago with the D&D strategy paper provided many opportunities for influencing structural and systemic changes.

Unfortunately, mobilization of interested parties including NGOs has been limited. In Cambodia there are over 1,000 NGOs registered, the great bulk of which can be categorised as mainly implementation NGOs, which were usually created with the help of an original (often foreign) founder or donor agency, and can thus be described as introduced NGOs rather than indigenous NGOs. The voluntary aspect of traditional non-profit organisations is often absent and, at best, nascent. (Civil Soc and Democ: 8-9)¹ That the CSOs have made an impact should not be taken as a sign of a strong civil society. The impact is rather a sign of the strong presence of the international community and a sign of weak public institutions. One important way in which CSOs in the political arena have made an impact is in serving the international community with information that donors and other stakeholders may use in discussions with Government. (Civil Soc and Democ 17)

This facilitation is necessary because, "In Cambodia, many provincial governors are of the opinion that local politicians are accountable to the party rather than to the government or to the public. This is because of the current blurred lines between the private and public domain, and because power and resources reside with

the main political parties, rather than with the government *per se*. In addition to this, these accountability lines are supported by the election law design.” (Chapter III, pp. 42-43) The existing set-up is not sufficient to break this reality, but ongoing efforts to create associations of commune councillors, and provide funds for participatory development planning among groups of communes can go a long way towards consolidating decentralizing (and democratizing) gains at the commune level, as well as generating pressure for more genuine decentralization at district and provincial levels.

Many assessments of decentralization in Cambodia point to this crucial problem, but the greatest challenge still lies in the large gap between decentralization discourse and the practice of dominant political groups, most importantly the CPP. As one analyst (Heder, Theater, 12) puts it, “The upshot is a procedurally democratic system, with a vibrant civil society, but which have little or no impact on massive corruption and abuse of power, and which remain vulnerable to political violence whenever the elite fears its unbridled political and economic privileges are seriously threatened. In such a system, parliaments count for little, and laws and the courts are tools of power and money. Over time, it institutionalises a regime in which reliance on blatant, high-profile violence recedes, but remains available as a last resort, such as if an electoral process threatens to unseat the incumbents. This process completes the transformation of one-time communist bureaucrats into the godfathers of crony capitalist networks of fabulously nouveaux riche, with entourages of technocrats, enforcers, tycoons and mistresses serving their various needs and whims. Members of these entourages become the loyal beneficiaries of the way in which self-strengthening shadow state and economic networks keep running way ahead of domestic and international efforts to make the political and economic system accountable and transparent.”

International donors and consultants cannot, of course, do it on their own, nor should they even try. Real political change will come only when political forces strong enough to challenge CPP dominance develop. Unfortunately, the practice of opposition parties is no longer democratic, and opposition parties are proving much less capable than the CPP. The task of donors is to help generate better conditions for a principled and competent opposition to develop, to leverage support for reform and to do it much more decisively than they have so far. For starters, donors can hear out criticisms about the way their projects contribute to new forms of patrimonial politics and corruption as often as they contribute to reforms. Donors should then act on these criticisms. Much more can be done to bring donors and civil society together and, if nothing else, increase the legitimacy of donor advocacies. Donor support for developing civil society can and should be increased. Hand in hand with key reformers in the RGC, it should be possible for donors to push the limits of decentralization toward maximizing the democratization impact of decentralization, and push the door of democracy wide open.
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