

## **SECTION C: STUDY FRAMEWORK AND FINDINGS: Illustrations from practice**

*Section B concluded with a seven policy principles. In most respects, RGC D&D policy regards the first two of these principles – local participation and accountability; and political and administrative accountability – as the foundation. The other five principles are instruments to promote these two. To understand how these are promoted or constrained in current practice we found it necessary to do two things. First, we had to ‘unpack’ these principles and draw what we have termed ‘D&D’s new accountability map’ so that we could begin to understand in practical terms what D&D policy intended. Second, we were aware that a formal analysis of how existing donor modalities worked on the ground to promote or constrain these principles could be misleading. Actual practice is always more confusing, chaotic and disconnected than seen by ‘looking through the lens’ of the project or what you might find if you just question councilors about the ‘11 step local planning process’. Thus, we decided to use this ‘accountability map’ to make best use of what we knew would be short visits to provinces and local communities. How we did this, and the result, is presented in this Section.*

### ***C.1 Summary Orientation and Findings***

Our investigations have led us to two conclusions.

*First*, amongst senior officials at national level (particularly the IMC) and in the provinces (particularly the governors and key line departments), there is a clear sense that the success of D&D will depend on three things: a) effectively re-engineering governance around local accountability, that is, relations between elected leaders and citizens, b) creating a ‘unified administration’ at province and district levels, and c) ensuring in practice the axiom of fiscal decentralization – that ‘resources must follow functional responsibility<sup>26</sup>’. As we will illustrate, officials differ in how they define these points, but there is a high degree of coherence about the fundamentals.

*Second*, in respect of each of these three points, we have concluded that, *with some notable exceptions*, the modalities 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.

One reason for this repeats itself in every case illustration contained in this Section. These modalities have to a large extent been created in response to the glaring imbalance between functional responsibilities and resources that is apparent at all levels of government. But this mismatch is most obvious in the fact that government officials are not paid, that is, ‘resourced’, in accordance with their ‘responsibilities’. Unless this well known fact is addressed, it will be difficult to achieve a system of government in which administrative officials are accountable to elected local leaders, and in turn work in ‘unified’ ways that are in the interests of the citizens they serve. Instead, the accountability of administrative officials will continue to be distorted by

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<sup>26</sup> Policy makes a distinction between ‘obligatory functions’, for which predictable, adequate resources must be made available as of right, and ‘agency functions’ (non-obligatory) which are negotiated and agreed between levels of government, for which the ‘principal’ must provide corresponding resources to enable the ‘agent’ to carry out the function. This distinction is not important in the axiom noted here.

the incentives (salary supplements, ‘training allowances’ etc.)<sup>27</sup> that lie at the heart of current donor-government modalities. This reinforces a system of centralised patrimony and distorted accountability that is axiomatically the opposite of what the D&D reforms intend.<sup>28</sup>

With these summary conclusions in mind, we need to explain some further points about our approach. In brief terms, the Study had to address two questions: *first*, how would current donor-government modalities promote and/or constrain the seven policy principles outlined in Section B, and *second*, given the near-term objectives of the D&D SF, what options and recommendations can be made to capitalize on what is going well, and avoid problems in the future?

In our view, the architects of the D&D SF believe four kinds of accountability are necessary<sup>29</sup> for this policy to succeed. These are depicted in Figure C.1.

**1. Primary accountability:** is what official policy refers to as ‘local participation and accountability’. Our advisers asked the Study to find out what kinds of modality promote participation in determining local needs, in making plans and budgets, and in implementing these decisions in ways that make it possible for elected leaders to be held to account. It turns out these are complex questions. As Figure C.1 shows, achieving this primary accountability depends on how other parts of the governance system function, that is, it depends on other accountability relations. Official policy realizes this when it talks about the need for administrative officials to be accountable to elected leaders – to ensure they respond in the right way; the need to integrate local choices with national policies and priorities; and the need for a ‘unified administration’. With the aid of Figure C.1, these points can be unpacked a little further.

**2. Sub-National Accountability.** D&D reforms envisage a system of relations between province, district and commune authorities that has two features. First, that higher level authorities are accountable to the priorities established by elected local officials, as reflected in the policies, plans, budgets and related instruments approved by councils. Second, that the higher level authorities create through policies, administrative and financing systems, arrangements which promote the observance by lower level authorities of national laws, policies and priorities.

Thus, sub-national accountability is ‘two way’: Communes, the only *directly* elected political authority envisaged are to be the primary source of accountability. But D&D reforms do not envisage a situation in which all decisions are subjected only to the ‘will of the Commune’; they must be reconciled with national interests.

**3. Horizontal Accountabilities:** The D&D SF refers to ‘unified administration’ in sub-national governments. Although yet to be defined in law, it may include two elements. First, arrangements which promote horizontally integrated actions by all administrative agencies at the province and district level<sup>30</sup> ie., unified planning, budgeting, control over staff, etc. Second, these administratively unified agencies are to be accountable to elected councils/assemblies at district and province levels. Thus, horizontal accountability has elements of both administrative deconcentration, and political and administrative devolution.

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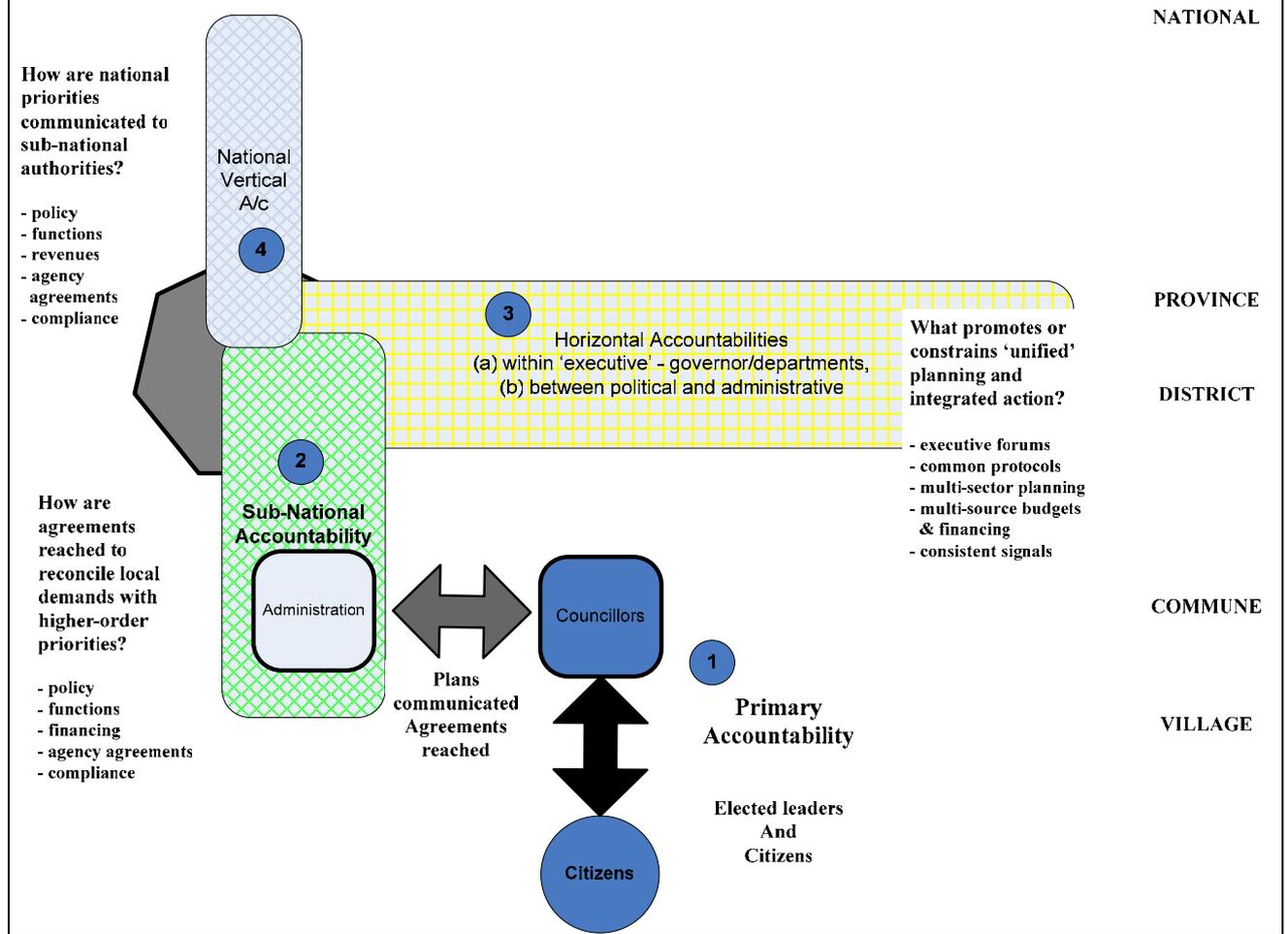
<sup>27</sup> We have adopted the definition of ‘supplementation’ used by the TWG on Public Administration Reform, (October 2005). See Glossary.

<sup>28</sup> We later note efforts underway to address this situation

<sup>29</sup> Our use of term ‘necessary’ needs to be qualified by recognition that there is much debate about ‘necessary conditions’ in decentralisation. (Cf. Tanzi 2000). Most policy research has not focused on accountability relationships. Rather, the ‘structure of decentralisation’, with a focus on intergovernmental fiscal relations, tends to predominate. We hope to avoid this, through the approach taken in this report. Cf. Mullins (2003).

<sup>30</sup> These might include administrative units of the province or district under the governor’s authority, and deconcentrated units of national-level agencies

Figure C.1 The new 'accountability map' for sub-national governance



**4. National, Vertical Accountability:** whereas D&D reforms foresee the delegation (or assignment) of the bulk of responsibilities for service delivery and regulation to SNAs, this will occur within a unitary state; thus, national government will retain responsibility to set national policy frameworks and laws, and through fiscal and administrative arrangements, aim to both encourage observance of policy priorities in sub-national decisions, and enforce the compliance by SNAs with national laws and regulations.

**Accountabilities and Case Illustrations**

We use these four accountabilities to organize the discussion of case illustrations in this Section. Rather than labour over the pros and cons of dozens of donor-assisted projects and programs, illustrations of typical modalities are used to show how they impact on these accountability arrangements. We think that this approach can best highlight the challenges to be faced in designing 'donor modalities' for support to D&D reforms. These illustrations are not detailed 'case studies', nor a compendium of all cases we examined. This approach is useful for three reasons.

First, it highlights that *considerable progress* has already been made to harmonise aid delivery and to align it with RGC systems and procedures. Indeed, we will also show that many of the innovations which have improved the accountability of local leaders to the citizens they represent have arisen first in the much maligned ‘donor parallel’ systems and then have been ‘mainstreamed’ through laws and other regulations.

Second, the case illustration approach *avoids the tendency to ‘match’ Cambodia’s experience against international ‘best practice’*. This is useful not just because Cambodia’s D&D reforms are in many respects quite unique. Although international experience will continue to be important, we also think that ownership of whatever occurs over the next decade must be driven by local experience, and local solutions.

And *third*, it is important that issues and possible solutions are posed in ways that might be *communicable in national and sub-national fora*, that is, serve as a basis for discussion by the vast majority of government and donor-financed officials who must, in the end, adopt, modify and carry the implementation of whatever ‘modalities’ are adopted.<sup>31</sup>

### Box C.1 A Cambodian definition of accountability

#### Overall definition

In Cambodian context, accountability is affected by both administrative and political factors:

- Accountability is a personal, administrative and political value.
- It requires clear assignment of roles and responsibilities, adequate and predictable resources, horizontal and vertical coordination, transparency, law compliance and enforcement.
- It depends on political will, administrative neutrality, and responsible performance which serves the public interest, particularly the poor, and builds trust in public institutions.

#### Definition for provincial level

Accountability at provincial level comes from:

- A coordinated administrative and political system that is Cambodian owned,
- Aims to achieve democratic development through a unified provincial administration
- That receives proper assignment of functions, followed by adequate and predictable resources and decision-making authorities,
- In order to serve local needs, especially the poor.
- It should be run on the principles of laws (including enforcement), transparency, participations and people interests.

Source: CDRI/PORDEC. 23 March 2006.

## C 2. Accountability in Practice

In this sub-section, we use illustrations to work through the four accountabilities in Figure C.1, beginning with primary accountability, in the following way.

1. *Primary accountability: one view of the Commune*: this illustrates some of the key difficulties of getting better accountability of elected leaders to citizens that may be exacerbated by donor modalities.
2. *Sub-national Accountability: much innovation, many challenges*: this illustrates the kinds of relations communes have with district and provinces, and points out some recent innovations which are designed to achieve a better integration of local priorities into the plans and activities of higher level administrations. While much has been achieved with integrated planning for delivery of local infrastructure and some social services, other local priorities are dealt with less well. Two illustrations are used here, a community irrigation and water supply scheme, and a community based forestry project.
3. *Unified Administration: horizontal accountability and donor modalities*: illustrations also show the positive progress made to begin to deal with what D&D policy makers

<sup>31</sup> For this reason, this Section includes some of the many visual aids the Team used to facilitate discussions.

know will be a complex issue. The example of the Seila-supported PRDC/ExCom arrangement shows both the importance of horizontal accountability, as well as why these efforts will be limited until the new organic law(s) are brought into play.

4. *Modalities of capacity building and accountability*: this looks at the kinds of primary, sub-national and horizontal accountability (the first three forms of accountability – Figure C.1) which are encouraged through the predominant approaches to capacity building. This illustration, like many others, will be familiar but we think these issues need far more attention, not least because at least 30 percent of donor assistance is intended to build institutional and human resource capacities.
5. *National vertical accountability: a summary example*: this uses the Health Sector Support Program to both summarise the points made in the illustrations above – about all four kinds of accountability - and to point to what we believe will prove one of the most challenging tasks when implementing D&D; namely, reconfiguring the vast number of national vertical programs that today are overwhelmingly the dominant modality used by donors to deliver their assistance to sub-national levels.

## 2.1 Primary Accountability: One view of the Commune

Tbeng Commune, about 45 minutes from the booming tourist city of Siem Reap, is home to around 6,600 people, many of them resettled from former KR areas, who depend on rice farming, products gathered from the surrounding forest areas and increasingly, income from construction and other labouring work in the city. In many respects, much of what passes for ‘Commune governance’ in Tbeng is typical.<sup>32</sup> Councilors say they are approached by local residents (5 to 10 each day) seeking help to resolve local disputes, mostly about land or irrigation, and family disagreements. This, along with liaising with local police and their civil registration work, occupies them for 30 to 40% of the time.<sup>33</sup> Few councilors have heard about D&D policy; no-one remembered it being discussed in Council nor during their frequent contacts with PRDC/ExCom Unit staff who they regard as their first port of call for advice and support. But councilors are well clued into ‘decentralised planning’ and with some fluency can take visitors through the formal procedure.<sup>34</sup> Contracting, for instance, is well understood: the role of the commune as ‘client’, the technical supervision responsibilities of Province/ExCom Unit staff, and what to expect from contractors, good and ill. Not surprisingly, depending on the time of year, local planning, budget making, project contracting and supervision, negotiating project approvals and the release of funds from Treasury, occupies them for 70% of their time.

Commune council meetings are said to be lively. In part this is because all three political parties are represented on the Council. Meetings are also highly animated because of local leaders’ long

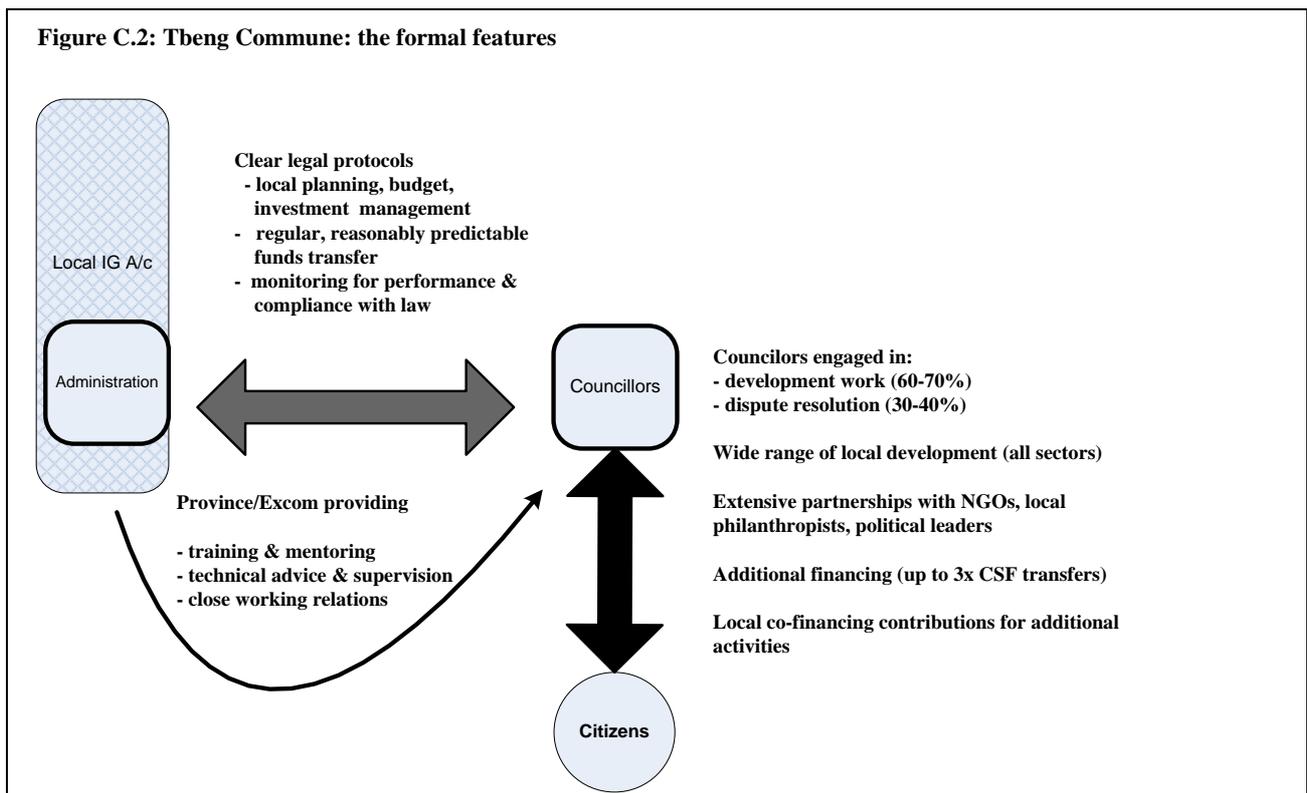
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<sup>32</sup> There is great diversity across the country. By ‘typical’ we refer to the ‘common features’ noted below. We have reviewed several useful studies relevant to ‘commune governance’ including Danida (2005); Council for Development of Cambodia (2005); Pellini (2004); Cooperation Committee for Cambodia (2004); Kim and Henke (2005); Fajardo, Rady and Sin (2005); CAS/World Bank (2006).

<sup>33</sup> Councilors are approached to resolve lower level disputes (Kim & Henke 2005), but this is not the same as saying that citizens regard Councilors as the best people to refer to for all dispute resolution, particularly in relation to disputes with the administration (cf. CAS/World Bank 2006).

<sup>34</sup> Fluency in explaining the procedure does not necessarily equate with capacity to apply it in practice – despite that villages do tend, on average, to be invited to participate in key steps of the process and a high percentage accept the invitation (See CDC 2005). An assessment of this, and associated issues, is provided in GTZ (2005). Moreover, as the NCSC review notes, Councilors report great difficulties in understanding the legal instruments – not just the planning process. NCSC (2005). The tendency to ‘add’ to Council mandates through sector-based legislation could, if not coordinated, exacerbate these problems. The draft Education Law (2004) for instance, adds responsibilities to Commune Council mandates, including preparation of commune education plan, collection of statistics, special reporting and evaluation responsibilities.

and varied experience with development/donors, dating back to its first relations with Seila<sup>35</sup>/Carere in 1998, and the FAO community forestry assistance (1999).



These wide-ranging relations, and the financing that comes with them, help to give meaning to council meetings; there are real things to discuss. But what we want to show here is the kind of impact on ‘local governance’ that can occur when these relations multiply and get out of hand - that is, the impact on the formal governing prescriptions about community ‘voice’, participatory planning and budgeting, council meetings around these processes, and relationships between councilors and citizens leading to allocation of resources and implementation of projects. The wide-ranging relations Tbeng commune enjoys, as we will show, can dramatically distort the formally neat and clear lines of accountability as depicted in Figure C.2.

Since 2003, council has established and maintained relations with a very wide range of government and donor partners – we counted 12 by 2005. In 2003, for instance, Council received Rs38 million CSF resources, but three times this amount came from other sources. In conjunction with Seila, the Council received funding from Danida (for community forestry) and WFP (for food for work on road construction and school children supplementary feeding). The FAO continued to support the community forestry, the Department of Water Resources did some minor water control structures; ADB funded a laterite road, not directly through the commune planning system, but after consultation with the Council. In addition, the council received support from the actress Angelina Jolie, also from PLAN International, NGOs like CONCERN and RAMSA, from local members of parliament as well as business philanthropists, a religious group and private charities. Visitors to Angkor Wat often stop by to donate school books, a buffalo, furniture for the council offices. And soon Council hopes to make agreements with other NGOs, like Oxfam, and PACT which is implementing the USAID funded Local Administration and Reform (LAAR) project.

<sup>35</sup>For an overview of reports and studies done by Seila, see Biddulph (2006).

In fact, by 2005, the so-called 'off budget' assistance, that is, donor support not reflected in the council's official budget, far exceeded the official transfers. Just one donor, CONCERN, for instance, in 2005, committed support worth \$18,382, twice the value of the CSF transfer (\$9000). Unlike most NGOs, CONCERN channels its assistance through the Treasury system to fund 'social interactions', fish fingerlings and ponds, bicycles, breeding animals, HIV/AIDS awareness, repair of small dams, in fact, for a wide suite of activities which most communes in Cambodia today can only dream of receiving.

With this list displayed along the council walls, the Commune Chief proudly explained what each was about. It seems that the direct CSF investments were well used – rather than break the available funds up into a wide range of small infrastructure projects, Council decided to allocate all resources to laterite road construction, and each year, the CSF allocation was being used to extend the network.

"With such a wide range of support and project activities" we said, "Councilors and commune staff must be incredibly busy?" "Yes, he replied, "with all these relationships come a lot of work".

"What about that Danida assistance you received in 2005, how did that go?" we asked. "We're especially interested in that community forestry project that the Commune is known for".

"Well", he said, shuffling around a bit before answering, "in fact, although Danida provided \$2000 in 2005, we've had difficulty in utilising these funds so far". What could be the reasons for that, was it hard to get the funds from Treasury? "That can be difficult sometimes<sup>36</sup>, but in this case we had difficulty with time management. And anyway the form we had to use to get these funds was a bit different from that for the CSF. We went back and forth, each time being asked to make some small corrections, three or four times" explained the Commune Clerk. "It wasn't just the government's fault" corrected the Commune Chief. "Sometimes it was because we didn't have the time to follow up as quickly as we should have".

"Do you get complaints from the community when they know you've received support, but haven't been able to deliver it?" "Oh, yes" said one councilor, "that is a familiar problem for us. The fact is that some agencies are easier for us to deal with than others. Some NGOs give us funds in advance, and we can account later. But that's not really the problem. All these training sessions and planning and reporting procedures keep us very busy. Many work through the commune planning process, which is good, but its still the case that many more are outside this process and they need to build our capacity to understand their requirements".<sup>37</sup>

What kinds of things occupy Council in a 'typical month'? "Well, we attend district coordination meetings, maybe three times a month. Then there are province departments who need us for training sessions, often away from here, and other visitors who need us to convene planning meetings or make site visits. And then, we have visits from CONCERN, or another NGO. And then there's the commune planning process, sometimes we have to stop this to do (PRAs) and things. And we have a mobile civil registration going on. And all these agencies make agreements with us, MoUs and Agreements, and all of these have reporting and accounting requirements."

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<sup>36</sup> Treasury releases is regarded as a major constraint. Rudengren, Andersen and Durant (2005, 6) "Since the establishment of the Commune Sangkat Fund (C/SF) in 2002 its release has generally been late, central level institutions have interfered in their operation (outside their legal mandate) and a significant share of the C/SF has disappeared through corruption"; although considerable improvement has also been noted (World Bank RILG Supervision Mission, February 2006, personal communication).

<sup>37</sup>This is now commonly reported. A recent, limited sample study of just the official planning and investment process remarked, for instance, that an increasing share (up to 70%) of Technical Agreements signed were non-CIP priorities. GTZ (2005).

“Are you saying that you’re so busy reporting and having your capacity built that there’s not enough time to manage the resources you’ve received?” “Yes, it’s a bit like that, but its also that we get confused.<sup>38</sup> See, I was trained as a military man where things were clear, this situation is just too confusing for us. Problem seems to be that everyone is now just going around doing their own business. We seem to have less control”.

Since the advent of Commune Councils in 2002, some have been very successful in attracting support, especially if, like Tbeng Commune, you happen to be on the tourist route, close enough for a half day trip by visitors. The local political space, it may be said, is becoming very ‘crowded’ for communes like Tbeng. This may be restricted to a few fortunate councils. Perhaps it might be of little concern. But looking ahead, it is likely to become much more widespread. The D&D SF commits to expanding the service delivery responsibilities of Communes. In most respects, however, this may just give legal mandate to, and reaffirm what is already occurring. Directing resources for service delivery in ways that draw on the legitimacy of Commune Councils is becoming increasingly attractive to Cambodia’s rapidly growing non-government sector – and it is a good thing that NGOs are in this sense ‘aligning’ their assistance with the Government’s own creation, the CCs.<sup>39</sup>

But the *ad hoc* proliferation of this support may come at considerable cost – Tbeng Commune’s experience may indicate some of these costs (Figure C.3).

The ‘primary accountability’ at the heart of the D&D SF is the relations between citizens and elected local leaders – at present only the Commune level has elected leaders, but it is intended that similar relationships will be established at District and Province level over the next few years. The 2001 LAMC’s planning, budgeting and investment management (contracting, monitoring, reporting) systems are intended to promote this primary accountability, that is, to ensure that all levels of government are re-constructed to support rather than constrain this relationship.

Elsewhere, it has been shown that this primary accountability will be stronger where council can operate one official planning system, where council priorities are reflected in one budget which embraces all revenue available and is the basis for all expenditure decisions approved by council.<sup>40</sup> Budget execution arrangements are also crucial – for instance, contracting procedures which reinforce the role of the council as ‘client’ for services provided by suppliers or contractors, capacity builders and trainers. In these arrangements, it is more possible for elected leaders to be held to account for what’s happening in the local area, for single lines of reporting to be established, in fact, more possible for local people to know ‘who’s doing what, who’s accountable for what happens’.

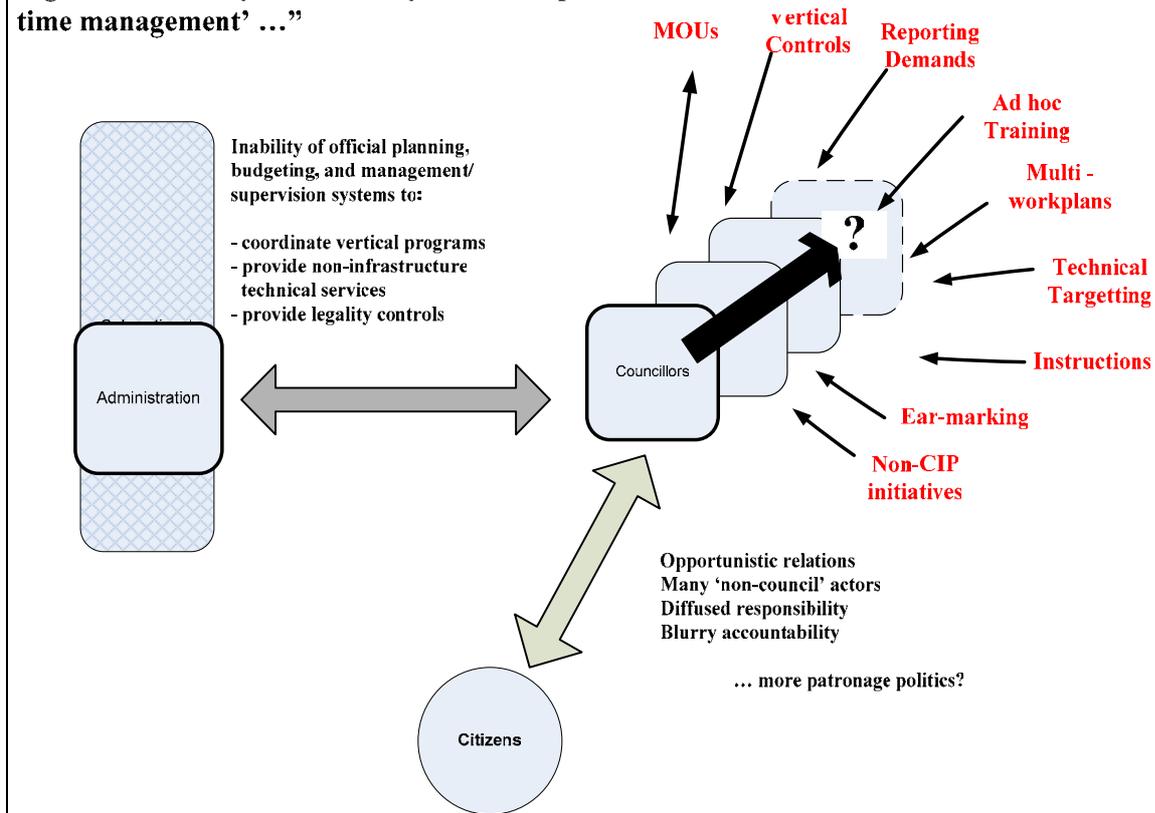
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<sup>38</sup> “At the commune level, you’ll see lots of development projects being supported by many different agencies. What you won’t see is all the different capacity building activities, so many of them. Every week some agency is involving them in training sessions, and the list of topics is growing all the time. The effect is that each donor or government department is breaking them into bits, and taking them off to have their capacity built. The problem is that no-one is helping put the bits back together. This is actually antagonistic to capacity building. Just like this is happening at the province level too.” Project Technician. Siem Reap. The larger question, noted by NCSC, is that the proliferation of ‘development’ activities can result in Communes attending far less than they should to ‘governance’ issues. NCSC (2005, 23).

<sup>39</sup> It is not surprising that NGOs feature prominently in Tbeng’s list of external relationships. In Siem Reap province, 48 Cambodian and 37 International NGOs are operating. We do not however regard the proliferation of ‘service delivery NGOs’ as necessarily a good thing, especially if this comes at the cost of less NGO engagement with advocacy, lobby and dispute resolution priorities. The growth of NGOs, their relations with state agencies and commune level authorities, and issues of governmental coordination are now receiving the attention they deserve. See World Bank (2006a).

<sup>40</sup> Two research reports from Pakistan, where the current round of devolution also began in 2001, illustrate this clearly. Charlton et al (2004); and ADB (2005b).

**Figure C.3 “The system is ‘noisy’, ‘we’ve a problem with time management’ ...”**



In Tbeng it is already evident that the proliferation of project relations – along with training, planning, financial accountability, reporting, and other obligations that go with each relationship – is severely taxing local capacity. In a sense, they are victims of their own success – or at least their geographic location. Some of these activities are consistent with the PIM system, and in this way are linked with the LAMC 2001; but others, the majority, are not. For Councillors, there’s no question of not taking up these opportunities, but they are also aware that with every project/support special reporting and accountability is mandatory, to sustain the donor’s interest.

One result may be that the ‘primary accountability’ is in practice increasingly directed outside of (or ‘away from’) the citizen – councilor relationship.<sup>41</sup> It is anyway weak, the ability of citizens to mobilize demands through the formal system cannot be taken for granted; as the NCSC *Review of Decentralisation* noted “citizens are generally not informed about Commune decisions (they) are unaware of their rights (and) are very reluctant, in some cases frightened, to demand accountability of Councilors”.<sup>42</sup> Councils are becoming bound into different kinds of accountability relations with external donors, but this is not the same as political accountability of leaders to citizens, or of donors to elected council. As one Councilor explained in Koas Kralor, Battambang, councilors often feel they are being ‘consulted’ simply for the purpose of legitimating the NGO’s subsequent engagement with their particular ‘target group’. As he said, “Once they’ve met the daughter, they’ve no interest in the parents”. It cannot be assumed that subsequent ‘approval’ by Council of activities identified and planned in this way is any measure of Council accountability for them, or for subsequent events.

<sup>41</sup> GTZ (2005).

<sup>42</sup> NCSC (2005, 39). See also CDC (2005, 8-9) on this. This is exacerbated, for women, both councilors and citizens; see Biddulph (2003). As Brereton (2005, 4) remarks referring to Women and Children Focal Points “it is questionable whether a lone woman with no incentive, no budget and no voting rights will ever be in a position to influence decision making’.

As has repeatedly occurred elsewhere, the proliferation of external support systems fosters an *administrative* kind of accountability of leaders to various donors and typically this becomes stronger than the *political* accountability of leaders to citizens. Primary accountability becomes diluted, or, as often, is turned into just an amalgamation of many ‘project accountabilities’ that actually weaken the primary accountability D&D policy is trying to promote. 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. In other developing countries, Councilors 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 Councilor said, ‘We don’t so much as compete (for NGO attentions), as backstab each other’.

For these and other reasons, it has been observed that Councils’ welfare and public interest mandates are poorly attended to. The participation of elected leaders on health or school committees (as in *ad hoc* water, forest, or fishing related committees) is happening, but with little effect. Councilors (more often, Commune Chiefs) may be members of these committees, but quickly lose interest – because all important decisions (about staffing, and staff performance, the allocation of government or NGO budgets for O&M or capital investments) are made outside of that Committee, and outside the domains of council plan and budget decisions. Councils may be called in to give their stamp of approval, but most often that’s not required, as it can easily be reported that ‘Council participated’ in whatever is decided. Yes, communes have invested in schools and clinics, but by and large, for infrastructure. They have rarely been able to use resources for O&M, or for salary supplementation which might improve the quality of teaching or health workers’ performance, or make them more responsive to the demands for better services that local people may want.<sup>43</sup> For these kinds of reasons, non-governmental and informal arrangements become more attractive to councilors.

## **2.2 Sub-National Accountability: much innovation, many challenges**

D&D’s policy commitments for sub-national accountability indicate that major shifts will need to happen in how higher level governments relate to commune elected leaders. With this in mind, this sub-section:

- briefly surveys the nature of relations that currently prevail between provinces, districts and communes (who communes deal with, which agencies they see less often),
- illustrates how donors are supporting new modalities for decentralized investment management that in important ways anticipate what’s intended in D&D policy with respect to sub-national accountabilities (e.g., the District Integration Workshop [DIW], and inter-commune and district pilots for planning and managing local investments),
- then shows that aspects of sub-national accountability that will be important for democratic development which are being relatively neglected (in particular, local regulation issues).

As with the last discussion, here we use two illustrations to make these points, one that returns to Tbeng, because of the background already provided, and another from Takeo province. Here we ask whether the undoubted innovation that has occurred around sub-national accountability for development planning and service delivery investment (the DIW, etc) has led donors (and the

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<sup>43</sup> The instance of pre-school teachers is the exception – Seth Koma grants – but the observation stands.

their government counterparts) to neglect other, equally important factors that may well determine how ‘democratic development’ gains real traction in local representative politics. In closing, we observe positive trends in this direction.

### **Managerial power and sub-national accountability.**

The credibility of representative political processes hinges on ‘managerial power’, in other words, how administrative officials and service providers behave when citizen interests are articulated by elected officials. How RGC intends to reorient administrative practice around the primary accountability of citizens and elected leaders has yet to be determined. But most senior province administrators are clear on two things. First, there will be a new form of ‘two way’ sub-national accountability, reflecting the principles of non-subordination and higher level integration outlined in Section C.1. Second, there will need to be a corresponding shift from the ‘command and control’ relations between higher and lower levels, to one in which higher governments provide ‘support and legality control’. It is against these two principles that we can observe current modalities.

The Battambang 1<sup>st</sup> Deputy Governor seemed clear about what this could mean. Consistent with the 19 January 2006 Sub-Decree by the PM, he said, the Governor will be responsible to supervise all sub-national activity. The organic laws will empower the Governor to do this, that is, will give the Governor responsibilities over line department operations, staffing and budget control. “Technical issues will stay with the department, but the Governor will supervise the relations between communes, districts and the province”. He further elaborated his view that “*The commune will remain the owner of local activities, the province and district will be required to facilitate their procedures, endorse their actions, and check their legality, but in no way will unified administration take the commune’s initiative and powers away.*”

What happens in current practice? It is well known that there is a tremendous range of official and donor modalities that find their way to sub-national levels; national projects for agriculture and forestry, child and maternal health initiatives, Seila’s support to the CSF process, as well as an increasing number of non-governmental projects and concerns. In the health sector alone, depending on how you count them, there are between 10 to 12 national vertical programs.<sup>44</sup> Thus, you would expect to find a large number of national vertical programs present in some way in the local ‘political space’ of commune councils. The view from communes, even successful entrepreneurs like Tbeng Council, is quite different. Certainly, RGC’s Seila program has a high profile in all Communes, and some national programs, like the Unicef supported Seth Koma have through this modality found inventive ways to ‘reach’ into Communes – such as through special purpose grants for child and gender rights issues.<sup>45</sup> And to their credit, many male councilors are now remarkably conversant with issues of domestic violence and child abduction. There is justifiable debate about Seila’s ‘infrastructure’ focus, the recurrent cost implications of this, and about how the investments chosen by councilors from the investment menu can be monotonously

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<sup>44</sup> The expression ‘vertical programs’ refers to arrangements whereby by higher tiers of government influence the policy and behavior of lower-level authorities (e.g., Councils) by directly intervening in local planning, financing and operations, i.e., political and administrative affairs. In practice, vertical programs remove entirely, or put severe restraints on the exercise of local discretion (i.e., primary accountability) so as to enforce the integrity of decisions made at higher levels. The Health Sector Support Program (see Section C.5.6) is an example of a vertical program – there are many others, in form and effect. The character and consequences of vertical programs for devolution are illustrated in Porter and Cyan (2006).

<sup>45</sup> This has positively reinforced the CIP and DIW process. However, Seth Koma in local practice does not yet have a programmatic focus. It tends to be ‘training focused’ “This year, we will do the courses again, to remind them”, (Kg Thom Seth Koma adviser) and as yet has not impacted on council accountability/action around child rights beyond social welfare provision.

the same, from one commune to the next.<sup>46</sup> *We think these concerns, though important, miss a larger point, namely, the inescapable conclusion that the overwhelming share of national and province directed vertical programs simply do not feature in Commune politics or awareness.* This applies for all major sectors. The average Operational District and Health Centre, for instance, deals with around 10-12 national health related initiatives. Some are barely known to district administrations, far less is the average councilor able to cite even a few of these, regardless of whether s/he attends Health Centre Management Committee meetings.

### **Sub-national accountability: integrating local choice with national priorities**

For the most part, Commune relations with higher level administration is restricted to police officials ('almost daily') and, as noted, with staff from the PRDC/ExCom Units (around 3-4 times a month). Contacts with other officials, from the district or province seldom occurs, although exchanges with the District Governor are important – 2-3 times a month, to discuss 'security issues' (civil and criminal issues, youth gangs, land conflicts). In this respect, the importance of modalities which do attempt to forge positive links between higher and lower levels of sub-national government is quite apparent. It is undoubtedly the case that the Seila-supported annual District Integration Workshops (DIW)<sup>47</sup> have increased the frequency of sub-national inter-government interaction and, by virtue of the discipline imposed by the many Technical Agreements signed off after these events, Communes have at least some basis on which to argue for accountability in how line Departments follow through in practice. There is room for improvement, for revitalising these events, and arguably the volume of discretionary grants to animate these kinds of events needs to increase. It is true, many Councilors, government officials and local NGOs feel they are 'just going through the motions' at DIWs; often they lack energy and have become a 'process to be endured'.<sup>48</sup> And its clear that an increasing share of what's agreed at these events is promoted and lobbied 'from the top' rather than driven by the CDP or CIP priorities. Nonetheless, these complaints are minor in a larger perspective: *the DIWs, and more recently, the inter-commune pilots and District Pilots<sup>49</sup> promoted by STF and MoI are forerunners that anticipate the kinds of inter-governmental relations envisaged in the D&D SF.*

### **DIW and what is being coordinated?**

However, while the list of Technical Agreements reached at DIWs is impressively long and broad in scope, their ability as yet to cause the integration of sub-national development activities is in practice very limited. Mostly DIW integration occurs around the incentives created by Seila's Province Investment Fund and it may be observed that some procedures around the PIF create negative incentives that further cause province line Departments to fragment, rather than integrate their responses to communes, across sector lines.<sup>50</sup> It is true, many NGOs respond to DIW processes. But serious resourcing lies elsewhere. The Team found no examples of province line departments committing their own budget resources to DIW or inter-commune pilots. Sometimes, local officials responsible for area or sector-based development projects, outside the Seila framework, do participate in DIWs. But it seems clear however that they will enter into Technical Agreements only where the event is already fixed into their workplans, or has been fixed by virtue of their role in national vertical programs. It is important is to ask why the 'reach' of these intergovernmental integration mechanisms is weak?

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<sup>46</sup> On recurrent costs, these concerns have been expressed over a long period. Cf. for an early statement, White and Petts, (2001)

<sup>47</sup> The DIWs, and their role in the sub-national planning process, is explained in Romeo and Spyckerelle (2003).

<sup>48</sup> Other reports, that Commune attitudes to the DIW are generally positive, and "highly appreciated" should be noted. DIWs "allow many opportunities to engage potential supporters and higher officials" GTZ (2005).

<sup>49</sup> NCSC with MoI, encourage inter-commune cooperation, investments in cross jurisdictional projects, and serve to test the feasibility of district as a support structure for communes, and possible service planning and delivery level.

<sup>50</sup> Here we refer to the perverse effects of allowing procurement/contracting by each line department drawing on PIF resources. The incentives this creates are felt back in the planning stage, encouraging fragmentation, rather than integration.

Why is this and what does it suggest about how modalities, government and donor, influence sub-national accountability? First, its not surprising that many line departments would prefer to do without the exposure that can be promoted by integration. As one Director PDA remarked of these events, and the contracting through which Technical Agreements are subsequently implemented “We don’t support the Seila system. We would rather receive the funds as a lump sum, rather than detailing all the outputs. Its needs to be more flexible”. Do you mean you’d like it to work like the ledger controls on Chapter 30 monies?<sup>51</sup> “Yes, like that”. There are good reasons to keep Budget under Departmental control and well clear of the integrative process.

But the lion’s share of development resources are controlled through donor vertical program modalities. More is said about this below. It is not just that vertical programs are tightly controlled through workplans and protocols that originate in, and are accountable to, administrative bodies well up the hierarchy (typically in Phnom Penh project management units). This can make it difficult for line officials or their project directors to respond to demands to integrate locally. Indeed it is exactly the function of the project document and legal agreement to ensure that the ‘outer shell’ of the vertical program is quite ‘hard’ – so that implementation does not get diverted or distracted from what has been agreed at higher levels. But it is also true that accountability ‘inside’ this hard-shelled project modality is often ‘soft’; there is tremendous discretion and very few of check and balance kinds of ‘separation of powers’ that feature in the arrangements birthed in the ExCom environment. The latter modality, and perhaps this is why it has come out so well in repeated evaluations, has a range of ‘triangular accountability’ devices to separate the ‘client’ from the ‘technical supervisor’ and from the ‘contractor’, in an attempt to limit opportunities for conflicts of interest, and enhance transparency and accountability.<sup>52</sup> In a typical vertical program, these functions (or powers of discretion) are joined together in the office of the Project Director/Manager. We will shortly illustrate how this impacts on accountability in various ways, through our discussion of ‘capacity building’ and a typical vertical program.

### **Sub-national accountability, and land, resource and regulation issues**

A remark by a Commune Councilor in Kum Rou Commune, Banteay Meanchey shows that more can be said about sub-national accountability. “Decentralisation”, 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”. A foreign visitor to Cambodia is struck by the public profile now given to conflicts around ‘regulation issues’: contests over land, access to irrigated water, protests around fishing and forests, and of course, complaints about the conduct of ‘the administration’. This is underscored by the parlous state of administrative law in Cambodia. Equally impressive is that the domain of ‘decentralised local development’ is so fully pre-occupied, not by these issues, but by increasingly sophisticated mechanisms for channeling aid into social service delivery and small scale infrastructure.

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. ‘Participatory planning’ around minor infrastructure investments often teaches valuable political skills that may be applied elsewhere. But seldom has this led to the kinds of democratic politics that H.E. Sar Kheng envisaged when he spoke to the 2006 Consultative Group meeting about the ‘Transformation’ he hopes will be realized through D&D policy implementation. Is the attention

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<sup>51</sup> Chapter 30 funds include capital development, mostly for province agriculture, forestry and fisheries, and rural development

<sup>52</sup> Technical audits include Holloway, Chon Sok & Associates (2005); and CADTIS Consultants (2005).

to service delivery, infrastructure and harmonising and aligning funds flow modalities overshadowing these issues? Part of the answer may be illustrated in two cases.<sup>53</sup>

Both cases have very positive elements in that they reflect local commitment, drive and entrepreneurship. Tbeng is famous for its *Community Based Forestry Project*, underway since 1999, before Council was elected, with support from FAO/ADSS and the Department of Forestry. Council has invested its Danida NREM allocation in this project for three years.

The Project has an executive structure (Chief, 1<sup>st</sup> and 2<sup>nd</sup> Deputies, and a six member committee with specific functions) much as seen in many developing countries where this model has been applied. They have received constant and apparently consistent technical support and this 210 hectare area, divided into five agro-ecological zones, has provided many important occasions for debate around forests and environment issues. Moreover, from this the village members earned Rs15 million from the sale of secondary products, some of which has been used to provide credit to forest committee and the 160 households in the area. This illustration has two points of interest.

First, this executive committee structure has not changed since 2002. None of the committee members are elected councilors and, although Council has generously funded the project in each of the past three budgets, it has never received a formal report from the Committee, nor is any register or inventory maintained of the assets (marker posts, sign boards, tools, seed stock, etc) made possible by Council's investment.<sup>54</sup> But said a Committee member, "We do report to the donors when they visit us". What is the status of the institutional structure? "Oh, it's a 'community based project'". And under what law does this structure exist? "We don't know", they said, and turning to their project advisers asked "perhaps one of the forestry laws?" Perhaps, but nobody seemed to know. Is it a Commune council asset, or something else? "A bit of both, but we're not sure". So, how does the Committee or the Commune Council protect the investment/asset from powerful people, loggers and so on?

Second, it is likely that villagers have wondered about who 'owns' this multi-year, multi-donor investment. Everyone has stories of how local forests are being logged and carried away. Musing over the security of tenure of the villagers over the forest area, "Well", said the one committee member, producing a letter, "we wrote last year to the Province Governor, and the Deputy Governor responded." What did you write to him about, were you seeking to have this matter clarified? "Sort of. We sent him our community project, along with a proposal asking for assistance. He wrote back" he said, reading from the letter, "that 'the government approves *in principle* the proposal to establish a community forestry project and I recommend that you prepare internal rules and regulations in accordance with the law'."

In the months since, no follow-up had occurred. It remained unclear which law might be relevant, but perhaps we were overplaying the issue? "Well", chuckled their technical adviser, "that's a good point. We just experienced a problem like that. I recently had some meetings with a 'community' nearby about mapping an area, for a community forestry project. And when the day

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<sup>53</sup> We are aware of the complex issues that are, due to space available, being glossed over in this illustration. An excellent summary of these complexities is in report of the 8<sup>th</sup> *Consultative Meeting on Natural Resources and Environment Management and Decentralization in Cambodia*. (2005) Ministry of Interior/GTZ, Phnom Penh, December

<sup>54</sup> Poor coordination between 'user committees' (Local Cluster School Committees, Health Centre Management Committees, and similar, community based committees for forest, fish, water facility, etc) and Commune Councils appears to be the norm. Cf. NCSC (2005, 42); and Losert and Coren (2004). This in part reflects lacunae in the LAMC's articulating regulations, and the tendency for line departments to independently mandate Commune Chiefs (not Councils) with coordinative/consultative functions on these committees. (e.g., forestry, fisheries regulations)

came for us to start the mapping, we arrived and the community told us ‘The forest is no more’. Yes, just like that, it had been completely cleared by people from the city.”

Thus, Tbeng Council’s public funds are invested in an unelected executive body which has no formal relation with council, in an asset which has no regulatory security, for which there is no formal accountability back to the councilors who approved the budget. The committee members are operating in a ‘project context’ which has established rights and rules on a ‘community basis’, rather than in a legal framework<sup>55</sup> which might establish their tenure and rights, or at least enable them to contest these rights should the need arise to resist external plunder.

***Kbal Por Community Pumping Station*** in Takeo province is an exciting example of what can happen when Commune Councils join with harmonised donor project support to local entrepreneurship. The community pumping station delivers both irrigation and water supply services to six villages spread over two communes. Sok Touch, the entrepreneur explained that the intakes and canals were first constructed in 1975 and then run, intermittently, 1982-95, by the Department of Water Resources, with foreign NGO support. Like most irrigation schemes in Takeo, it ceased operation shortly thereafter. Then, in 2002, the commune chief stood on an election promise to rejuvenate the scheme, for irrigation. Once elected, he was unable to get support from the line department, and his voters began throwing rocks on his roof in protest. By some means, he connected with Sok Touch and after study trips to Svey Rieng and Vietnam, he found a way to get it going again. An old truck motor was brought into service, minor adjustments were made to the intake pipes, and following agreement with the Commune and village chiefs, work started with village labour contributions, to renovate four canals, each 5 km in length. Together they set up a water user association, began to register applicants and worked out a fee structure and collection arrangement. Close on 1000 ha of land is now irrigated; more is technically possible. Village chiefs receive Rs 10,000 per ha irrigated, as payment for organising water fee collection, and the commune gets 2% of the total revenue collected.

The details of how the project works, who benefits and who doesn’t are less relevant than the fact that here, use of a defunct public asset was privatised under a direct ‘commission’ between the investor and the Council and rejuvenated to deliver service. But it didn’t end here. As Sok Touch said, “Seila people brought the GRET-KOSAN team in contact with me and ideas for a water supply system off the same intakes began to take shape”. Touch invested a further \$10,000, GRET-KOSAN provided security for another loan, with more favourable conditions, and \$10,000 grant for a water treatment facility. Now 175 households receive reticulated, treated water. “I couldn’t have done this without Seila’s help. They helped me with the rules for the Users Association, and they provide lots of help with monitoring the water quality and setting up the metering and water charging system.”

Could you have got this help from the Province or water department? “I doubt it, in fact they are part of the problem”. What do you mean? “I’m keen to expand the business. There’s plenty of scope to do this, great demand from the villagers. 6 villages now, 10 more have qualified, and I can meet this demand, technically. But I’m just too insecure – everyone, and I mean *lots* of officials, come and put pressure on me to pay fees. The association is unregistered. Just to get the land registered, they wanted \$2000, and when I talked with them about further renovation of the pumping station, they asked for \$3000 before they’d consider it”.

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<sup>55</sup> In part this may be a reflection on the fact many LAMC articles have been or are to be elaborated through supplementary regulations. This causes overlaps and conflicts and reliance on ‘project implementation guidelines’ which “have questionable validity and cause confusion for those referencing the law and those who must comply with it”. NCSC (2005, 21). It is arguable that clarification of these ‘asset regulation’ issues in the Organic Laws will have more local resonance (for governing officials, as well as aggrieved citizens and local investors) than further expansion of sub-national authorities’ expenditure assignments for service delivery.

Again, a community based project is contributing to the creation of public and private assets for local economic development. The legality of the project is from the Commune and investor's viewpoint, 'uncertain', although they concede that the primary-tertiary irrigation infrastructure is a 'public asset' subject to province control. The 'market' is uncertain, and as investors are reporting across the country, because they cannot 'fix' their assets and rights in administrative systems, they are very often just a target for predatory action by officials.

Each of these examples – and of course there are many others - have elements of great merit. But each may be similarly vulnerable. What can be learned from this?

With donor support, much innovation has occurred around DIWs and inter-commune/district piloting of a sort that lays the groundwork for D&D's sub-national accountability. Looking back, there are many instances of alignment. The donor-inspired modalities for local infrastructure planning and delivery piloted by Seila before 2002 have now, by and large, been adopted by government. The responsibilities of the Commune Development Committee (CDC – developed prior to LAMC 2001) now is echoed in the mandate of Councils; the Local Development Fund now appears in the shape of the CSF; the Local Planning Process, along with the contracting and accounting modalities, is now endorsed in the RGC's *Project Implementation Manual*. Here are *both* multi-donor harmonisation and the best kinds of alignment, that is, alignment embedded in law. Looking forward, it is thus likely that elements of experience with the DIW, the inter-commune and district pilots will feature in D&D's organic laws and subsequent regulations. But similarly, although it is not yet clear what kind of administrative regulatory functions will be delegated or assigned to province, districts and communes – for land, water, forests, fish, for instance, or quasi-public assets of the kind evident in Kbal Por – it is fair to conclude that the donor modalities which seem so successfully to have piloted arrangements for decentralised planning and financing will have very little to offer the drafters of the Organic Law(s).

### **Sub-national accountability and regulation: some promising signs**

There are indications that government and donor modalities are now turning in these directions that is, inter-governmental legality control, and administrative justice issues. *First*, as already established in the LAMC 2001, and reiterated again in the D&D SF, higher level governments are responsible for 'legality control' of commune and other lower governments. This is not intended to subordinate Communes, merely to ensure that they act within the law. By NCSC decision during June 2004, an institution was created in all provinces with this, among other, functions. The *Province Local Administration Unit* (PLAU)<sup>56</sup> (which merged together MoI's Province Local Administration Office with the PRDC/ExCom Local Administration Unit – another example of alignment) goes some way toward promoting sub-national accountabilities, for instance, by monitoring the outcome of Technical Agreements made between province line departments and Communes (e.g., as made through the DIWs, and the district pilots). In practice, it seems that the PLAU's main attention is currently directed to compliance by Communes with Agreements. PLAU officials complain that they have few powers (despite MoI's over-arching mandate to monitor compliance of all sub-national authorities) to encourage similar compliance by line departments<sup>57</sup>, except where funds are sourced from PRDC/ExCom.

*Second*, the introduction of *Internal Audit* officers in PRDC/ExCom, reporting directly to the Governor is a major break-through in shifting from normal 'pre-audit' accountabilities, to a results oriented and more transparent arrangement, such as are promoted by the Public Finance

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<sup>56</sup> Functions: i) assist the governor in implementation of the decentralisation legal and regulatory framework, ii) provide support to CCs, iii) work as a link between the CCs and governor, CCs and departments, and CCs and NGOs, international organizations and the private sector, iv) ensure legality of CC work and facilitate conflict resolution, v) collect and maintain data and information relating to CC and vi) capacity development of CC and clerks.

<sup>57</sup> This lacunae has been noted by NCSC. NCSC (2005, 33).

Management Reform Program (PFMRP). Internal Auditors are competitively recruited, with an extensive mandate of the sort needed for sub-national accountability – although it is ironic that neither the operations of the PLAU, nor the CSF-Treasury relationship are reported to be included.

*Third*, this is partly corrected by the NCSC Prakas, issued in June 2005 establishing an **Accountability Working Group** (AWG) in each province as a formal complaints mechanism to strengthen accountability measures in regard to the CSF. AWGs in each province including Council representatives elected by each political party, various province officials, NGOs and private contractors and chaired by the Governor. Again, the PLAU has a special role, as secretariat and investigatory agents. Decisions have been taken in some provinces to sanction people found abusing the system, and terminate contracts. It is early days yet, and until promulgation of the organic law(s), it will not be possible for the AWG to do more than “request line ministries/departments to impose sanctions on their staff who are involved with misuse of CSFs”. The AWG framework is to be evaluated during 2006. Donors have already been invited to consider expansion of the AWG mandate to include all donor resources channeled through PRDC/ExCom. These are positive moves, and it would make sense, subject to this evaluation, to expand the mandate to include, at least, all donor financing through sub-national expenditure assignments and, perhaps through the organic law(s), make provision for the mandate of an ‘AWG-type’ institution to include all sub-national budget accountabilities.

Similarly ambitious, but dealing directly with citizen access and grievance redress, is the scope of the Pilot District Administration Project<sup>58</sup> now operating in District Battambang and District Siem Reap, both urban centres. The project includes features of district-level pilot activities elsewhere, like inter-commune and district planning. Two features of the project show the kinds of innovations in regulation underway, as well as the challenges to be faced: it provides for a **One-Window-Service facility**, where citizen and local business can apply for licenses and permits. The OWS facility acts as a front office for the respective line departments which have the responsibility for approving these licenses and permits. On a pilot basis, decision-making authorities have been deconcentrated to the district offices of the line departments by special national-level regulations. So far, however, officials complained that the scope of authorities delegated to them is too limited, and often includes items which previously were not even handled by the higher-level units.<sup>59</sup>

In conjunction with this project, MoI’s Prakas No. 790 issued 29 June 2004 established a ‘Citizen’s Office’ in both districts to “receive people’s complaints against the administrative performers in the district and conciliate to reach a solution responding to those complaints”. The District Ombudsman, a retired teacher and one-time court official, has been 7 months in the job. He interprets his jurisdiction to include not just the line departments, but the conduct of the Commune Clerks as well. Only two cases have been resolved through negotiation and conciliation. And Ombudsmen in other countries would probably say his security of tenure was too uncertain, the resources available too small and the poor state of administrative law would make it difficult for his decisions to result in action. But this is an important initiative. The Battambang Ombudsman sees great scope for his office to redress mounting grievances from small/medium business, and around land and municipal services. Aside from the largely defunct Cadastral Commission, there are no other agencies offering the beginnings of administrative justice and citizen grievance redressal.

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<sup>58</sup>The project is co-funded by the European Commission (under the Asia Urbs facility) and Konrad Adenauer Foundation. It involves the cooperation with two sub-national entities from Italy and Germany.

<sup>59</sup>Examples given include the approval of business establishment licences: most licences applied for in Battambang Town exceed the authority delegated to the district units; likewise the authority to give permits for operating a guesthouse with maximal five beds is basically meaningless as no guesthouses of this size operate in the town.

## 2.3 Unified Administration: horizontal accountability and donor modalities

The concept of ‘unified administration’ is the one most frequently cited in province discussions which puzzle over the meaning of D&D policy. We were impressed by the very wide range of cogent interpretations of this concept. The Prime Minister’s Sub-Decree, 19 January 2006, has become the governors’ touchstone as it gives a foretaste of the Governor’s role to ‘represent the Royal Government of Cambodia’ at sub-national levels. Nothing is reported to have changed in response to this Sub-Decree, everyone is awaiting the Organic Laws. To the Team, unified administration sounds akin to what other devolutions refer as ‘horizontal accountability’, of which there is an *administrative element* (all administrative organs in a jurisdiction adopting a common policy and planning, budgeting and implementation process) and a *political-administrative element* (in which administrative officials are placed under [varying degrees of] accountability to elected officials at the same level of authority).

The kinds of horizontal accountability eventually crafted in organic law(s) will have a direct bearing on realising in practice the primary accountability of D&D. Current governmental arrangements are of course very different: on the government side, administration is highly centralised, departmentally fragmented, and subject to multiple formal and extra-legal systems which sequester most ‘development work’ in dual or parallel modalities.<sup>60</sup> On the donor side, the vertical controls already remarked upon remove discretion from the local space of formal politics, allowance-driven accountability is the norm, and duplication and co-occupied mandates are the order of the day. But, it is also clear that efforts have been made by donors and government to achieve forms of horizontal accountability at the province level. Here we examine these efforts, just as we have done with the primary accountability and sub-national accountability earlier, and point to lessons and challenges for donor modalities.

*First*, ‘Is PRDC/ExCom an example of horizontal accountability/unified administration?’ Its impossible to avoid this question for around it lie all manner of disputes about ‘harmonisation’, ‘alignment’ and ‘parallel systems’ – in other words, strongly put positions about whether PRDC/ExCom is ‘part of the problem’ or ‘part of the solution’? And neither should this question be avoided for, in the Team’s assessment, it addresses one of the very few instances where serious efforts have been made, and sustained over time, to experiment with horizontal accountability in Cambodia. There is a preliminary question which if left unanswered will dog later discussion: ‘Is PRDC/ExCom, whatever its merits, dependent on salary supplementation?’ Yes, it is. But we have already pointed out that this question is central for the entire Study; it cannot be pinned just to arguments about PRDC/ExCom.

*Second*, the PRDC/ExCom experiment can never exhaust what unified administration will entail. As the First Deputy Governor, Banteay Meanchey explained “Partly ExCom does unify, but not to the extent of the term. At present ExCom just deals with the technical aspects of development, it has found it hard to deal with departmental authority, and has not the powers of employment, discipline or dismissal over line departments. Nor is it concerned with the issues of forest and land administration we’ve just been discussing. These are key features of unified administration”.

*Third*, when PRDC/ExCom performs best, it is:

- A forum for core departments (planning, finance) and line departments debate and learning
- An instrument to promote experimentation and eventual mainstreaming of new systems and procedures – here the list is impressive<sup>61</sup>

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<sup>60</sup> These points are well appreciated by RGC. Cf. NCSC (2005) .

<sup>61</sup> See IFAD (2004, 14).

- A system for integrated, multi-year development planning and budgeting
- A mechanism for donor alignment and confidence building around government systems
- An accountability mechanism that links province activities with commune investments and agreements.
- A channel for innovation and local awareness around gender/child rights, environment and natural resources and HIV/AIDs awareness.

*Fourth*, PRDC/ExCom has also proven itself to be a facility for *aid efficiency*, one that more rapidly than any contending system is able to convert resources into activities. Table C.1 attempts to ‘compare like with like’ in this respect: each project is loan financed, therefore subject to similar loan effectiveness (e.g., pre-start up) requirements; each has similar objects of financing (including, for instance, small scale infrastructure); and common co-production arrangements (market-based contracting with government clients). Whereas the ADB project had, before the loan became effective, to establish fresh project management arrangements (including staffing, consultant mobilisation, equipping, imprest and accountability protocols, etc), the IFAD and World Bank assistance piggybacked on the already-existing PRDC/ExCom institutional infrastructure.<sup>62</sup> Few multilateral Bank-assisted investment projects anywhere would achieve the ‘effectiveness to first contract’ performance of these loans.

**Table C.1: Inception and Start-up: ExCom Compared with Stand-alone Facility<sup>63</sup>**

	PRDC/ExCom System			Stand Alone Facility
Loan Financing	IFAD	IFAD	World Bank	ADB
Project	ADESS	RPRP	RILG	NRDP
<b>Performance</b>				
Approved	5 October 1999	19 September 2003	22 April 2004	12 December 2001
Effective	16 February 2000 (+5 months)	14 April 2004 (+7 months)	16 September 2004 (+5 months)	22 October 2002 (+10 months)
First Contracts	20 February 2000 (+0 months)	20 April 2004 (+0 months)	15 May 2004 (-4 months)	8 October 2003 (+12 months)

Aid efficiency of course must also appreciate the ‘overheads’ – in other words, what does it cost, on average, to deliver these funds in terms of on-ground investments? The PRDC/ExCom system, each year requires close on \$2 million outlay on salary supplementation for around 2,000 government officials across the country. But how does this compare with alternatives? Its difficult to find another, free standing project that approximates Seila, but one project which has perhaps the closest intended resemblance to the Seila PRDC/ExCom system including funds transfer, expenditure control, district and province facilitation teams, and grant financing into the CSF, is the \$20 million, three year Tonle Sap Sustainable Livelihoods Project. (See Box C.2). Under Seila (2005 expenditure out-turn, and 2006 budget) it cost on average \$1.00 in overheads (consultants, supplementation, admin overheads) to deliver \$4.70 in investments for commune and province authorities under the Seila system.<sup>64</sup> Under the Tonle Sap Sustainable Livelihoods Project, based on an analysis of the approved budget, it seems very unlikely that \$1.00 in overheads will be able to deliver more than \$2.00 in investment resources for commune councils.<sup>65</sup>

<sup>62</sup> It will be noted that the first RILG investments were contracted before *effectiveness*. This was made possible by PRDC/ExCom ‘advance funding’ contracts from available funds. Lender confidence in the ExCom/Seila systems is one reason why these two agencies elected to mainstream their assistance through this modality. The *Contracts Database Manual* (STF, 2002) is an example of the relative sophistication that can be enjoyed by donors adopting this system. (Abrams (2003)

<sup>63</sup> Source: PLG records, PRDP Banteay Meanchey. Note that NRDP component three includes (‘Seila-like’) small scale infrastructures that have yet to issue its first contract, i.e., 3.5 years after loan effectiveness.

<sup>64</sup> Seila records, 2005 expenditure results, 2006 approved budget.

<sup>65</sup> ADB (2006, Appendix 5, Table A5.2: Expenditure Accounts by Components)

Many other positive aspects, along with drawbacks, of the PRDC/ExCom experience have been well documented.<sup>66</sup> We concur with the Battambang First Deputy Governor “Actually, whatever improvements we’ve achieved in coordinating province departments so far is attributable to Seila. With Seila we have clear management systems”. And, “in the future, with organic laws, we’ll need a program something like Seila, although of course dealing with different things. What I mean is that to set up the new arrangements, and train people in standardised approaches for implementation. I want to stress this”. *But more can be learnt from the PRDC/ExCom experience in terms of donor modalities and horizontal accountability.* The ‘salary supplement’ and ‘allowance economy’ issue we will return to later. Here we raise some larger issues.

### Horizontal Accountability and Vertical Programs

Although we agree with the Director, PRD, Banteay Meanchey that “Whatever the details of the Organic Laws, we’ll need an executive coordination body for development investments. We think ExCom experience should be built upon”, *we take more heed of his remark* that “You must make

**Box C.2 Tonle Sap Sustainable Livelihoods Project**

To be executed by the MoI, the project was approved by ADB Board, December 2005, with a grant of \$15 mill (total budget \$20 mill) to support ‘demand driven’ livelihoods of people in 37 communes around the Tonle Sap. The project will deploy 841 person months of consultants (133 mths international/708 mths national) at an estimated cost of \$4.4 mill, to deliver \$11.5 mill in special purpose grants into the CSF. Source: ADB (2006).

adjustments to those other arrangements like ADB NRDP, others like EcoSorn<sup>67</sup>, in fact projects like these in every sector, as a main priority after the Organic Law”. Completing the reassignment of functional/expenditure responsibilities, following promulgation of the organic law(s), between central line ministries and Sub-national authorities will, from experience elsewhere, prove a tortuous and lengthy process. This is not just because a host of sectoral laws will need amendment to reinforce the new functional assignments.<sup>68</sup> Again from experience elsewhere,<sup>69</sup> just as difficult will be full re-alignment of vertical programs/projects

with these new sub-national assignments. This is not just because these modalities are embedded in loan and grant financing agreements – often multiple agreements in the case of sector-wide programs - at the highest levels of government-donor relations, but also because they are firmly embedded in arrangements of privilege and patrimony *within* counterpart line ministries that will prove particularly difficult to overcome. It seems to us that this process of vertical program re-alignment, in anticipation of the Organic Law provisions, must start immediately.<sup>70</sup>

Taking one province (Kampong Thom), let’s review the current situation. Does ExCom achieve horizontal coordination, through planning and related systems, of all of the activities of the ExCom line departments? Yes, there is a multi-year rolling plan and a Provincial Investment Plan that all departments contribute to, but the Sala Khet and line departments ‘own budget’ spending remains outside this planning net. In fact, the PRDC/ExCom’s can fairly claim to have harmonised nine donor partners and government financing of the CSF, not all of the significant area-based or sector-based programs operating in the province's jurisdiction, (*including* those where implementation powers have in part been assigned to the province line departments) have been netted to date. And lamentably, many of the ExCom Unit staff and their advisers are unaware of, or unprepared to accept the contradictory pressures also contained within some of the

<sup>66</sup> A comprehensive listing is in Biddulph (2006).

<sup>67</sup> Ecosorn. Economic and Social Relaunch of the Northwest Provinces in Cambodia. European Union. Executed by MAFF. Participating agencies, MAFF, MRD, MOI, MOWRAM and MOWA. Euros 25 million. Jan 2005. Multi-sectoral rural development project. Largest three investments: International TA E5.45mill; Demining E4mill; agriculture, livestock and fisheries E3.85mill. Ecosorn Project: Initial Plan of Activities, 21 February 2006.

<sup>68</sup> An indication of the scale of this task is in Oberndorf (2004).

<sup>69</sup> Cf. Porter and Cyan (2006).

<sup>70</sup> In Section E.2 we make suggestions how such immediate steps could begin.

projects they are partly responsible to manage. Two examples may illustrate how difficult it is to get horizontal accountability, even within PRDC/ExCom managed projects. There are two IFAD funded agricultural/rural development projects being implemented in Kampong Thom: the Community Based Rural Development Program (CBRD)<sup>71</sup> and the Rural Poverty Reduction Project (RPRP).

When asked to outline the RPRP systems in Kampong Thom, the Director, Province Department Agriculture (PDA) said, “Which one do you mean? There are two systems, RPRP and PDAFF”. RPRP sees the PDA maintaining district technical support teams in addition to the ExCom’s PFT/DFT, each focusing on different aspects of commune planning, but each facilitating a process which results in priorities which repeat the domains of the other. The RPRP PDA technical teams say they are not part of the CIP process, although they do participate in the DIW. In practice, DIW is here as strong as a paperclip. The IFAD Rural Infrastructure Investment Fund (RIIF) funds local infrastructure, whereas the technical teams under the PDA (funded by RPRP) provide extension services to farmers. Rarely do they meet, in discussion or on-ground practice to link up their investments.<sup>72</sup> Similarly, the Commune Extension Workers (CEWs) funded under the RPRP are somewhat of a misnomer: CEWs are contracted by the PDA, their activities appear to be completely as planned in the project document – a list of pig house, chicken house, fish, household garden etc delivered to people categorised as ‘the poor’, by the PDA process, not the Commune Council. ‘Commune’ refers to where they work, not to whom they are accountable.<sup>73</sup>

In another instance, the RPRP lists ‘policy dialogue’ around targeting the poor, pro-poor resource allocation and D&D among its purposes. Yet many of the project activities are implemented by the PDA staff as if they are on auto-pilot, knowing for instance, that some of the key activities required by the project design (e.g., revolving rice banks, the promotion of input suppliers in an agricultural extension role) are inappropriate and just won’t work, knowing also that Councilors have told them this as well. Not surprisingly, beyond PRDC/ExCom projects, efforts to engage with vertical projects also operating in their areas – for agriculture, irrigation, small infrastructure, social services, etc – to bring some measure of horizontal coordination and greater recognition of primary accountability in their operations, seems to be very infrequent. This is not just because few in ExCom and its Units have read the D&D SF, nine months after it was released. Neither, in our view, is it because, as one Unit Adviser said “Basically, our only source of information is the Seila document. We’ve not been trained, nor got copies (of the D&D SF)”.

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<sup>71</sup> Community Based Rural Development Project, Kampong Thom and Kampot Provinces, is a good example of multi-donor harmonization, and alignment of investments through Treasury systems; \$22.85 million, Multi-donor cofinanced IFAD (44%), German Government, WFP, AusAID, STF/Partnership for Local Governance/Seila, and RGC. Started 2001, through to March 2008. Includes: rural infrastructure, agriculture development and marketing, community and civil society development, decentralized development management, economic and NRM, irrigation and gender mainstreaming. It should be noted that when CBRD started in 2001, there were no commune councils and there were limited efforts at province level horizontal coordination. “Despite these extensive changes, and weaknesses in the original project design, considerable progress has been made on this project”. Mission Aide Memoire, CRBD Mid-Term Review, 6 May 2005.

<sup>72</sup> “The planning of agricultural activities operates independently from and is not supportive of the commune planning process, thus commune investment plans either lack agricultural activities, or present ideas that the PDADD/DOT cannot respond to. ... a lack of understanding and clear lines of authority between component managers – specifically agriculture and water resources – and project management/ExCom has inhibited implementation”. Mission Aide Memoire, CBRD Mid-Term Review, 6 May 2005. This contrasts with remarks in Bishop (2005, 11) “A feature of RPRP implementation in year 2 is the greatly improved management by both PDA and the provincial ExComs and the good cooperation between them.” The author was, however, contrasting this with the previous year.

<sup>73</sup> This weak accountability might have been anticipated, and corrected for, in the CRBD project design/mid-term review. However, the larger issue is that there has been no policy or legal framework outlining the roles and relationships of ministries and the deconcentrated agencies with respect to Communes (except MoI, MoP and MoEF). NCSC (2005, 22).

Frankly, this state of affairs *is not necessarily a reflection on Seila/PRDC/ExCom*. Rather, the main reason why, in some provinces several years after ExCom's were created, they are still unable to coordinate beyond Seila financing partners is that many donor modalities have become so firmly embedded in both government and donor ways of doing business. It is curious that the international community has been keenly promoting harmonisation and alignment around decentralisation whilst at the same time continuing to proliferate modalities in health, agriculture, forestry, water resources, education, and rural development sectors which are clearly inconsistent with basic precepts written into law in 2001. The EcoSorn project, just getting underway, is a case in point. Prepared before the 2001 LAMC, the *Initial Plan of Activities* (21 February 2006) spells out how it will add to (i.e., 'consult with') around ten multi- and bilateral agency funded vertical programs in the same provinces which fund into the same mandates, and then proceeds to detail a set of parallel implementation arrangements as if the LAMC 2001, Commune Councils, existing and proven horizontal and sub-national accountability/integration arrangements simply do not exist, and that debate about the organic laws has not yet begun.

The PRDC/ExCom arrangement has been useful, not just in aid delivery, but in piloting some arrangements that show the challenges ahead in putting a 'unified administration' in place. In the meantime, however, we believe this modality has reached the limit of what can be expected until:

- a) organic laws and subsequent actions delegate/assign to provinces authority for line ministry staffing, non-salary recurrent and development spending
- b) workable solutions are found to the issue of salary supplementation and the 'allowance economy'
- c) a strategy is adopted for the transfer of vertical program expenditure powers to sub-national authorities, consistent with the organic laws<sup>74</sup> and
- d) a system of intergovernmental fiscal grants is progressively introduced to provide general purpose and conditional grants to sub-national authorities for the bulk of their mandated service responsibilities.

## 2.4 Modalities of capacity building and accountability

The Team found much to appreciate in government and donor modalities around decentralised planning, financing and local infrastructure and service provision. We have illustrated many instances of harmonization, and alignment in the context of D&D's new accountability map. This however has served also to contrast an apparent lack of innovation in the field of 'capacity building'<sup>75</sup>, with respect to the same accountability map. We are conscious that this topic has worried many, and that much more expertise than available to this Team has been brought to the subject in Cambodia.

We do not dwell on comparisons between what for us are marginal differences in approach, Seila or otherwise,<sup>76</sup> nor debate the merits of project accounting practices that turn salary supplementation into euphemisms for 'training-related allowances', nor repeat what has already been said about the need for new skills, and better performance, to embark on the next phase of D&D reform. We do think however, special mention of capacity building can be made in a way

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<sup>74</sup>Here, we are *not* arguing for wholesale unbundling of vertical projects – there is room for innovation and adaptation on a province by province, program by program basis. The key is to avoid multiple donor program systems, reliance on extra-legal, project-based protocols, and co-occupation of mandates by multiple principal-agent agreements

<sup>75</sup> For our understanding of the term 'capacity building' see the Glossary.

<sup>76</sup> Debate about training/capacity building has featured in many Seila/NCSC reports. For an example of worries about the centrally driven training package, see, Lundgren and Griffen (2002) and for an endorsement see Turner (2004), who also suggested a more 'demand driven' approach (as discussed further, below) would be appropriate in the future. For a general assessment of capacity building strategies in Cambodia see the report by Siddiqui et al. (2004)

that reinforces our points about primary accountability and the changes needed to promote the concepts of sub-national accountability and horizontal accountability discussed to this point. To do this, we make a contrast, albeit over-drawn, between ‘typical vertical program’ and ‘client centered’ capacity building relationships. One remark, by a Councilor in Koas Kralor District, Battambang signaled the need to take this approach. “After so many trainings” he said, “why do we still feel so stupid?” He and many Councilors recognize that ‘supply driven’ training gives poor results. They also believe that present arrangements provide too few opportunities to do anything about it. “If the training is no good, well perhaps we can write a report. But what would be the point?”<sup>77</sup> The standard model distorts incentives, and weakens primary accountability.

Figure C.4 contrasts two different modalities for the support of ‘capacity building’, in this instance, training of commune officials or line staff deputed to work for them. It will be immediately obvious that we have over-drawn the contrast between these two modalities. But it is also the case that the ‘typical vertical program capacity building’ depicted here largely corresponds with the norm for much of what happens in Cambodia at the sub-national level. Here, if the capacity building requirements are not detailed in the project document, then soon after commencing, the central ministry project management unit will call for consultant advice to provide the necessary definition. Training plans, schedules of events, and budgets with long lists of allowances for lunches, trainers and trainees and supporting equipments are then passed down to sub-national authorities for implementation.<sup>78</sup> Thereafter, most training is provided under ‘force account’ arrangements, directly by the PMU or its line department affiliates. Progress is duly certified, payments made, and financial and narrative impact reports then provided to service the needs of the central PMU’s reporting to donors. Accountability is here entirely in the hands of the project’s management, ultimately referenced back to the government-donor agreement.

The second column depicts a ‘client centered capacity building relationship’. This too should have familiar elements for it corresponds with the modality under which Communes utilise their CSF transfers. Funds are provided for local plan and budget allocation, although with a menu providing guidelines as to how this money should be invested. Once priorities have been locally determined, the Council approval of the budget triggers provision of technical services to prepare, appraise and design the investment project. Contracts are subsequently let, technical performance is monitored by line departments/ExCom units, and payments made by the Commune to the contractor. Various accountability checks come into play.

This modality has of course not been applied to the vast allocations made through donor supported programs for capacity building. But the logic, in large measure is the same. In this example, a share of ‘capacity development’ investment funds are transferred, in cash, or perhaps as vouchers<sup>79</sup>, to communes, along with a menu which lists the kinds of support that can be ‘purchased’ with these entitlements: training for planning systems, for budget making, for support with by-laws, mentoring services to coach and backstop on the job, and so on, along with a stipulated share which can be used to ‘buy-in’ technical services to help design what’s required, appraise it, and monitor the quality of the services eventually contracted to deliver these requirements.

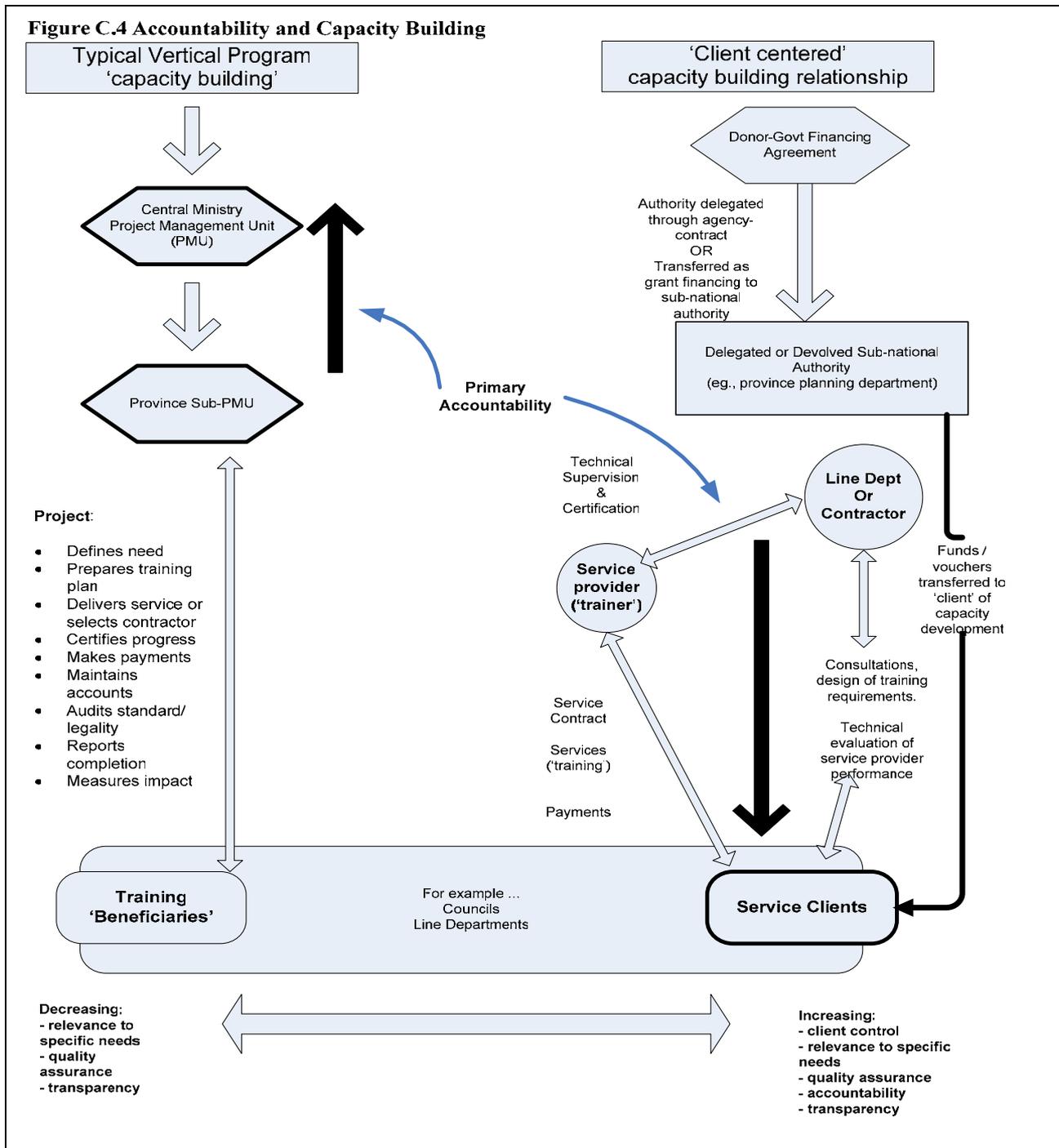
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<sup>77</sup> Councilor, Thmar Pouk district, Banteay Meanchey. There is a larger issue here, which many Councilors are aware of. Province governors act as channels of communication between Councils and national government. Thus complaints against ExCom, or any other program, strictly speaking, would need to be submitted through the governor in order to be forwarded to the national level. NCSC (2005)

<sup>78</sup> We take note of the different approach taken for training events under the NCSC/Seila/ADB supported national training program, which employs cascade techniques, annual needs survey, pilot testing of courses and formal evaluation of courses by trainees. See the positive assessment of this in Turner (2004).

<sup>79</sup> We note this suggestion was made by the Rudengren, Andersen and Durant (2005).

Such approaches have been taken in other, equally challenging environments, where established patterns of patronage around ‘capacity building’ are just as strong and entrenched.<sup>80</sup> Our point is not to advocate for its immediate application in Cambodia. But we do believe this comparison illustrates the ground yet to be covered in ensuring that support for capacity building is made consistent with D&D policy on accountability.



<sup>80</sup> See, the Uganda example: Onyach-Olaa (2003); Obwana, Steffensen, Trollegaard, et al., (2000).

## 2.5 National Vertical Accountability: A summary example

Defining the appropriate balance of upward accountability (through policy and regulation) and downward accountability (to constituents) is critical. But everywhere the appropriate balance depends on the particular situation.<sup>81</sup> Central oversight is important: but the form this takes, especially where traditions of democratic institutions, the rule of law and citizen-oriented bureaucratic culture are weak must be locally decided. And where local political accountability is weak, as in Cambodia, it is important to include alternative means to promote this. Most tested elsewhere are mechanisms to promote local fiscal responsibility (such as through assigning own sources of revenue); to send clear signals about policy priorities, while minimising the transaction cost of local financing (e.g., through discretionary block and conditional grants); fiscal transfer arrangements that promote and reward good and sanction bad performance (again, often through the ‘more or less’, and ‘on-off’ switches in grant systems); competitive evaluations of performance across jurisdictions; and of course, enforceable audit and interdiction systems. Actions to promote the capacity, and will, of political parties to discipline officials at all levels; administrative justice arrangements to litigate against ‘acts of omission and commission’ by public servants; or to mobilize demand through civic associations, special, public interest litigation and the like have also been critically important.

Here, our intention is less ambitious. In Cambodia, donors and national government *tend* (not exclusively) to deploy only one predominant form of communication with sub-national authorities, elected or not, that has the prime intention of reinforcing only one direction of ‘national, vertical accountability’. That is to say, they use vertical program modalities to create parallel systems in which the ‘hard outer edge’ of the vertical program is believed to make it possible to protect resources from local discretion (ie., ‘corruption’) while providing ‘inside’ this container plenty of opportunities to reward officials who, in various terms, are seen to be otherwise ‘getting the job done’ and can, by reports and other means, attest to this fact back upwards through the system.

Here we use just one program to illustrate this point and its likely consequences for ‘D&D accountabilities’ – there are others, but this particular case allows us to summarise a few points made so far. The **Health Sector Support Program** (HSSP) is an effort to directly address chronic problems of health service delivery in Cambodia: unresponsive and poorly managed health facilities, poor demand articulation, mis-matches between health needs and service delivery, and inadequately trained and supervised staff which, often, results in abuse of basic rights. To do this, HSSP adopts the ‘direct route’, that is, administrative arrangements are made to effectively bypass sub-national administrations (province and district) and elected commune leaders to impact on service delivery directly through executive management contracts with NGOs – for managing health facilities, training and ‘health equity funds’.

The HSSP has many innovative features: not the least because it represents great efforts by donors to align with government policy around a sector-wide approach (or the SWiM, sector wide management, as its termed); that is, it provides a platform for common donor-national government accountability on health policy, financing and outcomes. Thus, HSSP is supported by development banks, multilateral and bilateral agencies and a range of NGOs who act as advocates and contractors to the program.

However, two features of the HSSP arrangements illustrate the kinds of ‘alignment’ challenges that will need to be addressed to achieve consistency with the spirit of the LAMC 2001, and the likely arrangements in the forthcoming Organic Laws and amendments to the LAMC.

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<sup>81</sup> Cf. Mullins (2003)

### **a) Vertical Programs, NGO contracting and accountability**

As mentioned, HSSP adopts a 'direct route' to impacting on service delivery: authority, powers and resources are delegated through contracts to health service agencies (NGOs) so as to directly improve delivery of services to the 'clients' of service. As will be explained, this contrasts greatly with the 'indirect route' envisaged in national D&D policy. Here, a longer process is envisaged in which citizens will articulate their demands through their elected leaders, who will in turn allocate budgets to make improvements (to staffing, or facilities) and, through their control of Health Centre Management Committees (HCMCs), (or similar arrangements at higher levels in the system) will regularly monitor the performance of health workers.

Under HSSP, special purpose contracts have been made with competitively selected NGOs to take over management of Operational Districts (ODs) and their constituent Health Centres. The NGOs are *primarily* accountable to the HSSP PIU in Phnom Penh. These performance contracts stipulate the MDG-related health targets and service delivery obligations, the NGO's management responsibilities, their reporting obligations and the evaluation arrangements. The province's obligation is to ensure that the health 'establishment' is disciplined and maintained (staff appointments, posting, transfers, consumables and equipment). The NGO's task is to deliver on their contracted health outcomes while at the same time readying the OD's to 'manage their own affairs' at the end of the contract, when supervisory responsibilities will be returned to Province Health Departments.

During earlier, experimental pilot activities, these arrangements were shown to improve public utilisation of and satisfaction with the health facilities. This is not contested. But what of the lasting effects of these innovations, and what can be said about their likely alignment with, and impact on, the primary accountability between citizens and elected leaders, the sub-national accountability, and unified administrative arrangements hoped for under D&D policy? Figure C.5 illustrates part of the answer.

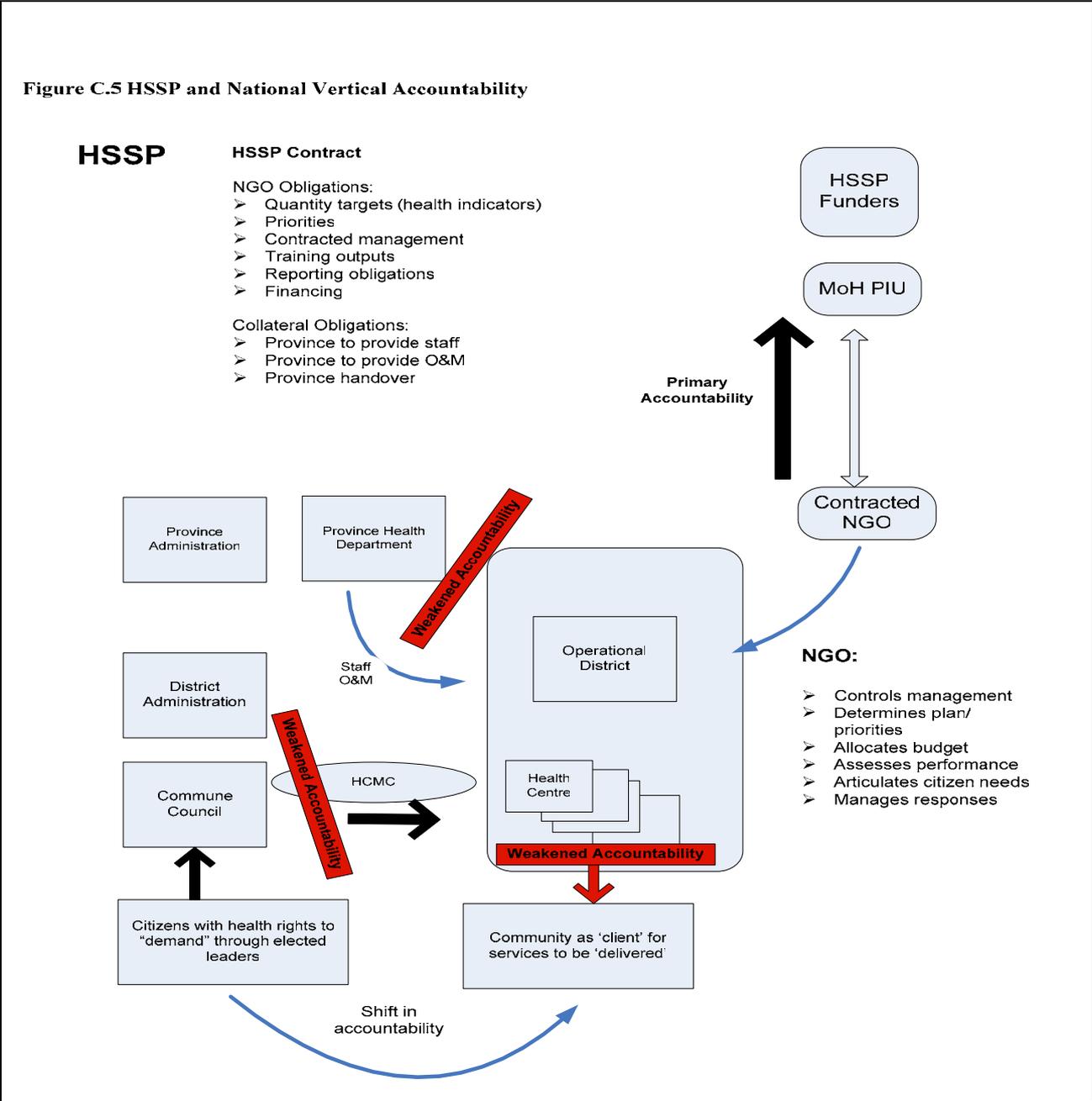
First, at the operational level, the NGO contractors already report good progress in public access and utilisation of facilities (in one case, reportedly up 24% in 3 months). But, perhaps as can be expected, they also report difficulties. Province HDs are typically not meeting their obligations to fill staff vacancies, nor do they seem prepared to discipline or transfer underperforming staff. Similarly, operational funds, for drugs and other supports, are typically delayed – responsibility for which PHD Directors point to their Treasury. More evident is that PHDs feel cut out of the process, and are resentful of the special privileges (salary supplements, better working conditions, etc) that accrue to their peers in the HSSP NGO-supported ODs. For the medium term, when the OD is returned to them for supervision and support, they doubt their budgets will be able to sustain the needs of the better facilitated ODs and HCs. Neither do they seem inclined to make efforts towards this.

The NGOs have had their hands full, but they've not neglected what they call 'community based' arrangements through which 'client demands' are articulated. They have enabled relations with voluntary village health workers, and have encouraged HCMCs to take an active interest in the management of the HCs. Unfortunately, commune councilors, they say, have little interest in participating effectively, and, consistent with experience world-wide, health professionals seem reluctant to 'take direction' from elected leaders – after all, they are hardly 'qualified' to do so.

The precise obligations of commune councils, or for that matter, District or Province administrations for health sector policy, planning and delivery are yet to be determined. However, it is already clear that until these levels of government have greater control over the staffing, resourcing and performance of health sector staff and facilities, there is little prospect of increasing the political accountability of elected leaders for the quality of health services. Indeed,

more likely is that HSSP-type arrangements, which privilege the direct route to better health service, through special purpose contractual arrangements that are made well outside the domain of sub-national elected leaders, could undermine what D&D policy intends. The concept of unified administration and sub-national accountability, of ‘resourcing following function’ and the primary accountability of elected representatives to citizens all promise arrangements that will give elected leaders greater control over staff, non-salary budgets as well as resources to build new infrastructure. But this is yet some way off. In the meantime, as the WB 2006 Poverty Assessment report makes clear, health service delivery is not, except in a few cases, constrained by the lack of infrastructure which communes now largely control. Thus in the interim it becomes important to consider how some of HSSP’s prodigious resources can be directed to commune councils, perhaps through a special purpose grant for a limited range of O&M expenditures. This could be a way to activate Commune interest in HC performance, and attract greater attention by Health workers, to locally expressed demands.

Figure C.5 HSSP and National Vertical Accountability



## **b) Health Equity Funds and the ‘costs’ of better performance**

HSSP also includes arrangements to promote access by the poor people to health services at ODs and Health Centres. The Health Equity Fund makes available around \$20,000/month (\$240,000 per year) on an OD basis to pay outright, or substantially subsidize, the costs of health care for various categories of ‘poor people’ identified through rigorous scrutiny by the NGO. The Fund is, in other words, a ‘social safety net’, designed both to protect the poor while reforms are being implemented to the overall health sector, as well as to immediately increase their access to health facilities.

To make this work, NGOs are contracted by the HSSP PIU to manage the Health Equity Fund. They survey the population to identify who is eligible, categorise them according to the level of subsidy they will be entitled to, issue identity cards and, when they are unable to pay for services at the hospital, screen their applications for support. In Kg Thom, the NGO contractor, Action for Health, anticipates that at least 24% of the provinces population may be eligible for support from the Fund.

The performance of the Fund, as well as performance of the health staff who provide the subsidised service, is monitored through a ‘Health Equity Fund Committee’. This committee is comprised of ‘representatives of the poor’, not elected leaders nor the village chiefs/administration, but people appointed from the pool of ‘poor people’ identified during the NGO’s work. The Committee receives information from village health groups and working together, as the NGO contractors say, this helps ‘empower the poor, gives them a say when they don’t have any other way of expressing demands’. These demands, perceptions, problems are then conveyed through a Sub-committee of the Province Steering Committee (consisting of administrative officials under the Governor’s leadership), which then deals with grievances, and if needs be, makes adjustments in how the Fund is targeted.

The quantum of funds this directs to the poor should not be underestimated. In the Kg Thom OD, \$240,000 per year compares with the OD’s total 2005 budget of \$384,000.<sup>82</sup> What’s more, this is effectively ring-fenced from political influence by elected councilors, to ‘protect’ it on behalf of the province’s poorest people. But administration costs are also significant. AFH report for instance, that their operations budget is around \$7-8,000 per month, that is, the cost of provision is 35-40% of the services provided. Combined, the health fund operation in Kg Thom engages around \$336,000 each year, compared to the ODs \$384,000 total budget for 2005.<sup>83</sup> The alternatives have been well canvassed by the HSSP designers. Each OD maintains a hospital fees fund into which the fees paid by each patient are divided as follows: 60% is a bonus to staff, 38% is used for O&M, and 1% is returned to the national consolidated revenue. Theoretically, the proceeds may also be used to subsidise health costs of the poor, but the Fund is presently so poorly and untransparently managed that few imagine this might provide a workable solution for the poor. So, far better to ‘go around’ the Fund, and create a parallel system.

How would D&D policy see the Health Equity Fund? Again, it is not yet clear what health service obligations communes, districts or provinces might have as a result of the organic law(s). But it is already clear that responsibility for primary health care, and to ensure that the poorest sections of the community are able to access health care will be devolved to sub-national administrations who are under the direction of elected local authorities. The assignment to sub-national elected authorities of HSSP’s special purpose arrangements for protecting the interests of the poor therefore seems certain. What ‘transition’ arrangements might be considered: delegation of responsibility to identify ‘the poor’ to elected leaders who might then be held accountable for

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<sup>82</sup> Kg Thom Operational District, 2005, Chapters 11, 31, and 10. Source: Director, PHD.

<sup>83</sup> We appreciate that these figures, from AFH and Director, PHD may reflect inaccuracies due to differing interpretations of ‘budget’.

their decisions? Integration of the ‘Health Equity Fund Committee’ into a ‘Health Committee’ of the Commune Council, providing for elected membership, rather than membership determined by the NGOs, that is, by unelected contractors? And, thinking ahead, might the Fund itself, along with its administrative overheads, be returned to the OD administrative system? Might the administrative jurisdictions of districts and health operational districts be realigned? Might powers be given to sub-committees of elected district administrations to have a more watchful eye over what health staff do with these resources?

Whatever alignments might be envisaged, for the Study Team, it is clear that the innovations of the Health Equity Fund show little prospect of increasing the accountability of elected leaders for the performance of health service providers. Indeed, it takes these responsibilities out of their control, and vests them in contractual relations in which accountability is to the central government Ministry, and the terms of its financing agreements with international donors.

### ***C.3 Summary and Conclusions***

In Section C we have illustrated how existing cases of donor (and government) modalities impact on the various dimensions of our accountability map, and how they can distract, distort and prevent primary, horizontal and other forms of accountability.

Main issues identified in these cases are as follows:

- The *crowding effect of multiple relationships* with external partners (‘donors’), which draw the attention of elected leaders away from their constituency towards meeting the requirements of these external relationships – thus replacing primary, political accountability with an administrative kind of accountability to external actors (case of Tbeng Commune);
- The comparative *neglect of “governance” or regulatory issues* in providing support to sub-national initiatives and innovations, putting such innovations at risk and reducing their potential benefit for the communities involved (cases of Tbeng Community Forestry and the Kbal Por Community Pumping Station). We have also highlighted positive cases where donors support innovative approaches (case of the Pilot District Administration Project);
- How the potential of *the PRDC/ExCom arrangement to ensure sufficient sub-national accountability* is limited by the effects of line ministry centralization and vertical programs. Existing modalities (like the DIW and TA agreements between communes and provincial line departments) are clearly regarded as positive, and shape the way in which Communes interact with higher levels. However, there is also evidence that many relationships between provincial departments and communes take place outside the CIP/DIW arena, as seen in Banteay Meanchey province and elsewhere.<sup>84</sup>
- The *overriding strength of vertical, sectoral programs* which either largely by-pass sub-national entities (case of the HSSP), or overrule efforts for horizontal coordination like the PRDC/ExCom arrangements (cases of EcoScorn, NRDP).<sup>85</sup>
- The *positive effects of harmonized and aligned systems* in speeding up the availability of external resources for the sub-national level (the comparison of ‘aid’ efficiency of PRDC/ExCom, and stand alone projects)
- The *harmful effects on primary and horizontal accountability of the dominant implementation modality for capacity building measures.*

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<sup>84</sup>GTZ (2005)

<sup>85</sup>This critique does not mean that these programs do not achieve their (sectoral) objectives – HSSP might very well succeed in providing quality health services to citizens. It is not the task of this Study to evaluate such programs. The task here is to assess such programs under the aspect of fostering “democratic development” as envisaged by the D&D policy reform. And it is under this aspect that the current modalities of most sector programs fail to respond to the policy objectives of the Government.

What conclusions and lessons learnt can we draw from the case studies and field visits by applying the D&D policy principles outlined in Section B (see Table B.2)? As the first two principles (local participation and choice, political and administrative accountability) are largely identical with the analysis based on our accountability map, we will not look at these issues again but begin with the third principle.

### *3. Government ownership (of designated authority, avoidance of duality of responsibility, reduction in parallel systems)*

The key issue here is “ownership of **designated** authority” - as soon as functions have been assigned to sub-national levels, donor resources have to support the discharge of these functions at that particular level (which might be the district or provincial level). Currently, this issue does not arise, as most functions remain national functions.<sup>86</sup> However, the strong reality of vertical programs which sit outside arrangements for horizontal coordination (at provincial level)<sup>87</sup>, underlines the need to address the modalities of such programs once the organic laws have been approved and functional assignment has taken place in the sector. We have furthermore seen the continuing existence of parallel systems in implementing donor programs, leading to duplication of structures (like PMUs), systems and procedures. Providing resources to sub-national authorities through an intergovernmental fiscal grants system would largely reduce the need for such parallel systems. One way to reduce parallel systems is the use of a common planning, budgeting and investment management system, as the one stipulated in the LAMC 2001 for the commune level. The proliferation of external relationships, and the large number of activities which take place outside the CIP/CDP process erode the unifying effects of this system. Donor modalities furthermore undermine ‘ownership of designated authorities’ if they introduce structures and institutional arrangements (like special-purpose committees: community forestry, health etc.), which can undermine the responsibilities of elected leaders or administrative bodies for managing public assets and delivering public services.

### *4. Fiscal transparency and accountability (transparency and accountability in fund management, transparent procedures, good practices for monitoring and safeguarding of donor funding)*

The PRDC/ExCom arrangement under the Seila program, with its own systems of financial management and auditing, has proved to be very attractive for donors which do not want to support separate project management structures but at the same time are not (yet) prepared to *fully* rely on the Government's treasury system. Innovations like the PRDC/ExCom Internal Auditor and the introduction of provincial Accountability Working Groups (AWG) have been important in this respect. The triangular relationship built into the system (council, contractor, provincial technical oversight) promotes checks and balances, which is missing in most sector programs which rely on purely internal financial management systems.

Fiscal transparency and accountability is weakened by the large number of off-budget resources (be they monetary or in-kind), which – at the commune level – never make it into the commune budget thus reducing the value of this instrument for enforcing accountability of the commune council to the citizen. Regulations for future provincial and district budget arrangements will need to address this issue.

Current donor modalities in most cases reinforce an upward accountability in financial management: towards national ministries or the donors. Improving the quality of the public

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<sup>86</sup>Limited functions have been assigned to the commune level, within sectors some functions have been deconcentrated to provincial departments of sector ministries (e.g., Priority Action Program).

<sup>87</sup>Like the cases of NRDP and Ecosorn in Banteay Meanchey.

financial management system is a major pre-condition for the D&D reform implementation, which would allow to channel more resources through the budget system, with horizontal accountability towards the citizenship.

*5. Flexibility and Sustainability (response to phasing of D&D reforms, sustainability of funding commitments for medium-term planning)*

Flexibility and sustainability in this context is less an issue of the individual cases observed, but rather a macro-level issue relevant for the overall D&D reform process. Individual cases of donor supported activities should have the flexibility to respond to the envisaged policy changes,<sup>88</sup> however this requires a strong effort from the Government during the initial phase of the reform implementation. Over the period before the LAMC 2001 and since, donor support through the PRDC/ExCom arrangement has proven to be highly flexible in adapting to new systems introduced by government

*6. Managing for Results (capacity, performance incentives)*

Some programs (e.g., the Seila program) have introduced competitive recruitment and performance assessment procedures. A constant observation has been the importance of the remuneration, i.e. the issue of salary supplements, training and travel allowances and other monetary and non-monetary incentives. The need to increase the take-home pay of civil servants impacts negatively on several of the principles here – accountability, ownership, fiscal transparency, sustainability. The results-orientation of donor-supported activities can easily be exploited by the individual interests. The PRDC/ExCom arrangement is not immune from this issue, nor are the sectoral vertical programs. But it is a systemic issue, not one that is attached to a particular modality of donor support. Donors in theory have agreed to phase out salary supplements, but other ways have to be found how public servants can earn a sufficient salary which allows them to focus on their tasks and responsibilities. We say more about this in Sections D and E.

*7. Government-Donor Cooperation (coordination, common arrangements and procedures, consultations and coordination between Government and donors)*

The issue of government-donor cooperation is not only an issue for the national government. Repeatedly, we found that provincial officials (in particular the governors) had little knowledge about the donor-supported activities which were being implemented in their province, as these activities are owned by sectoral agencies. Insofar as such sectoral activities are not reflected in provincial plans and budgets, they by-pass the provincial authority and weaken horizontal accountability. In conjunction with the principle of ‘ownership of the designated governmental authority’, the envisaged assignment of functions to sub-national authorities will require closer coordination and cooperation at the sub-national level, guided by national-level policies and arrangements. Again: increased use of Government's own planning and budgeting systems to channel external resources to the sub-national will reduce the need for external coordination.

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<sup>88</sup>In this respect, the new EC/UNDP project (Strengthening Democratic and Decentralized Local Governance in Cambodia) is a positive example as the project document already anticipates the need to change project approach and strategy in line with the D&D reform process.