

Briefing Note

Chairman of Senate Commission 2, Commission on Finance, Bank and Audit

The Implementation and Oversight of the Budget in respect of Sub-National Administrations in the Context of Decentralization and De-concentration

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1. Introduction

Decentralization policy has become an issue for many countries, especially among those that have enjoyed economic growth. The experience of some developed countries suggests that while they were benefiting from economic growth, they were also facing unequal redistribution of this growth to the region and local levels.¹ After years of civil war and unrest ended, Cambodia has endeavored to develop the policies, strategies and programs for the country's rehabilitation to ensure sustainable economic growth with equity.

To this end, Decentralization and De-concentration (D&D) reform has become one of the main elements within the Rectangular Strategy of Royal Government of Cambodia (RGC). The government considers this reform to be an effective way to ensure that public services are closer to the people. The three main goals of this reform are: 1) People are able to actively participate in decision-making at the local level and given this participation, the needs of the people at the local level will be seriously taken into account; 2) Public service delivery ministries or national institutions will be more effective because the service delivery is transferred more closely to people; and 3) a mechanism will be created to mobilize resources at the local level.

Based on D&D policy frameworks for Cambodia in 2005, elected councils at all tiers of sub-national administration - Commune/Sangkat (C/S), District/Municipality/Khan (D/M/K) and Provincial/Capital (P/C) - have a mandate to promote local development within their jurisdictions. In order to do this, elected councils must have resources, both human and financial, to manage local planning and development that will allow for autonomy, transparency and accountability, and be responsive to their people.

Decentralization is classified into three categories - administrative, fiscal and political.² Fiscal decentralization is the transfer of financial resources from the central government to local governments, whereas administrative decentralization refers to the extent local governments obtain autonomy from the central government. Political decentralization means to what extent the local government has the political authority to represent the local people.³

This briefing note will focus mainly on fiscal decentralization – i.e. the sub-national administration budget in the context of D&D reforms in Cambodia. In addition, it will examine the legal frameworks in relation to the operation of the sub-national budget, how the sub-national budget is implemented and how parliament strengthens its oversight role to ensure the budget implementation of sub-national administration is aligned with the relevant laws and regulations.

2. Legal Frameworks Supporting Sub-National Administration (SNA) Budgets

Decentralization reform is complex and often difficult. *“Decentralization is a dynamic process. No country ever gets its right on its first try or even second, or third. Circumstances change,*

¹ National Program for Sub-National Democratic Development 2010-2019.

² Iimi, A. (2005). Decentralization and economic growth revisited: An empirical note. *Journal of Urban Economics*, 57, 449-461.

*and the nature and design of intergovernmental fiscal relations should change also.*⁴ Furthermore, successful decentralization practice within one country does not mean it is workable in another country. Successful implementation is always related to various factors such as demography, economy and culture.

Since 2001, Cambodia has promoted sub-national democratic development through D&D reforms that aim to ensure that local development is executed using the principles of good governance. Since the commencement of the D&D reforms, the main legal and policy frameworks have been enacted to ensure sub-national administrations obtain revenues/ budgets to implement their mandates that are stipulated in the country's laws. The legal framework is as follows:

a. Law on Administrative Management of C/Ss (2001)

This law was adopted in 2001 and focuses on C/Ss which represent the lowest tier of local government in Cambodia. It sets out the administrative management framework for C/Ss in compliance with the decentralization policy⁵ and furthermore stipulates the resources available for C/S administrations, which include revenues, budgets and assets from various sources such as the central government, local tax collection, contributions etc.

b. Law on Administrative Management of D/M/Ks and C/Ps (2008)

This law provides autonomy for D/M/Ks and C/Ps so that they can manage their own budgets for local development in their own jurisdictions. Article 44 of the law stipulates that D/M/Ks and C/Ps shall have their own budgets. This law requires them to implement their budgets in conformance with other relevant laws and regulations such as the Law on Public Financial Systems, Law on Financial Regime and Property Management of SNAs, and others.

c. Law on Public Financial Systems (2008)

According to Article 3, this is a fundamental law for national and sub-national financial management in Cambodia. It also stipulates how the public budget is managed which includes budget formulation, implementation and oversight.

d. Law on Financial Regime and Property Management of SNAs (2011)

Prior to this law, there was the Law on Provincial/Municipal Financial Regime and Property Management adopted in 1998. It was updated in 2011 to conform to the new D&D context. This law aims to establish financial sources for SNAs (SNAs in the law refers to D/M/Ks and C/Ps only) to have the potential capacity to undertake development in their jurisdictions in line with the RGC's D&D policy which contributes to poverty reduction.

³ Schneider, A. (2003). Decentralization: Conceptualization and measurement. *Studies in comparative international development*, 38, 32-56.

⁴ Bird, R. M and Ebel, R.D. (2001), "Fiscal Federalism and National Unity." <http://www.urban.org/uploadedPDF/1000803.pdf>. Retrieved: 2 Nov, 2015.

⁵ Law on Administrative Management of CS.

e. Law on Audit (2000)

Articles 1 and 2 of this law stipulate that the National Audit Authority (NAA) is established to undertake external audits on government institutions including sub-national administrations.⁶ External audits may be conducted on, *inter alia*, financial statements, management systems, and operations.⁷

f. Sub-decree on the Establishment of C/S Funds (2002)

The C/S fund is a fund transferred from the central government to C/Ss. This sub-decree focuses on the establishment of the fund, and the purpose of the fund is to enable the C/S councils to execute their mandates in accordance with the law on administrative management of C/Ss. Also, the sub-decree has set out the formula for how to allocate funds for each C/S. Furthermore, the sub-decree stipulates how the fund is spent.

g. Sub-decree on C/Ss Financial Management Systems (2002)

This sub-decree deals with the financial management systems of C/Ss as a whole and stipulates both expenditures and revenue sources for C/Ss and the steps on how to prepare and implement budgets.

h. Sub-decree on the Establishment and Functioning of Municipal /District Funds (2012) and Sub-decree on Financial Management of Municipal /District Administrations

The two sub-decrees are formulated in the same fashion as the sub-decree on C/S Funds but apply only to municipalities and districts. Before the establishment of the D/M fund, D/M's budgets were under C/P budgets only. Again, the D/Ms can use their budget autonomously to satisfy the needs of their local people, which is another achievement of D&D reform.

In addition to the main legal frameworks described above, there are other Prakas, guidelines and manuals relating to budget management that apply to the sub-national administrations within the D&D context.

The table below shows that the share of the sub-national administrations' budget compared with the national budgets has steadily increased from 5.25 percent in 2011 to 6.42 percent in 2013.

Summary of Sub-National Budget (in Million USD)

SNAs	2011	2012	2013
C/Ps	79.03	92.80	125.17
D/Ms	10.37	14.15	18.43
C/S Funds	39.85	45.50	50.47
Total	129.25	152.45	194.07
National Budget	2,462.41	26,92.00	3,023.77
Share of National Budget	5.25%	5.66%	6.42%

*Provincial line department budget excluded: In 2011=338.95; 2012= 393.43; 2013: 435.17

⁶ Law on Audit 2000.

⁷ Ibid, article 3.

3. Budget Formulation and Execution of SNAs

As shown above, the funds of SNAs have increased from year to year to enable the SNAs to implement their mandates effectively as is stipulated in the laws. In addition, expenditures and revenues of SNAs must comply with the laws and regulations adopted to ensure that development takes place in a democratic manner. Democratic development is development carried out using public representation, local autonomy, consultation and participation, responsiveness and accountability, promotion of the quality of life among local residents, promotion of equity, transparency and integrity, and measures to fight corruption and the abuse of power.⁸

a. Budget of C/Ss

Revenue

The C/S Fund is the main revenue source for each C/S. According to the sub-decree on the establishment of the C/S fund in 2002, the fund is divided into two components that include general administration and a development component. The administrative component must not be more than 1/3 of the total fund while the development component shall not be less than 2/3. The annual transfer from the central government to C/Ss (the C/S Fund) shall be carried out in three stages which are 50 percent, 30 percent and 20 percent of the fund, respectively. The first transfer shall be made not later than 1st of March; the second shall be made before 1st of June; and the third shall be made before 1st of September. Other revenues for C/Ss include tax revenue, non-tax revenue, agent function revenue and contributions from local residents and NGOs.⁹

Expenditures

Under Article 15 of the sub-decree on the establishment of C/S Funds in 2002, the fund for the administrative component shall be used for expenditures as follows:

- Allowance to councilors;
- Salaries of local staff and other personnel expenses;
- Purchase or rental of council premise;
- Furniture and office equipment for the council's administration facilities;
- Repair and maintenance of administrative facilities;
- Utility charges;
- Purchase or rental of vehicles;
- Fuels, lubricants and vehicle maintenance; and
- Other consumables and miscellaneous.

The fund for the development component is spent on local development projects which include local infrastructure and non-infrastructure.

⁸ Organic law, Lexicon.

⁹ Sub-decree on CS Financial Management System 2002.

Process of C/Ss' Budget

Like other public budgets, that of the C/Ss is subject to the Law on Public Financial Systems requiring a three-step-process: budget formulation; implementation; and oversight.

The budget formulation process is as follows: *First*, the C/S chief drafts the budget with support from the Planning and Budget Committee of the C/S council and has the draft adopted by the C/S council in a council meeting. The C/S chief must ensure that the budget formulation process is participatory with the broad involvement of the public. The adoption shall not be later than 31st October of the year in which it is drafted. *Second*, the draft budget is submitted to the provincial/capital governor for approval. However, the provincial/capital governor has no right to oppose the expenditure plan already decided by C/S councils. In short, the provincial/capital governor provides support in terms of legality control only. The provincial/capital governor shall provide a notification of approval in a written letter to the C/S council, the provincial treasury and the provincial department of economy and finance. The provincial/capital governor shall approve the draft budget before 1st January.¹⁰

In the budget implementation stage, the C/S council can execute the budget in accordance with the relevant laws and regulations. All the investment projects of C/Ss must comply with the Project Implementation Manual (PIM). However, the budget can be amended during the fiscal year subject to changes in the economic and financial conditions which may affect the predicted revenues and expenditures.¹¹ The provincial treasury is required to prepare C/Ss' annual financial statements which are subject to audits and inspections to ensure the reliability, transparency and fairness of the financial management system. Budget oversight will be examined later in this briefing note.

On average, there are approximately 1800 C/S investment projects across the country per year, of which 70 percent are for rural roads, 15 percent for irrigation, and 15 percent for other development issues such as gender, HIV/AIDS, environmental protection and so forth.¹²

From 2002 to the present, the main revenue source for C/Ss has been the C/S Fund allocated annually from the central government. The C/S Fund has increased from 2.00 percent in 2003 to 2.8 percent to date of the national recurrent revenue. The fund allocated for each C/S is on average approximately 40,000.00 USD per year.¹³ This amount cannot fully respond to the increasing needs of citizens and other revenue sources are not reliable. For example, the law stipulates that local tax collection is one of the revenue sources, but from 2002 to the present, the C/Ss have not been able to earn revenues through local tax collection. Furthermore, revenue from other sources such as civil registration for the Ministry of Interior and voter registration for the National Election Committee is small.

Because of the C/S budget insufficiency, a mechanism called the District Initiative Workshop (DIW) was set up to mobilize resources at local level to support the C/S investment projects

¹⁰ Ibid. Article:11-17

¹¹ Ibid. Article: 18.

¹² NCDD/PID, 2012-2014.

¹³ The fund allocation for C/Ss in 2015 by the Ministry of Economy and Finance.

(CIP) which the C/S Fund cannot cover. External resources to support CIP are mostly from provincial line ministry departments, NGOs, donors and local residents. However, the contributions from NGOs depend on the availability of their own funds, so this is not a sustainable source of revenue. In addition, the support from the provincial line ministry departments has gradually decreased. The provincial line ministry departments are more concerned with their own projects.¹⁴ Furthermore, C/S councils can be influenced by external actors in implementing their budgets even though the law gives autonomous power to C/Ss in managing their budgets.

b. Budget of D/M/Ks and C/Ps

The law on Financial Regime and Property Management of SNAs was promulgated in accordance with the Organic Law. The SNAs in this law refer to only D/M/Ks and C/Ps, and not to C/Ss. It regulates the budget practices for the SNAs. According to this law, revenues and expenditure are described as below:

Revenue

The revenue from D/M/Ks and C/Ps includes:¹⁵

- Local revenues including tax revenue and non-tax revenue. The distribution of types and proportion of local tax among the sub-national administrations will be specified by another sub-decree. The Ministry of Economy and Finance is now tasked to develop a policy on sub-national administrations' own revenue sources.¹⁶
- Grants. These are transferred from the central government and are divided into two types which are conditional and non-conditional grants.
- Service charges gained from agent functions implemented by councils in the name of the central ministries/institutions.

In 2012, the RGC issued another sub-decree on the establishment of the D/M Fund which is an unconditional grant from the central government for D/Ms to autonomously manage the development work in their jurisdiction. Like the C/S fund, it is divided into two components administrative and developmental.

Expenditure

The budget of SNAs shall be spent as follow:

- Administrative operations;
- Implementation of obligatory functions;
- Implementation of permissive functions; and
- Other expenditures specified by laws and regulations

¹⁴ Remarks of his H.E Hou Taing Eng, Secretary of State of the Ministry of Planning during the Public Forum under the theme “*Capacity Strengthening of Commune/Sangkat Councils and Governance in Local Development*” in Takeo province, organized by Senate Region 5 on 7 October 2015.

¹⁵ Law on Financial Regime and Property Management of SNAs

¹⁶ Annual Work Plan and Budget (AWPB) of the NCDD 2015.

Process of D/M/K and C/P Budget

The budget plan of all SNAs is a budget package that needs to be reviewed and adopted by the National Assembly and Senate under the Annual Budget Law.

The SNA budget is formulated by the board of governors (BoGs) of C/Ps and D/M/Ks in the name of councils in three stages. *First*, from March to May, the BoG of each administration prepares a strategic budget plan and submits it to the council for review and adoption. It is then sent to the Provincial Department of Economy and Finance for consolidation and then sent to the Ministry of Economy and Finance (MEF). *Second*, from June to September, the BoG prepares a budget plan in detail in terms of revenues and expenditures and disseminates it for consultation with citizens and stakeholders in their jurisdiction. After the consultation and revision, the BoG has the budget plan adopted by the council. *Third*, from October to December, the MEF integrates the sub-national budget plan into the annual draft budget law and submits it to the Council of Ministers for review before sending it to Parliament (National Assembly and Senate) for approval.

The budget implementation and oversight process of D/M/Ks and C/Ps mirrors that of the C/Ss and is in accordance with the relevant laws and regulations. It can be amended during the fiscal year and SNAs are required to prepare financial statements by end of year which are subject to inspections and audits. Budget oversight will be described in the next section of this briefing note.

One of the aims of D&D reform is to bring public services closer to the local people and, as such, it is expected that some functions from central ministries/institutions will be transferred to sub-national administrations. When the functions are transferred, the necessary resources must also be transferred so that the budgets for sub-national administrations (both revenue and expenditure) will be increased gradually. This practice is in line with international practices of fiscal decentralization which suggests that “*finance follows functions*”.¹⁷

Currently, the RGC has targeted districts and municipalities for function transfers, given the limitations of the C/S councils in terms of size and capacity. There are pilot projects to transfer functions from the central ministries such as the ministries of rural development, social affairs and youth rehabilitation, education, environment and health. The central ministries that are involved in the pilot projects are as follows:¹⁸

Ministry of Rural Development

- Rural Hygiene (10 districts)
- Repairing Clean Water Supply System (seven districts)

Ministry of Education, Youth and Sport

- Primary School Management

¹⁷ Balh, Roy. 1999. *Implementation Rules for Fiscal Decentralization*. Georgia State University: Working Paper 99-1

¹⁸ NCDD's Semi-Annual Report 2015.

- Education of small Children
- Informal Education

Ministry of Social Affairs and Youth Rehabilitation

- Management of Child Care Center in Battambang province
- Management of Child Care through an NGO to 10 district/municipalities in Battambang
- Care Services for Vulnerable children in the communities in communes/sangkats in the above 10 districts/municipalities.

Ministry of Environment

- Management of Waste and Solid Waste for all districts/municipalities

Ministry of Health

- Health Centers in five districts in Battambang and Pursat provinces.

4. Budget Oversight and Roles of Parliament

The sub-national budget is subject to external audits and inspections.¹⁹ Existing mechanisms in place concerning the oversight of budget execution of sub-national administrations are: internal audits; external audits by the National Audit Authority; external monitoring and inspections by the Ministry of Economy and Finance; and inspections by the Ministry of National Assembly-Senate Relations and Inspection.

a. Internal Audits

Sub-national administrations at all levels including province, capital, municipality, district and C/S are required to establish internal audit mechanisms²⁰ whose function is to independently examine and evaluate the effectiveness of the implementation of the internal control system within sub-national administrations.²¹ Examining and evaluating the effectiveness of the implementation of the internal control system refers to ensuring the following:²²

- (a) Effectiveness of the operations;
- (b) Reliability of financial reports; and
- (c) Compliance with the applicable laws, regulations, policies, procedures, and implementation arrangements.

Sub-national administrations are required to send internal audit reports to the National Audit Authority (NAA), and Ministry of Economy and Finance (MEF).²³

¹⁹ See the following pieces of legislation: (1) Law on Administration of Provinces/Capital, (2) Sub-decree No. 172 on the financial administration system of municipalities and sroks 2012, (3) Sub-decree No. 26 on the financial management of commune/sangkat, (4) Law on Audit 2000, (5) Law on Public Financial Systems 2008, and (6) Prakas from the MEF.

²⁰ Article 41 of Law on Audit 2000.

²¹ Ibid, article 42.

²² Ibid, article 43.

²³ Directive No. 003 on standards for internal audit reports.

b. External Audits

The National Audit Authority

Sub-national administrations at all levels are subject to annual external audits by the NAA.²⁴ Subjects of external audits by the NAA are financial reports, examination of control systems (to assess the adequacy of management systems and processes established for implementing activities), and assessment of ongoing operations (to assess whether or not they comply with applicable laws and regulations).²⁵

Not all SNAs are externally audited every year by the NAA. This is due to the fact that many ministries, state institutions, sub-national administrations, and other institutions/agencies subject to external audits, and there are, therefore, too many to audit in one year. The NAA includes public institutions in its annual audit plan based on its priorities related to national budgets.²⁶

Based on the assessment of the internal audit reports submitted by SNAs, the NAA can decide to include the SNAs in question in its annual audit plan.²⁷ The NAA sends its public auditing reports to both the parliament and the government.

If the parliament wishes to have external audits conducted on any public institution, the parliament can send a formal request to the NAA. However, the NAA has its own discretion on whether to accept or reject the request.²⁸

The Ministry of Economy and Finance

SNAs at all levels are also subjected to monitoring and inspection of their budget execution by the MEF.²⁹

The MEF is one of the actors involved in the development of D&D in Cambodia. The Department of Sub-National Budgets of the MEF plays an important role in the D&D process such as implementing the law on the Financial Regime and Property Management of SNAs, preparing regulations and procedures for sub-national administrations, taking part in the transfer of power and functions to SNAs, managing the public finance system of SNAs, and monitoring and inspecting SNAs' budget implementation, etc.³⁰

The Ministry of National Assembly-Senate Relations and Inspection

Provincial line departments of all line ministries and other state institutions at sub-national level are subject to inspections and investigations by the Ministry of National Assembly-Senate Relations and Inspection (MoNASRI).³¹ Inspections by MoNASRI focus on the management of

²⁴ Article 2 of the Law on Audit 2000.

²⁵ Ibid, article 6, 7, and 8.

²⁶ NAA 2011. Public Auditing Standards.

²⁷ NAA 2011. Public Auditing Standards.

²⁸ Ibid.

²⁹ Sub-decree No. 488 on the establishment and functioning of the Ministry of Economy and Finance 2013.

³⁰ Ibid.

³¹ Sub-decree No. 03 on the organization and functioning of the Ministry of National Assembly-Senate Relations and Inspection 2015.

state property, public revenue and expenditure, and alleged corruption and management processes.³² The inspection reports are sent to the Prime Minister.

In Sub-decree No. 03 on the establishment and functioning of MoNASRI 2015, there is no description of inspection of SNAs by MoNASRI. However, MoNASRI receives complaints from citizens or the public concerning SNAs, and conducts investigations accordingly.

Parliament

Parliament can identify issues and be involved in the oversight of the budget of sub-national administrations through the NAA's annual audit reports, complaints, and inspection reports by MoNASRI.³³ The NAA's annual audit reports might identify issues in the budget implementation of sub-national administrations and provide recommendations. The NAA's audit reports provide aggregate information at national levels, not specific information on any specific sub-national administration.³⁴ However, if the parliament wishes to have an audit conducted on any particular sub-national administration, the parliament may make a request to the NAA.³⁵

5. Conclusion

The RGC has shown commitment and effort in promoting democratic development at the local level through D&D reform policy. The share of the budget of the SNAs has increased year by year for both conditional and non-conditional grants, and more legal frameworks related to the sub-national budget have been issued and adopted to enable the SNA councils to be more autonomous in implementing their budget and to be accountable to the citizens in their jurisdiction. Furthermore, more responsibilities have been given to SNAs through the transfer of functions from other central ministries, so that the budget for SNAs will be increased in order for them to be able to implement the transferred functions. This practice complies with the expectation of D&D reforms that bring the public services closer to the citizens at the local level.

However, proper implementation of the budget at the sub-national level is sometimes not fully attained. Proper mechanisms for oversight can help to address this issue. Budget oversight of SNAs is done through internal and external audits, while some national ministries/institutions are mandated to conduct audits and inspections to SNAs (e.g., the NAA, MEF and MoNASRI). To take advantage of these mechanisms and to strengthen the oversight roles, parliament can use sub-national budget-related reports prepared by the MEF, the NAA's annual audit reports, and inspection reports by MoNASRI for further investigation. Finally, parliament can request the NAA to conduct an external audit on a specific case related to SNA budget practices.

³² Ibid.

³³ This is a conclusion that results from analysis of information from sections prior to the section on parliament.

³⁴ See the NAA's annual reports posted on its website: <http://naa.gov.kh>

³⁵ NAA 2011. Public Auditing Standards.

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