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Comparative Review of Village Governance in Cambodia, Indonesia, Papua New Guinea, and the Philippines

The Asia Foundation
Improving Lives, Expanding Opportunities

Australian Government
Department of Foreign Affairs and Trade

Australian Aid

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PREFACE

The Asia Foundation is pleased to present the following research on the evolution of decentralization and village governance in four country contexts of the Philippines, Indonesia, Papua New Guinea and Cambodia. This paper forms part of our ongoing research and analysis on the decentralization and local development sectors in Timor-Leste. As part of this initiative and partnership with the Government of Timor-Leste, we participate in and contribute to analysis and review of policy and legislative reform, such as recent consultation and research produced in partnership with the Ministry of State Administration for use in the revision of the suku law. In addition, we also endeavor to take a step back and look at the overarching drivers of policy and change by conducting more objective, broader comparative reviews by which to contribute lessons learned and key findings present in other relevant country contexts.

The following paper is published as a Policy Brief under our Local Governance unit. It is a comparative study conducted with the assistance of a consultant and a number of country-experts to review and reflect on the experiences of four countries which have undergone similar processes of decentralizing financial, management, monitoring and implementation functions to the sub-national level. The findings of this paper, coupled with existing Timor-specific research, may be useful to inform directions and feasible reforms to the Timorese village-level governance structure. The purpose of the research is to contribute to the discourse and present views that transcends the borders of Timor-Leste.

The paper was co-authored by the Foundation's Country Representative, and a governance consultant who managed the desk research and initial write-up. The paper was researched and drafted at the time that the current Law N°. 3/2009 is being revised in Timor-Leste. While we considered adding a section on the evolution of the decentralization and local governance in Timor-Leste, given the fluid nature of the current revision of the law, it was ultimately decided to remove that section until the consultation process for the new law is underway. We intend on publishing a separate review of the process once consultations on the law has concluded.

Susan Marx
Country Representative,
The Asia Foundation
Dili, September 2014

I. INTRODUCTION

A. Purpose of the report

This report is being developed at a time when the Government of Timor-Leste (GoTL) is revising the current law which governs the *suku* (village) vis-à-vis its legal status, competencies, roles and responsibilities, as well as matters such as financing and monitoring. This revision forms part of the GoTL's ongoing pursuit of its decentralization policy. While decentralization is mandated in Section 5 (1) and (2) of the Constitution, the execution has been slow amidst other competing priorities for the successive new governments of Timor-Leste. Critics argue that a lack of political will and strong centrist tendencies among ministries and other stakeholders continue to weaken the potential for real devolution of powers to the proposed municipalities (Shoesmith 2010). Most recently, the Government has re-asserted its commitment to the decentralization process with the enactment of Decree Law N°. 4/2014: *Organic Statute of the Structure of Administrative Pre-Deconcentration.* In this law, the government sets out its plan for administrative decentralization through the introduction of municipalities, and starts to outline some of the services to be deconcentrated to the different geographic territories. The law declares that this process is underpinned by the desire of the state to increase "principles of efficacy, efficiency and effectiveness of the delivery of public goods and services to the citizens" (RDTL 2014).

Specifically, in the lead-up to the local elections planned for 2015, the Ministry of State Administration in Timor-Leste (MSA) has started a review of the law that currently governs the *suku*, or village level leadership. Under Law N°. 3/2009 on *Community Leadership and Their Election, sukus* are defined as "community organizations" with broad mandates to support peace and development. The ministry is reviewing the current status of the *suku* as a private association, rather than part of the formal government structure. Ongoing consultations indicate that the intention is not to bring the *suku* into the government, but rather to clarify their status as an association, insofar as their position vis-à-vis the decentralized and central government bodies. The status of the *suku* is complicated by the mandate awarded to the council members in a list of roles and responsibilities currently defined by Law N°.3/2009, including some which now contradict other important legislation including the Law Against Domestic Violence. Notably, the *suku* is not mentioned anywhere in the Constitution of Timor-Leste

The Asia Foundation (the Foundation) has engaged with the Ministry of State Administration's Directorate for Local Governance since 2009, and frequently contributes research and analysis and implements programs that support the mandate of the directorate. Rather than evaluate the model of village governance within Timor-Leste, as has been done by others recently, this paper sketches out the evolution and features of decentralized development and local governance mechanisms in four selected countries. The intent of this comparative analysis is to inform and contribute to the discourse and ongoing revision of the Timorese *suku* law, Law N°. 3/2009 on Community Leadership and Their Election, by looking at what has been done in other country contexts, with the aim of identifying some good (and not so good) practices and lessons learned.[1]

This study will be published as a policy brief and shared with the Ministry and other stakeholders as part of the body of evidence for a comprehensive overview of the village law, drawing on lessons learned from relevant country contexts that have undergone similar processes of decentralizing services to the local level. The research will also inform the Foundation's future work on local governance initiatives with a specific focus on harmonizing planning, budgeting and other processes between the *suku*, the district, and national levels.

B. Approach

The Foundation, in consultation with the Ministry of State Administration of Timor-Leste, selected the following four countries to include in this review:

- Cambodia
- Indonesia
- Papua New Guinea

1 At the time of this report, a revision of Law N°. 3/2009, known as the "Suku Law" has been commissioned under the auspice of the Ministry of State Administration.

- The Philippines[2]

The unique aspects in the design and implementation of decentralization in each of these countries provides a range of experiences and lessons to draw from to inform the current revision of the village law in Timor-Leste. The country experiences also bring attention to challenges in designating authorities to local level governments. Across the four comparison countries, Government initiatives to pursue decentralization took place fairly suddenly and in response to political concerns at the national level. Both the Philippines and Indonesian governments legislated extensive decentralization policies in a short period of time. The Philippines is known for enacting the most extensive decentralization legislations, and provides an example with a rich and relatively long set of experiences. Meanwhile, Indonesia has subsequently retracted and re-extended authorities at the sub-national level and has recently focused on the village level of government. Cambodia has been implementing policies at a slower pace, and started first with establishing governance at the commune level with a more recent focus on the districts and provinces. Papua New Guinea faces the challenge of integrating traditional leadership in the sub-national governance structure, and is yet to reconcile how to strengthen local governance. In comparison, Timor-Leste is still in the early stages of embarking on both a nation-building and decentralization process. Some of the key aspects of decentralization in each of the countries included in this study are described in Table 1 below.

Table 1: Key Characteristics of Decentralization in Selected Countries

Country	Key Characteristics of Decentralization
Cambodia	• Decentralization reforms undertaken since 2001 • Decentralization was implemented first at the lowest tier of government (the commune) with efforts to re-establish relationships between the broad population and government. • The formulation and implementation of laws and policies has been measured
Indonesia	• Decentralization reforms undertaken since 1999 • Decentralization was sudden and extensive • Policy making has been iterative, as laws and policies have retracted some of the initial authorities delegated to sub-national government, of which some have again been re-introduced
Papua New Guinea	• Decentralization continued after independence in 1976 • Challenge of recognizing traditional leadership within the official governance structure remains unresolved • Very little progress in developing local level governance
The Philippines	• Decentralization reforms undertaken since 1991 • Has one of the most extensive set of decentralization policies in Asia under the Local Government Code (1991) • Unique aspects of decentralization include the establishment of a *Barangay* Justice System and mandates for including People's Organizations as partners in local development • The Government recently mandated establishment of a Violence Against Women Desk in every *barangay*

This study included a desk review of the laws and policies regarding decentralization to the village level in each of the four countries. The comparative analysis of country-wise policies regarding village level governance includes descriptions of the following characteristics:

2 While the report does not include a separate section on the Timor-Leste decentralization process *per se*, reference will be made to the current status of decentralization and policies and laws concerning suku level governance, where deemed useful and appropriate, throughout the paper including in the country-wise comparative table.

- Jurisdiction and Legal Status
- Governance Structure and Election System
- Accountability
- Roles and Responsibilities (administrative and traditional)
- Financial Resources
- Planning and Project Implementation
- Remuneration and Incentives
- Gender Inclusion

In addition, the Philippines chapter includes a brief description of the Barangay Justice System and the Papua New Guinea chapter includes a description of the Village Courts. These officially mandated local justice systems may be further studied to provide insights into establishing alternative dispute resolution mechanisms in Timor-Leste.

A review of relevant papers that assess the decentralization experiences and outcomes substantiates the review of the legal framework and policies. Interviews with country experts provided further and more-grounded insights regarding the practical implications of the policies and implementation challenges.

C. Organization of the report

The following four chapters of this report are organized by country. Each country chapter begins with a description of the decentralization context within which villages have been recognized; followed by the structure of sub-national governance, to situate the village within the framework of national governance. The third section in each country chapter describes the village and/or the lowest level of government according to a number of selected characteristics, followed by a brief conclusion section. The fifth chapter of the report includes a comparative summary table of the characteristics of village level governance for each country. This provides a useful summary and reference, though the country-wise chapters contain far more details. The final chapter of the report includes the key findings of the study and highlights areas for further research.

II. CAMBODIA

A. Decentralization in Cambodia

Since 2001, the Royal Government of Cambodia (RGC) has been gradually establishing and implementing laws and policies for sub-national governance. In the context of a post-conflict Cambodia, the initial goals of decentralization included establishing a more democratic local government system in which the people of Cambodia could begin to build relationships and trust. Thus, Cambodia's decentralization process commenced with the enactment of laws on commune administration, management, and elections. In addition, from the mid-90's and well into the 2000's the majority of donor investment in sub-national governance in Cambodia was focused at the commune level, which also explains to some extent why decentralization efforts were first initiated at this level. Seila, one of the earliest programs was started by UNDP with initial support from the Netherlands, EU, Sweden and UNCDF, and eventually also funded by the World Bank, began with projects at the village level and supported the election of Village Development Committees (VDCs) and the development of VDC plans which were then submitted to the Commune level. However, since the commune elections of 2002, the villages are a unit of the commune and the roles of the village chief and VDC roles are still evolving. Subsequent donor programs have included support for the process for development of Commune Investment Plans (CIPs), capacity development of commune councils, capacity development of community-based organizations (CBOs) at the commune level, and engagement between CBOs and commune councils. Due to the prioritization of commune level government, commune councils are more established than the district and provincial councils.

In 2001 the Government issued the *Law on Administration and Management of Communes/Sangkats* and the *Commune/Sangkat Election Law*, which established communes as the first tier of sub-national government. Elections of Commune Councils were held in February 2002 and subsequently in April 2007 and June 2012. In June 2005, the Council of Ministers approved the *Strategic Framework for Decentralization and Deconcentration Reforms* (D&D Framework). The D&D Framework set out the objectives and strategies to further develop subnational government at the province/municipality, district/khan and Commune/Sangkat levels. The government subsequently established the legal framework for sub-national governance under the *Law on the Administrative Management of the Capital, Provinces, Municipalities, Districts, and Khans* (the "*Organic Law*") in 2008. The Organic Law does not assign specific functions to these subnational bodies, but commits to the process of strengthening these levels of sub-national government with personnel and resources. On the 28th of May 2010, the Council of Ministers approved the *National Program for Sub-National Democratic Development (2010 – 2019)*, known as the "*National Program*". The National Program was formally launched on August 9, 2010. In December 2008, the RGC established the National Committee for Sub-national Democratic Development (NCDD) as the inter-ministerial mechanism for managing the process of decentralization and deconcentration reforms[3] and implementing the *National Program*. NCDD drafted a more detailed *3-year Implementation Plan 2011-2013 (IP3)* that focuses on strengthening the districts and due to mid-term evaluations have extended the implementation of plan to 2014.

The Government has made considerable progress in the formulation of laws and policies to further decentralization, however, as Cambodia is still in the early stages of implementation, the government is iteratively defining the mandates of each of the tiers of government. (Plummer and Tritt 2010) The Government has been more recently focused on establishing the district and provincial councils. Whereas the Commune Councils have limited responsibilities and resources, the complexities of coordinating and transferring authorities from central line ministries to sub-national bodies requires a careful and phased approach. (Evans et. al, 2010)

On May 15, 2009, Cambodia held elections for 374 Provincial Councils and 2,861 District/Municipal Council seats for the first time in history. This was an indirect election in which eligible voters consisted of the 11,353 Commune Councilors elected in the 2007 Commune elections. The results fulfilled a pre-election expectation that the Commune Councilors would vote along party lines.

3 The current configuration of the NCDD replaced two previous incarnations: the National Committee for the Management of Decentralization and Deconcentration (the first NCDD), which was established to replace the National Committee for the Support of Communes/Sangkats (NCSC)

Laws and policies relating to decentralization in Cambodia

Law on Administration and Management of Communes/Sangkats (2001 Organic Law) - Provides the legal basis for the operation of the commune councils.

Law on the Election of Commune/Sangkat Councils (2001)

Sub-decree on the Establishment of the "Communes/Sangkats Fund" (2002) - Provides regulations for the "Commune/Sangkat Fund"

Rectangular Strategy for Growth (2004) – Cambodia's long-term development vision, includes decentralization as a key focus for bringing governance closer to the people

Strategic Framework for Decentralization and Deconcentration Reforms (2005) or *D&D Framework* – Provides objectives and strategies to further develop subnational government at the province/municipality, district/khan and commune/sangkat levels

Amended Law on Elections of Commune Councils (2006)

Law on Administrative Management of the Capital, Provinces, Municipalities, Districts and Khans (2008), or "Organic Law" – Provides the basic legal framework for the implementation of decentralization at the Province/Municipality and District/Khan levels.

Law on Elections of the Capital Council, Provincial Council, Municipal Council, District Council and Khan Council (2008)

National Strategic Development Plan - NSDP (2006-2010) –

National Program for Sub-National Democratic Development (2010 – 2019) and *3-year Implementation Plan 2011-2013 (IP3*) - Focuses on strengthening the districts

Sources: Royal Government of Cambodia

B. Sub-National Government Structure

Under the Organic Law, Cambodia's three-tier sub-national government includes: Provinces (24) and municipalities (4); in the second tier, the provinces are divided into districts (185) and municipalities are divided into khans (14). The districts are further divided into communes (1,621), and khans are further divided into sangkats (111) within municipalities. Communes consist of as few as 3 and as many as 30 villages. There are over 14,000 villages in Cambodia.

At the *provincial/ municipal level*, the sectoral departments execute policies and plans of the line ministries and institutions from the national level. The structure is therefore hierarchical and lacks coordination over planning, budgeting, and personnel management. As the representative of the Royal Government, the provincial/municipal governor is delegated powers by the national level to coordinate, promote and guide the objectives of the departments in the province/municipality in accordance with the policies of the Royal Government. However, in practice, many line department programs have been formulated and managed from the center.

At the district/khan level, similar to the provincial level, coordination among sectors through official government structures is remain generally weak and accountability remains upward, though in practice, the coordination takes place through the parallel Cambodian People's Party (CPP) political networks. The District Councils are made up of 7-19 members, and the municipal khan councils have 7-15 members. They have a five-year term, however, specific mandates are still evolving. At present, their general mandate is codified in the Organic Law and the Sub-Decree on Roles, Duties and Working Relationship of the Provincial Council and Board of Governors, Municipal Council and Board of Governors and District Council and Board of Governors (the "Sub-Decree," 2009). Articles 11 and 12 of the Organic Law state that the Councils "shall establish, promote and sustain democratic development," which includes public representation; local autonomy; consultation and participation; responsiveness and accountability; promotion of quality of life of the local residents; promotion of equity; transparency and integrity; and measures to fight corruption and abuse of power. The Councils are supported by and supervise a Board of Governors consisting of appointed officials who serve as local representatives of the

Royal Government; coordinate the local activities and plans of government line ministries; and implement the decisions of the Council. The Ministry of Interior (MOI) appoints the Governors, who then appoint the members of the Board of Governors. Due to their direct relationship with the MOI, the Governors maintain greater political power than the Councils, which hinders oversight of the Governors by the Councils. While the composition of the Board of Governors has not been analyzed in detail, the governors are usually higher on the party list, suggesting they could have more power than the councils.

The Councils meet at least 12 times per year and are directly accountable to the citizens in their respective jurisdictions. They have the power to issue by-laws. Their budget will eventually include both centrally allocated and own-source revenue. The district/municipal councils have a mandate to consult with and be responsive to the needs of citizens and the Commune/Sangkat councils within their jurisdictions. Priorities for basic services, infrastructure, poverty reduction, and activities to address vulnerable groups are to be incorporated into a three-year rolling investment plan and a five year development plan. The Councils have the power to establish Committees as needed, but three Committees are required: a Technical Facilitation Committee, a Procurement Committee, and a Consultative Committee on Women's and Children's Affairs.

The *Commune/Sangkat* government is the lowest tier of official government in Cambodia and includes a Commune/Sangkat Chief and Commune/Sangkat Councils as defined under the Organic Law and further elaborated in subsequent legislations. Their responsibilities continue to evolve with new legislation and policies. A primary responsibility of commune councils is preparation of the five-year Commune Development Plan (CDP) and the annual Commune Investment Plans (CIPs), which are funded through the Commune/Sangkat Fund. The commune councils also appoint the Village Chief, however the village is not an official level of government.

C. Commune and village governance in Cambodia

The majority of Cambodia's population (over 14 million) is rural (~80%). This section describes the mandates and role of the commune level of government and the evolving role of the village head and village government. While many of the laws and policies are relevant to both commune and sangkat governance, the particularities of sangkat governance are not described here.

Jurisdiction and Legal Status

The village is not a formal tier of administrative government in Cambodia, but the Government of Cambodia recognizes the village as a legal entity and issues mandates on village governance. The jurisdiction of villages is uneven. In some cases a government recognized village may be considered by villagers as a number of villages. A village may have as few as 15 households or as many as 200, and vary in geographical size. (Charya et. al, 1998)

Communes are legal entities with an official status as the first tier of Cambodia's sub-national governance structure. Commune/sangkat Councils were first elected in 2002, with subsequent elections in 2007 and 2012. Communes include anywhere from three to thirty villages, and range in population from 200 residents to 80,000, though the average commune population is 7,600. (Romeo 2003)

Village and Commune Governance Structure and Election System

Officially, the village chief, deputy chief and assistant are the only mandated positions in village level government. Articles 22-29 in the Sub-Decree on Decentralization of Powers, Roles and Duties to Commune/Sangkat Councils (2002) outline the village governance structure and duties. According to the sub-decree, the commune council appoints the village chief for each village and, in turn, the village chief appoints a deputy village chief and a village assistant. One of these three positions is to be assumed by a woman, with an effort to select a woman as either chief or deputy chief. The village chief, deputy chief, and assistant are expected to meet once monthly at a minimum. Prior to 2006, the Ministry of Interior, appointed the village chiefs.

Commune governments include a commune chief, commune council, and a commune clerk. Commune councils are elected bodies that are representative of and accountable to their constituents with 5-year mandates. Councils consist of between five and eleven councilors, depending on the population of the commune. While each commune consists of a number of villages, each village may not have a representative in the council. (Romeo 2003, Plummer and Tritt 2010) Each commune council has a commune chief who acts as the presiding commune councilor, and is the top candidate of the winning party. Two of the councilors assist the commune chief with the roles of first deputy chief and second deputy chief. The Ministry of Interior (MOI) appoints a commune clerk

to each commune and the clerk is paid by and therefore accountable to the MOI. While the clerk is responsible to the commune council s/he has no supervisory mandate over councilors. The clerk is expected to act as a secretary to the commune council and to inform the commune council about legal and procedural requirements. (Mansfield and MacLeod 2004)

Commune council elections are conducted using a proportional system of representation. Elections are only conducted in communes that have more than one political party's candidate list approved for registration with the Ministry of Interior. In this system seats are allotted based on the proportion of votes received by each of the political parties contesting the election. The council members are selected from the political parties' candidate lists in a sequence starting at the top of the list. The total number of councilors is determined by sub-decree. Voters must be registered in their communes to vote in commune elections. (Mansfield and MacLeod 2004) Thus, internal party selection of candidates plays a major role in determining leadership at the commune level.

The commune chief may also appoint advisory committees to assist in particular initiatives. "Committees are composed of councilors and may also include citizens (or other representatives, such as NGO staff) as members. Committees play an advisory role to a council. A commune council may also decide to employ staff outside of the council framework to assist with its affairs." (Mansfield and MacLeod 2004)

In addition, since late 2008, the police department instructed the commune level police to report to the commune councils rather than to their superiors at the district level. (Plummer and Tritt 2010)

Accountability

Cambodia has a local government association: the National League of Communes and Sangkats. While the association is not officially recognized by law, it is an official counterpart (along with the Ministry of Interior, Ministry of Planning, Ministry of Economy and Finance) in the latest 10-year national D&D Program signed and funded by the Cambodian Government and development partners. The association's main function is Commune/Sangkat advocacy at the provincial and national levels, to hold government to account. Like Indonesia, and especially the Philippines, such a local government association is critical for intermediate and national mechanisms of accountability.[4]

Prior to 2006 the Ministry of Interior appointed the village chief, however under current mandates the village chief is appointed by and therefore officially accountable to the commune council. In practice, commune councils may provide oversight of the village chief through their authority to create committees and enact commune orders. For example, "In a commune in Kampong Cham, villagers had become suspicious that village chiefs were misappropriating the produce from communal land. In response to complaints, the commune council appointed a committee to manage the communal land instead of the village chiefs to exercise accountability and responsiveness." (Plummer and Tritt 2010, p. 44) The villagers also hold the village chief accountable, particularly when they make contributions to local projects. Village chiefs are responsible for tracking contributions and communicating with villagers on the use of funds. (Plummer and Tritt 2010)

According to Article 1 in the 'Sub-Decree on Decentralization of Powers, Roles and Duties to Commune/Sangkat Councils (2002)', "A Commune/Sangkat Council shall be accountable to all residents of its Commune/Sangkat." In practice, the councils are accountable not only to the local population (through elections), but also to higher-level politicians within their party.

While the commune clerk is accountable to the MOI, the council has the authority to dismiss the clerk, and therefore also holds the clerk accountable. And, as mentioned above, the commune level police are also accountable to the commune council. (Plummer and Tritt 2010)

Expectations of accountability of the councils by the local population can also be misplaced. For example, in cases of encroachment onto village land by government or powerful private players, communities often expect council members to resolve conflicts. However, the councils have no authority over forest resources and often no influence over higher-level decisions in this domain. Thus, council members either disappoint their constituents if they do not address the issue or risk their position within their political party if they speak out. (Plummer and Tritt 2010)

Roles and Responsibilities (administrative and traditional)

According to Articles 23-28 in the Sub-Decree on Decentralization of Powers, Roles and Duties to Commune/

4 Goudsmit, Into, comments on draft paper.

Sangkat Councils (2002), the village chief is the "main link between village and Commune/Sangkat Council." The village chief, deputy chief and assistant provide input to the commune council on the development needs of the village. Village chiefs are also members of the Commune Planning and Budgeting Committee (PBC), and therefore contribute to project prioritization and selection. (Plummer and Tritt 2010) Formally, the village chief is responsible for undertaking a village consultation process to inform the commune investment plan, and subsequently for overseeing implementation of projects in the village. While the village chief is not a member of the commune council, s/he communicates on behalf of the commune council with the broader village population. (Charya et al 1998, Plummer and Tritt 2010) Village chiefs also inform the commune council about issues that arise in their village, including complaints about development projects or conflicts over natural resources. As such, the village chief plays a dual role as a state official and as community leader. (Plummer and Tritt 2010) Villagers informally approach the village chief regarding disputes, thus they also play a significant role in the mediation and resolution of disputes and have been actively involved in negotiations over land rights, domestic violence, and child rights. (Banez-Ockelford 2010)

International donors introduced the concept of Village Development Committees (VDCs) to Cambodia in the implementation of rural development programs. VDCs are considered to be civil-society organizations (CSOs), and do not have an official mandate from the government, though the government has expressed intentions to formalize VDCs. In villages where VDCs are active, the village chief communicates and coordinates with the VDC over village level development and other activities.

Commune councils are responsible for preparing 5-year commune level development plans and annual investment plans and also undertake tasks delegated by central government authorities. The primary duties of the commune councils are outlined in Article 43 of the Law on the Administration and Management of Commune/Sangkat (2001). Article 47 allows for further detail and definition of these duties by sub-decree following a proposal from the Ministry of Interior. While the duties include maintaining security and public order, arranging public services, promoting social and economic development, protecting and conserving the environment, and performing reconciliation between citizens; councils are limited in carrying out these roles as they have no authority over the police, education, health or other services and are explicitly excluded from involvement in forestry. Under the Sub-Decree on Decentralization of Powers, Roles and Duties to Commune/Sangkat Councils (2002) little detail was provided to substantiate the earlier law. (Blunt and Turner 2005) The devolution of line ministry functions has been limited, and there is scope for increased authority at the commune level to coordinate with ministries in the delivery of services. NGOs and line ministries, with donor funded sectoral programs, often coordinate implementation with the commune councils. (Plummer and Tritt 2010)

Commune councils have the legislative power to enact commune orders (deikas) as long as they are in line with national laws and policies. (Plummer and Tritt 2010, Mansfield and MacLeod 2004) In general, the communes have used deikas primarily to establish subcommittees, and in some cases councils have issued them to protect natural resources. (Mansfield and MacLeod 2004)

Though the capacity of the Commune/Sangkats requires further strengthening, a 2009 survey found that more than 90% of villagers are aware of Commune Development Plans, believe that they have played a role in providing inputs and believe they are benefitting from the CDP. Meanwhile, the traditional roles of commune councilors and chiefs include mediation and dispute resolution and 81% of respondents believe that commune councilors are successful in resolving conflicts. (Ojendal and Sedara 2011)

As an official administrator of the government, the commune clerk is responsible for basic administration, including financial management and civil registration. (Plummer and Tritt 2010)

Financial Resources

Although the organic law gives authority to communes/sangkats to raise revenues through local fees and taxes, councils have limited authority to undertake revenue generation activities. According to Article 11 of the Sub-decree on Decentralization of Powers, Roles & Duties to Commune/Sangkat Councils (2002), the councils are expected to access resources of from local constituents, ministries or institutions of the Royal Government; international, national and local organizations; and/or private funds. (RGC 2002) However, the greatest complaint regarding commune council performance is the lack of fiscal decentralization. While the councils are mandated to set development priorities, they lack the financial resources to implement the majority of plans. The councils collect fees associated with some of the administrative services, however this income is minimal. (COMFREL 2007) In a survey of decentralization reforms conducted in 2009, 81% of commune councilors identified lack of funding as the key problem to fulfilling their roles in development and 90% favored local taxation authority to

address this gap. (Ojendal and Sedara 2011)

The primary revenue is from the transfer of national budget through the Commune/Sangkat Fund (CSF). The CSF was established in 2003 under the Sub-decree on the Establishment of the "Communes/Sangkats Fund" to cover the costs of administration and a small budget for services and development projects. Funding from CSF for each commune is based on formulas that take into account the costs of administration and an allowance for development expenditures. The development budget includes an equal share for all communes plus shares based on population and a poverty indicator. At the outset, these shares were weighted 40/40/20, but recently they have been adjusted to 35/35/30 to increase support to communes with greater poverty. (Evans et. al, 2010) The funds are transferred three times per year from the National Treasury to each council's account at the Provincial Treasury. Since the province/municipality government is responsible for transfer and accounting of development funds, this results in constraints the commune councils' autonomy over the funds. Furthermore, the management of finances at the commune level is the responsibility of the commune clerk. (Blunt and Turner 2005, Mansfield and MacLeod 2004)

Prior decentralization projects have included mandates for local contributions by villagers for local projects, and this has continued in practice, similar to traditional contributions to festivals and pagoda-related construction projects. While these are not mandatory, the intention of these contributions were to increase ownership over projects, and is sometimes considered a local tax, there is a risk that local authorities will abuse their powers in seeking contributions. (Plummer and Tritt 2010)

Planning and Project Implementation

The government of Cambodia developed an extensive Commune/Sangkat planning system. The government is still in the process of polishing planning mechanisms at the district/kahn level. Two issues have bene raised during the design process of district planning: (a) Commune/Sangkat participation in districe planning; and (b) recurrent budgeting.

Every commune council must establish a Commune Planning and Budgeting Committee (PBC) that is responsible for preparing a five-year Commune Development Plan (CDP) and an annual Commune Investment Plan (CIP). Article 17 of the Sub-decree on the Establishment of the "Communes/Sangkats Fund" (2002) specifies that Commune/Sangkat councils must demonstrate that they have followed a process of participatory planning, budgeting and implementation in order to receive the funds. (NCSC 2002) The PBC must include one male and one female representative from each village, though the Commune/Sangkat Fund Project Implementation Manual (PIM) suggests that additional representation of 3 members of the council and 2-4 additional community members. The PBC is the only committee that is required to use a participatory approach. (Plummer and Tritt 2010). While Commune/Sangkats participate in the process, they have no real decision-making power in district planning level. This means the technocrts of the ministries dominate the process and marginalizes the Communes/Sangkats as a result.

Commune governments follow a set of guidelines outlined in the PIM. Based on the plans updates, the commune government submits a list of priority activities to a District Integration Workshop (DIW). At the DIW, NGOs and line departments make provisional commitments to a selection of priorities. The commune council then determines the allocation of the CSF, based on recommendations of the PBC. (Plummer and Tritt 2010)

The commune councils release public tenders for all infrastructure projects and select contractors from a list pre-qualified by the provincial government. Due to the role of the provincial government, commune councils have limited control over the selection of contractors. The councils develop the technical proposals with the support of the provincial Technical Support Staff (TSS) and then publicly announce the project and subsequently announce and organize a bidding meeting. The chairperson of the PBC opens the bids at the meeting, announces the selected contractor, and negotiates the contract. (Mansfield and MacLeod 2004) The commune council must follow the procurement regulations, which specify that the provincial government facilitate the bidding process. With limited provincial officials competent to facilitate bidding meetings, the meetings are often joint between 3-4 communes. (Plummer and Tritt 2010)

Predominantly, commune councils undertake road rehabilitation projects under the CSF since such projects require relatively less risk. While councils have increased their technical and management skills on road projects, other types of projects may require greater skills (such as irrigation), more extensive and ongoing coordination with line ministries (such as clinics and schools), or may benefit only parts of the population (such as water/ sanitation). In particular, the councils are not in a position to easily access and work with line departments, and rely on the commune clerk for these relationships. (Plummer and Tritt 2010)

Remuneration and Incentives

Village chiefs receive "financial support" while the commune chiefs, deputy commune chiefs, commune councilors, deputy commune councilors, and the commune clerk receive a monthly salary from the government. In July 2013, the government issued a sub-decree to double salaries paid at these levels. However, the salary ranges are still below expectations of the local officials. In addition, under an earlier sub-decree (Sub-Decree on Priority Operating Costs 2010) development organizations are required to obtain permission to supplement civil servant salaries for each of their programs. Decision No. 46 SSR (13 November 2013) established a Working Group for Salary System Reform to provide recommendations on the salaries of civil servants at both the national and sub-national level for revision in 2014. (VDB Loi 2013)

Gender Inclusion

Commune councils are dominated by male councilors. Since 2007, the councils must establish a committee in charge of women's and children's affairs (CCWC). (Plummer and Tritt 2010) According to Article 19 of the Sub-Decree on Decentralization of Powers, Roles and Duties to Commune/Sangkat Councils (2002), "A Commune/Sangkat Council shall appoint a woman councilor to be in charge of women's and children affairs. If the Commune/Sangkat Council does not have a woman councilor, the Council shall appoint a woman as an assistant in charge of women's and children affairs. The assistant in charge of women's and children affairs shall be entitled to participate in every discussion or meeting of the committees of commune/Sangkat and Commune/Sangkat Council but is not entitled to vote." In addition, donors and NGOs have been implementing programs to increase the percentage of female councilors, which resulted in a successful increased from 8.5% female councilors in 2002, to 15% in 2007 and 17.8% in 2012. (NCDD) Gender mainstreaming has been included as a key cross-cutting issue in the First 3-year Implementation Plan (IP3) 2011-2013 (extended to 2014).

Though officials report significant participation of women in participatory processes and meetings, in reality, the attendance is often to meet quota requirements, while actual participation is negligible. Furthermore, wealthier and predominantly male residents often use informal means to communicate with officials, which often has more influence over decision-making than the mandated processes. (Plummer and Tritt 2010)

D. Conclusions

The Royal Government of Cambodia has undertaken a phased approach to the formulation and implementation of decentralization policies. By implementing decentralization first at the lowest level, the government has also provided an opportunity to re-establish trust and begin to strengthen participation in governance in what was a traditionally authoritarian and hierarchical system. (Ojendal and Sedara 2011) Also, the focus on local development has been extremely important in Cambodia in the post-conflict context, since rural communities have faced extreme levels of both devastation and poverty. (Ojendal and Sedara 2011, Romeo 2002)

The results of this approach have largely been considered successful, though still nascent. It is also believed that the process of decentralization in Cambodia has created a democratic political space at the local level, which has promoted improved relationships between civil society and government and "reconnected local government with the central state since local government has been awarded a central role in the initiation of a bold public sector reform." (Ojendal and Sedara 2011, p. 14) Surveys and studies of commune level governance have reinforced that the commune governments have followed procedures, acted in the interests of their constituents, and improved living conditions. (Ojendal and Sedara 2011, Plummer and Tritt 2010, Pact 2008) Therefore, there may be reason to increase the authorities and funding to commune government. (Pact 2008) Thus, while democratic decision-making plays a greater role, the centralized and politicized administration remains highly regulated. (Plummer and Tritt 2010) Under the IP3, the potential for greater authorities at the commune level of government is high.

The village chief plays a broader role than current policy mandates. Community members rely on the village chief as their primary point of contact with local government, and approach the village chief for informal mediation as well. The village chief may consult with elders and other community leaders on development plans and these conversations may be fairly influential. Mandates for minimum levels of capacity and skills and accountability of the village chief could continue to strengthen this position (Plummer and Tritt 2010), however others argue that these types of mandates for capacity and education levels undermine 'traditional' governance rationales and empowerment of women who mostly have less education than men in Cambodia, especially in the countryside (Goudsmit).

The commune government allocates the bulk of the local development fund to road rehabilitation, with projects selected on a rotating basis between the villages. Therefore, village level meetings are largely ineffective unless the village is selected. Participation may increase with higher allocations of development funds to the commune and village levels. (Plummer and Tritt 2010)

In Cambodia, the legislation related to decentralization reform does not provide clear indications about the role of and spaces for civil-society participation. Citizen participation in local governance activities takes place as mandated with public meetings, however, informal communication is still the primary mode for influencing prioritization of development plans. A donor funded project for Community Based Rural Development (CBRDP) promoted greater participation in planning by establishing 'Village Networks' as a parallel community organization to increase engagement of the constituents in the commune planning process. Initial findings demonstrate positive results, including increased public participation, by creating a more formal forum for citizen participation. (Pellini and Ayres 2007)

III. INDONESIA

A. Decentralization in Indonesia

Decentralization in Indonesia took place beginning in 1999, with the collapse of Suharto's New Order regime in 1998. Indonesia's immediate and extensive decentralization took place in a little over one year, and has thus been described as a "big bang" transition from a top-down centrally governed state to a highly decentralized structure. (Hoffman and Kaiser 2006, Butt 2010). The process of decentralization has been iterative in Indonesia, as new laws in some cases retract authorities at sub-national levels and then re-introduce greater authorities again. The rapid shift from a centralized and authoritarian to a decentralized and democratic government structure also introduced a number of challenges in governance and policy-making. For example, local parliaments have the authority to make legislation at sub-national levels, and this has resulted not only in a complex variation of sub-national government policies across districts, but also contestation over the validity of local legislations. (Butt 2010, von Luebke, 2009).

The implementation of *Law No. 22/1999 on Regional Autonomy* and *Law 25/1999 on the Fiscal Balance between Central Government and Regional Governments* transferred powers, taxation authority, and personnel to sub-national governments. Under this legislation, over two-thirds of government employees were transferred from central offices to regional offices, however the legislations maintain significant control from the center over sub-national administration. (Hoffman and Kaiser 2006) The provinces retained primarily coordinating responsibilities with somewhat greater responsibilities allocated to the districts. Law 22/1999 began to introduce greater authorities at the village level and established the legislative village council or Badan Perwakilan Desa (BPD), which translates to Village Representative Council. The BPD consisted of elected members, to which the Village Head would be accountable. (Antlov 2003) Meanwhile, the law outlined the intention to vest villages with greater authorities, but provided that district government would determine the actual tasks. (Ibsen 2011)

Law No. 22/1999 was replaced by *Law No. 32/2004: Autonomy Law*, which increased power to provinces in oversight of districts and cities, and made provincial governors official central government representatives. This law reduced district autonomy and focused more on the purpose of decentralization as improvement of service delivery rather than on self-government and peoples' participation. (Ibsen 2011) Changes at the village level included redefining the role of the village government to include the carrying out the tasks of the national government. In addition, village council members would now be appointed by consensus, rather than elected, and inaugurated by the district Regent. The district government would also appoint a village secretary with a civil servant status (therefore accountable to district government rather than the village head). And, the village head would be accountable to the district government as well, rather than to the BPD. (Antlov 2012)

At the village level, most recently, *Law 6/2014: Village Law* has been enacted by the government that establishes a 'hybrid' village governance structures, with national recognition of and mandates for village government, but with greater autonomy and self-governance within villages. (Antlov et. al, forthcoming) The village will no longer be an administrative tier of the government, as the Village Secretary will no longer be filled by a civil servant. (Antlov, interview) The law also increases the development budget transferred to villages. The government has begun to issue a series of Government Regulations (PPs) to guide the implementation of this law. By mid-2014, the government is expected to issue two regulations regarding the requirements of official villages under state administration (Desa Dinas) and customary villages (Desa Adat). Increased development funds will be transferred to villages beginning from 2015 in phases across the country. (PNPM 2014)

Laws Relating to Village Governance in Indonesia

Law 19/1965: Village Government – Provided the right of villages to organize themselves.

Law 5/1979: Village Government – Established villages as the lowest level of territorial units in Indonesia, with limited authority and resources

Law 22/1999: Regional Autonomy – Villages were recognized as legal communities, administered by the district. Villages would have elected village heads with terms of 5 years and a directly elected village council of 5-13 members, to which the village head would be accountable.

Law 25/1999 – Fiscal Balance between Central Government and Regional Governments – outlines the Fiscal Decentralization policies and processes

Law 32/2004: Autonomy Law – Replaced Law 22/1999 - The role of the village government was redefined to include national government tasks and the efficient provision of public services. Village council members would be appointed through consultation among villagers and BPD and village heads would be accountable to the district government. District government would appoint a village secretary with a civil servant status.

Government Regulation 72/2005 on Villages – provides block grants to villages and devolves budgetary functions to villages, encourages community and NGO participation in development planning

Home Ministry 2005 Guidelines for the Implementation of Village Allocation Funds (ADD) – provides guidance on planning and budgeting at the community level.

Ministerial Decree on Villages 2006

Law 6/2014: Village Law – The revised Village Law will be implemented by 2015 and maintains much of the structure of the previous Law 32/2004, but introduces policies allowing for customary village governance (desa adat).

Government Regulation 43/2014 – Provides the implementing regulations for Law 6/2014

Sources: Antlov 2003; Antlov and Eko 2012; Antlov et. al, forthcoming; USAID 2007

B. Sub-National Government Structure

Sub-national government in Indonesia has four administrative levels. The first division from the center includes the provinces (propinsi) (~33), followed by regencies/districts (kabupaten) (~399) and cities/municipalities (kotamadya) (~98). Kabupaten and Kotamadya are further sub-divided into 6,994 sub-districts (kecamatans) and then into 73,000 rural villages (desa) and 8,309 urban communities (kelurahan). (Govt. of Indonesia, Ministry of Home Affairs 2013) Desa and Kelurahan are further divided into neighborhood and community units (RT/RW), which do not have an official administrative status in the government.

Provincial government includes a provincial parliament, called Dewan Perwakilan Rakyat Daerah (DPRD), and a Governor elected by the parliament. The DPRD roles include formulating and overseeing the implementation of regional policies, passing the budget, and carrying out national government tasks. A Mayor heads the city government, and a Regent presides over the district. These heads are elected by their respective parliaments as per the Law 32/2004 on Regional Government. Since the decentralization policy implemented in 1999, there is no hierarchical links between provincial and city/district levels. In addition, the law stipulated that city/districts are autonomous regions. In cities, the Local Parliament (DPRD Kota) encompasses the entire urban and surrounding peri-urban areas.

Sub-districts serve as a level for administrative deconcentration of the district government and the main task of sub-district government is to oversee the implementation of district policy at the village level. The sub-district government oversees the village level participatory planning processes and coordinates activities related to health service provision and improving traffic and waste management. (Ibsen 2011)

The village (desa or k*elurahan) is* the lowest level of recognized government in Indonesia. The desa or rural village is no longer an administrative level according to the new Law 6/2014 on Village Government. The desa is

headed by an elected village head who is accountable to the district government and includes a mandate for an elected village council. In urban areas, the *kelurahan* unit is headed by a *lurah,* a civil servant, who is appointed by the governor.

While the desa and *kelurahan* are the lowest level of formal government in Indonesia, there are two even smaller units that are not directly controlled by government. The neighborhood unit or RT (*rukun tetangga*) includes approximately 50 households in an area and the community unit or RW (*rukun warga,*) includes 2-5 adjoining RTs. RTs and RWs are considered community-based organizations that are supported and monitored by local government. RW/RT (Neighborhood and Community Heads) are elected in direct elections but are considered voluntary positions and are not paid a salary by government. The role of RT and RW heads includes serving as a communication link between the village government and the villagers, assisting in raising community contributions, and maintaining security. (Sutiyo and Maharjan 2013)

C. Village Governance in Indonesia

According to the 2010 census, the population of Indonesia includes over 230 million people living on 17,508 Islands, with 58% of the population on the island of Java. Indonesia is a largely rural country (~60%), with a high rate of urbanization. There are approximately 73,000 rural villages in Indonesia. This section describes rural village (desa) governance and does not include the municipal/urban kelurahan, which are at the same level of governance, but have significantly different roles and regulations.

Jurisdiction and Legal Status

The Government of Indonesia recognizes village (desa) government as the lowest tier of government in Indonesia. *Law 6/2014: Village Law* establishes a 'hybrid' village governance structure, with national recognition of and mandates for village government, but with greater autonomy and self-governance within villages. This law removes the civil servant post of Village Secretary, which means that the village no longer has an administrative representative. (Antlov et. al, forthcoming) Under the new law, villages may be classified as customary villages (desa adat), dependent on a set of characteristics, and would then be permitted to establish customary governance practices. (Antlov, interview)

Village communities were established prior to Indonesian independence under colonial rule and were provided legitimacy in the 1945 Constitution as self-administering units. Subsequent laws continued to recognize villages, however *Law 5/1979 on Village Government* brought villages under tighter control of the national government and introduced a uniform structure for government administration. (Antlov and Eko, 2012; Olken 2010) While this law recognized villages as the lowest territorial unit, village leaders were granted limited authority and resources. (Ito 2011)

Law 22/1999 re-established greater authorities to the village level of government. In 2004 Law 32/2004 replaced Law 22/1999 and again circumscribed some of the powers of the Village Council. (Antlov and Eko 2012) Until recently, Law 32/2004 defined the roles and authority of village level government. In December 2013 the Government passed the revised Village Law 6/2014. The implementation of this law is expected to take place in 2015.

Village boundaries are mapped and established through regulation at the District level, taking into account traditional territories. Typically, villages consist of several hamlets (Dusun) surrounded by natural boundaries, such as a river, hill or road. Hamlets may include as few as 25 and as many as 250 households. (Sutiyo and Maharajan 2013, Olken 2010) Villages must have minimum populations that vary by region (ranging from 500-5,000) as outlined in Article 7 of Law 6/2014.

Village Governance Structure and Election System

The village government includes the village head, who may be referred to by traditional name, the village government staff, and a Village Council (Badan Perwakilan Desa or BPD). The BPD includes 5-9 members, based on population, gender inclusion, and finances of the village. Article 59 of Law 6/2014 outlines the composition of the BPD to include 1 Chair, 1 Vice-Chair, and 1 Secretary. Under the prior Law 32/2004, the Secretary was a civil servant appointed by the District Government, however, under the current law, this is no longer the case. (Antlov, interview)

In line with Law 32/2004, the new Village Law 6/2004 provides for direct election of the village head, who is subsequently endorsed and appointed (and may be removed) by the Regent with a term of 6 years and up to 3 terms. In the prior Law 22/1999 the village head was elected every 5 years and accountable to the village council. (Antlov and Eko 2012) Under the 1999 Law, the BPD (then the Village Representative Boards) had the authority to dismiss the village head, however, with the 2004 and 2014 Laws, the Council and Village Head became 'partners' as both are appointed by and accountable to the Regent following the local elections. (Ibsen 2011) Regardless, a 2007 survey revealed that as much as 25% of villages still had non-elected village heads. (Doupé 2013) Protest by village heads partly influenced the change in legislation, but the BPD then became so weak that it was inconsequential in some villages. Therefore, the new Law 6/2014 has strengthened the BPD again, but has not re-introduced the authority to the BPD to remove the village head.

Articles 56 and 57 of Law 6/2014 specify that the village constituents democratically elect the Village Consultative Council (Badan Perwakilan Desa or BPD). Article 58 further specifies that, as in the case of the village head, the Regent will inaugurate the members.

Accountability

Under the current legal framework, the village head is accountable to the district government, since s/he is appointed and can be removed by the Regent. Under the earlier Law 22/1999, the village head was accountable to the local population by election and to the Village Council, through the submission of annual reports and possibility that the BPD could suggest dismissal of a village head. (Antlov and Eko 2012) Law 32/2014 reduced the role of the BPD as an appointed body working in partnership with the village head. So until recently the BPD has not been in a position to hold the village head accountable, though in some cases the villages maintained a stronger position for the BPD. Law 6/2014 reinstates some of the authorities of the BPD, including overseeing the performance of the village head, and has re-introduced elections for BPD members. Thus, there is greater scope for the BPD to hold the village head accountable again. (Antlov et. al, forthcoming)

However, with limited checks on the village head by the BPD, and limited capacity by the district government to monitor village heads, the position of the village head is strong. (LL3) The village head also has direct access to the district government and therefore coordinate access to village funds. (Antlov et. al, forthcoming)

The new Law 6/2014 introduces and mandates the village assembly (Musyawarah Desa) as an additional mechanism for accountability to the village constituents. The Musyawarah Desa must take place once a year and provide an opportunity for all villagers to provide input on the village development plans and village investments. (Antlov et. al, forthcoming)

The village government interacts frequently with the sub-district government. The head of the sub-district has input into which villages will receive support from various programs, in the selection of contractors for local projects, and is a channel of communication between the village and the district governments. (Ibsen 2011) Thus, while the villages are not directly accountable to the sub-district government, the sub-district does hold political influence over the village.

Roles and Responsibilities (administrative and traditional)

The village head broadly has the authority to develop local legislation, generate sources of revenue, prepare the village budget, propose and accept transfers from higher-level government institutions, and coordinate participation of development plans. The village head is responsible for preparing and submitting an annual report to the Regent and a description of this to the BPD and the constituents of the village. The village government also plays an increasingly important role in local service delivery. A number of government programs provide funds to the village or implement projects at this level, including, until now, the PNPM (national program of community self-empowerment). (Doupé 2013) The future of the PNPM program is as yet unclear. Perhaps most importantly, the village head has the power of village financial management. (Antlov et. al, forthcoming)

While Law 32/2014 reduced the role of the BPD, Law 6/2014 reinstates some of the authorities of the BPD, including overseeing the performance of the village head and sharing joint responsibility with the village head on drafting village regulations. (Antlov et. al, forthcoming)

District government is responsible for determining the specific authorities of the villages, and village governments coordinate with the sub-district as to the exact division of responsibility. (Ibsen 2011)

Village officials, and particularly village heads, play a significant role in informal dispute resolution. In particular, village heads mediate disputes regarding land, however, they may be constrained by lack of authority to register

communal land or in conflicts against government or large corporations. Village officials and/or informal leaders are also involved in addressing cases of domestic violence, but reporting of domestic violence is still low. (McLaughlin and Perdana 2010) While the new village laws have encouraged accepting 'customary' practices in villages rather than homogenizing village governance, there are also concerns among women and human rights groups that accepting 'customary values' may legitimize traditional patrimonial government structures. (Antlov and Eko 2012)

Financial Resources

Village governments have the authority to generate revenue through local fees (e.g. from village-owned markets or mini-buses passing through the village), but primarily depend on the Village Allocation Funds (Dana Alokasi Desa or ADD), transferred by district government, and other assistance from higher level of government or from national programs. The government transfers significant resources to villages in Indonesia and under the new law, village fund will be increased and consolidated into a single village budget. (APB-Desa) (Antlov et. al, forthcoming) According to Government Regulation 43/2014, the ADD is transferred as part of the district budget and comprises at least 10% of the district budget (after deducting the Special Allocation Fund). In addition 10% of district tax revenue is to be transferred to the villages. (FPPD 2014)

Under Law 6/2014, the government will allocate a budget to the villages in addition to the ADD. An elucidation of the law uses the figure of 10% of regional funds as the scale of the budget transfer in addition to the ADD as defined previously. The funds could add up to approximately 6% of the national budget, however it is not clear how these allocations will be shared between districts and villages and will be further addressed in the implementing regulations. The majority of village funds come from central ministry projects and are managed through deconcentrated project structures. The village development budget on average ranges between approximately Rp 250-400 million/year. (Antlov et al, forthcoming)

Until now, the villages received considerable program funding under the Government's National Community Empowerment Program (Program Nasional Pemberdayaan Masyarakat or PNPM). PNPM mandates that villages must allocate the funds to activities that improve 12 health, nutrition and education indicators, with activities that are directly within the control of village governments.[5] It is unclear whether the PNPM program will continue or whether the funds will be channeled to villages as part of the increase in the government budget transfers. (Antlov et. al, forthcoming)

Planning and Project Implementation

Prior to decentralization, the National Planning Agency (BAPENAS) formulated and implemented national plans in a top-down system with sub-units in the districts (BAPEDA). (Ibsen 2011) However, with decentralization, the government has introduced a participatory planning system (Musrenbang). According to Law 26/2007 on rural development planning, the village government is required to prepare medium-term (5-yr) plans (RPJM-Desa) and an annual plan (RKP-Desa). The village head, secretary, six representatives from other village institutions and three community representatives participate in drafting the plan. Public participation takes place at the village development meetings (musrembang). The village plans are consolidated into the district level plans. The line departments at the district level prepare budgets for their sectors and the District Parliament approves the budget.

According to legislations mandating the Musrenbang process, community meetings are first held at the sub-village level and the list of projects identified are introduced at the village-level participatory budgeting meeting. The projects agreed upon from the village meetings are ranked at the sub-district level according to development goals of the district. The final choice of projects is taken at a district-level meeting.

5 http://www.povertyactionlab.org/evaluation/project-generasi-conditional-community-block-grants-indonesia

The Musrenbang System

At the community level, the purpose of the Musrenbang is to reach agreement on program priorities of the local government departments (Satuan Kerja Perangkat Daerah—SKPD) to be funded from the local annual budget (Anggaran Pendapatan dan Belanja Daerah—APBD) and village allocation funds, and to select the community and government representatives who will attend the Musrenbang at sub district level. *At the sub district level*, the role and function of Musrenbang is to reach consensus and agreement on the (a) priority of program and activity by SKPD function to be discussed at the SKPD Forum; (b) selection of sub district representatives to attend the Musrenbang at district level. *At the district level*, the function of the Musrenbang is to reach consensus and agreement on the draft final Annual Local Government Work Plan and Budget (Rencana Kerja Pemerintah Daera—RKPD).

The latter basically consists of (a) direction of regional development policy; (b) direction for priority programs and activities and indicative budget of SKPD; (Renja SKPD); (c) macro economic and financial framework; (d) priority of programs and activities proposed for funding by the APBD, APBD Province, and other sources of funds; (e) recommendations for regulatory support from Provincial and Central Government; (f) budget allocation for the village allocation fund (through Alokasi Dana Desa—ADD).

Recently, sector-specific Musrenbang within a specific local government sectoral department (SKPD forums), such as health or education, have been launched at district and sub-district levels. These allow sector departments to more closely align their sectoral programs with community perspectives and priorities. Outcomes of kecamatan-level Musrenbang feed into these SKPD forums, the results of which then feed into the district-level Musrenbang.

Source*: Local Governance Support Program (LGSP), USAID, (July 2007)* "Good Governance Brief. Musrenbang as a Key Driver in Effective Participatory Budgeting – Key Issues and Perspectives for Improvements." *See: http://pdf.usaid.gov/pdf_docs/Pnadq129.pdf*

While the government policies suggest that the Musrenbang provides community forums to deliberate development needs among the constituents, in actuality, participation remains limited to village elites. (Ibsen 2011) The Musyawarah Desa, mandated under Law 6/2014 could strengthen village involvement in planning in the future.

Remuneration and Incentives

Article 26 of Law 6/2014 specifies that the village head receive a monthly salary, allowances, and health insurance. Village officers with regular work in a village office also earn salaries. According to Government Regulation 43/2014, which specifies implementing details of Law 6/2014, the percent of the budget that may be paid for village wages depends on the size of the ADD that the village receives. The Regent determines the total earnings permitted to each village. (FPPD 2014) The new law also makes a provision for salaries for BPD members. (Antlov et. al, forthcoming)

Gender Inclusion

The Government of Indonesia mandated Gender Mainstreaming in Presidential Instructions 9/2000 and a number of policies to protect women have been subsequently legislated including Law 23/2004 Elimination of Domestic Violence, Law 21/2007 on Human Trafficking. However, many laws and regulations still discriminate against women. Indonesia's National Commission on Violence Against Women (Komnas Perempuan) identified 154 sub-national regulations that discriminate against women between 1999-2009. (Govt. of Indonesia and Donors 2011)

Women's representation in politics and government in Indonesia remains low. Women face challenges in convincing party leaders to accept their candidacy and often lack the political networks and/or financial resources to successfully run for office. In addition, local political and religious leaders may also be hostile towards women candidates. (Satriyo 2010) At the national land provincial levels, Law 8/2012 requires a "30% quota in the candidate list and that at least one candidate in every three is a woman…political parties that do not meet the quota will be disqualified from running in the electoral district where the quota is not met…Although one in every three candidates listed on the ballot is a woman, there is no guarantee of a corresponding gender representation.

The seats won by a political party will be allocated to the candidates that receive the highest number of votes, regardless of gender." (IFES 2014, p4-5) In 2010, at the village level, women comprised 3.91% of the positions as village head. (UNDP 2010)

At the village level, women are also marginalized in village meetings and often will not attend and/or participate if not invited to do so. (Ito 2011) Furthermore, women seeking informal mediation may approach informal leaders and village government regarding cases of violence.

D. Conclusions

Prior to 1999, the central government limited the responsibilities of the village head to enforcing national policies. However, village leaders maintained a powerful position within their communities, "The result was village leadership that was both weak and coopted (seen from above) and strong and authoritarian (seen from below), and one that certainly was not responsive to the village population." (Antlov and Eko 2012, p. 197) Since 1999, the government has iteratively strengthened the village head's position. Today, the position of the village head is strong due to being elected by the constituents and having access to the district government. While the village head can use his/her authorities to support local development priorities, there is also a risk that s/he can co-opt funds if sufficient mechanisms for accountability are not in place. Additionally, if the village head does not have strong networks with higher levels of government, s/he may not be effective. (Antlov et. al, forthcoming)

The government granted the most authority to the village council had under Law 22/1999, and retracted some of these powers under Law 32/2004, and changed the name from Badan Perwakilan Desa (Village *Representative* Council) to Badan Permusyawaratan Desa (Village *Consultative* Council). The change in name signified the shift in village government, from providing representation at the village level to providing services. Law 6/2014 re-establishes some of the BPD's authorities and once again expands its role, however, actual practices will evolve with implementation of the law.

Village level elections have matured over the years with more qualified candidates and less influence by higher levels of government. (Antlov et. al, forthcoming) Villagers also express greater satisfaction with village leadership. However, the participation of women remains extremely low.

The government has endorsed provision of increased funding to the village government. While much of the funding has been tied to national programs in the past, Law 6/2014 mandates increased funding for development at the discretion of village government. It is not clear whether PNPM[6] (the National Program for Community Empowerment - Program Nasional Pemberdayaan Mandiri) will continue. PNPM funding provided the opportunity for village governments to increase their capacity for implement programs to improve health, education, and other services. Critiques against PNPM include elite capture in accessing funds, lack of marginalized groups and women representation in the public meetings, and increased social tension as a result of the public debates. However, as the majority of village development funds are allocated towards roads, PNPM provided a funding system to encourage village governments to coordinate with line ministries on service provision.

6 PNPM was launched in 2008, building on 10 years of experience with the Kecamatan Develop Program (KDP). It is a national community empowerment program that operates through the distribution of block grants to local community groups. Community-based organizations (CBOs) prioritize development needs through a participatory planning process and then justify their projects at sub-district meetings. Projects are prioritized during the meeting and funds allocated for a selection of projects. The process provides a capacity building opportunity to the village constituents in designing projects and using effective argumentation. (Antlov and Eko 2012) Since 2008, all ministerial and institutional community empowerment-based poverty eradication programs are coordinated under the umbrella of PNPM. Multi-lateral loans make up significant portion of the PNPM budget. Donors contribute to the PNPM trust fund, which the World Bank administers. The World Bank co-chairs the technical secretariat for PNPM with BAPPENAS, and the Coordinating Minister for Social Welfare chairs the PNPM Support Facility.

IV. PAPUA NEW GUINEA

A. Decentralization in Papua New Guinea

Papua New Guinea is one of the world's most ethnically diverse and geographically dispersed countries with over 600 islands and over 800 languages. (World Bank 2013) Governance in Papua New Guinea provides an example of the challenges of introducing western governance structures as an overlay on traditional leadership. (Ambang 2007) The Government of Papua New Guinea decentralized power to its provinces shortly after its independence from Australia in 1975. At that time, decentralization was largely a response to the autonomy demands and cessation threats of Bougainville, Papua New Guinea's most distant island province and location of significant gold and copper mines. The national government had to balance the amount of self-rule it devolved to placate Bougainville, while at the same time not embolden its demands by giving it too much autonomy. So as not to give special treatment to Bougainville and thereby further strengthen its separatist claims, the central government devised a decentralization strategy that would devolve authority to all provinces equally. In August 1976, one year after Papua New Guinea's independence, the Parliament approved a constitutional amendment that provided for provincial governments, thereby adding a provision for decentralization. The Government passed *The Organic Law on Provincial Government* in 1977, stipulating the structure and powers of Papua New Guinea's provinces. While initially motivated to address Bougainville's demands, Papua New Guinea's constitutional amendment and Organic Law were mandated for all provinces regardless of each province's readiness, capacity, or desire for self-government. (Devlin 2010)

The implementation of this plan has seen many challenges, including competition between the national parliament and provincial government leaders and the devolution of duties to provinces that were ill equipped to take on the new responsibilities. This early phase of decentralization, however, fulfilled its initial primary objective, which was to keep the country united and safe from the threat provincial of cessation. (Devlin 2010).

Given the challenges that Papua New Guinea's decentralized government faced early on, reforms were introduced in 1995 in the form of the *Organic Law on Provincial Governments and Local-level Governments (OLPGLLG)*. These reforms addressed the problems of corruption, nepotism, and poor administration that plagued provincial governments and deprived local governments and communities of basic services, including health, education, and infrastructure. The reforms were also a response to national politician's negative attitudes toward provincial leadership, as they shifted authority from provincial to local level governments. Provincial leaders, particularly those of the New Guinea Islands – the five provinces most geographically and culturally distant from mainland PNG, objected to the reforms thereby continuing to threaten the country's territorial integrity. (Mukherjee 2010)

While Papua New Guinea s decentralization was largely driven by Bougainvillean secessionism, in 2001 the island finally gained special autonomy status, which caused other island provinces to demand autonomy, including East New Britain in 2003 and New Ireland in 2007. (Mukherjee 2010)

Amendments to the OLPGLLG and other legislation, such as the *Local-level Governments Administration Act of 1997* include an ongoing effort to further decentralize government by shifting responsibilities from provincial to district and local level governments. On-going discussions have addressed the question of including traditional leadership in local governance structures more formally. (Ambang 2008) While national policies have not resolved this question, at times provincial policies have made attempts to establish councils of chiefs in community governance structures.

Laws and Policies Related to Decentralization in Papua New Guinea

Bougainville Agreement 1976 – Agreement with Bougainville secessionists to amend the Constitution and devise an organic law on provincial government powers and functions

Constitutional Amendment of 1976 – Increased the power of the Provinces with legislative authorities over local government

The Organic Law on Provincial Government of 1977 – Based on the Bougainville Agreement (1976)

The Village Services Program (1990) – Empowered community governments through district centers and community councils to link the national government with village groups, largely bypassing provincial governments

The Organic Law on Provincial Governments and Local-level Governments (OLPGLLG) of 1995 – Effectively abolished provincial government system and strengthened the Local Level Governments

Provincial and Local Level Reform Act, 1995 – Decentralized powers to the local level through bottom-up planning process

1996 Amendments to the OLPGLLG – Established the JPPBPCs/JDPBPCs (Joint Provincial/District Planning and Budget Priorities Committee)

Local-level Governments Administration Act of 1997 – Describes the administrative functions allocated to local-level governments

District Authorities Act of 2006 – Amendment to the OLPGLLG intended to move away from provincial governments and shift responsibilities to district authorities and local-level governments

Sources: Ambang 2008, Devlin 2010, May 2004, Mukherjee 2010

B. Sub-National Government Structure

Until 1995, Papua New Guinea had a three-tier system of government consisting of national, provincial, and local government. The1995 Organic Law on Provincial Governments and Local-Level Government (OLPGLLG) provided the legal structure for reforms that aimed at decentralization to improve public service deliver at the local level. After the reforms, the new division of the government jurisdictions included provinces, districts, and local government.

Today, Papua New Guinea has 22 provincial-level divisions: 20 integrated provinces, the autonomous province of North Solomons (Bougainville) and the National Capital District. Parliament seats are held by members elected from province-wide constituencies. These Regional Members of Parliament (MPs) also serve as the governors of the province from which they are elected. Provinces also have administrators who are appointed by the National Executive Council.

Each province has one or more administrative districts for a total of 87 nationwide. Each district is an electoral district, with a single seat in the National Parliament. Every district contains one or more Local Level Governments (LLGs), with 325 nationwide. LLGs are in turn further subdivided into wards with more than 6000 wards nationwide. Wards are the lowest administrative level in Papua New Guinea and consist of at most a few villages. Local government heads are elected by local voters, and voters within each ward elect councilors. (UN 2004, Census 2011)

The reforms of the OLPGLLG were intended to increase the role of Parliament in sub-national governance, and to enable people to be more involved in decision making processes in their provinces at the district and ward levels via LLGs. The government outlined a number of areas for sub-national governance roles including improving service delivery, particularly in rural areas; increasing participation at the community and local level; and reducing mismanagement or misuse of funds. (Govt. of Papua New Guinea 2009)

However, since 1995, districts and LLGs have suffered capacity-related problems with regard to service delivery to their respective wards. In some areas service delivery is virtually non-existent at the ward level. Furthermore, local councilors are unable to politically manage councils due to an inadequate understanding of LLG functions and powers given in the OLPLLG. This is further complicated by the 2006 District Authorities Bill, which has removed LLG Presidents from Provincial Assemblies thereby weakening the link between LLG and Provincial levels of government and administration. (Barcham 2009)

C. Village Governance in Papua New Guinea

Based on the 2011 census preliminary figures, the population of Papua New Guinea is just over 7 million. It has an urban population of only 13.3%, according to UNDP 2005 data (EIU Country Profile). The division of government jurisdictions includes provinces, districts, and local level government (LLG). Over 6000 wards nationwide make up the LLGs. This section describes the structure and responsibilities of the wards, and to some extent that of LLGs since LLGs oversee ward duties and activities.

Jurisdiction and Legal Status

Wards are the lowest administrative level in Papua New Guinea and consist of at most a few villages. A ward is an electorate for an elected member of a Local level Government. In the *OLPGLLG* and the *Local-Level Government Administration Act (LLGAC)* of 1997, 'wards' have the same meaning as a village, parts of a village in the case of a large village, or a collection of small villages or hamlets. Ward Development Committees are mandated to form and to operate at this level. WDCs are established under Section 26 of the *LLGAC*. (Kalinoe 2009) Section 27 of OLPGLLG provides for the establishment of LLGs. The LLG includes the elected members that represent wards located in the LLG.

Ward committees were first established in Papua New Guinea in early 1960's to create and bring local government closer to the population. Local government councils then served populations ranging from 5000-50,000 people. The ward committees were chaired by elected councilors and initially played an advisory role, but subsequently disbursed council funds and engaged in community self-help projects. (May 2004)

It is important to note that tribal leaders play a critical role in local level governance. During the colonial period, tribal leaders were agents of the administration in the positions of village councilors and village court magistrates. However, after independence the national government has not integrated tribal leadership into the governance structure. Tribal leaders must compete in elections alongside other candidates (Ambang 2008)

Governance Structure and Election System

Section 27 of OLPGLLG provides for the establishment of LLGs, which are made up of elected members that represent wards located in the LLG. There are some differences in the law regarding rural and urban LLGs in terms of membership and funding. In rural LLGs, the OLPGLLG allows for two women representatives only, nominated by the Provincial Council of Women. In urban LLGs, the law allows for three appointed members, namely:

- A trade union representative representing workers
- A person nominated by the Employers Federation representing employers
- A woman nominated by the National Council of Women

The president of the LLG can either be elected by local popular vote or by LLG elected members. The LLGAC authorizes the Minister responsible for the LLG to dismiss the LLG president or any of its members, though in both cases these are elected oficials, in the case of negligence of duty. (Kalinoe 2009)

The Local-level Governments Administration Act (LLGAC) of 1997 provides for the establishment of Ward Development Committees for each ward in an LLG. Each ward elects a ward councilor who sits on the LLG. Each ward should also have a Ward Development Committee, which consist of a chairman and up to five associate members including at least two women. These associate members are elected or appointed according to what is determined by each ward. The LLG maintains a register of the associate members whose tenure in office is concurrent with that of the LLG member for the ward. Associate members can be dismissed by the chairman of the WDC if they are deemed unable to assist or not fit for the job, subject to community approval. (LLGA Act 1997, Govt. of Papua New Guinea 2009).

In general, elections in Papua New Guinea tend to emphasize social divisions and can create conflicts among social groups. This is because Papua New Guinea's political culture often involves mobilizing village, clan and tribal loyalties, and church affiliations. Candidates tend to rely on these types of relations for votes, and they make promises to such groups relating to government funds and service delivery. Candidates then become obligated once in office. Likewise, clans-people tend to feel obligated to vote collectively for their local "big-man", regardless of his qualifications. In short, traditional social groups such as clan and tribal loyalties strongly influence election campaigns and results in a way that does not improve the quality of governance and the provision of services. While the interests of some customary relations may be served, this is often at the expense of other divisions such as the ward, LLG, district, or province. This in turn creates tension between traditional allegiances and government responsibilities, between customary social groups and administrative divisions. (Goudsmit 2008, Standish 2007)

Accountability

Institutional changes aimed at bringing the government closer to the people, such as the three-tier government, the move toward decentralizing authority on planning and budgeting for local infrastructure projects, and the establishment of the *Joint District Planning and Budgeting Priorities Committee (JDPBPC)* are examples of the government's efforts to improved accountability and governance. Furthermore, sub-national government funds have increased considerably in recent years. There is little study, however, of whether these institutional changes have indeed improved the provision of local services and infrastructure or improved accountability in terms of how resources are planned, spent, and their effects on local communities. (World Bank 2011)

The World Bank conducted a study regarding the determinants of attaining infrastructure projects in Papua New Guinea at the ward level, as such projects factor heavily into any effort to improve service delivery. The study found that in areas where MP influence is strong, if community groups are still able to influence development projects, then such environments are conducive for strengthening feedback systems between MPs and their local residents. In other words, measures could be taken to increase transparency, such as devising policies to make public JDPBPC allocations, budgets, meeting minutes, etc. as well as conducting performance monitoring, community scorecards, and participatory budgeting and expense tracking. The impact of such measures is considered to be more effective in areas where local communities are relatively strong and active. (World Bank 2011)

The result of this study fits the view that "civil society should be strengthened to hold government to account, and that government will have to be supported in order to efficiently, transparently and effectively supply the services demanded by civil society." (Goudsmit 2008, p. 2) While most development efforts tend to focus on public sector reform, it is worth shifting attentions to engaging civil society and strengthening it. As Goudsmit explains, "the few projects in Papua New Guinea with an explicit focus on engaging civil society have tended to deal with civil society as an alternative or antagonist of the State, instead of forging constructive relationships between them as part of the wider nation building project. Most worryingly, I hardly found any development intervention that considered the need to take customary social groups – the mainstay of civil society in Papua New Guinea – into account." (Goudsmit 2008, p. 2)

Roles and Responsibilities (administrative and traditional)

The Local-level Governments Administration Act of 1997 stipulates the administrative functions devolved to local governments. At the District level, the main job is to integrate the 'top-down' planning of provinces with 'bottom up' planning of LLGs.

National ministries operating at the provincial and district levels are the main level of government responsible for delivering basic services to communities under the OLPLLG. They have the potential to be the most responsive division as they function at the most local level.[7] (Goudsmit 2008) Thus, since the reforms of the mid-1990s, they have acquired a large range of duties. They are responsible for preparing a rolling five-year development plan for the ward in cooperation with the Ward Development Committee, and preparing an annual plan and budget. They have the ability to raise revenue through taxes and licensing. Additional responsibilities include: constructing and maintaining infrastructure; ensuring the delivering of water supply and electricity; maintaining law and order through consultation, mediation, and arbitration in community forums; maintaining elementary and primary schools; administrating Village Courts; maintaining the Village Book, a register of all ward residents in their wards; and initiating and implementing youth and women programs, among others. (LLGA Act 1997,

7 Legally the LLGs have a number of opportunities to provide services, but in practice these remain weak (Goudsmit, interview)

Barcham 2009, Goudsmit 2008)

At the ward level, the Ward Development Committee acts as the principal community advisory unit for the ward to the LLG, and determines the ward's service, program and infrastructure needs. WDCs may consult among each other regarding programs in common. The WDC chairman reports ward concerns to the LLG, which in turn can then facilitate the planning and co-ordination of services, programs and infrastructure. The Ward Chairman is also responsible for submitting to the LLG a rolling five year plan for the ward (the Ward Development Plan). The LLG may grant LLG powers, functions or duties to the WDC, except: the power to make laws; impose or levy rates, taxes, charges or fees; borrow money; and enter into contracts. An act of the WDC, however, is only binding to the LLG if it has LLG approval. (LLGA Act 1997)

Despite the LLG's extensive responsibilities, they have little government support to enable them to accomplish tasks at the local level below the district level. (Barcham, 2009) Rural LLGs tend to have meager funds that barely cover staff salaries and councilor allowances. Funds are insufficient to cover LLG's functions, and, as a result, few services are actually delivered. In addition, LLGs lack the capacity to coordinate service delivery. (Goudsmit 2008)

Unlike Provincial Governments, LLGs are not provided under the OLPGLLG or the LLGAC with designated staff to carry out duties. Unpaid advisors have been appointed for certain task, however this falls short of the support required. Before the 1995 reforms, Local Government Councils had their own staff. Later, all staff at the different levels of government became part of the national public service, under the supervision of district level officials. As a result, a District Administrator is the only designated LLG officer in charge of coordinating services for LLGs. This has been identified as a main cause for the decline of LLG services delivery. Given that the LLGs have been ineffective in their roles, it is no surprise that ward needs are not being met. While the Ward Development Plan offers promise in terms of local involvement in planning and decision-making, in reality this plan has become no more than 'wish-list' for villagers whose needs continue to grow while services remain undelivered. (Kalinoe 2009, Goudsmit 2008)

Financial Resources

The provinces receive several types of grants from the national government, including a provincial and local-level support grant and a local-level government and village services grant, based on population and land and sea area. The 1998 amendment of the OLPGLLG set the minimum level of the provincial/district support grant at K0.5 million per electorate, and half of this was allocated for the Joint Provincial/District Planning and Budget Priorities Committee (JP/DPBPC) to fund rural action and urban rehabilitation programs. (May 2009)

The JDPBPC determines and controls budget allocations of these grants for LLGs. The district MP heads the JDPBPC along with up to three MP appointed members, and the LLG presidents from within the district. This set up allows the MP and those appointed by him significant power in the JDPBPC, since most districts only have three LLGs and therefore less representation of local interests. Furthermore, the national government grants the district MP direct funds, and makes them available at his discretion without requiring JDPBPC consultation. (Goudsmit 2008)

Transfers designated for LLGs are often stuck in the national and provincial administration, thus in LLGs, after allowances[8] are paid to councilors little is left of the small amount of revenue that the LLGs do receive. In 2007, this issue was addressed through the distribution of grants specifically designated for goods and services, as opposed to for staff salaries. In addition, to create another source of revenue, LLGs have the authority to raise revenue through taxes and licensing. In 2004, the government certified legislation allowing LLGs to collect head taxes at a rate of K20.00 for each individual resident 18 years or older and K100.00 for each resident corporation per fiscal year. (May 2009, Govt. of Papua New Guinea 2004)

In considering policies regarding sources of funding for development projects, it is worth considering the World Bank's findings showing that the District Support Improvement Program (DSIP) and District Support Grants (DSG) were not as effectively converted into development projects in wards with few community groups. In such cases, it may be best to develop grant programs that directly target wards, such as block grants for Ward Development Committees (WDCs). To safeguard and promote cooperation across wards and integration along the different levels of government, such grants could be coupled with LLG and district grants. (World Bank 2011)

8 These are set by the national Salaries and Remuneration Commission.

Planning and Project Implementation

The 1995 OLPGLLG provides the framework for planning and budgeting of local level project delivery. It mandates that planning for service delivery be bottom-up, meaning that development priorities should be established at the ward level through the Ward Development Planning process (WDP) lead by the WDC. The WDC then informs LLG officials of these priorities through a resulting ward development plan. This in turn informs the development plans and budget allocations of the LLG and districts. (CARE 2011)

Based on the World Bank study mentioned above, in reality, this bottom up structure has not worked well. For example, the study found that only one of these mandated ward, LLG and District plans existed in the province of New Ireland. Furthermore, almost half of the ward officials and over a quarter of LLG officials interviewed reported that there were no ward and LLG plans, respectively. This is considered an under-estimate given that these officials are responsible for preparing the plans and so have incentive to over-report on their achievements. Based on the findings of this study, "in effect, the result of 'decentralization' under the OLPGLLG has been the concentration of decision making power and resources with national MPs, who chair the JDPBPCs, at the expense of Provincial and Local-level Governments." (World Bank 2011)

According to a CARE report, "district plans continue to be developed in isolation and without stakeholder input." In addition, the capacity of administrative divisions is significantly limited by a lack of awareness and understanding of roles and responsibilities. As a result, knowledge and skills are inadequate for the implementation of the WDPs in wards, and at the LLG and District levels. (CARE 2011)

Research on seven cases of wards in Wampar LLG in Morobe Province shows that the LLG system is indeed ineffective and inefficient in delivering basic services at the ward level. An important obstacle cited is the lack of financial resources and skilled personnel at the local level government. Importantly, however, the study cites stakeholder participation as a key factor in improving basic delivery services, and the lack thereof as an impediment. In other words, the willingness of citizens to participate is vital for effective community development at local and ward levels. (Esono 2011)

Similarly, the World Bank study came to the conclusion that the strongest predictor of whether a ward receives an infrastructure project (the significance of which is explained above) is the extent to which communities are organized for collective action, in terms of group memberships. This finding has some implications in terms of strengthening ward cohesion. Research suggests, for example, that such civil society organizations may be bridging customary social groupings thereby helping to create unity among different clans within wards. Wards in which there are many diverse clan groups, however, are less able to secure outside funding for local infrastructure projects. There are policy implications for this finding as well. For example, governments and donors tend to focus on institutional and procedural changes and innovations for improving public services at the local level (including electoral laws and planning committees). According to the study, however, such changes have not helped wards receive projects. Furthermore, better knowledge and information about local government systems among ward households have also not helped. Instead, what have mattered are the modes of integration between MPs and their constituencies. (World Bank 2011)

There are examples, however, of support for service delivery initiatives, include a major government fact finding exercise conducted in 2009 that analyzed the development of a Service Delivery Mechanism (SDMM) across five provinces. The SDMM is intended to improve service delivery and encourage bottom-up planning at ward and district levels. The project included baseline data collection and analysis, and the design of the SDMM to facilitate funding, planning, monitoring, reporting and the improvement of services at the district and ward levels. The SDMM investigated failings in office facilities, staff housing and transport and communication infrastructure, which are together considered the 'enabling environment' necessary to support the improvement of service deliver in sub-national government. (Govt. of Papua New Guinea 2010)

Remuneration and Incentives

All elected council leaders are full-time employees of the state and are paid PGK50-200 per month, as determined by the Salaries Remuneration Commission. While LLG officials are entitled to such remuneration ward associate members are not eligible to be paid any remuneration for their services on a Ward Development Committee. (LLGA Act 1997)

Gender Inclusion

Papua New Guinea is highly patriarchal and women tend to suffer from having a lower status in their communities:

the life expectancy of women is lower than that of men; women have excessive workloads that are undervalued; they suffer from mal-nutrition, repeated pregnancies, and gender-based violence; and they have poor access to safe water, healthcare services, and education. Women are also poorly represented in decision-making systems. As a result, PNG is ranked in the bottom ten countries of the Gender Inequality Index. (UN 2010, JICA 2010)

Government legislation has been devised to increase women's participation and protection. These include: the *Lukautim Pikinini Act 2008*, which revised child welfare and protection laws; the *Criminal Code (Sexual Offences and Crimes against Children) Act 2003*, which revised sexual offences, including spousal rape and offences against children; *Amendments to Evidence Act 2003*, which broadened what is accepted as "evidence" in sexual offence cases; the *National Council of Women Act 1979*, which established the National Council of Women. In addition, the number of *Village Courts* has increased, potentially giving women and children better access to justice. As a legal basis for women's participation in government and decision-making, the 1995 OLPGLLG mandates that every Ward Development Committee (WDC) have at least two women representatives. Furthermore, the *Organic Law on Gender Equality* was drafted in 2010 (CARE 2013, JICA 2010, UN 2010)

Overall, Papua New Guinea's Integrated Community Development Policy of 2007 and the National Policy for Women and Gender Equality (2011-2015) recognize gender equality as a critical issue for community development. While national policy and legislation tend to support gender equality and political participation, both remain elusive as they are poorly integrated and implemented. For example, Village Courts are male-dominated institutions that often adopt traditionalist approaches. It remains in question whether women are willing to bring gender-based cases to these courts and whether their hearings would be fair. The Report on Law and Order in Papua New Guinea, however, shows that in 32% of village court cases studied, women were plaintiffs often bringing cases against men. Furthermore, despite the OLPGLLG affirmative action mandate, attaining two women representatives in the WDCs is rare as women tend not to be elected. Rural women are especially affected by continued gender inequalities as they suffer from even worse service delivery and low to practically non-existent participation rates. (CARE 2013, JICA 2010, Govt. of Australia)

Village Courts

The Government of Papua New Guinea established a system of village courts at the time of independence. Community members must request that a court be established and the government then processes and approves the request. With over 1000 village courts across the country, they are now available to serve approximately 2/3 of the population. The motivation for establishing village courts was to "…'customise' the existing legal system so that the underlying law, made up of both custom and common law, became the dominant law rather than introduced statues." (Australian Law Reform Commission) The Village Courts mandates are outlined in the Village Courts Act. Under this Act, the primary role of the village courts is to "ensure peace and harmony in the communities in which they operate," which places an emphasis on mediation and compromise. (Hill and Powles 2001, Section 18.2.1) The local community elects the magistrates though there may be influence by local and provincial governments. The courts also staffed with a clerk and several 'peace officers'. (Evans et. al, 2010)

Under the Village Courts Act, the Village Courts have powers over the following:

(a) compensation, debts and damages to a maximum of K1,000 (Village Courts Act, s 45);

(b) temporary use or occupation of customary land (s 43);

(c) preventative orders in relation to anticipated breaches of the peace (s 51);

(d) custody of children born of couples who are married by custom, or of illegitimate children (s 47);

(e) compensation in relation to bride price (s 46);

(f) divorce in relation to customary marriages (certification of which is within the jurisdiction of the District Court – see 16.6); and

(g) criminal offences within its jurisdiction (s 41).

(Hill and Powles 2001, Section 18.3)

Thus, Village Courts in Papua New Guinea do oversee, to a great extent, access to justice by women and children. However, as male-dominated institutions, women may be hesitant to take issues to the Village Courts. Since

2000 the Government introduced policies to include more women as magistrates and court officers. Recent studies have found evidence of successful use of village courts by women and in some areas, the reduction of violence against women. (Evans et. al, 2010) However, the findings are variable and further study is required to understand the factors of success or failure.

D. Conclusions

In Papua New Guinea, the particular challenge of incorporating traditional leadership within a formalized sub-national governance structure has not been adequately addressed.[9] In fact, the lowest level of official government (the ward) is often smaller than the local tribe. These differences in governance systems often create tensions between tribes and LLGs which weaken both structures. (Goudsmit, interview) The question that remains is how to determine a reasonable set of authorities at the LLG and ward levels and integrate traditional leadership. Papua New Guinea's experience demonstrates that these issues must be taken into account; otherwise the stability of local governance will be at stake.

At the forefront of the clashes between traditional communities and the government is the question of compensation for losses of land and natural resources due to mining and extractive industries. While payments often include irregular pay-outs from the industries, there are also officially sanctioned channels within the government. (Goudsmit 2008) A review of issues related to the struggle over compensation is outside the purview of this paper, but this issue must be acknowledged as a critical point within Papua New Guinea's development and governance challenges.

Meanwhile, the village courts system continues to expand across Papua New Guinea. Critics of the system point out the lack of uniformity (in some cases adhering to customary rule and in others to the formal laws), the failure to distinguish the adjudication approach from formal court system, and discriminatory practices in cases of violence against women. On the other hand, the courts provide an opportunity for resolution of local disputes on a wide scale. Therefore, the village courts do provide an example of local justice that is worth further study and perhaps continued capacity building.

9 Other challenges, with particular reference to the relation between local government and extractive industries are not addressed here as it falls outside the scope of this paper.

V. THE PHILIPPINES

A. Decentralization in the Philippines

The Government of the Philippines has progressively decentralized central government powers since adoption of the Local Autonomy Act of 1959. Incremental reforms such as the Decentralization Act of 1967, the Constitutions of 1972 and 1987, and the Local Government Code of 1983 all encouraged decentralization in concept. However, the most significant legislation for the realization of decentralization, the Local Government Code of 1991, was passed somewhat unexpectedly in the wake of the 1986 People Power revolution. Several factors are cited to explain the push for increased devolution of fiscal and service delivery responsibilities to Local Government Units (LGUs) that resulted in the enactment of the Code. One explanation is the widespread sentiment to democratize after the change of government in 1986, which led to a strong determination to dismantle the mechanisms of central and authoritarian control instituted by Marcos. In fact, at this stage the interests of a number of actors supporting decentralization coincided, including major donors, sub-national Leagues of Government (including the League of Governors and League of Mayors), and a number of national government officials with broader political agendas. (Rood 1998)

The Local Government Code of 1991 outlined the structure of local government functions, power, and relations to other governing bodies. The Code consolidated and amended various existing laws that specified the parameters for local government and laid the foundation for increased local autonomy and accountability through the assignment of service delivery, expenditure responsibilities, and revenue mobilization powers to LGUs. (Manasan 2007) The Code contains four important laws for the functions and powers of local governments, including Provincial Law, Municipal Law, City Law, and Barangay Law. In addition, the functions and powers of the Metropolitan Manila Development Authority (MMDA) and the Autonomous Region of Muslim Mindanao (ARMM) were defined in Republic Act 7924 and Republic Act 6649 (revised in 1997 under RA 9054) respectively.

The 1991 Code devolved functions and powers from central to local governments, and mandated Local Government Units (LGUs) to share the responsibilities of providing social housing, regulating shelter-related activities and ensuring poverty alleviation. It requires decentralized systems for delivering basic services in the health, agriculture, social welfare and environment and natural resources sectors, as well as directing major administrative and procedural reforms among a number of national government agencies. Furthermore, the Social Reform and Poverty Alleviation Act (Republic Act No. 8425) was passed in 1997 giving local governments the mandate to formulate, implement, monitor, and evaluate the anti-poverty agenda within their boundaries. In addition, the 1991 Local Government Code mandated the establishment of Local Government Leagues, thereby authorizing LGUs to finance annual membership fees to maintain the League and to make contributions to League events (conferences, etc.).

The Code also amended the Katarungang Pambarangay or the Barangay Justice Law by embedding it more legally within the set of services provided by LGUs under the decentralized set-up. The Barangay Justice System has performed community mediation services since 1978. The system is a much less costly alternative for settling disputes outside of courts. For certain subject matter such as imposition of taxes or fees, or the implementation of certain projects that affect communities (such as those that have severe impact on the local environment or heritage sites) Local public hearings must be conducted first before local legislative councils can execute local laws.

In terms of financial resources of local authorities, the Code in 1991 increased financial resources of local authorities. It raised their share of internal revenue taxes from 11 per cent to as much as 40 per cent. In addition, LGUs have a share in revenues from the utilization of national wealth (40% also) as well as in revenues from the operation of government-owned or controlled corporations. Local governments receive 40% of national internal

revenue taxes based on the third preceding year. These funds are distributed to provinces (23%), cities (23%), municipalities (34%), and barangays (20%). The Code also authorizes local governments to generate local revenues and mobilize private sector capital and investments for development projects through a variety of public private partnerships (PPP) including build-operate-transfer and joint venture arrangements. Local governments are also able to issue bonds and other forms of indebtedness development funds.[10] Local government expenditures typically go to personnel services, infrastructure development, basic service delivery, and debt payments. (UN Habitat 2004)

Greater exercise of taxing powers has also become evident, although efficiency is poor in the collection of some taxes such as those on real property. Local authorities have also increased their local investment initiatives.

While there has been an overall successful transfer of authority from the center to sub-national agencies, responsibility is frequently devolved without adequate resources. These unfunded mandates, usually introduced through legislation, have begun to infringe on local governments' fiscal autonomy as such laws compel LGUs to include new allocations in their budgets. New financing mechanisms available at the local level have yet to mature and few cities have funded development projects using own-generated resources.

The Code also provides for various means by which citizens are involved in local government decision-making processes and civil society and private businesses are very active in local governance. The 1987 Constitution promotes the role of People's Organizations (POs) in public affairs and local governance. Under the 1991 Local Government Code, civil society groups (NGOs and POs) are to comprise at least, 25% of total membership in local development councils. These councils decide on strategic investment projects to be financed by LGU development funds.

Laws and Policies relating to decentralization in the Philippines

Local Autonomy Act of 1959 – Increased fiscal, planning, regulatory, and taxing powers in city and municipal governments

Decentralization Act of 1967 – Further increased financial resources of local governments and broadened administrative decision-making powers

Local Government Code of 1983 (Batas Pambansa Bilang 337) – Reinforced State policy to guarantee and promote the autonomy of local government units

Constitution of 1987 – Establishes limited political autonomy in local government units

The Organic Act for Muslim Mindanao of 1989 (completed amended in 2001) – Recognizes the Autonomous Region of Muslim Mindanao

The Local Government Code 1991 – Replaced earlier Local Government Code (1983) and provides for rapid and extensive decentralization

Sources: Brillantes 2002, Capuno 2005, Legaspi 2001

B. Sub-National Government Structure

The Philippines sub-national government is arranged according to 17 regions that serve as administrative subdivisions for the operation of deconcentrated line agencies. The latter, combined with civil society representatives and the provincial and city governments located within a region, comprise the regional development council (RDC). The RDC is responsible for the formulation of regional development plans that integrate provincial and city plans to ensure synchronization and coordinated program implementation. It is also at the regional level that the interests of LGUs and those of the national government converge. An RDC endorsement is required for projects and programs to be included in the national budget. The region is not

10 Provided the debt does not require guarantees

a level of government, with the exception of the Autonomous Region of Muslim Mindanao (ARMM) and the Cordilera Adminsistrative Region (CAR). ARMM governs the Muslim Region of Southern Mindanao and CAR covers highlanders and mountain tribes in Northern Luzon and Cordillera. Deconcentrated government offices are located in the regional centers which serve as an administrative territory for development planning. In addition the Metropolitan Manila Development Authority (MMDA) covers 13 cities and 4 municipalities.

Within the regions, the first level of government includes provinces (81) and Highly Urbanized Cities (HUC). The province is governed by an elected governor while cities and municipalities are governed by elected mayors. Provinces are further divided into component cities and municipalities (1,490). HUCs, component cities, and municipalities are sub-divided into barangays (42,028). The central government is only allowed to exercise general supervision over provinces and HUCs. Provinces and HUCs are then responsible for general supervision over the component cities, municipalities and barangays. The barangay is the lowest level of political and administrative governance in the Philppines.

Under the Local Government Code all local governments are autonomous in their development administration and able to create their own departments and offices. Higher levels of government review local ordinances and resolutions only if these pertain to new indebtedness or bond issuances that involve centrally funded subsidies (or sovereign guarantees). Despite low interest rates of banks, and other contributing factors for making bonds non-competitive source of funds, billions of pesos have been issued in bonds and it remains a an important concept in the Philippines context. The central government has no role in budgeting except in ensuring local governments do not exceed their spending capacities or spend on activities or resources which fall outside their mandates Provinces and HUC's are responsible for overseeing cities, municipalities and barangays (UNESCAP Country Report). The central government has no control over establishing local legislations, including over local tax laws within LGU jurisdictions which are subjected to popular consultations before approved by local councils. Barangay ordinances are reviewed by municipalities and cities, and city and municipality laws are reviewed by the Provincial Legislative Council.

Though the Local Government Code encourages regional cooperation between local governments there are few links between governments horizontally or vertically. While the central government has some general supervision responsibilities over provinces and HUCs, they do not have direct control over other cities, municipalities and barangays. In the Philippines, line agencies operate at the provincial/regional level and independently from local government bodies to provide local services such as water and electricity. However, there is a need for more co-ordination between and throughout all tiers of government.[11] (Balisacan 2007)

C. Barangay Governance in the Philippines

Based on the 2010 census, the total population of the Philippines is over 92 million with the rural population accounting for 54.7%. As of 2012, there were 42,028 barangay throughout the Philippines. According to the 2010 census, 13.6% or 5,697 were classified as urban. (Govt. of Philippines 2010)

Jurisdiction and Legal Status

Barangays are the political and administrative unit closest to the people in the Philippines. In rural areas, barangays can be further subdivided into smaller communities known as sitios (neighborhoods) or puroks for administrative purposes, but these are not recognized as LGUs and their leaders are not elected. Section 384 of the Code defines the Barangay as the basic political unit that serves as "the primary planning and implementing unit of government policies, plans, programs, projects, and activities in the community, and as a forum wherein the collective views of the people may be expressed, crystallized and considered, and where disputes may be amicably settled."

A barangay is typically made up of contiguous territory with a population of about 2,000 inhabitants (if a barangay has a population of 5,000 or more, it is considered urban). The barangays tend to be determined by somewhat permanent natural boundaries and need not be contiguous if composed of two or more islands. Only law or an ordinance of the Sangguniang Panlalawigan or Sangguniang Panlungsod can create or otherwise alter a barangay, subject to a plebiscite. (Govt. of Philippines, LGC 1991)

11 Water is devolved except those managed by water districts. If LGU wishes to distribute electricity, it may, as long as it has the funds to do so but in practice, it is left to the electric cooperatives and national government, and private sector. Some municipalities still operate small power plants and distribution systems. Provinces and cities are allowed to invest in mini-hydropower plants.

Prior to colonization, barangays (local villages) were autonomous territorial and political units under the leadership of a local chief. Under Spanish colonial rule, the barangays and tribal organizations were absorbed into administrative units for the purpose of tax collection. (Brillantes 2002)

Barangay Governance Structure and Election System

The Code's Section 387 outlines the barangay governance structure. The Barangay Local Government Unit (LGU) is composed of a chief executive, the *Punong Barangay* (Barangay Captain); and a legislative body, or Sangguniang Barangay (Barangay Council). The Sangguniang Barangay is composed of eight (8) elected officials including the Punong Barangay, and seven (7) Barangay Kagawad (Councilors). Thus, there are eight (8) members of the *Legislative Council* in a barangay. Each member is a chairperson of one of the following committees: (1) Peace and Order Committee, (2) Appropriations, Finance and Ways and Means Committee, (3) Education Committee, (4) Health Committee, (5) Agriculture Committee, (6) Tourism Committee, (7) Infrastructure Committee, and (8) Youth and Sports Committee. There are three (3) appointed members to each committee. The Barangay secretary and treasurer are appointed by the Punong Barangay with the approval of a Sangguniang Barangay majority. The Department of Interior and Local Government (DILG) issued an administrative order that encourages a minimum of 30% representation by women in the Barangay Council.

Elections for the post of Punong Barangay and Barangay Kadawads are held every three years. Barangay registered voters over the age of 18 vote for the Punong Barangay and the seven Barangay Kagawad. Voters aged 15 to 17 vote in the Sangguniang Kabataan elections. Most recently, barangay elections were held on Monday, October 28, 2013 for the election of the Punong Barangay, and Sangguniang Barangay members, with their new terms starting in November 2013.

The Sangguniang Barangay can form "community brigades" and create other positions or offices as needed to carry out public service missions, subject to the budgetary constraints. (Govt. Philippines, LGC 1991). Additionally, there is a *Sangguniang Kabataan*, or Youth Council, which is also made up of one Chairman (who also serves as one of the Barangay Council members) and seven councilors.

A unique aspect of local governance in the Philippines is the Barangay Justice System. The Barangay Justice System, or Katarungang Pambarangay, is made up of members known as Lupon Tagapamayapa (Justice of the peace).[12]

Roles responsibilities

The Punong Barangay is the chief executive of the Barangay government with responsibilities such as: enforcing laws and ordinances; negotiating and signing contracts on behalf of the barangay; maintaining public order; calling and presiding over sessions of the Sangguniang Barangay; appointing the barangay treasurer, secretary, and other officials; organizing and leading an emergency group; preparing the annual budget in coordination with the Barangay development council; approving the disbursement of barangay funds; enforcing environmental protection laws; administering the operation of the Katarungang PamBarangay; supervising the Sangguniang Kabataan; and ensuring the delivery of basic services. (Govt. of Philippines, LGC 1991)

The Sangguniang Barangay, the legislative body of the Barangay, is responsible for enacting ordinances to promote the general welfare of barangay inhabitants; enacting tax and revenue ordinances as well as annual and supplemental budgets; and providing for the construction and maintenance of facilities and public works projects. Additional responsibilities include:

- Help establish and promote cooperative enterprises for economic welfare of residents
- Regulate and charge for the use of government facilities
- Solicit or accept funding, materials and local voluntary labor for public works
- Provide compensation for Sangguniang Barangay members and other Barangay officials
- Authorize the Punong Barangay to enter into contracts in behalf of the Barangay
- Authorize the Barangay treasurer to make direct purchases
- Prescribe fines for violation of Barangay ordinances

12 Mediation or literally translated "Peace-making Committee"

– Provide for the organization of community brigades, tanod, community service units etc.

– Provide for the delivery of basic services

(Govt. Philippines 1991)

The Barangay Secretary's role is to maintain all Sangguniang Barangay meeting records; prepare all necessary forms for Barangay elections, initiatives, referenda or plebiscites, in coordination with the Commission on Elections (COMELEC); assist the municipal civil registrar with the registration of births, deaths, and marriages; maintain updated records of all barangay inhabitants; submit reports on the number of Barangay residents.

The Barangay treasurer is responsible for maintaining barangay funds and properties; collecting, issuing, and depositing official tax receipts and resources accruing to the Barangay treasury; disburse funds according to the Code's financial procedures; submitting income and expenditure statements to the Punong Barangay; providing accounting reports of all Barangay funds and property; certifying as to the availability of funds when needed. (Govt. of Philippines 1991)

Accountability

Accountability measures are strengthened under the Local Government Code. Not only did it stipulate more clearly local fiscal and administrative duties and responsibilities, it also reduced the term of office from six years to three years and from an unlimited number of terms to a maximum of only three consecutive terms. The Code introduced disciplinary actions against absentee elected officials, taxpayer remedies, local fiscal administration (in terms of budgets, expenditures, disbursements, accounting and accountability), and property and supply management. It also requires local head officials submit an Annual Report to the Sanggunian. In terms of improving participation, the Code has mandated special local bodies for barangays, including a Barangay Assembly, the Barangay Justice System, the Barangay Youth Council, and a Local Health Board, among others. (Capuno 2005)

As for budget accountability, the Punong Barangay, Chairman of the Committee on Appropriations, Barangay Treasurer, and the City/Municipal Treasurer/Accountant are responsible for reporting the budget performance of the barangay. Barangay accountability reports include a Quarterly Report of Actual Income and a Quarterly Financial Report of Operations. In this way, barangay officials make transparent to the general public the actual income, expenditures, and accomplishments made per quarter. (Layug 2010)

Despite efforts at accountability and transparency, there remain weaknesses in the internal control environment. In terms of financial discipline, for example, an audit discovered a case in which the total of PhP486,000 collected by a barangay captain was deposited into his bank account. While collections were recorded, they were not deposited in the barangay account. Furthermore, out of out of PhP349,940 in collections, PhP341,528 was disbursed without budget approval. It was discovered that the barangay treasurer held the balance rather than depositing it in the barangay bank account. (World Bank and ADB 2005)

Financial Resources

Central government transfers to LGUs are either block grants, such as internal revenue allotment (IRA) based on a formula share in national revenue) or ad hoc direct grants. LGUs have greater discretion in IRA use, whereas direct grants are for specific purposes.

The Code institutionalized the IRA as a main source of revenue transfer from the national government to the LGUs. It is intended as an unconditional grant that the government is obligated to release automatically without deductions and that the LGUs are able to demand as an enforceable right. In practice, the IRA has been subject to reductions due to national government austerity measures. As a result, the IRA may be an unpredictable source of financing. (Manasan 2004).The Philippine Supreme though, has ruled with finality that the national government, nor any entity for that matter can withhold the internal revenue allotments to LGUs, nor put a lien on it.

The Internal Revenue Allotment is the annual share of National Internal Revenue[13] taxes for LGUs as stipulated by Section 284 and 285 of the Code. It is estimated at forty percent (40%) of collections from the third fiscal

13 The National Internal Revenue taxes are made up of income tax, estate tax and donor's tax, value-added tax, other percentage taxes, and taxes imposed by special laws, such as travel tax.

year preceding the current one. The Code provides that provinces and cities each receive twenty-three (23%) of the total IRA, while municipalities receive thirty-four (34%), and barangays receive twenty percent (20%). The barangay share of the IRA is allocated among each of the barangays based on population (60%) and equal sharing (40%) with a minimum of P80,000 per annum for barangay with populations of 100 or more. (Govt. of Philippines 1991, Sections 284-5) That is, after deducting the IRA for barangays with less than 100 inhabitants, the remaining funds are distributed to other barangays using a formula where population accounts for 60% and equal sharing accounts for 40%. Finally, barangays created after the implementation of the Code are not allotted income from the IRA but from their parent LGU. (Layug 2010)

On average, each barangay received PhP 48,000 in 1992 and PhP 185,000 in 2008. Aggregate IRA allocated to all barangays in 1992 was 3.6 billion pesos, which increased to 42 billion pesos in 2008, representing a 319% increase over the course of 17 years. (Layug 2010) In 2014, all 42,028 barangay will receive P68.3 billion in IRA. (Rappler 2014)

Besides the IRA, barangay are able to generate additional income from internal sources including taxes on business with fixed establishments and on gross sales or receipts in the preceding year of P50,000 or less in cities and P30,000 or less in municipalities (community taxes or cedula). The Code also specifies limits on the tax rates that can be imposed. Additionally, barangays are entitled to certain proceeds of some higher-level LGU tax collections. Fees can also be collected from: the use of barangay property, facilities, or public utilities; recreation places with admissions fees; billboards and outdoor advertising; toll or public roads, bridges or waterways; fines for violations of barangay ordinances; proceeds of sales of barangay property, etc. (Govt. of Philippines 1991; Govt. of Philippines, Dept. of Budget & Management)

The IRA represents the primary source of income for most of the LGUs, especially barangays. While barangays can supplement this income through other sources of revenue, they remain highly dependent on the IRA, which makes up 85% to 97% of total barangay income. Even barangays in relatively urban areas have IRA dependency ratios of about 88% on average. Other sources of revenue generation account for only 3% to 15% of total income. (Layug 2010)

Financial, institutional, and governance capabilities often do not match the level of responsibilities transferred to barangays. As a result, most of the barangay funds are spent on personal services instead of devolved functions such as barangay level agricultural support services, the maintenance of barangay roads, bridges, and water systems, sanitation, and health and nutrition. In addition, whereas section 270 of the Code mandates that 20% of the IRA be allocated to the Barangay Development Fund (BDF), the barangays tend not to prioritize expenditure on basic services such as health and education, let alone economic development programs. Finally, barangays are very limited in their ability to internally generate income to supplement the IRA. Resource poor barangays lack entrepreneurial activities and have a limited if not a lack of ability to levy taxes, fees, and charges, and the power of taxation itself is limited by the national government. Finally there is a lack of political will among barangay officials to innovate alternative sources of revenue generation. In short, Barangay funding is often inadequate to meet devolved responsibilities. Expenditures and revenues in the decentralization framework tend to be mismatched, thereby undermining sub-national government capacity and incentives to deliver services efficiently. (Layug 2010)

Planning and Project Implementation

Section 17 of the Code mandates the services and facilities that each barangay must provide. Some of these include: agricultural support services; health and social welfare services; services and facilities related to general hygiene and sanitation, beautification, and solid waste collection; maintenance of katarungang pambarangay; maintenance of barangay roads, bridges and water supply systems; and infrastructure facilities, such as multipurpose halls, and others.

The Code provides for the preparation of a development plan at local levels as an important part of the process of decentralization. Thus, the barangay budget cycle begins with the preparation of the Barangay Development Plan (BDP), according to section 305 of the Code. The BDP is prepared and approved by the Barangay Development Council (BDC), headed by the Punong Barangay and made up of Sanggunian members, NGO representatives, and a representative of the congressman. The budget is intended to provide the resources for programs, activities and projects. This procedure, however, is often not followed. (Layung 2010) The barangay government is responsible for procurement as mandated under the national Procurement Law.

Remuneration and Incentives

The Local Government Code, Section 393 stipulates the benefits of barangay officials, stating that they, including tanods (barangay police officers) and members of the Lupong Tagapamayapa, are compensated in the form of an honorarium in the amount of no less than one thousand pesos (P1,000) per month for the Punong Barangay and six hundred pesos (P600) per month for the Sangguniang Barangay members, Barangay treasurer, and Barangay secretary. The rates of honorarium prescribed may be increased or adjusted. (Govt. Philippines, LGC 1991) Subsequently, Executive Order No. 332, 1996, integrated barangays into the revised position and classification and compensation system in government, which provides how the rates of honorarium prescribed in the Local Government Code can be adjusted.

Additionally, officials are entitled to:

- A Christmas bonus in the form of cash gift at a rate authorized by law (at least P1000);
- Insurance coverage that includes temporary and permanent disability, double indemnity, accident insurance, death and burial benefits
- Medical care, including free hospitalization in government hospitals
- Free tuition in government schools in their area for barangay officials and 2 of their legitimate dependent children during their term of office
- Civil service eligibility based on the number of years of service in the barangay for officials who have completed their term
- Preference in appointment to any government position for which they are qualified after their term of office.
- Leave credits equivalent to 30 days for every year of service, depending on their attendance in regular sessions

(Govt. Philippines, LGC 1991)

Officials are not entitled to: hazard duty pay; 13th month pay; Representation and Transportation Allowances (RATA); Personnel Economic Relief Allowances (PERA); Productivity Incentive Bonus (PIB); and clothing allowance. (Govt. of Philippines, Dept. of Budget & Management)

In 2013, Senate Bill 134 was introduced to amend the Code to provide higher honorarium for barangay officials. The move aimed at increasing the minimum compensation to P8,000 for Punong Barangay, P7,000 for the Sangguniang Barangay members, P6,000 for barangay treasurer and secretary, and P5,000 for the barangay tanod and Lupong Tagapamayapa. Furthermore, the Bill sought to extend the additional benefits to include barangay tanods, Lupong Tagapamayapa and barangay health workers. It also proposed increasing the health subsidy limit for private hospitals from P5,000 to P10,000 in cases of extreme urgency where a government hospital is not available. The senator introducing this bill also re-filed a measure to provide barangay tanod brigades a hazard pay of 1,000 per month, and to make barangay officials salaried government employees thus making them eligible for membership and loan and retirement benefits. The legislative status of this bill is still pending in the committee. (Govt. of Philippines 2013)

Gender Inclusion

Under the Code, LGUs are to encourage the active participation of the private sector, NGOs, and public organizations outside. As such, the Democratic Socialist Women of the Philippines (DSWP) has taken a collaborative role with local governments in training women in community leadership. However, women's participation is limited and problems persist. For example, men continue to hold most top-level local government positions, and the few positions held by women tend to be limited to areas that perpetuate workforce gender stereotypes, such as social welfare, library work, record keeping, and health care. (Akerkar 2001)

The 2009 Republic Act 9710, or the Magna Carta for Women, is a "comprehensive women's human rights law that seeks to eliminate discrimination against women by recognizing, protecting, fulfilling and promoting the rights of Filipino women, especially those in the marginalized sectors." (Govt. of Philippines 2010) This legislation mandates the government to introduce affirmative action measures that enable women to participate more meaningfully in the "formulation, implementation, and evaluation of policies, plans, and programs for national, regional, and local development." It calls for increased representation and participation of women in civil service, development councils and planning bodies, and other policy and decision-making bodies. It requires that least

forty percent (40%) of membership of all development councils from the regional, provincial, city, municipal, and barangay levels be made up of women. It also provides for the integration of women in political parties and for incentives to increase women's leadership roles in the private sector. (Govt. of Philippines 2004)

While achievements have been made in women's economic wellbeing and in services such as health and day care facilities, domestic violence often remains unreported and unaddressed. (Akerkar 2001) The Magna Carta of Woman calls for the establishment of a Violence Against Women (VAW) Desk in every barangay to provide a facility that offers gender-sensitive handling of VAW cases. In 2010 Joint Memorandum Circular No. 2010-2 was issued by the Department of the Interior and Local Government, the Department of Social Welfare and Development, the Department of Health, the Department of Education and the Philippine Commission on Women; with guidelines regarding the establishment of a VAW Desk in every barangay. The Memorandum stipulates how the VAW Desk person is to respond to VAW situations and includes a protocol for the handling of VAW cases at the barangay level, stating: "the Anti-Violence Against Women and Their Children (VAWC) Act (RA 9262) mandates the punong barangay…to take immediate action upon being informed of a violent incident and is mandated to issue a Barangay Protection Order (BPO) on the date of filing after ex parte determination of the basis of application…all forms of amicable settlement under the Katarungang Pambarangay such as mediation, settlement, conciliation, arbitration shall not apply to cases of VAWC." (Govt. of Philippines, 2010) The results from the establishment of the VAW desks are not yet clear, however, the mandates demonstrate significant commitment to addressing and reducing cases of violence against women.

The Barangay Justice System

The Philippines has a nationally mandated alternative dispute resolution mechanism, the Katarungang Pambarangay or Barangay Justice System (BJS). The BJS is a community-based dispute settlement mechanism administered by the barangay to address disputes between community members. The mediation, conciliation or arbitration includes the involvement of the Punong Barangay and other community members (Lupon members).

Under the Local Government Code, the stated objectives of the BJS include:

- To promote the speedy administration of justice
- To minimize the indiscriminate filing of cases in courts
- To minimize the congestion of court dockets and thereby enhance the quality of justice dispensed by the courts
- To perpetuate and recognize the time-honored tradition of amicably settling disputes at the community level

In order to avail of the BJS, barangay residents file complaints to their Punong Barangay, who facilitates mediation between parties. If the parties do not reach a settlement in mediation, they can continue to conciliation. The conciliators (Pangkat Tagapagkasundo) are known and selected by both disputing parties. They listen to both parties and explore possible amicable resolutions. If settlement is attained in conciliation, then it serves as a final and enforceable court judgment. If settlement is not reached, disputants can file a case in court. Arbitration is possible at any stage of the process with a written statement by both parties that they agree to abide by the arbitration of the Lupon or Pangkat. The Punong Barangay can enforce settlements reached in the BJS. Appeals can be made up to 10 days after a BJS settlement date. If a dispute fails to be resolved in the BJS, it can be brought to court. (LGSP 2004, Access Facility)

D. Conclusions

Decentralization policy has been well grounded and documented in the Philippines but implementation has been mixed. Overall, the Philippines Local Government Code calls for fundamental alterations in the structure of governance and shifts the locus of power from centralized agencies to provinces, cities, municipalities and even barangays. However, there is skepticism regarding the extent to which the historical concentration of power in the hands of select political families has been transformed into a more redistributive policy-making by the process of decentralization. (Porio 2012, Shatkin 2008)

There has been a successful transfer of authority from the center to sub-national agencies but often without the benefits promised. Moreover, responsibility is frequently devolved without adequate resources and new

financing mechanisms available at the local level have yet to mature. There is also a mix between vertical and horizontal balance between central and local governments and a need for more coordination between and throughout all tiers of government.

While the Code mandates the governance structure and elections in barangays, there remain undemocratic modes of governance at the local level. These include clientelism, whereby politicians promise public funds to select groups in exchange for support, or even 'bossism', in which politicians resort to the use of violence and coercion. A feature prevalent in the Philippines at the local level is the perpetuation of political dynasties, or families that dominate local government positions in succession to maintain control beyond the term limits allowed by the Constitution or established by the Code. In particular, Youth Council elections (cancelled by the President) can be manipulated as vehicles for political dynasties to perpetuate their power. In an attempt to combat this, the central government decided to extend House Bill No. 3413 of 2010, or the Anti-Political Dynasty bill, to cover elected officials down to the barangay level including the Sangguniang Kabataan, or Youth Council. (NAMFREL 2011)

The Asia Foundation's Rapid Field Appraisal of Decentralization (2010) in the Philippines, found that while a number of 'innovations' have been initiated by local governments through the enabling framework of the LG Code, there is limited replication. Many local governments still do not believe that they are responsible for developing their own priorities. (The Asia Foundation 2010)

The Code envisions a participatory planning process involving representation from civil society, non-governmental organizations, people's organizations, and the private sector in local development councils. According to the Code, local governments are encouraged to promote non-government organizations (NGOs) and people's organizations (PO's) in local development. Furthermore, the councils include members from civil society and therefore must mobilize people's participation in local development efforts, and monitor project implementation. The Code does not go any further, however, falling short of providing specific mechanisms for participatory planning and performance management.

Overall, there are a number of positive and unique aspects to the Philippines' Local Governance Code. The Code upholds the right of registered voters to recall any elected official whose performance has not been satisfactory. It has also enhanced the people's access to justice, and given them the power to mediate and decide on local disputes through the Katarungang Pambarangay, or the barangay justice system. The mandate for the creation of a Sangguniang Kabataan (youth council) as part of the local government structure acts as a venue for young people to participate in public affairs, as well as a training ground for higher positions.

VI. COUNTRY-WISE COMPARISON OF VILLAGE GOVERNANCE CHARACTERISTICS

This section includes a summary of the characteristics of village and/or the lowest level of governance described country-wise in the previous chapters. The table that follows provides a useful reference on the structures and mandates of village level governance; however, the country-specific chapters provide greater detail and descriptions of these points. Chapter VII provides key findings and conclusions drawn from the comparison of governance mandates at the village level across the four countries.

Table 2: Country-wise Comparison of Village Governance Characteristics

Governance characteristic	Cambodia [14]	Indonesia	The Philippines	Papua New Guinea [15]	Timor-Leste
Official status of Village	Villages are recognized and have mandated leadership, but is not an administrative level of government	"Hybrid" – Villages (Desa or Desa Adat – rural) are recognized as community units, with a recognized village government, but this is not an administrative level	Barangay (village) is the lowest level of government.	Villages are recognized as communities, but not as a level of government.	*Suku* are legally "community organizations" with an elected leadership and not part of the government, but have broad mandates for local development and planning.
Lowest Level of Government	Commune (rural) comprises 3-30 villages / Sangkat (urban),	Sub-District (Kecamatan) (rural and urban)	Barangay (rural and urban)	Wards (rural and urban) include a few villages	Sub-district level (65 sub-districts)

14 While the analysis included both Commune/Sangkats, as well as villages – the authors acknowledge that Cambodian villages are more like the Timorese aldeias than sukus. While the average suko (approximate population 2,500) is significantly smaller than the Communes/Sangkats (8,700) – the suku shows more similarities in terms of structure and function to the Sangkats than the villages in Cambodia. Therefore, this table will focus primarily on the Commune/Sangkat level for Cambodia.

15 The authors acknowledge some level of ambiguity in the paper regarding the ward (approximately 1,200) and average LLG (substantially bigger, approximately 22,500) – it is however that latter's function (though significantly larger than the suku) which seems to converge more with what is envisioned for the Timorese suku.

Governance characteristic	Cambodia	Indonesia	The Philippines	Papua New Guinea	Timor-Leste
Governance Structure	Village government: • Village Chief • Deputy Chief, and • Assistant *One position must be filled by a woman* Commune government: • Commune Chief (Presiding Commune Councilor) • Commune Council (5-7 members) • Commune Clerk (administrative, appointed by MOI)	Village government: • Village Head • Village Council (Badan Perwakilan Desa – BPD): 5-9 members, including 1 Chair, 1 Vice-Chair, and 1 Secretary	Barangay government: • Sangguniang Barangay (legislative body) • Punong Barangay (Barangay Captain) • Barangay Kagawad (Council) with 7 Councilors, including the Youth Council chairperson • Barangay Secretary • Barangay Treasurer DILG order encourages 30% representation by women	Ward government: • Ward Councilor (who is representative to LLG) • Ward Development Committee, with a chairperson and up to 5 members Committee must include minimum of 2 women	Suku government: • Xefe Suku (Chief) • Suku Council, including: • Xefes Aldeia (all aldeia chiefs in the suku) • two women • two youth (one male, one female) • an elder • a lian nain • A suku administration support officer (PAAS) appointed by the Ministry of State Administration
Election Systems	Village Chief is appointed by Commune Council; Village Deputy Chief and Assistant appointed by Village Chief Commune council members elected by proportional representation – candidates selected based on party lists	Village Head and Village Councilors elected by popular vote and appointed by the District Regent	Barangay Captain and Councilors elected by popular vote	Ward Councilor elected by popular vote, Development Committee members either elected or appointed, varies by Ward	Suku chief and council members are elected by popular vote. Suku administration support recruited by the government

Governance characteristic	Cambodia	Indonesia	The Philippines	Papua New Guinea	Timor-Leste
Accountability	Village Chief accountable to Commune Council Commune Council accountable to the constituents (through elections) Commune Clerk accountable to Ministry of Interior and to Commune Council	Village Head and Village Council are accountable to the village constituents (election) and to the District Government (can be removed by Regent) Village Head and Village Council work in partnership, thought the Village Council is mandated to oversee the Village Head	Barangay Captain and Councilors accountable to constituents (through elections)	Ward Councilor accountable to constituents (through elections) Ward Development Committee members accountable to WDC chairperson and constituents when elected	Suku council members are accountable to constituents (through elections)
Financial Resources	Commune Councils: • Raise funds through local fees and taxes • National budget transfers through Commune/Sangkat Fund (CSF) • Raise commune contributions	Village Governments: • Raise funds through local fees • Receive national budget transfers through Village Allocation Funds (ADD) from District Government • Receive government transfers from other government levels or national programs	Barangay Captain and Councilors accountable to constituents (through elections) Barangays: • Raise funds through local fees and taxes • Receive 20% of the Internal Revenue Allotment (IRA), which is the annual share of the National Internal Revenue (NIR)	Ward Government: • Earmarked national revenues for LLGs, wards and villages. Ward Development Committees must access funds from LLG or allocated by JDPBPC	Suku Councils: • Financial resources very vaguely defined, and not applied consistently in practice.

Governance characteristic	Cambodia	Indonesia	The Philippines	Papua New Guinea	Timor-Leste
Remuneration and Incentives	Village head receives "financial support" Commune councilors and commune clerk receive monthly salaries	Village head receives a salary, allowances and health insurance Village Councilors will receive salaries under Law 6/2014 Village officers with regular work receive salaries	Barangay officials receive an honorarium and benefits	Ward Associate Members are not entitled to any remuneration	Xefe Suku and Suku Council members receive incentives from the government, materials, and reimbursement for expenses in the line of duty; training and capacity building
Roles and Responsibilities	Village Chief: • Consults with villagers about development needs • Provides input on the village development needs as a member of Commune Planning and Budgeting Committee • Communicates with constituents on behalf of Commune Council • Mediate disputes (informal role) Commune Councils: • Prepare 5-year Commune Development Plan (CDP) • Prepares annual Commune Investment Plan (CIP) • Maintain security • Provide public services • Enact commune orders Commune Clerk: • Financial management	Village Head: • Coordinate participation in development plans • Prepare village budget • Prepare annual report to District Government • Develop local legislation • Generate and accept revenue • Mediate disputes (informal role) Village Councils: • Oversee performance of Village Head • Draft legislation in partnership with Village Head • Mediate disputes (informal role)	*Barangay* Captain: • Enforce laws and ordinances • Negotiate on behalf of the barangay • Prepare annual budget & approve fund disbursement • Administer Barangay Justice System (BJS) • Ensure basic service delivery *Barangay* Councilors: • Enact general welfare, tax, and revenue ordinances • Enact annual budget • Provide for public works projects *Barangay* Secretary: • Maintain meeting records and *barangay* resident registration *Barangay* Treasurer: • Maintain *barangay* funds and properties	Ward Councilor: • Maintains the Village Book • Prepares the Ward 5-yr. Development Plan in partnership with the WDC Ward Development Committee: • Principal community advisory unit for the ward to the LLG • Determines ward service, program, and infrastructure needs • Leads the Ward Development Planning process • Chairperson submits to LLG Ward Development Plan	*Suku* Chief: • Chair meetings • Implement decisions by council • Cooperate with municipal administration • Conflict resolution • Prevent domestic violence, support victims and punish aggressors • Request intervention of security forces for conflicts / crimes • Submit annual financial report *Suku* Council: • Support and advise suku chief • Plan / implement activities (health, education, environment, employment, food security) • Promote equality and uphold customs

Governance characteristic	Cambodia	Indonesia	The Philippines	Papua New Guinea	Timor-Leste
Planning and Project Implementation	Participatory planning processes are mandated. The Commune Planning and Budgeting Committee (PBC) prepares 5-year Commune Development Plan (CDP) and annual Commune Investment Plan (CIP). Projects at the village and commune level are determined at District Integration Workshops (DIW). Commune councils release tenders, select contractors and oversee implementation of projects.	Participatory planning is mandated through *Musrenbang* system. Community meetings take place at sub-village level to determine development needs. Village government prepares a 5-year development plan (RPJM-Desa) and annual plan (RKP-Desa). Village plans are consolidated into district level plans. Line departments at district level prepare budgets for their setors and District Government approves the budget.	Participatory planning is mandated in the Local Government Code. The barangay budget cycle begins with the preparation of the Barangay Development Plan (BDP). The BDP is prepared and approved by the Barangay Development Council (BDC) headed by the Punong Barangay and includes Sanggunian members, NGO representatives, and a representative of the congressman	Participatory and bottom-up planning mandated by the 1995 OLPGLLG. Development priorities to be established at the ward level through the Ward Development Planning process (WDP) lead by the WDC.	Meetings mandated once in three months, and extraordinarily. Development priorities are established using bottom-up participatory planning, supported by the Ministry of State Administration, where the planning process starts at *aldeia* level and submitted to *suku*. The implementation process starts at *suku* level followed by Sub-District Development Committee (KDSS), before being sent to district level District Development Committee (KDD). The final results are verified by the Commission for Monitoring, Evaluation and Supervision (EVAS).

Governance characteristic	Cambodia	Indonesia	The Philippines	Papua New Guinea	Timor-Leste
Gender Inclusion	Gender mainstreaming is a included in National 3-year Implementation Plan (IP3). A woman must fill one of the village leadership positions. Each commune must appoint a woman (councilor if there is one, otherwise community member) as assistant in charge of Committee for Women's and Children's Affairs.	Gender mainstreaming is mandated under Presidential Instructions 9/2000. National government policies also include Law 23/2004 Elimination of Domestic Violence, and Law 21/2007 Against Human Trafficking. Many sub-national laws and regulations still discriminate against women. Women comprise a very low percentage of village government positions and minimally participate in public	The Magna Carta of Woman, 2009 (Republic Act 9710), provides a comprehensive women's human rights law to eliminate discrimination against women especially in marginalized sectors. • Mandates the government to introduce affirmative action measures • Requires that at least 40% of membership of all development councils (including barangay) be women. • Establishes a Violence Against Women (VAW) Desk in every barangay for gender sensitive response Joint Memorandum Circular No. 2010-2 provides guidelines for establishing VAW Desk.	Gender mainstreaming is mandated under the 1995 OLPGLLG. Each Ward Development Committee should consist of 5 associate members including at least two women. Women are vastly under-represented at all levels of government. The Lukautim Pikinini Act (2009) provides a legal framework for child protection, but not fully implemented. Village Courts provide for women and children's greater access to justice.	

VII. KEY FINDINGS AND CONCLUSIONS

A. Key Findings

The comparative study of village and/or lowest tier of governance across the four comparison countries included in this study reveal some basic similarities and a few fundamental differences. This section elucidates some of the findings and provides preliminary analysis of the advantages and disadvantages of particular governance structures to inform the Government of Timor-Leste in the process of revising laws and policies related to suku governance.

Official Status of Villages

- ***The village may have well-defined authorities without being included as a level of administration within subnational government.***

Across the four comparison countries included in this study, only the Philippines recognizes the village (barangay in this case) as an administrative tier of government. The barangays have the most expansive set of authorities of the levels of government studied in this paper. However, along with the authorities, the expectations of barangays include a broad set of activities, including service delivery and economic development, for which the barangays do not always have adequate resources or capacity.

In the case of Indonesia under the newly introduced Law 6/2014, the village government is a "hybrid" between a recognized community and a government unit and has substantial responsibilities. In other words, the national government recognizes the village as a legal community and recognizes and establishes mandates for village government structure, roles and responsibilities. A considerable budget is also transferred to the village government for development activities. This provides an example of a strong village level government that is not an administrative tier of government.

In the case of Cambodia, the village government is limited, but the Government has been increasing authorities at the commune level. However, the average population of a commune is much higher than that of the rural barangay in the Philippines, the villages in Indonesia, or the wards in Papua New Guinea.

- ***Provisions may be made for 'customary' governance, however caution must be taken to prevent discrimination under alternative governance structures.***

Governance structures across the four comparison countries included in the study do not yet provide insights on the implementation of policies regarding customary governance, though the governments recognize the importance of addressing this issue. In Indonesia under the current law, there are provisions for customary village governance (Adat Desa). However, actual terms for implementation and the outcomes remain to be seen. There have been speculations that these mandates may introduce the risk that 'customary' governance may be used as an excuse for patriarchal or discriminatory policies. Meanwhile, in Papua New Guinea, conflicts between customary groups and the government continue to take place, providing an indication that this issue must be addressed in order to move towards resolution.

Governance Structures and Elections

- ***A village (or commune, barangay or ward) head and a council or committee provides a balanced governance structure that includes executive and legislative functions.***

At a minimum the Governments in all four comparison countries mandate a village chief (Barangay Captain in the Philippines and Ward Councilor in Papua New Guinea). In Cambodia, as the village level of government primarily provides communications between villagers the commune level, there is no council at this level. At the commune level in Cambodia, village level in Indonesia, barangay level in the Philippines and ward level in Papua New Guinea, there is a head and a council or committee. This governance structure provides for executive and legislative functions at these levels of governance. The constituents elect the heads and either elect or appoint the committees or councils, providing an arena for influence on local governance.

- ***Elections at the village level provide the constituents with confidence in their potential to hold local leaders to account.***

In three of the four comparison countries, elections take place by popular vote at either the village level (Indonesia) or at the lowest level of recognized government (Wards in Papua New Guinea, and Barangays in the Philippines). Elections in Cambodia take place at the commune level with a party-based approach, maintaining the strong authority of the dominant party. The party-based election system in Cambodia reinforces the upward accountability of commune councilors to their party rather than to the local electorate.

Role of Village Government

- ***The most critical question is which authorities to mandate to village-level government. The mandates must take into account both capacity of local leadership and national policies to enable effective functioning.***

Across the four comparison countries included in this study, the mandates for the village or lowest level of government include encouraging public participation in local planning and communicating with constituents regarding higher-level government policies. Beyond this role, the local government may have a number of mandates. It is critical that the government provides policy and financial support to the village or local government to undertake their designated tasks.

- ***Official mandates for civil society participation in local governance provide greater incentives and purpose in public involvement.***

Regardless of their official or recognized roles, village leaders are often the first point of contact with government as villagers have limited access to higher levels of government. At a minimum, all of the village level leaders (or ward leaders in Papua New Guinea, and Barangay leaders in the Philippines) must engage their constituents in a process of participatory planning. While informal dialogues often influence the prioritization of development needs, forums for public participation may provide an opportunity for broader input, particularly as these processes become established. However, village meetings must be expected to yield tangible benefits to encourage participation by villagers, as found in Cambodia. (Plummer and Tritt 2010) In Cambodia, the legislation related to the decentralization reform does not provide clear indications about the role of and spaces for civil-society participation, but donor projects to encourage participation have showed initial success. (Pellini and Ayres 2007) The Philippines' Local Government Code is unique in mandating the involvement of citizen organizations as partners in local governance. One mechanism for this is the mandate for representation by NGOs or civil-society organizations on the Local Development Council. Results are mixed, though there is a proliferation of community organizations in the Philippines.

- ***For local governments to be effective in service delivery, there must be clear procedures for engagement with line ministries and capacity building of local officials.***

In order for decentralized government to be effective in service delivery, it is critical to coordinate the activities of the local government with the line ministries. The government officials should be in a position to access line ministries, with clear procedures for submitting requests or initiating projects in their areas, and perhaps share successful examples of different sectoral development projects.

At the village level development funds are often allocated to roads. As noted by Spyckerelle and Morrison regarding Cambodia, "There are as yet no clearly defined responsibilities for minimum service delivery, nor is there any specification of a minimum percentage of local development funds that needs to be allocated for local development recurrent expenditures. Contracting of infrastructure is an easier and a more visible expression of commune council activity than the contracting of services (especially when considering re-election)" (Spyckerelle and Morrisson 2007, p. 67)

However, with support and access to line ministries, village government can also address some basic health and education services. Indonesia's PNPM program has shown that earmarking funds for health, education, and other services; while providing capacity building, can yield positive results. The nature of village/or lowest level of governance interactions with line ministries is under-researched and insights could provide recommendations for establishing mechanisms for greater coordination and possibility for village governments to pursue projects beyond basic infrastructure and road building

- ***Village and local governments must have clear roles in natural resource management.***

Natural resource management is a highly contested issue at the village level, but outside the purview of village-level governance in all of the countries included in the study. In Cambodia, a study a found that villagers hold the village and/or commune governments to account in cases of conflict over natural resources even though the local government officials do not have influence over the higher levels of government or private players involved. Thus, it is essential to establish a clear role for local governments over natural resources.

Financial Resources

- ***Adequate financial resources for development activities must be allocated to the local government for effective governance at this level, with clear mechanisms for accountability from higher levels of government.***

Along with mandates for participatory planning and local service provision, the government must allocate adequate funds for local governments to effectively fulfill their mandates. While constituents can hold the local government officials to account to some extent in the use of these funds, top-down mechanisms for accountability may be more critical. A study on fund expenditure in Indonesia, found that even the expectation of an audit by the central government reduced "missing expenditures" substantially. (Olken 2007) Furthermore, in an assessment of the performance based incentives system under PNPM in Indonesia, a study found that some improvements occurred in the provision of local health services, and that with precautions (such as including broad incentives and taking into account the advantages of wealthier areas), fund transfers that are linked to performance incentives may be useful. (Olken et. al, 2013)

Remuneration and Incentives

- ***Salaries or remuneration to local leaders provide an indication of the importance bestowed on this level of government.***

In Indonesia, the Philippines, and Cambodia the village/barangay leaders received financial support and in Cambodia the commune councilors received salaries from the government. Ward members in Papua New Guinea do not receive any remuneration. The provision of salaries or financial support provided an indication of the importance government bestows on this level of government. While compensation levels remain low and are considered inadequate to cover living expenses, the local government officials appreciated initiatives of the government to increase these levels.

Accountability

- ***Separation of the executive and legislative functions provides a check and balance on village level governance.***

A village council can provide a certain degree of accountability over the village head. In all of the four comparison cases the lowest level of government included a head and a council (with the commune and not the village considered the lowest level of government in Cambodia). In Indonesia, Law 32/2004 weakened the council and the government found that this essentially made the council inconsequential and therefore re-instated some powers under the current law. The new law does not allow the council to dismiss the village head, though, as this seemed to be the critical source of tension. Under the current law the village head and council are expected to work in partnership, while accountable to the District Government.

Gender Inclusion

- ***Mandates for minimum positions filled by women candidates may increase women's participation in governance.***

Government policies may include quotas for a percentage of women candidates or for reserved seats (as in the case of village leaders in Cambodia and ward committee members in Papua New Guinea). However, policies may not be implemented in all cases and/or the positions may be filled by 'token' candidates, thus not increasing the participation and influence of women. Non-governmental efforts to strengthen the capacity of women candidates have yielded some positive results, though the participation of women is still minimal across all four

comparison countries.

- ***Once established at the national level, gender mainstreaming policies must be integrated into local level governance.***

While national government mandates and institutions to protect women are in place in all for countries, the reality at the sub-national level is weak enforcement. In Indonesia, the Commission on Violence Against Women found 154 regulations at the subnational level (provincial, municipal and village) that discriminate against women. A study at the district level in 2010 found that district and city governments did not enforce gender equality for development planning and budgeting despite central government mandates for more equal outcomes. (AusAID 2012) Thus, it is clear that national policies must be integrated into local government policies and procedures to begin to make gender mainstreaming a reality on the ground.

- ***Addressing violence against women requires a commitment from the national government and the establishment of support institutions at the local level.***

Issues of domestic violence and violence against women persist across all four comparison countries included in this study. At the village level, women often turn to village or local leaders for mediation of disputes related to violence. In the Philippines, the government has mandated the establishment of a Violence Against Women Desk in each barangay for gender-sensitive handling of cases that include violence against women. As this is a recent initiative, the results are not yet clear, however this does demonstrate a clear government commitment to addressing and reducing cases of violence against women.

Local Justice Systems

- ***Establishing a local level justice system may strengthen the role of local leadership in resolving disputes and conflicts.***

The Barangay Justice System in the Philippines and the Village Courts in Papua New Guinea provide examples of government sanctioned local level justice systems that supplement the mandates of the national justice system. Both systems have been heavily criticized, however, studies have also demonstrated some positive results. Further research into these and other local level alternative dispute resolution mechanisms would provide critical insight into the possibilities for the development of a suku justice system in Timor-Leste.

B. Areas for Further Research

There are a number of reasons for strengthening the village or lowest level of governance, including the potential for improving service delivery, better matching development projects to needs, providing a means for engagement between the population and the government, and developing stronger and perhaps more resilient communities, among others. Particularly in the context of natural disasters and climate change, mechanisms for community resilience, including capacity building of local leaders and engagement of communities in local governance, may strengthen response systems. In the transition to more democratic governance models, local level governance provides the opportunity for establishing democratic practices.

This review of village level governance in Cambodia, Indonesia, Papua New Guinea and the Philippines provides insights into possible configurations of the village legal status, governance structure, planning processes, and gender inclusion. The Timor-Leste Government may consider the policy frameworks in each of these countries in the revision of laws and policies related to suku governance, including The Law on Community Leadership and Their Election (No. 3/2009). However, the gap between policies in both intent and design and the actual outcomes in implementation must be recognized. This report draws attention to broad concerns in the actual implementation of policies. It is beyond the purview of this report to draw conclusions regarding the relationship between village level governance and outcomes in terms of services, elite capture, local justice, and gender inclusion. Further analyses, including a more focused analysis of service provision at the village level, local justice systems, mandates for gender inclusion and reducing violence against women, and strengthening accountability structures would further substantiate the findings on the potentials of village level governance. The influence of national political parties over local governance must also be recognized and taken into account in understanding outcomes. In addition, a review of India's Panchayati Raj system and the Village Development Committees of Nepal, among others, may provide further valuable insights.

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