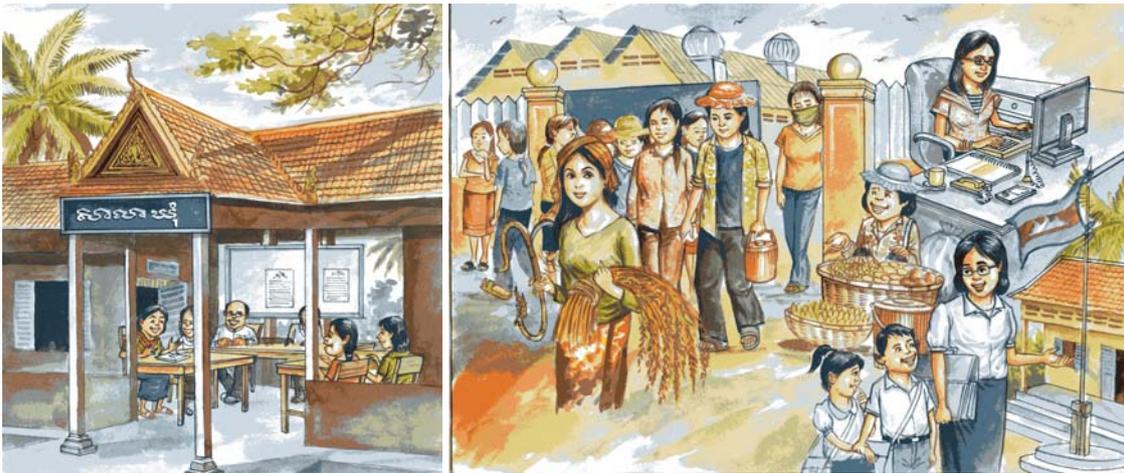


Handout

Module I

GOOD GOVERNANCE



Module 1: Understanding Good Governance

A- Objectives:

After this module, participants will be able to:

- Be aware of projects/programs that promote good governance within Cambodia;
- Identify the characteristics of a good society and roles of the citizen and government to build a good society;
- Understand the concepts of governance and good governance;
- Reflect on the current good governance applications within Cambodia and identify if they are in accordance with the general concepts of good governance.

B- Content

1- Introduction to Good Governance

2- Good Society

2.1 Concept of Good Society

2.2 The Roles of Citizens and Government in a Good Society

3- Understanding the Concept of Good Governance

3.1 Definition of Governance and Good Governance

3.2. Principles of Good Governance

3.3. Characteristic of Good Governance

3.4. Area of Good Governance

3.5. Democratic Governance

3.6. Local Governance

4- Political Framework of Governance in Cambodia

4.1. Policies Supporting Governance in Cambodia

4.2. Millennium Development Goals

4.3. Sub-national Administration Structure

1- Introduction to Good Governance

Historically, particularly after the Second World War, it was assumed that the governing of nation-states was the responsibility of that nations government. Democratic political frameworks of governments suggested three independents and inter related functions: legislative, executive and judiciary. In different societies over the past fifty years, these functions have been organized differently, though still carrying a common aspiration.

Recently, there continues to be a growing disenchantment of ordinary citizen with institutions of the government. This dissatisfaction is brought on by many factors such as the declining capacity of institutions to respond to the interests and expectations of their population, the increasing gap in the policies of governments and their practical elaboration, the growing distance and alienation of the poor and the marginalized from the elite-dominated institutions, the continued persistence poverty and the growing importance of national and transnational private business interests. As a result the concept of government has now begun shift to the concept of governance. In its elementary meaning, governance is equated with the functioning of the state and consequently, good governance is equated with efficient functioning of the state and its institutions, while promoting equity and social justice.

It is the World Bank, which first brought the concept “good governance” into the discourse of development. The World Bank’s experience with the failure of its economic policies within African countries led the World Bank to attribute that failure to “bad governance” (i.e. administrative inefficiency, corruption, lack of transparency, etc). The conceptualization of “bad governance” then led to the conceptualization of “good governance”, which includes parameters like administrative efficiency, rule of law, accountability, and transparency. However, the World Bank did not associate “good governance” with any particular political regime. The association between “good governance” and democracy is pushed into the discourse of development by bilateral aid agencies. These bilateral agencies promote democracy by making aid conditional to the promotion of regular elections, promotion of human rights and the rule of law.

UNDP defines good governance as the existence of a network of institutions of government coupled with laws and regulations that together create and maintain a social environment in which human development takes place, for all groups in society. Good governance is thus, a subset of governance, wherein public resources and problems are managed effectively, efficiently and in response to the needs of society. Public Participation in influencing decision making, transparency, and accountability are thus the hallmarks of good governance (UNDP, 1997).

2- Good Society

2.1 Element of Good Society

Basic needs	Participation	Association
<ul style="list-style-type: none"> • Economic Security • Social Services • Physical Security and Peace 	<ul style="list-style-type: none"> • Responsive & Inclusive Governance • Equal Rights and Justice 	<ul style="list-style-type: none"> • Respect for Culture & Heritage • Caring & Sharing

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Source: Participatory Research in Asia & the World Bank, “Understanding Governance”, November 2008, 2nd Social Accountability School (SAS 2).

➤ Basic Needs

Needs are priorities that support the “living” of ordinary citizens’. These including security and safety, which must be timely, implemented and are guaranteed to have:

- Economic security – ordinary citizens shall have a proper standard of living, which includes a life without hunger and one that is above the poverty line.
- Social services – public services (such as medical treatment education) shall have quality and be open for all citizens to access.
- Physical security and Peace – ordinary citizens shall have security and safety from any dangers.

➤ Participation

Citizens own the nation and can manage their own fates, which include:

- Responsive and inclusive governance – governance is a common task and shall have participation from the government, the markets, the citizens (civil society) and shall guarantee that no social members are excluded regardless their religion, race, beliefs, age, color, gender, and political tendency.
- Equal rights and justice – ordinary citizens shall have the rights to participate in the decision-making process and benefit from the sharing of economic and social developments with justice.

➤ Association

- Respect the culture and heritage – respect and preserve any achievements locally.
- Be attentive and share – support and assist each other without discrimination.

2.2 Role of Citizen and Government in Good Society

Role of Citizens	Elements of Goo Society	Role of Government
<ul style="list-style-type: none"> • Active & Engaged Citizens • Citizen Leadership 	⇒ Participation ⇐	<ul style="list-style-type: none"> • Facilitator
<ul style="list-style-type: none"> • Citizen Collective Action • Active & Engaged Citizens • Citizen Leadership 	⇒ Association ⇐	<ul style="list-style-type: none"> • Promoter • Facilitator
<ul style="list-style-type: none"> • Citizen Collective Action • Citizen Leadership 	⇒ Basic Need ⇐	<ul style="list-style-type: none"> • Facilitator (some) • Promoter • Provider

Source : Participatory Research in Asia & the World Bank, “Understanding Governance”, November 2008, 2nd Social Accountability School (SAS 2)

2.3 Rights of Cambodian Citizens

The constitution of the Kingdom of Cambodia on rights of Khmer citizens:

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1. What are the rights and roles of Khmer citizens?
2. What are the roles of the state?

According to the Constitution of the Kingdom of Cambodia, chapter 3 bearing upon the rights and obligations of Khmer citizens:

What are the rights and roles of Khmer citizens?	Article
Respecting human rights.	31
The right to life, personal freedom, and security.	32
The right to vote and to stand as a candidate for the election.	34
The right to participate actively in the political, economic, social and cultural life of the nation.	35
The right to strike and to non-violent demonstration shall be implemented in the framework of a law.	37
The law guarantees there shall be no physical abuse against any individual. The law shall protect life, honor, and dignity of the citizens.	38
The right to denounce; make complaints or file claims against any breach of the law by state and social organs or by members of such organs committed during the course of their duties.	39
Freedom of expression, press, publication and assembly.	41
The right to establish associations	42
All forms of discrimination against women shall be abolished.	45
Every Khmer citizen shall respect the Constitution and laws.	49

According to the Constitution of the Kingdom of Cambodia:

- Chapter 4: On policy
- Chapter 5: Economy
- Chapter 6: Education, culture and social affairs

What the roles of State?	Article
Chapter 4: On Policy	
<ul style="list-style-type: none"> • Protect the independence, sovereignty, territorial integrity of the Kingdom of Cambodia, • Preserve good national traditions • Preserve and protect the law and ensure public order and security • Give priority to endeavors, which improve the welfare and living standards of citizens. 	52 new
Chapter 5: Economy	
Protect the environment and balance of abundant natural resources	59
Pay attention and help solve production matters, protect the price of products for farmers, crafters, and find marketplace for them to sell their products.	62
Chapter 5: Education, Culture, and Social Affairs	
<ul style="list-style-type: none"> • Protect and advance the rights of citizens' to quality education at all levels and shall take necessary steps for quality education to reach all citizens. • Respect physical education and sports for the welfare of all Khmer citizens. 	65
The health of the people shall be guaranteed. The State shall give full consideration to disease prevention and medical treatment. Poor citizens shall receive free medical consultation in public hospitals, infirmaries and maternities.	72
The State shall give full consideration to children and mothers. the State shall establish nurseries, and help support women and children who have inadequate support.	73

According to Law on Administrative Management of the Capital, Provinces, Municipalities, Districts and Khans:

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Chapter 1: General provision

Chapter 2: Councils

What are the roles of the Capital, Provincial, Municipal, District and Kan Councils?	Article
Chapter 1: General provision	
Democratic Development includes: <ul style="list-style-type: none"> - Public representation - Local autonomy - Consultation and participation - Responsiveness and accountability - Promotion of quality of life for local residents - Promotion of equity - Transparency and integrity - Measures to fight corruption and abuses of power 	12
Chapter 2: Councils Section 2: Roles Duties and Authorities of the Council	
In the formulation and interpretation of its development plan, the council shall consult with: <ul style="list-style-type: none"> - The citizen within the jurisdiction - other categories of council within its jurisdiction - relevant ministries, institutions and units of the Royal Government - Relevant stakeholders. 	38
The council shall manage its financial affairs in a way that is transparent and accountable to all its citizens.	43
An abuse of power occurs and cannot be justified, when an elected councilor an appointed person (by a ministry, institution, state agency, council) or any person intentionally: <ul style="list-style-type: none"> - Uses their position of authority, exploits or mistreats any person, group of persons, public assets or public resources - Fails to use his/her roles or power to prevent any person under his/her supervision when he/she is aware that of the exploitation or mistreatment of any person, group of persons, public assets or resources. 	48
The abuse of power is applicable to the following activities: <ul style="list-style-type: none"> - abuse of legal rights or human rights of any person; - illegal occupation or confiscation of public or private assets or natural resources for his/her own individual benefit; - damage to the environment and natural resources; - illegal withdrawal of state funds or assets or improper use of state assets; - An illegal request, receiving money/gifts for taking action or not taking action on any official duties under his/her responsibilities; - Irregular implementation of laws, royal decrees, sub-decrees or Prakas; - Irregular implementation of bylaws (Deika) of the council; - Making decisions within his/her own official duties that benefit themselves or their family. 	49

3- Good Governance Concept

3.1 Definition of Governance and Good Governance

"GOVERNANCE is the exercise of political, economic and administrative authority to manage a nation's affairs. It is the complex mechanisms, processes and institutions through which citizens and groups articulate their interests, exercise their legal rights and obligations, and mediate their differences."(UNDP)

GOVERNANCE is "... the traditions and institutions by which authority in a country is exercised for the common good. This includes (i) the process by which those in authority are selected, monitored and replaced, (ii) the capacity of the government to effectively manage its resources and implement sound policies, and (iii) the respect of citizens and the state for the institutions that govern economic and social interactions among them. " (World Bank)

Governance is the process, way of leading , management or care-taking and the decision-making as well as implementation of that decision. **Good governance** is a form of governance that embodies eight specific characteristics, and can be seen as an ideal of governance. Good governance embodies processes that are “participatory, responsive, accountable, transparent, , effective and efficient, equitable and inclusive, and the rule of law”. DFGG

Good Governance: means competent management of a country's resources and affairs in a manner that is open, transparent, accountable, equitable and responsive to people's needs." (UNDP).

3.2. Principles of Good Governance

a. Participation

In a government where good governance is the norm, citizens can actively participate in the process of decision-making, directly or indirectly through groups or agencies that represent their interests.

b. Rule of law

Good governance enables laws, particularly related to human rights, to be implemented fairly and impartially.

c. Transparency

Transparency is built on the free flow of information. Processes, institutions and information are directly accessible to those concerned with them and enough information is provided to understand and monitor them.

d. Responsiveness

In a government exercising good governance, agencies promptly serve and respond to the needs of its constituents.

e. Consensus orientation

In any society, interests and opinions are varied. Good governance strives to mediate these differences so that a broad consensus on what is best for all is always achieved.

f. Equity

All men and women, regardless of age, gender or status in life have opportunities to improve or maintain their well-being.

g. Effectiveness and efficiency

A government exercising good governance produces results that meet the needs of its people while making the best use of national resources.

h. Accountability

In good governance, decision-makers in government, the private sector and civil society organizations are answerable to the public, as well as to institutional stakeholders.

3.2 The Concept of Democratic governance

Democratic governance refers to the management of societal affairs in accordance with the universal principles of democracy as a system of rule that maximizes popular consent and participation, the legitimacy and accountability of rulers and the responsiveness of the latter to the expressed interests and needs of the public. The most fundamental attributes of democratic governance is conducting a free and fair elections; the existence of a reasonably well-organized and competitive party system; a delineation of, respect for, and protection of basic civil liberties and human rights within the society; and, the encouragement, support of and active participation of a vigorous civil society.

On the basis of the definition provided above, three major aspects of democratic governance can be identified:

First, democratic governance is both an end in itself and a means towards other ends. It is an end in itself as a moral imperative consistent with the permanent aspiration of human beings for freedom and for a better social and political order, one that is more humane and more or less egalitarian.

Second, democratic governance is never perfect, for it is a process rather than an end-product. It is, all over the world a continuous process of expanding the political space to ensure for everyone has equal access to basic rights and liberties. In ancient Greece, slaves and women were not citizens and could not therefore take part in the political process. In many ancient African societies, political decision-making was the reserved for older men, while women and young people were excluded. In many parts of the world today, ethnic and racial minorities are still discriminated against with respect to the enjoyment of their full citizenship rights. Even where such rights are guaranteed in national constitutions, poor and vulnerable groups may not be able to exercise them fully. All over the world support for democratic governance is precisely focused on expanding the political space to allow civil society, women, the poor and the marginalized to make their voices heard on all issues of concern.

Third, democratic governance is a form of political practice based on the universal principles of rule of law, popular legitimacy, participation and the accountability of rulers. With well functioning institutions and representation mechanisms from the community to the national and international levels, democratic governance should maximize popular consent and participation, the legitimacy and accountability of rulers, and better manage available resources to respond to the basic needs and aspirations of the population. In this instance, democratic governance is primarily viewed as a means towards other ends, namely development and human security.

What is the relationship between democratic governance and Good governance?

For good governance processes to sustain some amount of democracy is essential. It seems evident that a good governance system needs democratic system. Democracy provides

more opportunities for civic space and citizen participation and, consequently, for independent groups to emerge, for political opposition to develop and for individuals to practice and experience the exercise of free choice in democratic governance. For all these reasons, democracy does represent a significant strategy in efforts to have good governance in societies.

3.3 The Concept of Local Governance

3.3.1 What is local government?

Local government is an umbrella term. The term may have different meanings depending on the part of the world one is dealing with. Taking this into account, local government can mean county, municipality, city, town, township, local public authority, a school district, regional or interstate government entities, or any agency or instrumentality of a local government. Despite this multiplicity of entities, it is useful to distinguish between two broad types of local government:

- Local state administrations, which manage and run local affairs on a day-to-day basis; and
- Local representative bodies, such as municipal councils. These are governance bodies that may either be directly or indirectly elected or appointed, by a higher-level government or community representatives. There are also mixed forms of governance bodies whereby some representatives are appointed and others elected.

3.3.2 What is local governance?

Local governance comprises a set of institutions, mechanisms and processes through which citizens and their groups can articulate their interests and needs, mediate their differences and exercise their rights and obligations at the local level. It emphasizes the need to look beyond the narrow perspective of legal frameworks and local government entities. It seeks to include the multiplicity of formal and informal relationships between different actors in development (e.g. local government, the private sector, associations, de-concentrated agencies, CSOs) that shape and influence the output and effectiveness of political and administrative systems at a sub-national level. The building blocks of good local governance are many: citizen participation, partnerships among key actors at the local level, capacity of local actors across all sectors, multiple flows of information, institutions of accountability, and a pro-poor orientation (UNDP 2004).

What is the relation between Good Governance and local governance?

S. No	Good governance	Local Governance
1	Participation	Democratization: Political decentralization
2	Consensus orientation	Tendency among locals to mediate differences
3	Accountable	Accountable to citizens
4	Transparent	Physical proximity and multiple flow of information
5	Responsive	Closer to citizens and their needs
6	Effectiveness and efficiency	If functions, Finance, and functionary are devolved.
7	Equitable and inclusive	Pro-poor and affirmative policies
8	Follow the rule of law	Legal framework with political decentralization

4- Political Framework of Good Governance in Cambodia

4.1 Policy Support Governance in Cambodia



4.2 Millennium Development Goals

International Millennium Development Goals

- 1- Eradicate extreme poverty and hunger
- 2- Achieve universal nine-year basic education
- 3- Promote gender equality and empower women
- 4- Reduce child mortality rate
- 5- Improve maternal health
- 6- Combat HIV/AIDS, malaria and other diseases
- 7- Ensure environmental sustainability
- 8- Forge a global partnership for development

Cambodian Millennium Development Goal

All eight objectives mentioned above including: Demining, Unexploded ordinance (UXO), and victim assistance.

4.3 Sub-national Administration Structure

According to the constitution of the Kingdom of Cambodia, the current administration management of Cambodia is divided into Capital and Provinces. A Capital consists on Khan and Sangkat. A Province consists of Districts and Municipalities. A District consists of Sangkat and Communes. The sub-national administration structure will be taught in detail in the next Module 2: Understanding Democratic Development.

**Good Governance is the heart of
Rectangular Strategy!**

5- Decentralization

5.1 What is Decentralization?

Decentralization is the transfer of authority and responsibility for public functions from the central government to intermediate and local governments or quasi-independent government organizations and/or the private sector.

- Decentralization is usually referred to as the transfer of powers from central government to lower levels, within a political-administrative and territorial hierarchy.
- The term decentralization is used to cover a broad range of transfers of the "locus of decision making", from central to regional governments, municipal or local governments.
- Decentralization is the means to allow for the participation of people and local governments.

Decentralization (Ministry of Interior)

The Royal Government gives sub-national councils the ownership of government functions, authorities and resources (finance, property and human) in order to respond to local needs. The council must be accountable to local residents.

For example, the Royal Government has transferred 40 million riel to the budget of an administration's district for the purpose of development. The district council has ownership over the management and use of this budget to respond to prior needs of the district, based on the district's investment program and development plan, which are approved by the council. These needs might include digging clean water well, trail repair and a domestic violence prevention campaign.

5.2 Types of Decentralization

- **Political Decentralization:** *Autonomy, Democratization, Elections*
- **Administrative Decentralization:** *Delegation, De-concentration and Devolution*
- **Fiscal Decentralization:** *Revenue generation/sharing and Expenditure*
- **Economic Decentralization:** *Deregulation, Privatization or Corporatization*

5.2.1 Political Decentralization

Definition

Political decentralization normally refers to situations where political power and authority has been partially transferred to sub-national levels of government. The most obvious manifestations of this type of decentralization are elected and empowered sub-national forms of government, ranging from village councils to state-level bodies.

Rationale

The rationale behind political decentralization is that citizens or their representatives should have more power in public decision-making. Decisions that are made with greater participation would be better informed and more relevant to the diverse interests in society. It would also lead to efficient and effective public services. Political decentralization is therefore about creating the spaces for local governments to understand and act on the needs and preferences of the people.

To achieve political decentralization, the following would have to be undertaken:

- *Constitutional or statutory reforms to adapt the concept of decentralized;*
- *The development of pluralistic political parties;*
- *The strengthening of legislatures;*
- *The creation of local political units; and*
- *The encouragement of effective public interest groups.*

5.2.2 Administrative Decentralization

Definition

Administrative decentralization refers to the full or partial transfer of decision-making authority, resources and responsibilities. This transfer would foster the delivery of selected public services from the central government to the lower levels of government agencies and the field offices of central government line agencies.

Type of Administrative Decentralization

- **De-concentration:** De-concentration is often considered to be the weakest form of decentralization and is used most frequently in unitary states. De-concentration is the transfer of power to an administrative unit of the central

government usually a field or regional office. With de-concentration local officials are not elected.

- **Delegation:** Delegation is a more extensive form of decentralization. Through delegation central governments transfer the responsibility of decision-making and administering public functions to semi-autonomous organizations not wholly controlled by the central government, but are ultimately accountable to it. With delegation the local officials are not elected. Governments delegate responsibilities when they create public enterprises or corporations, housing authorities, transportation authorities, special service districts, semi-autonomous school districts, regional development corporations, or special project implementation units.
- **Devolution:** Devolution is the strongest form of administrative decentralization. When governments devolve functions, they transfer authority for decision-making, finance and management to quasi-autonomous units of the local government with corporate status.

Devolution usually transfers responsibilities for services to municipalities that elect their own mayors and councils, raise their own revenues and have independent authority to make investment decisions. In a devolved system, local governments have clear and legally recognized geographical boundaries over which they exercise authority and within which they perform public functions.

Rationale

If local governments and private organizations are to carry out decentralized functions effectively, factors other than adequate finances play a role. There must also be people (functionaries) who have the required capacities (the know-how) to undertake this transformation decentralized functions. This would involve a reform of the civil services.

5.2.3 Fiscal Decentralization

Definition

Fiscal decentralization involves a level of resource allocation to local government, which would allow it to deliver decentralized functions. Fiscal decentralization rules regulates four areas: (i) expenditure assignment; (ii) revenue assignment; (iii) intergovernmental transfers, and (iv) sub-national borrowing.

Rationale

If local governments and private organizations are to carry out decentralized functions effectively, they must have an adequate level of revenues that are either raised locally or transferred from the central government. They must also have the authority to make decisions about expenditures.

5.2.4 Economic decentralization

Definition

Economic or market decentralization is the transfer of functions exclusively performed by government to the private sector.

Rationale

This type of decentralization promotes the engagement of businesses, community groups, cooperatives, private voluntary associations and other non-government

organizations.

Kinds of Economic Decentralization

- **Privatization** can range in scope. It can involve leaving the provision of goods and services entirely to the free operation of the market or to a "public-private partnerships" in which government and the private sector cooperate to provide services or infrastructure.
- **Deregulation** reduces the legal constraints on the private sector in the delivery of services previously monopolized by the government. In recent years privatization and deregulation have become more attractive alternatives to governments, within developing countries. Local governments are also privatizing by contracting out service provisions or administration work.