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# Development Practices: Building New Equilibriums within the Commons-State-Market System

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February 2019

**Please cite this paper as:**

LEYRONAS, S. and J. CALAS (2019), "Development Practices: Building New Equilibriums within the Commons-State-Market System", *AFD Research Papers Series*, No. 2019-95, February.

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ISSN 2492 - 2846

# **Development Practices: Building New Equilibriums within the Commons-State-Market System**

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## **Abstract**

For ten years (1998 – 2008), the Cambodian government rehabilitated the Prey Nup polders, a 90 km of earth dikes system protecting 10,500 hectares of rice paddies from seawater intrusion. This French Development Agency-funded project provides a clear illustration of an “administered commons”, where the administration aims to delegate its responsibility to new or previously-existing informal “communities” which it seeks to structure. This article relates the rehabilitation of the polders and explores the different commons-State-market systems that are generated. It brings to attention the weaknesses of this administered commons, and the tremendous challenges that it faces in order to turn into a “neo-commons”. This latter notion refers to an original creation in time which combines the typical requirements of traditional commons (community, resource, consolidation of management rules) with some degree of reinterpretation, giving way to hybrid governance forms that associate public administration and commodification. Based on this experience, the article re-examines the role of public authorities in promoting and supporting the emergence, consolidation and growth of neo-commons.

**Key words:** Commons, Development, Cambodia, Agriculture, Irrigation, Public policies

**JEL Classification:** F63, F68, O19, O43, Q15

**Original Version:** English

**Accepted:** January 2019

## I. Introduction

International cooperation agencies have been a driving force in getting authorities to support, via projects,<sup>3</sup> the development and structuring of new commons. We describe these commons as “administered” in the sense that the administration aims to delegate its responsibility to new or previously existing informal “communities” to which it seeks to give structure. The authorities create the legal and financial conditions that help generate commons, according to technical designs whose scope they have themselves defined. Through this approach, work to co-construct rules regulating the range of rights and obligations is fostered between administration and users, based on the way in which the project’s managers perceive the system that these future commons must form with the State.

The sustainability of these administered commons depends on two issues. The first is the State’s desire to make stable decisions and to maintain its commitments over the long term. The second concerns the capacity of the newly created “communities” to “endogenize” the intervention initiative (which is by definition exogenous to the societies concerned) and, for this purpose, to make the State-market-commons system designed for the project evolve according to a reconfiguration of social norms. Satisfying these two issues is the prerequisite for administered commons to become “neo-commons.” These latter are original creations of our times that combine the typical requirements of traditional commons (community, resource, consolidation of management rules), with some degree of reinterpretation, giving way to hybrid forms that associate public administration and commodification (Le Roy, 2016). As the works of Elinor Ostrom show, these neo-commons are based on a very broad diversity of institutional arrangements constructed by the communities and on “a rich combination of public and private instruments.” These latter are the basis of the theory of institutional diversity promoted by the Bloomington School (Weinstein, 2013).

This paper will review the history of how one administered commons came into being and was constructed: the Prey Nup polders on the Cambodian coast of the Gulf of Thailand. The way they have been rehabilitated and managed will be examined, as well as the various State-market-commons systems devised by the project. Analysis will also be made on the way in which the authorities intervene in constructing the formal rules for the administered commons and see themselves in a new position as protector of the commons, to which they delegate a certain number of its responsibilities. By going back to the distinction made by Elinor Ostrom between norms and rules, this article will put forward some ideas following the observation that the Prey Nup commons faces challenges to make its internal rules respected and to hence become a neo-commons. It will conclude on the repeated trial-and-error process required for administered commons to develop into neo-commons and, through a mirror effect, on the way the State is questioned from every angle.

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<sup>3</sup> International cooperation finances *projects* that group together a set of activities applying to defined objectives (access to services, preservation of natural resources, structuring of the private sector, food security, etc.). They are intended for *beneficiaries* through the intermediary of *counterparts* in charge of implementing activities. These latter are provided with *means* (a budget, financing, deadlines) and organized into *components*, which are *infrastructures* and *support measures* (human, technical and financial resources) that must help ensure proper implementation of the project and the sustainability of the financed infrastructure.

## II. The Prey Nup polders: construction of an administered commons

The Prey Nup polders<sup>4</sup> are located on the Cambodian coast of the Gulf of Thailand. They cover 10,500 hectares of rice paddies, protected from seawater intrusion by more than 90 km of earth dikes. The system was rehabilitated between 1998 and 2008 as part of a Cambodian government project financed by the *Agence Française de Développement* (AFD) through three subsequent fundings (1997, 1999 and 2002). Each of the six compartments that make up the polder is spread over 600 to 2,300 ha, with practically no compartmentalization and with topographical differences of 30 to 40 cm between the highest areas and the lowest parcels.

Water control is only partial as the polders do not have operational storage reservoirs upstream. It enables only drainage of excess water from upstream and blockage of seawater intrusion from downstream. Exploitation consists mainly of one annual rice crop during the rainy season. These conditions make water management in the polders a real challenge. The absence of compartmentalization within each of the six areas means that it is impossible to individualize the management of the water level parcel by parcel.

At the start of the project, Cambodia was just starting to recover from 20 years of instability and war. Much of the polders had been abandoned (around 3,000 ha), and yields were low. Management of the polders was ensured by the technical department of a new Ministry of Water Resources (MOWRAM) created in June 1999 and by the local authorities of Sihanoukville, who took care of technical monitoring.

The project enabled rehabilitation of the dikes: in 2008, the 3,000 ha were put into operation again, and rice yields increased sharply (2.7 t/ha in 2008 compared to 1.6 t in 1998). Meanwhile, children went back to school, and various economic activities developed in the area. These outcomes were made possible thanks to a long process of technical-management and polder-maintenance transfer from the authorities to a users committee. A crucial aspect of this process was the gradual transfer of the maintenance's financial management to the community, i.e. the water police and the collection of fees from the users.<sup>5</sup>

The management transfer called for in the project was not made to a structured peasant society with past experience of “democratic” collective management of water resources. For this reason, creating conditions that allow for collective dynamics to occur was very quickly flagged as a key aspect of the project, as crucial as the construction work itself (Lavigne Delville, 2015). A long coordination period was provided for, set up by the authorities through the intermediary of an external French operator, the GRET. The working groups created at the village level were the first building blocks for the future organizations dealing with water management.

A peasant organization was created, the PUC (Polder Users Community), with the goal of managing the entire polders area. It was up to the users to define a water management plan together, then to force themselves to stay in line with a crop cycle that followed that plan. Two

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<sup>4</sup> The data concerning the evolution of the polders and how they have been organized are mainly drawn from Kibler and Perroud (2002), Brun and Fontenelle (2006), Lagandré (2007), and Venot and Fontenelle (2016).

<sup>5</sup> The project also included work to regularize land rights as well as support for rural credit.

years after the project was launched, the PUC included 15,000 members, which elected one representative per village (or 43 village representatives for all six areas) and six “polder presidents.”

The election of peasants by peasants was itself an innovation. In 2001, at the start of the first campaign of filling the polders with water, the “polder assemblies” (made up of the village representatives of a single polder and the polder president) met to work out guidelines for water management and to launch the first campaign for fee collection. Implementation of the water management plan was the responsibility of the polder president. Harvests improved from 2002 and reached record levels in 2003, at the same time that the abandoned land was farmed again. A team of staff employed by the PUC took on technical control of water management, securing knowledge and know-how.

### **Shared management: co-construction of rules and co-obligations**

Elinor Ostrom explicitly favors a conception of commons centered around the notion of rules, which she defines as “*shared understandings by actors about enforced prescriptions concerning what actions (or outcomes) are required, prohibited, or permitted.*” (Ostrom and Basurto, 2011, p. 319). She insists on the configurational nature of rules that build a social structure, especially by defining positions, rights and obligations attached to these positions, as well as powers. She highlights the importance of vertical relations within the commons, based on respecting a prioritized system of rules. These latter include: i) operational rules such as rights of access or collection, to which – in the case of polders – must be added the principle of paying for the service as well as infrastructure usage rules (circulation on the dikes and in the channels, for example); ii) the rules of collective choice, which determine who participates in the operational activities and how the operational rules can be modified; and iii) the constitutional choices, which manage the rules of collective choices by determining who can participate in them and what rules are implemented to build or modify the collective choice rules.

Her findings also show, in a more horizontal perspective, that a commons cannot be understood as an isolated system having only its own rules and norms, and that it is always part of mercantile and public environments that condition its nature and the way it operates. The horizontal complementarity of institutions expresses itself through so-called organizational ties, which are seen as relationships of coordination and competition (Weinstein, 2013).

In the case of so-called administered commons, the authorities play a stronger role, via a certain number of technical, financial and legal commitments. On a horizontal level, administered commons and public authority together form a system from a technical and financial point of view, out of concern for shared management. The public sphere dominates in a vertical relationship, on all the legal matters, this time out of concern for taking care of the commons. The sustainability of the administered commons is thus based on co-constructed partnership relations, which go well beyond the principles of recognition and coordination.

### *Technical and financial system: State obligations*

The Prey Nup water system requires a complex set of equitable rules negotiated at different organizational levels. They involve actors of various types (rice growers, livestock breeders and inhabitants). These rules, which as we will see determine an active role for authorities in polder management, bring up the questions of the iterative processes involved in their construction, and of the role given to the authorities on the one hand and to users on the other.

Top-down construction of rules, decided upon by authorities and with varying degrees of consultation and participation by users, is contrary to the philosophy of commons. Conversely, the strength of commons as an institution is undermined when its rules are developed without the State, which in turn imposes the role that it has to play, as detailed below. In between these two situations we can find co-construction, by both authorities and communities, of the rules regulating all actors' rights and obligations. However, this situation does find itself confronted with imbalances of power. Such imbalance is all the stronger in Cambodia because there is a new Ministry of Water Resources, which is seeking legitimacy and is in competition with other ministries (especially that of Agriculture, from which it was created).

We can thus see ambiguity in each party's responsibilities (in terms of water management or of application of rules, etc.), as well as recurring tensions between legitimacy, balances of power, and democratic efforts. This shows the importance of adopting iterative processes and of clarifying the terms of management transfer by means of legal or contractual documents such as specifications, a contract regulating delegation of management, or a service contract.

The infrastructure remains State property, but the technical management and polder maintenance are shared with the PUC through a formalized delegation of authority. The State has the power to control the management of committees, and through its decentralized technical services it guarantees that the commons' specifications are respected. Upkeep is based on a maintenance fund fueled by the State budget for the main dikes and by fees received from users and managed by the PUC for secondary infrastructure and the water gates.

In reality, the PUC struggles to put the maintenance fee into widespread use. Its collection rate remains less than 100%,<sup>6</sup> and free riders can be found in the form of local despots and politicians. The technical Ministry and the Provincial government only partially respect their financial commitments to dike maintenance. Unpaid fees and successive failures by committees to recover debts have led the PUC to contract implementation to local police forces by means of service contracts. Likewise, the fee level, which is theoretically set by the PUC, is merely proposed by the association to a subcommittee made up of village heads and chaired by the district head. We can thus see a reversal in the process of subsidiarity that had prevailed throughout the creation of the PUC.

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<sup>6</sup> Slightly less than 100% until 2011, then on a downward trend to 60% in 2015 (Venot and Fontenelle, 2016).

### *The legal system: a State at the service of the commons*

Once the administered commons is established, the way it works with the authorities as a system unfolds at different levels. The State not only spurs on the conditions allowing the commons to be created; it also acts in complementarity and in partnership with the communities throughout the infrastructure's lifecycle. Its commitment has to be long-term. This requires the State to change its approach: it must delegate management of the commons to "peasants" and "be at the service of" rather than "direct" or "supervise."

The project thus initially suffered from resistance by some State representatives (mainly at the central and decentralized technical-service level). This shows the need for strong and explicit commitment by the authorities in order to reinforce this change in approach. These are in fact processes in which the State is put into question from all angles, in terms of its coercive power, its complex bureaucratic machinery, its exercise of decision-making power, and its forms of representation. The State can carry out this task only if it can itself overcome the divides between its different ministries (Finance, Water, Agriculture, Land Management, Justice). Through these initiatives, we can see attempts to co-construct a different kind of State: a State that supports and protects local dynamics.

In the absence of a regulatory context in Cambodia, the project functioned through successive iterative processes. In 1998, the national legal framework provided for no procedure or specific form of transferring management to an association of water users. The process of organizing the PUC was accompanied by a parallel process at the national level to work out a legal framework regulating operations for management transfer. This led to an initial circular in 1999 and two ministerial decrees (No. 306 and No. 410) in 2010. The latter decree recognized the statutes of the PUC, which became the first association of water users in Cambodia. In 2001, the governor set into application the rules established by the PUC, at the provincial level. This decision was passed on by the district head to the village heads and enabled the PUC to work despite its non-formalized nature. A new water law, which charted the way for transfers of responsibility and authority to associations of water users and which specified the role of the authorities in these transfers, was finalized in 2002 but approved only in 2007. A decree and sub-decrees on developing and managing participative irrigation were worked out in 2003, and they provided details on the procedures and methods of transfer. However, these were never ratified. It was only in 2015 that a sub-decree was officially promulgated. It strongly diverged from the initial spirit: while it did recognize the associations of water users as tools of effective and sustainable irrigation management, it designated the State as responsible for the "administration" and for setting the internal rules of the associations and the water systems. It marked the giving up, at least temporarily, of the draft decree on participative irrigation and the principle of co-construction of administered commons.

The co-construction of rules regulating how the commons operate required iterative processes between the different levels of institutions, from users up to the supervisory ministry (MOWRAM). The PUC suffered from a twofold lack of legal texts: one which would give it legal personality and set the conditions for how it operates, and another which would define the MOWRAM's responsibilities in applying the rules. However, the PUC was able to rely on local



innovation to help inspire the future law, rather than having to conform to a theoretical text or an authoritarian tradition far from realities on the ground.

This vertical relationship between State and commons requires strong will on the part of the authorities to take care of the institutions that are created and that find themselves undermined if a complex legal formalization is not established. The recent trends and the promulgation of the 2015 sub-decree thus mark a clear reversal with regard to the rise of autonomous and empowered neo-commons supported by the Cambodian government<sup>7</sup> (Venot and Fontenelle, 2016).

### **III. From administered commons to neo-commons: (re)-configuring norms**

Ostrom's analysis is based on the distinction she makes between rules and norms. According to her, strategies and norms must be understood as "attributes of the community"; this is what distinguishes them from rules (Ostrom, 2005, p. 138). She considers that taking norms into account is one of the major issues brought up by the analysis of institutional diversity, in particular "norms fostering collective action" (Ostrom, 2005, p. 121). It is also interesting to see how she analyzes the institutional dynamics of "common-pool resources" as the gradual shift – via a prioritized set of rules and in response to conflicts and management problems – from "simple and isolated systems" governed by a few norms to a more complex and structured system, in accordance with what we have just seen (Ostrom and Basurto, 2011).

In the case of administered commons, the relationship between social norms and rules is reversed. Here, the technical arrangements chosen for the water system impose physical limits on the administered commons. Thus, how does a community of users reconfigure, based on formal rules co-constructed with the authorities, a set of constituent norms that are the basis of "working in common"? And toward what legitimate objective (which can differ from the project objective) does the community structure these new norms? It is essential to provide some possible answers from the angle of behavioral science theories, upon which Elinor Ostrom's institutionalism is based (Chanteau and Labrousse, 2013), in order to understand the commons process from the inside and its capacity to evolve toward an original, resilient and flexible system, which we call "neo-commons."

Administered commons, which are built around the infrastructure that shapes them, above all bring up the question of the community to which they refer. Indeed, the project faced issues such as the social and religious diversity of the population, multiple jobs held by the villagers, and the heterogeneity in polders uses and users (farmers, fishermen, civil servants, tradesmen, etc.). It thus made the pragmatic choice to fall back on land identity and to form a PUC in spatial terms. This technical perspective reduces the "community" to a set of "owner payers" who react as users organized to "manage" a resource with a managerial and impersonal outlook (Le Meur, 2015). This observation could have been qualified by an in-depth and long-term analysis of kinship and marriage ties, as well as of mechanisms of solidarity and exchange at work in the

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<sup>7</sup> In 2015, there were more than a thousand FWUC (Farmer Water User Committees) in Cambodia, 400 of which were registered at the national level (Venot and Fontenelle, 2016).

polders. Such analysis, which was beyond the scope of this project, would have helped better assess the degree of development of an ownership or identification feeling by the members, fostering “togetherness” and “care-taking” around the resource while maintaining the ecosystem’s production capacities (CTFD, 2017).

Moreover, for a water users association to emerge and exist, political support at the local and national levels is needed. Its sustainability depends on an institutional and contractual arrangement as described above. Its effectiveness, on the other hand, depends on “social capital” constructed around the norms and social interactions at work. Here we refer to the precise definition proposed by Elinor Ostrom: “*Social capital is the shared knowledge, understandings, rules and expectations about patterns of interactions that groups of individuals bring to a recurrent activity*” (Ostrom, 2000, p. 176).

The project was intended for a Cambodian society that, at the time, was described in many works as individualist, characterized by very weak village and family ties, and accustomed to a form of dependence on the State (especially by Chandler, 1996; Thion, 1993; and Oveson *et al.*, 1996). It was also a society that, under the Khmer Rouge regime, had suffered violent experiences of massive and forced return to agriculture, a frenzy of water projects as tools of genocide, autocratic management by incompetent people, and authoritative collectivization. (Calas, 2006).

Given this background, it is difficult to imagine the emergence of endogenous peasant organizations based on new, representative, and recognized communities and social structures, as had been conceived by the managers of the project. The PUC thus had to base itself upon a prioritized system of rules that can be described as solid. However, it suffers from weak social capital, which is the basis for proper acknowledgment of these rules and of their effective application. This weakness is worsened by i) a certain wearing-down effect of the exercise of power (the president of the PUC remained the same until 2015), ii) an evolving society (stronger geographical mobility, strengthening of city-countryside ties, etc.), and iii) a currently unfavorable institutional context.

The administered commons remain partially artificialized by external interventions. Nonetheless, the self-capacity of Cambodians to innovate and modify social relations and space management cannot be underestimated, as we can see by the system of rules set up for the Prey Nup polders as a vector for change.

#### **IV. To conclude: shaping a partner State**

Four conclusions are presented below.

First, the need for State withdrawal is often put forward to justify transfer of management to users. It is indeed asserted that public expenditure on recurrent costs of management and direct maintenance of infrastructure should be reduced. But if States adopt a simplistic view to such policies, it leads them to limit their role to monitoring the commons, if not abandoning their role altogether. On the contrary, the creation of administered commons does not equate to taking responsibility away from authorities. Rather, they become involved in the commons in a new role

that is not just that of policeman. This is a partnership relation wherein the State must first make a strong commitment to withdrawal, but then recommit itself in a complex configuration unique to each context. The State-commons system gives structure to constantly changing “specific governmentality” (Le Meur, 2015) linked to two goals: horizontal and vertical relationships. In the former, State and community have co-obligations for the internal rules governing the commons. In the latter, the roles of the authorities are to take care of and protect the commons over the long term (notably through the legal instruments and political commitments available to it), promote the effectiveness of the commons, and counter external pressures on it.

Moreover, the State’s partnership approach does not guarantee the effectiveness of the commons. Indeed, the State does not have control over the reconfiguration of norms, which are the bases of legitimation for a new local institution and for the processes of trust and solidarity required for proper application of rules. The same is true for donors-funded projects. Commons are in fact “more a category to fill in than a pre-existing substance” (Worms, 1999): if the actors cease “practicing” their commons, it will die. It is thus important to enable neo-commons to work according to their own dynamics and to become autonomous. Doing so will allow them to question the State about the technical choices it may have made within the framework of the project, and about its commitments. Does the crisis experienced by the PUC since 2015 mark the extinction of the commons, or a new stage in the learning process?

This leads up to the question of the trajectory taken by the commons, and of the exit strategy for the external support. Commons involve outlooks that can be characterized as dynamic and multi-criteria. They include equity, sustainability, the existence of strong social ties, capacities for collective action, trust, and the desire for shared well-being. These are not an end in themselves, and at any moment they can be qualified as under-optimal. To navigate among and to support the processes of local social transformation, the construction of administered commons is moreover based on mechanisms of participation set up by the project, and on iterative processes (crafting, back-and-forth consultation, trial and error) that might seem imperfect. It is difficult, between the risk of providing handouts and the risk of the commons’ collapse, to make a cost-benefit evaluation of the outside aid (in financial, economic, social and environmental terms).

Finally, through a mirror effect, the process of delegating management is a first step towards local democratization that puts the State into question again with regards to its modes of exercising power and its modes of representation. Academic literature uses the underlying philosophy of the commons to refer to responsible users as well as to active citizens and authorities who recognize the dynamics of actors (i.e. the processes during which actors identify shared objectives compatible with each party’s particular interests) and work together to reach these objectives. This implies a State that does not limit itself to consulting the actors or making them participate more or less effectively. Rather, it calls for a State that simultaneously co-constructs diagnostics, objectives and solutions in order to give birth to hybrid and original systems of governance.

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