

Environmental Code of Cambodia: Approach and Methodology applied for the codification

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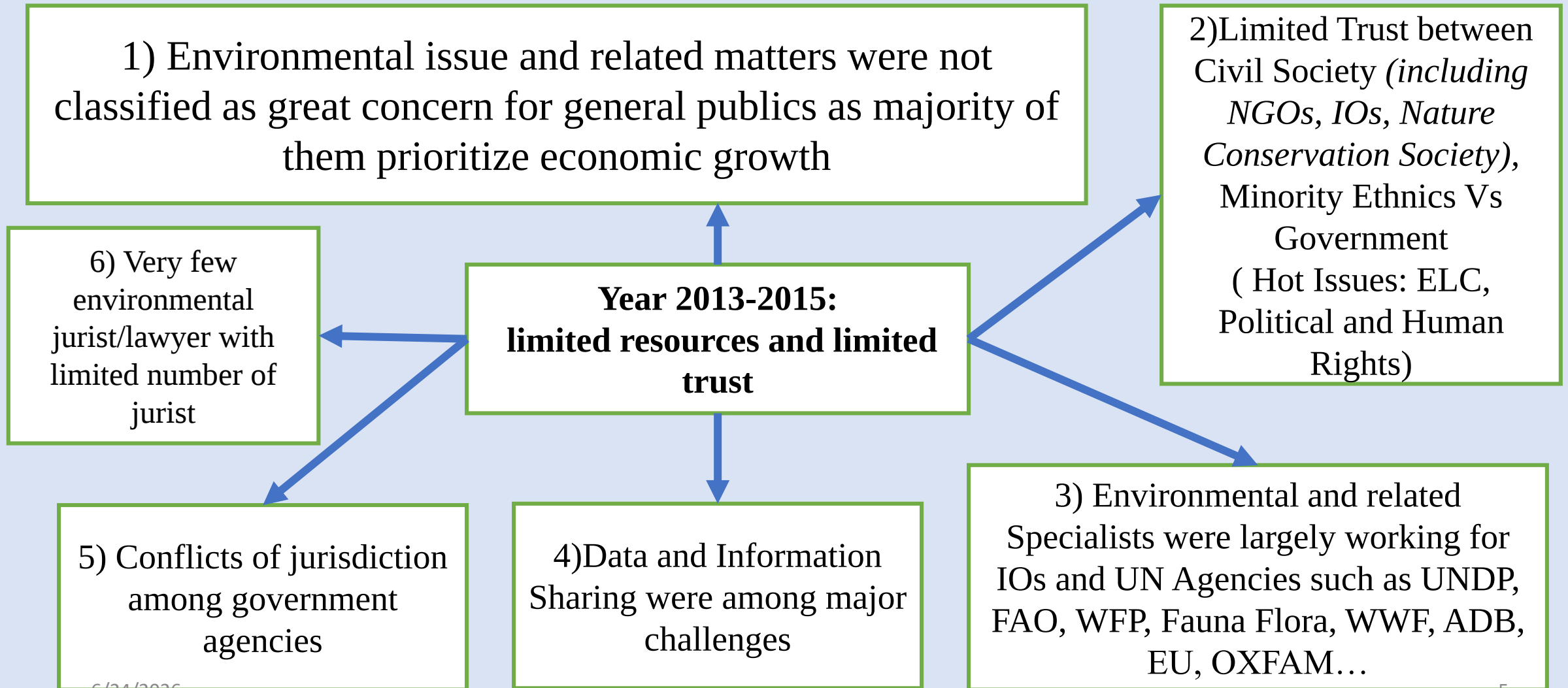
Introduction

- Preliminary Questions: Major Factors to build Common Understanding and fuel the participation
 - Why environmental codification today, not tomorrow?
 - Are there any absolute necessity required?
 - Who need this?
 - For What?
 - Why codification and not the amendment of the existing laws and regulation?
What are the difference? Why do not promote enforcement instead?

1. Factors determining the approach and Methodology for codification within Cambodian Context

1. **Socio-Political Background and the singularity of the environmental matter, as cumulative pre-condition to define the overall coordination based institutional framework for codification**
 1. The Environmental codification project was conceptualized for the first time by ***H.E. SAY SAM AL***, Former Minister of Environment during his 1st Mandate on 29 November 2013 and endorsed by ***Samdech Akka Moha Sena Padei Techo HUN Sen***, **Prime Minister of the Royal government of Cambodia** on December 2nd, 2013 for in-depth study and framework design;
 2. The project was initiated with an ambition to promote a better environmental and natural resource governance efficiency using participative approach for a broader public participation (*Sor Chor Nor* (ស៊ីជណ្ណ) N^o 287 dated March 16th, 2015 authorizing MoE to work with UNDP to mobilize the resources while promoting a broader consultation.

1. Factors determining the approach and Methodology for codification within Cambodian Context (Cont.)



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1. Key Factors that determine the scope and the substance of the code
 1. The **Notion of Environment in its self**, as a **fundamental factor to determine relevant KEY Players** while shaping the design of the substance based Working Group with **7 Sub-Technical Working Group-** *(1.) Forest protected area and biodiversity, (2) Aquatic and biodiversity, (3) Pollution Control and Management, (4) Sustainable city and Green Economy to (5) Cultural and Natural Heritage, (6) Extractive Industries (Mining), and (7) environmental education and awareness)*
 2. Regional and Global Trend, as an additional factor (EIA, Social and Environmental clearance such as DD, Certificate, permits, licensing and Monitoring as trade and financial facilities requirement)
 3. Social and Environmental Standard: a newly emerging market entry requirement and Globalization (Financing, Purchase Order, Trade barriers...)
 4. The Existing Local Legal and Institutional Framework
 5. International Commitment and Integration to Regional and International Community based diplomacy

2.Regulated Publics' Participation, as engine and guide for the codification

1. Institutional Framework, as driver for content definition and detail substance development (***approved and endorsed by SPM HUN SEN on 25 May 2015***):
 1. Inter Ministerial Working Group (for political guidance and jurisdiction based clearing supporting mechanism)
 2. Working Group in Charge of Drafting (Technical based Level Codification)
 3. 7 Sub-Technical Working Groups (established by MoE's Prakas No.014 dated 13 July 2015)
2. Players and Stakeholders (Private sector, civil society, Communities, minority ethnics..), as law maker (with working protocol, reporting and meeting regime)
3. Permanent Secretariat, as law drafting engine
4. Public Consultation, as tool to legitimize and promote the upcoming code enforcement (Regional based consultation, Sector Based Consultation, Inter Ministerial and Technical based consultation).



2.Regulated Publics' Participation, as engine and guide for the codification (Cont.)

5. Publics' Participation, as key factor to define and determine the 11 overarching general principles of law and their supporting sector based (*chapter based guiding principle of law*):

1. Sustainable development principle
2. Prevention principle
3. Public Participation principle
4. Access to environmental information principle
5. Polluter pay principle
6. User pay principle
7. Precautionary principle
8. Mitigation principle
9. Evidence based decision making principle
10. Supremacy of public interest principle
11. Integration based principle

3. Law, regulations and policies Review, as tool to define the environmental code implementing mechanism

- **Review for a better understanding of the followings:**

1. jurisdictions, tasks and responsibilities sharing among government and local government agencies
2. existing coordination framework

3. Cooperation framework
4. Incentives
5. Penalties
6. Conflict resolution Mechanism
7. Gap and Conflict of laws

4. 5 Major factors that frame and guide drafting process

1. Vision and future based drafting approach
2. Socio Politico-Economic Background
3. General principles of law and their sectors based principles adopted by the Sub-Technical Working Group
4. Law Marker based working protocol with professionalism and pro-collaborative approach
5. Strictly comply with Existing Laws Establishing ministries and Government Agencies, as limit and pre-condition to propose any implementing mechanism while promoting harmonization

5. Conclusion

1. From Environmental Code to Code of Environment and Natural Resource , as result of public's participation and a broader consultation practice.
2. Cambodian way of environmental codification was a hybrid process:
 1. Laws and regulation compilation and Law making;
 2. Civil law and Common law drafting approach
3. Shared Vision and Consistent commitment for Harmonization are Key Success Factor.

Thank You for Your Kind Attention!