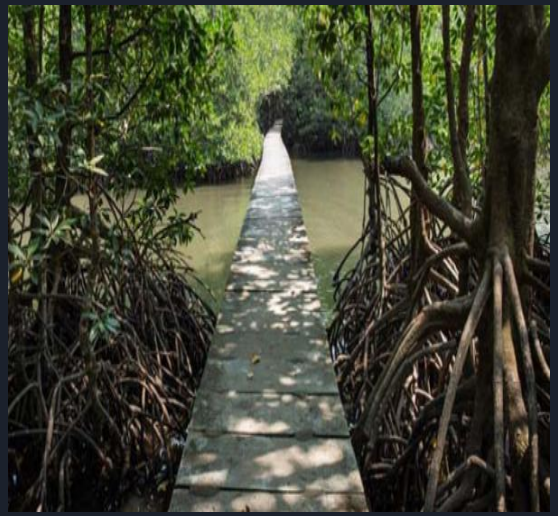
Cambodia's New Environment and Natural Resources Code

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Legal and Political Context

- Cambodia’s legal framework since the Khmer Rouge era
- Current and emerging political dynamics





The Environment's Special Role in Cambodia's Development

- Relationship between natural resources, the economy, and political developments
- Overview of the environmental issues on the ground







Phase 1: Substantive Development of Code (2015-2016)

It all started with...

- Draft EIA Law created by Vishnu and MoE in open and transparent stakeholder process, 2012 to 2015
- H.E. Say Samal, Minister of Environment, requests an Environmental Code
- Fundraising and development partner outreach begins



Process framework

- Government establishes Technical Working Group and issue-specific Sub-Technical Working Groups
- Vishnu is a member of TWG Secretariat and the implementing partner to MoE
- Substantive issues for the Code identified





Assembling the human resources

- International and national experts
- Drafting and translation team



Jurisdictional Assessment

- Jurisdictional assessment of existing natural resource management and environmental laws
- Transfer of jurisdictional authority





Establishment of Code's Principles

- Public Participation
- Access to Information
- Access to Effective Remedies
- Polluter Pays
- Precautionary Principle
- Prevention Principle
- Intergenerational Equity
- No Net Loss
- FPIC
- And many more





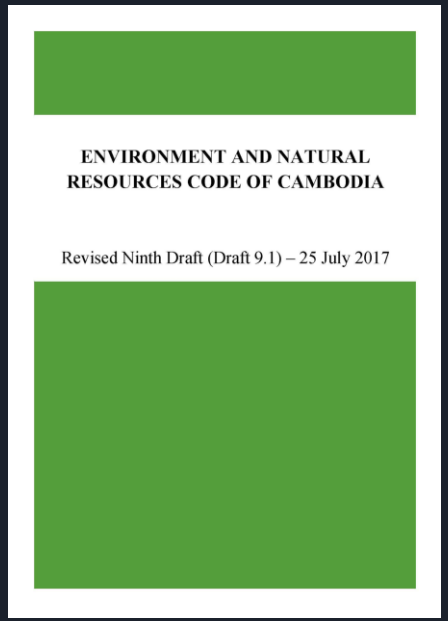
Drafting the Code



- First draft was a framework of ideas and issues
- STWGs provided input on issues to address and feedback on draft provisions
- Drafting of content
    - Experts, drafting team, translation team
    - Research, international experience, Cambodian context
- Each draft released to STWGs, experts, other stakeholders, and public for comment
- Substantive content of the Code finalized at the end of 2016

Some Key Substantive Aspects of the Code

- Public Participation
- Access to Information
- Access to Effective Remedies
- Environmental Impact Assessment
- Collaborative Management
- Land Use Planning





Public Participation and Access to Environmental Information

- Required for a broad range of actions (plans, policies, programs, law, projects)
- Enshrines rights, criteria, and procedures
- Opportunity for timely, informed, meaningful input for decision-making
- Special rights for indigenous communities
- Active and passive access to information provisions





Access to Effective Remedies

- All stakeholders affected by actions have the right to report grievances
- Establishes right for public interest lawsuits
- Local level environmental mediation committees
    - Jurisdiction over all disputes, appealable to national level
- National council for resolution of administrative complaints
    - Cambodia’s first step towards administrative law
- Specialized environmental chambers in all local courts
- Restoration and compensation for environmental harm procedures



Environmental Impact Assessment

- All projects required to take environmental impacts into account
    - Creates two step process, including initial screening and full EIA
    - Proposed and existing projects
- Specific sections of the Code ensure that particularly sensitive areas have their own considerations (e.g., coastal zones)
    - Also takes trans-boundary issues into account
- Includes health impact requirement, climate change impact assessment, and cumulative impacts
- Strategic Environmental Assessment (government policies, plans, programs, laws)

Land Use Planning

- Covers protected areas, urban and industrial areas, forested areas, coastal zones
- Inter-ministerial cooperation
- Stakeholder participation in land use decision-making
- Environmental land use planning title (MLUPC)
    - Addresses urban green spaces





Collaborative Management



- Communities and local government share responsibility in protecting and maintaining natural resources
- Special governance and procedural transparency provisions
- Same four-zone system for protected areas
- Creates new land tenure system
- Special emphasis on livelihood issues





Phase 2: Enactment (2017)

Review Review Review

- Extensive Cambodian legal review and Khmer language review
    - Revisions to language and structure, while maintaining intent
- External technical expert review
- Government review
    - MoE Code review working group and individual GDs
    - Inter-ministerial review



More Drafts

- Incorporating the comments from technical review and government review
- Successive drafts developed and released to stakeholders and the public



The Next Steps

- Meetings with the Council of Ministers and Council of Jurists
- Final draft due in December
- National Council for Sustainable Development to present final Code to National Assembly



Outlook for Code Implementation

- Massive training capacity building needs
- Need to link to ongoing decentralization efforts
- Pilot implementation of certain provisions currently underway
- Non-government actors can compel implementation in specific instances

