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Title: Integration of Democratic Development Principles in Cambodia's Environmental Code: Case studies, recommendations and guidelines

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Name of University Clark University

Country of Study United States

Major Human-Environment Geography

Degree PhD

Course Title

Type of Document Technical Report

Year 2016

Integration of Democratic Development Principles in Cambodia's Environmental Code

Case studies, recommendations, & guidelines



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Date: September 19, 2016



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Overview

This document is a compilation of analytical components that address the opportunities and challenges of *integrating democratic development principles into Cambodia's Environmental Code*. The work has been led by Pact, Inc. in partnership with Innovations in Conservation, LLC, with funding support from USAID through Winrock International's Supporting Forests and Biodiversity project. With Cambodia in the process of developing a comprehensive environmental and natural resource management framework (i.e. the Environmental Code) that is informed by international good practices and lessons learned, this work intends to capitalize on this unique opportunity by proposing recommendations and providing guidelines around the inclusion of decentralization, de-concentration, and general democratic development practices and principles throughout the Code.

The contents of this document are informed by in-depth secondary and primary research that includes document reviews and a broad range of stakeholder interviews, all grounded by Pact's more than a decade of experience in Cambodia supporting democratic development reform. To prepare the recommendations and guidelines that follow, the implementing team reviewed and analyzed a wide range of documents that included: relevant laws, policies, and regulations of the Royal Government of Cambodia; academic publications; evaluations and reviews of Cambodia's democratic development policies and programs; and studies and reports from think tanks in Cambodia and abroad. Interviews were conducted with a diverse body of stakeholders that included: members of the Code's drafting team, the National Committee for Sub-National Democratic Development, the Ministry of Environment, representatives of sub-national administrations, international and Cambodian NGOs, and community-based civil society members.

The document is comprised of three primary components: international case studies, recommendations, and guidelines. The components are closely interrelated in that they are all informed by a core body of background research and follow a shared purpose of contributing to the objective of integrating democratic development principles into Cambodia's Environmental Code. They each also stand alone as coherent documents that fulfil an independent function, as follows:

- *International case studies*
This component stands to highlight key lessons learned from the wealth of international decentralization initiatives that have been carried out in social, economic and environmental contexts similar to Cambodia's. It starts by analyzing the question of how and why a country may choose to decentralize environmental and natural resource management, and it then looks at key factors to consider in assessing the challenges, risks, and benefits of environmental decentralization programs. Three specific case studies from Indonesia, the Philippines and Nepal are analyzed through a lens of demonstrating what lessons they provide for Cambodia's policy makers and environmental managers.
- *Recommendations*
This component identifies a series of six action-oriented recommendations for how democratic development principles and practices can be directly integrated into Cambodia's Environmental Code. The recommendations are provided in a format that identifies the specific sections of the Code (in reference to Cambodia Environmental Code Draft 4) that would be modified or added to by the information provided. The intent behind the presentation of the recommendations is to make them as practical as possible for various stakeholders to consult and act upon within the context of the ongoing development of the Code.
- *Guidelines*
This component provides a concise framework for analyzing the various technical topics or sectors addressed by the Code through the lens of decentralized management. This information is not intended to be integrated directly into the Code, but rather to serve as a reference for technical experts and drafters of the Code who aim to integrate democratic development principles into their respective areas of expertise. We hope that this component will be of particular usefulness for those contributors to the Code who do not bring a deep prior knowledge of democratic development principles and practices.

International Case Studies of Decentralized Environmental Management

Cambodia's wider embrace of decentralization principles can draw from a wealth of global experience and expertise, including both Cambodia's own prior experience with democratization efforts, and from the extensive decentralization initiatives carried out in other Asian, African, and Latin American countries working in similar social, economic, and environmental contexts. Indeed most emerging economies have at least experimented with decentralization programs multiple times in various waves of policy development over the past 100 years (Agrawal and Ostrom, 2001). The following summary provides a concise overview of the key criteria to consider in generating lessons learned from these diverse international experiences; the factors to be considered when evaluating the appropriateness of decentralized management in the revision of the Cambodia Environmental Code; and a closer look at how these factors have played out in three case studies from the Asian region.

How and why do we decentralize environmental management?

Decentralization provides local institutions – public, private, and civil organizations – with the responsibilities for influencing and implementing policy and decision-making. Decentralization may take various forms, including one or more of the following: (Cistulli, 2001; Ribot, 2002; Anderson and Mehta, 2013):

- *Political decentralization* - increased power of local citizens and their representatives in public decision-making. A
- *Administrative decentralization* - a transfer of responsibility for planning, financing, and managing certain public functions from the central government and its agencies to field units of government agencies, subordinate units or levels of government, semi-autonomous public authorities or corporations, or area-wide, regional, or functional authorities.
- *Fiscal decentralization* – give authority for expenditure decisions with funds either raised locally (e.g. user charges, co-financing with users, property taxes, borrowing, etc.) or transferred from the central government.
- *Market decentralization* - allow private enterprises to perform functions that had previously been monopolized by government; and deregulate or transfer service provisions or production activities previously owned or regulated by the public sector to competing private organizations (e.g. electricity or broadcasting provided by various and competing companies).

Decentralization aims to achieve several political, social, and economic, and environmental benefits:

- Local institutions and people gain clear rights (and obligations), and greater equity in access to resources;
- Resource use and management is aligned with local conditions;
- Empower and democratize local decision-making and management to motivate a more efficient use of natural resources;
- Local capacity in environment and NRM is strengthened;
- Transparency and accountability increases;
- Local participation in the monitoring, and enforcement of environmental management responsibilities increases; and,
- Conflict over resources is reduced or avoided.

Key factors to consider in assessing the challenges, risks, and benefits of environmental decentralization programs

- *Representation, Participation, and Accountability* – stakeholder groups have equal representation and opportunities for input; consistent policies exist at the district or lower level; and there is an ease of access to public data and information, with public access to hearings and consultations.
- *Subsidiarity* – decisions are made at the lowest possible political level, preferably by affected populations, or by locally recognized representatives.
- *Administrative relations between national government and SNAs* – clear communication of policies and consistency in the interpretation of them exists at all government scales, and equal treatment is applied in the enforcement of policies and standards.
- *Financial Resources and Capacities* – Stakeholder participants have equal access to resources among all social groups, with sufficient capacity and independence evident in district agencies.

These four categories have been used to assess the results and lessons learned from selected case studies in the decentralization and democratization of environmental responsibilities, with particular attention given to applications in the management of natural resources at local levels.

Lessons Learned from Decentralization Efforts in Indonesia

Governance at Sub-National Administrations (SNAs) - Representation, Participation and Accountability:

Indonesia adopted a decentralization policy in 1999 in an effort to eliminate administrative bottlenecks in decision-making; increase government efficiency and responsiveness to local needs; enhance the accountability of public institutions; improve the delivery of essential political services; and encourage greater representation of the country's diverse ethnic and social groups, and public participation in decision making (Suwarno, Hein and Sumarga, 2015). Decentralization reforms were driven by several specific laws, in particular Law No. 22/1999 on Regional Governance, and Law No. 25/1999 on the Balance of Funds. However, the decentralization laws focused on empowering sub-provincial governments and were crafted without a well-developed transition or implementation plan (Green, 2005). Consequently, participation by a full representation of local stakeholder groups has not yet been fully achieved.

There is also little evidence to suggest that decentralization actions have decreased corruption problems. In fact there is some indication that corruption may have even grown stronger. For example, local officials now have greater decision-making authority to support businesses, and in some cases this appears to have increased demands for bribes that were previously more common among powerful central government officials.

Similarly, it is widely reported that decentralization triggers local government efforts to exploit the remaining forest resources, regardless of their status, with the object of earning short term revenues either through timber cutting or by converting forest areas into agricultural plantations, or by converting protected forest into production forest in order to increase regional income from logging permits (Shivakoti and Ganesh 2008).

Moreover, there is little external formal review of local government expenditures and activities. Local authorities receive minimal training and support, and the available technical expertise or competence to carry out monitoring, review and enforcement of local policies appears to be very limited.

One additional victim of the uncertainties surrounding decentralization is the business community. The complex maze of laws and policies that have been created, particularly those defining tax responsibilities, has produced uncertainty among many national and international businesses. This appears to be constraining investment and could continue to affect Indonesia's opportunities for economic growth.

Functions and Responsibilities - Subsidiarity

District heads and parliamentarians have responded with varying levels of speed and commitment to the decentralization policies in Indonesia. Some district heads have revised their district administrative structure and developed their own district regulations. However, the rapid onset of decentralization when Laws 22 and 25 were

passed seems to have constrained the subsequent planning and implementation of decentralization in practice. More than a decade after enactment, local governments are still in the process of fully implementing minimum standards for the delivery of public services. This has resulted in local governments at the same level providing different levels of service to the same or similar populations.

Another challenge in Indonesia's decentralization program is the lack of focus on poverty. As described in section 2.4 below, the central government allocates financial aid to local government units based on a complex formula. However, the poverty aspect of the assistance formula does not take into account poverty characteristics and sustainable economic development needs in a local area. If a particular region is poor in resources then the small amount of locally generated revenues combined with the funds received through the poverty methodology in the government allocation formula may be inadequate to have much impact on reducing local poverty.

Administrative relations between National and SNAs

The sub-provincial governments have the authority to perform all the roles that are not expressly assigned to the central or provincial governments. Provinces are responsible for coordinating functions among the local governments and performing certain roles that the sub-provincial governments are unable to perform. However, the central government retains the roles of defense, justice, police, finance, monetary policy and development planning (Green, 2005).

Forest and natural resource conservation provide strong evidence of the constraining role being played by central government. For example, the current forestry law in Indonesia recognizes the role of local people in forest and protected area management, and provides extensive opportunity for local communities to participate in the development and implementation of management plans. Communities are required to participate in maintaining and preventing forest areas from disturbance and damage, and implement forest rehabilitation programs. However, the central government maintains the power to regulate and organize all aspects of forest areas and forest products; define what is and is not a "forest area"; and regulate and determine legal actions concerning forestry. Basically, any delegation of authority to local government to manage forest areas must follow guidelines provided by central government.

Further, local public service responsibilities appear to have insufficient training and infrastructure to carry out the responsibilities assigned to them, and many lack the revenues needed to fulfill their tasks. Adequate legal institutions are not yet in place to guarantee the local accountability necessary to meet these demands.

Financial Resources and Capacities of SNAs

Indonesian decentralization is mainly political and administrative decentralization. Fiscal decentralization has not yet been fully achieved, perhaps mostly due to local political pressures to maintain the status quo and tendencies for the central government to retain financial control of revenues. Local governments do receive intergovernmental assistance, but these are largely based on aid formulas from the central government. Law No. 25/1999 on the Balance of Funds distributed 25 percent of the national budget to districts as block grants, and gives authority to district and municipality heads to use forest resources to generate income for local development. However, the central government continues to control a vast share of the revenues required for local governance, and this constrains the fulfillment of the decentralization efforts.

Local governments are responsible for paying salaries that were previously paid for by the central government and paying for basic required services such as health and education. Local governments on average receive more than 80 percent of their revenues through financial aid formulas and a general-purpose grant (DAU) determined by the central government, and must rely on these funds to cover these new financial responsibilities. Consequently, local governments have increased spending responsibility without the additional locally controlled revenue base necessary to support this extra spending (Green 2005).

Further, the DAU grant does not always reflect the actual revenues generated and received at the local level from taxes and natural resources. This system also creates the very real danger of resource-rich provinces outperforming resource poor ones. Resource-poor regions receive approximately 80% of their funding from the central government. However, resource-rich regions have the advantage of revenue derived from their resources as well as a mechanism that provides additional financial aid. In some cases this has led to highly unequal economic growth between some parts of Indonesia. Although the central government has taken a few limited steps to correct this situation, the redistribution of some financial aid disparity has produced political conflicts (Green 2005).

Lessons learned from decentralization in the Philippines

Governance at Sub-National Administrations (SNAs) - Representation, Participation and Accountability: The Local Government Code of 1991 established the enabling policy environment in the Philippines that supported the transfer of environmental management responsibilities to sub-national units, including implementation and enforcement of natural resource management programs by the 80 provinces, 114 cities, 1,496 municipalities, and 41,945 “barangay” (a district or village ward). However, the Philippines extensive and long-standing commitment to decentralization has only produced mixed results over the last two decades.

Subnational jurisdictions are conferred autonomy through constitutional and statutory provisions. The nation is divided into 15 administrative regions and one autonomous region, the Autonomous Region of Muslim Mindanao (ARMM). With the exception of ARMM, each region includes administrative units that have been authorized by the national government. However, these units do not have elected bodies. Article X of the 1987 Constitution of the Republic of the Philippines confers "local autonomy" to provinces, cities, municipalities and barangays, within "prescribed powers" and with the president exercising "general supervision." Article X also provides for an outline of governance structures (such as term limits and lengths), but Congress establishes the local representational details and functional authority, and determines how local authorities can source the revenues and other resources they need to operate, and vertical tax sharing entitlements.

Functions and Responsibilities - Subsidiarity

The theory of decentralization is only fulfilled in a few select locations throughout the Philippines. Decentralization principally is carried out by local development councils (LDCs), but less than 50 percent of the local government units (LGUs) in the Philippines have LDCs in place. Planning and decision-making skills are particularly weak in the LDCs that do exist, and while local units do have the authority to act, they largely lack the training and capacity to do so. Moreover, there is an obvious disconnect between national and regional/provincial planning. For example, the Regional Development Plan (RDP) formulated by the national Regional Development Council is seldom, if ever, taken into consideration by the LGUs. A further limitation occurs because the RDPs that are used typically focus on inter-provincial projects rather than on local development plans. There is also a significant lack of effective community participation or oversight in budget preparation, execution or monitoring.

Administrative relations between National and SNAs

The national government continues to fund elements of devolved activities, including health and infrastructure construction and maintenance works. There is also very weak administrative capacity in major tax administration functions — registration, collection, enforcement, and audit. Local government units also lack the training and capacity to engage local stakeholders in an institutionalized consultative process, and there is a significant need to engage key local actors to play a more catalytic role in the implementation of decentralized responsibilities.

Financial Resources and Capacities of SNAs

From 1990-2002 sub-national expenditures as a percentage of general government revenues nearly doubled from 11.2 to 19.3 percent, and the barangay became an important implementing agent for natural resource management policies (Asian Development Bank/World Bank, 2005). Unfortunately, financial constraints at the

national level since 2002 have resulted in only limited investments in infrastructure and social services at the local level. Operations and maintenance expenditures have been erratic, when they happen at all. Accountability and transparency in LGU procurement is also weak, often resulting in undue procurement delays, higher costs and increased opportunities for graft and corruption.

Local revenue autonomy in the Philippines is also limited, despite the fact that tax administration in the Philippines is highly decentralized. Local governments can source revenues both a share of national wealth (the Internal Revenue Allotment, or IRA) and in terms of locally sourced taxes and fees. Unfortunately, there is little formal cooperation between the national government and LGUs on tax administration in practice or by law and so the potential benefits from this relationship are rarely realized. LGUs have created a complex system of taxes, fees, and charges, many of which are under-collected or simply uncollected. Lack of collection of some taxes and fees in local undermines the integrity of the tax system and further contributes to a culture of noncompliance.

There has also been little progress toward enabling LGUs to access private capital that is determined on the basis of creditworthiness. The Municipal Development Fund Office (MDFO), the Development Bank of the Philippines (DBP) and the Land Bank of the Philippines (LBP) tend to monopolize the LGU credit market, and private financial institutions (PFIs) have virtually no market presence. With hardly any mobilization of domestic capital, almost all long-term credit to LGUs is sourced from Official Development Assistance (ODA). Thus there is a strong need to develop a framework for private sector participation in infrastructure at the LGU level. Assessments of this situation in the Philippines has recommended alternative forms of collateral for LGU credit; strengthening the LGU Guarantee Corporation (LGUGC); development of an LGU bond market; removing impediments to LGU access to private banks; strengthening LGU capacity and incentives to raise own revenues; and more effective use of international technical assistance and financing (ADB/WB 2005).

Lessons learned from decentralization in Nepal

Governance at Sub-National Administrations (SNAs) - Representation, Participation and Accountability:

Nepal has pursued decentralization policies for more than 50 years, beginning with the appointment of the Power Decentralization Committee in 1963, and expanded through the Decentralization Act of 1982, the Administrative Reform Commission of 1991, and the Local Self Governance Act (LSGA) of 1999 (Dhungel et al. 2011; Panday 2008). Decentralization actions are carried out by delegation of authority from the central Government of Nepal (GoN) to a well-structured set of local bodies (LBs). The range of LBs participating in Nepal's decentralization process include District Development Committees comprised of municipalities, wards, and village councils; local representatives of national government agencies; and local NGOs and CBOs working with these committees and their members. Decentralization measures are typically carried out through financial and political exchanges between central government agencies and these LBs, and over the years communication and transfers of authority and finances has proceeded reasonably successfully.

However, representation of all affected stakeholders on LBs, particularly on village councils and Village Development Committees has been less effective, and many important sectors have been marginalized. Indigenous nationalities are clearly defined in the Adibasi Janjati Uthan Pratisthan Act of 2002, and 59 races or communities comprising approximately 36% of the total population of Nepal are recognized. All of these indigenous groups are poorly represented in the LBs. Women are also poorly represented, and generally comprise less than 3 percent of most LB committees and councils. On some councils there are no women represented. Equally significant, is the lack of any representation for the Dhalits, a social group that comprises more than 13 percent of the total population. The Dhalits have no officially sanctioned homelands and have been declared as "untouchables" in the Mulki Ain (law of the land) of 1910 (Dhungel et al. 2001). The administrative and structural achievements of Nepal's decentralization measures and significantly constrained by this lack of comprehensive representation and participation by all essential stakeholder groups, and are a principal source of the on-going

tensions and conflicts between local groups and the central government. Indeed, the recent civil unrest in Nepal can be directly attributed to this lack of local representation, in combination with the lack of training, education, and supportive resources provided at the local level.

Functions and Responsibilities - Subsidiarity

The LSGA provides strong direction to Nepal's decentralization efforts, including the establishment of institutional mechanisms and operational guidelines for local entities, and authorizes local entities to collect taxes and uses these resources to carry out tasks and responsibilities. However, actual distribution of responsibilities is not necessarily evenly assigned. For example, LBs, particularly the Village Development Councils (VDCs), have been assigned the responsibility to perform 48 types of functions under 11 headings: agriculture; rural drinking water; construction and transport; education and sports; irrigation; soil erosion and river control; physical development; health; forest and environment; language and culture; and tourism and cottage industry, as well as other functions listed under the heading of miscellaneous. LBs must prepare annual plans encompassing these functions and responsibilities, and a 14-step participatory and bottom-up planning process creates the linkage between local and national plans.

However, as described in section 4.1 there is a very uneven distribution of power among local populations, and many groups are poorly represented or absent. Insufficient training in planning, administration, financial and business management, natural resource management, and leadership severely limits the capacity of these LBs to adequately fulfill these responsibilities. Further, there appears to be significant inconsistency in the adoption and use of many important standards and guidelines. For example, there is very weak compliance with national and local environmental monitoring, impact assessment, and mitigation requirements (Pandey, 2008). Reporting from LBs is particularly lacking, and severely undermines the opportunity to gain deeper lessons learned from Nepal's extensive history with decentralization efforts.

Administrative relations between National and SNAs

LBs are autonomous, corporate bodies with perpetual succession and separate seals. They enjoy the right to acquire, use, dispose of and sell off movable and immovable property. They can also sue and be sued in their own name in court. However, the LSGA established vertical and horizontal relationships of LBs with the government. Specifically, the LSGA authorizes the government to (a) give direction to the LBs, which they are obliged to abide by, (b) introduce or implement special programs to enhance the capacity of the LBs, (c) suspend or dissolve or extend the tenure of LBs, and (d) delegate any or all central responsibilities to any local committee, organization or official, simply by publishing notification of this decision in the Nepal Gazette.

The LSGA also provides for the formation of a Local Body Financial Commission (LBFC) comprised of representatives from LB entities. The commission determines how taxes are imposed by the LBs, how the revenue is to be allocated between the government of Nepal (GoN) and LBs, and provides suggestions on policy to be adopted for the tax system and accounting methods.

Unfortunately, the LSGA in practice has not fulfilled its original intent. In many cases the GoN tends to see and use LBs more as local appendages than independent, autonomous decision-making bodies. Local politicians dominate the decision-making for the selection, design, and implementation of projects funded from block grant money. In many cases, these politicians have not been elected and are often seen as not being formally accountable to local people (Dhungel, et al. 2011; Agrawal and Ostrom 2001).

Financial Resources and Capacities of SNAs

Local entities have the authority to formulate and enact by-laws and regulations, and they participate in revenue sharing on royalties obtained from sales of electric power, timber and non-timber forest products, tourism, and land registration fees. The central government of Nepal also continues to provide grants to LBs for administrative

and operational costs, and for locally determined development needs, including initiatives aimed at improving health, education, local infrastructure, wage improvements, greater gender balance in the work force, and improved natural resource management practices. Local financial management and auditing systems are reasonably well developed in rural districts to account for these funds. However, as mentioned in 4.3 above, local bodies are often dependent on direction from the GoN to determine how these grant funds are to be applied, and this severely limits the effectiveness of the overall decentralization effort in Nepal.

Local capacity appears to be particularly weak in many LBs in Nepal. Decision-making and authoritative positions tend to be dominated by fewer well-educated individuals, many with clear and direct ties back to the GoN. This again seems to maintain a system of minimal representation of the diverse stakeholder groups found throughout Nepal, and has resulted in persistent social and economic inequality, social unrest, and conflict.

Lessons learned and guidance for Cambodia democratization efforts

The experiences with decentralization of natural resource management responsibilities in Indonesia, Philippines, and Nepal provide a wealth of lessons for Cambodia's democratization efforts. These results can and should be combined with the many other decentralization experiences that have been tested by countries working with similar economic and environmental contexts. The general lessons that emerge from these many decentralization experiences include the following:

- Allow sufficient time for decentralization policies to be absorbed, understood, and locally adapted.
- Ensure that all stakeholder groups are adequately represented in the planning, implementation, management, and monitoring of decentralized policies, and ensure that effective conflict mitigation and negotiation skills and mechanisms are in place at all sub-national and local levels.
- Provide sufficient training and capacity building opportunities for all participating stakeholder groups, particularly in the areas of planning, administration, financial and business management, natural resource management, and leadership.
- Make certain that local governing units have the financial and technical resources, and physical infrastructure to carry out the tasks and responsibilities that have been delegated to them, and provide particular mechanisms to create sustainable sources of revenue creation.
- Create clear communication channels among local government units, and between these units and central government bodies. It is particularly important to ensure that local government units are not acting in conflict with or contrary to national goals and public trusts.
- Ensure that local policies and practices do not discourage business and economic development, and are well aligned with national development goals.

The decentralization work that continues to be done worldwide, and particularly throughout the Mekong region is gradually achieving each of these important factors, and with careful attention to the lessons from its neighbors the decentralization of the environmental code in Cambodia can produce equally promising results.

Recommendations for Integration of Democratic Development Principles into the Environmental Code

Recommendation 1: Incorporate democratic development definitions into Book 1

Recommend adding definitions of democratic development (DD) and other related terms into Book 1, Title 1, Chapter 1, Article 5: those include decentralization and de-concentration, sub-national administrations, functions, authority, delegation of environmental functions, and assignment of environmental functions.

Democratic development definitions to be added to the Environmental Code:

- **Decentralization** – The Royal Government gives sub-national councils the ownership of functions, authorities and resources to respond to the local needs. The council must be accountable to local residents.
- **De-concentration** – The Royal Government, ministries or institutions delegate functions and resources to their lower unit or to one of the council categories to implement on behalf of the Royal Government, the ministries or the institutions. The unit or the council shall be accountable to the Royal Government or ministries, institutions in accordance with the requirements of the delegation.
- **Functions** – Acts or activities of councils in a range of sectors at different level including the provision of public services, health, natural resource management, land management agriculture and economic development.
- **National administrations** – Refers to ministries, institutions or equivalent public entities, and subordinate specialized departments.
- **Sub-national administrations** – Refers to the Capital, Provinces, Municipalities, Districts, Khans, Communes and Sangkats, under authority of each council.
- **Delegation of environmental functions** – The transfer of environmental functions, responsibilities, power and discretions to administer functions on behalf of the delegating authorities based on the delegation requirements. The delegating authorities maintain the ownership of the delegated functions.
- **Assignment of environmental functions** - The transfer of ownership of environmental functions, responsibilities, power and all necessary discretions to administer functions.
- **Authority** - Legal ability to fulfill duty and responsibility by exercising power or right to give orders and make decisions.
- **Unified Administration** - Arrangement to have a council at a sub-national administration level that is charged with the administration of functions and resources, including its own finance, personnel and assets. Each council is responsible to effectively coordinate its services delivery activities and development within its jurisdiction, including services and development delivered by various ministries and institutions of the Royal Government aiming at responding to the needs of local residents.
- **Public Environmental Information** - Refer to the environmental information that public institutions have to widely disseminate to the public without request
- **Public Institutions** - Refers to ministries or equivalent public entities, as well as sub-national administrative authorities at the national, capital, provincial, municipal, district, khan, commune, and sangkat administrative levels created by the law, royal decree, sub-decree, prakas or other regulations, in accordance with the Constitution of the Kingdom of Cambodia.

Recommendation 2: Incorporate democratic development principles into Book 1, in alignment with EC

principles in Book 1

Integrate key DD principles (public representation, consultation, responsiveness and accountability) into the Environmental Code principles under Book 1, Title 1, and Chapter 2 (as the ten principles will guide EC).

Recommended inputs/modifications to Article 1, 2 and 12 for of the Environmental Code principles (Draft 4) indicated with bold and italicized text.

ARTICLE 1: THE PRINCIPLE OF PUBLIC PARTICIPATION

The principle of public participation, that those who may be affected by a decision shall be entitled to provide informed, timely and meaningful input prior to the decision being made. ***The governments and sub-national councils represent, and directly accountable to, citizens and work only in the interests and for the benefit of citizens. The citizens shall also*** be able influence in a transparent, inclusive and accountable manner the decision-making process. Participatory decision-making leads to more well-informed decisions, enhances the ability of ***national and sub-national*** governments to respond to public concerns, ***needs*** and demands and improves acceptance of and compliance with environmental decisions because stakeholders feel ownership over these decisions.

ARTICLE 2: THE PRINCIPLE OF ACCESS TO INFORMATION

The principle of access to information, that individuals, legal entities and civil society shall have far-reaching access to information concerning the environment and natural resources, such as impact assessments and mitigations and resettlement plans and information on hazardous materials and development activities in their communities. ***Information is a crucial instrument to promote genuine civic engagement in environmental decisions. The national and sub-national administrations shall create favorable conditions for the public to have access to information.*** Information on environmental protection and natural resource management shall be made widely available and publically accessible in a manner that maximizes the opportunity for public ***consultation and*** participation in planning and decisions affecting the environment and society.

ARTICLE 12: THE PRINCIPLE OF THE PUBLIC TRUST

The national and sub-national governments are the trustees of all natural resources, including both economically and ecologically important resources, and these resources must be held on behalf of the people and for the benefit of the people, including current and future generations.

Recommendation 3: Define organization of jurisdictional institutions/ jurisdictional issues as related to the National Committee for Sub-National Democratic Development (NCDD)

Recommend to add the following content to Book 1, Title 2, Chapter # on “Roles and responsibilities between NCDD, Ministry of Interior, and Ministry of Environment or key Ministries”. Key interacting roles and responsibilities of those national bodies include policy dialogues on issuing prakas, sub-decrees or guidelines for assignment or delegation of environmental functions, along with resources or capacity development support to sub-national levels.

Chapter # Interacting roles and responsibilities between NCDD and government ministries for environmental policy coordination and development, and implementation

Background: The government's decentralization and de-concentration (D&D) reform aims *"to broaden sustainable development and lay a strong foundation for economic growth, provide equitable opportunity for all citizens to participate in community development, promote sustainable environmental and natural resource management ..."*

Inter-ministerial cooperation is critical for achieving objectives of the Environment Code – this cooperation may include the formulation of environmental strategies, policies, guidelines and procedures, delegation of authorities, resources and capacity development, and monitoring and oversight of policy implementation at the sub-national level. Environmental protection and sustainable natural resource management required sub-national administrations (SNAs) to performance multiple functions delegated from across sector ministries. The Environmental Code harmonizes existing cross-sector legal frameworks and requires ongoing coordination among the key institutions to support the implementation of the Code at the sub-national administration levels that have closest engagement with citizens. The key ministries are in the process of transferring authorities, responsibilities, and resources (technical, personnel and financial) to SNAs to enable them to perform their roles and duties to be more accountable and responsive to the citizens within their respective jurisdictions.

The followings are interacting roles of NCDD and Ministry of Environment, and key institutions to promote sustainable development, and sustainable environmental and natural resource management.

National level:

NCDD through its Secretariat and Sub-committee on Function and Resource shall work closely with, the Ministry of Interior, the Ministry of Environment, National Council for Sustainable Development (NCSD) and key institutions covered by the Environmental Code to:

- Review and issue environmental, natural resource management and protection functions for transferring to SNAs. The functions delegated or assigned to SNAs shall be determined by the laws and legal frameworks of the Ministry of Environment, NCDD and key institutions.
- Prioritize functions that may be transferred to SNAs and/or to SNA-local communities that are covered in the Environmental Code including land management, urban land use, environment, co-management of natural resource, including forest, fishery and projected and conservation areas at community level, biodiversity management, climate change, disaster management, cultural and natural heritage, coastal zone, solid waste and hazardous substance management, contaminated land, air and noise pollution, energy, extractive industries, soil management, water management, tourism, historical region, and cultural heritage functions.
- Review and timely allocate resources to sub-national level along with the functions transferred, those include: revenue, finance, personnel, property, and empowerment to get access to the resources that are necessary for managing and fulfilling these functions.
- Collaborate with school of local government provide demand and ongoing capacity development to SNAs and key line departments to effectively implement the environmental functions.
- Issue joint legal instruments on the interacting roles and responsibilities of sub-national line departments, line offices, civil society and private sector to support the planning and implementation of the environmental functions and issue related enabling legal instruments and guidelines on conflict mitigation and complaints handling procedures, sustainable environmental development and community-sub-national council co-management rights, protection and enforcement on sustainable use, of natural resources.
- Promote national partnership with civil society and private sector that provide support to and strengthen environmental governance practices at sub-national level. The governance practices include but are not

limited to engagement of citizens and effected groups in environmental decisions, empowerment of local community, and support for co-management of natural resources and protected areas.

- Conduct joint task force monitoring oversight and enforce the implementation of the environmental functions, laws and guidelines at sub-national level. The joint task force shall include cross-line ministries, civil society and private sectors

Recommendation 4: Define organization of jurisdictional institutions/ jurisdictional issues as related to sub-national administrations.

Recommend to add a chapter under Book 1, Title 2 related to “Interacting roles and responsibilities of sub-national administrations and key environmental institutions”, those include: downward capacity development, monitoring/oversight, joint intervention/support on protection or conservation of environment and natural resources.

Chapter # Interacting roles, responsibilities and line accountability of Sub National Administrations (SNAs)

Background: The SNAs are governed in accordance with the principles of unified administration in order to establish, promote and sustain democratic development through the policy of decentralization and de-concentration. The SNAs shall be accountable directly to all citizens for making environmental decisions and development activities necessary to achieve the purpose of sustaining democratic development. The roles of SNAs are crucial in addressing socio-economic and environmental challenges; they shall manage, organize and implement environmental functions based on the principles of effectiveness, transparency, accountability, consultation, participation and equity in response to the needs of citizens in their jurisdictions. The SNAs shall also be accountable to the Government for following the Constitution, laws, royal decrees, sub-decrees and legal instruments.

The following are the key interacting roles and responsibilities at provincial level:

Provincial level:

Provincial administration and line departments shall:

- Facilitate the implementation of environmental functions transferred from national level.
- Allocate finance and human resources to support the implementation of environmental functions.
- Facilitate the collaboration of provincial line departments in the environmental assessment, environmental planning and implementation of environment projects within its own jurisdiction.
- Develop capacity of District/Municipality (DM) administrations and sector offices to performance and fulfill environmental functions transferred from national and provincial levels.
- Foster partnership with civil society and private sector to strengthen environmental governance practices, including but not limited to, engagement of citizens and effected groups in environmental decisions, empowerment of local community, and support for co-management of natural resources and protected areas.
- Facilitate consultation meetings or round table discussion with effected stakeholders to solve environment conflicts or complaints that cannot be addressed at lower administrative levels. The procedures for conflict solution shall be based on laws or sub-decrees.

- Issue decisions or notifications to strengthen the implementation, management, and protection of environment and natural resources within its own jurisdictions.
- Conduct monitoring oversight and enforcement the implementation of the environmental functions, laws and guidelines within its own jurisdiction.
- Report on any environmental criminal offence to the competent institution at provincial or higher level to take action according to the law.

District/municipal (DM) level:

The DM administration and line offices shall:

- Manage/facilitate the implementation of environmental functions within their own jurisdictions.
- Allocate finance and human resources to support the implementation of environmental functions.
- Facilitate the technical collaboration of sector offices in the environmental assessment, planning and implementation of environment projects.
- Integrate citizens' environmental and natural management issues into DM planning and investment programs.
- Collaborate with civil society and private sector to develop capacity of communities to engage (voice) in DM environmental planning decisions and co-management of the natural resources and protected areas within own jurisdiction.
- Facilitate consultation meeting or round table discussion with effected stakeholders to solve environment conflicts or complaints that cannot be addressed at the Commune / Sangkat (CS) level.
- Coordinate implementation and monitoring and evaluation of the environmental activities within the DM and provide capacity development support to CS administrations to perform and fulfill environmental functions.
- Work closely with line departments/offices issue decisions or notifications to strengthen the implementation, management plan, land use plan, conflict resolutions and strategy protection of environment and natural resources within its own jurisdictions.
- Conduct joint monitoring oversight and enforcement of the implementation of the environmental functions, laws and guidelines, at CS level and within its own jurisdiction.
- Report on any environmental criminal offence to the competent institution at provincial or higher level to take action according to the law.

Commune/Sangkat (CS) level:

The CS administration shall:

- Manage the implementation of the environmental functions by closely work with local communities to manage and protect natural resources, develop and adapt community regulations on the management plans, zoning regulations and on the sustainable use of the natural resources.
- Allocate budget to support the implementation of environmental functions.
- Promote citizen/community participation in CS planning, investment programs and in co-management of the natural resources and protected areas within own jurisdiction.
- Collaborate with civil society and private sector to strengthen environmental governance and practices, including sustainable use and benefit sharing of natural resources within own jurisdiction.
- Facilitate consultation and outreach meetings with effected groups including women, youth, the poor, and minority populations, to solve environmental conflicts or complaints at the grassroots level.

- Collaborate with neighboring CS councils to address environmental and natural resource management issue.
- Issue decisions or notifications to strengthen the implementation, management, and protection of environment and natural resources within its own jurisdiction.
- Report on any environmental criminal offence to the competent institution at DM or higher level to take action according to the law.

Recommendation 5: Add content to title on Public Participation

Recommend to add content under Book 1, Title 3 that clearly defines the scope of the role and responsibilities of sub-national administrations in promoting public consultation and participation relating to environmental issues/assessments.

Chapter # - Public Consultation a fundamental requirements for environmental decisions

Article # - Public consultation and participation at sub-national level

Cambodia's democratic development reform is bringing the government and SNAs closer to the people and this means that citizens have greater opportunities to have their voice heard in local governance, to influence environmental decisions that affect their communities, and to hold their national administrations and SNAs democratically accountable for their environmental decisions and actions. The SNAs in particular shall engage women, youth, the poor and minority populations to ensure they have their voice heard in local governance and environmental decisions that affect their daily lives. The process of consultation and participation is a two-way process through which councilors and their officials, explain and justify their decisions to citizens, effected people, interested groups and stakeholders within their respective jurisdictions; and listen to citizens' opinions and receive information on their needs during council deliberations and decision-making.

Public consultation and participation at the sub-national level for environmental decisions shall include:

- Environmental impact assessment process;
- Council environmental development planning and investment processes;
- Public meetings, information dissemination, and consultative forums on environmental issues;
- Feedback on performance around provision of services, environmental management, and reporting; and
- Related complaint handling mechanisms.

Provincial level:

To promote public consultation and participation in environment issues and decisions, the provincial administration and line departments shall:

- Engage DM and CS councils, communities, interested groups, NGOs, private sector and key stakeholders in all environmental consultation meetings, forums, planning and assessments at provincial level.
- Facilitate environmental round table discussion with effected groups, communities and relevant stakeholders to solve environment conflicts or complaints that occur across DMs or issues that cannot be addressed at DM level. The procedures for conflict solutions shall be based on legal instruments from national level.
- Conduct outreach meetings with effected groups including women, youth, the poor and minority populations to hear and receive different opinions on environmental issues, and to explain and justify the decisions that directly affect their daily lives.

- Conduct environmental surveys with the general population to understand public perceptions about council's performance on service provision, environmental management, and other key issues to inform future planning decisions or improved actions.

District/municipal (DM) level:

To promote public consultation and participation in environment issues and decisions, the DM administration and line offices shall:

- Engage CS councils, communities, interested groups, NGOs and key relevant stakeholders in all environmental consultation meetings, forums, and DM planning, budgeting and assessment processes within its own jurisdiction.
- Facilitate environmental round table discussion with effected groups, communities and relevant stakeholders to solve environment conflicts or complaints that occur across CSs or issues that cannot be addressed at CS level. The procedures for conflict solutions shall be based on legal instruments from national level.
- Conduct outreach meetings with effected groups include women, youth, the poor and minority populations to hear and receive different opinions on environmental issues, and to explain and justify the decisions that directly affect their daily lives.
- Conduct environmental survey with effected groups or the general population to understand public perceptions about council's performance on service provision, environmental management, and other key issues to inform the planning decisions or improved actions.

Commune/Sangkat level:

To promote public consultation and participation in environment issues and decisions, the CS administration shall:

- Directly consult with citizens/communities on environmental assessment, planning, budgeting, and investment program within its own jurisdiction.
- Engage effected groups or community representatives to voice their issues and concerns at monthly council meetings and dissemination and consultation forums.
- Conduct outreach meetings with effected groups include women, youth, the poor and minority populations to receive different opinions on issues, challenges in co-managing and protecting community natural resources and to explain and justify council decision that directly affect their lives/communities.
- Support DM council to conduct citizen survey to get a sense of the reviews on council environmental management, performance and services, and other key issues to inform the planning decisions or improved actions.

Recommendation 6: Add content to title on Access to Environmental Information

Recommend to add content under Book 1, Title 4 on overall interactions or collaboration between key ministries and sub-national administrations to: 1) raise awareness of citizen rights access to environmental information, 2) open to public access to information, and 3) use different means to dissemination information to citizens within own territories (information: rights, budget, services, decisions, data, status/reports and ways to get information).

Background: Cambodia citizens have the right to obtain reliable environmental information from public authorities at national and sub-national levels. The national and sub-national administrations (SNAs) shall be

accountable directly to all citizens for making environmental decisions. Environmental information is a crucial instrument to promote genuine civic engagement in environmental decisions, allow public to follow up and encourage the public authorities to fulfill environmental functions and duties with good quality, effectiveness, transparency and accountability before the public. Environmental information refers to all pieces of official documents, databases, decisions, public budget, reports and studies - under the possession of public environmental institutions and SNAs that affect the well-being of the communities. Environmental ministries, key institutions and SNAs shall create favorable conditions for the public to have access to environmental information, and shall widely disseminate to the public without request.

National level:

Ministry of Environment, Ministry of Interior, NCDD, and key institutions shall:

- Establish public environmental information dissemination and communication systems and strategies, and comply with the provisions of the Environmental Code for access to information.
- Issue joint legal instruments to guide SNAs on procedures for public access to information, to promote public participation in environmental decisions. The legal instruments shall guide SNAs, line departments and offices to publicly disseminate information on environmental planning and decisions and to encourage participation of the diverse citizens, civil society and private sectors in environmental decisions and actions.
- Disseminate reliable environmental information across the key institution, sub-national level and to public using different means and channels, including through internet portal/website, media, social media, festivals, meetings and public events. These documents have to be publicly accessible, and open to request, at all time after initial public dissemination.
- Promote national and sub-national public awareness and access to information on rights of citizens and private sector to access to information and decisions, environmental safety, mitigations of risks and related environmental issues that affecting local communities.

Provincial level:

The provincial administrations and line departments shall:

- Disseminate environmental information and guidelines to DM and CS administrations within its jurisdiction.
- Formulate and implement provincial information dissemination and communication strategy (that enhance simplicity and key information, practical or marketing and demand/supply approaches, civil society/private sector partnership), that comply with the provisions of the Environmental Code for access to information.
- Support DM councils to issue decisions and notifications that promote public access to information and participation in environmental decisions and actions within its own jurisdiction.
- Directly, and work in partnership with civil society and private sector, disseminate reliable environmental information to public using different means and channels, including through internet portal/website, media, social media, festival, notice boards, meetings and public events. The information has to be accessible and open to request at all time by the public.
- Enhance public awareness and access to information across DMs on rights of citizens and private sector to access to information and decisions, environmental safety, mitigations of risks and related agreements or issues that affecting the local communities.
- Allocate budget for the provision of technical and capacity development support to DMs to effectively implement their information dissemination strategies, increase access to environmental information and decisions within their respective jurisdictions.

- Work in partnership with civil society and private sector for the provision of capacity development, monitor and oversight support to the implementation of public awareness raising, information dissemination of environmental issues and engage public in environmental decisions across DMs or directly to community target groups within its own jurisdiction.

District/municipal (DM) level:

The DM administration and line offices shall:

- Disseminate immediately the environmental information and guidelines to CS councils.
- Formulate and implement DM public information dissemination and communication strategy and comply with the guidelines and provisions of the Environmental Code for access to information.
- Support CS council to issue decisions and notifications that increase citizen access to environmental information, participation in environmental decisions.
- Publicly and immediately disseminate the reliable environmental information, including decisions, development plan and investment programs, agreements, reports and studies, after its approval using different means, including through environmental day, local media, social media, notice boards, council meetings and public forums. The DM environmental information has to be accessible and open to request at all time by the public.
- Promote public awareness and access to information on rights of citizens to access to DM information and decisions, environmental safety, mitigations of risks and related agreements or issues that affecting the local communities.
- Allocate DM budget for necessary capacity development support to CS councils and environmental communities to effectively implement information dissemination and community awareness raising activities at CS and community levels.
- Partner with civil society for the provision of capacity development support to CS councils on information dissemination and community awareness raising activities.

Commune/Sangkat (CS) level:

The CS administration shall:

- Formulate and implement CS basic information dissemination and communication strategy or activity plan that comply with the national guidelines and provisions of the Environmental Code for access to information.
- Issue decisions and notifications that promote citizen access to information and participation in C/S planning and investment decisions and protections, co-management and sustainable use of community natural resource.
- Publicly and immediately disseminate the reliable (simple and easy understand) environmental information and decisions, including development plan and budget, investment program, agreements and reports after its approval using different means, including through C/S notice board, local media, outreach, meetings and public forums. The CS environmental information has to be accessible at all time, and open to request by the communities.
- Collaborate with local civil society and private sector to raise awareness of communities, of their rights access to CS information and decisions, environmental safety, mitigations of risks and related agreements on co-management or issues that affecting the local communities. Allocate CS budget for necessary community outreach and awareness raising activities.

Guidelines for Integrating Democratic Development

Principles and Practices in the Environmental Code

Section I: Background

1. The Strategic Framework for Decentralization and De-concentration Reforms, adopted by the Royal Government of Cambodia (RGC) in June 2005, identified democratic development as an essential means to achieve broad-based and sustainable development and to strengthen economic foundations particularly at the sub-national level.
2. Article 12 of the 2008 Law on Administrative Management of the Capital, Provinces, Municipalities, Districts and Khans (hereafter referred to as the Organic Law) states that democratic development includes:
 - a. Public representation;
 - b. Local autonomy;
 - c. Consultation and participation;
 - d. Responsiveness and accountability;
 - e. Promotion of quality of life of the local residents;
 - f. Promotion of equity;
 - g. Transparency and integrity;
 - h. Measures to fight corruption and abuse of power.
3. To establish, promote and sustain democratic development, Article 2 of the Organic Law states that sub-national administrations (SNAs), which include the Capital, Provinces, Municipalities, Districts and Khans, shall be governed through the policy of decentralization and de-concentration.
4. The first three-year Implementation Plan (IP3 Phase I, from 2011 to 2014) of the National Committee for Sub-National Democratic Development (NCDD) focused on developing the regulatory framework for decentralization.
5. This framework includes the policies, sub-decrees, guidelines and manuals that reflect the RGC's vision of democratic development with accountable SNAs, and that will steadily be provided more autonomy to develop new approaches to service delivery and development of local communities.
6. Building on the progress made during IP3 Phase I, the main priorities for IP3 Phase 2 (2015-2017) include: significant transfer of functions from central government to SNAs; increased participation from civil society; renewed focus on service delivery; effective management of the complex nature of the reforms; and improvement in approaches to capacity development across different governance levels.
7. Experiences from other countries indicate that application of democratic development in the environmental sector, particularly natural resource management, has been better suited to supporting local democratization than in other sectors, such as health or education, which are described as sinks rather than sources of income for the state, and usually operate on more standardized forms of expertise and planning. As sources of income, natural resources can financially support both local governance and development that, in turn, helps legitimize local authorities and the SNAs. However, international experience with democratic development has also revealed consistent problems in the application of democratic development principles, including problems with local corruption, unclear decision-making responsibilities, poor communication among stakeholder groups, and insufficient preparation, training and capacity building for local entities assigned with new management responsibilities. These international experiences provide important lessons from which Cambodia can advance more effective democratization measures.
8. Democratic development is important for natural resource management since resources are often locally specific and have multiple uses, and thus need local knowledge to design appropriate management regime. Also, access to natural resources and restrictions to that access involve existing, new, and often

multiple overlapping claims that can generate conflicts requiring local mechanisms for effective and efficient mediations. For these reasons, the SNAs shall have the discretionary powers to adapt and function effectively.

9. An exemplary example of the progress made toward achieving democratic development was the decision of the Ministry of Environment (MoE) to transfer the function of municipal solid waste management to 26 Municipalities supported by USD 5 million in investment funds.
10. The Environmental Code of Cambodia (the Code), to be completed by the end of 2016, represents the MoE's continued commitment to establish operational structures and mechanisms by which functions, roles and responsibilities for environmental and resources management will be shared between central government and the SNAs.
11. As of August 15, 2016, draft four of the Code consists of 11 Books, 55 Titles and to-be-determined numbers of Chapters and Articles. To draft the text for these various sections of the Code, the MoE commissioned the establishment of three specialized teams that are coordinated by the Vishnu Law Group. These teams include 1. Drafting Team, 2. Expert Team, and 3. Sub-Technical Working Groups (STGWs).

Section II: Objectives

12. The main objective of this document is to propose a set of recommendations or guidelines on how to integrate the principles of democratic development, outlined in Article 12 of the Organic Law, into the implementation of the Environmental Code.
13. Democratic development, established and promoted through effective decentralization and de-concentration, is an essential means to ensure that the Code contributes to good governance in the environmental sector of Cambodia.
14. Good governance recognizes that democratically elected SNAs' authorities, together with national government, are significant actors in democratic governance and administration, which collaborate but also have their own autonomous domains of public functions, roles and responsibilities.

Section III: Integration of Democratic Development into the Environmental Code

15. National policies such as the Environmental Code meet the needs of local communities via the SNAs. This rationalizes the RGC to delegate SNAs extended responsibilities in the provision of environmental services and, concurrently, the means to shoulder them.
16. Within the boundaries imposed by national legal framework and in compliance with the principle of subsidiarity, SNAs should enjoy full discretion to exercise and finance their initiatives with regard to environmental matter outlined in the Code that is not excluded from their competence nor assigned by the national authorities to any other stakeholder.
17. Findings from desk review of Cambodia legal documents, lessons learned from other countries experience with democratic development, interviews and focus group discussions with key informants suggest that the STGWs should reflect on the following topics in their efforts to integrate principles of democratic development into the Code.

Topic 1: Governance at Sub-National Administrations (SNAs)

1.1. Representation, Participation, and Accountability

- Authorities at the NSAs should maintain a high degree of transparency by ensuring that their environmental roles and functions are conducted with a sense of responsibility and accountability to their constituents.
- SNAs' authority can establish the discretion to define appropriate channels for popular participation and civic engagement in decision making processes on environmental sector(s) decentralized to them, specifically by taking into account national legislation in establishing local statutes. SNAs should particularly ensure that all stakeholders, particularly those associated with the marginalized and excluded groups such as women and indigenous people, are represented in the decision-making processes.

- Authorities at the SNAs should recognize the rights of all stakeholders to obtain information on issues and decisions that directly or indirectly affect them and to participate fully and effectively in decision-making processes.
- SNAs should ensure that relevant stakeholders can access, in their own language and through a mechanism that is understandable to them, all relevant information on matters of public concern, and should also ensure that effective channels are established for stakeholders to voice their concerns.
- Non-discrimination principle should be applied to all stakeholders and to the collaborative efforts between national governments, SNAs, civil society organizations and development partners.
- SNAs should develop a culture of dialogue with relevant stakeholder groups by holding regular consultations on policies related to the Code.
- To ensure transparency and accountability, SNAs should establish a framework and indicators for the monitoring and evaluation of environmental sector(s) that is decentralized from the national government and fulfilled by independent third party entities. This framework should also include an effective regulatory system and penalties for non-compliance.
- SNA should have the rights to establish and develop partnerships with non-governmental stakeholders, particularly civil society organizations and community-based organizations, and with the private sector and other interested stakeholders to ensure effective implementation of the accountability framework.
- Given the composition of Cambodian population, youth participation should be encouraged in SNAs' initiatives in order to ensure sustainability and subsidiarity.

1.2. Exercise of Power at SNAs

- SNAs should be able to freely exercise their powers, within the limits defined by national legislation. These powers should be full and exclusive, and should not be undermined, limited or impeded by another authority except as stipulated in the law.
- Other level of government should consult with authorities at the SNAs when preparing, or amending, legislation that affect the authorities of the SNAs and its constituency.
- When developing local policies and/ or strategic frameworks, authorities at the SNAs must be consulted.
- SNAs should be encouraged, within the parameters defined by national laws, to initiate activities aiming at developing responsive, transparent and accountable instruments necessary for efficient and effective management of their jurisdiction.
- To ensure integrity and avoid any situation that may result in a conflict of interest between personnel at SNAs, a code of conduct should be established.
- The code, once established, should be made public through a thorough awareness and communication program. Appropriate compliance mechanisms should also be put in place to allow state and non-state actors to reinforce the code.
- Public records and information collected by the SNAs should, in principle, be available upon request by state and non-state actors to encourage participation from those stakeholders and to ensure their full and effective participation at decision-making processes at the SNAs.

Topic 2: Functions and Responsibilities

2.1. Principle of subsidiarity

- Decentralization as a process is justified by the principle of subsidiarity, which in practice means public responsibilities and decisions are made at the lowest possible political level, preferably by affected populations, or by locally recognized representatives. In other words, the principle of subsidiarity argues that decisions should be taken at the level appropriate for the type of decision, be it local, national, regional or international.
- To put the principle of subsidiarity into empirical use, national government should develop a legal framework that defines the respective functions and responsibilities to be carried out at specific political scales; ensure that training and capacity building opportunities are available to decision-makers at each

decision-making scale; and guarantee access to the resources necessary for the decentralized institutions to carry out the functions allocated to them in the Environmental Code.

- Experience from international case studies indicate that authorities at the SNAs often rely on government at the national level to implement important initiatives that focus on social, political and economic development, largely because they lack the experience, training, confidence, and resources necessary to fulfill these responsibilities independently.
- Experiences in various countries also demonstrate that powers, functions and responsibilities should be decentralized and exercised concurrently among different levels of government to ensure successful policy implementation. When done with sufficient preparation and capacity, this distribution of power can strengthen both local and national autonomy.
- By authorizing the autonomy of SNAs according to the principle of subsidiarity, national government will help SNAs to develop to a point where they can be effective partners with other domains and levels of government and thus contribute fully in the development and implementation of environmental policies.

2.2. Incremental Action

- An increase in the functions allocated to SNAs should be accompanied by training and resource allocation measures to build their capacity to exercise those functions.
- Decentralization of environmental functions and responsibilities should be applied in an incremental manner in order to allow for adequate capacity building within the SNAs.
- Given that decentralization is still a nascent policy, it should be implemented on an experimental basis and the lessons learned should be reflected in adaptive national policies.
- When environmental functions and responsibilities are decentralized, authorities at the national level should intervene in the affairs of the SNAs only when the SNAs fails to fulfill its defined functions and responsibilities.
- Such intervention should be justified by authorities at the national level. An independent third party entity should be brought in to evaluate the validity and expected effectiveness of the justification to intervene.

Topic 3: Administrative Relations between National and SNAs

3.1. Legislative Support

- Clear and extended responsibilities in the provision and delivery of environmental services through enabling legislation should be transferred to local authorities.
- Although Article 9 of the Organic Law acknowledged the SNAs as legal entities, the law should be expanded to further stipulate that SNAs are legally autonomous sub-national entities with a potential to contribute positively to the planning, development and development of the Environmental Code.
- When environmental functions and responsibilities are decentralized to authorities at the SNAs, relevant institutions at the national level should determine the manner in which the local authorities are constituted, the nature of their powers and the scope of their authority, responsibilities, duties and functions.
- Legislative provisions and legal texts should clearly articulate the roles and responsibilities of the SNAs vis-a-vis higher level of government, providing that only those roles and responsibilities beyond their scope and competence should be assigned to another authority.
- The SNAs should have full responsibility in matters involving interests of citizens within their jurisdiction except in those areas specified by national legislation, which should state what lies outside their competence and duties.

3.2. Supervision and Oversight

- The supervision of local authorities should only be exercised in accordance with such procedures and in such manner as provided for by the existing legal framework.

- Such supervision should be limited to a posteriori verification of the legality of actions conducted by the SNAs, and should respect the SNA's autonomy and authority.
- Suspension or cancellation of authorities at the SNAs should only be done following procedures specified in the Organic Law and those that are relevant to the case at hand. In such cases, the exercise shall be conducted with due process.
- Following the suspension or cancellation of any local council or authority under the SNAs, national government should determine the resumption of their duties in as short a period of time as possible to ensure that decentralized services are continually provided to constituents within the jurisdiction.
- There should be independent bodies, such as administrative courts, to oversee such suspensions or cancellation of authorities at the SNAs by the higher level of government, and to which appeal can be made.

Topic 4: Financial Resources and Capacities of SNAs

4.1. Capacities and Human Resources of SNAs (line departments)

- National government should support SNAs to develop their administrative, technical and managerial capacities, which are responsive, transparent and accountable, to implement environmental roles and functions decentralized to them.
- To ensure effective governance, SNAs should be allowed to determine as far as possible their own internal administrative structures to respond to local context.
- National government, taking into account the legal boundary and gender equality of an SNA, should support the SNAs to develop mechanisms that allow for the recruitment, training, empowerment, and retention of high-quality personnel on the basis of clearly defined best performance, professional competence and experience criteria.
- Adequate training opportunities, remuneration and career prospects should be provided to personnel from the SNAs in order to empower them to attain a high quality performance in the provision of services to their constituents.
- SNAs should encourage the mobilization and usage of local knowledge to ensure successful development and implementation of their initiatives, and local endorsement and commitment to the SNA authority. This may be best achieved through consultative, participatory meetings with community members.

4.2. Financial Resources of SNAs

- The success of environmental decentralization requires appropriate financial viability, sustainability and autonomy of the SNAs. Thus, national government must ensure that when environmental functions and responsibilities are decentralized a realistic estimate of the costs required to transfer authority, build local capacity, and implement SNA responsibilities is establish, and that a guarantee of adequate financial resources necessary to exercise these new roles is provided to the SNA.
- SNAs should be entitled to receive a significant proportion of the financial revenues generated from taxes, fees and charges generated from resources within their jurisdiction.
- SNAs should be allowed to make decisions on the rate to be collected from environmental resources within their jurisdiction and the activities that could be financed through those collected revenues.
- Personnel employed by the SNAs should be compensated commensurably for their roles and responsibilities.
- SNAs should be provided with training and resources to allow them to access and use a broad variety of financial resources to implement the functions and responsibilities decentralized to them.

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Recommendations:

Recommendation 1

- Organic Law (LAM-CPMDK): Article 2, 8, 19, 12, 29, 34, 42, 96 and Lexicon (page ii-vii); sub-decree 68/Article 4

Recommendation 2

- The Organic Law/Article 2,8, 19, 29, 34, 42 and 96
- NP-SNDD: Page 3 and 4, legal backing for DD and decentralization and de-concentration
- NP-SNDD: Page 6, requirements for effective democratic development
- NP-SNDD: Page 8, guiding principles related to development and D&D reform
- NP-SNDD: Page 16, lines of accountability
- NP-SNDD, Page 92, #1.4 Transparency/Consultation/Access to Information)
- IP3 Phase II, Outcome 2, democratic accountability
- Sub-decree 285, Article 5 and 7, principles

Recommendation 4

- LAM-CPMDK, Article 2, 29, 34, 36, 38, 39, 89-95, 97 and 200
- Sub-decree 68, Article 1, 18, 19 & 31
- Law on Environmental Protection and NRM, Article 15 (working within and across jurisdictions)
- National Climate Change Strategic Plan (NCCS), (Page 20-21) – focus on NCCC and its Secretariat
- NCCS Plan, Strategic Objective 7 (Page 18) – coordination, national/sub-national level
- National Forestry Program Framework, Page 22, roles of different stakeholders and page 92 , inst. framework
- NP-SNDD, page 13, responsibilities of SNAs, page 97/ Institutional support
- Royal Decree on NCSD Establishment, Article 2 and Article 5, Members of NCSD
- Sub-decree 113, Article 52 and Article 53, inter-ministerial responsibilities
- Sub-decree 219, Article 6 to Article 8, roles of different authorities at sub-national level in terms of planning
- Sub-decree 25, Article 22 responsibilities of MAFF; Article 23 responsibilities at sub-national level
- Sub-decree 79, Chapter 3, Article 9 to Article 15, Article 23-24
- Law on C/S Administrative Management; Article 42, 43, 44, 48, 60, 63 & 66l
- IP3 Phase II, reform management 3, structure, capacity and outcome 5/jurisdiction
- Sub-decree 285, Article 1, 3 & 7 management of SNAs
- Sub-decree 72, Article 7 to Article 9: responsibilities for different entities

Recommendation 5

- LAM-CPMDK, Article 34, 36, 38, 39 and 97
- NCDD/civic engagement guideline, Nov 2014, page 9
- Law on Environmental Protection and Natural Resource Management, Article 1 (ensuring participation)
- National Climate Change Strategic Plan, Strategic Objective 6 (page 17 & 18)
- National Forestry Program, overall objective, Page 15, ensure active participation by all stakeholders.

- National Forestry Program, program implementation strategy, page 48
- NP-SNDD, Prime Minister's statement, page ii, consultation, participation for D&D reform
- Law on CS Administrative Management, Article 64: participation and consultation
- IP3 Phase II, Outcome 2, reform management 6, participation
- IP3 Phase II, Outcome 5, reform management 17, consultation
- National Policy for spatial planning, page 5, participation
- Sub-decree 113, Article 33: consultation and participation

Recommendation 6

- LAM-CPMDK Article 34, 36, 38, 51, 52, 84, 97, 99, 169 and 170
- Implementation of social accountability framework (ISAF) strategic plan/page 8
- NCDDS information dissemination strategy/page 5 and 8
- NP-SNDD, Prime Minister's statement, page ii, consultation, participation for D&D reform
- IP3-II, Outcome 1, Reform Management 2, Access to information
- Sub-decree 113, Article 33: consultation and participation
- Sub-decree 219, Article 9-11, 13 and 21
- Sub-decree 219, Article 21, access to information
- Sub-decree 25, Article 25: access to information
- Sub-decree 79, Article 26: access to information
- Law on C/S Admin., Article 64: participation/consultation
- Sub-decree 72, Article 10 access to information
- National Forestry Program, objective, page 15, ensure active participation by all stakeholders
- National Forestry Program, program implementation strategy, page 48, stakeholder consultation
- Draft v4 EC/book 1, chapter 6/page 18, 20, and 34; page 95, 116 and 118/education awareness
- Law on Environmental Protection and Natural Resource Management, Art 16 and 18