

Legal Assistance and International Development Cooperation

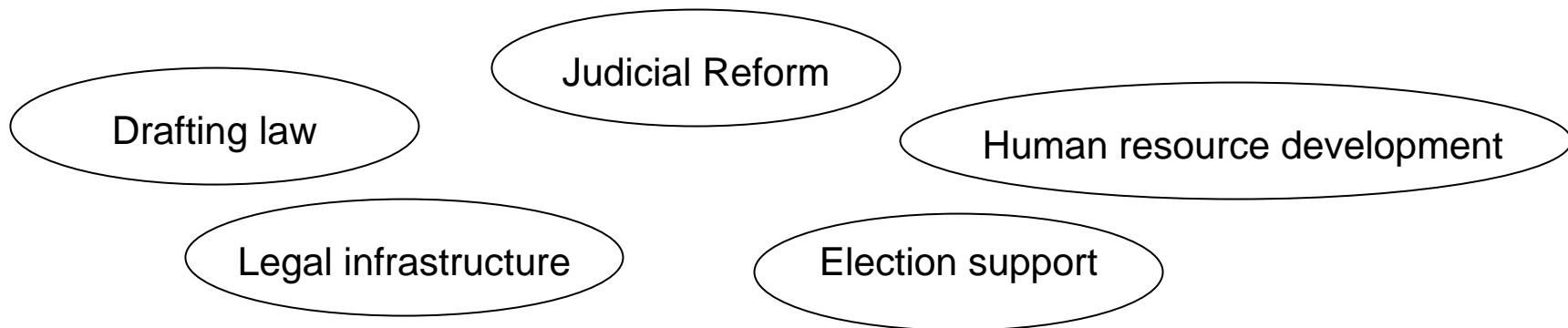
The Experience and the Goal of the Center for Asian Legal Exchange, Nagoya University

Graduate School of International Development, Nagoya University,
SHIMADA, Yuzuru

introduction

Legal Assistance

(International Cooperation in the Legal Field, Legal Technical Assistance...)



background

Global context

Transition to Market oriented system

Economic globalization

Peace-building

c.f. Revision of Japan's ODA Charter
(2003)

Nagoya university

Academic cooperation
with Asian countries

law and development (1)

1960s: “Development” & “Modernization” of the Third World Countries

Law and Development Movement (LDM)

Transplanting the US legal system

Removing traditional barriers

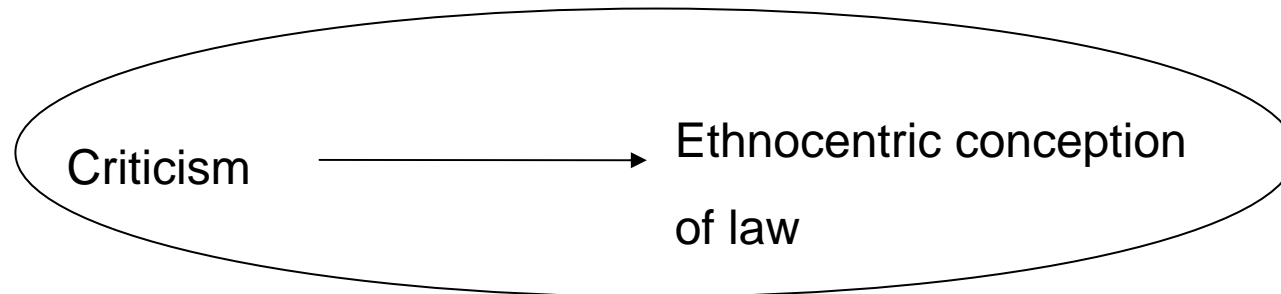
Change economic behavior

Unilinear development view

Underdevelopment = Backwardness

Emulating the trajectory of western industrialized countries

1970s



law and development (2)

Post-LDM

Dependency approach

Distributive justice

Law = tool for redistribution

Neo-liberal market approach

Strictly limit the state intervention to market

Law = to protect private transaction and property rights

Third World Jurisprudence & Legal Pluralism

Correction of the ethnocentric conception of law

law and development (3)

New Law and Development Movement (NLDM)

End of the Cold War

Globalization of market economy

Theoretical characteristics

Market will fail = Institutional reform

More than economic growth = Human security

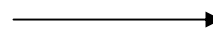


Good
Governance

Practical characteristics

Diverse donors

(western countries, Japan, Korea,
international organizations, NGOs,
private law firms, academics)

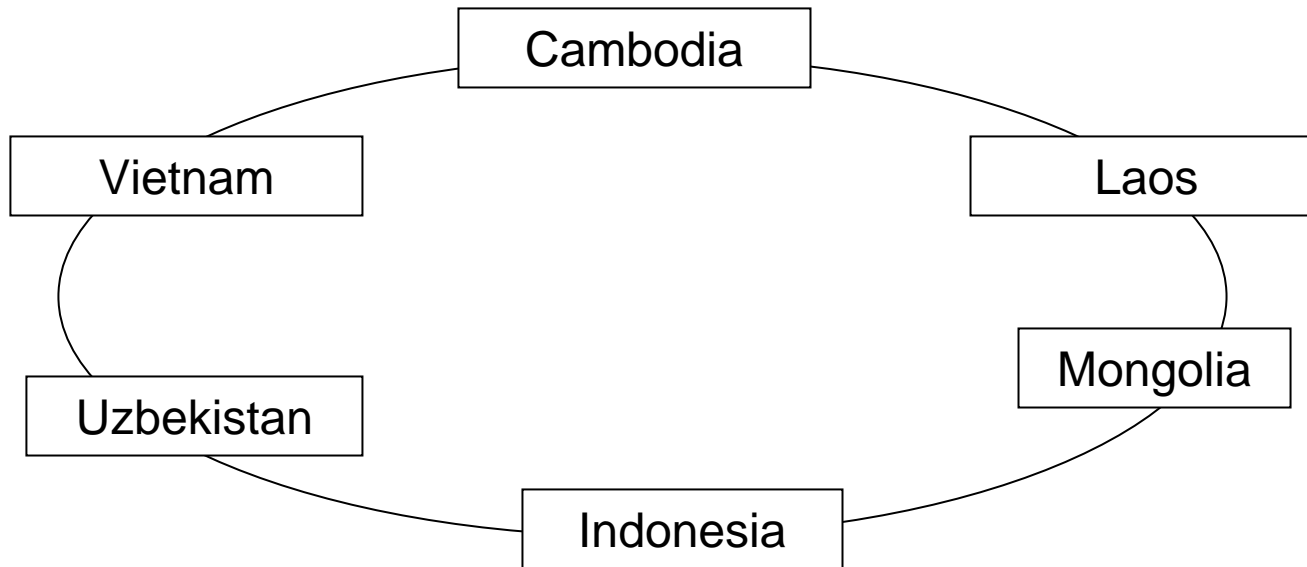


Competition among donors
Ownership of recipient countries
Conflicts between laws

Diverse areas

(legislation, judicial reform, legal
infrastructure, human resource,
election...)

Japan's legal assistance (1)



Final recommendation of the Justice Reform Council (2001)

Legal assistance should be promoted

Experience of the reception of western laws

Revision of Japan's ODA Charter (2003)

Japan's legal assistance (2)

Characteristics of Japanese assistance

Consensus oriented

Continuous deliberation with counterpart for consensus

c.f. conditionality for WB's loan

Initiative of host countries (collaborative work)

Counterpart

L-T experts

Domestic support committee

Public sector-led enterprise

Necessity of cooperation of academics and lawyers

Confidence building as a same professionals

Transfer the implicit know-how for institutional management

Nagoya university (1)

AP project
(1990-)

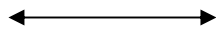
Academic cooperation
with Asian countries



International Symposium on Law
and politics in Asia (1998)

CALE (2000-)

2000-2001 within faculty
2002- joint education facility



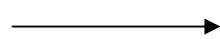
Graduate School of Law

Graduate School of International Development

Other institutions

“Legal Assistance for Asian Countries” project (2001-2006)

Research grant by the MEXT



Further development

Nagoya university (2)

Agenda for the legal assistance

Philosophy of the assistance, object countries and institutions, term of project

Area of the legal assistance

Coordination with other countries

Possibility of Legal education in Japanese language

Research Approach

Critical appraisal of the LDM in 1960s

Research on transition process to market oriented system

Research on the legal culture and customary law in each country

Integration of legal assistance study and international development study

Gathering and dissemination of information

Nagoya university (3)

Characteristic projects

Research on Traditional Law and Legal Culture

→ The role and influence of traditional laws in the modern legal reform

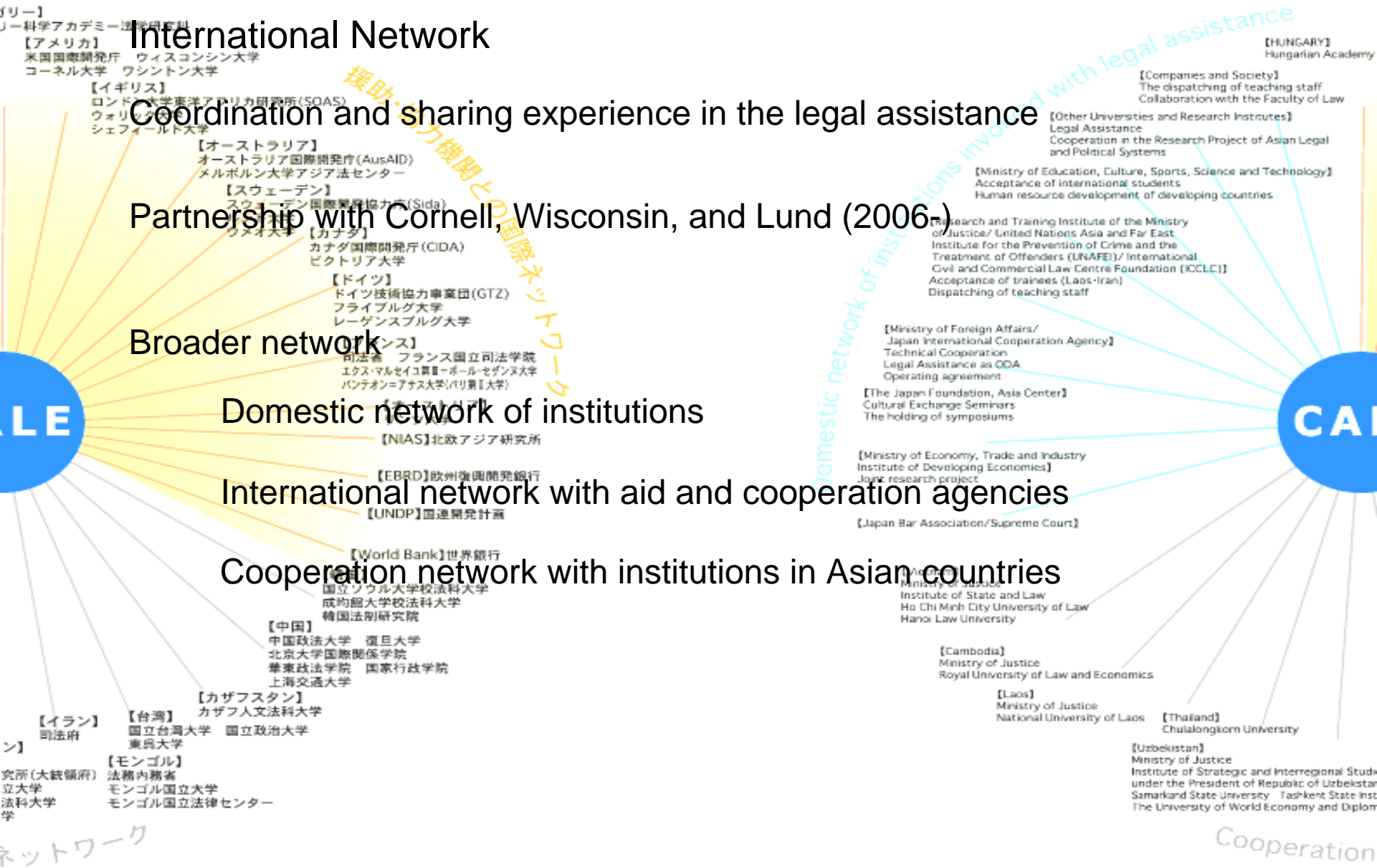
Village laws in Vietnam (*huong uoc*)

→ Utilizing to consolidate the rule of law

Customary autonomous unit in Uzbekistan (*Mahhallya*)

→ Utilizing to consolidate the rule of law

Nagoya university (3)



Nagoya university (3)

Education and Research Center for Japanese Law

Problem of teaching language

Limited number of English material on Japanese law

Insufficient translation of laws (esp. contemporary laws)

Education of Japanese language and Japanese law

4-5 years program

Language training for practical research

Japanese law study from 3rd year

Utilizing network system and schooling (2 weeks in a year)

Uzbekistan (2005), Mongolia (2006),

and Vietnam (opened yesterday)

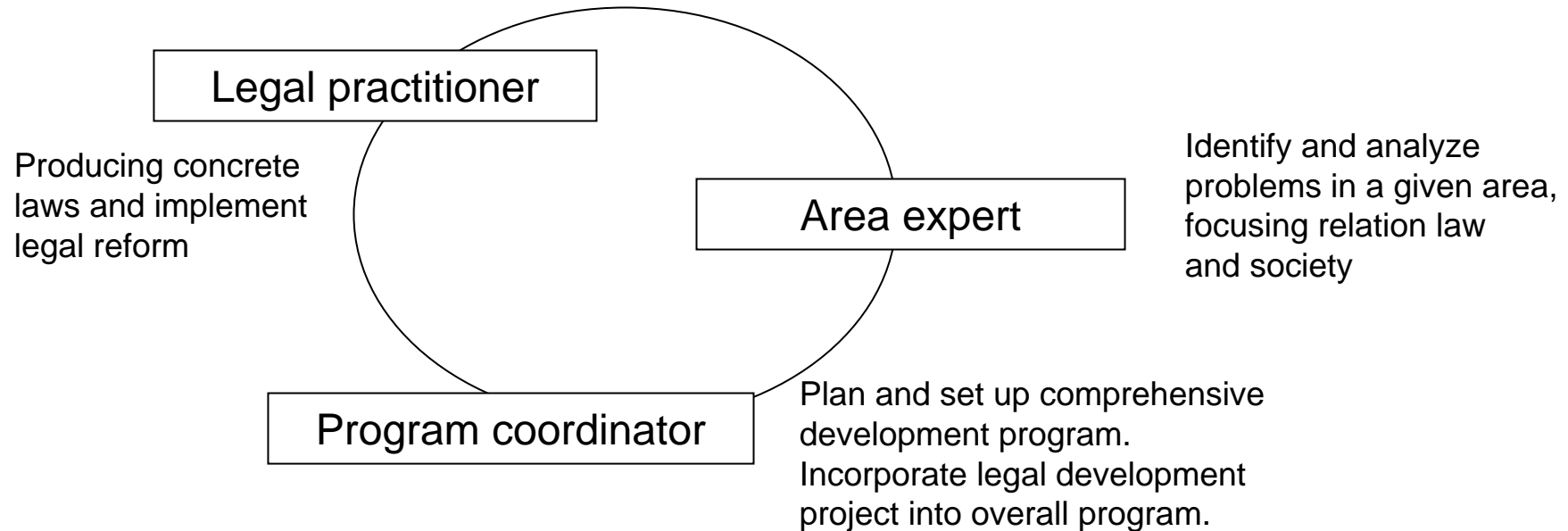
future agenda

Distance between “Law” and “Development” in international cooperation

Goal of legal assistance → Development

Legal assistance projects → Strong emphasis on market economy

Three factors in the international cooperation in the legal field



Role of University → Cooperation of Graduate school of law, and Graduate School of International development