



**Joint Communiqué of the Indigenous Peoples Community of the Kingdom of Cambodia**  
**On**  
**The Inputs Collected for the Draft Amendment of the Law on Protected Areas and the**  
**Forestry Law at Somadevi Angkor Hotel & Resort, Siem Reap City**  
**15-16 August 2022**

On 15-16 August 2022, indigenous peoples held a consultative workshop to collect inputs for the draft amendments to the Law on Protected Areas 2008 and the Forestry Law at the Somadevi Angkor Hotel & Resort, Siem Reap City.

This consultation is composed of a total of 181 participants. This includes 151 representatives from indigenous communities (30 female), 23 representatives of indigenous organizations and associations, two indigenous advisors, 1 non-indigenous advisor, 5 indigenous lawyers, 12 representatives of indigenous communities joined via Zoom Online, 3 from the Indigenous Women's Association, and the high presence of **H.E. Yin Kim Sean**, Siem Reap Parliamentary Member, including the Ministry of Interior, the Ministry of Rural Development, national NGOs, international organizations, and 24 development partners who attended directly and remotely. Indigenous peoples attended this discussion, such as 16 ethnic groups including: Bunong, Kui, Sui, Kreung, Tampuan, Jarai, Thmorn, Por, Steang, Kachak, Saouch, Chong, Lun, Khonh, Brao, Kavet, from 12 provinces/cities including Kratie, Ratanakkiri, Mondulkiri, Stung Treng, Preah Vihear, Kampong Thom, Kampong Speu, Pursat, Koh Kong, Banteay Meanchey, Sihanoukville and Battambang.

The purposes of this consultation included:

1. To indicate the purpose and the process of modification/amendment of the Law on Protected Areas 2008 and the Forestry law 2002 by the indigenous community representatives directly under the leadership of the National Committee for Sub-national Democratic Development (NCDD).

2. To provide opportunities for indigenous peoples to fully participate in discussions related to the traditional situation of indigenous peoples and previous laws' application on land tenure and natural resources, to provide inputs effectively and completely on the content of the draft amendments to Law on Protected Areas and Forestry law in line with the recognition of indigenous peoples' rights to land, forests, and resources based on traditions and customs of indigenous peoples and in accordance with national and international instruments which the Royal Government of the Kingdom of Cambodia ratified.

3. To ensure that the amendments of the two laws shall serve sustainably collective benefits to indigenous communities with no harm to their traditional right to livelihood, protection and natural resources management and indigenous traditional beliefs.



Based on the objectives, outcomes, and collective spirit of indigenous peoples' consultations in providing inputs into the draft amendment law on Protected Areas and Forestry Law, we, indigenous people, would like to affirm as follows:

Indigenous peoples have equal rights as others, while all people have rights and differences. Therefore, as indigenous people, we consider ourselves to be different from others and shall respect the right to this difference. Indigenous peoples and indigenous person has rights that are not the subject of any decision making or forced to include or consider their communities be the same as the communities that are different from their communities, affecting the economy, society, or culture representing their identity, traditions, and religious beliefs.

Indigenous peoples have their own economic, social, and cultural rights which are recognized, protected, and governed in accordance with their traditions, culture, law, and law enforcement without discrimination in the area of natural resources and land regardless of any form.

Concerning that indigenous peoples suffer from historical injustice caused by discrimination through using common words or meanings with other local communities or deprivation of indigenous peoples' rights to land management and land tenure, and natural resources as stated in the content of the draft amendments to the Forestry Law and the Law on Protected Areas.

**Concerning that the draft amendments to the two laws**, in particular, the right to fair consultation, the right to full information, the right to collective decision-making without intimidation, and the right to develop based on their collective needs and interests to ensure their sustainability, culture, traditions, religious beliefs, and economy.

Recognizing that the rights of indigenous peoples are enshrined in the Land Law 2001, the Forestry Law 2002 and the Law on Protected Areas 2008, the United Nations Declaration on the Rights of Indigenous Peoples 2007 and Convention No. 111 on recognized labor rights and occupations are really essential to the lives of indigenous peoples in living with dignity, and in particular, past recognition is most prominent in Asia and the ASEAN level in recognizing the rights of indigenous peoples within the framework of indigenous customary rules, and national and international laws.

Statement on issues and concerns of indigenous communities:

1. The wording of local communities in the two draft amendments cannot represent indigenous communities or indigenous peoples because indigenous communities differ from other local communities in their origins, ethnicity, language, socio-culture, and tradition. Indigenous communities are the groups of people who have lived in the territory of the Kingdom of Cambodia since the birth of their ancestral lineage, where all members show their ethnicity, sociality, culture, executive economy, traditional livelihood, and customary land tenure of collective use. The **local community**, therefore, and indigenous communities are not the same.
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2. The Forestry Law promulgated by the Royal Kram for 20 years and the Law on Natural Protected Areas for 14 years has made some members of indigenous communities (individuals and a group) face many issues in implementing their economic, social and cultural rights, including:
- Complicated procedures and processes for the establishment of communities, time consuming and resource consuming which are not appropriate or flexible to the actual situation of the indigenous people.
  - Zoning of core areas, conservation areas, sustainable use areas, and community areas without the knowledge, participation, and collective consent of the indigenous people in the location they have been living. Despite this, there is the exchange of compensation from the state, but it is perverse from the traditional conditions, culture, religious beliefs, and indigenous identities of indigenous peoples. As a result, some indigenous people were arrested and sent to court because the traditional farming practices included rotation or shifting plantations for making a living and losing land, religious belief land, residential land, agricultural land, dependent land or location, etc. Individuals, families, and communities that are not organized as community protected areas, and community forestry do not receive benefits and rights to protect and conserve natural resources.
  - Community protected areas and community forestry do not cover all of the customary land use and religious beliefs that indigenous peoples have experienced in the past.
  - In addition to the agreement on community forestry and community protected areas, the authorities have ever issued documents or titles of customary use rights, right to beliefs in locations in forest areas, natural protected areas or natural resources conservation areas to indigenous peoples. When the community, group, or family does not have this land tenure, it causes a number of consequences, such as the lack of legal evidence to prove what the court and the parties in disputes, and the Forestry Administration or the Nature Protection and Conservation Administration, considered illegal activities, which result in severe arbitrary fines, and in some cases, prosecution..
  - Most indigenous people misunderstand the purpose of strategic plans, management, conservation, and natural resource use of community forestry and community protected areas that were established in their villages or communities.
  - Indigenous peoples are severely affected by forest development projects that have traditionally been used and adhered to. The law defines these forest lands as public property of the state and subdivides them into state private lands so that they can be leased or concessioned to private companies for development without fair consultation. There is not enough time, not enough information, no solution or avoidance of social, cultural, and environmental impacts properly and fairly, especially without the consent of indigenous peoples in advance.

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- Sub-national law enforcement officers interpreted and enforced the law vaguely, and generally accused existing or customary indigenous communities of not being legal communities, and asked for certification of communities recognized by administrative authorities while no authority has clear responsibilities to facilitate the preparation and issuance of certificates to indigenous communities as required.
  - Indigenous peoples do not know which areas are the core areas or natural protected areas because it does not discuss how to define the four areas, both mapping, border demarcation, and setting up border posts in each natural protected area. It made indigenous community members infected and easily fell into the accused when using land in accordance with rights to operational farming for making a customary living.

In order to respond to or address common issues and challenges arising from the lack of attention to the content and governance of tenure as well as the implementation of the Law on Protected Areas and the Forestry Law, indigenous people agreed to hold 4 consultations, including this consultation, to collect and include in the draft amendments to these two laws in order to get adequate governance of tenure for indigenous peoples, incorporating individuals' and collective rights of indigenous peoples to access information, adequate time in advance, fair and collective consultation without intimidation, threats or restriction of the rights to make shifting or rotational cultivation or other rights over the management of land, forests, and natural resources – the dependent resources for the livelihood of indigenous peoples. These collected inputs were based on indigenous peoples' traditions and international norms, including VOLUNTARY guidelines on the responsible governance of tenure of land, fisheries and forests in the context of national food security (VGGT), Universal Declaration on Human Rights, United Nations Declaration on the Rights of Indigenous Peoples, United Nations Convention on the Rights of the Child, No. 111 on Discrimination of Employment and Occupation, and National Laws, including the Land Law 2001, Indigenous Peoples Development Policy, Sub-Decree No. 83 on Procedures and Procedures for Land Registration of Indigenous Communities, National Policies and outcomes of Consultations in Ratanakkiri and Mondulkiri Provinces by Indigenous Lawyers Association decided to include inputs and make a Joint Communiqué about the following 8 inputs:

**Input 1:** Request Provisions for "**Indigenous Peoples and Indigenous Communities**" in the amendments to the Law on Protected Areas and Forestry Law. Provisions in the Law on Protected Areas and the Forestry Law are non-regulatory as "**Local community**" to present or integrate with "indigenous communities" because indigenous communities are very different from local communities. Differences include origin, language, ancestry, customs, traditions, cultures, systems, and social structures. All members express the unity of ethnicity, traditional rules, language, knowledge, beliefs, religious practices, and multi-religions linked closely to forests, land, natural resources, and permanence.





The definition or defining of indigenous peoples and indigenous communities shall be separated completely from the local community in the provisions of these two amendment laws. The request is made on the basis of:

- Land law already provides a clear definition.
- Indigenous communities are different from local communities. Indigenous communities or groups are socially and culturally distinct, which means that indigenous societies are not the same as local communities or other communities.
- Defining local communities referred to as indigenous peoples or indigenous communities can affect cultural identities and cultural and social nature and potentially lead to misunderstandings or misinterpretations when rights of indigenous peoples are impacted or abused, especially when matters go to court or administrative proceedings while practicing on the ground.
- Indigenous peoples' traditional, cultural, and social rights are permanent, while the rights arising from the establishment of community protected areas and community forestry are the rights that arise from the periodic agreement between the state and the communities. Furthermore, the majority of indigenous peoples have no knowledge, no information, and no ability to create communities in line with the purposes of the said two laws on their own.
- The specific provisions on indigenous peoples in the draft amendments to both laws are consistent with other laws in force in the Kingdom of Cambodia, such as the Civil Code and the Land Law.

**Input 2:** Request for provisions in the Law on Protected Areas and the Forestry Law to recognize rights and provisions of governance guaranteeing tenure of traditional occupations of **"rotational or shifting cultivation"**.

Definition or traditional farming practices in rotational or shifting cultivation are the traditional method of land use for growing a variety of crops, such as rice, vegetables, corn, sesame, chili, eggplants, luffa gourds, pumpkins, cucumbers, wax gourd, varieties of cassava, beans and taro and so on. There are many land locations. One location could be made for 1-2 years and after that moved to another place. It takes eight or ten years later until it is time to cultivate again in the first location, operating on the land that had been occupied and used in the past, including deforestation of old plantations or replanting plots, leading to naturally fertile soil.

Rotational or shifting cultivation can be remade after abandonment over the years. They have moved to different places, leaving behind a variety of old plant varieties that can be mixed with the forest or other plants that grow back and can provide food and shelter for many species of wildlife as well.

The practice of traditional agriculture is invaluable in relation to the traditional economy, culture, and society of indigenous peoples. For economic relations, we can supply natural foods for health and livelihood; exchange products and crops; interconnected with cultural traditions,



such as knowledge of how to conserve the seeds; how to plant; how to harvest mixed crops based on seasons, weather conditions, soil conditions; use of knowledge; how to take care of crops in the field; and connect with social relations, which leads to good solidarity of members of indigenous communities, such as helping each other; mutual assistance while planting; taking care of each other's plantations with neighboring planters, etc.

**More value:** rotational or shifting cultivation are valuable in the process of sustaining the natural environment in serving the public interests, humans, animals, land, air, the world, and the whole planet. A sustainable process in this sense is to allow trees, plants, and natural forests to grow again so that the water does not erode the soil, leading to the removal of streams such as canals and streams, causing shallow loss of fish habitats, and re-establishing soil quality, good quality of land. According to meteorologists, it is found that nurseries and small trees have the ability or capacity to absorb and store more carbon, while older trees have the ability to store less carbon or saturated carbon. At this point, indigenous peoples' knowledge or practices of rotation or shifting cultivation, which provide opportunities for reforestation and small trees, have the ability and capacity to absorb and store large amounts of carbon, contributing to environmental and planetary degradation for the whole earth.

This is the value of the method and knowledge in the operation of rotational or shifting cultivation, which is not the clearing of forest land or new land for destruction and ownership but the practice of planting the crops which are essential for families, traditions, culture, society and the environment.

The denial or imposition of a ban on the practice of rotational or shifting cultivation is a serious violation of the indigenous rights and economic rights of indigenous peoples, as well as an indication of discrimination in traditional occupations for hundreds of thousands of years ago. For example, in Preah Vihear province, vulture conservation areas have been engaged in rotational or shifting plantations long before before the law on Natural Protected Areas, Forestry Law, land law, and before conservation groups designated the area as a protected area. Today, there are many vultures in the area, as well as many other animals, which is very different from the area where there are plantations, which are not shifting cultivation. Therefore, rotational or shifting cultivation activities do not affect the environment and natural resources until the depletion of forest resources leads to extinction. Generally, affecting forest, or natural resources is a lack of education, understanding of actual practices to tradition, or a discriminatory mindset toward the traditional occupations of indigenous peoples.

**Input 3:** Proposed amendments to these two laws shall have specific provisions on "Governance of legal nature rights" such as rights to areas and locations use, based on traditional practice, rights of religious beliefs, and worship beliefs of indigenous peoples:

3.1. Laws shall enact "decentralization to Commune/Sangkat Local Administration to obtain legal rights to issue the certificate", rights to use, to harvest the products, beliefs, or religion either individual or entity of the indigenous peoples, areas, and locations that have been used. Based on the reflection of these two laws, there is no provision requiring the sub-national





administrative authority to issue " a document or certificate of tenure", areas and locations, enjoyment and religious beliefs of indigenous persons or legal entities that have experienced, and when taking legal action before a court or state authority, judges or state officials always ask for and require the letters or customary tenure documents on those relevant areas issued by the state authorities, thus causing indigenous peoples to suffer injustice due to the lack of evidence before the courts and authorities State.

3.2 Shall have specific provisions on "**a collective agreeable mechanism for full and fair consultation**" by participating in the zoning of customary tenure rights based on the actual situation of indigenous peoples.

3.3. These two draft amendments shall have specific articles on "**recognizing the confirmation of location, size, type of use, enjoyment, religious beliefs, an actual worship place for registering the land ownership as a collectiveness and for other registrations that are not real estate ownership**" instead of having state institution deny or ban these rights.

3.4. In the draft amendments to both laws, there shall be specific provisions on "settlement mechanisms and measures under the principles of accountability in good governance" when there is a withdrawal or impact on rights to use, enjoyment, beliefs, and religions of indigenous peoples. Example: Article 22 of the Law on Protected Areas into force stated that "the state recognizes and guarantees the right to use in the customary, traditional, religious beliefs natures of local communities and indigenous peoples living in protected areas" but the law does not mandate, not assign the roles to any level of the state organization to conduct the governance of tenure (non-ownership) rights in any particular level of administrative system at commune/Sangkat level or the district level closest to the indigenous peoples and citizens.

**Input 4:** The draft amendments to these two laws should have "a separate chapter" (the same as the Land Law) on the determination, recognition, protection of rights and governance of tenure to exercise rights, enjoyment, beliefs, religions, and cultures, as well as how to settle conflicts or disputes in the event of an incident, taking into account the traditional rules of indigenous peoples prior to the imposition of imprisonment of indigenous members.

**Input 5:** Propose a time limit for community forestry and community protected area agreements "should be the same periods as economic concession land agreements (50 or 99 years) and community agreements should not be terminated or suspended" when the community has complied with the agreement.

**Input 6:** Proposed amendments to these two laws should be enacted to the state "to **ensure** national budget resources" annually for the management, conservation, and development of community forestry and community protected areas to be more effective and sustainable.

**Input 7:** Proposed draft amendments to these two laws should impose obligations on the state "to apply the principle of **Free, Prior and Informed Consent** " from the indigenous community collective before deciding to terminate the agreement or confiscate the



community forest land or natural resource protection area from the indigenous community.

**Input 8:** Proposed draft amendments to these two laws should have specific provisions on "the sizing of forests, mountains, lakes, reliefs, temples, and natural cultural sites be based on actual indications by indigenous peoples and neighboring communities, and the authorities are involved." The size of the land, forest, mountain, and beliefs, and these areas should not be limited to 7 hectares as in Sub-Decree No. 83 on the procedure and process for registration of indigenous community land as collective property. The reason is that the cultural traditions of the indigenous people never measure or know the location of the land size, the forest, the mountains, where the forest spirits are, how many hectares in reality, depending on the situation, the size of the actual operation, in particular, leading to the loss of space that must be protected for the common interests. Therefore, if the two draft amendments to the new laws also stipulate the size of spiritual forest land, and burial ground as in Article 6 of Sub-Decree No. 83 on procedures and process for registration of indigenous community land as collective property, being into force actually violates and constitutes a form of discrimination against indigenous peoples' religious, cultural and social rights at the level of national law, contrary to Article 31 and Article 43 of the 1993 Constitution of the Kingdom of Cambodia, including the Law on Culture and the United Nations Declaration on the Rights of Indigenous Peoples, which the Royal Government of the Kingdom of Cambodia voted for support in 2007.

Overall, the indigenous communities agreed that the two draft amendments to the new laws shall include separate chapters and articles on the rights of indigenous communities as informed in the 8 inputs listed above.

At the same time, the consultation also reviewed specific articles of the Forestry Law 2002 and the Law on Protected Areas 2008, reflecting the status of traditional practices, legal content, and community law enforcement. The indigenous peoples have decided to organize and consolidate their inputs into specific chapters and articles related to the rights of indigenous peoples in order to facilitate the review and adoption of both draft amendments.

Therefore, we, the representatives of the 16 indigenous peoples from all 12 provinces and cities, are optimistic and sincerely hopeful that the leadership of the Ministry of Interior, Ministry of Environment, Ministry of Agriculture, Forestry and Fisheries, Ministry of Justice, NCDD, the Council of Ministers, the National Assembly, the Senate and the King of the Kingdom of Cambodia will accept all the inputs as mentioned in this Joint Communiqué to serve the peaceful benefits of the indigenous peoples and the whole nation of Cambodia.

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