

**Joint Statement of Indigenous Community Representatives
Of the Kingdom of Cambodia
On
Concerns Relating to the Environment and Natural Resources Code**

Angkor Century Resort and Spa, Siem Reap
December 19, 2023

On December 19, 2023, at the Angkor Century Resort in Siem Reap, we, 189 representatives of Indigenous communities, including 44 women, convened at the National Consensus Consultative Workshop between Indigenous Peoples and Other Stakeholders to gather relevant input on concerns about the content of the articles that affect the social, cultural, and economic rights of Indigenous peoples who live in and near protected areas and forest areas, as provided in the Environment and Natural Resources Code.

The consultation was attended by representatives of the communal land titling communities, community protected areas, and community forests from 12 provinces: Kratie, Ratanakiri, Monduliri, Stung Treng, Preah Vihear, Kampong Thom, Kampong Speu, Pursat, Koh Kong, Banteay Meanchey, Sihanoukville and Battambang.

Affirming that Indigenous peoples are equal to all other peoples while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such,

Affirming also that all peoples contribute to the diversity and richness of civilizations and cultures, which constitute the common heritage of humankind,

Affirming further that rights to natural resources and practices based on or advocating superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic, or cultural differences are racist, scientifically false, legally invalid, morally condemnable, and socially unjust,

Reaffirming that Indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind,

Concerned that indigenous peoples have suffered from historic injustices as a result of the formulation or creation of the Environment and Natural Resources Code, other laws and regulations which dispossess their lands, traditional sites, culture, belief, non-timber forest product areas, and resources around their communities, thus weakening or preventing them from exercising, in particular, their right to development, conservation of cultural and civilization legacy, and interests in the natural resource sector in accordance with their own needs,

Concerned further that Indigenous peoples face **social injustice** because this Code provides a single standard or is solely based on **social equality** with the general population, or treats Indigenous communities on an equal footing with the general community by defining Indigenous

peoples as local communities. In this spirit, the Code should not imply that including Indigenous communities in the definition of local communities provides reasons for inclusion, does not leave Indigenous communities behind, or promotes Indigenous communities to be equal in an equal society; on the contrary, such inclusion here embodies discrimination and does not benefit indigenous communities. Only then will it become a major cause of Indigenous communities being increasingly vulnerable to the loss of natural resource rights, economic, social, cultural, civilizational, and identity differences, and other benefits,

Concerned that indigenous peoples will lose their differences due to the fact that the Code does not state or include the word "**Indigenous Peoples or Indigenous Communities**" while some national laws already exist, such as the **Land Law of 2001** from Article 23 to Article 28, Article 306 of the **Civil Code of 2007**, the Forestry Law of 2002, **Sub-Decree No. 83 on Procedure of Registration of Land of Indigenous Communities** and National Policies on Indigenous Peoples Development, as well as international laws and instruments that the Kingdom of Cambodia has supported and ratified, such as **Convention No. 111 on Discrimination of Employment and Occupation**, **Convention No. 169 on Indigenous and Tribal Peoples in the Independent States**, **United Nations Convention on the Protection and Promotion of the Diversity of Cultural Expressions**, **International Convention on the Elimination of All Forms of Racial Discrimination**, and, in particular, **the United Nations Declaration on the Rights of Indigenous Peoples**. Instead, the Code defines the term "Local community" by generalizing indigenous community, which we see as an effort to **eliminate** indigenous or ethnic names by mixing with the general community, which is distinct from the indigenous people. Meanwhile, indigenous peoples and most Khmers have a **shared value: the value of ownership of Cambodia's motherland throughout Cambodia's whole national history**.

Reaffirming that Indigenous peoples do not oppose the inclusion of the term "local community" in the Environment and Natural Resources Code, but the term "local community" cannot replace the term "Indigenous Communities" or be included in the definition of "Local Communities," because Indigenous peoples differ in origin, ethnicity, language, identity, history, society, civilization, culture, tradition, and permanence, especially the connection of values, virtues, and harmony in the practice of traditional livelihoods with sustainable economy linking directly with their land, forest, natural resources and other resources.

Concerned that **Article 364** stipulates that the designation of the four management zones does not stipulate the Indigenous principles of "Free, Prior, and Informed Consent" which may have an impact on Indigenous peoples' social, cultural, and economic rights. The challenges and threats are as follows:

- Restrictions, deprivation of ownership, and prohibitions on freedom of entry and exit, traditional farming practices, housing, farmland, and places of worship, as well as loss of forests, burial sites, religious sites, natural history sites, archeological sites, and cultural heritage sites, and areas for the practice and extraction of traditional non-timber forest products. As long as Indigenous Peoples continue to assert customary ownership in their current areas, they will suffer legal fines, transitional fines, litigation or authoritative forces, imprisonment, convictions, coercion, and intimidation. As a result of these problems and threats, Individuals and families in indigenous communities will face

psychological and emotional crises, trauma, ruined reputation, loss of happiness, loss of livelihood, debt, migration, wasting time, and children dropping out of school

Concerned that indigenous peoples may lose access to the aforementioned locations, zones, and resources because the Sustainable Use Zone provision specifies that **"the zone has economic value for national economic development."** If the Royal Government intends to change the purpose from conservation to national economic development by granting economic land concessions to the company, the company will enter to completely clear the forest, land, natural resources, and other resources.

Concerned that land within the community area provided for in Article 364 will not be able to make a decision or approve the issuance of a title in the area when the Ministry of Environment is unwilling to require indigenous peoples to obtain a certificate of collective ownership, despite indigenous peoples' control, possession, and use of the land being in line with or in accordance with Articles 23 and 25 of the 2001 Land Law and international instruments. This issue is caused by the content of Article 364's second paragraph in the community area, which states that **"the issuance of a certificate identifying the owner of immovable property or permission to use land in this area..."** requires **"prior approval from the Ministry in charge of Environment and Natural Resources in accordance with the laws and regulations in force."**

Concerned further that Article 369, indigenous peoples face the loss of the right to use natural resources in the traditional, religious, and customary way, which limits the right to use only in the sustainable use zone, and some other types of resources may occur in conservation zones by following the guidelines set by the Prakas of the Ministry in charge of environment and natural resources, and these guidelines will not be expected to have the same content giving rights and benefits to indigenous peoples based on actual situation. Additionally, freedom of movement within and out of protected areas must also be supervised by officials in charge of the environment and natural resources.

Joint Requests

1. Insist on the inclusion or provision of the **words "Indigenous Peoples and Indigenous Communities"** in the Environment and Natural Resources Code, as well as other regulations established to implement the Code. The State shall not generalize Indigenous peoples which are defined or provided for as Local communities.
2. Insist on the inclusion or provision of the "Free, Prior, and Informed Consent" principle in all stages of drafting or revising this Code or other laws and regulations, as well as other procedures, in accordance with collective mechanisms of indigenous peoples.
3. Request that the phrase **"The issuance of a certificate of identification of an immovable property owner or a land use permit in this area requires prior approval from the Ministry in charge of Environment and Natural Resources"** be repealed, which is provided for in the second paragraph of the Community Areas Section of Article 364 of the Environment and Natural Resources Code to expedite and resolve the deadlock in the registration of indigenous communities' land and the registration of cultural heritage of indigenous communities based on the actual situation. And insist that this code is not an obstacle to

the process of indigenous community land registration based on the request and actual situation of each community.

4. Request that the state enact a provision in the law and issue a certificate on the location or traditional sites, identity, cultural heritage, archeological sites, religious beliefs, rotational agricultural regions, and NTFP areas.