



ASIA INDIGENOUS PEOPLES PACT FOUNDATION

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Submission by Asia Indigenous Peoples Pact (AIPP) and its member organizations and networks in partial response to the 'Call for inputs Report' of the Special Rapporteur on the Rights of Indigenous Peoples to the General Assembly

Protected Areas and Indigenous Peoples' Rights: the Obligations of States and International Organizations

The Asia Indigenous Peoples Pact (AIPP) has been closely monitoring the impacts of conservation and evolving international conservation discourses. The close relationships that Indigenous Peoples have with their lands, territories and resources means that any discussion around biodiversity conservation is simultaneously a conversation of Indigenous' cultural integrity, sovereignty, self-determination and fundamental human rights.ⁱ The pervasive lack of legal formalization, recognition, protection, enforcement, and monitoring of customary tenure rights and legal protections of Indigenous identity underpins the majority of risks Indigenous Peoples face linked to invasive, colonial, and neo-liberalized conservation activities.

AIPP, together with its member and partner organizations, takes this opportunity to make the following submission to the Special Rapporteur on the Rights of Indigenous Peoples to the General Assembly (UNSRIP), José Francisco Cali Tzay, in support of their report on 'Protected Areas and Indigenous Peoples' Rights: the Obligations of States and International Organizations' pursuant to Resolution 42/20 of the Human Rights Council. David R. Boyd, (Special Rapporteur on Human Rights and the Environment) was clear in his report when he stated that "implementing [human] rights-based conservation approaches are both a legal obligation under international law and the most equitable, effective, and efficient conservation strategy available to protect biodiversity at the scale required to end the current global crisis."ⁱⁱ

Some of the current major impediments to effective conservation action in Asia are:ⁱⁱⁱ (1) a lack of secure or customary land tenure systems; (2) lack of recognition of Indigenous Peoples as a distinct group and their diverse identities; (3) exclusion of Indigenous and local systems of traditional governance, knowledge, stewardship, and sustainable practices while favoring Western forms of conservation; (4) biased and colonial perceptions of Indigenous Peoples and local communities as adjuncts to external forms of conservation rather than leaders and owners of a conservation agenda in their own right on their customary territories; (5) lack of political will to implement customary institutional reforms; and (6) lack of financing for Indigenous and local organizations doing critical work to secure tenure rights, advocate for reforms, and build the enabling conditions for transformative change.

Regional overview:

Only 8.7 percent of the region's territories held by Indigenous Peoples and local communities are legally recognized.^{iv} In nine South and Southeast Asian countries alone, the area of unrecognized Indigenous and community lands is approximately 140.3 mHa.^v This represents an area larger than the combined territories of Cambodia, Thailand, Lao PDR, and the Philippines where Indigenous Peoples lack secure tenure rights over their customary territories. According to AIPP, there could be as many as 411 million Indigenous Peoples in Asia alone.^{vi} Indigenous Peoples play an outsized role in the conservation of biodiversity and their territories considerably overlap with intact and important areas for biodiversity conservation.^{vii} In Asia, "conservation" is a violent word linked to the marginalization of Indigenous Peoples and the elitist disregard for customary knowledge and institutions that are essential for conservation.



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In Asia, as of October 2021, protected areas covered 15.37 percent of the region (478.5 mHa).^{viii} One hundred fifty million people live within protected areas while a further 859.2 million live areas of high importance for biodiversity conservation in the region.^{ix} The majority of these peoples are likely to be Indigenous. AIPP supports the ICCA Consortium's call to decolonize conservation in the Post-2020 Global Biodiversity Framework (GBF) and root "out all forms of colonialism, destructive capitalism, and systemic injustice and inequality" from the mainstream conservation industry.^x

Personhood laws:

Within south Asia, India set the trend of granting rights to nature. In 2017, the rivers Ganga, Yamuna and their source glaciers, as well as other related natural elements were granted legal personhood with all corresponding rights, duties and liabilities of a living person by the High Courts. Subsequently, in 2018, the same court ruled that the entire animal kingdom has rights equivalent to that of a living person. In 2020, Sukhna Lake in Chandigarh city was declared a living entity by the courts there.^{xi} Bangladesh also extended legal personhood to all their rivers through a Supreme Court judgement in February, 2019,^{xii} however, Indigenous Peoples were not involved in this process. The Supreme Court of the Philippines has developed an innovative set of rules for litigating environmental cases, incorporating rules derived from Rights of Nature.

Other Effective Area-based Conservation Measures (OECMs):

OECMs (Target 3 in the GBF's first draft) are increasingly being but most countries have yet to adequately promote them within their conservation strategies. There are only five registered OECMs in Asia—all of which are in the Philippines, totalling only 40,000 hectares.^{xiii} Some interpret Target 3's reference to OECMs to mean that ICCAs, and Indigenous territories more broadly, can and should be meaningfully recognized. ICCAs are already recognized as a conservation measure under Decision IX/18 from COP9 held in Bonn, Germany in 2008. OECMs need to be "consistent with national policies" and they lack any real clarity making them vulnerable to being co-opted in areas where rights aren't recognized.^{xiv} The requirement for external assessment processes along with potential implications for governance also risk the effectiveness of existing Indigenous-led initiatives.

On self-government:

The distribution of different protected area categories across Asia varies at scale and depend on national agendas, policies, and strategies. For example, in Thailand, all protected areas fall in either one of two categories: they restrict (64 percent are under category III) or ban (34 percent are under category I(a)) human activities for the 1.1 million people who reside within these areas.^{xv} Overall, Asian governments have favored the creation of national parks (category II), which now cover over 36 percent of all the area in Asia protected under the IUCN Categories.

While there are a multitude of management categories which are promoted as being more egalitarian, permitting certain use and access rights, or even co-management, governance is still disproportionately in the hands of state actors. Some 73 percent of protected areas over IUCN categories IV – VI are governed by federal or national ministries or agencies.^{xvi} For example, Nepal currently has 49 protected areas in the country but only one is documented as being fully governed by local communities.^{xvii} Over 70 percent (36 protected areas) are governed by a federal or national ministry or agency, three are governed by a non-profit organization, and the remaining nine have not reported their governance type. In total, protected areas make up 24 percent of Nepal, and are home to 1.8 million people, and these sites are often riddled with social conflicts and human rights abuses.



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Protected Areas and Conservation:

The 10 countries comprising the Association of Southeast Asian Nations include three of the world's megadiverse countries (Indonesia, Malaysia, and the Philippines), harbor almost 20% of the world's biodiversity, 35% of the world's mangrove areas, 30% of world's coral reefs and over 2000 animal and plant species, and are home to over 800 Indigenous and ethnic local communities that are the *de facto* stewards of this precious biodiversity.^{xviii}

Cambodia:

Cambodia is the only country in the Mekong region with a law allowing Indigenous Peoples to access Community Land Titles (Land Law of 2001 and the Sub-decree No. 83 on Procedure of Registration of Land of Indigenous Communities, 2009). Sub-decree No.83 provides the framework by which Indigenous communities can acquire collective title of which there are 3 stages. However, the application process is cumbersome. The Royal Government of Cambodia's Forest Law 2002 and Land Law 2001 both recognize Indigenous Peoples' traditional land use and creates an avenue to acquire land ownership through community land titles (CLT).^{xx} According to some Indigenous organizations, there are over 600 Indigenous communities in Cambodia that are eligible for CLT. However, only 34 communities have successfully gained their CLT to date. The CLT is a complex, costly, and a lengthy process involving the creation of a community commission to formulate community by-laws, become a legal entity, and navigate five ministries all before being approved by the Ministry of Environment. These ministries are inefficiently coordinated amongst themselves.^{xx} The Ministry of Environment (MoE) has final approval of CLT rights and when these requests for titles overlap with protected areas or important biodiverse areas, there is often contention, conflict and the community does not gain the recognition of the full extent of their customary tenure. Communication with Cambodian Indigenous organizations and leaders raise the issue that conservation organizations enable the MoE by staying silent when only a fraction of those lands are recognized, maintain governance, and contribute to further entrenching power asymmetries.

Moreover, economic land concessions from agro-industrial or mining companies have failed to fulfil the FPIC requirement, leading to forced evictions of people from their territories before they can even formally submit their territorial claims.^{xxi} There is also no specific recognition of customary claims in the 2005 Sub-decree on Economic Land Concessions. Estimates suggested that Indigenous Peoples and local communities in Cambodia, customarily own 0.9 million hectares or 5.3 percent of the country's national territory. A third of these lands lack tenure rights.^{xxii} In 2017, only six percent of forested lands were designated to Indigenous Peoples and local communities.^{xxiii}

"Prey Lang" / "our forest":

Prey Lang is an incredibly important 500,000 ha lowland evergreen forest in the heart of Cambodia. Prey Lang is a central part of the Kuy people's livelihood, culture and spirituality. "Prey Land" translates to "our forest" in the Kuy language. The government designated much of the forest as a protected Wildlife Sanctuary in 2016. In February 2020, Ministry of Environment rangers blocked hundreds of community members, monks and environmental activists from entering the protected area to conduct an annual tree-blessing ceremony to promote conservation.^{xxiv} Illegal deforestation in Prey Lang has risen rapidly facilitated by government corruption.^{xxv} Members of the predominantly Kuy Prey Lang Community Network (PLCN) have been harassed, prevented from entering the forest to raise awareness on deforestation and attempt to preserve their ancestral heritage. Prior to the demarcation of Prey Lang as a Wildlife Sanctuary, PLCN mobilization had successfully stopped concessions on



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40,000ha of primordial forests and worked towards establishing a logging moratorium prior to requesting the forest be protected.^{xxvi} Local mobilization was successful and since the community have lost access and control, their ability to steward and defend the forests are faltering and they are being criminalized. The self-determined actions of Kuy Indigenous Peoples to protected sacred forests and their ancestral lands are being criminalized. The initial progress in conserving Prey Land before it was recognized as a Wildlife Sanctuary is lost as Indigenous Peoples are marginalized.

Bangladesh:

A majority of the violence that Indigenous Peoples face in the Chittagong Hill Tracts (CHT) are due to their marginalised nature and the fact that they live in areas that are rich in natural resources – which the state looks to appropriate.^{xxvii} It is estimated that plans to expand state control over 0.09 mHa of forests could lead to the eviction of 200 thousand people from their lands.^{xxviii} Ironically, existing conservation practices, such as village common forests, by Indigenous Peoples in the CHT, instead of being recognized by the state, face acquisition by it, jeopardizing Indigenous culture, knowledge and practices.^{xxix} The Asian Development Bank (ADB) funded forestry sector conservation projects that have contributed to deforestation, the abuse of IPs land dispossession in the Madhupur National Park in north-western Bangladesh.^{xxx} Promoted as conservation projects, agroforestry and monoculture plantations have contributed to the conversion of natural forest land to commercial plantations. As a result, Indigenous Garo and Koch communities have suffered. Bangladesh needs to take steps to strengthen the legal support for community conserved areas while recognising Village Community Forests (VCF) as full rights to ownership, management and governance are not recognized.^{xxxi}

In January 2022, a new marine protected area around St Martin's Island was notified where plans exist to prepare an integrated management plan with all stakeholders, including local fishermen belonging to Indigenous communities. One of the steps in this Plan is to develop a science-based, community-informed management plan, raise awareness about regulations in the Marine Protected Area (MPA), build capacity for conducting government and community-led enforcement and monitoring patrols, control domestic waste, and restore degraded corals. There are also plans to conduct joint patrols with state agencies and local fishing communities (which including Indigenous Peoples) to conserve the rich biodiversity of this MPA.^{xxxii} However, there is systemic wide notion of the need to assimilate locals and remove them from marine parks.^{xxxiii}

UNESCO World Heritage Sites in Bangladesh:

The government of Bangladesh has not yet recognized Indigenous Peoples' traditional knowledge, way of conservation and their rights to govern and conserve the World Heritage sites established in the largest mangrove forest in the world - the Sundarbans.^{xxxiv} In Munda, Indigenous community formed cooperatives that explore alternative livelihood strategies to reduce pressure on the Sundarbans forests. The state has yet to take steps to incorporate their traditional knowledge into the conservation plan for this World Heritage Site.^{xxxv} Subsistence and artisanal fisher communities are connected with the ethos of 'Bonbibí' and follow customary no-take zone, core protected area formations and no fishing days through initiative rather than through top-down law enforcement.^{xxxvi}

India:

In India, Indigenous Peoples are perpetually being kept out of decision making, treated with suspicion and mistrust by the bureaucracy.^{xxxvii} This marginalization is systemic enshrined in laws based on colonial concepts of nature, state power and the exploitation of rural lands. The mandate of the Ministry of Tribal Affairs (MoTA) is to improve the welfare of tribal communities often through



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economic schemes that can assimilate communities rather than support and encourage their autonomy over the customary territories and resources with which they share a deeply symbiotic relationship. This structural and systemic perception underlies the manner in which the state engages with Indigenous Peoples in the 15 years of the Forest Rights Act (FRA) (2006) and its lack of implementation. Only 1.1 mHa of land has been legally recognized, representing 0.4 percent of India, while the remaining 62.6 mHa under customary ownership lack legal protections.

Critical Tiger Habitats (CTHs):

Anticipating that many forest-dwelling Scheduled Tribes would claim collective rights of management and governance over their traditional forests, the NTCA^{xxxviii} successfully declared many of these forest lands CTHs, through a rushed notification process in 2007. The NTCA asked all the states to set up expert committees to ‘finalize and delineate core or critical tiger habitats of tiger reserves within 10 days of the receipt of this letter.’^{xxxix} Of the total 45 CTHs notified to date, 31 were already notified between November and December 2007 days before the FRA rules were notified, on January 1, 2008. No FPIC nor scientific assessments were possible in this period of time. The institutionalized marginalization of Indigenous Peoples is enforced by the Central Ministry and reflected in the actions of the forest department offices. Tiger reserve notifications are continuously met with local opposition, protests, and even formal gram sabha resolutions refusing to acknowledge the existence of tiger reserves.^{xl} In 2017 the NTCA banned the recognition of rights in CTH, citing a lack of Critical Wildlife Habitat (CWH) guidelines, which it does not have the authority to do. The National Commission for Scheduled Tribes unsuccessfully attempted to counter the order but it was only withdrawn after the Ministry of Environment, Forest and Climate Change (MoEFCC) notified the CWH guidelines in January 2018. CWH guidelines have had no impact on the ground, where CTHs and Forest Department continue to act against the recognition of rights.^{xli}

Displacement and Violence:

Displacement and violence impedes the participation of Indigenous Peoples in India’s Protected Areas. India’s Forest Department has displaced 18,493 families in 215 villages living in protected areas between 1973 and 2020^{xlii} which is likely a gross underestimate. Land Conflict Watch has documented 24 active land conflicts in protected areas as of 2021 affecting at least 142,000 people covering 14,000 ha of land.^{xliii} Across these cases, the demands of people are common: recognition of land rights; payment of promised compensation or rehabilitation; an end to forced evictions and dispossessions; and compliance with the FRA, 2006. Displacement is not the only form of violence experienced by Indigenous Peoples in protected areas. Those who are not evicted or who reside in border spaces often experience everyday violence as they interact with state-imposed predominantly Western policies that define how humans interact with nature today.^{xliv} The premise that agriculture and forestry are separate—ecologically, scientifically, institutionally—undergirds much of this.^{xlv} Many documented afforestation conflicts in India are related to violations of rights post-recognition.^{xlvi} Policies are not culturally appropriate, fixed, and do not consider the adaptive and resilient qualities of Indigeneity.

Positive Indigenous-led Interventions:

With the enactment of the Panchayat (Extension of the Scheduled Areas) Act, 1996 (PESA) and FRA, opportunities for claiming autonomy over territories and natural resources have been provided to Indigenous Peoples in India.^{xlvii} Small steps towards partnering with village councils (gram sabhas) in forest management, by state agencies, have begun through the implementation of FRA. Gond adivasis of Mendha Lekha village, in the state of Maharashtra, recently signed an Memorandum of Understanding with the District Collectorate which will provide financial and technical support. Through



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this, gram sabhas will be supported to prepare and implement forest conservation and management plans.^{xlvi}

In north-eastern India, Indigenous communities have collaborated with state forest department to conserve orchids in Sessa orchid sanctuary.^{xlix} In Manipur, the Tangkhul Naga community actively encourage pollinators, such as honeybees, to enter their gardens and homes and aiding the pollinators connect plants and animals with the entire ecosystem.^l The Tangkhul Naga community do not give preferential treatment to one pollinator over another.^{li}

In Biligirirangana Tiger Reserve, Karnataka where lantana invasion has increased due to flawed forest management by the state forest department after being declared as a Tiger Reserve, the Forest Department has agreed to experiment with the traditional Soliga practice of controlling lantana through litter fire burning of the undergrowth.^{lii} However, this same Tiger Reserve is a CFR area and should be under the governance of the Soliga community with secure tenure rights. The Soliga are semi nomadic within the Biligirirangana hills, forced into settlements due to wildlife conservation policies. During the process of claiming rights, the requirement of including GPS mapping, can be used to restrict movement and even separate different Soliga groups looking to unite territories in support of nomadic activities.^{liii} The above examples illustrate how traditional management practices ensure the collective health of the community— human and non-human alike—and are examples of how Indigenous ancestral knowledge can help protect biodiversity for years to come.^{liv}

UNESCO World Heritage Sites hindering rights recognition:

The Jenu Kurubas – a Particularly Vulnerable Tribal Group (PVTG) who inhabit the forests of Nagarhole National Park, along with several other adivasi groups in the Western Ghats – have continuously had their claims for individual and collective forest rights rejected by the state. The state refuses to recognize their rights over forests from which they were evicted in the 1980s and 1990s.^{lv} This is in violation of Art 8 (2) (b) (c) and (d), Art 10 of UNDRIP. These violations have been carried out in another World Heritage Sites such as Kaziranga Tiger Reserve whose notification has been challenged in the courts as it had not followed legal procedures of both the Wildlife Protection Act and the FRA, being one of the CTHs notified in 2007.^{lvi}

Kayan Mentarang National Park in Indonesia:

In Indonesia progress has been slow to recognise that environmental resource management is inseparable from the welfare and human rights of Indigenous Peoples.^{lvii} When exclusive rights can be met and there is a certainty of tenure rights, the system of governance-based norms and values of the Indigenous will remain strong and effective under the pressure of increasing external demands on natural resources.^{lviii} The Kayan Mentarang National Park, Kalimantan, which has been supported by WWF has “rightly [been] heralded as an example where this type of collaborative park management works.”^{lix} There are 27,000 Indigenous Dayaks, from 11 customary land areas living inside or in close proximity to the conservation area.^{lx}

Kayan Mentarang National Park became the first conservation area in Indonesia to be granted collaborative management status by the Ministry of Forestry in 2002. This model of conservation looks to devolved action to local institutions and leaders, integrate traditional knowledge into forest management^{lxi} and legitimise customary rights.^{lxii} Indigenous communities formed an Alliance of the Indigenous People of Kayan Mentarang National Park (FoMMA) in order to advocate for their right to



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manage the national park.^{lxxiii} Communities were able to self-declare the Krayan Highlands a ‘territory of life’ and began advocating for formal legal recognition.^{lxxiv}

Both WWF and the Heart of Borneo initiative have recently moved away from their past successes and began pivoting their project towards exploitative and extractive industries at the expense of Indigenous communities and biodiversity. WWF has fallen short in terms of community involvement and support - largely as a result of a fatal combination of tenure insecurity and alienation through the imposition of external regulations.^{lxxv}

Nepal:

The Nepalese government introduced a bill in the federal Parliament in April 2019 scrapping Guthi, the customary self-government system of the Newa, supposedly to regulate endowments in religious institutions, especially Hindu temples, which are also known as Guthi.^{lxxvi} Several such examples have also been highlighted in the alternative report prepared by Indigenous Peoples representatives and submitted to the 95th Session of the United Nations Committee on the Elimination of Racial Discrimination Office of the United Nations High Commissioner for Human Rights (OHCHR) in March 2018.^{lxxvii} Most Protected Areas in Nepal are governed and controlled by national or subnational government actors. Of the 49 protected areas, only one is documented as being fully governed by local communities.^{lxxviii}

The Government of Nepal has been liberal in the use of its military to suppress the voices of Indigenous Peoples.^{lxxix} Under the guise of quelling the potential of armed dissidence 6,778 army personnel are currently stationed in 13 protected areas across the country.^{lxxx & lxxxi} The military was violently deployed to various Tharu and Madhesi areas, with deadly outcomes, to suppress their mobilizations for claiming rights.^{lxxxii} This has created an environment of surveillance, punishment for practicing traditional harvesting of Non-Timber Forest Products (NTFPs), and violent repercussions for interfering in the experiences of tourists who expect to see wild areas free from the influences of people.^{lxxxiii} Indigenous Peoples hide from caravans of jeeps carrying tourists while collecting or harvesting wild produce or risk being punished by conservation-linked army personnel.^{lxxxiv} The Royal Chitwan National Park is a site of continued violence, harassment, extrajudicial killings and continued persecution of Indigenous Peoples.^{lxxxv} Government and protected area authorities claim that Buffer Zone Community User Groups are mechanisms where Indigenous peoples can participate in the management process, however the committee is controlled and scrutinized by the Warden. This leads to the systematic exclusion of Indigenous Peoples. There is no mechanism for FPIC yet, though WWF has been working to develop and FPIC protocol it has not been implemented so far. Nepal’s forest communities launched a nationwide campaign to protest new national and provincial forest laws^{lxxxvi} which include government aspirations to demarcate nearly 110,000 ha of community forest land as strict protected areas.

Despite the refusal of the state to legally recognize customary tenure regimes, Nepalese Indigenous communities continue to assert their identity and attempt to bring their voices and expressions of self-rule in the spaces that are available to them. One such example is the Shagya (non-violence) customary institution with self-governance systems that Tumba and Nubriba Indigenous groups in the Gorkha district follow.^{lxxxvii} The Shagya customary institution is run by a 33-person committee from about 10 villages to ensure seven principles of non-violence: no killing; no hunting; no harvesting of wild honey; no forest fires; no flesh trading; no sale and trapping of animals; and no trading of domestic animals. Each village’s members are responsible for ensuring that the communities follow these rules. They collectively determine punishment for violators and organize rituals for collective wellbeing. Although



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the Manaslu Conservation Area Project in the Tsum and Nubri valleys has informally acknowledged Shagya, formal support remains low amongst members of the bureaucracy for the legal recognition of the Shagya.

Indigenous leaders have realized that one pathway for protecting Shagya is through the provisions of the 2017 Local Government Operation Act (LGOA) and by ensuring local forest and biodiversity laws recognize Shagya.^{lxxviii} On the outskirts of Kathmandu, Nepal's capital city, Kirtipur Municipality is home to Newa Indigenous communities. In August 2020, a local governing body declared their ancient settlements a "cultural protected area" based on ILO 169.^{lxxix} The LGOA has provisioned a protection committee made up of leaders from the Newa's customary institutions, national Indigenous leaders, and cultural experts to govern the protected area. This is one example, provided the legal frameworks exist and technical capacities are available, that shows how Indigenous Peoples are initiating positive transformations by their own will and initiative to conserve their territories.

Myanmar:

Myanmar is a strong example of Indigenous resilience, through solidarity networks and mutual aid, in the face of violent militarized oppression, communities struggle to protect their territories and ways of life. An ongoing military coup funded by military backed extractive mining and agribusiness companies began in February 2021 and since then, Indigenous Peoples have attempted to sustain their territories, forests, and biodiversity against a backdrop of violence.^{lxxx}

- In Kachin State, the Indigenous Rvwang communities have worked hard to sustain and protect their territories, which they call Rvwangmong. Rvwangmong has been threatened both by top-down protected areas and extractive interests. Indigenous Peoples are against the World Heritage designation, against the promises made by WCS and Forestry Department and condemn the creation of Hkagabo razi National Park and Wildlife Reserve.^{lxxxi}

- The Salween Peace Park, a 546,000-hectare forest and rich biodiversity in Karen State, is an example of how a local vision of peace and harmony based on self-determination, environmental integrity, and cultural survival can thrive despite more than seven decades of civil war.^{lxxxii}

- On 17th July 2018 the Ministry of Environmental Conservation and Forestry, the Tanintharyi Regional Government, Smithsonian Institution, Green Economy Green Growth Myanmar Association, and Fauna and Flora International were due to commence the Ridge to Reef Project. This \$21 million conservation project aimed to transform 1.4 million hectares of community lands in Tanintharyi Region into Protected Areas – equivalent to 33.5% of the region – and would cover 225 villages.

According to the Conservation Alliance Tanawthari (CAT) – an alliance between Candle Light, CSLD, KESAN, Southern Youth, Takapaw and TRIPNET – the project was developed without the Free Prior and Informed Consent (FPIC) of Indigenous communities and will violate the land and resource rights of local communities and the rights of Internally Displaced Persons and refugees attempting to return to their ancestral lands. In 2018, CAT sent a letter of complaint^{lxxxiii} and cover letter^{lxxxiv} to the GEF Conflict Resolution Commissioner expressing these risks and concerns. CAT released two reports, one in 2018 documenting the need for protected areas to respect the rights of Indigenous Peoples and one in 2020 documenting local grassroots resistance to the Ridge to Reef Project^{lxxxv} and a vision for an alternative bottom-up Indigenous led conservation strategy.^{lxxxvi}

Thailand:



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The laws most relevant to Indigenous Peoples in Thailand are; the *National Land Policy Committee (NLPC) Law* on 12 April 2019; the *Community Forestry Law* on 24 May 2019; the *National Park Law* on 29 May 2019; and the *Wildlife Preservation and Protection Act* on 24 May 2019.

- The *National Park Law* will impose stricter penalties and further limit the rights of farmers and Indigenous Peoples.^{lxxxvii} There was also a limited amount of time to document and conduct communities' land-use surveys. Park authorities had to complete the documentation of community land-use and livelihood practice surveys under articles 64 and 65 within 240 days (8 months). The given timeframe makes the full and effective participation and FPIC of the 3,973 communities living in forest areas questionable. Registered communities are allowed to temporarily live and use their land only up to 20 years and there is an option for renewal if the community is not violating the agreed rules and regulations. The state continues centralizing its power over natural resource rights.^{lxxxviii}

There are good practices. The community of Hin Lad Nai located in the Northern province of Chiang Rai, Thailand, is one of four Thai villages identified as a "special cultural zone." This recognition came three decades after government logging concessions decimated their forests. In the years since, 80 percent (3,000 ha) of forest have regenerated, hundreds of hectares are now sustainably cultivated. This regeneration is a direct result of the communities' determination to practice their traditional knowledge systems, including rotational agriculture, even when prohibited.^{lxxxix} Rotational agriculture has since become protected in the Ministry of Culture's list of Cultural Heritage. However, the Ministry of Environment still considers the practice illegal, and renewed efforts to extend the neighboring national park foreshadows increasing threats, enhanced regulations, and evictions.^{xc}

UNESCO in Thailand:

AIPP objects in the strongest terms the declaration of Kaeng Krachan Forest Complex (KKFC), the ancestral lands of the Karen people,^{xcii} as a World Heritage Site.^{xcii} The World Heritage Committee has set a dangerous precedent by disregarding severe cases of reported human rights violations and history of the Karen people. Further, the very act of the Committee's adoption of the KKFC as a World Heritage violates the fundamental rights of the Indigenous Peoples living in the area and international human rights law. Since it was granted National Park Status in 1981, Karen communities have been repeatedly and forcibly evicted, with park officials even burning their homes.

Over 80 community members were arrested, of which, 28—including seven women and one child—were criminally charged for encroachment on lands they have been inhabiting for more than 100 years.^{xciii} The UNSRIP, José Francisco Cali Tzay, is familiar with this case having written (AL THA 4/2021) on the subject with fellow Special Rapporteurs David R. Boyd (Special Rapporteur on Human Rights and the Environment) and Mary Lawlor (Special Rapporteur on the Situation of Human Rights Defenders). The relocation of Karen communities from Kaeng Krachan is not an isolated case. Pa Mak Village in Kuiburi National Park are experiencing conflicts with the national park which seeks to relocate the village from their ancestral territories.

Closing remarks:

Post-2020 GBF focuses on equitable management when it should be emphasising governance, self-governance and the required mechanisms needed to monitor and assist Indigenous autonomy.^{xciv} Conservation within Indigenous perspectives is more than a collection of actions and management practices, it is everything that is behind an action, ancestral knowledge and the struggles to keep and practice it, their Indigenous institutions, collective action, and relationships to land. Human rights-based approaches are therefore an aspiration dependent on the success of Indigenous movements in claiming



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their rights, documenting knowledge, mapping territory, negotiating policy and being leaders of their own culturally appropriate customary conservation actions.

Recommendations for Governments:

- Prioritize the recognition of Indigenous rights above the demarcation of protected areas.
- Bring an immediate end to killings and the criminalization of Indigenous Peoples and local communities defending their territories and its natural environment and prosecute the actual perpetrators of violence and human rights violations.
- Recognize that Indigenous Peoples including the women, girls and youth in these groups have the right to customary tenure systems and their protection and enforcement through forms that support the continuation of their unique and diverse practices and life-giving relationships to lands, forests, mangroves, fisheries and natural resources.
- Countries recognize Indigenous Peoples as distinct self-determined and self-identified peoples within their constitutions and laws.
- Work with organizations representing Indigenous Peoples and the women among them, to develop culturally appropriate institutional and regulatory frameworks for human rights-based conservation regimes, effectively implementing them to recognize and protect customary land and resource rights over existing protected areas, and in important biodiversity conservation areas.
- Commit national and ODA funds reserved for nature protection and conservation and reallocate it towards funding effective conservation efforts led by Indigenous Peoples and local communities and for the recognition of their tenure rights.
- Establish and finance national accountability and reparation mechanisms to address past and present human rights violations in state-sanctioned protected areas as well as privately managed conservation areas.

Recommendations for Conservation organizations:

- Prioritize actions and investments that advance the legal recognition and protection of tenure rights, the right to self-determination, and valuation of traditional ecological knowledge held by Indigenous Peoples, empowering them to engage in long-term, sustainable biodiversity conservation based on traditional knowledge, customary laws, and local stewardship systems.^{xv}
- Strengthen the customary institutions and organizations of Indigenous Peoples for robust ecosystem, policy advocacy for tenure rights recognition, protection of self-governance systems by relevant laws and policies in all levels of the government.
- Support local governance institutions and decision-making platforms to strengthen joint learning, resolve conflicts, redress grievances, and develop life plans as well as equitable benefit-sharing approaches.
- Support existing initiatives led by Indigenous Peoples as a central strategy for achieving inclusive and culturally appropriate human rights-based approaches.
- Support the flow of funding and capacity building resources to Indigenous and local community organizations to facilitate the recognition and securing of rights and governance of their lands and territories.
- Grievance and redress mechanisms are set-up to address current and past abuses.



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