

KINGDOM OF CAMBODIA
NATION RELIGION KING

The Royal Government of Cambodia
No: OrNorKror.BorKor

80

SUB-DECREE
ON
COMMUNITY FISHERIES MANAGEMENT

The Royal Government

- Having seen the Constitution of the Kingdom of Cambodia;
- Having seen Royal Krom N° NorSor/RorKorMor/0704/001, dated 13 July 2004, which promulgates the additional constitution guaranteeing the normal functioning of national institutions;
- Having seen Royal Decree N° NorSor/RorKorTor/0704/124, dated 15 July 2004, on the appointment of the Royal Government of the Kingdom of Cambodia;
- Having seen Royal Decree N° 02/NorSor/94, dated 20 July 1994, which promulgates the Law on the Organization and Functioning of the Council of Ministers;
- Having seen Royal Krom N° NorSor/RorKorMor/0196/13, dated 24 January, 1996, which promulgates the law on the Establishment of the Ministry of Agriculture, Forestry and Fisheries;
- Having seen the Royal Decree N° NorSor/RorKorTor/....., dated....., 2004, on Establishment of Community Fisheries;
- Having seen Sub-Decree N° 17 OrNorKror.BorKor, dated 07 April 2000 on the Organization and Functioning of the Ministry of Agriculture, Forestry and Fisheries;
- Having seen Sub-Decree N° 97 OrNorKror.BorKor, dated 15 December 2000, Sub-Decree N° 04 OrNorKror.BorKor, dated 15 January 2001, Sub-Decrees N° 06 OrNorKror.BorKor, N° 07 OrNorKror.BorKor, N° 08 OrNorKror.BorKor, N° 09 OrNorKror.BorKor, and N° 10 OrNorKror.BorKor, dated 22 January 2001, Sub-Decree N° 19 OrNorKror.BorKor, Sub-Decrees N° 21 OrNorKror.BorKor and N° 22 OrNorKror.BorKor, dated 16 February 2001, Sub-Decree N° 23 OrNorKror.BorKor, dated 19 February 2001, Sub-Decree N° 27 OrNorKror.BorKor, dated 05 March 2001, Sub-Decree N° 30 OrNorKror.BorKor, dated 27 March 2001, and Sub-Decree N° 76 OrNorKror.BorKor dated 26 November 2003 on Cancellation of Fishing Lots and Reduction of Fishing Grounds in Fishing Lots in Battambang, Kompong Thom, Kandal, Kompong Chhnang, Pursat, Siem Reap, Banteay Meanchey, Kompong Cham, Kratie, Prey Veng and Takeo Provinces and Phnom Penh Municipality for Citizens to use for Family Scale Fishing;
- Having seen approval by the Council of Ministers at its plenary session on 20 May 2005

HEREBY DECIDES

Chapter 1

General Provisions

Article 1.

The scope and goal of this Sub-Decree is the determination of the rules and legislative procedures for establishing and *managing community fisheries throughout the Kingdom of Cambodia.*

Article 2.

The objectives of this Sub-Decree are:

- To manage the inland fisheries areas where fishing lots have been cancelled or released in part and protected fishing areas, inundated forest and mangrove forest areas, and the marine fisheries domain;
- To manage fisheries resources in a sustainable manner and ensure equitable sharing of benefits from fisheries resources for Khmer citizens;
- Increase Khmer citizens' understanding and recognition of the benefits and importance of fisheries resources through direct participation in managing, using and protecting fisheries resources;
- Provide a legal framework that makes it easy for Khmer citizens living in local communities to establish community fisheries;
- Improve the standard of living of Khmer citizens in order to contribute to poverty reduction.

Article 3.

Community fishing areas are state public property.

The boundaries of each community fishing area shall be defined by proclamation of the Minister of Agriculture, Forestry and Fisheries.

Article 4.

The authority to lead and manage a community fisheries is derived through election by the members of the community fisheries.

Article 5.

Important terms used in this Sub-Decree are defined in the annex of this Sub-Decree.

Chapter 2

Establishment of Community Fisheries

Article 6.

A community fisheries as mentioned in this Sub-Decree is a group of physical persons holding Khmer citizenship who live in or near the fishing area, voluntarily established and taking the initiative to improve their own standard of living by using and processing fisheries resources sustainably to contribute to economic and social improvement and poverty alleviation.

The Department of Fisheries, Provincial/Municipal Fisheries Offices, Provincial/Municipal Departments of Agriculture, and local authorities or Commune/Sangkat councils, shall cooperate together to establish community fisheries.

Article 7.

Community fisheries shall have by-laws, internal regulations, management plans, maps of their community fishing areas and agreements recognized by the competent authorities in accordance with provisions of this Sub-Decree.

Article 8.

The community fisheries by-laws shall mention the following.

- Name;
- Office and address;
- Objective;
- Conditions for application for membership;
- Obligations and rights of members;
- Criteria and conditions of resignation and dismissal of members;
- Procedures for keeping account books and other documentation;
- Composition of the community fisheries committee;
- Conditions for convening the congress and meetings of the community fisheries committee;
- Conditions for election of the community fisheries committee;
- Conditions for sharing benefits and profits from collective economic activities if any;
- Conditions for dissolution of the community fisheries;

- Legal procedure for revising the *by-laws and internal regulations*.

Chapter 3

Roles, Duties, and Rights of Community Fisheries

Article 9.

Khmer citizens of either sex who intend to become *members of the community fisheries* shall comply with the following conditions:

- Have residency in one of the villages of the community fisheries;
- Hold Khmer citizenship;
- Be at least 18 years of age. One individual may only be a single community fisheries member in the community where he or she lives.

Article 10.

Roles and duties of community fisheries:

- Participate in managing and conserving fisheries resources in compliance with the *by-laws and community fishing area management plan* which are in conformity with laws and other legal instruments related to fisheries;
- Respect instructions of the Department of Fisheries and Ministry of Agriculture, Forestry and Fisheries;
- Participate in establishment of conservation areas within the community fishing area, protection and reforestation of inundated forest and mangrove forest, and restoration of shallow streams and lakes to improve ecosystems and fisheries environments;
- Guarantee that all members of the community fisheries have equal rights in the sustainable use of fisheries resources as stipulated in the *by-laws*;
- Implement the *by-laws* of the community fisheries and formulate the community fishing area management plan;
- Enter into community fishing area agreements with the Department of Fisheries in order to manage the fisheries resources sustainably;
- Keep all documents related to the community fisheries.

Article 11.

Rights of community fisheries:

- Organize fishing activities of all members of the community fisheries in compliance with the law and other regulations;
- Cooperate with the Fisheries competence to suppress all fisheries violations

in the community fishing area. In cases of urgency and need, the community fisheries can request intervention by nearby competent authorities to seize evidence of the fisheries violation and detain the offender then send him or her immediately to a competent Fisheries officer to deal with the offense in accordance with the law;

- Communicate with any other community fisheries, physical persons or legal entities for benefit of the community fisheries in accordance with all legal instruments that are in force;
- Fish, do aquaculture, harvest, sell, use, and manage all fisheries resources in accordance with the community fishing area agreement and management plan.

Article 12.

Community fisheries have no right to:

- Sell, exchange, rent, donate, share, divide, borrow, pawn or transfer the community fishing area at all and in any form;
- Erect dams or carry out fishing that obstructs the passage of streams, creeks, canals or fish migrations. This can be done only with the approval of the Minister of Agriculture, Forestry and Fisheries on the request of the Department of Fisheries, following consultation with relevant institutions;
- Divide and establish private ownership on inundated forest and mangrove forest areas, flooded areas and fishing areas within the community fishing area that the Ministry of Agriculture, Forestry and Fisheries has provided to the community fisheries to manage;
- Enter into any relevant agreements in the community fishing area with any physical persons or legal entities, even for the purpose of scientific research.

Article 13.

Members of community fisheries have the right to:

- Attend the congress and cast equal votes;
- Vote and stand for election in the community fisheries committee structure in compliance with the provisions of this Sub-Decree;
- Receive information on the economic condition of the community fisheries from the community fisheries committee;
- Request the convocation of an extraordinary congress to discuss and decide on any matter if there is a request from at least one-third (1/3) of all members;
- Propose inclusion in the agenda of the congress any matters which are of importance for the community fisheries;
- Fish at family-scale in accordance with the law, other regulations related to fisheries, and the by-laws of the community fisheries;
- Participate in all activities of the community fisheries;

- Make a complaint or provide information on any problems which affect the interests of the community fisheries to the Fisheries competence, Commune/Sangkat Council, local authorities and relevant competent agencies.

In the case that any member of any community fisheries prevents other members of the community fisheries of which he or she is a member from exercising the rights mentioned in paragraph 1 of this article, or causes serious harm to the interests of the community or members of other community fisheries, that member may be suspended or dismissed from the community fisheries after defending him- or herself before the community fisheries committee.

Community fisheries members shall assume individual and collective responsibility for any wrongdoing they do when fulfilling their duties, not to mention criminal responsibility.

A new member who applies for membership in the community fisheries must express his or her willingness to comply with the provisions of this Sub-Decree, the community fisheries by-laws and internal regulations, and all decisions made by the congress of the community fisheries.

Article 14.

Fisheries resource users who are not the members of the community fisheries have the right to enter, leave, and use fisheries resources in the community fishing area, but must comply with the by-laws and internal regulations of the community fisheries, community fishing area management plan, and all other legal instruments that relate to fisheries.

Chapter 4

Community Fisheries Committee

Article 15.

Each Community Fisheries shall be led by a committee called the "**Community Fisheries Committee**".

This community fisheries committee shall be selected through secret, free, and fair elections by the congress, by an absolute majority of the members of the community fisheries who voted.

Article 16.

The candidate who receives the most votes shall be the Chief of the Community Fisheries Committee. The candidate who receives the second most votes shall be the Vice-Chief of the Community Fisheries Committee.

The Fisheries competence, relevant competences, local authorities or the commune/sangkat council shall be invited to observe or facilitate the election. The results

of the vote shall be officially recognized even if the Fisheries competence, relevant competences, local authorities or *commune/sangkat council* is absent.

Article 17.

The number of members of the Community Fisheries Committee shall be odd, from five (5) to eleven (11), depending on the actual situation and on the decision of the congress, and women shall be encouraged to stand as candidates for election to the Community Fisheries Committee.

Article 18.

Citizens of either sex who have the right and wish to stand as candidates for election as members of the Community Fisheries Committee shall meet the following conditions:

- Are members of the respective community fisheries;
- Have Khmer citizenship from birth.

Article 19.

The Community Fisheries Committee have the authority to lead and manage the community fisheries in compliance with articles 11 and 12 of this Sub-Decree. The Community Fisheries Committee shall have a term of five (5) years which expires when the new Community Fisheries Committee that has been elected comes into the office in its place.

Article 20.

The Community Fisheries Committee has the following functions and duties:

- Draft by-laws and internal regulations of the community fisheries, and community fishing area management plans and agreements;
- Operate in accordance with the conditions set out in the by-laws, internal regulations and other relevant legal instruments;
- Seek technical and financial support from Fisheries competences, relevant institutions and donors for implementation of community fisheries activities;
- Represent the community fisheries in any mediation and conflict resolution that may occur;
- Open a bank account and manage community fisheries finances in a transparent and accountable manner;
- Make decisions on community fisheries development with the agreement of a majority of community fisheries members in accordance with the community fisheries by-laws, and community fishing area agreement and management plan;
- Participate in consultations in the preparation of instructions related to the

interests of community fisheries;

- Report and provide information immediately on any fisheries violations in the community fishing area to the nearest Fisheries competence;
- Conserve and protect the aquatic life within the community fishing area;
- Perform other functions as instructed by the Fisheries competence;
- Appeal if the agreement is not renewed for the community fisheries.

Article 21.

Only the community fisheries committee has the right to apply to the Department of Fisheries to request approval for a community fishing area agreement.

The Community Fisheries Committee may request technical assistance from the Provincial/Municipal Fisheries office or an individual with skills in community fisheries management to formulate a draft of the community fishing area agreement.

Chapter 5

Responsible Institutions

Article 22.

The Ministry of Agriculture, Forestry and Fisheries shall have general jurisdiction over community fisheries management and have the following functions and duties:

- Act as administrator of community fisheries;
- Issue proclamations recognizing, rejecting, or nullifying community fisheries;
- Issue proclamations on guidelines for community fisheries, model community fisheries by-laws and internal regulations, and community fishing area agreements and community fishing area management plans, through a consultative process;
- Coordinate with government institutions and other relevant parties on implementation and development in community fisheries management;
- Intervene to resolve conflicts of community fisheries;
- Seek assistance from all sources to fund and support community fisheries.

Article 23.

The Department of Fisheries has the following functions and duties:

- Examine and provide advice to the Ministry of Agriculture, Forestry and Fisheries to make decisions on requests for the establishment of community fisheries;
- Examine and enter into community fishing area agreements with community fisheries;
- Make requests to the Ministry of Agriculture, Forestry and Fisheries to

terminate agreements in cases it has found that community fisheries have not respected the terms of their agreements;

- Examine and approve community fishing area management plans;
- Examine and address all proposals from community fisheries for sustainable management of fisheries resources;
- *Stop and suppress fisheries offences in community fishing areas;*
- Resolve fisheries conflicts in community fishing areas;
- Facilitate the organization of community fisheries, demarcation of community fishing areas and writing of the community fisheries regulations and community fisheries management plans, and *activities by community fisheries to manage fisheries resources;*
- Disseminate policies of the Royal Government, other legal instruments related to the fisheries sector and *documents related to community fisheries;*
- Educate and train community fisheries to increase their technical capacity for management;
- Follow up, monitor, and evaluate implementation by community fisheries;
- Help to seek funds from all sources to fund and support community fisheries.

Chapter 6

Community Fishing Area Agreement

Article 24.

Community Fishing Area Agreements shall have attached:

- A 1/50,000 scale map showing the areas requested for establishment of a community fishing area with clear coordinates;
- A list of community fisheries members and community fisheries committee members;
- *The by-laws and internal regulations of the community fisheries;*
- A statement on the objectives of establishing the community fisheries and management of the fisheries resources, *with commitment to manage the fisheries resources sustainably;*
- Other relevant documents if necessary.

Article 25.

A draft of the community fishing area agreement shall be announced by posting it at least thirty (30) days in different public places where it can easily be seen, at the *commune/sangkat, district/khan, and provincial/municipal offices, before the draft community fishing area agreement is submitted to the Department of Fisheries for review and approval.*

In the event that objection is raised during the notification period, the

commune/sangkat council and district/khan and provincial/municipal authorities shall assist in facilitating the community fisheries committee to resolve the conflict or revise the draft community fishing area agreement at the request of the community fisheries committee.

The procedure for the preparation of the community fishing area agreement shall be determined by proclamation of the Minister of Agriculture, Forestry and Fisheries.

Article 26.

Community fishing area agreements have validity of not more than three (3) years from the date of approval by the Department of Fisheries.

The community fisheries committee shall submit a written request to the Department of Fisheries six (6) months before the expiration of the agreement in order to extend the community fishing area agreement for not more than a period of three (3) additional years.

These requests for renewal shall be approved through announcement of the Department of Fisheries within thirty (30) days prior to the expiration date of the community fishing area agreement. The Department of Fisheries shall terminate the community fishing area agreement or not approve renewal if the Department of Fisheries sends the community fisheries committee a report on the results of a review and evaluation by the respective provincial/municipal Fisheries Office, conducted with the participation of the community fisheries committee, of the process of implementing management of the community fishing area thus far, explaining reasons and evidence of lack of compliance with the community fishing area agreement and community fishing area management plan.

In the event that the Department of Fisheries does provide notification regarding the request for renewal of the community fishing area agreement within thirty (30) days prior to the expiration date, the community fishing area agreement shall be renewed automatically.

Article 27.

Community fishing area agreements may be cancelled before they expire based on any of the following conditions:

1. Written agreement among all parties;
2. Agreement among the community fisheries committee and two-thirds (2/3) of the community fisheries members;
3. Failure to implement, or serious violations of, conditions of the community fishing area agreement and other regulations, such that sustainability of the fisheries resources is not guaranteed;
4. Judgment by the Royal Government that another purpose provides higher public and social benefit to the Kingdom of Cambodia.

In cases as in point 4 of article 27 of this Sub-Decree, the Department of Fisheries shall give written notification to the community fisheries committee six (6) months prior to termination, specifying reasons for termination. During this period, the Department of Fisheries shall discuss and facilitate with the community fisheries committee regarding the loss of benefits to the community fisheries.

Chapter 7

Community Fishing Area Management Plan

Article 28.

After the approval of the community fishing area agreement, the community fisheries committee shall prepare a community fishing area management plan.

The community fisheries committee may request technical assistance in preparing the community fishing area management plan from the Fisheries competence.

The community fisheries committee shall submit the community fishing area management plan to the Department of Fisheries through the respective provincial/municipal Fisheries office for review and approval.

Procedures for the preparation of community fishing area management plans shall be determined by proclamation of the Minister of Agriculture, Forestry and Fisheries.

Article 29.

The period of validity of community fishing area management plans shall be equal to that of the community fishing area agreements.

Community fishing area management plans shall be reviewed by the provincial/municipal Fisheries Office every year, or earlier if necessary, in order to report to the Department of Fisheries.

Follow up, monitoring and evaluation of implementation of the community fishing area management plans shall be done with the participation of representatives of the community fisheries committees.

The Department of Fisheries may require the community fisheries committee to revise the community fishing area management plan, in compliance with other legal instruments related to the fisheries sector, in order to ensure the sustainability of the community fishing area.

Chapter 8

Sources of Finances

Article 30.

Sources of finances for community fisheries derive from:

- Contributions from community fisheries members;
- Charitable donations;
- Assistance from the Royal Government, international organizations and non-governmental organizations;
- Other lawful income.

Chapter 9

Penalties

Article 31.

Any person who violates the provisions of this Sub-Decree shall be punished according to the laws in force.

Chapter 10 Final Provisions

Article 32.

Any provisions that contradict this Sub-Decree shall be considered null and void.

Article 33.

The Minister in charge of the Council of Ministers, the Minister of Agriculture, Forestry and Fisheries, the Minister of Interior, the Minister of Environment, Ministers and Secretaries of State of all relevant Ministries and Institutions, and relevant provincial/municipal Governors shall implement this Sub-Decree in accordance with their respective duties from the date of signature hereon and forth .

Phnom Penh, *10.06.2005*

Prime Minister

Places received:

- Ministry of the Royal Palace
- General Secretariat of the Constitutional Council
- General Secretariat of the Senate
- General Secretariat of the National Assembly
- Cabinet of the Prime Minister
- General Secretariat of the Royal Government
- As per Article 33
- Archives-chronologies

Hun Sen

Annex

- Community Fishing Area:** Refers to the state fisheries domain in which it has been agreed to entitle local communities living inside and near the fishing grounds to use in a traditional way.
- Sustainable Use:** Refers to the use of fisheries resources in a way that ensures the protection of the sources of those fisheries resources so that they are sustained for the benefit of future generations.
- Community Fishing Area Agreement:** Refers to a written agreement between a community fisheries and the Department of Fisheries that recognizes and ensures rights of the community fisheries in a specific fishing area.
- Assistance:** Refers to donations or loans.
- Public Property:** Refers to property that must be protected to maintain its natural form for the long-term use by the entire society. This property serves the public benefit and cannot be sold or traded, and there is no term.
- Internal Regulations of Community Fisheries:** Refers to conditions enacted by the congress of a community fisheries regarding the internal operations of the community fisheries.
- Community Fishing Area Management Plan:** Refers to a document that is prepared by a community fisheries and approved by the Department of Fisheries, that assesses the social and environmental impacts and details the procedures, regulations and measures related to preparation for the sustainable use of the community fishing area.
- Community Fisheries By-Laws:** Refers to "absolute terms" enacted by the congress of a community fisheries consistent with the model of the Ministry of Agriculture, Forestry and Fisheries.
- Community Fisheries:** Refers to a group of Khmer citizens living in one or more villages in the Kingdom of Cambodia who voluntarily agree to cooperate and participate with each other for the purpose of participating in the sustainable management, conservation, development and use of fisheries resources in their local areas, and protecting the rights and interests of Khmer citizens in accordance with all legal instruments related to the fisheries sector.