

Tenth Anniversary of the UN Declaration on the Rights of Indigenous Peoples

HIGH-LEVEL EVENT OF THE UN GENERAL ASSEMBLY

Statement of the Representative of Asia (Joan Carling)

25 April 2017

Of the estimated 350 million indigenous peoples of the world, two-thirds are found in Asia of which the majority are poor and marginalized. Since the adoption of the UN Declaration on the Rights of Indigenous Peoples, there are positive developments in a number of countries towards the rights of indigenous peoples.

- Myanmar has adopted a Land Use Policy in 2016 towards the recognition of the customary land rights of ethnic nationalities, among others;
- Cambodia adopted a Policy on Registration and Right of Use of Land of Indigenous peoples in 2009, in line with the 2001 Law on Community Land Rights of Indigenous Peoples;
- The Constitutional Court of Indonesia affirmed that customary forest are not state forest and the President has committed to work with the parliament for the passage of a law on indigenous people's rights of the millions of *masyarakat adat*;
- Japan has legally recognized the Ainu as the indigenous peoples of Japan, and are thereby entitled to the protection of their language and culture
- The Secretary of the Department of Environment and Natural Resources in the Philippines has suspended 20 mining operations -- many of which are in indigenous territories -- due to serious environmental and social problems, including the violation of the land rights of indigenous peoples;
- Bangladesh has amended The Chittagong Hill Tracts Land Disputes Resolution Commission Act 200 in 2016 based on the advice of the CHT Regional Council, although the Rules are yet to be framed and the logistical and manpower shortages of the commission are yet to be addressed.

We also acknowledge the contributions of UN agencies, funds and programmes in promoting the rights of indigenous peoples, including the conduct of national policy dialogues, development of their own institutional policies on respecting indigenous peoples' rights, and implementation of targeted programmes and projects for indigenous peoples.

However, these advances are overshadowed by serious setbacks and continuing wide-scale violations of indigenous peoples' rights, which paint a grim reality due to wide gaps in the implementation of the UNDRIP.

In India, while the Supreme Court upheld the constitutionality of the Forest Rights Act, and issued a positive ruling on the Vedanta case upholding the requirement for consultation and consent of Adivasi in relation to mining operations, recent administrative measures and

policies by the federal state undermine the spirit and intent of this affirmative law. In Lao PDR, the indigenous peoples are now regarded as ethnic groups and the government continues to implement its programme of assimilation of ethnic groups through resettlement in towns, further worsening their impoverished condition. In Japan, the government continues to deny the Ainu and Ryukyans/ Okinawans as indigenous peoples of Japan and are violently pushing through the construction of new military bases in their territory without their consent.

In Nepal, in spite of the State's ratification of ILO Convention 169 in August 2007, the new Constitution has failed to incorporate the recognition of the collective rights of indigenous peoples, which is estimated to be 36% of the total population.

Based on documented cases of human rights violations of indigenous peoples in Asia since 2010, most of the cases are largely related to the violation of the rights of indigenous peoples over their land and resources.

The requirement for the Free, Prior and Informed Consent of affected communities in relation to development and conservation projects in their territories is being disregarded. Land and resource grabs have been apparent to support large-scale agri-business, mining, infrastructures for energy, commercial tourism, and designation of national parks and/or conservation areas. These cases are happening in almost all the countries with indigenous peoples in Asia, even those with legal recognition of their land rights such as in Cambodia, Philippines, Malaysia and India.

Further, there is hardly any access to justice. Indigenous women are experiencing multi-dimensional forms of violence from the violation of their rights to their lands and resources, in addition to prevailing discriminatory systems and structures. Likewise, the criminalization of indigenous peoples' livelihood activities such as shifting cultivation and gathering of non-timber products is resulting to unjust detention and payment of penalties, in addition to causing hunger, undermining the practice of traditional knowledge, and increasing vulnerability to violence of indigenous women. In Indonesia, more than 200 indigenous persons remain in jail. The National Human Rights Institutions in Malaysia and Indonesia have conducted land inquiries due to the serious problems of indigenous peoples, but their recommendations are yet to be implemented.

In 2015, Global Witness recorded 185 killings related to land and environmental defenders, of which 40% are indigenous peoples, with majority of the cases happening in Southeast Asia. Furthermore, PAN Asia Pacific noted that the killings in 2016 were three times worse than the previous year, with an average of 16 killings of indigenous activists and farmers every month.¹ In Malaysia, Ms. Jannie Lasimbang, former member of the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP), continues to face legal harassment, while other indigenous leaders in other countries are facing serious threats to their security.

¹ <https://panap.net/2016/12/10/killings-of-defenders-of-peoples-right-to-land-three-times-worse-in-2016-panap/>
<https://panap.net/2016/12/15/land-and-rights-watch-20161210/>

After 10 years of the adoption of the UNDRIP, dramatic and decisive steps are urgently needed to reverse the worsening condition of millions of indigenous peoples across Asia. Denying our legal recognition as indigenous peoples and our collective rights will not make us go away, and conflicts will certainly escalate.

States in Asia must come to terms of the existence of and the need to engage with indigenous peoples in a meaningful and constructive manner in the context of respecting our inherent rights as affirmed by the UNDRIP. We therefore call on States in Asia to demonstrate their political will to implement the Declaration with clear policy cohesion and concerted actions, with the effective participation of indigenous peoples. As States committed to “leaving no one behind” in the implementation of the 2030 Agenda for Sustainable Development, this provides the opportunity for them and others to work with indigenous peoples to ensure the respect and protection of our rights.

Without the proper implementation of the Declaration, social justice and sustainable development will not be achieved for indigenous peoples; and our exclusion, marginalization and discrimination will persist.

#####