

**Nineth<sup>th</sup> Session of the Expert Mechanism on the Rights of Indigenous Peoples**  
11 – 15 July 2016

**Agenda 9 : Follow-up to thematic studies and advice.**

Presented by: Mrs. Kaushalya Munda

Thank you, Mr. Chair.

On behalf of Bharat Munda Samaj, Jamshedpur, India, I (Mrs. Kaushalya Munda) would like to present our statement on Follow-up to thematic studies and advice

Mr. Chair United Nation human Rights Council conferred UNDRIP (United Nation declaration on the rights of indigenous Peoples) to safe guard Indigenous peoples with the spirit of partnership and mutual respect. We indigenous communities acknowledge the charter with the same spirit of cooperation and admiration.

I would refer here in line with the studies done in the past in relation to existence and identification of indigenous peoples in the context of India. Referring to Article 1 (b) of ILO 107 and 169 - **Ministry of External Affairs, India reiterate that** - The concept of indigenous people provided in Article 1 para (b) of Convention 107 and Article 1, para (b) of Convention 169, does not apply in the India context as all Indians are considered indigenous. The definition is understood in the context of situations where the original inhabitants are markedly different from the colonial settlers such as in Australia, New Zealand and the American continent.

My organization opinion in relation to above concept is – once the charter has been signed it signifies the acceptance of each and every word and sentences of charter. Hopefully, when India ratified ILO convention 107 in September 1958 was fully convinced with the definition for indigenous people illustrated definition in the convention. UNDRIP was ratified in November 2007. Therefore, we sincerely request EMRIP to develop some mechanism to take necessary measures for noncompliance and disrespect of UNDRIP as well as ILO convention 107. We would appreciate, if EMRIP through UN mechanism and its deliberating arms within the frame of Human Rights encourage India to ratify ILO convention 169.

In context with the definition for indigenous people submitting the apex court judgment in the annexure - detail verdict of SUPREME COURT OF INDIA CRIMINAL APPELLATE JURISDICTION **CRIMINAL APPEAL NO. (Arising out of Special Leave Petition (Crl) No. 10367 of 2010)** between Kailas & Others .. Appellant (s) - versus- State of Maharashtra TR. .. Respondent (s) Taluka P.S. has been (enclosed with statement) . Apex court of India in this case judgment confirmed about pre-Aryan inhabitant of India are Mundari language speaking people belonging to Munda tribes and also in this judgment expressed regret for injustice with the tribes of India despite constitutional safe guards.

In the light of above judgment we indigenous peoples from India request that even though international instruments may not be binding for any nation to implement, but we strongly believe that further studies could be done based on the evidence that is being submitted by my organization which would bring clarity in the part of state and UN in exercising the mandates.

My community believing on the mechanism of UNHRC takes on this opportunity in considering that in absence of above instruments indigenous people in India is under threat of marginalization and may be placed in vulnerable position leading to extinction of primitive tribes whose counting are less than 10000 in number by 2030. Standing at the cross road we are looking for way forward, as our community is burdened with disadvantage adjusted life years (DALY) derived from following disadvantages:-

1. Discrimination in opportunities in education institutions.
2. Discrimination in the domain of govt. service system by reducing the length of permanent residency by 30 year for non- indigenous community from the year 2015 in the state of Jharkhand.
3. Mis-representation of statutory laws enshrined in the constitution of India.
4. Govt. executives do not follow rule of law acquisition of land rather threatens indigenous leaders ~~to~~ that they will register offensive charges afflicted and ensure long trails under the law.
5. The alienation and negligence by Govt. to implement provisions of constitution over decades is like a systematic exploitation and abuse.

I would like to end my statement with the words of Mr. Jaipal Singh (who was one of the member in the drafting committee of constitution of India) - "The whole history of my people is one if continuous exploitation and dispossession by the non-aboriginals of India, punctuated by rebellions and disorder, and yet, I take Pandit Jawaharlal Nehru at his word. I take you all at your word that now we are going to start a new chapter, a new chapter of independent India where is equality of opportunity, where no one would be neglected".

**Unfortunately, we tribes in India have paid dearly for taking Jawaharlal Nehru at his word. But it is still possible to retrieve some of the original promises.**

Thank You, Mr. Chair

Annexure:-