

9th Session of the Expert Mechanism on the Rights of Indigenous Peoples

11 – 15 July 2016

Agenda Item No. 6: Human Rights of Indigenous Peoples in relation to Business Enterprises

Statement of Asia Indigenous Peoples Pact

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Mr. Chairperson,

As Asia is becoming the center of global economic growth and trade and investments, business enterprises guided with neoliberalism structure are rapidly expanding in the region. Subjected to marginalization and discrimination across the region, indigenous peoples also face disproportionate adverse impacts from business operations. Indigenous lands and territories are rich in natural resources that are valuable for businesses. As we are disregarded from the potential benefits of business operations, exploitation of lands, forests, water and minerals, our rights as indigenous peoples are also the most disregarded and violated. Among the impacts include failure to guarantee indigenous peoples the right to free, prior and informed consent (FPIC), land evictions and forced relocations, loss of livelihoods as well as spiritual, cultural and social identity and harassment and repression of human rights defenders.

Since the adoption of the UN Guiding Principles on Business and Human Rights in 2011, momentum has gradually gathered in various governmental, UN and civil society processes towards ensuring realization of human rights in business contexts. However, governments, particularly in Asia, have lagged behind in formulating action plans to implement the Guiding Principles, and when it comes to implementation on the ground, significant challenges remain. These include a need for greater existence and awareness of relevant national and international legal frameworks, the lack of effective monitoring and grievance mechanisms and outright indifference to protect and respect human rights. For indigenous peoples, the challenges are multiplied due to many factors such as greater vulnerability from loss of lands and resources, continued exclusion from decision-making, lack of access to justice and state recognition of their rights in many Asian countries.

Nonetheless, there are instances of constructive engagement of indigenous peoples with State institutions, particularly national human rights institutions, businesses, UN, civil society and investors such as international financial institutions to ensure better protection and respect of their human rights as well as providing remedy for human rights harms.

In this context, AIPP recommends the Expert Mechanism the following:

1. Undertake a study on the realization of the rights of indigenous peoples in the context of business activities, including good practices and challenges.
2. Propose the Human Rights Council to urge States, particularly in Asia, to formulate and implement national actions on business and human rights in line with the Guiding Principles, following meaningful consultations with indigenous communities, particularly those affected by business operations, among other stakeholders. Such plans and their implementation should include the UN Declaration on the Rights of

Indigenous Peoples in their principles and provide for effective remedy to access for human rights abuses through operational-level grievance mechanisms culturally appropriate to indigenous peoples.

3. Propose the Human Rights Council to call upon business enterprises as well as investors to ensure respect the rights of indigenous peoples, including to FPIC, in their policy commitment, human rights due diligence and remediation processes of any adverse human rights impacts.
4. Advise the Human Rights Council to ensure meaningful participation of indigenous peoples, including through the Expert Mechanism, in the development of an international legally binding instrument to regulate the activities of transnational corporations and other business enterprises.

Finally, we would like to highlight that respecting human rights in business contexts should not be voluntary. Business enterprises should be accountable to states, the primary duty bearers for human rights; as the states are accountable to all its peoples. We are committed to constructively engage with states and businesses to realize our rights.

Thank you for your attention, Mr. Chairperson.