

**United Nations Permanent Forum on Indigenous Issues
13th Sessions, New York, 12-23 May, 2014**

Agenda Item: 5 Half-day discussions on Asia region

Statement by Sumshot Khular

Endorsed by the Asia Indigenous Peoples Caucus

Respected Madame, Chair, I am Sumshot Khullar presenting a joint statement for South Asia, endorsed by Community Action for Research and Development, Asian Indigenous Peoples Pact, Shimin Gaikou Centre, Kapaeng Foundation, NEFIN, Mallaya Foundation, Centre for Research and Advocacy, Manipur. Madame Chair, South Asia is a home to more than 160 million indigenous peoples. However, only a few states recognize indigenous peoples with some governments claiming that they have no indigenous peoples. The continuous denial by states of their indigenous peoples as distinct peoples, who have been systematically discriminated and marginalized, is against the very principle of achieving social justice as affirmed by the UN Declaration on the Rights of Indigenous Peoples.

The non-applicability of the concept of indigenous peoples as recognized under international human rights instruments remains a major and critical concern for millions of indigenous peoples. The idea that all citizens of a state are indigenous and thus entitled to the same rights has been used as a justification for denying recognition of particular indigenous peoples, as in India and in Bangladesh. These governments have rejected calls for the recognition of the collective rights by groups identifying themselves as indigenous.

In Nepal where a new Constitution is soon to be promulgated, the indigenous peoples are campaigning for the right to self-government under a federal system of government in order to have control of their social, cultural and political development. However in spite of the fact that at least 39% of the total population is recognised as indigenous peoples, and the government has ratified ILO Convention 169 on Indigenous and Tribal Peoples, they remain having the least meaningful political representation in the country, with their freely chosen representatives largely excluded from the constitution-making process.

The North-eastern states in India are the states where the Armed Forces Special Powers Act(1958) have been in place for long time to subdue indigenous peoples movement for right to self determination. The act formulated extra ordinary provisions and powers to the armed forces, which has been applied in the so –called ‘disturbed areas’ resulting in human rights violations with impunity, arbitrary killings, arrests, torture, cruel and inhuman and degrading treatment and enforced disappearances. The indigenous communities with the introduction of new laws enacted or amended like the Unlawful Prevention Act (UAPA) retains the ban on the organisations proscribed under the repealed Prevention of Terrorism of Terrorism Act(POTA) where many indigenous minority groups from the Northeast are banned under the act(POTA). The launching of Operation Uttoron in the Chittagong Hills Tract has resulted in severe human rights violation of the Jumma indigenous peoples in Bangladesh.

In South Asian countries in Bangladesh, Nepal and India millions of indigenous peoples have been involuntary evicted, displaced, impoverished due to so called development projects like coal & uranium mining, oil and gas exploration without the Free and Prior consent of the Indigenous peoples which is a direct denial of the universally established right to Free, Prior and Informed Consent, as outlined in several international human rights laws like the UN Declaration on the Rights of Indigenous Peoples and recommendations of the *International Convention on the Elimination of all forms of Racial discrimination, (CERD)* *International Convention on Economic, Social and Cultural Rights(ICESR)* and *International Convention on Civil and Political Rights(ICCPR)* .

Many states in South Asia refused to implement human rights recommendation to advance indigenous peoples rights. As for instance, the UN Special Rapporteur on Indigenous Peoples Rights, Mr. James Anaya expressed strong condemnation with the Mapithel dam construction for the series of violations and the militarization process in and around the Mapithel dam site in 2008.

Article 11 of the UN Declaration on the Rights of Indigenous Peoples stipulates that no military activities shall take place in the lands of indigenous peoples, unless freely agreed upon by the indigenous peoples concerned. However, many indigenous territories across South Asia continues to be heavily militarized and their prime land, which are source of their livelihood and survival are conscripted for military infrastructures.

False climate change has been propagated across South Asia, which includes construction of series of mega dams, with projection as clean source of energy with low carbon emission. Additionally, there is an aggressive push for bio fuels plantation which also led to massive acquisition of farm land and forest areas. The decision making to address climate change solution is often exclusive in nature. In the recently held International Conference (UNCCC) of Climate Change in Nepal the indigenous peoples from Nepal were not allowed to participate in the conference.

Indigenous Women by virtue of their gender and ethnicity faces particular impacts and increased vulnerability from the consequent loss of traditional livelihoods, displacement, conflict and poverty. Violence against indigenous women is as intricately related to their collective and individual rights to their land, resources and territories as their wellbeing, cultures and identities are. The aggressive development models associated with intensive militarism has been ravaging not only our lands and resources but also on our people, especially women and girls.

In Nepal thousands of young girls and women were trafficked to India and outside for illegal prostitution. The Free Kamlari Development Forum and the National Federation of Indigenous Nationalities states that as of 2013, there are about 1,200 Kamlaris rescued from bondage since 2001 in conformity with the state's Kamaiya Labour Prohibition Act. However, among them, some 100 have reportedly returned into Kamlari servitude due to lack of commitment and support services while an estimated 900 kamlaris in the districts of Dang, Baki, Burdya, Kohlali and Kanchapur still remain bonded to their landlords

Increasing cases of sexual violence and rape in Chittagong Hill Tracts have been reported. Indigenous women were raped or sexually harassed since 2007 211 of which happened in the Chittagong Hill tracts, according to reports by the Kapaeeng Foundation – an indigenous peoples' human rights organization. Of the 19 cases in the recent four months, 12 including children were raped in the CHT and 2 were killed after raped in Kagrachari. Earlier rape was used as a weapon of war, violence against indigenous women is now being used for land grabbing.

The ongoing armed-conflict situation prevalent in the North East of India has intensified the violence faced by women, which takes the form of sexual, mental or physical abuse, killings and clashes. Although all the members of communities are affected by the armed conflict, the impact on women and girls is far greater because of their status in society and their sex. The region, under the shadow of conflict, has

witnessed a resurgence of patriarchal values and norms, which have brought with them new restrictions on the movement of women, the dress they wear and more overtly physical violence such as rape, which is systematically used as a tactic against a particular community. All this is compounded by the long social, economic and psychological trauma of armed conflict.

In all these states the women have played a pro-active role in peace building within the communities ,and across the different stake holders and to mention a few like the Naga women Union, Naga Mother's Association , Jumma women and Nepalese women in their respective states. In conclusion, I would like to make the following Recommendations.

Recommendations: The Governments of South Asia:

1. Ensure the full recognition and adherence to the principle and practice of the right to self determination of all indigenous peoples in South Asia.
2. Recognize indigenous peoples' rights over their land, territories, waters, and resources and their self-determined development of their land, water bodies in South Asian countries as enshrined in the UN Declaration on the Rights of Indigenous Peoples, 2007;
3. We strongly urge the states review their own national legal framework with a view of incorporating provisions of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), especially to the right to lands, territories and resources, to self-governance, and cultural integrity, in their national instruments while at the same time repealing/ revising laws and policies that are not consistent with the UNDRIP.
4. Stop mega developmental projects without free prior & informed consent of indigenous peoples and without recognition of their self determined development.
5. Repeal all emergency legislations which facilitates political subjugations and militarization in South Asia such as the Armed Forces Special Powers Act, 1958 in India's North East;
6. Implement the recommendations of the UN Committee on Elimination of all forms of Racial Discrimination in 2007 to stop construction of mega dams in the territories of the indigenous people like the proposed 1500 MW Tipaimukh dam Project and Chakpi HEP project in Manipur
7. Implementation of the CHT Accord to demilitarize indigenous areas of Bangladesh
8. Ensure that IFI's and corporate bodies desist from financing and taking up projects in South Asia, that would undermine indigenous peoples inherent rights over their land and territories and threatens environment integrity of the region.

Akpanpaak Chaak Inna , Hambai, Dhanyabad Thank you Madam Chair.