

**Joint Statement to the 14th session/ Regional meetings of the Expert
Mechanism on the Rights of Indigenous Peoples**

13 July, 2021 (Asia)

**Item 8: Draft Report on “efforts to implement the United Nations Declaration on
the Rights of Indigenous Peoples: Indigenous Peoples and the Right to Self-
Determination”**

By Gam A. Shimray
On behalf of Asia Indigenous Peoples' Caucus

Respected chair.

I am presenting this statement on behalf of the Asia IP Caucus to provide EMRIP the situation of the enjoyment of the right to self-determination post-UN General Assembly adoption of the UN Declaration in 2007 and recommendations thereby for EMRIP to take note.

The commitment to self-determination enshrined in the Declaration on the Rights of the Indigenous Peoples by the UN General Assembly and adopted by majority of the governments in Asia, have yet to be realized in a substantive sense. The implementation of self-determination in a true sense founded on Indigenous organic democratic community-based system is a far cry. The non-recognition on IPs is one major challenge towards achieving this end.

But more and more groups in Asia identify themselves as Indigenous Peoples and also applying the UNDRIP and other international standards in their own country context in self-determining their collective lives through culturally appropriate means.

While most nation states in the region have adapted and integrated legal provisions to support the recognition of ethnic minorities living within their borders, Indigenous Peoples – and Indigenous identities – are not fully recognized and consequently do not enjoy the full spectrum of rights enshrined under the UNDRIP and other relevant international standards.

Autonomy and self-determination are crucial for the survival and continuity of Indigenous Peoples. Many Indigenous groups in Asia have signed several agreements and peace accords but implementation is minimal and many issues are exacerbated.

The ongoing failure of the governments to ensure lasting peace, justice and accountability is one of the main causes of conflict and violence. The impact of historical injustices, often without redress or reconciliation, is a major reason for the continued marginalization of Indigenous Peoples. This is also reflective of the failure to see UNDRIP as an instrument to build democratic and inclusive institutions by member states. The complete breakdown of the political situation in Myanmar is a case in point.

In the Northeast region, India alone, the government have signed twelve peace accords with five different Indigenous Peoples, but it has been a history of broken accords.

Some recent examples of recognition, reparation and reconciliation initiatives that specifically deals with Indigenous Peoples in Asia include the following:

- a) Chittagong Hill Tracts (CHT) Accord (1997) following legislative processes in Bangladesh,
- b) Naga Framework Agreement (2015) for political solution and accords with other groups in Northeast India
- c) National Ceasefire Agreement (2015), Union Peace Conference – 21st Century Panglong (2016) and the ongoing peace processes in Myanmar
- d) Apology of Taiwan's President to Indigenous Peoples (2016) and subsequent measures in Taiwan

Other relevant processes include the promulgation of the Constitution of Nepal (2015), the recent bill approved by Japan's cabinet recognizing the Ainu people as "Indigenous People" and the ongoing federalism discourse in the Philippines.

We recognize that states must recognize the right to self-determination of Indigenous Peoples and their governance systems, and national Constitutions and laws, and peace accords signed must guarantee their rights as enshrined in the United Nations Declaration on the Rights of Indigenous Peoples. The marginalization and criminalization of Indigenous Peoples, as well as the expropriation of their lands must end and that states must adopt a pluralistic approach to access to justice and recognize Indigenous Peoples' judiciary and conflict-resolution systems.

These conditions are important in facilitating an enabling environment for the Indigenous People in full enjoyment of their rights to self-determination.

In this context, we recommend the EMRIP mandate

- to continue this dialogue and conversation on self-determination as part of the mandate of EMRIP and further studies on the issues and challenges as well as enabling conditions for the implementation of the right to self-determination or autonomy.
- We urge the EMRIP mandate in collaboration with OHCHR, UNPFII and other mandate holders and UNSRIP to ensure and provide enabling space for substantive and equitable engagement with governments, inter-governmental organisations, and relevant international bodies and agencies to protect and implement the UNDRIP.
- To conduct country visits to assess the ground situations and provide recommendations to the member states.
- to urge the governments to abide by and fully implement the accords made with indigenous peoples and to guarantee their rights as enshrined in their respective Constitutions.
- to recommend a framework, practical process, and mechanisms to guarantee the above.

Thank you.

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