

17th Session of the UN Permanent Forum on Indigenous Issues (UNPFII17)

Agenda 10: Dialogue with the Special Rapporteur on the rights of indigenous peoples and the Chair of the Expert Mechanism on the Rights of Indigenous Peoples
Statement of Asia Indigenous Peoples Pact and the Asia Indigenous Peoples Caucus
Presented by Pallab Chakma of Kapaeeng Foundation

In a recent call for input of the UN Special Rapporteur on the Rights of Indigenous Peoples (UNSRIP) on criminalisation of indigenous peoples, Asia Indigenous Peoples Pact (AIPP) reiterated that States, in partnership with business, particularly those involving exploitation of natural resources, have caused direct attacks to indigenous peoples in Asia by criminalizing the legitimate actions of indigenous peoples to defend their rights. Extraction, agribusiness and hydropower are considered to be the topmost projects opposed by indigenous peoples resulting to their criminalization. Similarly, 'urbanisation' through infrastructure projects, e.g. road expansion, tourism and conservation through declaration of areas as national park have caused conflicts, attacks and displacement to indigenous peoples. Often, if not always, these so-called development or conservation initiatives are being implemented in violation to the collective rights of indigenous peoples.

In our input to UNSRRIP's study, the trends and challenges of criminalisation of indigenous peoples in Asia are:

1. The lack of, if not inadequate, institutional and structural protective measures, to ensure protection of human rights and equitable benefits to communities in so called development projects.
2. The overlapping and contradictory legislation, and policies that hamper the effective implementation of indigenous peoples' rights, even in countries where such rights are reflected in national constitutions and other legislation. There is a clear bias to allow and even encourage business operations that violate indigenous peoples' rights and cause environmental damage.
3. The worsening political repression and shrinking democratic space through criminalization of legitimate actions, restrictions on legal registration and funding for civil society organizations including indigenous peoples, media repression, and arbitrary arrest, detention and extra-judicial killings through the use of national security and anti-terrorist laws and militarization of indigenous territories.

These are clearly demonstrated in Bangladesh, India, Cambodia and the Philippines, or the case of Okinawans of Japan and their issue of forcefully constructing of new military bases in Ryukyu. Some States, criminalization is institutionalised by declaring indigenous peoples who are politically organising in the name of maintaining territorial integrity as committing acts of treason. Shrinking of civic space is often exemplified with general criminalization of constructive dissent and responded to with direct physical assault/harassment, trumped-up charges and/or outright suppression by killing. Further, militarization often leads to increased vulnerability of indigenous women and girls, and IWHRDs' vulnerability to the use of gender-based violence (GBV) as method to silence and intimidate them.

We thereby recommend to the UNPFII, EMRIP and the Special Rapporteur

- Step up efforts to draw the attention of states and the UN system on the worsening human rights situation of indigenous peoples and provide effective access to justice at the national level, and adopt measures to protect human rights
- Undertake studies on the impacts of national security and anti-terrorist laws towards the protection of indigenous human rights defenders and the recognition of indigenous peoples rights
- States should engage indigenous peoples, in cooperation with other relevant human rights bodies and actors, in a meaningful dialogue towards addressing the militarization affecting them, including implementation of treaties, agreements (e.g. CHT Accord) and other constructive arrangement, particularly for countries in transition and regions under peace negotiation.
- Recommend to Human rights support agencies to provide financial, as well as political support to assist IPHRDs and their families and communities to allow them to continue in defending their rights as well as undertake other appropriate actions.
- UN Special Procedures to collaborate with each other and with other human rights processes in providing concrete recommendations for effective protection of IPHRDs, including cataloguing of landmark cases that are useful for litigation of cases common to indigenous peoples and IPHRDs.