

**Expert Mechanism on the Rights of Indigenous Peoples
7th session, 7 – 11 July 2014
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Agenda Item 7: United Nations Declaration on the Right of Indigenous Peoples

Madam/Mr. Chair, expert members, distinguished government delegates, indigenous brothers and sisters,

The Asia Caucus is pleased to inform the EMRIP of several developments in the realization of the UN Declaration on the Rights of Indigenous Peoples in Asia.

In Indonesia, the National Alliance of Indigenous Peoples in the Archipelago, AMAN, has won its case in the Constitutional Court through its declaration that customary forests are not state forests, affirming indigenous peoples' customary rights over their forests.

In Malaysia Federal Constitution recognizes the notion of indigenous peoples to an extent. However these articles are contentious (as in the case of Sabah natives), incomplete (as in the case of a number of Sarawak natives being left out in the detailed list), and non-inclusive (as in the case of the Orang Asli being completely omitted). The Constitutional recognition however, does not go hand-in-hand with the measures to ensure they are given the necessary support and respect related to other recognized rights, including lands and territories, traditional ways of life or papers as proof of citizenship. Many indigenous peoples, especially from remote areas, have great difficulty getting their citizenship papers due to late registration of birth or to poor access to the registration department.

In the Philippines, the rights of "indigenous cultural communities/ indigenous peoples " are constitutionally guaranteed and enabled through the Indigenous Peoples' Rights Act [IPRA]. The IPRA protects and promotes indigenous peoples' cultural integrity, the right to own and develop their ancestral lands/domains, and the right to free and prior informed consent (FPIC). However, the implementation of FPIC and land rights has been very problematic and manipulated resulting to conflicts and gross violations of their land rights as well as civil and political rights.

In Nepal, indigenous representatives are campaigning to have distinct representation of indigenous peoples in the Constituent Assembly, although their demand for a federal system based upon indigenous identity and self-determination remains as a huge challenge.

In Asia, awareness on the UNDRIP is likewise increasing with the efforts of indigenous peoples organizations and allies in producing and using promotional and creative materials on the UNDRIP. There is likewise a sustained engagement with UN Agencies at different levels and sustained visibility of indigenous peoples in different regional and global processes among others.

Despite these positive developments, indigenous peoples in Asia continue to face serious challenges especially on the legal recognition and exercise of our collective rights as stipulated in the UNDRIP. Many Asian countries still claim that they do not have indigenous peoples or that everyone is indigenous. This very fundamental distinction shall have to be addressed with a sense of urgency in order to minimize conflicts and the escalation of the violation of the rights of indigenous peoples. Both Bangladesh and Myanmar still have not conferred formal legal recognition to indigenous peoples in the manner of their choice.

Indigenous peoples lands, territories and resources continue to be exploited for the development projects such as mega-dams, mining, plantations, etc., without the FPIC. In Odisha, India, where the Dongria people had for years opposed a planned mine by Vedanta company, only 12 of 100 affected villages were consulted by local authorities despite a landmark Supreme Court ruling in April 2013 ordering community consultation before the mine project could proceed. Moreover indigenous communities in Northeast India and Central India, among others, continue to be subjected to militarization and systematic human rights violations because of existing national security laws and policies. In Bangladesh, violence against indigenous women and children are comparatively higher than any other time in the past. In the first 4 month of 2014, 19 indigenous women have raped. Last week, The CHT Commission has been attacked by the Bengali settlers' organization.

In Myanmar, the Kaladan Multi-modal Transit Transport Project' in two indigenous communities is being implemented without FPIC. In Vietnam, over 90,000 people, mostly ethnic Thai, were relocated to make way for the Son La hydropower plant that Vietnamese scientists said left many without access to agricultural land by 2010. In Cambodia's Prey Lang Forest region, home to the Kui indigenous peoples, official land grants of tens of thousands of hectares of forest for mineral extraction, timber and rubber plantations have forced many to give up their traditional livelihoods. From 1996 to 2013, 117 companies were granted economic land concessions (ELC) totaling 1.5 million hectares or over 50% of the arable land in Cambodia, many of these are indigenous lands. Although the Cambodia government declared a moratorium on ELC issuance in May 2012, the procedure for a review of existing ELCs has created conflicts within communities. This has included privatization of traditional communal lands and threats to communities and their representatives who refused individual land titles and fought to reclaim their communal land.

In the ASEAN, the ASEAN Investment Plan reveals an aggressive plan for extractive projects that will adversely impact indigenous peoples' lands, territories and resources among others, as they gear up to achieve an ASEAN Economic Community by 2015.

We thereby call on the states in Asia to engage constructively with indigenous peoples towards the legal recognition of indigenous peoples through constitutional and enabling laws and policies to facilitate the implementation of the UNDRIP

We further call on states to provide effective mechanisms and procedures for the full and effective participation of indigenous peoples in matters that affect them and for the implementation of the genuine free, prior and informed consent in development projects that affect indigenous peoples.

We call on the member states in Asia who have abstained in the adoption of the UNDRIP to change their position and likewise express their support to the UNDRIP.

We call on the Office of the High Commissioner for Human Rights to undertake a more proactive role to monitor and ensure the implementation of the UNDRIP.

Finally, as we draw closer to the World Conference on Indigenous Peoples in 2015, we call on states to cooperate and support the Alta Outcome Document towards the realization of the rights of indigenous peoples.