

**Human Rights Council
Expert Mechanism on the Rights of Indigenous Peoples
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Agenda Item 6: United Nations Declaration on the Right of Indigenous Peoples

Asia Indigenous Peoples Caucus Statement by Andrew Ambrose

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, a Draft Law for the Recognition and Protection of Indigenous Peoples Rights has ~~is~~ being reviewed by the Indonesian parliament. Also in Indonesia, the Constitutional Court has accepted the request of the Indigenous Peoples Alliance of the Archipelago (AMAN) for a Judicial Review of Act No. 41/1999 on Forestry (Undang-Undang Kehutanan or UUK). The ruling of the court states that Customary Forest is not State Forest and that Indigenous Peoples of the Archipelago will get back their rights over their customary forests seized by the State through UUK.

In Malaysia, the Court of Appeals in Sarawak has upheld the ruling of the Sibu High Court that the pemakai menoa (territorial domain) and pulau galau (communal forest reserve) are part of Native Customary Rights (NCR) land. This ruling sets a precedent to the more than 200 NCR land cases in Sarawak, Malaysia which are pending in the high court.

In the Philippines, a joint circular of the Department of Interior and Local Government and the National Commission on Indigenous Peoples provides guidelines for local government units for the mandatory representation of indigenous peoples in the local sanggunians (decision making bodies of local government units at the barangay, municipal and provincial levels). Also in the Philippines, the Department of Education has adopted the National Indigenous People's Education Policy Framework (NIPEPF) to address the basic education needs of indigenous peoples in the country. It has likewise allocated 100 million pesos (approx 2,300,000 USD) to implement this framework.

In Asia, awareness on the UNDRIP is likewise increasing with the efforts of indigenous peoples organizations and allies in producing and using promotional materials on the UNDRIP such as info-posters, training manuals, videos, comic books and other popular forms. 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.

In November 2012, the Association of Southeast Asian Nations (ASEAN) adopted the ASEAN Human Rights Declaration (AHRD). The AHRD does not in any way refer to indigenous peoples and their collective rights nor used other terms to refer to indigenous peoples such as ethnic minorities, hill tribes and the like. All the ASEAN member states have voted in the UN General Assembly in favor of the UNDRIP, and there has been a strong and consistent clamor from indigenous peoples for the AHRD to include the rights of indigenous peoples. Moreover, the general principles of the AHRD are not consistent with international human rights standards and international obligation of states as members of the UN. The AHRD is thereby a toothless document that will not bring about the much needed respect and protection of human rights of the peoples of the ASEAN including the more than 100 million indigenous people in this sub-region.

Indigenous peoples lands, territories and resources continue to be exploited for the development projects such as mega-dams, mining, plantations, etc., without the free, prior and informed consent of indigenous peoples. Indigenous communities in Northeast India and Central India continue to struggle against the imposition of dam and mining projects and have been subjected to militarization and systematic human rights violations. 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.

In the Philippines, even with the existence of the Indigenous Peoples Rights Act, there are numerous conflicting laws such as the Philippine Mining Act of 1995 that allow the exploitation of indigenous peoples lands, territories and resources.

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 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 in the implementation of the UNDRIP.

Finally, as we draw closer to the World Conference on Indigenous Peoples in 2014, we call on states to cooperate and support the WCIP towards the realization of the rights of indigenous peoples.