

## UN Expert Mechanism on the Rights of Indigenous Peoples (EMRIP)

### **EMRIP call for submissions on “Treaties, agreements and other constructive arrangements, between indigenous peoples and States, including peace accords and reconciliation initiatives, and their constitutional recognition”**

Joint Submission by:

1. Naga Peoples Movement for Human Rights (NPMHR), Northeast India
2. Karbi Human Rights Watch (KHRW), Northeast India
3. Borok Peoples’ Human Rights Organization (BPHRO), Northeast India
4. Zo Indigenous Forum (ZIF), Northeast India
5. Boro Peoples Committee for Peace Initiatives (BPCPI), Northeast India

**Introduction:** The Indigenous Peoples (IPs) all over the world practice the right to self-determination in some form or the other. It is the oldest value passed down from one generation to the other. The denial, non-recognition and/or non-implementation of this fundamental right to self-determination has caused years of conflict between states and IPs in different parts of the world.

With the declaration of the UN Declaration on the Rights of Indigenous People (UNDRIP) the rights of IPs have been recognized and advanced more meaningfully in many countries and there is a growing relationship between states and people.

The story is different in Northeast India. Northeast India; a region that comprises mostly of Indigenous communities spread across 8 states, some of them, arbitrarily divided and scattered in different states and countries too. The Naga people for instance are divided across four contiguous states in India and many zones in Myanmar, while in the case of the Tripura the Indigenous Peoples (tribals) have been reduced to a minority in their own land from 95 percent to 30 percent population.

The UNDRIP that seeks to address and advance the rights of the IPs across has made little impact on the Indigenous Peoples in India and more so for the IPs in the northeast region with specific reference to the right to self-determination. This is because, India, despite voting in favour of UNDRIP, still refuses to legally recognise the Indigenous Peoples. Whereas, the term Indigenous populations is synonymously used by the government of India in its notification while referring to the constitutional safeguard of the Indigenous/ tribal People of North Eastern states of India.

The region while struggling with appalling basic services continues to be impacted by protracted armed conflict around right to self-determination and the government has been adopting quick fix approaches to these struggles and aspirations and signed numerous peace accords with many armed groups. At the same time many of the leaders and workers are incarcerated in the jails as political prisoners. For instance, many Naga and Bodo political movement activists are languishing in jails.

Some are being tagged and hunted and their family members harassed demonstrating the flaw of peace accords that is not founded on genuine right to self-determination. So, instead of resolving the conflict, the endless accords have produced a more complex social and political tension in the region and created factional conflict to stifle these movements. We produce 15 peace accords the Government of India have signed with five indigenous peoples in the region.

### **The Bodo Accords (1993, 2003, 2020):**

The Bodo people in the state of Assam have been politically, economically, and socially subjugated in their own land for decades. They were made minority in their areas with tacit population implantation agenda by advanced communities in connivance with upper echelons of government officials which led to systematic deprivation of socio-political, economic, and cultural rights of Bodo people. The situation became so alarming for Bodo people that they had to devise a political movement for a separate state to live in their land with dignity and control their affairs for development and secured future of the community. The Bodo people's demand for a separate state has seen three agreements. The first Bodo Accord was signed in 1993 with 'All Bodo Students Union' (ABSU) and the second in 2003 with 'Bodo Liberation Tiger Force' (BLTF). However, these two accords were ineffective, and a third accord was signed recently in January 2020 with five Bodo organisations, predominantly National Democratic Front of Bodoland (NDFB) which is termed as comprehensive and final solution for the Bodo political movement.

However, though it is called "Bodo Peace Accord", some of the signatories are still held as political prisoners and are languishing in the jail and the third accord may not guarantee a lasting peace as it does not genuinely recognise the right to self-determination which is central to the Bodo peoples' aspiration.

**The Tripura Indigenous (tribal) People Accords (1993,1998,2019):** The story of the Indigenous Peoples is similar to the Bodos where they have been reduced to a minority in their own land with weak political power and authority to retain and manage their land and natural resources that led them to organise armed movements.

The Government of India and Tripura government has signed three agreements with the different armed groups in three decades. The first was signed with the All Tripura Tribal Force (ATTF) in 1993. The second was a Tripartite Accord between the Government of India, State Government of Tripura and the Tribal National Volunteers (TNV) in 1998 and the third with the National Liberation Front of Tripura (NLFT) in 2019 but Tripura continue to be embroiled in deep political uncertainties with violent outbreaks of conflicts between different communities.

**The Karbi Accords (1995, 2011, 2021):** What started as a demand for implementation of Article

244(A) of the Indian constitution that allows greater autonomy, the Karbis were pushed to a violent demand for statehood. A memorandum of understanding was signed with the Karbi organisations and the government in 1995 which was not fully implemented and following which a new accord was signed in 2011 with greater autonomy. The accord did not see its implementation and in September 2021, a third accord was signed. The key points of the agreement are as follows:

- Under this agreement, 5 armed organizations laid down arms with more than 1000 of cadres.
- A special development package of Rs. 1000 crore is to be allocated over five years by the Central Government and the Assam Government to take up special projects for the development of Karbi areas.
- The agreement will transfer as much autonomy as possible in exercising their rights to the Karbi Anglong Autonomous Council, without affecting the territorial and administrative integrity of Assam.
- This agreement will ensure the protection of the culture, identity, language, etc. of the Karbi people and all-round development of the region.
- In this agreement the Karbi armed groups have agreed to renounce violence and to engage in a peaceful democratic process established by the law of the land. Keeping this in mind, a provision has also been made in this agreement to rehabilitate the cadres of armed groups.
- The Government of Assam will set up a Karbi Welfare Council to focus on the development of the Karbi people living outside the Karbi Anglong Autonomous Council area.
- The Consolidated Fund of the State will be amended to meet the resources of the Karbi Anglong Autonomous Council.

Overall, the present agreement proposes to give more legislative, executive, administrative and financial powers to the Karbi Anglong Autonomous Council.

**The Mizo Accord (1986):** The Mizo people movement for right to self-determination took to arms in 1966 and after years of resistance signed the Mizo Peace Accord in 1986 and became the 23<sup>rd</sup> state of India from a Union Territory. Mizoram considerably is more peaceful, but issues of ‘immigration’ and border disputes erupt from time to time where a considerable number of Bru people have migrated and settled. In **January 2020** the GoI, Govt. of Mizoram along with Govt. of Tripura signed an agreement with representatives of the Bru people settled both in Mizoram and Tripura providing settlement in allotted areas, housing, food and financial assistance

**The Naga Accords (1947, 1960, 1975, 2015, 2017):** The Naga people have one of the most turbulent stories of struggle with thousands of lives claimed by unresolved political conflict which continues to claim lives to this day. The GoI has signed a few accords with the Naga peoples but insincere political commitment continues to drag-out the conflict ostensibly under a ceasefire that started in 1997 till date.

The Nine-Point Agreement, also called the Hydari Agreement was signed in 1947 (with British-India) which recognized the rights of the Nagas to develop themselves according to their

expressed wishes with regards to; 1. *Judicial*, 2. *Executive*, 3. *Legislative*, 4. *Land*, 5. *Taxation*, 6. *Boundaries*, 7. *Arms Act* 8. *Regulation*, and 9. *Period of Agreement*, in which; the Governor of Assam as the agent of the Government of Indian Union will have a special responsibility for a period of 10 Years to ensure the due observance of this Agreement and at the end of this period, the Naga National Council will be asked whether they require the above agreement to be extended for a further period, or a new agreement regarding the future of the Naga people be arrive at.

Later, the interpretation of the period of agreement of 10 years became a dispute. The understanding was that the Naga Hills would exist with India for 10 years, after which NNC could renew the agreement. India disputed later.

Subsequently, Nagas continued to assert their political aspiration for a Sovereign Naga Nation and conducted its National plebiscite on May 16, 1951 in which 99.9% of voters opted for complete Sovereignty, re-enforcing the Declaration of “Naga Independence” of 14<sup>th</sup> August 1947.

In 1960, the 16-Point agreement, the Naga Peoples Convention (NPC) proposed and negotiated with the Government of India came into being. It created the State of Nagaland as the 16<sup>th</sup> State of the Indian Union. This was seen as a treachery by many Nagas and it only complicated the political conflict and divided the Naga people too leading to more loss of lives.

In 1975 a new accord called the Shillong Accord between the GoI and a Naga group, the Federal Government of Nagaland (FGN) was signed. The Accord accepted the constitution of India and was seen as a surrender of the rights of the Naga people leading to more factions.

Currently, there are two ceasefire agreements and peace talks being held with two Naga groups; the National Socialist Council of Nagaland (NSCN-IM) since 1997 and the Naga National Political Groups (NNPGs) since 2017.

In 2015 a “Framework Agreement” was signed with the NSCN-IM and in 2017 an “Agreed Position” was signed with the NNPGs.

Instead of bringing to a closer understanding and resolving a conflict that has cost both India and the Nagas heavily, it has run into more troubles.

The duplicity of the government holding parallel negotiation has also created confusion and division among the Naga people and if this is not resolved it has the potential to unleash great scale violence.

The above cases of Accords reflect the peculiarity, insincerity, and failure of peace accords in India. It is unfortunate that these accords also do not recognize the impact of violence and conflict on IPs of the region particularly women and children which have nothing to address the devastating impact on them.

When the right to self-determination is not recognized in its true sense, violence and oppression will continue and, in this light, we place the following recommendations.

1. The Expert Mechanism on the Rights of Indigenous Peoples and the Office of the High Commission on Human Rights undertake a study on the peace accords, including the peace negotiation between the Government of India and the Nagas in Northeast India to understand the situation and to promote dialogue at the local level and at the United Nations to advance the rights to self-determination and autonomy of Indigenous Peoples in the region.
2. The Expert Mechanism on the Rights of Indigenous Peoples and the Permanent Forum and the Special Rapporteur Rights of Indigenous Peoples should facilitate an inclusive process aimed at the development of guiding principles for the realisation and implementation of the right to self-determination and autonomy based on the Declaration on the Rights of Indigenous Peoples and universal human rights standards in Northeast India.
3. The Expert Mechanism on the Rights of Indigenous Peoples and the Permanent Forum along with the Office of the High Commission on Human Rights and the UN Department of Political and Peacebuilding Affairs should facilitate regional and local level dialogues between Indigenous Peoples and Governments for the realisation and implementation of the right to self-determination and autonomy.
4. States should establish ombudsman institutions to ensure that the rights of Indigenous Peoples are respected and protected and to facilitate the establishment of similar institutions in the existing Indigenous autonomous areas in Northeast India.
5. The Expert Mechanism on the Rights of Indigenous Peoples and the Permanent Forum along with the Office of the High Commission on Human Rights and the UN Department of Political and Peacebuilding Affairs should intervene with the government of India to respect the Peace Accord and appeal for the immediate release of all the leaders. Without this the peace process will be incomplete and inconclusive.

We urge that UNDRIP is not only recognized but implemented in letter and spirit by every nation including India so that indigenous populations across can contribute in their full capacity towards the restoration and healing of this world.

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