**Submission of Asia Indigenous Peoples Pact (AIPP) and its member organizations for the report of the Expert Mechanism on the Rights of Indigenous Peoples on “Right to Land under the UN Declaration on the Rights of Indigenous Peoples: A Human Rights Focus**”

AIPP, together with its member and partner organizations, takes this opportunity to make the following submission for the Expert Mechanism’s report on "Rights to Land under the UN Declaration on the Rights of Indigenous Peoples: A Human Rights Focus”. This submission is based on information provided to AIPP by member and partner orgnizations, including but not limited too the Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP), the Indigenous Peoples Partnership (IPP), and further supported by research conducted across all 14 member countries titled “Status of Indigenous Peoples’ lands, Territories and Resources in Asia”. Even so, the submission is limited in terms of its scope and reach, not covering the full extent of the rights issues around Ingidenous Peoples’ Land, Territories and Resources (LTR) in Asia. Nonetheless, this submission covers certain initiatives from both AIPP’s and member organisation’s work in an effort to assess the status of LTRs across the region.

The submission below provides an overview on the status of Indigenous Peoples’ rights recognition over their LTRs in a selection of Asian countries. Within the limited scope of the report, it is not possible to provide an overview of the laws on LTR rights in all the countries in Asia.

1. **Status and recognition of Indigenous Peoples and their rights to Land, Territories and Resources in Asia**

There are approximately 411 million[[1]](#footnote-1) Indigenous Peoples living in Asia. Indigenous Peoples, due to their subordination and distinctiveness from mainstream cultures and polities, have historically and continue to be subjected to gross human rights violations, systematic racism, discrimination, and dispossession[[2]](#footnote-2). They continue to struggle to have their collective rights over their lands, territories and resources - their ways of living, their customary institutions and laws - respected, recognized and enforced by nation states. Asian governments voted for the adoption of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) by the General Assembly in 2007, with the exception of Bangladesh, which abstained. However, most of these same governments, in recognizing the existence of distinct peoples within their boarders, have not made diligent political efforts to undertake their obligations to respect the rights of Indigenous Peoples as defined in international laws and treaties, including the UNDRIP. The formal recognition and legal status promulgated by Asian states for Indigenous Peoples varies from country to country. So far only five countries in Asia - the Philippines, Nepal, Cambodia, Japan and Taiwan - have officially used the term “Indigenous Peoples” within their legislative architectures. Below are some examples of the varying degrees of recognition accorded to Indigenous Peoples and their rights to LTR in Asia.

In the Philippines, Indigenous Peoples and their collective and individual rights over ancestral lands and domains are recognized by the government through a comprehensive law known as the Indigenous Peoples’ Rights Act (IPRA). The IPRA uses both the terms “Indigenous Cultural Communities” and “Indigenous Peoples”, while within the Constitution there is reference to “indigenous cultural communities”.

In Nepal, Indigenous Peoples are recognized constitutionally as well as legally. Indigenous Peoples are officially called “Adivasi Janajati” (indigenous nationalities). However, their collective rights on land, territories and resources are not yet recognized.

In Cambodia, the official term used for Indigenous Peoples is not a literal translation of “Indigenous Peoples” into Khmer: *chuncheat daem pheak tech* has been translated as “minority original ethnicity” (Erni 2008:349) or “indigenous ethnic minority” (IWGIA 2016:286). But the fact remains that they are recognized as distinct ethnic groups from the majority Khmer community and can avail the Land Law (2001) for the recognition of communal land rights, a law that only applies to the indigenous communities of Cambodia.

In Taiwan, there are several laws protecting the rights of Indigenous Peoples and the protection of language and culture, including the Constitutional Amendments of 2007 on indigenous representation in the Legislative Assembly and the Indigenous Peoples’ Basic Act (2005). The Indigenous Peoples’ Basic Act recognizes Indigenous Peoples’ rights to land and resources and stipulates for the government to safeguard the status of Indigenous Peoples and to work towards providing the self-rule of each tribe. Unfortunately, serious discrepancies and contradictions in the legislation, coupled with only partial implementation of laws guaranteeing the rights of Indigenous Peoples, have stalled any progress towards affectively achieving self- rule.

In Japan, Ainu people have been recognized as indigenous peoples of Japan, through the Japanese Parliament Resolution of 2008. Through this, the Ainu people’s unique language, religion and culture have been acknowledged. However, the government of Japan does not recognize Indigenous Peoples in the Ryukyus as Indigenous Peoples of the country. The government has instead continued to usurp the territorial autonomy of Indigenous Peoples in the Ryukyus even though these have been granted through national institutions.

Though most Asian countries do not accept the concept of Indigenous Peoples as applying to their countries, several of them recognize distinct cultural or ethnic groups with distinct collective rights. Recognition and special laws are accorded through constitutional laws, amendments, special laws, policies or under agreement/treaty. For instance within the Constitution of India, Indigenous Peoples are addressed as ‘Scheduled Tribes” (STs). The Indigenous Peoples of Northeast India prefer to use the English term “Indigenous Peoples”. The Fifth Schedule (for Central India) and Sixth Schedule (for some areas of Northeast India) of the Indian Constitution recognizes Indigenous Peoples’ rights to land and self-governance. However such rights are limited to designated geographical areas only. There are several areas with significant scheduled tribe majority populations that have not been included in the Fifth Schedule despite persistent demands for the same.

In Indonesia, recent government Acts and Decrees use the term *Masyarakat Adat* to refer to its Indigenous Peoples. The Indonesian Constitution uses the term *Kesatuan Masyarakat Hukum Adat,* meaning customary societies or communities who live by customary laws. The most common and accepted term is Masyarakat Adat. The second amendment to the Indonesian Constitution recognizes Indigenous Peoples’ rights in article 18b – 2. Several other laws and policies implicitly recognize some rights of peoples referred to as *Masyarakat Adat* or *Masyarakat Hukum Adat*, including Act No 5/1960 on Basic Agrarian Regulation, Act No. 39/1999 on Human Rights, Act No. 27/2007 on Management of Coastal and Small Islands and Act No. 32/2010 on the Environment. In May 2013, the Constitutional Court affirmed the Constitutional Rights of Indigenous Peoples to their land and territories, including their collective rights over customary forests (IWGIA 2017:336).

In Malaysia, there are different collective names for Indigenous Peoples of each region. *Orang Asal* is a collective name for all the Indigenous Peoples of Malaysia, one used by the peoples themselves. In the Federal Constitution of Malaysia, Article 161(A) provides for the recognition of Indigenous Peoples (called “natives”) of the States of Sabah and Sarawak. The legal status of the *Orang Asli* in Peninsular Malaysia is not defined nor mentioned within the Constitution. They have tenancy rights recognized under common law but no title to their customary lands. In Sabah and Sarawak, their customary land rights and customary Laws are recognized.

In Bangladesh, the government does not recognize Indigenous Peoples in the country. They prefer the term “tribal” or “*upajati*” (in Bangla). The Indigenous Peoples in the Chittagong Hill Tracts (CHT) are commonly known as “Pahari” meaning “hill people” or *Jumma* from the common tradition of swidden or “*jum*” cultivation. The Indigenous Peoples in the plains are generally known as *adivasi* meaning indigenous. However in both the CHT and Plains, they increasingly refer to themselves as Indigenous Peoples in English or *adivasi* in Bangla. Through the Chittagong Hill Tracts Accord signed in 1997, the CHT has been identified as a tribal area and their cultural rights and traditional governance systems have been recognized. Although such rights have not been extended to the Indigenous Peoples in other regions of the country.

In Lao PDR, the ethnic groups belonging to the Mon-Khmer, Sino-Tibetan and Hmong-Hmien language groups are considered to be the Indigenous Peoples of Laos by expert opinion of multilateral institutions, international non-government organizations and academics[[3]](#footnote-3). They make up the most vulnerable groups in Laos as there is no protection or legal provision recognizing the rights of these Indigenous Peoples to land, territories and resources. Officially, all ethnic groups have equal status and the Lao government does not recognize the concept of Indigenous Peoples’. Using these and related terms in Laos is not allowed and “open discussions about Indigenous Peoples with the government can be sensitive, as the issue is seen as pertaining to special (human) rights” (IWGIA 2017:367).

In Vietnam, Indigenous Peoples are officially referred to as “ethnic minorities” in Vietnamese as *dan toc thieuso, dan toc it nguoi.* They enjoy constitutionally guaranteed rights to their language and cultural traditions but their customary rights to LTR are not recognized.

Indigenous Peoples in the People’s Republic of China are not officially recognized. They can only be found under the terminology of “nationality” or “ethnic minority”. As the socialist ideology is of a collective society, everyone is considered equal before the law. Indigenous Peoples’ right of self-determination is excluded from this vision. The Constitution shapes the basis of the regional autonomous entities. Article 10 specifies the ownership of land: “1. Land in the cities is owned by the state, 2. Land in rural and suburban areas is owned by the collectives and 3. The State has the right, for the public interest, to expropriate or requisite for its use”. (The Constitution Law of People’s Republic of China).

Sri Lanka has no legal regognition of the Indigenous Peoples who call themselves Wanniyala-Ayetto [wamia-la-atto], meaning “Forest Beings” or “Forest-dwellers”. “Sri Lanka’s Indigenous Peoples, the Veddas (forest-dwellers), have inhabited Sri Lanka’s semievergreen monsoon dry forest for at least 16,000 years and probably much longer. Even though the Veddas were the first people in Sri Lanka, they have never controlled the country since the Indian immigrants settled in Sri Lanka about 2500 years ago.” (IJSRP 2017: 17). Wanniyala-Ayetto, are the only Indigenous Peoples in Sri Lanka and have the smallest population among Indigenous Peoples of Asia and consequently their collective way of life is at risk of further desimation. Though, Sri Lanka had voted in favor of the UNDRIP, there are no local enactments to ensure these rights (Uthayakumar 201). It is crear that the Indigenous Peoples are not legally recognized by Sri Lanka in line with the UNDRIP or ILO Convention no. 169. Hence, it is the obligation of Sri Lanka to meaningfully implement the UNDRIP by changing its constitution, laws, policies, plans and programs to become fully in line with UNDRIP.

1. **The Laws, policies, procedures for the recognization of land rights of Indigenous Peoples**

In Asia, only few countries have full legal recognition of Indigenous Peoples’ rights to LTR. In some countries, there is some recognition to LTR, in others recognition is only of individual property. There is a range, from full recognition such as the laws in the Philippines to absence of any recognition of rights to LTR, as in Thailand[[4]](#footnote-4).

In the Philippines, the Indigenous Peoples Rights Act (IPRA) 1997 recognizes indigenous cultural communities or Indigenous Peoples’ ownership to their ancestral territories and provides for titling of ancestral domains. It is one of the few laws for Indigenous Peoples in the world which includes a requirement for Free, Prior and Informed Consent (FPIC).

In India, (1) the Fifth Schedule of the Indian Constitution states that no tribal land can be bought by non-indigenous persons or outsiders in the areas declared as Fifth Schedule. It provides for establishment of Tribal Advisory Council in the areas that have been declared as Scheduled Areas to advise the state government on issues pertaining to the tribal peoples.

(2) Under the Sixth Schedule of the Indian Constitution the Customary rights of Indigenous Peoples in the autonomous areas are recognized and protected. It provides for the creation of Autonomous District Councils (ADC) in the four states: Assam, Mizoram, Meghalaya and Tripura. The ADCs have legislative, executive and judicial powers to manage the autonomous areas.

(3) The Panchayats (Extension to the Scheduled Areas) 1996 (PESA)[[5]](#footnote-5), bestows primary powers of governance to the Gram Sabha (village assembly) in the Schedule Areas (Fifth Schedule area) including prevention of land alienation and also to restore illegally alienated land.

(4) The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006, also known as the Forest Rights Act (FRA) recognizes ownership rights and intellectual property rights of communities including forest governance rights. It is the *Gram Sabhas* or any traditional village institution with the full participation of women that can determine the community and community resource rights along with the authority to protect and manage them.

(5) Article 371A of Indian Constitution gives constitutional guarantees to the Naga people of Nagaland state, their rights to customary law, culture, land and resources (ownership of surface and sub-surface resources) and its management, customary institutions, traditional judicial system (criminal and civil disputes can be settled through Naga customary law in the state Court). No Act of Parliament can be made applicable without the approval of Nagaland state Legislative Assembly[[6]](#footnote-6).

In Indonesia, Article 18b-2 of the Indonesian Constitution, Act No. 5/1960 on Basic Agrarian Regulation, Act N 39/1999 on Human Rights and MPR Decree No. X/2001 on Agrarian Reform, Act No. 27/2007 on Management of Coastal and Small Islands and Act No. 32/2010 on Environment, recognize traditional communities and their customary (*adat*) rights to land within certain limitations in the Constitution of Indonesia[[7]](#footnote-7).

In Malaysia, Article 161A(5) of the Federal Constitution says that State laws in Sabah and Sarawak may provide for the reservation of land for Indigenous Peoples or for giving preferential treatment in regards to the appropriation of land by the state” (AIPP and UNDP-RIPP, 2007:18). Land Ordinance 1930. Sec 15. Recognizes Native Customary Rights (NCR) but does not recognize land under fallow period.

In Myanmar, the National Land Use Policy (NLUP) 2016, recognizes customary land use rights and land tenure practices of ethnic nationalities. But this policy has never been implemented or applied to any of the recent laws and policies in Myanmar. Though the Government established a National Land Use Council (NLUC) in January 2018, based on the mandate of NLUP, it is uncertain whether customary land rights will be recognized or not.

In Cambodia, the Land Law 2001, recognizes the rights of Indigenous Peoples to collective or communal land titles. However, only 10 indigenous communities have received land titles in the last 15 years since the Land Law was enacted (IWGIA 2016:288)

1. **Prevalent good practices by the Indigenous Peoples in Asia in terms of reclaiming their Land rights**

The sustained struggles and efforts by Indigenous Peoples to retain the autonomy and control over their lands and territories have paid off through significant achievements in developing constitutional provisions, national laws and policies that recognize and promote the rights of Indigenous Peoples, including their rights to LTR. Nevertheless, the land situation for Indigenous Peoples remains dismal, owing to the absence of precise legal regulations affirming Indigenous Peoples’ customary rights over their LTRs coupled with the lack of adequate consultations around major development projects taking place in their territories. Moreover, international standards and conventions, that the respective countries have ratified, are often not implemented and national laws are not harmonized with international instruments. Government policies supporting the practice of large-scale land acquisitions by private sector entities for plantations and other forms of agribusiness activities and for extractive industries on indigenous territories have concomitantly led to an increase in land conflicts and human rights abuses.

One of the initiatives Indigenous Peoples have taken up, to assert their rights and protect their lands and territories, is participatory and community led mapping. Community mapping is emerging as an increasingly important tool to self-demarcate and claim land in the Philippines, Indonesia, Thailand, Cambodia, Malaysia and India. In Malaysia, Indigenous Peoples have used mapping as an effective evidence tool in the NCR claims within the courts. In the Philippines, in 2001, the Tabanua indigenous community of Palawan obtained the Certificate of Ancestral Title (CADT) for 22,284 hectares of land and marine waters (the first-ever ancestral waters claim) after a persistent struggle. In their claim they produced a map and ancestral land management plan for the recognition and maintenance of a Community Conserved Area in the Coron and Dalian islands. Since then with support from indigenous support organizations such as PAFID[[8]](#footnote-8) at least ten land titles and nearly 250,000 hectares of traditional lands have been mapped and surveyed (AIPP 2017:83). As of 2015, PAFID also assisted 145 indigenous communities in using participatory 3-dimensional modeling (P3DMs)[[9]](#footnote-9). P3DM has been used not only to delineate the boundaries of their domain but also to define their own management zones, generate their own spatial information and present their own ancestral land from their own unique perspective (Ibid:83). In the lobby against the Sagittarius Mining Inc. (SMI) operation in the B’laan ancestral domain in South Cotabato, indigenous communities used P3DM successfully to generate critical data to counter the SMI experts’ arguments in the review of the environmental impact assessment of the mining operations (ibid:84).

In Thailand, where most of the indigenous communities – like the Karen, Lahu, Lisu, Hmong, Akha etc., - live in the protected forests, and consequently the most vulnerable to being evicted, used P3DMs to negotiate with the sub-district and forest officials regarding the possibility of collaborative management systems over their forests so they can continue to occupy and use their lands which have become protected areas.

In Indonesia, in the absence of a national mechanism to identify and map indigenous communities’ territories, *Aliansi Masayarakat Adat Nusanatra* (AMAN) along with several NGOs, set up the Indigenous Territory Registration body (BRWA) in 2011. So far, there is no official data on the existence of Indigenous Peoples and customary lands in Indonesia. The Ministry of Forestry claims 187 million hectares, out of the 191 million hectares forested areas in the country, as state forest (AIPP 2017:47). Since 2012, AMAN has been submitting data and information about the existence of Indigenous Peoples and customary territories to the government. As of November 2016, BRWA has registered as many as 703 maps[[10]](#footnote-10) respresenting indigenous territories that cover a total area of 8.3 million hectares (IWGIA 2017:339).

Despite the continued lobbying and meetings with the government, and even after the introduction of the one map policy through Presidential Decree No. 9 of 2015 as a solution to overlapping land claims, there has been no significant policy response from the ministries and agencies receiving these maps.

In Myanamar indigenous communities are mapping their ancestral territories in Shan, Chin, Karen and Karenni states with the help of civil society organizations such as IPP, POINT, KARUNA, and the Chin Human Rights Organization.

Besides being a useful tool for advocacy, and for claiming back traditional lands, the process of inclusive rights-based approaches to community mapping has been empowering to the indigenous communities in many ways: 1) it creates unity among the community behind territorial defense, 2) it helps the inter-generational transfer of knowledge in traditional territories and, 3) though territorial demarcation may sometimes lead to conflicts, in most cases mapping helps find a lasting solution to existing boundary conflicts and in turn aids conflict resolution.

Besides the worldwide launch of the “Global Call to Action on Indigenous and Community Land Rights Campaign” on 2 March 2016, many Indigenous Peoples’ organizations and other civil society organizations in Asia have joined the Campaign for the recognition and protection of Indigenous Peoples and local communities’ collective land rights. Asia’s regional campaign was launched in Yangon on the 12th of March 2016 where 60 indigenous delegates from 12 countries participated. The Campaign has been launched nationally in Cambodia, India, Indonesia, Myanmar, Malaysia, the Philippines, and Thailand, and is supported by around 200 Indigenous Peoples’ organizations, networks and civil society organizations. As part of the Campaign, a series of activities are being carried out, with each country defining their own focus. For instance, in Malaysia, JOAS plans to map out Orang Asal territories and consolidate the results into a national database to support the campaign (AIPP 2017:64). In India, the main activities for community mapping are for the recognition of community land rights, capacity building and advocacy to support the proper implementation of the Forest Rights Act, 2006. In Cambodia, the Campaign’s “Policy Asks” has been translated into Khmer and video clips on rights have been produced by the indigenous youth. They have organized community exchanges and mutual learning programmes (ibib:27).

1. **Initiatives by the government towards restitution, compensation for confiscation, occupation, and damage to Indigenous People’s land.**

There have been several attempts by different Asia governments at regional and national levels to remedy the wrong committed in the past on Indigenous Peoples to accomodate the restitution of land, territories and resources. One common phenomenon is that of the struggle which Indigenous Peoples had to go through. AIPP’s Myanmar members have reported the non existence of any such effort from the government, however, in recent years the government has begun inviting indigenous community members to participate in government led law and policy making processes. For example, in the National Land Use Council formation, the government included local peoples representatives.

The Chitgaon Hill Tract (CHT) agreement in Bangladesh was a bid towards the restitution of land rights and other rights of the Indigeous Peoples in Bangladesh. It came after a long drawn armed struggle by the CHT Indigenous Peoples. However, with the advent of non-Indigenous Peoples in the CHT, and other Indigenous territories, land confiscation and grabbing has increased. The government does not provide any compensation for any land grabbed or taken, rather it has attached the properties of many Indigneous People using a black law called the Vested and Non-resident Property (Administration) Act, 1974 (Act XLVI of 1974), generally known as the Vested Property Act, at the expense of different minority groups and Indigenous Peoples. In 2011, the Parliament passed a landmark bill named the Vested Property (Return) Act 2011 that would enable the return of land property seized from the country’s Hindu minority and Indigenous Peoples over the last four decades (Tripura, 2014).

In Nepal, given the suppression and oppression of Indigenous Peoples’ issues and collective rights for centuaries, movements for the reclaiming of LTR did not gather momentum from the local to national levels in any meaningful way. As such there are no governemental processes or mechanisms for restitution or compensation, project implementors are free to form a committee without the participation of affected Indigenous Peoples, to fix compensation for land acquisitions[[11]](#footnote-11). There are policies on land that are enforced, such as the Land Related Act, 2021[[12]](#footnote-12) (1964), the Land Related Regulation 2021 (1964), the Land (Naap Janch) Act, 2019 (1962), the Land Acquisition Regulation 2026 (1969), the Land Acquisition Regulatio, 2016 (1959), the Malpot Act. 2034 (1977), and the Malpot Regulation, 2036 (1979).

Other policies related to natural resources that are enforced are the Compensation Act 2019 (1963), the Public Road Act 2031 (9175), the Consumer Protection Act 2054 (1998), the Local Autonomous Rule Act 2055 (1999), the Local Autonomous Rule Regulation 2056 (2000), and provisions of natural resources in the Constitution of Nepal, 2015 (1958) (Bhattachan K. B., Indigenous Peoples Rights in Nepal: Policy Status, Challenges and Opportunities, 2017 (1960). However, they don’t help the Indigenous Peoples in compensation and restitution.

1. **The role of the instutional/judicial establishment in deposing land related issues and recognitising UN mechanisms.**

There is no regional mechanism, in Asia, through which Indigenous Peoples’ human rights violations could be addressed. However, there are National Human Rights Institutions (NHRIs) which are increasingly addressing the violations of Indigenous Peoples’ land rights. Indigenous communities and human rights organizations have used NHRIs as a channel for filing complaints.

In Malaysia, between 2005 and 2010, the National Human Rights Commission of Malaysia (SUHAKAM) received over 1,100 complaints alleging various forms of human rights violations on NCR lands. In 2011, SUHAKAM launched its first national enquiry on the land rights of the Orang Asal. The Commission made significant recommendations based on the UNDRIP, including FPIC, to improve the current status of land rights for Indigenous Peoples in Malaysia.

Similarly, the National Human Rights Commission of Indonesia (Komnas HAM) conducted its first national enquiry into the violation of Indigenous Peoples’ land rights in 2014. The Komnas HAM collected around 140 formal complaints from seven regional hearings that highlighted the issue of unauthorized land grabbing by big timber companies who have major interests in the opening of forests for oil palm plantations. Numerous companies were operating without permits and using the police to brutalize and intimidate indigenous communities. Moreover the government has not registered the various Indigenous Peoples living in the forest (AIPP 2017:46). The Commission made various recommendations, including a licensing system for natural resource exploitation based on FPIC principles.

Given the overall regional trend encouraging substantial investment in large-scale land development, and non-implementation of existing laws and policies, the 7th Regional Conference on Human Rights and Agribusiness in South East Asia[[13]](#footnote-13) issued a resolution calling for a range of measures aimed at securing real change in land tenure recognition and security. The resolution calls for accessible mechanisms to map and register customary lands, to provide clarity of ownership for business models of plantations to stop pressures on communities to surrender their lands, both by promoting alternative production models and alternative financing models.

1. **Conclusion**

The present situation of Indigenous Peoples in Asia is contradictory and full of challenges, wherein Indigenous Peoples’ rights to their lands, territories and resources are not fulfilled. The legal framework to recognize the rights of Indigenous Peoples by the states needs to be strengthened. For most countries (except Nepal), ratification of the ILO Convention No. 169 is due. Subsequently, compliance of international instruments such as the ILO C169 and the UNDRIP are necessary actions that require the support of appropriate legal and administrative measures. At the national levels, Indigenous Peoples are clearly lacking official recognition. In most cases, they are designated by other terms, like “ethnic groups/minorities”, “ethnic nationalities” or “national races”. This dilutes the identity of Indigenous Peoples. The use of these terms takes away the primacy of customary governance thereby steering the authorities away from aptly tackling the challenges facing the land rights of Indigenous Peoples. It is important that governments adopt a pluralist approach towards addressing the issues on land rights whereby it opens spaces for dialogues and enhances human dignity and equality along with emphasizing land rights as the human right of Indigenous Peoples.

**Recommendations:**

* Governments must take the initiative towards the ratification of, and compliance with, international instruments such as the ILO 169 and the UNDRIP, including through the harmonization of national legal frameworks accordingly.
* Governments must recognize the deep-rooted relationship between Indigenous Peoples and their ancestral lands and establish specific and coherent legal frameworks concerning their access, use, ownership and control over their lands, territories and resource, with the active participation and consent of Indigenous Peoples.
* Governments must take the initiative to clearly identify Indigenous Peoples in their respective countries across Asia, including but not limited to establishing relevant disaggregated data at the national level.
* Governments must recognize the land rights of Indigenous Peoples and initiate land reform based on customary land tenure and legal pluralism that will reconcile customary laws, national laws and international human rights standards.
* Governments must promote the active participation of Indigenous Peoples in economic, social or cultural development plans. The principle of free, prior and informed consent (FPIC) must be included in laws and must be implemented accordingly. Governments should not grant or lease the lands and resources of Indigenous Peoples without obtaining FPIC from the concerned communities.
* Governments should appropriately undertake land titling in conjunction with Indigenous Peoples while respecting their customary livelihood practices through rights-based approaches.
* CSOs and other concerned bodies should actively raise awareness on Indigenous Peoples’ rights and their situation with the wider population in Asia.
* All stakeholders (governments, NGOs, international organizations, and any other relevant actors) working on Indigenous Peoples’ issues should make efforts to carry out in-depth research on Indigenous Peoples’ issues and their respective concerns related to their rights and relationships to their land, territories and resources to facilitate adequate understanding and cooperation.
* All stakeholders (governments, NGOs, international organizations, and any other relevant actors) should recognize customary livelihood and cultivation systems, such as shifting cultivation, and promote their food systems and the customary sustainable use of resources.
* All concerned government agencies, UN agencies, regional bodies, and NGOs should ensure the participation of Indigenous women, youth and Indigenous persons with disabilities in all decision-making processes of projects that may affect them and the life of the community.

1. The number of Indigenous Peoples population in Asia is a rough estimate from various sources [↑](#footnote-ref-1)
2. On human rights violations against Indigenous Peoples and their situation, many Indigenous People’s organization as well as many international human rights organizations(INGOs) have been documenting and reporting for decades. For some reports and publications by some INGOs see: [www.iwgia.org](http://www.iwgia.org); [www.forestpeople.org](http://www.forestpeople.org); <http://minorityrights.org>. For IPO’s report AIPP: <https://aippnet.org>; Kapaeeng Foundation: [www.kapaeeng.org](http://www.kapaeeng.org) [↑](#footnote-ref-2)
3. <https://www.forestpeoples.org/en/topics/african-development-bank-afdb/news/2013/04/experience-asian-indigenous-peoples-finance-lend-0>; IWGIA 2017. The Indigenous World 2017 p.367; McCaskill, D & Kampe, K. (Eds) (1997). Development or Domestication? Indigenous Peoples of Southeast Asia. p.21 [↑](#footnote-ref-3)
4. In Thailand there is only a weak recognition in the form of Cabinet Resolution of 2010 “to restore the traditional livelihoods” specific to Chao Ley and Karen Peoples and yet to be implemented. [↑](#footnote-ref-4)
5. The Panchayats (Extension to the Scheduled Areas) 1996, has been enacted after making suitable changes to the Panchayats Act to transform a system for the general areas of the country to the Scheduled Areas (Fifth Schedule area) having a different socio-economic as well as politico-administrative setting [↑](#footnote-ref-5)
6. Bijoy, C.R, Gopalakrishnan and Khanna S. (2010). India and the Rights of Indigenous peoples. Asia Indigenous Peoples Pact. 128-129 [↑](#footnote-ref-6)
7. The right to land is guaranteed by the Constitution and is supported by the Basic Agrarian Law No.5 of 1960. However, a framework on the recognition of land rights provided in the Basic Agrarian Law “contains only very general provisions on collective rights to land, notably, the collective rights of indigenous peoples to their customary lands” (Saptaningrum in Chao 2013:22).There is no comprehensive law that provides legal recognition to the Masyarakat Hukum Adat neither have the government developed implementing regulations to secure indigenous peoples’ rights to land. [↑](#footnote-ref-7)
8. Philippine Association for Intercultural Development (PAFID) an NGO, which is actively providing mapping, services to indigenous communities in the Philippines. [↑](#footnote-ref-8)
9. Participatory 3D modelling (P3DM) is a community-based mapping method which integrates local spatial knowledge with data on elevation of the land and depth of the sea to produce stand-alone, scaled and geo-referenced relief models. [↑](#footnote-ref-9)
10. The finalized maps consist of general as well as specific information on indigenous territories, land usage, profiles of the indigenous communities including their history, tenure system, governance customary laws (AIPP 2017:49). [↑](#footnote-ref-10)
11. LAHURNIP submission to AIPP [↑](#footnote-ref-11)
12. Bikram Samvat or BS (Bikrami calendar is the Hindu official calendar of Nepal, where English AD 2020 corresponds to Nepali BS 2076) [↑](#footnote-ref-12)
13. Press Release.Pontianak Statement.24 October 2017.

    [http://www.forestpeoples.org/sites/default/files/documents/PONTIANAK%20STATEMENT%20ON%2HUMAN%20RIGHTS%20AND%20AGRIBUSINESS%20IN%20SOUTHEAST%20ASIA%20final%20with%20recs.pdf](http://www.forestpeoples.org/sites/default/files/documents/PONTIANAK%20STATEMENT%20ON%252HUMAN%20RIGHTS%20AND%20AGRIBUSINESS%20IN%20SOUTHEAST%20ASIA%20final%20with%20recs.pdf) [↑](#footnote-ref-13)