

# United Nations Expert Mechanism on the Rights of Indigenous Peoples

## 17<sup>th</sup> session

### *Item 8: Panel discussion on the rights of Indigenous Peoples in post-conflict situations, peace negotiations, agreements, and accords*

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Madam Chair, distinguished members of the Expert Mechanism on the Rights of Indigenous Peoples, esteemed delegates, and fellow Indigenous Peoples,

On behalf of Indigenous Peoples in Asia, I wish to share experiences and initiatives that have been taken by States, Indigenous Peoples, and other stakeholders in the pursuit Articles 3, 4, 5, 6 and 7 (2) of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP).

I wish to be positive and share good practices for everyone to see the silver lining behind the dark clouds, but it is still ‘a dream too far’. Yet, I am here to share important lessons with the hope to save lives.

Let me start by painting broad strokes on the canvas to get a sense of the situation of Indigenous Peoples in Asia. Indigenous Peoples are recognised by law in five countries, and there are four other countries where some substantive rights corresponding to UNDRIP have been accorded. But these rights make very little difference in the life of Indigenous Peoples.

Militarisation continues without any respite in several countries. Hundreds have been killed and millions have been displaced in Myanmar alone. Further, ethnic conflict in Myanmar and Manipur has added to these number of killings and displacements.

Concerning human rights, in 2022, Global Witness documented 11 killings in the Philippines<sup>1</sup>. AIPP also documented a total of 550 cases of human rights violation against Indigenous Peoples between 2019 to 2022.

Concerning legislative developments, there is an opportunistic advancement allowing governments and corporate to take over resources in indigenous territories<sup>2</sup>. Further, in Cambodia, there is a move by the government to replace the terminology “Indigenous Peoples” with “local communities” in its law.

The situation in Asia raises pertinent questions as to why there is little or no change in the condition of Indigenous Peoples even where their rights are recognised e.g., in the Philippines? To understand this problem, I quote Kymlicka<sup>3</sup>, according to him, “institutional structures can be quickly subverted by rising strands of intolerance, or slowly subverted by enduring attitudes of indifference. Promoting pluralism therefore requires both “institution work” and “culture work” ...they continually interact and condition each other”. This implies that formal institutions define the legal and political space within which members of society act, and cultural habits and public mindset determines belongingness and influences shrinking or expansion of space for contribution and how we interact on an everyday basis with one another. Formal

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<sup>1</sup> <https://www.globalwitness.org/en/campaigns/environmental-activists/standing-firm/>

<sup>2</sup> [https://aippnet.org/wp-content/uploads/2021/01/English\\_Detrimental-Laws-Brief-20210112.pdf](https://aippnet.org/wp-content/uploads/2021/01/English_Detrimental-Laws-Brief-20210112.pdf)

<sup>3</sup> Kymlicka, Will (2017). The Hardware and Software of Pluralism. Queen’s University.

rules occupy a very small proportion of the guides to everyday behaviour and actions. In many ways norms are more important, so we need to better understand this issue of “general mindset and culture”.

The consequence is that Indigenous Peoples are subjected to the power of individuals in political parties just like in the Philippines or Myanmar, when there is a change of President or change of government, our rights may diminish or be even extinguished. We are constantly subjected to political power game of tug-of-war. For instance, the Chittagong Hill Tracts Accord was signed in 1997, but the core aspects of the agreement i.e., governance and territorial rights have not been implemented. It is treated as a prerogative of the military or the ruling government.

In India too, the National Socialist Council of Nagalim – IM (NSCN-IM) and of Government of India (GOI) has been in peace negotiation since 1997. It was after 18 years of negotiations that both the parties signed a framework agreement: 1) recognising the unique history of the Naga people, 2), sovereignty of the people, and 3) peaceful co-existence of the two entities. However, no further progress has been made because the GOI is reluctant to translate the core principles of the agreement into meaningful and honourable political solution.

Posturing of dominance is an act of deliberate discrimination and unwillingness to accept IPs as equals. The consequence is that whether in Naga areas or elsewhere in Asia, we have a new generation caught in a limbo of neither having a good sense of belongingness to our societies nor with the mainstream society. We are bombarded with propagandas and psychological warfare to cause distractions, rumours, confusions, and divisions. We are experiencing increasing fragmentation of our societies in the so-called periods of negotiation and post-conflict transitions.

Putting forth arguments by States that are inconsistent and rather esoteric to conceal its indifference towards addressing the political problems only deepens the problem. Failing to “call a spade a spade” is a sign of a sinking ship of societies at large.

Commitments are made and peace accords are signed only to be subverted or toyed with. There is no honour because agreements are made without applying the accompanying principles that must follow. In old English, the meaning of “accord” is “to reconcile”. It is a holistic concept, which means to restore harmony. For example, the medium of music is sound and silence with its associated core elements of melody and harmony, rhythm, dynamics, and the quality of timbre and texture which produces a good music. Similarly, if Indigenous Peoples are peoples, we must be treated equally and justly by applying our right to self-government where its associated core elements such as human dignity and territorial sovereignty are given expression in agreements and implementations. To be holistic, meaningful and honourable, the standard we sanction must be in harmony with the most fundamental tenets of international law.

Madam Chair, I end here with the following recommendations:

1. Meaningful commemoration the 20th Anniversary of the UNDRIP with the aim of fulfilling Articles 40 and 42 of the UNDRIP as well as to renew member states and Indigenous Peoples’ commitment towards holistic and honourable implementation of the UNDRIP.
2. Mobilise all relevant UN agencies and bodies to intervene in, assist in, and monitor conflict areas, peace negotiations and implementation of peace accords.
3. Develop a comprehensive System-wide Action Plan, that is responsive the needs of women and youth, for the implementation of the UNDRIP, including peacebuilding efforts, and establishment of a Regional Inter-Agency Working Group on indigenous issues in Asia.

4. Human Rights Council to conduct a panel discussion on Enhance Participation with the aim of elevating Indigenous Peoples with a new status at Human Rights Council, the UN General Assembly, and other relevant UN bodies.