



Increasing threats to IPs' rights to LTR in Asia must be halted and reversed to realize SDGs

27 March 2019

We, the Indigenous Peoples' representatives and CSOs, under the aegis of Asia Indigenous Peoples Pact (AIPP) and International Land Coalition Asia (ILC Asia) from 10 countries attending a regional workshop on indigenous peoples' land rights campaign and advocacy^[i] from 21-22 March 2019, call on the governments of Asia region and other concerned institutions to immediately halt increasing threats to the rights of indigenous peoples to their lands, territories and resources and take urgent measures to promote and protect those rights. Those rights are extremely critical to achieve the Sustainable Development Goals (SDGs) in line with the pledge of States to ensure "no one will be left behind" and to endeavor to "reach the furthest behind first".

Increasing threats to the rights to lands, territories and resources of indigenous peoples in Asia must be halted and reversed to realize Sustainable Development Goals in the region

AIPP and ILC Asia

Recently, indigenous peoples in Asian countries are facing new urgent and grave risks to the limited legal protections they have for their rights to lands, territories and resources in national laws or impacts on them due to new laws and projects. For example, the Supreme Court of India on 13 February 2019 in a case challenging the constitutional validity of Forest Rights Act (FRA) directed twenty-one state governments to ensure the eviction of all forest dwelling Scheduled Tribes and other traditional forest dwellers from forest land whose claims under the Act have been rejected by 24 July 2019. As a result, 1 to 2 million claimants face threats of forced eviction from their traditional forest lands while the final number of evictions across the country is likely to increase.^[ii] While the Court has stayed the order until 10 July for the state governments to submit information about process adopted in rejecting the claims and the Government of India has applied to the Court for modification of the order in the larger interest of tribals^[iii], farmers and forest-dwelling communities, there are also reports that the Government has proposed an overhaul of the Act to give more powers for the forest officials and diminish the role of village assembly (*gram sabhas*) in management of forestlands^[iv].

Similarly, in Myanmar, the amended Vacant, Fallow and Virgin (VFV) Lands Management Law came into effect on 11 March 2019, which requires anyone occupying or using "vacant, fallow, or virgin" land to apply for a permit to use the land for 30 years or face eviction and up to two years in jail. As indicated by the UN Special Rapporteur on the situation of human rights in Myanmar, "the law fails to recognize shared land ownership practices, such as customary tenure, and land belong to internally displaced persons and refugees of conflict that has been left unattended" and "...with land insecurity central to the cycle of conflict, poverty and denial of rights, it has the potential to be disastrous."^[v] According to Karen Human Rights Group, the law means up to 1/3 of Myanmar's landmass became legally vacant, fallow and virgin and 82% of these lands are located in ethnic states, where communities rely on customary land tenure for livelihoods.^[vi] Human Rights Watch warns that the law could result in millions of people losing their land rights or risk being charged with trespass for remaining on land they have lived or worked on their whole lives.^[vii] Local government

officials and companies are already using the law to remove villagers from disputed land, as per news reports from southern Myanmar.^[viii]

Further, in the Philippines, the proposed Kaliwa Dam is being rejected by the affected Dumagat-Remontado indigenous peoples in the Philippines as it will displace around 150,000 people in Tanay, Rizal Province and General Nakar, Quezon, majority of which are indigenous peoples. The project will inundate their ancestral domain including their sacred sites. Free prior and informed consent (FPIC) of the affected indigenous peoples was not sought in this. This dam was proposed to address the water shortage crisis in Manila and will be funded by official development assistance from China.

At the same time, long standing land conflicts of indigenous communities remain unresolved in various countries. For example, in Bangladesh, to resolve land disputes in the Chittagong Hill Tracts (CHT), which is one of the main issues of decades of armed conflict in the region, the CHT Accord stipulated to form a Land Commission. However, the work of the Commission is still seriously impeded by its lack of funds, manpower and the absence of Rules of the Commission to supplement the provisions of the Land Commission Act. The draft Rules of Business was submitted to the Land Ministry on 1 January 2017 but the government has not yet finalized the draft. Due to non-resolution of land disputes through the Commission, land grabbing, eviction and ethnic conflicts are frequently taking place in CHT, which leads to a great trouble of lives and livelihood of indigenous Jumma peoples.

Finally, indigenous human rights defenders in Asia are taking legitimate actions to protect the rights of their communities as well as the environment are facing increasing risks and reprisals, including threats of violence and physical assaults, judicial and other forms harassments, arbitrary detentions and arrests and even disappearances and killings. For example, very recently in February 2019, three Borok human rights defenders in India's Tripura state of India have been charged with sedition for organizing a peaceful rally against controversial amendments to citizenship laws.^[ix] Indigenous human rights defenders, particularly women defenders, have also been facing trumped-up charges and other attacks, including disappearances and killings in the Philippines. At least 83 environmental defenders were killed in 2018 while protecting their community's land or natural resources, including from Cambodia, India and the Philippines in Asia.^[x]

In above context, from this gathering of Asia Pacific Forum on Sustainable Development, we call on that

- the governments of Asia and other concerned State institutions must take immediate steps to ensure that the legislative and other processes affecting the rights of indigenous peoples to their lands, territories and resources, such as those related to the FRA in India, the VFV lands management law in Myanmar and the CHT Land Commission in Bangladesh, should be undertaken only after obtaining the free, prior and informed consent of the indigenous peoples through adequate and meaningful consultations with them and in line with the UN Declaration on the Rights of Indigenous Peoples; and
- the businesses and investors engaged in projects affecting the indigenous peoples, such as the hydropower projects in the Philippines, must respect the rights of indigenous peoples, including to their lands, territories and resources, and obtain their free, prior and informed consent since the planning of the projects and throughout the entire project cycle to prevent, mitigate and address any negative impacts on their rights and to ensure equitable sharing of benefits with the communities.

Further, we affirm that land and resource rights are fundamental to achieve the SDGs, including for guaranteeing that indigenous peoples will not be left or pushed behind. Ensuring rights to lands, territories and resources of indigenous peoples not only contributes to their well-being but also to address some of the most pressing global challenges such as climate change and loss of biodiversity. Particularly, in SDG 1.4, States have committed that by 2030 all men and women, particularly the poor and the vulnerable, will have equal rights to economic resources, as well as access to basic services, ownership, and control over land and other forms of property and natural resources, among others. We encourage States to have clear guidelines, methodologies and standards when monitoring the state of land and resource rights at country level and, for that, to produce transparent and

peoples' generated data. We also call on States in the region to advance the formal recognition of indigenous peoples and local communities' lands through their legal frameworks.

Endorsing organizations

1. Asia Indigenous Peoples Pact (AIPP)
2. International Land Coalition Asia (ILC Asia)

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[ii] The workshop was organized from 21-22 March 2019 in Bangkok, Thailand.

[iii] <https://aippnet.org/open-letter-of-appeal-by-aipp-iwgia-to-the-prime-minister-of-india-on-the-supreme-court-order-of-13th-february-2019-on-fra/>

[iii] <https://www.indiatoday.in/india/story/supreme-court-stays-its-feb-13-order-directing-eviction-of-11-8-lakh-forest-dwellers-1467541-2019-02-28>

[iv] https://www.business-standard.com/article/economy-policy/centre-drafts-stricter-alternative-to-colonial-era-indian-forest-act-1927-119032001071_1.html

[v] <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24296&LangID=E>

[vi] http://khr.org/sites/default/files/18-5-nb1wb_0.pdf?fbclid=IwAR06UQB6nqX-1w46UHQ59G9gqDy13uY09UulJTDambyntNPITc0yOAFHwo0

[vii] <https://www.hrw.org/news/2019/03/09/myanmar-halt-land-law-implementation>

[viii] https://www.mmtimes.com/news/tanintharyi-landholders-sued-under-new-law.html?fbclid=IwAR007dYdWVxrV6OKyYYgcNBKzbQW-R5H4S_YjOcKLPv2Z1nA88pcPU6OiLY

[ix] <https://www.frontlinedefenders.org/en/case/three-human-rights-defenders-charged-sedition-tripura-state>

[x] <https://www.theguardian.com/environment/ng-interactive/2018/feb/27/the-defenders-recording-the-deaths-of-environmental-defenders-around-the-world>