

**INDIGENOUS PEOPLES  
HUMAN RIGHTS DEFENDERS  
FIELD HANDBOOK ON  
HUMAN RIGHTS  
DOCUMENTATION AND ADVOCACY**



# **Indigenous Peoples Human Rights Defenders Field Handbook on Human Rights Documentation and Advocacy**

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# WHAT IS THIS HANDBOOK?

This Training Manual is a part of the series of interrelated educational and training materials on the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) produced by AIPP as follows :

Volume I: Rights ! Training Manual on the UNDRIP (2010)

Volume II : Rights ! Updated Training Manual on the UNDRIP (2015)

Volume III : Indigenous Peoples Human Rights Defenders Field Handbook on Human Rights Documentation and Advocacy (2015)

Volume IV : Training Manual on Advocacy and Lobby on the Rights of Indigenous Peoples (2015)

Volume V : Radio Programme Guide on the UNDRIP (2015)

All of these will be available at [www.aippnet.org](http://www.aippnet.org). Volume 1 can be found at [http://aippnet.org/home/phocadownload/userupload/UNDRIP\\_MANUAL-FINAL.PDF](http://aippnet.org/home/phocadownload/userupload/UNDRIP_MANUAL-FINAL.PDF).

This Handbook provides comprehensive step-by-step instructions on how to document human rights violations, particularly indigenous peoples' collective rights, and use the data gathered for advocacy.



## WHO CAN USE THIS HANDBOOK?

Community-based Indigenous Peoples Human Rights Defenders (IPHRDs) are the target users of this Handbook. It is primarily intended to guide members of the IPHRD Network and their organizations, institutions and communities in gathering information on specific cases of human rights violations.

It is important that users of this Handbook are already knowledgeable on human rights in general and are familiar with international human rights instruments<sup>1</sup> particularly the Universal Declaration of Human Rights (UDHR), the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESR), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). These are the main international human rights instruments that shall be used for the monitoring and documentation of human rights violations.

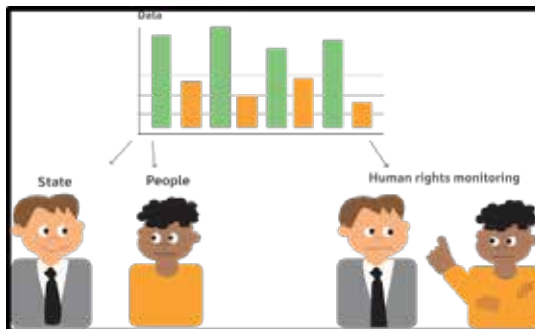
<sup>1</sup> The terms covenant, treaty and convention are used interchangeably in this Handbook. They all refer to legally binding agreements between/among states that ratified or acceded to them. These are formal agreements among states that defines their mutual duties and obligations. The term human rights instrument refers to treaties and other international documents like the UDHR and UNDRIP, that aim to protect human rights.

# HUMAN RIGHTS OVERVIEW

## 1.1 INTRODUCTION

The concern for documentation or conducting fact-finding activities related to human rights violations has intensified due to the increasing cases of human rights violations and aggression committed against indigenous peoples, individually and/or as a community. These violations range from the violations of individual rights and collective rights, such as harassment/intimidation to extrajudicial killings, from vilification of individuals to forced relocation of communities. Seeking redress to these violations entails the presentation of complete, credible, reliable, accurate and verifiable data on the human rights violations. These data will facilitate greater awareness, attention and actions to resolve the case and improve the situation of victims and hold duty-bearers accountable.

Documentation is only a part of the task of human rights monitoring, a task that takes place through time. The main elements of human rights monitoring are: the gathering/collection of information/data (documentation), the verification and analysis of the gathered data, and then using the information (advocacy).



This Handbook focuses on documenting violations of the collective rights of indigenous peoples and its linkage to individual rights. It discusses what to document in these aspects, and how to analyse these violations in a more comprehensive manner. It also offers techniques and strategies on documenting cases and shares experiences in the community and where violations take place. Key insights and strategies on how to advance advocacy on indigenous peoples' human rights recognition, protection and fulfilment are also integrated in the manual.

Another *Training Manual on Advocacy and Lobby on the Rights of Indigenous Peoples* produced by AIPP provides a more comprehensive guide for IPHRDs on advocacy. As a companion tool to this Handbook, IPHRDs are encouraged to use this Training Manual.

# THIS HANDBOOK IS DIVIDED INTO 3 SECTIONS

## SECTION 1

provides the human rights framework and highlights of basic concepts and principles on human rights to enable users to have a clear overview and to know when a violation is committed. It also identifies who are rights-holders and duty-bearers. The UNDRIP's underpinning principles are thoroughly discussed to provide users a deeper insight into the legally binding obligations of States to indigenous peoples under the UNDRIP.

## SECTION 2

gives the content of documentation of collective rights violations of indigenous peoples. It shows step-by-step instruction on how to document any human rights violation wherever they occur to ensure that complete, valid, accurate, verifiable and credible information are collected. Illustrations and tips to guide users in data gathering, data analysis and report-writing thru the completion of the factsheet are also integrated.

## SECTION 3

tackles processes, strategies and other matters related to advocacy using the factsheet generated from the documentation work. It also provides concrete cases of advocacy from indigenous peoples' practice.



# OVERVIEW OF THE HANDBOOK



**STEP 1**  
**INCIDENT**

**STEP 2**  
**DOCUMENTATION**



**STEP 3**  
**ANALYSIS**



**STEP 4**  
**REPORT WRITING**



**STEP 5**  
**ADVOCACY**



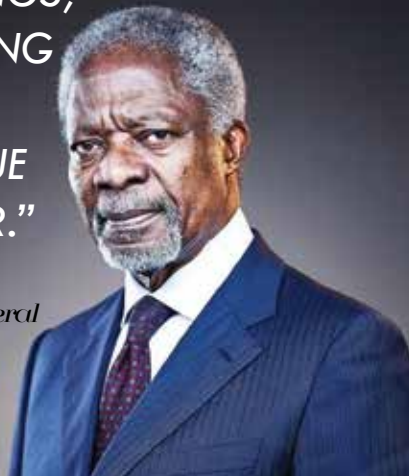
# 1.2 WHAT ARE HUMAN RIGHTS?

**Human rights are entitlements for each individual or collective to live a life of dignity regardless of age, sex, race, nationality, religion, ethnicity or other status.**

**“HUMAN RIGHTS ARE WHAT REASON  
REQUIRES AND CONSCIENCE DEMANDS.  
THEY ARE US AND WE ARE THEM.  
HUMAN RIGHTS ARE RIGHTS THAT ANY  
PERSON HAS AS A HUMAN BEING. WE  
ARE ALL HUMAN BEINGS;  
WE ARE ALL DESERVING  
OF HUMAN RIGHTS.  
ONE CANNOT BE TRUE  
WITHOUT THE OTHER.”**

*- Kofi Annan*

*The United Nations Secretary-General*



# UN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES (UNDRIP) ON RIGHTS TO DEVELOPMENT (A SIMPLIFIED VERSION)

There are at least 350 million indigenous peoples around the world, which is 5 % of the global population. However, 15 % of the poorest of the poor are amongst indigenous peoples. The majority (2/3) of indigenous peoples are in Asia, who continue to be marginalized and discriminated. However, indigenous peoples are again invisible in the current negotiations to achieve the United Nations post 2015 Sustainable Development Goals. It is thereby important to understand and respect the rights and aspirations of indigenous peoples as critical partners in achieving sustainable development.

## ECONOMIC AND SOCIAL DEVELOPMENT



Indigenous peoples have the right to freely determine their own political status and pursue their choices of economic, social and cultural activities. They have the right to improve their economic and social conditions including in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security, among others. (Article 3 & 21)



Indigenous peoples also have the right to actively participate in developing and determining development programmes affecting them such as health, housing and other economic and social programmes. Whenever possible, they should also be the one to lead implementation of such programmes through their own institutions. (Article 23)

## USE OF LANDS, TERRITORIES AND RESOURCES FOR DEVELOPMENT



Indigenous peoples have the right to conserve and protect the environment and the productive capacity of their lands or territories and resources. They can also determine and develop their own priorities and strategies for how they want to make use of their lands or territories and resources for their development. (Article 29 & 32.1)



Before governments approve any project that will affect indigenous peoples' lands or territories and other resources, governments must conduct honest consultations with the concerned indigenous peoples and get their informed consents through their own representative institutions. Governments must provide effective mechanisms for just and fair redress for any of such project activities and take concrete actions to reduce adverse environmental, economic, social, cultural and spiritual impacts. (Article 18 & 32)

# TRADITIONAL MEDICINES AND HEALTH CARE DEVELOPMENT



Indigenous peoples are free to maintain and develop their traditional medicines and health practice. This includes keeping and protecting their medicinal plants, animals and mineral. They must also be able to enjoy the highest attainable standard of physical and mental health care. Government must take necessary steps to ensure that this right is fulfilled. (Article 24)



Indigenous individuals, particularly children, have the rights to all levels and forms of education of the State without discrimination. They also have the right to establish their own education systems and institutions. This includes opening their own schools, developing their own schoolcurriculums in their own languages and using teaching and learning methods that are appropriated to their culture.



Whenever possible, governments should work together with indigenous peoples to make sure that indigenous children, including those living outside their community, have access to an education in their own culture and in their own languages. (Article 14)

# ACCESS TO INFORMATION AND MEDIA DEVELOPMENT



Indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination. Governments must take effective measure to ensure that state-owned media duly reflect indigenous cultural diversity. States, without prejudice to ensure full freedom of expression, should encourage privately owned media to adequately reflect indigenous cultural diversity. (Article 16)



# CULTURAL HERITAGE AND TRADITIONAL KNOWLEDGE

Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge, cultural expressions and manifestations of their sciences and technologies as well as the right to intellectual property over those assets. Government need to recognize and protect these rights. (Article 31)



# SPECIAL SECTORS

Government should pay special attention to the rights and special needs of indigenous elders, women, youth, children and persons with disability to ensure continuing improvement of their economic and social conditions. (Article 21.2)



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# 1.3 WHO ARE INDIGENOUS PEOPLES?

## INDIGENOUS PEOPLES

- Peoples who have developed a historical continuity in their territories dating back from pre-invasion and pre-colonial societies and have a strong link with their territories and natural environment.
- They consider themselves distinct from other sectors of society.
- They presently form a non-dominant section of society.
- They are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal system.<sup>2</sup>

## INDIGENOUS PERSON

- is an individual who belongs to an indigenous community through self-identification as indigenous and is recognized and accepted by the community as one of its members.

# 1.4 HUMAN RIGHTS & INDIGENOUS PEOPLES

Human rights developed through history to set standards and rules of procedure to ensure the life and dignity of every person that must be adhered to by those in power (State) but also puts limits to that power, and sets obligations to enable individuals and collectives to exercise and enjoy such rights. Wars that have plagued human history saw the need for encoding these standards and rules of procedure as agreements that are applicable to all States, and form part of international human rights instruments. The United Nations (UN) came into being primarily for the different nation-states to come together and agree

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<sup>2</sup> Jose Martinez R. Cob. UN Doc. E/CN.4/Sub.2/1986/7 and Add. 1-4. The conclusions and recommendations of the study, in Addendum 4, are also available as a United Nations sales publication (U.N. Sales No. E.86.XIV.3). The study was launched in 1972 and was completed in 1986, thus making it the most voluminous study of its kind, based on 37 monographs.

on how to protect the life and dignity of persons and peoples. Human rights are fully recognized by and is a clear framework of the United Nations system of which States have clear duties, obligations and commitments to respect, protect and fulfil human rights.

**WE THE PEOPLES OF THE UNITED NATIONS DETERMINED**

- to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and
- to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and
- to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and
- to promote social progress and better standards of life in larger freedom

*Preamble, United Nations Charter*

*\*Note that the UN Preamble says “We the peoples...” not we the States, nor governments.*

The UN General Assembly proclaimed the Universal Declaration of Human Rights on December 10, 1948 setting forth the fundamental rights and freedoms that are to be protected by all Member-States under their sovereign jurisdiction. This Declaration was further developed in 1966 into two legally-binding agreements as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

Article 1 of both covenants include the collective right of self-determination of peoples. One other convention that has clear reference to rights of collectives is the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) which clearly states that “... each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions ...” [Article 2 (a)]. This Convention requires Member-States to combat all forms of racial discrimination, whether based on race, color, descent, or national or ethnic origin, and to pursue a policy of eliminating racial discrimination.

Two other UN human rights treaties that are important to indigenous peoples are:

- **International Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)**
  - Human rights treaty for women which is based on the principles of equality, non-discrimination and the State obligations.
- **International Convention on the Rights of the Child (CRC)**
  - Human rights treaty for children that incorporates the full range of human rights – including civil, political, economic, social and cultural rights – articulated in other human rights instruments that must be realized for all children, including indigenous children, to develop their full potentials as human beings.

These, and other treaties, have treaty monitoring bodies (TMBs) which are expert bodies that have been set up under each human rights treaty to supervise compliance with specific treaty obligations.

## HUMAN RIGHTS OF INDIGENOUS PEOPLES

*“Indigenous peoples’ rights under international law have evolved from existing international law, including human rights treaties, to address the specific circumstances facing indigenous peoples as well as their priorities, such as rights to their lands, territories and resources, and self-determination”<sup>3</sup>.*

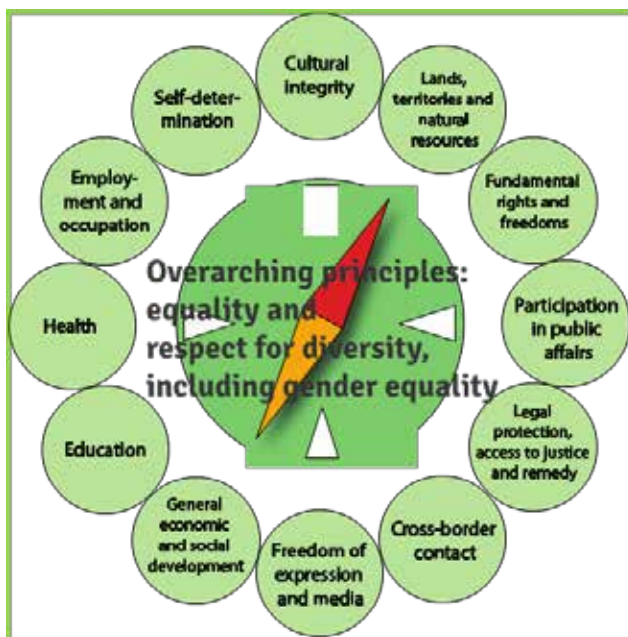
<sup>3</sup> <http://www.ohchr.org/Documents/Publications/fs9Rev.2.pdf>, p4.

# THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES (UNDRIP)

The UNDRIP is the human rights instrument that encapsulates and affirms all rights provided in existing human rights instruments, covering both individual and collective rights. It addresses the particular circumstances and specificities of indigenous peoples to achieve social justice, non-discrimination and equality for them. These are, thereby, not special rights or privileges for indigenous peoples, but a means to ensure the dignity of indigenous peoples like everyone else. The UNDRIP was adopted by the UN General Assembly on September 13, 2007, and establishes a universal framework of minimum standards for the survival, dignity, well-being and rights of the world's indigenous peoples.

**The UNDRIP sets out the duties and responsibilities of States for the respect and protection of the human rights of indigenous peoples.**

## UNDRIP FRAMEWORK OF HUMAN RIGHTS <sup>4</sup>

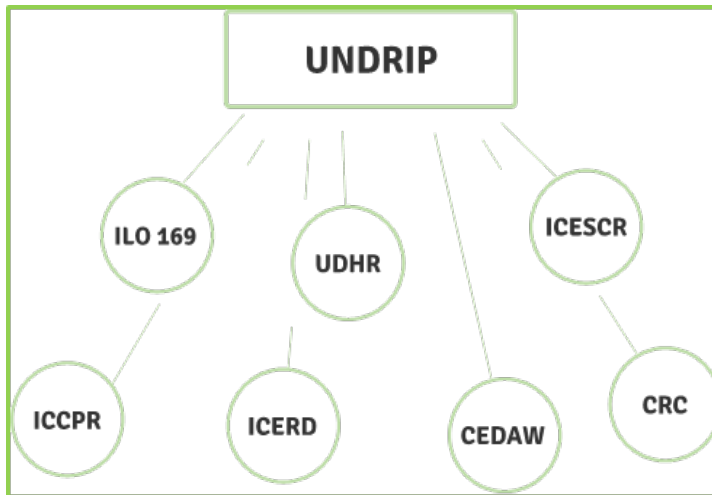


<sup>4</sup>Please go to Annex G for further explanation on the Indigenous Navigator, an initiative to monitor the implementation of the UNDRIP which provides a framework and a set of tools for indigenous peoples to systematically monitor the level of recognition and implementation of their rights. Documentation of human rights violations will feed into this.



## HOW ARE THESE RIGHTS CONTAINED IN OTHER INTERNATIONAL LAWS?

Below shows the existing human rights treaties and agreements that underpins the UNDRIP



**Example: Rights to lands, territories and resources**

Comparative Matrix				
	UNDRIP	ILO 169	UNDHR	ICCPR/ICESCR
<b>Lands, territories and natural resources</b>	Art 26 (2): Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired	Art. 15 (1): The rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources	Art. 17: (1) Everyone has the right to own property alone as well as in association with others. (2) No one shall be arbitrarily deprived of his property.	Art. 47: Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

See Annex F for more complete linkages on rights to lands, territories and resources.

# WHAT ARE INDIGENOUS PEOPLES RIGHTS?

Among the most fundamental elements of international human rights law are the principles of equality and non-discrimination. These are expressed in the overarching principles at the heart of the UNDRIP: equality and respect for diversity, including gender equality, which requires the full respect for human rights.

**Indigenous peoples rights in the UNDRIP can be classified into the following 12 domains:**

- **Self-determination**, including autonomy and self-government; autonomous institutions; identity and membership; customary law; consultation and free, prior and informed consent.
- **Cultural integrity**, including languages; cultural heritage; traditional knowledge; intellectual property
- **Lands, territories and natural resources**, including legal recognition; protection and adjudication; dispossession, removal and relocation; compensation, restitution and redress; environment; military activities.
- **Fundamental rights and freedoms**, including right to life; physical and mental integrity; liberty; security, and; protection from violence and genocide
- **Participation in public affairs**, including citizenship
- **Legal protection**, access to justice and remedy
- **Cross-border contact**
- **Freedom of expression and media**, including combating prejudice and discriminatory propaganda
- **General economic and social development**, including the right to food; development; social security; housing and sanitation
- **Education**
- **Health**
- **Employment and occupation**, including child labour; vocational training.

# 1.5 BASIC PRINCIPLES OF HUMAN RIGHTS

“All human beings are born free and equal in dignity and rights.”

*Article 1, Universal Declaration of Human Rights*

## A. INHERENT TO EACH INDIVIDUAL

- not given, bought or inherited
- every individual is a rights holder because they are born with these rights to live a life of dignity

I WAS BORN  
WITH IT.  
IT'S FOR FREE!



## B. UNIVERSAL

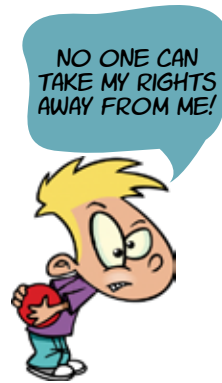
- same for individuals regardless of sex, religion, ethnicity, political or other opinion, national, social origin, or other status, to ensure non-discrimination
- applies to everyone, everywhere
- entitlements simply by virtue of being human



# BASIC PRINCIPLES OF HUMAN RIGHTS

## C. INALIENABLE

- it cannot be taken away
- no one has the right to deprive another person of any right for any reason
- it is present even when the law does not recognize it



## D. INDIVISIBLE, INTERRELATED AND INTERDEPENDENT

- all rights are equal in importance and no right can be enjoyed fully without the others
- improvement of one right facilitates the advancement of the others; the deprivation of one right adversely affects the others
- economic, social and cultural rights must be respected, protected and fulfilled equally with civil and political rights



The **equality, interdependence and indivisibility** of human rights affirm the conviction of the international community that the right of a people to self-determination as well as economic, social and cultural rights are just as important as civil and political rights and that all human rights are mutually dependent.<sup>5</sup>

# BASIC PRINCIPLES OF HUMAN RIGHTS

## E. PARTICIPATION AND INCLUSION

- Right to participate in and access information relating to the decision-making processes related to rights; participation requires that people must be able to know and understand how major decisions affecting their rights are made and how public institutions, e.g., hospitals and schools, which are needed to protect rights, are managed and run
- Rights-based approaches require a high degree of participation by communities, civil society, minorities, women, young people, indigenous peoples and other identified groups.



## F. ACCOUNTABILITY AND RULE OF LAW

- States and other duty-bearers are accountable for the observance of human rights
  - they must comply with the legal norms and standards enshrined in international human rights instruments
  - they must create mechanisms for the enforcement of rights and institute effective measures that will make them accountable if human rights standards are not met
  - where they fail to do so, aggrieved rights-holders are entitled to institute proceedings for appropriate redress before a competent court or other adjudicator in accordance with the rules and procedures provided by law.
- Human rights defenders, organizations, civil society, media and individuals have important roles in holding governments accountable for their obligation to uphold human rights.



RULE OF LAW

# 1.6 WHO ARE RIGHTS HOLDERS AND DUTY BEARERS?



## RIGHTS HOLDERS

- We, as human beings, are the holders of rights and to hold the duty bearers accountable but we also have the responsibility to respect the rights of others.<sup>6</sup>
- As human beings we are entitled to rights regardless of sex, religion, ethnicity, political, or other opinion, national or social origin or other status.
- Individuals and collectives rights-holders



## DUTY BEARERS

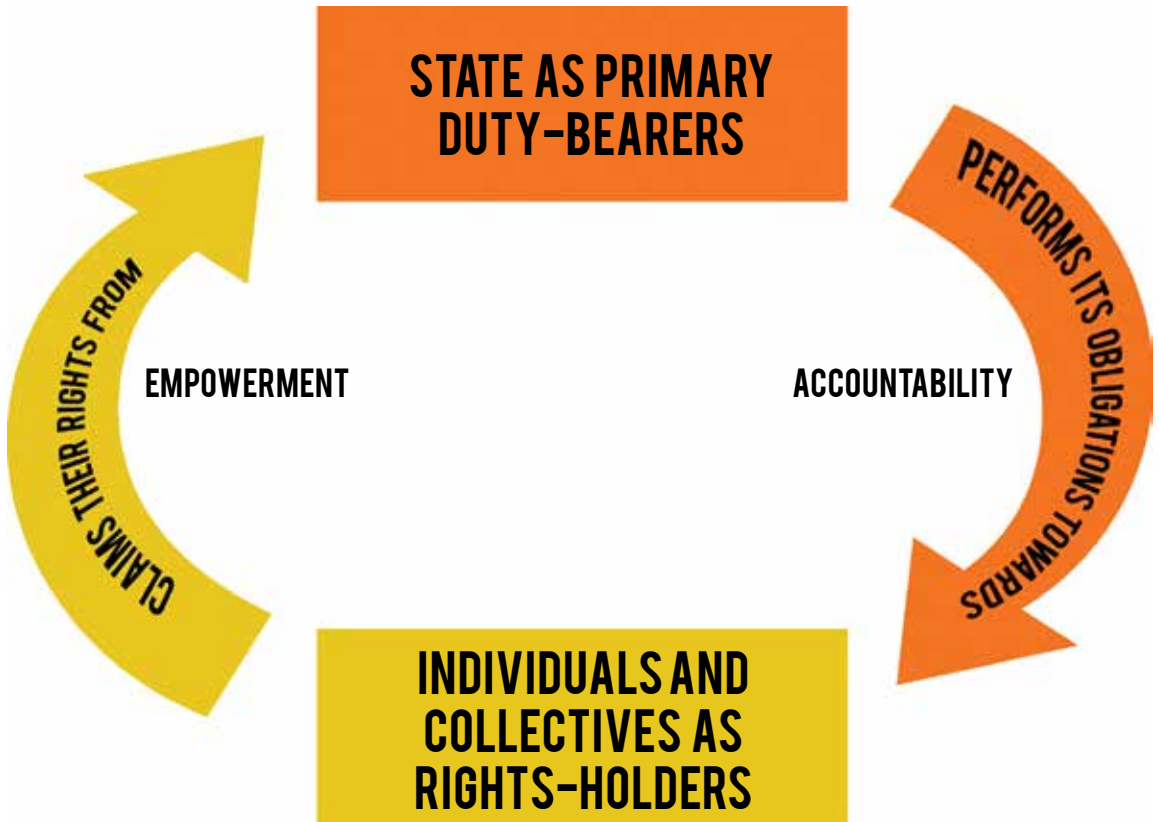
- Those who have the obligation to respect, protect and fulfil the rights of the rights holder.<sup>7</sup>
- The State remains the primary duty bearer and cannot abrogate its duty to others. It thereby needs to set in place and enforce an appropriate regulatory environment through clear policies, laws and guidelines for private sector activities and responsibilities.<sup>8</sup>

<sup>6</sup> Jacob Kirkemann Boesen and Tomas Martin, Applying a Rights Based Approach: An Inspirational Guide for Civil Society, <http://www.humanrights.dk/files/pdf/Publikationer/applying%20a%20rights%20based%20approach.pdf>, June 22, 2011, pg. 11.

<sup>7</sup> Ibid. pg. 11.

<sup>8</sup> Ibid. p.4.

# THE RECIPROCAL RELATIONSHIP BETWEEN RIGHTS HOLDERS AND DUTY BEARERS



<sup>4</sup> Ibid. pg 6-7.

# 1.7 WHAT ARE THE OBLIGATIONS OF THE STATE?

## 1. OBLIGATION TO RESPECT

Requires the state, and all its organs and agents, to abstain from doing anything that violates the integrity of the individual or group, or infringes on their freedom:

**Under international law, the State's obligation to respect indigenous peoples rights include the following:<sup>9</sup>**

- Effectively recognise indigenous peoples' right to participate in all matters concerning them
- Recognise and acknowledge indigenous land rights in national legislation and demarcate them
- Regularly examine human rights situations where indigenous land rights are at stake
- Effectively monitor laws that protect the human rights of indigenous peoples
- Implement an effective monitoring system to ensure human rights policies relating to indigenous land rights are being implemented
- Abstain from interfering with the indigenous land tenure system, but instead recognise it as equal to the state system based on the right to property
- Prevent and investigate violations, bring to justice and punish perpetrators, and provide reparations for harm and injuries caused.

### **Examples of violations:**

- Banning the slaughter of cows (in violation of the obligation to respect the right to food and to respect a group's freedom of religion or belief)
- Extra judicial killing of an indigenous leader fighting against a plantation company (in violation of the obligation to respect an individual's right to life)
- Closing schools established by indigenous communities (in violation of the obligation to respect the right of indigenous children to education)

19 <sup>9</sup> Cernic, Jernej Letnar. "State Obligations Concerning Indigenous Peoples' Rights to Their Ancestral Lands: Lex Imperfecta?" American University International Law Review 28 no. 4 (2013): 1129-1171. pp.1151-1154.



# WHAT ARE THE OBLIGATIONS OF THE STATE?

## 2. OBLIGATION TO PROTECT

Requires the State and its agents to take measures necessary to prevent others from violating the rights of an individual or group, including the prevention or infringement of the enjoyment of their freedom; “take action to prevent and act on human right violations”

*The State’s obligation to protect indigenous peoples rights to their ancestral lands “includes protecting the individual and collective enjoyment of the indigenous land and employing its resources to protect the right to land of individuals as well as indigenous communities”<sup>10</sup>.*

**Under international law, the State’s obligation to protect includes:** <sup>11</sup>

- adoption of protective measures to secure the observance of indigenous land rights, e.g, legal and policy reform, institutional actions, reparations
  - adoption of measures to ensure that development projects do not have adverse impacts on the survival and development of affected indigenous peoples
  - adoption of measures that will ensure that benefits from development projects in indigenous territories accrue to them
  - observance of due diligence to prevent the violation of indigenous land rights or to use the means at its disposal to respond to it, e.g., carrying out a serious investigation of violations committed, identify those responsible, and impose appropriate punishment, and ensure that the victim gets adequate compensation.
- **Examples of violations:**
- o failure to stop land grabbing of indigenous lands by settlers
  - o failure to prosecute rapists

<sup>10</sup> Ibid.

<sup>11</sup> Ibid., pp. 1154-1157.

# WHAT ARE THE OBLIGATIONS OF THE STATE?

## 3. OBLIGATION TO FULFIL

Requires the State to take measures necessary to ensure for each person and/or collectives within its jurisdiction opportunities to obtain satisfaction of those needs which have been recognised in the human rights instruments and cannot be secured by personal efforts.<sup>12</sup> “take action to ensure enjoyment of human rights”

The State’s responsibility to protect include the following in relation to indigenous land rights:

*“... the obligation to fulfill ...requires the state to take measures to ensure the availability, accessibility, and affordability of indigenous land”<sup>13</sup>.*

As a member of the UN that formulated these international human rights laws, a Member-State has obligations and duties to fulfil once they ratify or accede to a treaty, such as:

- translating its international human rights obligations into domestic law
- aligning all its domestic laws to be compatible with the provisions of these laws and in line with international human rights standards
- submitting periodic reports to the TMBs on the performance of their obligations, including their actions on recommendations made under the Universal Periodic Review (UPR).

Civil society organisations and indigenous peoples can submit their reports to TMBs and the UPR on how State Parties performed their obligations under international law.

### • **Examples of violations:**

- o failure to provide primary health care services
- o failure to provide timely disaster relief despite documented capacity to do so

<sup>12</sup> Jacob and Matin, *Ibid.* pg 6-7.

<sup>13</sup> Cernic, p. 1157.

# 1.8 WHO COMMITS HUMAN RIGHTS VIOLATIONS AND WHEN DOES IT OCCUR?

## HUMAN RIGHTS VIOLATIONS

- acts of person(s) representing the State, such as a police officer or a civil servants and non-State actors, like corporations, rebel and paramilitary groups, in violation of the obligation of the State to respect, protect and fulfill the rights of its constituents.

Violations are **committed by States** either by act of **commission** or **omission**.



# WHO COMMITS HUMAN RIGHTS VIOLATIONS AND WHEN DOES IT OCCUR?

## ACTS OF COMMISSION

- **direct acts of the State** or other entities that the State has insufficiently failed to regulate

## ACTS OF OMISSION

- **failure of the State to act**, or to take necessary measures when it has legal obligation to do so. This includes the lack of laws, policies and programmes for the respect, protection and fulfilment of human rights based on the international obligations that every state has ratified and adopted.

**In most cases the violation of indigenous peoples' rights are acts of omission and commission**

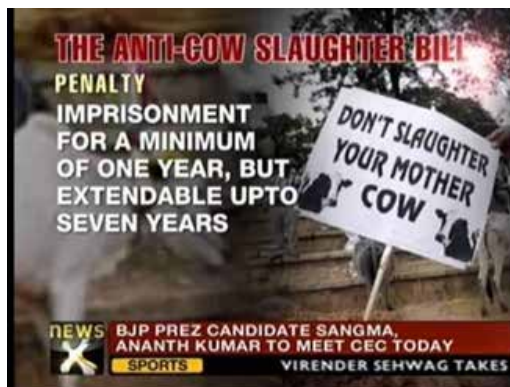
# WHO COMMITS HUMAN RIGHTS VIOLATIONS AND WHEN DOES IT OCCUR?

## ACTS OF COMMISSION

### CASE 1

**Nepal:** The State has been arresting members of indigenous communities who have butchered cows for ritual and livelihood purposes on the pretext that it is against the Hindu law venerating cows. This is a failure of its obligation to refrain from violating the rights of indigenous communities on various grounds. Under Article 1 of UNDRIP and Article 3 of ILO Convention 169 [ratified by Nepal], indigenous peoples are due the full measure of human rights and fundamental rights promised to all peoples under international human rights law - including the rights to freedom of religion, equality before the law and the rights to cultural expression as protected respectively in Articles 18, 26 and 27 of the ICCPR. It has also failed in its obligation to respect the rights of Nepal's indigenous peoples "to practice and revitalise their cultural traditions and customs" (Art. 11, UNDRIP).

Further, this prohibition is a violation of the secular character of the State. The preamble of the 2012 Interim Constitution, which, in the wake of the failure to promulgate a new constitution, remains in force in the country, reads: "the State is to be secular, no longer a Hindu kingdom." Article 4 of the Interim Constitution states in part 1: "Nepal is an independent, indivisible, sovereign, secular, inclusive and fully democratic State." A law such as the Civil Code's prohibition on cow slaughter represents a clear violation of this domestic commitment to secularity.



# WHEN DOES A COLLECTIVE RIGHTS VIOLATION OCCUR?

## CASE 2

**Cambodia:** The State has been granting economic and social land concessions to corporations and outsiders over indigenous territories without the free, prior and informed consent of the indigenous peoples' owners of the territories.

This is a violation of the 2001 Land Law which recognises traditional customary land rights for indigenous peoples. It is also a violation of the State's obligation under international law to respect the rights of the indigenous peoples to practice their traditional occupations, their culture, and their rights to food, housing, freedom of religion and other related rights. The concessions have destroyed homes, livelihood sources, spirit forests, and appropriated other individual and community assets.

This violation has a severe impact on the collective rights of the indigenous communities to “maintain and strengthen their distinct political, legal, economic, social and cultural institutions” (Art. 5, UNDRIP); “the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects” (Art. 12, UNDRIP); and has violated their rights to adequate housing and health by being forcibly removed from their lands and territories (Art. 10, UNDRIP).



*A rural family travels in a convoy in Cambodia. Controversial land concessions are causing human rights disputes in Cambodia, UN envoy Surya Subedi says. (Credit: Reuters)*

# WHEN DOES A COLLECTIVE RIGHTS VIOLATION OCCUR?

## ACTS OF OMISSION CASE 1

**Philippines:** the failure of the State to decisively solve the numerous cases of extrajudicial killings and enforced disappearances of human rights defenders, including IPHRDs, is a violation of its obligation to protect the right to life of victims, and other interrelated rights. The demise of these IPHRDs who are leaders defending their collective rights to their lands, territories and resources, impacts on the communities' economic, social, political and cultural life, and collective identity.



*Activists hold an indignation rally condemning the extrajudicial killings in Negros Occidental, Philippines, Nov. 10, 2010. (Photo by Owen S. Bayog / bulatlat.com)*

## CASE 2

**Ranchi, Jharkhand, India:** the failure of the State to protect 10 Oraon families from extremist religious groups by the refusal of the Ormanjhi Police Station Officer-in-Charge to accept their complaint against threats to drive them out of their homes because they converted to Christianity, and his refusal and that of the Senior Police Superintendent of Ranchi, to take action against the perpetrators.

This is a violation of the obligation to protect the right to freedom of religion of the Oraon Christians, apart from protecting their rights to life, residence, etc.

# WHEN DOES A COLLECTIVE RIGHTS VIOLATION OCCUR?

## ACTS OF COMMISSION AND OMISSION

- In some instances, both acts of omission and commission are done

### CASE 1

**Thailand:** The State has been violating its obligation to respect and protect the rights of indigenous peoples to their lands, territories and resources “ which they have traditionally owned, occupied or otherwise used or acquired” and to use, develop and control (Art. 26, UNDRIP), by arresting those who practice their traditional livelihood of shifting cultivation. At the same time, it has violated its obligation to protect indigenous peoples by not taking effective measures to recognise and protect the exercise of this right to maintain, control, protect and develop their traditional knowledge of shifting cultivation (Art. 31, UNDRIP) and their right to food.

**\*Non-state actors such as companies and private armed groups also commit human rights violations.**

Increasingly non-state actors, such as corporations, armed groups, international organisations, religious communities, or individuals, have come to exert power over other peoples and communities, impacting on the protection and enjoyment of their rights. Their acts are often similar to those committed by the State in violation of the obligation to respect the rights and freedoms of individuals or collectives. Ultimately, it is the State that is accused of human rights violation because of its failure to prevent or combat these acts. It is already accepted in international law that human rights are not just a business concern, but that both governments and companies have human rights responsibilities. The States have their obligations but corporations have the responsibility to respect human rights. This means that they must act with due diligence, that is, to identify, prevent and mitigate any human rights risks, to avoid violating the rights of others, e.g., indigenous communities rights to their lands, and to address adverse impacts that occur due to their operations wherever they are.



# WHEN DOES A COLLECTIVE RIGHTS VIOLATION OCCUR?

## Examples:

- The States' duty and obligation to protect human rights is being called into question when gross human rights violations occur due to massive land grabbing by corporations, use of military/paramilitary forces to secure corporate operations, forced relocation due to infrastructure-building, execution of civilians by armed groups, and other such cases.
- The States obligation to protect includes the responsibility to protect from abuses by third parties, for instance, corporations. States violate human rights when they fail to take effective measures such as regulatory policies to prevent, investigate, punish and redress non-state actors to protect victims. Measures include enforcing guidelines and policies and “periodically ... assess(ing) the adequacy of such laws and its proper implementation; and to address any gaps”<sup>14</sup>.

## CORPORATE ACCOUNTABILITY

Corporations, on the other hand, have the RESPONSIBILITY TO RESPECT human rights wherever they are, in all stages of their operations. This responsibility “is a global standard of expected conduct for all business enterprises wherever they operate. It exists independently of States' abilities and/or willingness to fulfil their own human rights obligations, and does not diminish those obligations. And it exists over and above compliance with national laws and regulations protecting human rights”<sup>15</sup>.

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<sup>14</sup> UN Guiding Principles on Business and Human Rights, Guiding Principle 3.

<sup>15</sup> Ibid., Guiding Principles 11, Commentary.

# WHEN DOES A COLLECTIVE RIGHTS VIOLATION OCCUR?

## CASE 1

**In North Bengal Bangladesh:** a prominent indigenous woman leader who had been leading a movement against land grabbing was gang-raped by a group of land grabbers. Earlier, this indigenous woman was able to reclaim 10 acres of land belonging to her husband from the land grabbers after organizing a series of successful campaigns against the land grabbers. In this case, the state is culpable of human rights violations by not taking clear action to prosecute the land grabbers (as rapists and land grabbers) as an act of omission of its obligation to protect. Further, in the context of the indigenous peoples in Bangladesh, the government has been pursuing transmigration programmes of Bengali settlers in the territories of indigenous peoples without the free, prior informed consent of the indigenous peoples. This is a clear violation of the right to protect since there is the CHT Accord that provides for the resolution of cases related to lands of indigenous peoples. Further, the state of Bangladesh is violating its obligation in relation to respecting and protecting the rights of women based on its obligation under the CEDAW due to its inaction on this rape case and the numerous cases of sexual violence against indigenous women.

## CASE 2

By the States' inaction, they are committing human rights violations to respect, protect and fulfil if they do not protect the rights of indigenous communities against evictions/displacements of indigenous communities by concessionaires, private investors; harassment and assault by private guards of a company against protesters, and health hazards caused by toxic chemicals from the mining and plantation operations.



*Children suffering from various skin diseases because of the contaminated river in Palawan, Philippines.  
(Photo by IDPIP-ST)*

# 1.9 WHAT ARE COLLECTIVE RIGHTS?

## COLLECTIVE RIGHTS

**Right of groups to protect their interests and identities; rights afforded to indigenous peoples as a collective; rights enjoyed collectively by indigenous peoples.**

**“Indigenous peoples’ rights are, by definition, collective rights. In other words, they are vested in indigenous individuals that organize themselves as peoples”<sup>16</sup>.**

The UNDRIP assures this right in Article 1:

*Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights 4 and international human rights law.*

Collective rights of indigenous peoples are inherent rights that they have practiced and exercised through their continued use and occupation of their territories, and the practice of their self-governance.<sup>17</sup> These rights include the rights to self-determination, land, territories and resources, culture and self-development.



<sup>16</sup> <http://www.ohchr.org/Documents/Publications/fs9Rev.2.pdf>, p.7.

<sup>17</sup> <http://indigenousfoundations.arts.ubc.ca/home/land-rights/aboriginal-rights.html?type=123>

# IMPORTANCE OF COLLECTIVE RIGHTS FOR INDIGENOUS PEOPLES

For indigenous peoples, their identity as individuals are inextricably linked to their ethnic affiliation such as clan, tribe or distinct people to which they belong, and this identity and culture as a group, is inseparable from their territory. Each indigenous person is part and parcel of her/his people.

This distinct relationship and use of the traditional land and territory is fundamental to their collective identity, physical and cultural survival as peoples and their capacity to transmit this to future generations. Thus, indigenous peoples' right to life with dignity is their right to their lands, territories and resources and cultural integrity.



# DOCUMENTATION

## 2.1 WHAT IS HUMAN RIGHTS DOCUMENTATION?



Documentation is the process of systematically recording, reporting and safekeeping of the results of an investigation or fact-finding in relation to an event or number of events. Fact-finding and documentation are organically related and should not be viewed as separate processes.

- Documentation consists of several activities related to events/incidents considered as human rights violation. These activities include the following:
  - a. determining what information is needed and establishing means for acquiring it;*
  - b. recording the gathered information and storing them as retrievable documents, and/or collecting already-existing documents related to the incident;*
  - c. analyzing the data and organizing the documents to make them more accessible; and*
  - d. actually providing the documents to users who need the information.*<sup>18</sup>
- Includes both violations of human rights as individuals and as collective groups/communities.
- Involves keeping information about events for future use. In this case, the information covering several events is used to analyse the human rights situation within a certain period of time.
- Documenting violations of collective rights often involves establishing the profile of the affected indigenous community/communities. A basic understanding of the legal framework relating to indigenous peoples rights is important in order to link human rights violations to national laws as well as to international human rights instruments.

*This Handbook focuses on violations of their collective rights.*

## PRINCIPLES OF HUMAN RIGHTS DOCUMENTATION

- Impartiality and accuracy
- Use of diverse sources of Information
- Application of international human rights standards
- Respect for all parties involved

## WHY IS HUMAN RIGHTS DOCUMENTATION IMPORTANT?

- Events are time-limited and there are events that have happened which has connection to recent events. If there is no documentation of events, the information on these will be gone forever.



- Evidence gathered can be used for education and raise public awareness.
  - ◆ *Publication (urgent alerts, petitions, reports) and campaigns on human rights violations are also meant to raise awareness among the public to protest against violations, but also to prevent further violations. It can also be used to attract international attention with the aim of stopping violations.*

- Evidence gathered can be used to monitor how governments are complying with their obligations under international and national laws and hold them accountable for their failures, and to examine domestic laws and international human rights treaties in terms of improving or setting standards for human rights.
  - ◆ *Research on human rights violations is also undertaken with the aim of changing laws and practices of a country to ensure that these are consistent with international standards and of putting pressure on governments to comply with their treaty obligations. Such an objective cannot be achieved without accurate data, unbiased assumptions and linking these to international standards.*
  - ◆ *Accurate and unbiased information from fact-finding can be more effective in efforts to influence or change the behavior, attitudes and thinking regarding human rights of officials, such as policy-makers, judges, local chiefs, military, security and police officials, etc. and convincing those in power to respect human rights.*
- Documented evidence must be presented to be able to seek redress or solutions to violations and improve the enjoyment of individual and collective rights by indigenous peoples.
  - ◆ *A common reason for finding the facts about human rights violations is to obtain redress for the victims or to seek justice regarding perpetrators through legal action. Monitoring and documenting human rights violations ultimately seek to ensure that human rights violations do not go unnoticed and unpunished. In addition, the facts are needed to seek medical and other relief and rehabilitation for the victims.*
- Providing immediate assistance
  - ◆ *In cases of arrest, detention, disappearance, torture and similar situations, the victims and their relatives may seek assistance from human rights organisations. Assistance can take the form of trying to establish the whereabouts of the victim in various police stations, military camps or other detention centres, and to ascertain the safety of the detainee, or in filing a petition for habeas corpus. Establishment and verification of the facts surrounding such violations are of vital importance to provide assistance to the victims.*





## 2.2 WHY IS HUMAN RIGHTS DOCUMENTATION IMPORTANT?

Most human rights documentation are focused on the violation of individual rights. In the case of indigenous peoples, it is important to document the violation of their collective rights, as well as their individual rights, as a means to gather evidence and demonstrate the continuing violation of indigenous people's collective rights that directly impact on their dignity and wellbeing as peoples.

### **CASE 1:**

The arrest of a Karen woman for practicing her traditional shifting cultivation in the forests of Chiang Mai, Thailand is related to the Karen peoples collective rights to practice their cultural traditions of which the shifting cultivation is an intrinsic part of their lifeways. This case thereby demonstrates both the violation of indigenous peoples rights to their land, territories and resources, and on their individual rights (freedom from arbitrary arrest). In particular, as indigenous peoples practice their rights over their land, territories and resources, their individual rights are also violated when states consider their traditional practice as crimes. The whole practice of shifting cultivation has been criminalized thus leads not only to one or two arrests, but mass arrests. The facts and information that have to be gathered shall include the information on indigenous peoples' collective rights which is related to the case of violations to individual rights.

# WHY IS HUMAN RIGHTS DOCUMENTATION IMPORTANT?



## CASE 2:

The killing of a Lumad leader in Mindanao in the Philippines by suspected military agents because he refused a mining company to operate in his peoples' territory, is not only a violation of the right to life of the leader, but also linked to the violation of the collective right of his peoples' to their lands, territories and resources, the requirement for their Free Prior and Informed Consent and self-determination. It is also a violation of the right "to live in freedom, peace and security as distinct peoples".

He is not only a political leader but a traditional leader who possesses the knowledge and skills of traditional governance that he will have to pass on to future generations. These knowledge and skills are part of the identity of his people, which distinguishes them as indigenous peoples. Thus, his killing is also a violation of the right to self-determination/self-governance of indigenous peoples particularly in undermining the traditional institutions of indigenous peoples of which he, as a traditional leader, is the representation and exercise of this self-governance. It also adversely affects the social and cultural cohesion of his people as a result of his killing.

## 2.3 HOW DO WE ENSURE QUALITY DATA?



In order to have quality evidence, the data collected must have the following qualities:

### 1. Accurate and complete

- is precise; does not contain errors, rumours or unverified information; it answers the basic questions WHAT, WHO, WHERE, WHEN, WHY, and HOW.
  - \*At every stage of the incident, all these questions should be asked.
  - \*It is important to record these information in the fact sheet.

### 2. Credible

- the sources of information can be trusted and convincing
  - \*It is important to interview key informants or individuals who have first-hand experience on the incidence such as those who were directly affected or those who have witnessed the violation.
  - \*It is also advisable to do fact finding on the area of the incidence itself as long as it is safe.

### 3. Reliable

- consistent, trustworthy
  - \*The data is considered consistent if there are many individuals testifying on it.

### 4. Verifiable

- It is verifiable if there are other other pieces of evidence that support the information such as pictures, recordings, affidavits, signed statements and physical evidence.
  - \* data gathered can be cross-checked with other sources, documents, or material evidence

# FACTORS THAT HELP IMPROVE THE QUALITY OF INFORMATION

## 1. SOURCES OF INFORMATION

The further the source from the victim, the bigger the chance that the information is not reliable. The more diverse the sources, the better the corroboration.

## 2. DETAILS

Is the information provided detailed enough? Are there explanations or gaps in the information provided? The more detail in information provided, the better to understand.

## 3. CONSISTENCY

Is the information gathered consistent? Is the account of incident not changing? Are there contradictions/differences in the account of incidents from your sources?

## 4. ELEMENTS THAT SUPPORT OR CONTRADICT AN ALLEGATION

Are there corroboratory statements that support the account of the victim or witness?

Are there documents or evidences that support allegation from the victims and/or witnesses? The more documents and evidence gathered, the stronger the allegation or complaint.

## 5. RELATION OF INCIDENT TO PREVIOUS EVENTS


Are there similar incidents in the area where the incident happened?

If there are similar incidents in the past in the given area, there is a bigger the chance or presumption that the information gathered has truth. It also helps in establishing a pattern.

## 6. TIME

When was the information gathered?

The more recent the information, the better and easier to investigate.



If a documenter has questions or is confused with the information at hand, the documenter should find other sources of information.

Get to know the source of information and familiarize yourself with the context of the allegation

### Tips to Maximize Information Gathered

- Maintain contact with the source of information in case you need to gather more information, verify information and details in the future.
- Get the name, address and contact number of the victim and informants.
- Always cross-check information shared.
- Avoid basing allegations on hearsay or even just newspapers.

## 2.4 BUILDING A COMMUNITY PROFILE

- Knowing the community will greatly assist effective engagement
- a. Develop a basic snapshot of the community including history, culture, language, current events, major human rights challenges and impacts of government laws and policies in the community.
- b. Develop an understanding of the politics of the community.
- c. Identify key community organizations, leaders and individuals – regular contact with them will provide invaluable assistance and knowledge for working with the community.<sup>19</sup>

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<sup>19</sup> The United Nations Declaration on the Rights of Indigenous Peoples: A Manual for National Human Rights Institutions, Asia Pacific Forum of National Human Rights Institutions and the Office of the United Nations High Commissioner for Human Rights August 2013 <http://www.ohchr.org/Documents/Issues/IPeoples/UNDRIPManualForNHRIs.pdf>

## TEMPLATE FOR COMMUNITY PROFILE:<sup>20</sup>

Start by developing an initial checklist of key issues and questions of interest. Below is a list of questions as starting point. You may include other questions.

### Legal status of the community:

- Is the community recognised under the law?
- What is the area of community land that is legally recognised, secured, documented and protected?
- Are there peoples identifying themselves as indigenous? What local term do they use to identify themselves?
- Are they recognised as indigenous peoples in law and/or the Constitution?

### Community structure:

- How many people and households live in the community? What is the gender composition and age structure of the community? What are the different social, economic, ethnic, and cultural groups? How are those groups defined in terms of ethnicity?
- Where do different social, economic, ethnic, and cultural groups live?

### Indigenous/Local institutions:

- What are the existing customary institutions in the community? Are they responsible for planning development in the community? What kinds of issues do they handle, e.g., land/resources, education, regulation of agricultural calendar, petty crimes, determination of membership in the community, etc.? Do these institutions consult with their constituency before approval of measures/projects that affect the community?
- What state structures are in the community? How do these institutions interface with state structures?
- How are these institutions maintained, e.g., do they get contributions from the community, funds from government?
- Do they practice their customary laws, i.e., are decisions respected and enforced? What matters are covered by customary laws, e.g., land use allocation/use/control, inheritance, roles of women, etc.?
- Had there been incidences of appropriation/misappropriation of traditional knowledge and/or other forms of cultural expression? How were these addressed?
- What are the formal organizations and associations? What are the rules, regulations, and customs? Who is affected by them and how?
- What is the level of knowledge of indigenous leaders on national laws affecting indigenous peoples? International laws?

<sup>20</sup> Go to Annex E for a more complete guide on community assessment based on the Indigenous Navigator.

### Resources:

- What legal documents recognise the community's collective rights to their lands, territory or resources? Is the community territory delineated? Are there maps available?
- Had there been cases of conflicting land claims? By who? How were these resolved?
- What principal natural resources are available in or to the community? Who uses them and how? Where are these resources located?
- What communal resources are available? Who has access to these communal resources?
- How are these managed? What percentage of the community land is allocated for communal livelihood use? Are these communal resources legally recognised as owned by the community?
- What are the rituals related to resources management and when do these happen? Who performs these?
- What are the community conserved areas? Government conserved areas or parks?
- Had these government-designated areas been subject to the free prior and informed consent of the community?
- What had been the incidences of land grabbing, land use or resource extraction without the community's free prior and informed consent?
- What had been the incidences of displacement or relocation without the affected peoples' free prior and informed consent?
- What percentage of the community has access to information by print media? Radio? TV? Social media? Do they have a community radio? TV station? Internet access? Newspaper or print media?

### Livelihoods:

- What traditional livelihoods do the people have? What other livelihoods do they do? What is most common source of cash income for families? What is the most common source of food for families?
- Who is involved in these livelihood activities (differentiated by gender, social and economic group)? How many people and households depend on these activities? When and where do these activities take place?
- What are the land tenure systems practised in the community? Do they have legal ownership to their residential areas, farms, communal forests, etc.? What percentage of men and women have secure rights to land? How are the lands and resources allocated in the community?
- What are the challenges people face related to their livelihoods?



- What government programs are available in the community to support food production, cash crop production, marketing?
- What programs are available in the community for drought, crop failure, and disaster relief?
- What percentage of the population is earning USD1.25 per day?
- What incidences of food shortages happened in the last 5 years?

### **Community infrastructure:**

- What services are available in the community (transport, power/water supply, markets, agricultural extension, health, education, and so on)? Who has access to these services and who provides them? If there are no such services in the community, how do the people access health services? Education? Markets?

#### *Education*

- What is the proportion of primary-school age children actually attending school?
- What is the percentage of boys and girls that complete primary? Is bilingual education taught in the grade school?
- What is the proportion of high-school age attending high school? What is percentage of boys and girls who complete high school?

#### *Health*

- Are the traditional healers? What is the proportion of the population who regularly use the services of these healers? Who use traditional medicinal plans and healing practices?
- Is there a government health facility? What are the personnel and how many? What the services offered and how efficient are these?
- What is the maternal mortality rate?
- What is the neonatal, infant and under-five mortality rates?
- What is the adolescent pregnancy rate?
- What are the most common illnesses in the community?

#### *Water*

- What types of potable water source are available in the community, e.g., spring, deep well?
- What percentage of the population has access to safe drinking water?

### **Fundamental rights and freedoms**

- What had been incidents of deprivation of life, threats, torture, physical injury, arrests, disappearance, trafficking, sexual violence, child abuse, of indigenous individuals?
- What had been incidents of suppression of peaceful assembly?
- What are the threats perceived by the community to their fundamental rights and freedoms?
- What are the existing harmful traditional practices being practiced? How prevalent are these practices? What responses has the community done to address these practices?
- What had been the remedies/recourse of victims of human rights violations?
- What trainings had the community had on human rights? Approximate percentage of community members who have knowledge of their individual rights? Of their collective rights as indigenous peoples?
- What is the percentage of community members with recognised nationality and citizenship?

See Annex A for Information on collective rights violation due to state/corporate projects

## 2.5 BASIC QUESTIONS THAT NEED ANSWERS FOR A PARTICULAR INCIDENT

(see Factsheet Template in Step 3 for details)

- 2.1 What right/s have been violated [e.g., land rights, freedom of assembly, freedom from arbitrary arrest, right to land]? What national laws have been violated? What international laws have been violated?
- 2.2 Who is/are the victim/s?
- 2.3 What was the violation committed?
- 2.4 Where and when did the incident happen?
- 2.5 Who were affected by this violation? Does it involve individuals or a community? Women? Youth? Elderly?
- 2.6 Who committed the violation? Was the violation was committed by an individual? A company? Military? Paramilitary group? Local authorities? State authorities? (get the identities as much as possible—name, position, unit, and their supervisor/commander)
- 2.7 Can these violators be identified when victims/witnesses see them again?
- 2.8 What other things were happening in the community during the time of the incident?
- 2.9 How did the community/groups respond to the incident?
- 2.10 How did the government respond to the incident? To the actions of the community/group?
- 2.11 To whom was the violation reported? Specify the name of person/agency/unit and when—exact date and time. Who reported the incident? Full name and contact details
- 2.12 What were the remedies/mechanism available for the victims to complain about the violation? Are they aware of any available remedies to pursue a complaint or case?
- 2.13 If relevant, was the incident reported to the police or other law enforcement authorities or was help sought from any other institutions (state or non-governmental)?

## 2.6 ADDITIONAL SAMPLE QUESTIONS (FOR SPECIFIC CASES)

### Economic Rights

- Are individuals/groups able to practice their traditional livelihoods?
- What kind of livelihood was affected? How much was lost/destroyed/affected?
- How many families lost their main livelihood completely? How many lost half of their livelihood?
- Are women's livelihoods more affected than those of men?
- What alternative ways are women/people doing for livelihood?  
What kind of traditional crops have been lost?

### Social Rights

- Are families being broken apart against their will?
- Are children being forced to work in harmful ways?
- Are people's homes being moved or destroyed against their will?
- Has the community been divided? If so, what are the opinions/ideas that make the community divided?
- Is the community leadership still strong? If no, why?
- What opinion do the villagers have in terms of the transmission of culture due to the incident?
- How do women feel about how their role in the community has been affected by the incident?
- List the actions and the results of such actions taken by the community to look for solutions to the incident. How have the traditional support systems been used to address the incident?
- Are there schools functioning in the site?
- What had been the effect of the incident on the health of men, women, children, and babies?

- Is there a government health system that is available and accessible to the community? Was it able to respond to the incident?
- Was the government health system able to respond to the incident?
- Were the traditional healers able to provide their service to victims?
- What other remedies were done to meet these health needs?
- What do the people think they lost/gained in terms of health due to the incident?

### Cultural Rights and Right to Self-determination

- Are people (individuals or groups) prevented from expressing their culture (e.g. values, beliefs, languages, arts and sciences, traditions, institutions, way of life)?
- Are communities/practitioners still able to access your sacred sites, burial grounds, spirit forests, temples, religious sites, graveyards?
- Are there damages done on the above sites?
- Are communities/practitioners still able to perform their traditional ceremonies, rituals and other spiritual/cultural activities?
- How are the traditional institutions impacted by the incident, and are these respected or undermined in their collective decision making and roles?
- Have the customary laws been respected/violated? How?
- Have the traditional leaders been respected in the performance of their duties and responsibilities? How have they been impacted?

### Children's Rights

- Are children able to go to school without limitations?
- Are there children who had stopped schooling for a month? If so, how many boys? How many girls?
- Are there children who are afraid to go to school?
- Has a child been taken away from his or her family?
- Has a child been made to work in a way that is dangerous or harmful to him or her, e.g., forced to carry supplies for the military?<sup>21</sup>

<sup>21</sup> Burma Issues. Human Rights Information Manual: Tools for Grassroots Action; 1996

## Women's Rights

- Are there women who were victims? How many, what ages, what kind of suffering they had? How are they coping with their situation?
- Are there mothers with babies who had been affected? How many? How are they coping with their situation?
- Do the women feel secure to go about their daily activities? Going out of the village?
- What are the specific impacts or implications to them as women?
- Are the provisions in the evacuation sites to address women's needs?

Questionnaire on UNDRIP domains in Annex G: Indigenous Navigator

**Note:** These are just sample guide questions; you can modify or add to these. You can also choose what is most relevant for a particular case.

## 2.7 SECURITY CONSIDERATIONS FOR VICTIMS, WITNESSES AND DOCUMENTERS<sup>22</sup>

It is important to be aware that the main risk for defenders is that threats often materialise into actual attacks. Aggressors have the will, the means and the impunity to put threats into action. The best tool for protecting defenders is therefore political action to address the one, big, remaining issue: the need for governments and civil society to put pressure on and act against those who day after day threaten, harass and kill defenders.

Protection International

While there are serious security issues to consider, there are also ways in which to address these by taking precautionary measures. Before proceeding with fact-finding, it is important to address security considerations:

1. Risk assessment. Thorough risk assessment must be made on the risks to victims, witnesses and documenters during the fact-finding and advocacy. Get to know the local context: political environment, presence of non-state armed actors, commitment of national authorities especially security forces, capacity of stakeholders to respond to emergency/crisis situation, and other factors. All security considerations must be studied, like possibility of reprisal, the physical security of the place of interview, the degree of security needed for the informant and the information shared. The life, safety, freedom and well-being victims, witnesses, other cooperating parties, and the documenter, must not be jeopardised. Good judgement, caution and sensitivity must be exercised by documenters in all their interactions on field.
2. Respect for confidentiality. All informants and persons cooperating with the documenter must be informed of their identity and any information they share shall be held in confidence unless they specifically agree otherwise. They must be free to decide whether to give information or not, and what information can be made public.

<sup>22</sup> <http://www.ohchr.org/Documents/Publications/Chapter14-56pp.pdf>; see additional tools at <http://protectioninternational.org/publication/new-protection-manual-for-human-rights-defenders-3rd-edition/>

3. Raise no expectations. Documenters should never make promises they cannot keep which will put cooperating parties at risk. Cooperating parties must be informed beforehand what realistically the presence of the documenter/s can guarantee with respect to their protection.
4. Take advice from locals. Victims, witnesses and other cooperating persons would be in the best position to advice on security measures to take. However, it is possible these parties may not be able to make such a sound judgement because they are overconfident, are in denial or underestimate a particular situation, or simply because they lack information. It is important in any case that the documenter/s engage these parties in assessing the security situation and measure that need to be taken to ensure everyone's safety.
  - 4.1 At any instance during the interaction with victims that they feel they are at risk, immediately move them to a safer place.
  - 4.2 Create buddy system among the documenters. Create a back-up at all times and information systems with regular call-in times with organisations where the security situation is shared.
  - 4.3 Ensure that important contact details of persons to be contacted in times of emergency are available, e.g., lawyers, police, allies within the vicinity, family, etc.
5. No phone call should be assumed secure. Mobile phones are location trackers if interested parties have enough technological capacity. Location can easily be tracked as long as the phone is switched on.
  - Do not kept sensitive names and numbers in the phone memory
  - For emergencies, where possible you might consider getting two unidentified telephone numbers (pay and go phone cards). They can only be used to call each other and never to call or be called by a "known" number (as known number would be on the black list and betray the new number). Don't use them from places that can easily be connected to you. Remember not to leave them on your phone when not needed as they can be tracked down. Change them both regularly. Use the same discretion during conversation as you would from your usual number.<sup>23</sup>
6. Create a support network within and outside of the community that can act on emergency situations while the fact-finding and/or advocacy is on-going and who can be relied on to immediately respond to requests for assistance by the victims/witnesses.
7. Study the geographic, physical and technical features of the area. Are there threats along the way to the site? Are there hiding places and how accessible are these and to whom? Can one easily leave the area in case there is an emergency? How is the transportation and communication situation? Can these be easily cut off?

These are matters are of serious consideration as precautionary steps in case of eventual security risk.



## 2.8 WHAT ARE THE KEY STEPS IN HUMAN RIGHTS DOCUMENTATION

### STEP 1: FACT-FINDING

Fact-finding is the process of identifying the violations in one event, and establishing the facts relevant to these violations as accurately and completely as possible, and/or to verify facts. Fact-finding and investigation are terms that are used interchangeably.<sup>24</sup>

Documentation of an experience or a case of violation is usually captured through fact-finding techniques.

#### Common techniques of fact-finding:

- Investigation for a limited period
- Investigation for a longer period
- Low profile fact-finding mission (FFM)
- High level delegation/FFM
- International delegation/FFM
- Non-governmental tribunals
- Commissions of inquiry
- Research, surveys [questionnaire, document review, observation]

#### The usual forms of fact-finding are:<sup>25</sup>

- a. interviewing – this can be individual or group interviews
- b. ocular inspection – provides the documentor will visual and material proofs that can be used to corroborate or contradict claims by some informants; photographs and video are usually used to records these, and care must be taken to note all of these in the documentor's report
- c. collection and review of relevant documents , such as affidavits, medical records, company profiles, related cases
- d. photo documentation
- e. use of other recording instruments such as those for audio and video recording.

<sup>24</sup> [http://www.huridocs.org/wp-content/uploads/2010/07/HURIDOCES\\_ESF\\_English1.pdf](http://www.huridocs.org/wp-content/uploads/2010/07/HURIDOCES_ESF_English1.pdf), p.4

<sup>25</sup> Guzman, M and Verstappen, B. What is Documentation, Human Rights Monitoring and Documentation Series. HURIDOCES, 2003

## A. SOURCE OF INFORMATION

- Review available data/initial information to identify gaps and who may be possible sources of information
- Identify your key informants and secondary informants, and/or informants who can verify gathered data

It is important that the source of information is credible and have actual knowledge of the incident or parts of it. First-hand information is best and if the victims are able to provide this, so much the better. Other sources of information would be witnesses. Bear in mind that the farther away from the incidence a source is, the less reliable it is; the more diverse is the source of information, the better.

- Decide on how to how to collect the data
  - On-site or off-site?
    - On-site would be data-gathering on the actual location of the incident where crucial evidence may be retrieved
    - Off-site would be meeting with informants somewhere else, like in a nearby village, where they feel safe
  - High-profile or low-profile?
    - High-profile would have the authorities and media informed
    - Low-profile would require that the presence of the documenters does not attract attention as much as possible
  - One/few individuals or a large team
    - One or a few individuals would be appropriate for low-profile fact-finding
    - A large team or a delegation, which often includes prominent personalities and even foreign delegates, is called a fact-finding mission.
- Testimonies of victims and photographs are helpful tools to show evidence of a violation. This can be in the form of written statement/affidavit of victims and witnesses. These serve as strong evidence, especially for judicial procedures and for submission to the national human rights institutions.

## THE INTERVIEW

Interview is the most common form of gathering data. Since this involves victims and witnesses, it is important to be well-prepared for this activity.

Important matters to consider in interviewing & use of questionnaire

What to prepare before the interview

1. Check all materials/gadgets needed to support the interview: pen and paper, audio/video recorder, camera. Ensure all gadgets are working.



2. If there is time, study all information available about the case: the site of the incident, the victim/s, the alleged perpetrators, the history of the place, etc.
3. Draft some questions and try to memorise this to facilitate the interview
4. Prepare all identification documents, letters of introduction/endorsement, and other protocol documents.

If the fact-finding is composed of more than one person, clear tasking should be made so that at least one person can do the interviewing while others will do the recording of responses, taking photos/ video.

### Who can you interview?

- victims: individuals/groups
- eyewitnesses
- relatives
- friends
- community leaders
- neighbors
- religious leaders
- medical personnel
- lawyers
- journalists
- members of the police, security forces, army, armed opposition, groups



## \*Do's and Don'ts in Interviewing

### DO

Dress appropriately.

Always double check names, dates and essential information.

Introduce yourself, the organization where you work with and the purpose of the interview

Ask permission if the person's real name can be used or if there is a need to conceal it.

Choose a safe, secure and comfortable environment.

Look at the person on the eye while speaking and listen intently to his or her explanations

Ask if you can record the conversation.

Learn beforehand what are taboos, especially in dealing with gender matters, acceptable norms of conduct, behaviour, body language, time management, generational considerations, and the like.

Tell them they can stop at any time and they may not answer if they don't want to.

Explain where the information will be used.



# DON'T

Probe if you notice they become emotional

Put your opinions in questions

Make promises you cannot keep.

Ask difficult questions at the beginning of the interview.

Increase feelings of distress especially if the interviewee looks traumatized or emotional

Ask leading questions that will encourage specific answers

## TIPS IN INTERVIEWING

1. Before the interview, get to know the background of the issues you are going to inquire about such as the history of human rights abuses in a village or the general nature of a person's complaint.
2. If possible, speak in their own dialect when interviewing. If not, just use simple and direct language.
3. Prioritize the key informants when interviewing.  
Key informants: people who have first-hand experience on the issue such as those who were directly affected or those who have witnessed the violation.
4. Interview one person at a time; a group interview may cause interruptions and/or conflicting comments. However, in cases of mass violations like mass evacuation, it may be more helpful to conduct group interviews. Again, adapt to what is the acceptable norm.
5. You may not ask each question one by one, try to ask one question that will answer about 2 or more questions. Ask precise and direct questions and avoid going around the bush.
6. Make the interview conversational such as like asking the interviewee to tell a story about the incidence. Then probe additional questions for validation and additional information. . Check inconsistencies and variations in information being gathered while avoiding to confuse the person being interviewed.
7. Start with general statements at first before going through the main interview to establish rapport. To avoid gaps in details and information, be chronological in asking questions. Avoid jumping from one event to another.
8. Run over your notes before ending the interview, you might have missed some important information.
9. Ensure that you get documents (or borrow for copying) from the interviewee or ask where you can get a copy. If it is not going to be too much for the victims and witnesses, prepared affidavits or statements and let them sign.
10. Ask if the person has anything to add at the end of the interview.

## WHEN INTERVIEWING VICTIMS

- Be mindful that the victims (especially victims of torture and sexual abuse) may be distressed or traumatized. Try to avoid anything that could increase feelings of distress.
- Allow the victims to tell their own stories even if parts seem less relevant to you.
- Do not make an interview too long.
- Conduct the interview in a place where the victim feels comfortable. Don't create an atmosphere of interrogation.
- Tell the victim where they can get counselling, medical care or other help.
- You may get distressed yourself because of the terrible things the victims tell you. Organise a debriefing (for instance with a colleague) after the interview where you can tell your story.
- Be sensitive in non-verbal communications such as sudden silences, tone of voice, movements because these can mean that there is something the interviewee does not want to divulge, or sending you signs thru movements.

Seek immediate assistance for victims who are traumatised, those who are at risk, and those seeking specific assistance.

**Basic data needed to be produced:**

Date:

Location of the interview:

Interviewer:

Interpreter:

Others present:

**Personal data:**

1. Name (if possible) / or nickname:
2. Age:
3. Sex:
4. Residence:
5. Sexual orientation / gender identity:
6. Social identity (unemployed/worker/official/professional):
7. Ethnic identity:



## *B. PHOTO DOCUMENTATION*

### **Guidelines on photo/video documentation and handling of physical evidence<sup>26</sup>**

- Ask permission before taking any pictures. Conceal faces of individuals especially children and just focus on the part of the evidence.
- Record the time and date when the picture or video was taken, the place where it was taken, and the description of the object evidence and the name of who took the picture or video
- Label the place or object evidence in the photo or video.



- Take the photo or video of the object evidence exactly where it is found

<sup>26</sup> Indigenous Peoples Rights Monitor Documentation Manual. Unpublished

- Ensure that there is a witness to the picture- or video-taking of the object evidence



- Don't hold the object evidence without gloves to avoid corruption or contamination of the evidence

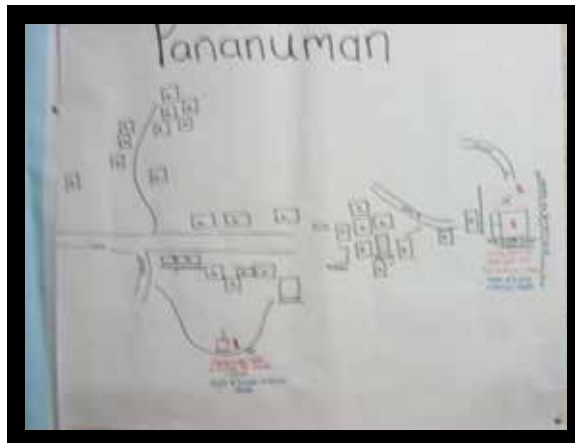


- Place the object evidence in a plastic bag and place a mark or label

- If the incident is about destruction of property, take a photo/video of the destroyed property with the owner



- Take photos/videos of a destructed community including the documentation team
- Make a sketch/map of the area or community



## Tips for photo documentation:

1. Ensure that all equipment are working with sufficient battery power to cover the expected duration of the fact-finding especially if there is no available recharging possibilities.
2. Ensure that there is sufficient lighting or proper exposure.
3. If possible, use high resolution configuration and have clear focus to ensure quality photos. Blurred or indiscernible photos cannot be used as evidence.
4. Make sure there are marks/signs that clearly identify where the photos were taken.



## C. OTHER SOURCES

- Material evidence : hospital, medical clinic, police reports
- Official response to the alleged violations (in most countries only senior officials at national level may have the authority to make a statement)
- Project, company and/or investment information is usually readily available on the Web especially in countries where the government does not make these accessible to the public. The internet can be a powerful tool for researching on these information. It is worthwhile to get information on the human right record of the company, its violations, its corporate social accountability policy, etc.
- Networking with other human rights organisation and other supportive institution (church, academe, etc.) is also helpful as these may have better access to information. Companies and international financial institutions operate in the same industry and thus information may be available elsewhere. The bottom line is to actively ask for help from your network and advocates.

*For matters related to international financial institutions, go to Annex B for helpful resources.*

*For specific network, see the following websites in Annex C for possible assistance.*

## STEP 2: ANALYSING THE FACTS AND DRAWING CONCLUSIONS

After the data have been gathered, the next step is to analyse the facts of the case in order to arrive at findings.

To summarize, organizing the information gathered is done in several stages, as follows:

**First**, it is done immediately after the investigation of an event, so as to produce documents like testimonies and report of findings.

**Secondly**, after the producing the above documents and the collection of related materials that serve as evidence, produce records in the factsheet.

**Thirdly**, after the collection of data on a sufficient number of events, a general report can be produced to show trends or a wider picture of the human rights situation through time, within a geographic area and/or on a certain theme.

These findings should include the identification of what human rights were violated and the impacts of these violations, and more importantly, to relate individual human rights violations to collective rights.

By analysing the problem, it is easier to see what the solution to the problem will be and where advocacy should be targeted.

To assist in the analysis, the Problem Tree Analysis may be helpful.

## A. PROBLEM TREE ANALYSIS

**Main purpose:** help in visualizing all elements of the problem.

- determine personal, societal, political, economic, cultural and environmental aspects.
- identify whether the aspects are:
  - a. causes or consequences
  - b. directly or indirectly related to the problem
  - c. major cause or a minor one

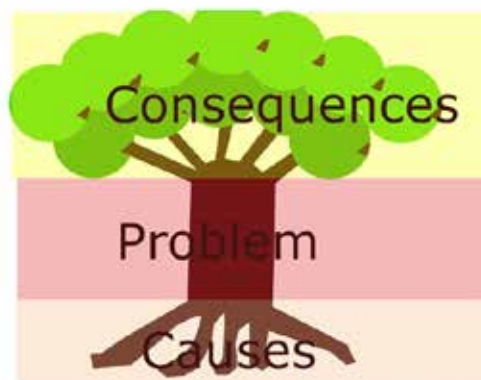
### How to do a Problem Tree Analysis

1. Draw a tree complete with roots, tree trunk, branches and leaves
2. Write the following on the tree parts

Branches and leaves: consequences

Tree trunk: main issue

Roots: causes or issue



## B. PROBLEM ANALYSIS FRAMEWORK

1. Draw a table on a flipchart (for groups), a notebook (for individuals) or a paper with four columns such as the following illustration:

Issues	Consequences	Causes	Solutions
Sub-issue 1			
Sub-issue 2			

2. Enumerate all the sub-issues but prioritize the top three consequences. Write them on the first column.

By breaking down the issue into sub issues, and asking the question 'why' under three headings: consequences, causes and solutions, certain useful and core information may be revealed.

3. Identify three major consequences for each sub issue then write them on the second column.

This framework can generate so many suggestions under each heading that it is advised to prioritise the top three consequences

4. Determine the cause for each consequence and write these on the third column.
5. Lastly, plan a solution for each cause.

Analysing the impacts of human rights violation is not only on the individual level but at the community level especially.

### **Analysis on the impact of violations of collective rights**

**Tips:** The above-mentioned analysis can be further analysed by looking into the following details:

- How has the incident affected the individual's family?
- How has the incident affected the community?
- Has the incident affected any community processes? How?
- What are the outcomes of these effects?
- How did the community respond to the damages/impacts as a result of the violation?



## STEP 3: REPORT WRITING: COMPLETING THE FACTSHEET

The factsheet is the basic document that will **result from the fact-finding**. This contains all the information where other materials can be derived from, such as report to the police, brief for the filing of a court case, letter of petition to authorities, etc. Thus it is very important to have complete, accurate, credible and verifiable data.

**FACTSHEET TEMPLATE:** Violations of collective rights of indigenous peoples

### 1. INFORMATION/PROFILE OF THE PROJECT

1.1 Type and nature of project:

1.2 Location/areas affected:

1.3 Proponents/implementor

1.3.1 Name of agency/company

1.3.2 Responsible person and position

1.3.3 Profile of company [possible sources: get from their website, government records, networks]

1.3.4 Other important information on the proponent/s [e.g., experience of other communities where they, or their subsidiaries, are operating; links with authorities]

1.4 Duration or period of project:

1.5 Project implementation and other important information (Ex., methods of project implementation, involvement of other government or private entities, etc.)

### 2. INDIGENOUS COMMUNITIES AFFECTED AND/OR TO BE AFFECTED

2.1 Population of affected community [no. of villages, households, individuals, females, males, children]

2.2 Ethnicity of affected peoples

2.3. Location/Territory (if possible, include size and land boundaries, scope of natural resources to be affected, etc.)

2.4. Community profile, including socio-economic and cultural information, state and traditional governance systems, etc.

### 3. CONCRETE AND/OR POTENTIAL IMPACTS AND IMPLICATIONS OF THE PROJECT

[get actual numbers if possible]

**3.1 Land rights** – types of lands [e.g., farms, residential lots, spirit forests, temples grounds, community/communal forest]; area of each affected type of land and names of the places; ownership of such lands and resources [individual (female, male), communal]; who has access to such lands and resources [females, males]

**3.2 Livelihood** – traditional livelihood sources of the community [females, males, youth], how many individuals [females, males] are involved in each type of livelihood, how many families are dependent on each type of livelihood; indicate which livelihood is most affected; alternative sources of livelihood and who is most dependent on these alternatives;

**3.3 Socio-cultural practices** – ceremonies related to food production, community solidarity, spiritual worship, relations among genders, birth-to-death rituals that are impacted; how functional are the spiritualists/shamans/ritualists in the community [indicate male and/or female]; What is their natural resource management system/s?

**3.4 Indigenous socio-political systems** – system of traditional governance; is this functional and being actively practiced in the community; how is the traditional leader chosen? How are decisions affecting the community done? How are women and youth included in the decision-making?

**3.5 Environment/ecological system** – what plant and animal resources have been affected/lost/threatened to disappear, what water systems are affected/destroyed; what do these water systems support? [Households, farms, etc.]

**3.6 Other important information** – are state forces and/or paramilitary groups present in the community? When did they started their presence? What unit is there? How many? Get the names of their commanding officer.

- Presence of other NGOs/groups in the community – what is their role?

#### 4. VIOLATION TO EXISTING LAWS

(Ex., Environment Compliance Certificate, Free Prior and Informed Consent, anomalous terms of contract/agreement, violations to Local Government Code, etc.)

What customary laws or practices have been violated?

#### 5. ACTIONS TAKEN BY AFFECTED COMMUNITIES

Specify dates, number of mobilized individuals (females, males), location, demands

#### 6. RESPONSE TO ACTIONS BY PROJECT PROPONENTS AND/OR CONCERNED AGENCIES OF THE GOVERNMENT

#### 7. RECOMMENDATIONS

##### **Documented by:**

Name of organization:

Contact details:

Name of documenter:

Date of documentation:

Factsheet submitted to:

Date submitted:

*Monitoring follow-up:*

Actions taken on recommendations:

By government:

By company:

*Follow-up actions:*

\*Note: always get the consent of the victim/s and inform the victim/s of any actions that will be taken in relation to the information taken from them

# HUMAN RIGHTS ADVOCACY: BRINGING ABOUT CHANGE

## SECTION 3

### 3.1 WHAT IS HUMAN RIGHTS ADVOCACY?

The pursuit of promoting, protecting and defending the rights of indigenous peoples through series of political action to influence those who make or implement policy decisions

### 3.2 WHAT IS THE IMPORTANCE OF HUMAN RIGHTS ADVOCACY?

Human rights advocacy is a crucial step to be able to build support for indigenous peoples, influence others to support the respect, promotion and protection of their rights, and attain a change in policy or actions that will address to human rights violations.

### 3.3 WHAT IS THE GOAL OF HUMAN RIGHTS ADVOCACY?

- to be able to redress the situation, bring justice the the victims, and bring about a change for the better so that the environment for the enjoyment of human rights is sustained.

The completed factsheet is now an essential document to support the advocacy work on the human rights of indigenous peoples. This can be used in wide range of purposes<sup>27</sup>

- a. Education and Awareness raising** – provide documents such as press statement, news, position papers, conduct campaigns and others.
- b. Filing a case (Litigation)** - to bring the case in court.
- c. Providing direct assistance to victim** - provide legal assistance to victims, and other support, like psycho-social counselling
- d. Historical records** - keep the document as part of community record to have a credible reference in the future.

## 3.4 WHAT ACTIONS MAY BE TAKEN TO EFFECT CHANGE?

### 3.4.1 Planning for advocacy

#### A. Identify your allies, neutrals and opponents

1. *Stakeholder Mapping: identify the various stakeholders (those that have direct interest in the advocacy campaign)*

##### Stakeholders

- a. those who are directly affected by the problem (indigenous communities)
- b. groups who caused or are responsible for the problem
- c. those interested in solving the problem.

2. *Classify them into allies, neutrals and opponents*



##### Allies

people or groups that support the advocacy campaign



##### Neutrals

people or organizations with no strong opinion on the issue



##### Opponents

people or organizations who are against the campaign.

#### B. Identify your targets

**Targets-** people or organizations who have the power to make the needed changes

- a. Primary target- entity with the most power to directly address the problem
- b. Secondary target – entity who cannot solve the problem but can influence the primary target

## 1. National level

### 1.1 Executive branch

Head of State (President, Prime Minister, etc.) and its Office  
Ministry/Departments  
Military

### 1.2 Legislature

Parliament/Congress  
Local councils

### 1.3 Judiciary

Supreme Court  
Court of First Instance  
Appeals Court  
Specialised courts (Juvenile Court, etc.)  
Quasi-judicial bodies (functions of certain offices, e.g., National Commission on Indigenous Peoples in the Philippines)

### 1.4 ASEAN national officials/offices

ASEAN National Directorate  
AICHR/ACWC\* Representative  
Technical Working groups within the departments/ministries

### 1.5 National headquarters of corporations/companies

### 1.6 UN agency country offices

### 1.7 Non-government organisations/civil society organisations

## 2. Regional level

### 2.1 AICHR

### 2.2 ACWC

### 2.3 ASEAN Secretariat

2.4 Community Permanent Representative – the ambassador of each Member-State to the ASEAN

### 2.5 ASEAN Social Forestry Network

### 2.6 UN agency regional offices

<sup>28</sup> This is not an exhaustive list but examples of bodies where lobbying can be done.

\* AICHR - ASEAN Intergovernmental Commission on Human Rights

ACWC - ASEAN Commission on the Promotion and Protection of the Rights of Women and Children

### 3. International level

#### 3.1 United Nations

- Human Rights Council
- Universal Periodic Review
- Treaty monitoring bodies:

The following are some of the treaty monitoring bodies:

Treaty	Treaty monitoring body
ICCPR	Human Rights Committee
IESCR	Committee on Economic, Social and Cultural Rights
ICERD	Committee on the Elimination of Racial Discrimination
CEDAW	Committee on the Elimination of Discrimination Against Women
CRC	Committee on the Rights of the Child

- Special Procedures – apart from the Special Rapporteur on the Rights of Indigenous Peoples, there are also other thematic mandates like on the rights to food, culture, environment, human rights defenders, etc., and country mandates, e.g. on the situation of human rights in Cambodia, or Myanmar.

Check this out:

<http://www.ohchr.org/EN/HRBodies/SP/Pages/Welcomepage.aspx>

- Expert Mechanism on the Rights of Indigenous Peoples
- Forum on Business and Human Rights
- World Bank
- Asian Development Bank
- International Fund for Agricultural Development
- Roundtable on Sustainable Palm Oil
- International Hydropower Association

## C. Identify advocacy activities

1. Lobby at the local, national, and international levels
  - Conduct face to face lobbying
  - Submit position papers or briefing papers
  - Submit a report to respective bodies (national or global)
  - Write a letter to government official (s)/authorities
  
2. Conduct public education and awareness
  - Create posters and leaflets and distribute to the public
  - Organize non-violent protests and demonstrations
  - Organize conferences and workshops
  - Use social media to disseminate information
  - Produce journals or newsletters
  
3. Media work
  - Write a press release
  - Organize press conference
  - Conduct Media Interviews
  
4. Strategic filing of a case
  - Bring the case in court -domestic or international





# 3.5 ACTUAL EXPERIENCES OF ADVOCACY WORK

1. Getting in touch and seek support from human rights organizations, women's movements or any other social organization movements (local, national or international) and encourage them to push for change to remedy wrongs and stop violations.
  - *On February 20, 2012, a synergy between the national human rights institutions of Indonesia, Malaysia, Thailand, the Philippines and Cambodia developed a regional human rights standard for agricultural expansion in South East Asia, together with civil society, anchored in international human rights standards and the ICC Edinburgh Declaration. This document, the "Bali Declaration on Human Rights and Agribusiness in South East Asia", reminds companies of their legal obligation to fulfil their responsibilities to respect human rights, even where human rights are not fully respected by States in which they operate and where the legislative framework is weak and loosely enforced.*
2. Encouraging participation from different individuals and groups. Creating a forum and encourage them to raise questions.
  - *In 1995, the Fourth World Conference on Women was held in Beijing. A group of Indigenous women was organized that came up with the "Beijing Declaration of Indigenous Women" which highlighted IP women's issues and recommendations.<sup>29</sup>*
3. Convening with groups and asking them to develop a defensive plan of action on the issue.
  - *In Chiang Mai, Thailand Indigenous Peoples Human Rights defenders attended a regional training on "Consolidating the Indigenous Peoples Human Rights Defenders Network for the defense of the rights of Indigenous Peoples" on August 24-27, 2014.<sup>30</sup>*

*The participants resolved to improve their campaigns and advocacies to address human rights violations and advance assertions on their rights as indigenous peoples.*
4. Making a paper based on the fact-finding results, publishing it or presenting it in a conference.
  - *The Rural Missionaries of the Philippines-Northern Mindanao Region presented a paper entitled "Education and Militarization of Indigenous Communities: Our Experience as Rural Missionaries in Mindanao" to the "Indigenous Peoples, Human Rights and Advocacy" Training Program for the Indigenous Advocates in Asia-Pacific in Sabah, Malaysia held from April 23 to May 2 2012. This is to show the impact of military operations on the education of indigenous peoples in the country particularly Mindanao. Military operations have also undermined the efforts of indigenous communities to develop their own systems of education and development.<sup>31</sup>*

<sup>29</sup> Tauli-Corpuz, V. Thirty Years of Indigenous People's Lobbying and Advocacy in the International Arena in [www.tebteba.org](http://www.tebteba.org)

<sup>30</sup> AIPP. IPHRDs in Asia Strengthen their Solidarity and Commitment to Advance Human Rights. September 2014., at <http://www.aippnet.org/index.php/human-rights/1451-iphrds-in-asia-strengthen-their-solidarity-and-commitment-to-advance-human-rights>

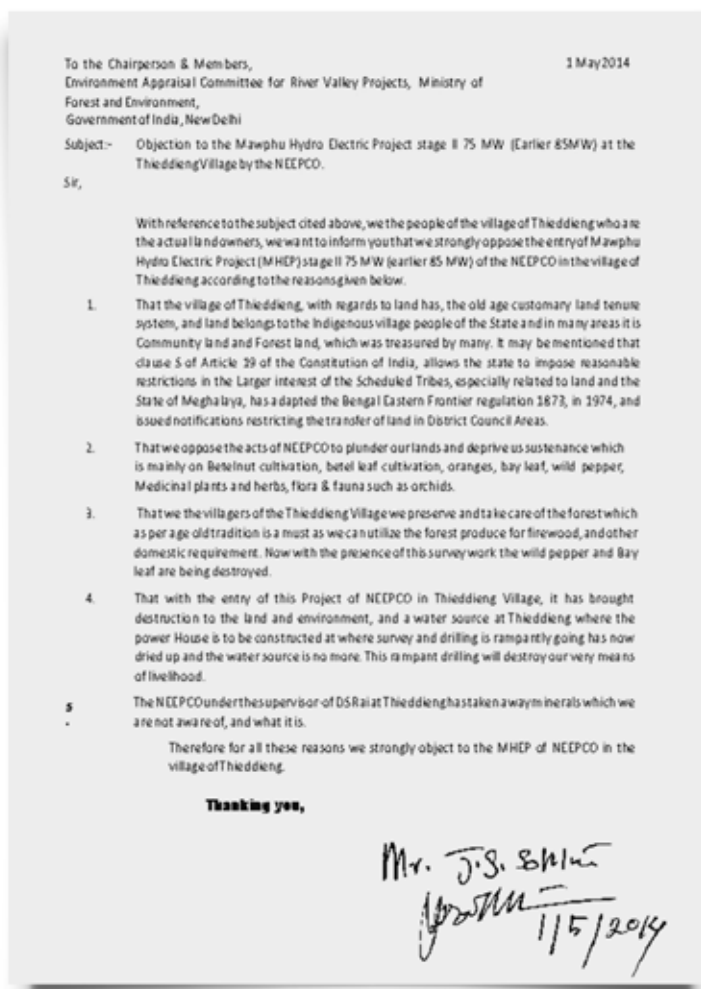
<sup>31</sup> Silverio, I. Advocacy group for indigenous peoples pushes agenda for education, May 1, 2012, [bulatlat.com](http://bulatlat.com)

## What to do with the completed fact sheet?

1. Keep copies in both hard and soft versions and file them securely.
2. Submit the factsheet itself through email to the Special Rapporteur on the Rights of Indigenous Peoples (see communication sample in Annex D)
3. Prepare advocacy materials based on the data gathered
4. Update the factsheet by monitoring developments on the case, and continually engaging the community and those targets where the case has been submitted.

## Advocacy materials that can be prepared out of the factsheets

1. Letter to the authorities by email, by post or personally



The same letter can be copied/sent to the following:

- a. National Commission on Human Rights [if there is]; in India it can also be submitted to the State Commission on Human Rights where they exist;
  - b. Relevant Ministry (in this case, the Minister of Development of North Eastern Region)
  - c. The Special Rapporteur on the Rights of Indigenous Peoples
  - d. The Chief Minister of the State/the Prime Minister/President
  - e. Civil society organisations who can support your cause (in this case, the Khasi Students Union Mawphu Unit and the Thieddieng villagers sent letters to the EAC with the same messages)
2. A news article can be prepared to raise the awareness of the public. This can be uploaded in the organisation's website, sent to IPHRD website, to media outfits, and to mailing lists.

In the case of the indigenous woman leader in Bangladesh who was physically and sexually abused, the Kapaeeng Foundation wrote an article on it in their website.

See: <http://kapaeeng.org/update-bichitra-tirki-fights-back/>

The article contains the information on the incident and also the subsequent action that the victim pursued.

3. For analysing trends through time, within a geographic area, and/or for a certain theme

A collection of fact sheets documented through a certain period of time can be analysed to establish the human rights situation for a certain period of time, e.g., every 6 months, for a certain geographic coverage, like Asia region or a particular country, but it can also be thematically, e.g., trends on violations to women's rights in the ASEAN region for the last 5 years.

For this, it is important to maintain a database to keep your data intact and retrievable.

## *This kind of analysis can be used for the following:*

- 3.1 Shadow or alternative reports that can be submitted to the different treaty monitoring bodies when a particular country is due to be reviewed.
- 3.2 Stakeholder's report to the UPR which can be purely on the assessment performance of your particular country with respect to indigenous peoples rights, or can be contribution to a wider CSO report.

These reports can also be submitted at the same time to the Special Rapporteur on the Rights of Indigenous Peoples at this email: [indigenous@ohchr.org](mailto:indigenous@ohchr.org)

- 3.3 Submission to the calls for contribution from and/or interventions at the UN Permanent Forum on Indigenous Issues (UNPFii), the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP), the Special Procedures of the Human Rights Council, Office of the High Commissioner on Human Rights, and/or the treaty monitoring bodies on studies they are undertaking on specific themes.

An example of this is the *March 2014 Call for submissions to studies of the Expert Mechanism on the Rights of Indigenous Peoples* on its study on access to justice in the promotion and protection of the rights of indigenous peoples, with a focus on restorative justice and indigenous juridical systems, including an examination of access to justice related to indigenous women, children and youth and persons with disabilities.

AIPP submitted its briefing paper on “Indigenous Women in Asia - Challenges in Their Access to Justice”. This document can be accessed at: <http://www.iphrdefenders.net/resources/publications/4-indigenous-women/49-indigenous-women-in-asia-challenges-in-their-access-to-justice>

- 3.4 For preparing briefing papers, lobby documents, and studies.
4. For statements, interventions in the sessions of the UNPFii, EMRIP, UN Human Rights Council, the Forum on Business and Human Rights and other fora.
5. Submit demands to the company

In Cambodia, indigenous communities often directly write the company field officials about their demands.

## *What to do after submissions are made?*

### **A. To the Community:**

- Look for or suggest agencies or institutions who can help with stress debriefing for the victim/s.
- Provide a copy to the community. If it is written in a language they could not understand, provide many illustrations so they can at least comprehend.
- Provide information to the community on the progress of the filed report. It is important to report back to them so they are updated and so you will earn their trust and be cooperative again next time.

### **B. To IPHRDs:**

- Enter the data from the factsheet to Community Level Questionnaire at <http://www.indigenoustraveler.org> which can be done online, or through soft copy. The soft copy can be sent to [aipphr.monitor@gmail.com](mailto:aipphr.monitor@gmail.com).
- Monitor the progress of the actions of the concerned agency, body, mechanism or private parties as part of ensuring that the case is being resolved. Again, report back to the community on the progress of the case.

## 3.6 PROTECTING AND SECURING IPHRDs AT RISK<sup>31</sup>

Kerlan D. Fanagel

Kusog sa Katawhang Lumad sa Mindanao (Kalumaran Mindanao)

Secretary General

PASAKA Confederation of Lumad Organizations in Southern Mindanao Region

### Protecting and Securing IPHRDs at Risk

The indigenous peoples of Mindanao are more determined to assert their collective rights over their ancestral domain. IPHRDs and their communities are undertaking the following actions towards building their communities as human rights communities:

- Conducting leadership trainings, human rights orientation documentation trainings for indigenous peoples' organizations. This has enabled local community organizations to submit cases to the Commission on Human Rights and other international human rights mechanisms.
- Doing local actions like barricades, picket, rallies and political demonstrations in the urban centers which have brought attention to indigenous peoples' issues. Indigenous peoples organizations' are engaged in lobbying local government officials and National Commission on Indigenous Peoples (NCIP) regional offices regarding issues of militarization, Certificate of Ancestral Domain Title (CADT) disputes, and encroachment into ancestral domains by private companies.
- Strengthening traditional governance systems, incorporating aspects of indigenous justice and dispute resolution principles and strategies, collective decision-making, and security.
- Practicing sustainable agriculture development and establishing community education by putting-up schools in the communities which are models for the future generations of Lumads.

- Sustaining efforts to build capacities of local organizations and communities in the areas of human rights documentation, leadership, and lobbying.
- Working with advocates to assist indigenous peoples organizations with networking and promoting a genuine indigenous peoples' voice, not one dictated by the military establishment.
- Establishing and pushing for the establishment of mechanisms at various levels to address and respond to internal displacement among IPs given the growing phenomenon brought about by the militarization, security doctrines and operations of the state; to address human rights violations on indigenous peoples, and strengthen alliance work among IP and environmental justice advocates and support groups. This should consist of psycho-social therapy, response group to internal displacements and subsequent rehabilitation.
- At the policy level, assertion of the “civilian supremacy” of local government units over the military units should be upheld on-the-ground situations.

### **Strategies in Protecting and Securing IPHRDs at Risk**

*First strategy is at the community level*, through indigenous community organizations. Unite and unify the community members to protect and secure first and foremost their leaders from strangers and suspected state-agents. The community should be very vigilant of any approaches coming to their community such as introducing any projects of NGOs which is not verified by their community organization.

- Draw system of groups or buddy system in any community affair, such as gatherings outside the community, which is sponsored by any other group, organizations or local government units. The community organization documents and reports incidents of threats and security risks of any member and leader of the community to sub-national organizations in order to call attention at the regional level. If possible, any incident should have a blotter in the police station for future references.

- The community organization can make a statement and some selected leaders can come to urban centers to expose the incident to the public through radio/television interviews and guestings, conduct press conferences, and do some speaking engagements to church and academic community to seek support for their struggles. They can also be resource persons for events organized by support groups and networks.

*Secondly, **organise support groups and advocates** to rescue community leaders in highly militarized communities and put them into sanctuary while engaging the perpetrators at the community level. Initiate lobbying with the local government units and expose the incidents to the public.*

- Form a Quick Reaction Team (QRT) for immediate response and rescue of leaders at risks. The QRT can be composed of at least four individuals from other indigenous people's organizations, different support groups of church people, youth and students and academe, who can, at the same time conduct human rights violations documentation, assist in making affidavits of the victims and make fact sheets of the incident.
- Victims can file complaints to the Commission on Human Rights (CHR), local government units (LGU) and other government bodies urging them to conduct thorough investigations on the incident. The case and complaint, if possible, should be filed at the highest level of government, like House of Representatives, for them to conduct congressional inquiry on the human right situation in the community.
- In our experience, from this situation, we conducted fact-finding missions, dubbed with appropriate titles, such as Exodus for Justice and Peace (EJP), International Solidarity Mission (ISM), Interfaith Peace & Mercy Mission (IPMM), and many others.



*Third strategy* is the **last option or recourse**, which is decided by the community. This is the declaration of “Pangayaw” and “Tampuda”, the tribal war, the highest form of protest and struggle against large-scale foreign corporation and the militarisation, by using indigenous processes and traditional weapons. But the component of the first and second strategy is still present which is performed by other leaders, community members, and support groups, until the government will facilitate dialogues with the Armed Forces of the Philippines (AFP) and/or corporations. The demands and calls of the community are reiterated and negotiate some agreements, like Memorandum of Agreement, or the local government units through its legislative body can make a resolution for the withdrawal of the AFP troops in the communities, cancelation of permits or applications of the corporations in ancestral lands and territories of indigenous peoples and assure the community safety from violations of state-perpetrators.

## LESSONS LEARNED AND THE CONTINUING CHALLENGES FACED BY INDIGENOUS COMMUNITIES

Community leaders at risk, after the campaigns and sanctuary, in some instances, dialogues with state-agencies, became victims of extra-judicial killings after they go back to their communities. Such in the case of Ludinio Monzon of Boston, Davao Oriental, Benjie Planos of Kauswagan, Loreto, Agusan del Sur, among such cases. This situation teaches us to be more active in defending our ancestral lands and life even after coming back to the regular daily activities of the community. Lessons teach the indigenous communities to institutionalize defence mechanisms in the community and their organization as well, as they are always the target of the state security forces and state-sponsored paramilitaries.

The challenge of indigenous peoples is to make empowerment a comprehensive work in the community. Programs must be developed to address the socio-economic and socio-political needs of the community through a comprehensive plan of sustainable agriculture, strengthening the political structure of the community through leadership development, establish learning systems and processed of indigenous children and conduct trainings and learning process of managing health problems in the community. While the continuing struggle of defending ancestral lands and the assertion of right to self-determination is the principal task, it is important to network with other communities/sectors who face the same issues.

## ANNEX A

### Information on collective rights violation due to state/corporate projects

#### I. Profile of indigenous peoples in the affected area

##### 1. Demographic data/ethnographic composition

- a. How many families/villages are affected?  
How many people/women, children from each village?  
What is the age composition of population?
- b. What is exact location and number of hectares of the affected area?
- c. What are the names of the affected indigenous peoples?

##### 2. Economic, Socio-cultural profile of indigenous peoples in the area

- a. What are traditional livelihoods of men that had been affected? Of women?
- b. What communal/common resources have been affected?
- c. What are the main sources of livelihood? What natural resources are there in the community? To what extent are villagers dependent on their resources for their livelihood?
- d. What are important features of the community's social structure?
- e. What are spiritual and religious aspects of community life (e.g. rituals, sacred areas, burial grounds)?
- f. What are the roles/duties/responsibilities of women in the communities? How is their participation in decision-making processes?
- g. How is the access to basic social services (health, education), how developed are the infrastructural facilities (electricity, communication, transportation)?
- h. What is the state governance system? The indigenous socio-political system? How functional are the traditional leaders/decision-making processes?

## II. Project Description and Details

1. *Full Name of the company and the projects, address of its main office, address of its office directly responsible for the project in the community*
2. *Background of the companies and projects, e.g.*
  - a. Size? Expansions?
  - b. Onset, origin (Any information about the formation of a contract? license? social/environmental studies?)
  - c. What are the project objectives, rationale (What are the projects goals?)
  - d. Funding (How much money will be invested? Is there any information about the expected profit?)
  - e. Operation time (When did it start? How long will it last? How long is the concession granted?)
  - f. Who is involved? What are executing agencies (Who is managing the project? Who is going to implement it? Who else is involved – local, regional?)
  - g. At what stage is the project now?

## III. Analysis of the Impacts of the Project Indigenous communities: Economic and socio-cultural dimension

- a. Was the communities' free, prior and informed consent obtained to the approval of the project/concession?
- b. Were communities forcibly removed from their land or territories? Was there a just and fair compensation?  
Differences between before the projects' onset and now – negative changes?
- c. What are impacts on the land, territory and resources, environmental impacts (e.g. on fauna, flora, wildlife, biodiversity)?
- d. What are impacts on livelihood sources (e.g. destruction of forests, natural resources, agricultural land)? Impact on food security? Access to water?
- e. What are impacts on land use and traditional agricultural practices (e.g. rotational farming, shifting cultivation)?

- f. Impact on the indigenous peoples/women social and cultural traditions, also on archaeological sites, artefacts, ceremonies, religious, spiritual, sacred and cultural sites?
- g. What are the impacts on traditional occupations, traditional practices and knowledge, cultural heritage, ownership
- h. What are impacts on the community's social structure and on gender-relations/cooperation?
- i. Are there any activities harmful to health/health risks for the communities connected to the project (e.g. disposal of hazardous material)?
- j. What are the impacts on the community's economic development and activities? Unfair work conditions, economic exploitation?
- k. What are the impacts on the community's political status and self-government, indigenous decision-making institution, customary institutions?
- l. Are there measures to mitigate environmental, economic, social, cultural impact?
- m. Are there conflicts between indigenous and non-indigenous communities, or amongst community members?
- n. Have violence, intimidation pressure occurred? Have military activities taken place?

#### **IV. Actions taken by the affected indigenous peoples/women**

- a. Which redress mechanisms were known and available to the indigenous peoples (traditional or state mechanism, also NGOs and indigenous organisations/networks)
- b. Were there any actions taken (e.g. protests, demonstrations; registrations as a community)? To what bodies did the communities address these actions?
- c. What role do community customary institutions play?
- d. What were the consequences of these activities? Has there been any reaction by the company? Has there been any compensation by now? If yes, how many villagers were compensated?
- e. Have there been any incidents of arrests recently?
- f. Is there any documentation on the events?

## **V. Violation of indigenous peoples rights**

- a. Have the indigenous peoples/women experienced abuse of authority and powers, discriminatory actions and attitudes or racial prejudice among government officials within the justice system?
- b. How is the women's access to education, how their ability to speak the dominant language?
- c. Do the affected indigenous peoples/women hold ID cards?
- d. Can indigenous peoples/women afford the costs for legal assistance, for the law suit, e.g. for transportation? due to geographical distance. Will courts cases also cause a loss of production time and income for villagers? Do indigenous peoples/women have information and knowledge of their rights as women and as indigenous peoples?
- e. Are there cultural norms, values and practices are oppressive to indigenous women?

## **V. Legal and policy framework**

- a. What are the national laws/policies that protect indigenous peoples, their communities, and/or women in particular, or ethnic minorities/groups that have been violated?
- b. What laws on land, housing, forest use and management, protected sites, wildlife and fishery management that have been violated?
- c. What obligations of the State under treaties, covenants it has ratified has been violated?
- d. What provisions of other international instruments, e.g., UNESCO declarations, CBD, had been violated?

## ANNEX B

### Information on international financial institutions [IFIs]

- **Asian Development Bank (ADB)**  
<http://www.adb.org>
- **World Bank**  
<http://www.worldbank.org>
- **International Finance Corporation**  
[http://www.ifc.org/wps/wcm/connect/corp\\_ext\\_content/ifc\\_external\\_corporate\\_site/home](http://www.ifc.org/wps/wcm/connect/corp_ext_content/ifc_external_corporate_site/home)

## ANNEX C

### Networks/support organisations working on IFI issues

- **Coalition for Human Rights in Development (formerly Bank on Human Rights)** - a global coalition of social movements, civil society organizations, and grassroots groups working to ensure that all development finance institutions respect, protect, and fulfil human rights. We strive to bring more coordination to a global movement led by communities and supported by civil society organizations.

<http://bankonhumanrights.org>

- **NGO Forum on the ADB** - a network of over 250 organizations that has been monitoring the projects, programs and policies of the Asian Development Bank. Partners of NGO Forum come from Asia and the Pacific, Europe, Japan, and North America.

<http://www.forum-adb.org/inner.php?main=4>

- **International Accountability Project (IAP)** - a human rights advocacy organization that seeks to end forced eviction and create new global policy and practice for development that respects people's homes, environment and human rights.

<http://accountabilityproject.org>

- **Mines and Communities (MAC)** – a network of indigenous and solidarity NGOs, representing many thousands of people directly affected by the mining industry whose website provide communities, NGOs, activists, the media - and the general public - with information about many aspects of global mining and its impacts.

<http://www.minesandcommunities.org>

- **CEE Bankwatch Network** - works across the central and eastern European region to monitor the activities of international financial institutions and propose constructive environmental and social alternatives to the policies and projects they support.

<http://bankwatch.org>

- **International Rivers** – an NGO working with an international network of dam-affected people, grassroots organizations, environmentalists, human rights advocates and others who are committed to stopping destructive river projects and promoting better options.

<http://www.internationalrivers.org>

- **Accountability Counsel** – and NGO that assists communities to defend their human and environmental rights through complaints to accountability offices tied to the projects that cause harm.

<http://www.accountabilitycounsel.org>



## ANNEX D

### Sample communication to the Special Rapporteur on the Rights of Indigenous Peoples

Email address: [indigenous@ohchr.org](mailto:indigenous@ohchr.org)

Date:

Ms. Victoria Tauli Corpuz  
UN Special Rapporteur on the Rights of Indigenous Peoples

Dear Madame,

We wish to submit a communication on the situation of Indigenous Peoples in Ukhrul, Manipur, India in relation to the militarization and continuing human rights violations being committed by State Forces by virtue of the imposition of Section 144 of the Criminal Procedure Code (S.144 CrPC). Please find attached the communication and the petition we submitted to the Ministry of Home Affairs of India.

We hope that your office can look into this case and intervene in behalf of the indigenous peoples in Ukhrul, manipur, India.

Respectfully,

[Full name/position/address of submitting party]

### Sample communication on a case which requires anonymity:

We are submitting the attached communication seeking for your urgent intervention on the impacts of the operations of Corporate XXX on the indigenous peoples of Village YY, District A, Province B, Country C.

We would also like to seek anonymity on the information we are providing due to the security situation in this country where the government is closely monitoring the activities of individuals and organizations critical of the government.

## ANNEX E: COMMUNITY PROFILE TEMPLATE USING THE UNDRIP DOMAINS [INDIGENOUS NAVIGATOR]

### **Self-determination, including: self-government; autonomous institutions; identity and membership; customary law; consultation and free, prior and informed consent.**

- Do indigenous peoples traditional institutions exist? Are they autonomous? Are they responsible for the development planning?
- Do these indigenous institutions handle the following:
  - issues concerning land and resource use?
  - education programs?
  - health programs?
  - determination of membership in the community and responsibilities of its members?
- Do indigenous customary law institutions exist and functional in the community? Do they handle and resolve cases within the community? Between the community and individuals? Between the community and non-community members?
- Is domestic violence, harmful and discriminatory practices (such as women's inheritance of land, marriage of a child) sanctioned by customary law institutions?
- Do the customary autonomous institutions consult the community before approval of measures that may affect them?
- Have impact assessments been undertaken prior to approval of projects that may affect indigenous peoples' lands, territories or resources, with the participation of indigenous peoples' representative institutions? If so what are these? Who are the stakeholders? When were these conducted? Were the results validated with the community? How were the findings of the assessment addressed?
- Are there/had there been incidents of conflicting land or resource claims due to a) extractive, agro or energy-related industries b) settlers, c) protected areas, d) others?
- Are indigenous institutions able to function in accordance with their own customs and decisions?
- Are public funds (from central/local government) allocated for indigenous peoples' self-government institutions? What are these? When?
- Are external development funds (from bi- and multilateral organizations, NGOs) allocated to indigenous peoples' self-government institutions?
- Is there revenue or other income generated by indigenous self-government institutions themselves?
- Are customary law authorities are knowledgeable about international human rights standards, including the rights of women and children?

### **Cultural integrity, including: languages; cultural heritage, traditional knowledge and intellectual property.**

- Are there incidents of removal of children, without free, prior and informed consent of the parents or legal custodians? When? How many? Gender of children? Where were they placed?
- How often do persons devote time to selected social and cultural activities?
- How many speakers are there of the indigenous language/s? Which languages? Rank the degree of endangerment of each indigenous language in the community.
- Are there restrictions to indigenous peoples' free and privileged access to religious and cultural sites?
- Are there or had there been incidents of misappropriation of cultural heritage, traditional knowledge and traditional cultural expressions experienced by the community? When? How? Who?
- What is the percentage of indigenous individuals who speak only an indigenous language?
- What is the percentage of indigenous individuals who speak only the national language?
- What is the percentage of indigenous individuals who speak both an indigenous language and the national language?

### **Lands, territories and resources, including: environment; military activities**

- What is the percentage of women and men with secure rights to land, measured by (i) percentage with documented rights to land, and (ii) percentage who do not fear arbitrary dispossession of land?
- What title deeds or other binding agreements recognize the indigenous peoples' collective right to lands or territories?
- Do the indigenous people still able to perform traditional occupations (such as pastoralism, hunting/gathering, shifting cultivation, fishing) without restrictions? To what degree?
- Are there or had there been incidents of land grabbing, land use or resource extraction without indigenous peoples' free, prior and informed consent? When? Who? How?
- Are there or had there been incidents of displacement or relocation without free, prior and informed consent?
- How are violators of the rights to lands and territories sanctioned in the community?
- Are there community conserved areas? Names and area, when established
- Are there government-designated protected areas in the communities territory that had been established without free, prior and informed consent? What? When?
- Numbers and status of threatened species within indigenous peoples' lands and territories
- Are the cases where hazardous materials were placed on community lands without their free, prior and informed consent? When? What?
- Describe incidents of military activities in the community that happened without their agreement

- Are there refugees and internal displacement caused by conflict and violence? When? How many? Where?
- Estimated percentage of the lands, territories and resources owned, occupied or used by the grandparents' generation (1965) that is transmitted to the grandchildren's generation (2015)
- Are the community's lands or territories surveyed, demarcated and registered in consultation with and in accordance with indigenous norms, values and customs? When? Who? Status now?
- Do the indigenous peoples have communal and/or individual maps of their lands and territories? What kind?
- Describe the incidents of redress for land lost without the free, prior and informed consent

### **Fundamental rights and freedom**

- Describe incidents of arbitrary deprivation of life and death threats against indigenous individuals [within the last 5 years]
- What are the threats perceived by the community?
- Describe incidents of disappearance concerning indigenous individuals [within the last 5 years]
- Describe incidents of torture and cruel, inhumane or degrading treatment of indigenous individuals [within the last 5 years]
- Describe incidents of death and physical injury of indigenous individuals resulting from arrests or other acts of apprehending persons by law enforcement officials [within the last 5 years]
- Describe incidents of suppression of indigenous peoples' peaceful assembly contrary to international human rights law [within the last 5 years]
- How many women aged 15-49 experienced physical or sexual violence by an intimate partner in the last 12 months?
- How many women aged 15-49 who have experienced physical or sexual violence by persons other than an intimate partner in the last 12 month?
- What are the existing harmful traditional practices, including bride kidnapping currently being practiced?
- Describe incidents of sexual exploitation, abuse or trafficking.
- Incidents of children in alternative care outside the family environment, which does not take into account the child's ethnic, religious, cultural and linguistic background.
- Does the majority of the community a husband to be justified in hitting or beating his wife?
- What is the estimate proportion of victims of domestic violence who have had access to victim assistance?

### **Participation in public life, including: citizenship**

- What is the percentage of children under age 5 whose birth is registered with a civil authority?
- What is the proportion of adult indigenous individuals who have the possibility to vote in elections for national and local government?
- What is the proportion of indigenous individuals with recognized nationality and citizenship?

### **Legal protection, access to justice and remedy**

- Is the community have recognized as a juridical personality with capacity to hold rights, defend/litigate rights and seek remedies for violations?
- What is the proportion of claimants and defendants that have access to adequate interpretation services in legal proceedings?

### **Cross-border contacts**

- Are there restrictions to cross-border contacts and collaboration with members of indigenous peoples?

### **Freedom of expression and media, including: combating prejudice; discriminatory propaganda**

- Describe the access to indigenous media, categorized as a) radio station, b) TV station, c) internet sites, d) newspaper or magazine
- How many have mobile broadband subscriptions per 100 inhabitants?

### **General economic and social development including: the right to food; development; social protection; housing and sanitation**

- What are the locally-produced foods and how common are these consumed by households?
- What is the percentage of stunted children under-five years of age?
- Describe incidents of food shortage [within the past 24 months]
- What is the percentage of the population living below national poverty line?
- What are the traditional occupations of men? Women? Both? How commonly practiced are these now? Describe each occupation and the percentage practicing each.
- Does the government have a social protection program? What is the percentage of population covered by social protection programs?
- What is the percentage of population using basic drinking water?
- What is the percentage of population using basic sanitation services?
- What is the percentage of the population with access to reliable electricity?
- Describe the programs for drought, crop failure and disaster relief
- Describe the training programs or other measures to strengthen resilience to climate change
- What percentage of population are below minimum level of dietary energy consumption?

- What is the most significant change in diet from grandparents' generation (1965) to grandchildren generation (2015)?
- What is the proportion of the population earning below \$1.25 (PPP) per day?
- Describe incidents of redress for land lost without the free, prior and informed consent
- What is the percentage of women and men with security of tenure, measured by (i) percentage with documented rights to housing, and (ii) percentage who do not fear arbitrary eviction?

### Education

- What is the primary completion rates for girls and boys?
- What is the secondary completion rate for girls and boys?
- What is the proportion of young adults (18-24 years) who are literate [in the national language]?
- What is the tertiary enrolment rates for women and men?
- What is the proportion of young adults (18-24 years) who are literate in their indigenous language?
- What is the proportion of children [8-17 years] who are literate in their indigenous languages?
- What is the proportion of students in primary and secondary school who are taught by bilingual teachers?
- What is the percentage of girls and boys who achieve proficiency across a broad range of learning outcomes, including in reading and in mathematics by end of the secondary schooling cycle (based on credibly established national benchmarks)?
- What is the percentage of girls and boys who acquire skills and values needed for global citizenship and sustainable development (national benchmarked to be developed) by age 14?

### Health

- Are there still traditional healers? How many men? Women? Describe their expertise.
- What is the proportion of population who regularly use key medicinal plants and traditional healing practices?
- What is the percent of children receiving full immunization as recommended by WHO?
- What is the percentage of population without effective financial protection for health care?
- What are the neonatal, infant, and under-five mortality rates?
- What is the percentage of 1 year-old children immunized against measles?
- What is the antenatal care coverage (at least one visit and at least four visits)?
- What is the percentage of people in malaria-endemic areas sleeping under insecticide-treated bed nets?
- What is the maternal mortality ratio and rate?

- What is the adolescent birth rate?
- What is the suicide rate?
- What is the healthy life expectancy at birth?

### **Employment and occupation, including vocational training**

- What is the youth employment rate by formal and informal sector?
- Describe the incidents of forced labour
- What is the percentage of children aged 5-14 years engaged in child labour?
- What is the proportion of students enrolled in vocational education programmes at secondary and post-secondary level?
- What is the working poverty rate measured at \$2USD per capita per day?
- What is the labour force participation rate by sex for persons aged 15-25?
- What is the labour force participation rate for persons aged 15+, by sex?
- What is the percentage of employment by income category? by sector? by professional category?
- What is the number of students enrolled in vocational education programs targeting indigenous students?

## ANNEX F: RIGHT TO LANDS, TERRITORIES AND RESOURCES [INDIGENOUS NAVIGATOR]

UNDRIP	ILO 169	ICCPR	ICESCR	ICERD	CEDAW	Other instruments of particular relevance
<p>Art. 25: Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.</p>	<p>Art. 13 (1): (...) governments shall respect the special importance for the cultures and spiritual values of the peoples concerned of their relationship with the lands or territories, or both as applicable, which they occupy or otherwise use, and in particular the collective aspects of this relationship.</p>	<p>Art. 1(2): 2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law.</p>	<p>Art. 1(2): All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law.</p>	<p>Art. 5(d(v)): The right to own property alone as well as in association with others.</p>	<p>Art. 14,2(g): equal treatment in land and agrarian reform as well as in land resettlement schemes</p>	<p>ILO Convention No. 107, articles 11, 13,14, concerning land rights</p>



<p><b>UNDRIP</b></p> <p>Art. 26 (1): Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.</p>	<p><b>ILO 169</b></p> <p>Art. 13 (2): The use of the term lands (...) shall include the concept of territories, which covers the total environment of the areas which the peoples concerned occupy or otherwise use.</p>	<p><b>ICCPR</b></p> <p>Article 47: Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.</p>	<p><b>ICESCR</b></p> <p>Art. 25: Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.</p>	<p><b>ICERD</b></p>	<p><b>CEDAW</b></p>	<p><b>Other instruments of particular relevance</b></p> <p>Convention on Biological Diversity, article 10 (c)</p>
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## ANNEX F: RIGHT TO LANDS, TERRITORIES AND RESOURCES [INDIGENOUS NAVIGATOR]

UNDRIIP	ILO 169	ICCPR	ICESCR	ICERD	CEDAW	Other instruments of particular relevance
<p>Art 26 (2): Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.</p>	<p>Art. 14 (1): The rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognised. In addition, measures shall be taken in appropriate cases to safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities. Particular attention shall be paid to the situation of nomadic peoples and shifting cultivators in this respect.</p>					

UNDRIP	ILO 169	ICCP	ICESCR	ICERD	CEDAW	Other instruments of particular relevance
	<p>Art. 15 (1): The rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources</p>					
	<p>Art 15(2): In cases in which the State retains the ownership of mineral or sub-surface resources or rights to other resources pertaining to lands, governments shall establish or maintain procedures through which they shall consult these peoples, with a view to ascertaining whether and to what degree their interests would be prejudiced, before undertaking or permitting any programmes for the exploration or exploitation of such resources pertaining to their lands. The peoples concerned shall wherever possible participate in the benefits of such activities, and shall receive fair compensation for any damages which they may sustain as a result of such activities.</p>					

## ANNEX G

**The Indigenous Navigator provides a framework and a set of tools for indigenous peoples to systematically monitor the level of recognition and implementation of their rights. The Indigenous Navigator monitors:**

- the implementation of the UN Declaration on the Rights of Indigenous Peoples
- the outcomes of the World Conference on Indigenous Peoples
- essential aspects of the Sustainable Development Goals. The Indigenous Navigator offers a range of free tools and resources for indigenous communities.

Go to <http://www.iphrdefenders.net/mediabox/docs/2015/Info%20brochure%20Navigator.pdf>

- The information from the factsheet should be entered into the database of the Indigenous Navigator as part of the monitoring function of IPHRDs.

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## **INDIGENOUS PEOPLES HUMAN RIGHTS DEFENDERS NETWORK**

The Indigenous Peoples Human Rights Defenders Network (IPHRD Net) is a platform for solidarity, coordination and support among indigenous human rights defenders and their organizations. Through the IPHRD Net, indigenous peoples human rights defenders can more effectively address human rights issues and violations wherever these occur by working with other indigenous peoples organisations, other human right organisations, and with regional and international human rights mechanisms and bodies.

### **THE FUNCTIONS OF THE IPHRDS NET ARE AS FOLLOWS:**

1. Mechanism for exchange of information and updates relating to human rights of indigenous peoples
2. Facilitation of technical, logistics and other forms of support
3. Forum for planning, capacity building and skills enhancement of network members
4. Mechanism for strengthening solidarity and cooperation.

### **ACTIVITIES**

1. Documentation of human rights violations against indigenous peoples for use in lobby and advocacy at all levels
2. Manage the database of human rights violations against indigenous peoples in Asia
3. Capacity-building on human rights documentation and advocacy
4. Awareness-raising on human rights, in particular the UN Declaration on the Rights of Indigenous Peoples
5. Advocacy on indigenous peoples issues at all levels
6. Networking with other civil society organisations to gather support on the issues and concerns of indigenous peoples
7. Facilitate direct support to indigenous peoples human rights defenders at risk.

[www.iphrdefenders.net](http://www.iphrdefenders.net)

Have you witnessed a human rights violation against indigenous peoples?

Report to: [www.iphrdefenders.net/index.php/iphrd-human-rights-violation-form](http://www.iphrdefenders.net/index.php/iphrd-human-rights-violation-form)

Are you an IPHRD at risk needing assistance?

Contact us at: [www.iphrdefenders.net/index.php/request-for-assistance-form](http://www.iphrdefenders.net/index.php/request-for-assistance-form) or email to [aipphr.monitor@gmail.com](mailto:aipphr.monitor@gmail.com) or [commonitor@gmail.com](mailto:commonitor@gmail.com)



European Union

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AIPP PRINTING PRESS

## AIPP at a glance

The Asia Indigenous Peoples Pact (AIPP) is a regional organization founded in 1988 by indigenous peoples' movements as a platform for solidarity and cooperation. AIPP is actively promoting and defending indigenous peoples' rights and human rights, sustainable development and management of resources and environment protection. Through the years, AIPP has developed its expertise on grassroots capacity building, advocacy and networking from local to global levels and strengthening partnerships with indigenous organizations, support NGOs, UN agencies and other institutions. At present, AIPP has 47 members from 14 countries in Asia with 7 indigenous peoples' national alliances/ networks and 35 local and sub-national organizations including 16 are ethnic-based organizations, five (5) indigenous women and four (4) are indigenous youth organizations. It also specifically aims to empower indigenous women through networking, education and capacity building activities with the overall goal for indigenous women to assert, promote and protect their rights as women and as indigenous peoples.

### Our Vision

Indigenous peoples in Asia are fully exercising their rights, distinct cultures and identities, are living with dignity, and enhancing their sustainable management systems on lands, territories and resources for their own future and development in an environment of peace, justice and equality.

### Our Mission

AIPP strengthens the solidarity, cooperation and capacities of indigenous peoples in Asia to promote and protect their rights, cultures and identities, and their sustainable resource management systems for their development and self-determination.

### AIPP Programmes

Our main areas of work among the different programmes are information dissemination, awareness raising, capacity building, advocacy and networking from local to global. Our programmes are:

- Human Rights Campaign and Policy Advocacy
- Regional Capacity Building
- Environment
- Indigenous Women
- Communication Development

AIPP is accredited as an NGO in special consultative status with the UN Economic and Social Council (ECOSOC) and as observer organization with the United Nations Framework Convention on Climate Change (UNFCCC), Convention on Biological Diversity (CBD), Green Climate Fund (GCF), Global Environment Facility (GEF) and the World Intellectual Property Organization (WIPO). AIPP is a member of the International Land Coalition (ILC).

