



**Oral statement by Mr. Rodolfo Stavenhagen,
Special Rapporteur on the situation of human rights
and fundamental freedoms of indigenous people**

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*Ms. Chairperson,
Distinguished members of the Permanent Forum on Indigenous Issues,
Distinguished representatives of indigenous peoples and organizations,
Ladies and Gentlemen,*

I have the honour to address the Permanent Forum for the second time at its current session in order to share with you some reflections on the situation of the rights of indigenous peoples in Asia, as a contribution to the Forum's debates and future action in this region. To start with, I would like to express my gratitude to all the indigenous organizations that have contributed with information for the preparation of this report, and especially to the Chairperson of the Permanent Forum for her initiative in the organization of the First Asian Regional Consultation with the Special Rapporteur, which took place in Phnom Penh, Cambodia, in February 2007.

Indigenous peoples in Asia

The situation of indigenous peoples, counting millions of people found in practically all countries of the region, has long been neglected, and only recently have they been the object of distinct attention in international fora.

A reason for this historical neglect can be found in a number of discriminatory provisions and legal distinctions concerning indigenous peoples in the domestic norms and policies of a number of countries. Thus, while States like Cambodia, Nepal or the Philippines explicitly use the term "indigenous" in their official terminology, other countries have historically used other labels to refer to these peoples, such as "tribal peoples," "hill tribes;" or other expressions in vernacular languages, such as "*adivasis*" or "*orang asli*," which imply notions of aboriginality. In other countries, no clear-cut difference exists between the legal and constitutional treatment afforded to these peoples in relation to other minority groups, and they are included under the general categories of "ethnic minorities" or "national minorities."

But irrespective of the different terminology and legal status, these peoples share with other peoples around the globe a number of similar cultural, social and economic characteristics that make them object of marginalization and discrimination in the countries in which they live; that exclude them from the decision-making processes at all levels; and that make them prone to suffering from serious violations of their human rights.

In this connection, the document I have the honour to present today to this Forum describes a number of issues and situations of special concern regarding the situation of the human and fundamental freedoms of these peoples.

The loss of indigenous lands and territories

Ms. Chairperson,

The indigenous peoples of Asia experience serious human rights violations as a result of the loss of their ancestral lands and territories. This process has increased in recent decades, placing many of them on the verge of completely losing their traditional territories and thus of disappearing as distinct peoples. Some of the factors driving this process are the renewed extension of plantation economies, particularly in Indonesia, Malaysia and other countries of the South East region and the dramatic pace of deforestation as a result of State concessions and illegal logging. Communities whose cultures and subsistence are inextricably linked to forests are particularly vulnerable to these processes, and in many cases they lack any legal venue to defend their rights as a result of the State's claim of ownership over forest lands.

The systematic practice of displacement and removal of indigenous communities is of special concern. This usually results from the construction of megaprojects, such as hydroelectric dams, or is the effect of extractive industries. It has led to the relocation of millions of indigenous and tribal families from their ancestral lands in countries such as India or China, generating human costs of dimensions still difficult to ascertain. The forced removal of these communities is also the consequence of intentional State policies aimed at economic "modernization," including the abolition of traditional forms of shifting cultivation or the eradication of illicit crops, like in Laos, Thailand, or Vietnam. The objective of modernization has also led to sedentarization policies affecting people that have traditionally practiced nomadic pastoralism in vast extensions of grasslands of Mongolia and Central Asia.

In the majority of cases, the violations of indigenous peoples' land and resource rights are a result of the existence of legal vacuums in many Asian countries, the majority of which still fail to recognize indigenous title derived from ancestral possession and use, or to recognize their traditional forms of cultivation and herding as sustainable forms of production. A positive trend in recent years, is the adoption in a number of countries of legislation regarding indigenous land and resource rights, such as the Adivasis Forest Rights Act adopted by India in 2006. But experience has shown that, even when specific legislation exists, such as the 1997 Indigenous Peoples Rights Act in the Philippines, or the 2001 Land Rights Act in Cambodia, there still remain serious problems with regard to their effective implementation.

Conflicts and State repression

Ms. Chairperson,

Indigenous peoples in Asia have been particularly affected by violent conflicts since independence in several countries Bangladesh, Myanmar, Nepal, North East India, Indonesia and the Philippines. In some of these cases, members of indigenous communities have been forced or have chosen to participate in insurgent movements as a way of protecting their rights.

This has driven them in a vicious circle of violence, where they have suffered both from insurgencies and State repression, leading to serious human rights abuses. The Special Rapporteur has received countless reports of abuses suffered by indigenous leaders and communities that find themselves trapped in the middle of these conflicts, including massacres, extrajudicial killings, forced disappearances, and torture.

Similar dynamics have been identified in other countries as a result of state practices against terrorism or drug trafficking, leading to the imposition of states of emergency and the application of special legislation, that pave the road to abuse and impunity. This is the case, for instance, of the Armed Forces (Special Powers) Act, in force for decades in several states in North Eastern India, which has been condemned by various international human rights bodies. Similarly, after the declaration of the state of emergency in Bangladesh in January 2007, there have been several reports of police and judicial persecution of prominent indigenous leaders in the Chittagong Hill Tracts and other regions of the country.

In the Philippines, political killings, including dozens of indigenous leaders and activists, have called the attention of international human rights mechanisms. The Special Rapporteur denounced the situation in his official visit to the country in 2002. In January this year, I visited the country again and received documentation and testimony to the effect that the number of such killings has increased by more than 80, and that the State has so far taken no effective measures either to remedy the situation or to provide reparation to the victims. In many of the documented cases there is a clear connection of the violence to the defense of indigenous land rights.

In Vietnam and Laos, the Degard (*Montagnard*) and Hmong people still face repression as a consequence of their involvement in armed conflicts more than three decades ago. While many communities try to survive finding refuge in the forest, others have been able to escape into neighbouring countries like Cambodia or Thailand, where they are sometime subject to harsh conditions of detention and face the risk of devolution to their countries of origin.

Autonomy and peace processes

Ms. Chairperson,

In order to find a solution to protracted armed conflicts, as well as to accommodate ethnic diversity within their own societies, several countries have promoted a number of constructive arrangements setting the bases of autonomy regimes. Some of these arrangements provide for indigenous peoples' self-government in issues affect them directly, as well as various safeguards with relation to their cultures, opening a window of opportunity for the promotion and protection of their rights. The experience suggests, however, that these arrangements have not been fully implemented in some cases, leading to the continuation of conflict and repression.

Peace accords between various insurgent groups and the Governments of Bangladesh (in relation to the Chittagong Tracts), India (the case of Nagaland), or Indonesia (in the case of Western Papua, or more recently, of Aceh), are examples of constructive arrangements seeking to put an end to decades of conflict through the recognition of an autonomous status, that also involve the indigenous peoples living in those regions. However, in many instances, indigenous peoples' hopes for a peaceful solution to conflict situations have been frustrated by the lack of implementation of these peace agreements, or as a result of conflicting Government policies, including militarization, internal migration, and land dispossession. Occasionally, patterns of human rights abuse typical of previous conflict situations are still discernable.

The rights of indigenous women

Ms. Chairperson,

I would not like to conclude this brief intervention without a reference to the situation faced by thousands of indigenous women and girls in African countries. As in other parts of the world, these groups are object of multiple levels of discrimination and human rights abuse. Women and girls are severely affected by armed conflicts involving indigenous peoples, where sexual violence is used as a weapon of war. Their situation of vulnerability pushes them, more often than other groups, into trafficking or economic migration under conditions of extreme precariousness, abuse and violence.

Concluding remarks

Ms. Chairperson,

Indigenous peoples in Asia face numerous challenges. In this brief statement, I have only wanted to put the emphasis on those issues that raise special concern from the perspective of international norms regarding the rights of indigenous peoples.

I would like to take the opportunity afforded to me by the Permanent Forum to call upon the Governments of Asian countries, international organizations, civil society and all relevant actors to ensure that the rights of indigenous peoples finds a distinct place on the overall Asian human rights agenda, and to mobilize all the energies required to attend to the situation, often desperate, faced by them in this region.

Thank you for your attention.