Sixth ASEAN People’s Assembly
EDSA Shangri-La, Oct. 24-25, 2007

Ensuring Protection of Indigenous Peoples in ASEAN
Vicky Tauli-Corpuz, Chair, UN Permanent Forum on Indigenous Issues
Ensuring Protection of Indigenous Peoples in ASEAN

Presenter: Vicky Tauli Corpuz
Chair, UN Permanent Forum on Indigenous Issues
Convenor, Asian Indigenous Women’s Network (AIWN)
Executive Director, TEBTEBBA

www.tebtebba.org,
www.un.org/esa/socdev/unpfii
Email:vicky@tebtebba.org
Indigenous Peoples In ASEAN

• referred to as: indigenous peoples (Philippines), hilltribes, ethnic minorities, tribals, national minorities

  ❖ BURMA - ethnic minorities: Shan (4.18 m), Rakhine (Arakanese-2.28 m), Kayin (Karen-1.9m), Mon (1.4m), Kachin (950,000), Chin (450,000), Kayah (Karen-ni), Pa-o, Akha, Muse, Padaung, Wa, Naga, Gorkha
ASEAN indigenous peoples

- **CAMBODIA** - 264,600 are considered ethnic minorities - but this includes Chinese and Vietnamese minorities (4% of total population)
  - Brao, Jarai, Kachac, Kravet, Kreung, Kuy, Lun, Mel, Phnong, Poar, Rhade, Roong, Stieng, Tampuon, Thmaun (101,284)
  - Found in Ratanakiri, Stung Treng, Mondulkiri, Preah Vihear, Kratie
ASEAN Indigenous Peoples

- **Laos**: Mon, Lisu, Hmong, Akha, Karen, Lahu, Mien (Yao), etc.
  47 ethnic groups and 144 sub-ethnic groups

- **Malaysia**: Orang Asli (92,529,1995)-Kensiu, Kintak, Jahai, Lanoh, Mendriq, Bateq, Semai, Temiar, Temuan, Jakun, etc.) Penan, Kenyah.
  - Sabah- Dusunic (Dusun, Kadazan, Kimaragang, Bisaya, Rungus, etc.) Paitanic (Tambanua, Upper Kinabatangan, Sinabu, etc.) Murutic (Kolod/Okolo, Gana, Kabalakan, Sebangkung, etc.) (856,518)
ASEAN Indigenous Peoples

- **Sarawak**: population-443,000: Iban, Kenyah, Kayan, Ukit, Penan, Sekapam, Lahanan, Lun Bawang, Kelabit, Berawan, Punan Bah, etc.

- **Indonesia**: Population – 50 to 70 million: Wana, Fampi, Dayak, Toraja, Tolare, Raranggonau, Luaje, Tajio, Kori, Pendau, Binggi, etc.

- **Philippines**: 15% of present population (13 million): 110 indigenous peoples: Igorot (Kankanaey, Ibaloí, Tingguian, Kalinga, Tuali, Ayangan, etc.), Aeta, Dumagat, Remontado, Mangyan (Iraya, Alangan, Hanunoo, etc.), Tumandok, Ati, Batak, Tagbanua, Lumad (Subanen, Mamanwa, Higaonon, Manobo, Tal’andig, Ata-Manobo, etc.)

- **Thailand**: Lahu, Akha, Mien, Lisu, Karen, Hmong, Lua, Khamu, Mlabri, etc. (approximately 935,189 in Thailand)

- **Vietnam**: Bana, Bo Y, Brau, Bru-van, Cho0ro, Dao, Giay, La Ha, Tay, etc.
ISSUES AND CONCERNS

- **Land and Resources**: Development Aggression – Mining, Dams, Agricultural and biofuel plantations (oil palm, rubber, fruits, etc.), deforestation, biodiversity loss
  - discriminatory land laws and land tenure systems: Regalian doctrine, eminent domain, Land Law 2001
  - Mining Acts, forestry laws, protected areas policies

- **Racism and discrimination**: discriminatory laws and policies; absence of laws and policies;
  - non-recognition of indigenous peoples political structures, governance systems and customary laws
  - non-recognition of identities of indigenous peoples
ISSUES AND CONCERNS

- **Militarization, conflicts and increasing violations of human rights**: National Security Act (Burma, Malaysia, Indonesia, etc.), Anti-terrorism acts (Human Security Act, Phil.) militarization.

- **Cultural genocide (ethnocide)** – national identity, language, non-recognition of identities, languages. Commercialization of cultures

- **Gender oppression**: discriminatory laws (modern or customary), trafficking of women (Thailand, Burma, etc.)

- **Debt Crisis and financial crisis**

- **liberalization of trade and investment laws**,
Common Struggles of ASEAN Indigenous Peoples

• Struggles against statist agenda of development and modernization,
• Struggles against discrimination and exclusion.
• Assertion of a priori or inherent rights to ancestral lands, territories and resources,
• Struggle for the right to self-determination (right to determine one’s political status and economic, social and cultural development),
• Struggle for the protection of cultural heritage, language rights and right to free, prior and informed consent
• Right to remain distinct and not to be forcibly assimilated.
Philippines

- Indigenous Peoples’ Rights Act, 1997,
- Used the Draft Declaration on the Rights of Indigenous Peoples as a framework.
- Recognizes the rights of indigenous peoples to self-determination and rights to ancestral domains, lands and natural resources.
- Recognizes the right to free and prior informed consent.
- Legal challenge launched by mining companies against the constitutionality of the IPRA was defeated in a Supreme Court decision (2001)
Martyr, of Chico Dam Struggle: (1982) Ama Macliing Dulag of the Kalinga, Cordillera, Philippines
Indonesia

- **Indonesia**: In 2000 the Amended Constitution of 1945 presented a growing recognition of existence of indigenous peoples (Adat communities)
- led to reformulation of laws on natural resources and citizen’s rights which recognize customary laws of indigenous peoples. E.g. Natural resource management; Plantation, Mining, Genetic Utilization and preservation; Revised laws on fisheries.
- Act No. 22 of 1999 concerning Local Government recognizes the existence of Adat communities.
- Special Autonomy Law for West Papua Province and Aceh (Much of these still remain on paper only)
Cambodia

• 1997: General Policy for Highland Peoples’ Development (still in draft form) which was developed by the Interministerial Committee (IMC) for Highland Peoples Development which was formed in 1994.
• National Poverty Reduction Strategy (NPRS) contains some points on indigenous peoples.
• 2001, New Land Law was passed which contains provisions for indigenous peoples to gain titles for their lands.
International Instruments, standards and mechanisms

- ILO Convention 107 (1959)
- ILO Convention 169 (1989) adopted by 19 countries

  - adopted by UN Human Rights Council (29 June 2006)
  - Adopted by the UN General Assembly (13 Sept. 2007)- all ASEAN countries were included in 144 States who voted yes; 4 no (Australia, Canada, New Zealand and US); 11 abstained and 30 were absent
UN Declaration on the Rights of Indigenous Peoples

46 Articles in 9 sections covering

- Right to Self Determination
- Freedom from genocide and right to exist as Peoples
- No forced relocation or assimilation without free, prior and informed consent
- Cultural rights including right to practice and teach their religions
- Right to education and respect for IP cultures in education and linguistic rights
- Right to involvement in all political processes
UN Declaration

• Right to subsistence
• Right to own, manage and control lands, territories and resources
• Right to intellectual property
• Right to determine their own development requiring States to secure “free prior informed consent” before any development on Indigenous territories, before resettlement, etc.
• Respect of their customary laws, political and legal systems within their territories
UN Declaration

- Right to ownership of their lands and territories
- Respect for treaties
- Right to contacts across state borders
- Right to access to support and funds
- Right to all rights of other citizens irrespective of gender
Other Instruments, Standards, Policies

- UNDP Policy of Engagement with Indigenous Peoples (2001)
- 2005 – concept note on its revision was released
- 2007 Nov. – consultation with indigenous peoples
Regional and donor policies

• Denmark: Strategy for Danish Support to Indigenous Peoples (July 1994)
• Germany: Policy for Development Cooperation with Forest-Dependent Peoples (1994) and;
Regional and donor policies

RESPONSES OF INDIGENOUS PEOPLES

- Local and national organizing:
  - Local organizations and regional networks
  - National networks:
    - **AMAN** (1999: Indonesia- Aliansi Masyarakat Adat Nusantara –Alliance of Indonesian Indigenous Peoples)
    - **KAMP** (1986: Kalipunan ng Katutubong Mamamayan ng Pilipinas) and **KASAPI** in Philippines
    - National Federation of Indigenous Peoples in Cambodia
    - Assembly of Hilltribe Peoples of Thailand
Responses of Indigenous Peoples

**Education and training campaigns**
- Biodiversity conservation and protection (Malaysia, Indonesia, Thailand, Cambodia, Vietnam, Philippines)
- Trainings on Indigenous Peoples and International Human Rights Law (Tebtebba)
- Training for indigenous researchers (Oct. 24-Nov. 5, 2007)

**Regional Networks**
- **AIPP**: Asia Indigenous Peoples’ Pact (1992)
- **AIWN**: Asia Indigenous Women’s Network (1993)
- **RWESA**: Rivers and Waters Network for East and Southeast Asia
- **International Alliance of Indigenous and Tribal Peoples in Tropical Rainforests** (BAHASA and Mekong region)
- **Indigenous Peoples Global Research and Education Network** (IPGREN)
Responses

❖ Mass campaigns
  ➢ Human Rights Campaigns (Indonesia, Thailand, Philippines, Burma, etc.)
  ➢ Cultural Renewal campaigns (Cambodia, Philippines, Indonesia, etc.)
  ➢ Campaign to get citizenship (Thailand)
  ➢ Anti-mining, anti-dam campaigns, etc. (Philippines, Indonesia, etc.)
  ➢ Campaign for rights to lands, territories and resources

❖ Policy Advocacy:
  ➢ National and Regional levels: campaign for adoption of UN Declaration on the Rights of Indigenous Peoples.
  ➢ All ASEAN countries voted for it at 61st UNGA.
Responses of ASEAN IPs

• Submission of complaints or early warning to the Committee on the Elimination of Racial Discrimination:
  – Indonesia: AMAN, et. al, submitted a complaint on Expansion of Oil Palm Plantations in East Kalimantan. CERD required govt. of Indonesia to respond.
  – Philippines: Subanon of Siocon submitted an early warning alert on mining of TVI (Toronto Ventures Incorporated, Canadian) on their ancestral lands and sacred Mountain. CERD required Phil. Govt. to respond by 31 Dec. 2007 also to submit overdue report on June 2008.
Challenges for integrating indigenous peoples rights and development in ASEAN

1. Ensure that indigenous peoples’ rights enter into the ASEAN Charter
2. IP rights and development to be integrated into the 3 pillars of ASEAN.
3. Strongly support for the establishment of an ASEAN Human Rights Body.
4. Strengthen linkages of ASEAN indigenous peoples’ networks into the existing civil society formations.
Challenges

5. Ensure the implementation of the UN Declaration on the Rights of Indigenous Peoples in the different ASEAN Countries;
   - Popular dissemination and translation of Declaration
   - Strengthen implementation of the Indigenous Peoples’ Rights Act of the Philippines.
   - Get Cambodia to adopt its draft Indigenous Peoples’ Rights Policy
   - Work towards the development of national legislations on indigenous peoples’ rights in other countries; Thailand, Malaysia, Indonesia, Vietnam, Laos and Myanmar.
Challenges

6. Participate actively in the revision process of the ADB Policy on Indigenous Peoples and ensure its implementation.

7. Ensure the implementation of the WB policy on Indigenous Peoples, UNDP Policy and other donor policies on indigenous peoples.

8. Implement the 2nd International Decade of the World’s Indigenous People’s Programme of Action in ASEAN.

DAKKEL AY IYAMAN!