Prospects for Minority and Indigenous Rights in South East Asia

Towards Regional Cooperation?

CONERENCE REPORT | JUNE 2016
UNPO wishes to extend its thanks to all those who made the conference possible, in particular our co-organisers and co-sponsors.
1 • Contents

2 • Foreword ................................................................................................................................. 4
3 • Conference Programme ......................................................................................................... 5
4 • Speaker Biographies ............................................................................................................... 6
5 • Opening the Conference ....................................................................................................... 10
   Speech by Urmas Paet MEP .................................................................................................... 10
   Speech by Johanna Green .................................................................................................. 11
6 • Speeches ................................................................................................................................ 14
   Panel I – Minority and Indigenous Rights in Taiwan: An Overview
     Speech by Jolan Hsieh .................................................................................................................. 14
     Speech by Yapasuyongu Poiconu ............................................................................................... 20
     Speech by Michael Danielsen .................................................................................................... 24
   Panel II – Minorities and Indigenous People: Current Trends in South East Asia
     Speech by Gymbay Moua ........................................................................................................... 29
     Speech by Chum Chuon Son ....................................................................................................... 32
     Speech by Ushatan Talukder ..................................................................................................... 40
     Speech by Arif Fadhillah ............................................................................................................ 44
   Panel III – Ideas from Europe and Ways Forward – Towards Regional Cooperation?
     Speech by Csaba Sógor MEP ..................................................................................................... 50
     Speech by Paulo Casaca ............................................................................................................. 52
     Speech by Joan Audierne ............................................................................................................ 56
2 • Foreword

Despite the fact that South East Asia encompasses myriads of extremely varied ethnic, cultural, religious and linguistic groups, minorities and indigenous peoples remain the region’s most vulnerable communities. Not only do many South East Asian governments deliberately exclude these populations from decision-making processes, but they also actively seek to minimise diversity through programmes aimed at assimilating and controlling indigenous peoples and minority groups, who are often labelled as a threat to social cohesion, ‘national unity’ and political security.

The economic situation of many minority and indigenous groups is likewise critical, with their lands encroached by mining, logging, dam constructions and similar large-scale ‘development’ projects. Concomitant mass displacements and the destruction of ancestral homelands further endanger the very existence of these groups. With regards to religious freedom, minority and indigenous groups are targets of systematic discrimination, often in the form of enforced religious assimilation. Despite some timid advances in recent decades to establish human rights mechanisms that would counter these worrying developments in the region, implementation and enforcement are still in their infancy.

Against this background, this conference – a joint initiative by the Unrepresented Nations and Peoples Organization (UNPO), the Taiwan Foundation for Democracy, the Haëlla Foundation, and Urmas Paet MEP (ALDE) – discussed issues associated with minority and indigenous rights in South East Asia, in particular by assessing recent developments and policies towards indigenous peoples in Taiwan, by comparing the path chosen by Taipei with other Asian cases – through testimonies of representatives of the Hmong, Aceh, Khmer Krom and Jumma people of the Chittagong Hill Tracts, and, finally, by asking European officials and members of European civil society organisations to explain the state of minority rights in Europe and its potential inspirational role for South East Asia.

The event brought together expertise from academics, policy-makers, human rights activists, and representatives of various ethnic, religious and linguistic groups and indigenous communities of South East Asia.

In conclusion, the conference confirmed that there is a need to strengthen cooperation and sharing of experiences both between different indigenous and minority groups in South East Asia, and between regional bodies such as the EU and ASEAN.

While the European project can serve as a source of inspiration rather than a role-model (Europe faces challenges in its minority rights schemes, as well) for the development of minority rights mechanisms in South East Asia, this will be a lengthy process that not only requires a context-specific approach and further dialogue, but also patience and increased involvement of indigenous and minority communities.

Marino Busdachin
UNPO General-Secretary
3 • Conference Programme

Opening Remarks

Urmas Paet MEP, Member of the European Parliament (ALDE)
Johanna Green, UNPO Programme Manager

Panel I – Minority and Indigenous Rights in Taiwan: An Overview

Indigenous Rights Movement in Taiwan: A Democratic Perspective
Dr Jolan Hsieh, Taiwan Foundation for Democracy

Political and Legal Developments of Indigenous Rights
Yapasuyong Poiconu, Taiwan Council of Indigenous People

Setting an Example: Taiwan’s Role in South East Asia
Michael Danielsen, Taiwan Corner Chairman

Panel II – Minorities and Indigenous People: Current Trends in South East Asia

Special Economic Zones for Whom? Land Grabbing and Persecution in Laos
Gymbay Moua, Congress of World Hmong People

Vietnam’s Second Class Citizens: Khmer Krom and the Struggle for Indigenous Recognition
Chum Chuon Son, Khmer Kampuchea-Krom Federation

CHT Accord at a Crossroads: What Next for the Chittagong Hill Tracts?
Ushatan Talukder, Member of the Bangladeshi Parliament

Human Rights in Aceh: Implementing the Helsinki Agreements
Arif Fadhillah, Aceh-Sumatra National Liberation Front

Panel III – Ideas from Europe and Ways Forward – Towards Regional Cooperation?

The European Parliament and ASEAN Countries: Supporting Democratization and Minority Rights. Csaba Sogor MEP, European Parliament Delegation to ASEAN

The European Union and South East Asia: Strengthening Regional Cooperation
Paulo Casaca, Executive Director South Asia Democratic Forum

ProtectDefenders.eu – An EU Mechanism to Protect Minority and Indigenous Rights
Defenders, Joan Audierne, ProtectDefenders.eu

End of Conference
4 • Speaker Biographies

Urmas Paet
Member of the European Parliament (ALDE)

Mr Urmas Paet has been a Member of the European Parliament since November 2014. He specialises in foreign and security policy issues and is part of the Foreign Affairs Committee of the European Parliament. Before his career in the European Parliament he was the longest serving Foreign Minister in Estonia - from 2005 to November 2014. Mr Paet has also served as a Minister of Culture and as the elder of the Tallinn city district of Nõmme. He has also worked as a journalist with Estonian Radio and in the news office of the Postimees daily newspaper. Mr Paet majored in Political Science.

Johanna Green
Programme Manager, Unrepresented Nations and Peoples Organization (UNPO)

Ms Johanna Green holds a joint Master's degree in international relations, with a specialisation in humanitarian affairs, from the Catholic University of Louvain and Uppsala University. She also studied Turkology and European Studies at the University of Helsinki. Before joining UNPO's busy Advocacy Office in Brussels in 2013, Ms Green undertook a traineeship at the European Commission's DG Enlargement in Brussels. Her work at UNPO has involved advocacy work at the European institutions, United Nations and US Congress, in support of indigenous peoples, minorities, and unrecognised or occupied territories. This has involved missions of various kinds to Abkhazia, Iraq, Mauritania, Switzerland, Greece and the United States. Ms Green's interest in and concern for minorities stems from her personal experience as a native Swedish speaker from Finland.

Jolan Hsieh
Taiwan Foundation for Democracy

Dr Jolan Hsieh is Associate Professor in the Department of Ethnic Relations and Cultures, College of Indigenous Studies, National Dong Hwa University (Taiwan). She is also Director of the Center of International Indigenous Affairs and the Division Chair of the Eastern Taiwan Environmental Humanities Research and Social Practice Center. Dr Hsieh received a PhD in Justice Studies from the Arizona State University (Tempe, USA). Her research interests include theories of justice, law and society, human rights, gender/ethnic/class relations and stratification, collective identity and social movement, indigenous peoples' traditional knowledge, and feminist legal studies. As a Siraya indigenous activist and scholar, Dr Hsieh also plays an active role in the Siraya cultural revitalisation movement and writes critiques of indigenous politics for several Taiwanese newspapers. Along with holding many other positions, she currently serves in the Board of Directors for the Taiwan Foundation for Democracy and serves as Chairperson of Amnesty International Taiwan.
Yapasuyongu Poiconu  
Deputy Director of General Planning Department, Taiwan Council of Indigenous People

Mr Yapasuyongu Poiconu belongs to the indigenous tribe of Tsou in Taiwan and speaks Tsou, an Austronesian language, as his mother tongue. His area of expertise is Indigenous Laws and in this context he published "Rights of Indigenous Peoples: Thinking and Interpretation" in 2008. He is currently working as the Deputy Director of the General Planning Department in the Council of Indigenous Peoples of Taiwan, which is the highest central government body taking care of indigenous affairs on the island. Since its establishment in 1996, the Council has invested in building relationships with the Pacific (via the annual Austronesian Forum) and the UN (via the United Nations Permanent Forum on Indigenous Issues).

Michael Danielsen  
Chairman of Taiwan Corner

Mr Michael Danielsen is the founder and Chairman of Taiwan Corner, an independent association that informs Europe about Taiwan. Taiwan Corner was the main organizer of a visit to London and Brussels for two of the principal leaders of the Sunflower Movement to talk with politicians, civil servants and academics in 2014. Mr Danielsen works in a Danish IT company while also being the Chairman of the international committee and the research and technology committee of the Danish Social Democratic Party in Copenhagen. Mr Danielsen has a PhD in Natural Sciences.

Gymbay Moua  
Representative of Congress of World Hmong People

Mr Gymbay Moua has a Bachelor in Criminology and Political Science from University of Ladysmith Wisconsin and a Master in Urban Studies and Public Policy from Mankato State University (Minnesota). He has worked as business owner and operator, and now manages the international relations and diplomacy section of the Congress of World Hmong People (CWHP). The CWHP is a non-governmental organisation based in Minnesota and advocating for the safeguard of Hmong people’s economic, social and cultural rights.

Chum Chuon Son  
Khmer Kampuchea-Krom for Human Rights and Development Association (KKKHRDA)

Mr Chum Chuon Son is co-founder and Program Director of the Khmer Kampuchea-Krom for Human Rights and Development Association (KKKHRDA) and is also the General Secretary of the Khmer Kampuchea-Krom Federation (KKF) in Cambodia. He has been working with the KKKHRDA since 2005 and with the KKF since 2014. Mr Son has had a great role in raising awareness about human rights violations against the Khmer Krom to human rights bodies and organisations in Cambodia. Mr Son has also worked with Australian Volunteer International, United Khmer Kampuchea Krom Scholars, and the radio program of the KKF Cambodia, and cooperated with the Human Rights Action Committee and the Committee on the Rights of the Child. Mr Son has a Bachelor in Education, a Master in Law and is now a candidate for a PhD in Law and Political Science.
Ushatan Talukder  
Member of the Bangladeshi Parliament

Mr Ushatan Talukder is a Member of the Bangladesh National Parliament elected during the 2014 general election in the Parbatya Rangamati constituency. He is an independent MP supported by the Parbatya Chattagram Jana Samhati Samiti (PCJSS) - a political party of indigenous Jumma peoples living in the Chittagong Hill Tracts region of Bangladesh. He has been working with the party since 1970s and is now its Vice President. He is also one of the Presidents of the Bangladesh Hindu Buddhist Christian Unity Council, a non-profit organisation protecting the rights of religious and ethnic minorities living in Bangladesh. Mr Talukder served as a member of the CHT Regional Council, the apex body of CHT administration system. He holds a Bachelor degree in Political Science from Chittagong University. Mr Talukder has had a key role in the dialogue between the PCJSS and the Bangladeshi government, which led to the signing of the 1997 Chittagong Hill Tracts Peace Accord.

Arif Fadhillah  
Representative of Aceh-Sumatra National Liberation Front

Mr Ariffadhillah was born in Banda Aceh, Indonesia, in 1969 and lives now in Germany. After studying chemistry at the Institute of Technology Sepuluh Nopember, Surabaya, he worked as lecturer at the University of Syiah Kuala, Banda Aceh. In 1999 he joined the Aceh-Sumatra National Liberation Front (ASNLF), where he represents his people's struggle for self-determination. In March 2016, he was elected for a second four-year term as Chairman of the liberation movement.

Csaba Sógor  
European Parliament Delegation to ASEAN

Mr Csaba Sógor belongs to the Hungarian minority of Romania. He studied theology and politics in Romania and Switzerland. He is a member of the Democratic Alliance of Hungarians in Romania and was a pastor in the Reformed Church in Romania. Mr Sógor was also part of the Romanian Senate, where he was an active member of the Committee on Education, Science, Youth and Sport, as well as of the Committee on Equal Opportunities. He joined the European Parliament in 2007 and is active in the Committee on Civil Liberties, Justice and Home Affairs (LIBE) and in the Delegation for relations with the countries of Southeast Asia and the Association of Southeast Asian Nations (ASEAN). Furthermore, a member of the European Parliament’s Intergroup for Traditional Minorities, National Communities and Languages, Mr Sógor has worked extensively for the promotion of minority rights in Europe and beyond.

Paulo Casaca  
Executive Director South Asia Democratic Forum

Mr Paulo Casaca is the founder and Executive Director of the South Asia Democratic Forum and of the Alliance to Renew Co-operation among Humankind (ARCHumanKind). He also established Lessmeansmore, a consultancy company promoting sustainable development. Moreover, he was a Member of the European Parliament (1999-2009) where he chaired the delegation for relations with the NATO Parliamentary Assembly. Mr Casaca is the author of several books and reports on economics and international politics.
Joan Audierne
Head of the Secretariat of ProtectDefenders.eu

Ms Joan Audierne has worked for the past nine years for NGOs and for the International Committee of the Red Cross, where she occupied mainly management positions in conflict and post-conflict areas in Africa and in former Soviet States. She is now Head of the Secretariat of ProtectDefenders.eu, the European Union Human Rights Defenders mechanism, established to protect defenders at high risk and facing the most difficult situations worldwide. It is led by a consortium of 12 NGOs active in the field of human rights and is supported by the European Instrument for Democracy and Human Rights (EIDHR), which provides for 95% of its funding.
5 • Opening the Conference

Urmass Paet MEP

South East Asia has seen its share of devastation. The region has had to deal with many conflicts, monstrous regimes, dictators, authoritarian regimes, lack of political consensus and struggles for dominance. In many cases we have seen military power intertwine with the state structure. There are many different religions, ideologies and ethnicities. Well, diversity is not always embraced. Especially as regards minorities. Human rights have always been under stress and innocent people have suffered. Minority and indigenous people are often being denied their basic rights, deprived of normal living conditions, facing harassment and punishments for being different. And in many of these countries the rise of extremism is taking away the lives of teachers, bloggers, and innocent people - people that are different.

In the last few years the EU has been facing a huge migration crisis. People are fleeing from Syria and other conflicts in the European neighbourhood. There have been devastating pictures of people in boats, people drowning, people being stuck in refugee camps or on the road to somewhere hoping for a better life than war and prosecution. And the EU is struggling to find a solution to this refugee crisis.

However, during the last few years, we have seen similar pictures also of thousands of migrants stranded in boats across the Bay of Bengal and Andaman Sea, off the coast of Thailand, Malaysia and Indonesia. The boats carrying Rohingya Muslims fleeing from Burma and Bangladesh. These people are also fleeing because they are being denied their basic rights, their citizenship; and because they are being harassed and attacked. As the EU is trying to find a way to solve the migration crisis on its borders, the South East Asian region is also lacking the strategy on how to manage this crisis.

For both migration crises - the one we are facing in Europe and the one happening in South East Asia - there is one solution. You need to get to the root cause of migration. The war in Syria needs to stop. In Burma the Rohingyas must be reconciled with their oppressors. And so on. The Rohingyas are still persecuted, they are not allowed to move freely, they still have to flee in boats that capsize and it is still a taboo to talk about what is happening.

Countries in Asia tend not to meddle in the affairs of other states when it comes to human rights. Touching sensitive subjects like this is seen as potentially damaging to political ties and trade. Since bilaterally states are not doing much on this subject, we should promote ASEAN to be the forum where these issues would be addressed and try to find solutions there. Not many South East Asian states are part of human
rights instruments. The EU has therefore welcomed the creation of the ASEAN Intergovernmental Commission on Human Rights in 2009 and the adoption of the ASEAN Human Rights Declaration in 2012. But although some positive steps are made, much more needs to be done and promises need to be fulfilled.

In today’s world, we are witnessing on a daily basis the emergence of extremism and terrorism, also in the South East Asian region. This is a field in which the EU and ASEAN should cooperate more. The EU and ASEAN have also agreed to work together on the rights of migrants, women, children, and on interaction with civil society, corporate social responsibility as well as economic, social and cultural rights and the right to development. One of the key priorities for the EU has been the abolition of death penalty in the ASEAN region.

I am hoping that today’s discussions will give us ideas on what more can be done and how to do it. I am hoping that we can learn from positive examples and try to see if these could be used in some other countries as well. I also appreciate the work of UNPO for doing what they do.

**Johanna Green, UNPO**

I am honoured to welcome you on behalf of the Unrepresented Nations and Peoples Organization (UNPO) to today’s conference on *Minority and Indigenous Rights in South East Asia: Towards Regional Cooperation?*. We are deeply grateful to Mr Urmas Paet and his office for their support in convening this event on a topic that is of great importance to many UNPO Members, not least because of the fact that to this day no comprehensive and effective regional mechanism safeguarding minority and indigenous rights in South East Asia has been put into practice. I would also like to thank the Taiwan Foundation for Democracy and the Haëlla Foundation for their support and
contributions, as well as the Taipei Representative Office to the EU and Belgium, who kindly will be hosting a reception following today’s conference, to which you are all cordially invited.

For those who are not familiar with UNPO, we are an international, democratic and non-violent membership organisation, founded at the Peace Palace in The Hague in 1991. We currently represent 42 different minorities, indigenous peoples and unrecognised or occupied territories across the world, many of whom in South and South East Asia.

Although these regions are characterised by great ethnic, cultural and religious diversity, and are home to a large number of indigenous peoples, hill tribes and minority groups – Vietnam alone, for instance, has 54 official ethnic groups –, many of the regions’ governments seem to aim at minimising diversity within their respective countries, developing programs aimed at assimilating and controlling minorities and indigenous groups, who are wrongly considered a hindrance to development progress or a threat to social cohesion and political security. In this context, these populations are often not only deliberately excluded from decision-making processes but also denied many of their most basic human rights.

I should mention here that the establishment of the Association of Southeast Asian Nations (ASEAN) Intergovernmental Commission on Human Rights (AICHR) in 2009 did mark a symbolic achievement for human rights in the region. However, its limited mandate failed to include indigenous peoples and minorities, thus having little impact on the lives of these populations.

And therefore, the significance of today’s conference arises from the need to discuss constructive ways forward for minorities and indigenous peoples in South and South East Asia and to stimulate the engagement of international bodies, foundations, researchers, civil society and politicians to the cause, while also giving a platform to the indigenous peoples themselves to voice their concerns. I am therefore very happy that we will have one whole panel dedicated to discussing current trends in South East Asia from the point of view of the Hmong, the Khmer Krom, the indigenous Jumma people of the Chittagong Hill Tracts, as well as Acheh.

At the same time, it is crucial to look at what best practices can be found within the region itself – and I am thinking here specifically of how Taiwan’s unique culture and societal reform has positioned the island at the forefront of minority representation, promotion and protection in South East Asia.

A founding member of UNPO in 1991, Taiwan’s path towards democratic consolidation is a particularly noteworthy one, and one that has seen the integral contribution of the island’s indigenous peoples.
Last but not least, convening this conference here at the European Parliament – an institution associated with the fundamental values of freedom, democracy and human rights – puts us in a good position to also evaluate what lessons can be learned from Europe, and in particular the complementary regional minority rights schemes of the EU, Council of Europe and OSCE – which are considered as the most sophisticated world-wide. We also hope that the conference will serve as a reminder for the EU about the importance of incorporating well-audited human rights considerations into bi-lateral, and (looking into the future), region to region, Free Trade Agreements with South East Asia.

“A founding member of UNPO in 1991, Taiwan’s path towards democratic consolidation is a particularly noteworthy one, and one that has seen the integral contribution of the island’s indigenous peoples.”
6 • Speeches

Panel I – Minority and Indigenous Rights in Taiwan: An Overview

Jolan Hsieh

Taiwan Indigenous Rights Movement: A Democratic Perspective

In Taiwan there are currently 16 officially recognised indigenous nations, in addition to about 10 unrecognised nations who are fighting to re-gain their lost indigenous status through collective identity-based claims. Distinct from the majority Han-Chinese people, Taiwan's indigenous peoples are part of the anthropological family of the Malay-Polynesians. Linguistically, each indigenous nation is a subgroup of Austronesian-speaking peoples. Officially, Taiwan's indigenous population is nearly 550,000, which is about 2.23% of Taiwan’s total population.

Over the past century, like other indigenous populations around the world, Taiwanese indigenous peoples have faced the collapse of their population, territory, culture, language and traditional values. Taiwanese indigenous populations have seen their territory colonised by several countries and dynasties since the seventeenth century. These include the Netherlands, Spain, the Chinese Ching Dynasty, Japan and finally the Chinese Nationalists – whom we call Han-Chinese people now. Rapid economic development in Taiwan has brought political and societal changes since the 1980s, and at that time the Taiwanese society was wreathed in the mist of urges of reform, social protests, and fight for democracy and civil rights. Taiwanese citizens actively advocated the reform of the Chinese Nationalist Party (or KuoMinTang) government - the single party dominant authoritarian government at that time -, and social movements progressed into various lines of actions. One of the pivotal reforms was the lifting of the 38-year old martial law decree on 15 July 1987.

Historically, from a power-conflict perspective, the past few hundred years in Taiwan have been about Austronesian indigenous peoples and Han-Chinese immigrants’ relations, interaction among different indigenous nations, and conflicts among different Han-Chinese ethnic immigrant populations and the indigenous native peoples. Culturally, Taiwan's indigenous nations have been assimilated into mainstream society through ‘modernising’ and ‘civilising’ policies. From our indigenous perspective, we are aware that this so-called ‘civilisation’ and ‘modernisation’ are primarily ideologies that rationalised the colonisers’ or settlers’ destruction. In other words, the settlers presume the superiority of their way of life.
and the inferiority of indigenous cultures and peoples.

In the name of modernisation and civilisation, indigenous identity, values, and even status have ‘disappeared’, our culture has suffered genocide, and our land and resources have been stolen.

The lifting of martial law has provided a foundation for a wide array of reforms, including a liberalised policy towards the formation of political parties and voluntary associations, and the liberalisation of the press. These reforms have created a liberal, more democratic, pluralistic society on the island. By amending and protecting fundamental rights and needs through the process of constitutional and regulatory reform, increasing citizen involvement in challenging social power structures has become a core theme in the reform movement. The lifting of martial law became an important milestone for democracy in Taiwan. In such an unsettled, confused and complicated political situation, under a repressive regime, the movement of Taiwanese indigenous peoples claiming collective rights gradually emerged from these political reform rallies.

As people become attuned to some social problem they want to see solved, they typically form some kind of social activism that leads to movements which people believe are a central sources of social change. From my own socio-legal background, I define social movement as a collective, organised, sustained, and non-institutional challenge to authorities, power holders, and/or cultural beliefs and practices. I believe social movements are conscious, concerted and sustained efforts by ordinary people to change some aspect of their society by using extra-institutional means.

Indigenous peoples were perceived as “savages 野蠻人” in nineteenth-century Europe and “Fan 番” to the Han-Chinese, so policies of both segregation and assimilation were enforced in Taiwan against indigenous peoples. A minority not only in regard to population percentage, for sure, Taiwanese indigenous peoples

“*In the name of modernisation and civilisation, indigenous identity, values, and even status have ‘disappeared’, our culture has suffered genocide, and our land and resources have been stolen.*”
remained powerless in the social, legal, economic, political and cultural areas. Yet, as the result of indigenous awareness of cultural destruction and discrimination, Taiwanese indigenous peoples not only made consciousness-raising an important aspect of their collective rights and needs, but also created their own movement claiming collective rights. We indigenous peoples are motivated by the desire to overthrow politically corrupt regimes in order to fight against racial/ethnic discrimination and structural violence, seeking greater social justice to fit our basic, yet special, needs. Thus, indigenous rights-claiming movements have become major strategies for the Taiwanese indigenous peoples to prevail in gaining their collective rights and cultural survival.

In the 20th century, three significant levels of Taiwanese indigenous movements developed. Firstly, the status of recognition of indigenous peoples. Under discrimination, oppression, and indigenous elimination and assimilation policies of the earlier Taiwanese society, indigenous groups realised that their own indigenous identities are different from those of mainstream Han-Chinese society. Furthermore, with the disrepute of indigenous peoples, ‘pan-indigenous movements’ erupted.

Second is the aspect of indigenous human rights development. The progression from the term “mountain compatriots” to “indigenous peoples” represents the process of indigenous groups’ struggles from individual rights to collective rights. There are two categories of indigenous peoples’ rights: individual civil rights, including survival rights, and indigenous collective rights, also linked to the fulfilment of social-economic-political developmental rights. Simply speaking, the survival rights movement was to solidify the internal recognition of their identities among indigenous peoples, and led to the success of 1994, when Taiwan’s indigenous peoples were officially recognised in the Constitution. Thereafter, the movement shifted to put pressure on the government to recognise their collective rights as ‘peoples’, also protected by the United Nations’ Charter as well as the UN Declaration on the Rights of Indigenous Peoples.

Third, the appeals of Taiwanese indigenous movements. In this regard, there are three main appeals I would like to focus on:

1. **The name rectification (self-claim for identity rights正名)**

Initially, to effectively express their autonomy, Taiwan’s indigenous peoples demanded that each indigenous group use Romanisation for traditional naming practice. That is, to restore the traditional names of every individual, lands/territories and nations. Nowadays, indigenous groups’ appeal towards rectification is concretely presented in the Name Rectification Movement. The individual name rectification campaign is also continuing;
indigenous peoples can now legally apply to use their traditional name instead of a Chinese name. Different nations have different naming traditions. Some nations use a given name plus the name of the father or the mother; some use a given name and then a family name, while others use a given name, then the father or mother’s name, and then the name of the clan. Different castes in various tribes can also have different naming conventions.

In 2005, the Indigenous Peoples Basic Law was put into effect and defined that there were 12 indigenous groups. After 2007, as indigenous peoples rectified their name convention (personal name and collective group name), the government gradually recognised several indigenous nations such as Sakizaya (earlier known as Amis), Seediq and Truku (earlier categorised as Atyle). As mentioned earlier, at present there are 16 officially recognised indigenous nations. There are non-status "PingPu Peoples" or "Plain Indigenous" who are seeking to regain their ‘disappeared’ or ‘stolen’ indigenous status.

2. The return of lands (land rights 還我土地)

The immense loss of lands (traditional territories) of the indigenous is one of the vital factors that cause indigenous groups to be assimilated and thus extinct faster. All the colonial governments in Taiwan’s history used inappropriate ways to deprive the natives of their lands. The land ownership issue has therefore been brought forth to demand the ruler to return land to the indigenous groups. Lands and resources are linked, and the loss of land leads to loss of culture, language and identity.

3. The establishment of self-governance (sovereign rights 自治)

Human rights instruments, both of general application and those exclusively focused on indigenous peoples, recognise, guarantee and protect indigenous peoples' rights. Under several international laws, they call on state-parties to “recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources and, where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return these lands and territories.”

If we analyse indigenous movements via a post-colonial theory, the analysis reflects current deficiencies and limitations indigenous peoples are facing, which are caused by their forced marginalisation. As part of an oppressed group, indigenous men and women should deconstruct the mechanisms of ‘capitalist’, ‘mainstream’ and ‘gender’-related literature and use the results as bases to redefine the meaning of their movements. The developing method of indigenous movements is experience-based, attempting to resist the possible paths of capitalist exploitation, generalised
descriptions of mainstream domination and gender-related authority. Based on the concept from the edge to the core of post-colonialism, we can clearly analyse the dialectical relationship among the three dimensions of Taiwanese indigenous movements.

Taiwanese indigenous movements focus on raising awareness of collective rights and recognise the need to work on identity recognition and cultural values, in order to show the true meaning of indigenous rights movements.

Taiwan’s social movements began to rise after democratisation, which was brought by the interaction of Taiwanese politics and economy, giving social movements space to develop. Hence, studies from the late 1980s about the rise of Taiwanese social movements focus on the main aspects of the economic, political and social structures. Indigenous ‘problems’ came from the structure of the state: indigenous people lived under Han Chinese settlers and the mechanism of majority rule could not give indigenous people the opportunity to fully participate and have an effective impact at the decision-making table.

As already mentioned, the 1990s were a vital moment for Taiwanese society in general and indigenous peoples in particular. In 1996, Taiwan held its first general presidential election, with which former president Lee D. H opened the door to democracy through a major political reform. The victory of the Democratic Progress Party’s Chen S.B in the 2000 presidential election marked a historical milestone. But, more importantly, former president Chen signed a statement which recognised the Taiwanese government and the pan-indigenous nations as a partner.

Although we indigenous peoples are disappointed by the little effort which has been done since, we now see that there is still hope with the result of the 2016 presidential election. President Tsai Ing-wen promised she would apologise on behalf of the government to the country’s indigenous people on 1 August, Indigenous Peoples’ Day. And a truth and reconciliation commission will also be established under the Presidential Office to handle matters regarding transitional justice for indigenous people.

The proposal is to rebuild the historical perspective of indigenous people and promote autonomy of the indigenous nations as part of the government’s efforts to implement transitional justice.

During her presidential campaign, president Tsai Ing-wen admitted that indigenous peoples have suffered repeatedly at the hands of the government as the nation was ruled by a number of foreign regimes, while also being disadvantaged in terms of economic situation, education and health. She
recognised that this is a situation of oppression and inequality caused by history, which indigenous call ‘historical trauma’.

We are willing to wait and see how the Taiwanese government under President Tsai’s leadership can actually bring justice to heal indigenous peoples’ historical trauma, and how it will empower indigenous peoples through full and effective sovereign rights.
Yapasuyongu Poiconu
Political and Legal Developments of Indigenous Rights

In this session, I would like to explain the historical evolution of indigenous rights in Taiwan. The following presentation is divided into six parts. Firstly, I will introduce our Indigenous Policies; secondly, I will go through the historical evolution of indigenous laws; thirdly, I will examine the laws of specific relevance to indigenous peoples in Taiwan; then, I will talk about how we promote indigenous rights through legislation and the challenges we are facing or going to confront. Moreover, I will include our President Tsai Ing-Wen’s indigenous policies and lastly, I will make some concluding comments.

1. Taiwan indigenous policies
Indigenous policies in Taiwan derived from social concern about indigenous issues and indigenous movements. These movements include “Return Our Land”, “Return Our Languages”, “Return Our Names”, which wanted the central government to set up a unit dedicated to indigenous affairs. At that time, our people put great efforts to work with NGOs, government officials and legislator representatives to safeguard our rights for political participation through the establishment of legal frameworks. The government used to have an Indigenous Administration Division under the Ministry of Internal Affairs in 1987 and set up a Bureau of Indigenous People in the Provincial Government in 1990. In 1991, the Constitution recognised our people and in 1994 it confirmed our indigenous nature. Lastly, our government established the Council of Indigenous Peoples under Executive Yuan in 1996.

With a government unit handling Indigenous Peoples’ affairs, we succeeded in drafting all kinds of bills and passing laws regarding indigenous rights, such as the following: Education Act for Indigenous Peoples (1998); Status Act For Indigenous Peoples and Indigenous Peoples Employment Rights Protection Act (2001); Regulations on Recognition of Ethnic Groups (2002); amendments to the Name Act (2003); Indigenous Peoples Basic Law (2005); Regulations on Co-Management of Resources within the Indigenous Peoples’ Regions, amendments on Regulations on Administration and Development of Reserved Lands for Indigenous Peoples and Protection Act for the Traditional Intellectual Creations of Indigenous Peoples (2007); Act for the Establishment of the Indigenous Peoples Cultural Foundation (2008). By passing these acts and regulations ensuring our peoples’ rights, our country has in fact made remarkable progress.
As those policies have gradually been passed and executed over the years, we are now able to examine policy consistency. At an earlier stage, the main purpose of the Provincial Government was to provide material support, social assistance, welfare measures and infrastructure to the indigenous population. However, along with the Indigenous Peoples Basic Law, we started constructing a bigger idea including: autonomy rights, education rights, rights of indigenous languages and media, rights of traditional knowledge, creation and biodiversity, rights of traditional customs, rights of home safety and security, rights of jobs and social welfare, rights of land and natural resources, economic, social, cultural and judicial rights.

Based on the idea of belonging to a group – instead of fighting for individual rights –, our unique political and legal development has several visions: to achieve a balance between mainstream mindset and minority thinking; to be able to fully and fairly participate in public affairs; to promote indigenous autonomy; to implement the mechanism of consulting people in tribe villages or enhance their participation in cooperation matters; to establish the economic strategy which adapts tradition and customs thus benefiting local people and environment; to empower local tribes; to promote ethnic education and spread indigenous culture; to upgrade our own policy by learning from other indigenous brothers and sisters in the world.

2. Historical evolution of indigenous laws in Taiwan

Numerous laws have been enacted in recent decades to highlight the ethnic diversity and safeguard the political participation of Taiwan’s indigenous peoples. There are three milestones during this process: in 1997, the denomination ‘indigenous peoples’ (yuan zhu min zuo) is taken into the 10th additional article of Taiwan's Constitution; in 2005, the Indigenous Peoples' Basic Law is promulgated; from 2007, the development of indigenous rights in Taiwan and their legal framework are based on the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007.

3. Laws of specific relevance to indigenous peoples in Taiwan

These laws focus on four points: political participation, education, natural resources and Free, Prior and Informed Consent (FPIC). In terms of political participation, since the constitutional amendments of 2005, with which 6 out of 113 seats are reserved to indigenous legislators and indigenous peoples are represented in all government units, we can vote to elect our indigenous representatives. In addition, the government also holds Civil Service Special Examinations for Indigenous Peoples
annually to encourage our people to serve for the community.

“Transitional justice is the core policy of President Tsai, through which she hopes to put an end to social injustice endured by indigenous peoples.”

Education is still a crucial issue to be taken seriously. In accordance with the amendment to Article 10 of the Constitution and the Education Act for Indigenous Peoples, the government shall protect indigenous peoples’ rights to receive compulsory education and ethnic education. In this framework, we encourage indigenous students to take the Tribal Language Certification to help preserve our mother tongues and cultures. The law shall also take natural resources into account. Government agencies managing natural resources should establish a co-management mechanism with indigenous peoples. In order to maintain our traditional practices and customs, we shall have legal rights to access to natural resources for non-profit usage. Moreover, indigenous peoples shall have legal privileged rights to develop hot springs for increasing local business opportunities.

In this context, the issue of Free, Prior and Informed Consent (FPIC) emerged. Here I will quote the UN Expert Mechanism on the Rights of Indigenous Peoples: FPIC is “one of the most important principles that Indigenous Peoples believe can protect their right to participation. It is embedded in the right to self-determination. The duty of States to obtain Indigenous Peoples’ FPIC entitles Indigenous people to effectively determine the outcome of decision-making that affects them, not merely a right to be involved”. Therefore, government units, academic researchers and land developers shall obtain FPIC to ensure our people can participate in the decision-making process according to their own will.

4. Promoting indigenous rights through legislation: an ongoing process and future challenges

Today, we seek to promote indigenous rights through legislation despite all of the challenges we are facing. Currently, the Council of Indigenous Peoples in Taiwan endeavours to work on the following draft bills: Indigenous Peoples Self-Government Provisional Act, Indigenous Traditional Knowledge and Biodiversity Protection Act, Indigenous Language Development Act, Indigenous Peoples Land and Maritime Law, Indigenous Peoples Health Act, Act for the Integration of Indigenous Customary Law into State Law. The purpose of drafting and passing these laws is to assure well-being and cultural survival of indigenous people from all the 16 tribes in Taiwan.
5. President Tsai-Ing Wen’s indigenous policies

On the day of our new President’s inauguration on 20 May 2016, President Tsai stated: “The new government will address issues concerning indigenous peoples with an apologetic attitude. My administration will work to rebuild an indigenous historical perspective, progressively promote indigenous autonomous governance, restore indigenous languages and cultures, and improve the livelihood of indigenous communities”. Her policy comprises five goals: recognising indigenous peoples’ sovereignty, creating a more beneficial condition for our people, which would help their economic development, eliminating all forms of discrimination against indigenous peoples, defining precisely the traditional indigenous territory and region in order to preserve ecological environment and ensure rights to education, culture and media.

An aspect of her strategy to reconcile Han ethnic groups (the colonisers) and indigenous peoples consists in apologising to indigenous peoples on 1 August (2016) for all the injustice committed over the past 400 years, on behalf of the Republic of China (ROC). Furthermore, she plans to establish a Truth and Reconciliation Committee for Indigenous Peoples on the same day, with the mission to research and reveal all the wrongdoing of the past governments, with the hope to resolve the conflict and compensate losses.

I would like to conclude my presentation with the following consideration: transitional justice is the core policy of President Tsai, through which she hopes to put an end to social injustice endured by indigenous peoples. We now face the challenge of building a legal framework for self-government and for the resolution of land issues. These are our goals and we will strive to achieve them in the coming days.
Michael Danielsen

Setting an Example: Taiwan’s Role in South East Asia

When I was asked to give this talk about Taiwan setting an example in Southeast Asia and its role, I first asked myself: what does it mean to “set an example”? When you say that someone is setting an example, you are basically saying that one behaves in a way that should be or will be imitated.

This common definition is, of course, no surprise to any of you. It is common knowledge! But by stating it again, we remind ourselves what we are talking about when we speak of Taiwan’s example. So the question is: “Does Taiwan behave in a way that should or will be imitated?” I will reveal my final assessment at our conclusion.

Taiwan reproduces itself, and its own understanding of its place in the world, through foreign policy actions and in the conduct of business projects abroad - just as other countries do. This is similar to a long-term relationship in which it is hard to hide your true values. Just think of your own marriages and other personal relationships.

So then, what role does Taiwan have, both currently and ideally? What are the important areas for Taiwan to be involved in?

1. Playing a role through the new “southbound policy”

In the years to come it will be interesting to see how Taiwan reproduces itself through the southbound policy recently announced by Taiwan’s new President Tsai Ing-wen and her Democratic Progressive Party (DPP) government.

For a start, a Southbound Policy Coordination Office has been established at the Presidential Office, to be headed by former foreign minister James Huang of the DPP. In addition, a dedicated think-tank has been established.

The policy’s stated aims are “to promote economic, human resources, education, tourism and agricultural exchanges” to boost what it calls multilateral relations with Southeast Asian nations. In its outset the policy appears to be driven by trade ambition and the attempt to mitigate and diminish Taiwan’s economic overdependence on China.

However, James Huang has used the words “a new partnership”. This is key because it opens for an opportunity for mutually

“Taiwan can make a huge difference by supporting civil society in the various Southeast Asian countries through dialogue with civil society groups on concerning political and environmental issues, and minority rights.”
beneficial cooperation. James Huang said the new policy sees “people at its core”. What this means is not clear to me, except for cooperation in education. The actual policy substance of this people-to-people element or, indeed the role of civil society, is to my knowledge still being worked out.

2. Actual Policies

Let me try to be a bit more concrete on how Taiwan can set an example. I will not go into details about the commercial aspect of the policy. But I note that if Taiwan pursues its trade interests only, it will still reproduce its values such as reliability, transparency and high standards through business projects. It should however be very careful not to reproduce its current poor labour standards.

Far more importantly, I believe that Taiwan has the potential to set an example in the field of education. This can bring people together in East Asia and Taiwan. Education is an important means of promoting people-to-people contact. Student exchanges can generate lifelong attachments between Taiwan and Southeast Asia. The National Taiwan University System (NTU System) is considering opening branches in Southeast Asia and allowing Southeast Asian students to have a degree from Taiwan or receiving an education in Taiwan.

If Taiwan wants to make a real difference compared to other countries, I feel we need to look at what is not yet mentioned, at least to my knowledge, in the southbound policy. Taiwan can make a huge difference by supporting civil society in the various Southeast Asian countries through dialogue with civil society groups on concerning political and environmental issues, and minority rights.

The Sunflower Movement protests in Taiwan in 2014 is a concrete example of how Taiwan was able to handle civil society protests in a largely peaceful and orderly way. Most recently, the DPP government has dropped charges against 126 people who occupied a main administrative building on the basis that it was a political matter rather than a criminal one. This is a positive example on how democracies should behave when there are deep political disagreements.

Political NGOs in civil society can work together in Southeast Asia. I understand, for instance, that the Council of Asian Liberals and Democrats (CALD) would like to work with Taiwanese groups.

The point is that this will create a network of people that can benefit both Taiwan and Southeast Asia. Taiwan can be a centre for civil society development. Civil society can be a vehicle for breaking barriers and rigid forms of cooperation between Taiwan and Southeast Asian countries.

Engaging directly with civil society groups and movements can be politically sensitive in some parts of Southeast Asia. In this
case, cultural exchanges may be a better starting point.

Transitional justice in Taiwan may be an issue that can inspire other Southeast Asian nations. How does a former opposition government handle legacy issues from an authoritarian past? This is a current question, as the opposition in Taiwan has recently gained a majority in parliament for the first time in the nation’s history. As an example, the process of dealing with the Kuomintang (KMT)’s illegal assets is now being treated in Taiwan. It is my expectation that the process will be relatively smooth and that it will be based on constructive negotiation rather than mere force of state power.

Reform of the legal and judicial systems are other big challenges for Taiwan that can inspire other nations. For instance, following severe criticism from international experts in 2013, Taiwan will go through some much needed reforms. There is also a need to fully implement the UN Covenant on Civil and Political Rights, including ensuring the democratic rights of foreigners on short stays in Taiwan. Taiwan should avoid banning innocent Europeans from entering Taiwan as happened, for example, to a German citizen in March 2013.

3. Democracy

Democracy is under pressure around the world and in East Asia. Taiwan can set an example showing the benefit of a free society, simply by the way the country behaves at home.

I feel assured that over the coming years Taiwan will show how to put right negative developments in press freedom which took place in the past 8 years under the former KMT government. The recent Freedom House report showed that journalists feel pressure to self-censor and media companies are wary of upsetting China.

The delay in the proposed law against media monopolisation and the mere discussion on designated areas for the press during demonstrations, show a worrying development.

Reporters without Borders have reached similar conclusions. If we look at the figure below, we see that Taiwan’s recent rankings in the freedom index have not been impressive.

Women’s rights are an issue on which Taiwan can set an example and on which it has made great progress, as are also the rights of minorities such as LGBT people. It is not unlikely that over the next two years Taiwan will approve same-sex legal marriages or legal partnerships. This will send a signal of hope for the future to such minorities in Southeast Asia. Taiwan might
Reporters without Borders Press Freedom ranking

indeed be able to beat Thailand or Vietnam in being the first country in Asia to make this step. By connecting LGBT civil society groups, Taiwan can play a progressive role in Southeast Asia.

Taiwan is not perfect. Unfortunately, the DPP government does not want to abandon the cruelty of capital punishment, despite its own policy platform and its full majority in the parliament. I feel assured that the EU will pressure the DPP government, as it did with the former KMT government.

4. Influence through self-denial

Setting examples and playing a role can be seen as problematic if it is not promoted and implemented in a spirit of cooperation and in a spirit of what is needed in times of globalisation. The pressure coming from globalisation tends to lead us to focus on ourselves and local identity. That made me think of an idea in the book “The Son of East Asia” written by the Taiwanese intellectual Tsai Pei-Huo, and published in 1934.

According to Tsai, Taiwan could work to be East Asian through self-denial, by asserting that there are no differences between them and us. What Tsai Pei-Huo tried to say is that all countries can be sons of East Asia without a hierarchy between them. This could be a way of avoiding conflict by joining the East Asian family. At his times he, of course, focused on peace between Japan and China.

Taiwan is obviously no threat to Southeast Asia and can therefore show that it can embrace all East Asia through self-denial and engagement with mutual benefits. East Asia needs cultural understanding, development of democracy, stronger institutions and a stronger civil society. At the same time, this can increase awareness of East Asia also in the EU, by becoming even more visible.
China will not like such an approach creating a stronger Southeast Asia, as it would put pressure on its dominating position. Beijing will see it as anti-Chinese endeavour. But such developments could be beneficial for the rest of Southeast Asia. And there is no reason why China should have its own way in everything.

5. Soft-power

Taiwan has a lot of soft power and it can set an example and take an engaging and mutually beneficial approach, if it embraces this opportunity. Taiwan needs to be better known in Southeast Asia and to forge connections with ordinary citizens throughout the region in order to succeed. Therefore, Taiwan needs far better public diplomacy policies than we have seen so far.

So yes, Taiwan can set an example in East Asia but there is a lot of work to do.
Panel II – Minorities and Indigenous People: Current Trends in South East Asia

Gymbay Moua

Special Economic Zones for Whom? Land Grabbing and Persecution in Laos

Briefly, the Hmong people is the indigenous people who occupied the central Lao regions for many thousands years. But things changed after the Vietnam War ended in 1975 and the new Lao government took over Laos, imposing a secret eradication policy aimed at exterminating the indigenous Hmong in the region. These are called ‘ChaoFa’ by the Lao regime.

We would like to inform panellists and participants in this room that human rights violations toward the Hmong indigenous community are ongoing in the central Lao Xaysombun region. The current situation includes killings, hunts – like with animals -, and chemical attacks. Infected individuals – among which many are children – suffer from nausea, vomiting, burning eyes, breathing difficulties, diarrhoea, and weakness of arms and legs.

This community is also facing environmental destruction in the form of illegal wood logging, mining and land annexation, causing substantial threat to its social, cultural and economic conditions and resulting in food reduction and starvation.

Inadequate housing is a major threat to the Hmong’s daily life. They constantly have to move from place to place to avoid being seen by Laotian soldiers. They haven’t had a permanent place to call home for more than three decades now. Apparently, the jungle is their only home.

A team from the International Discovery Channel, including myself and my colleague James Her, had the honour to visit the region last October (2015). We witnessed the most incredible and horrible conditions we had ever seen. It went beyond human imagination. Nothing could be compared to what these people have been going through.
I asked this brave 11-year old young man: “Why are you carrying this AK 47? The AK 47 is as tall as you!”. He laughed and said: “My big brother, I have to defend my people. The Laotian soldiers are tearing us apart. I have to defend”. I held him in my arms and promised him we would do everything we could to help him.

We met a little girl who was shot on her right leg last year when the Laotian soldiers invaded her refuge. She ran to me and said, “Brother, look, I got shot here by the Laotian soldiers and I am very lucky to be alive. Please go and voice that we need help because Lao soldiers hunt us every day. We are scared to go out in search of food. I am hungry. Next time you come bring me food”. I looked at her in tears and promised that I would bring her food if I had the opportunity to meet her again. But deep down inside of me, knowing the situation they were in, a part of me was saying: “Am I going to meet her again?”.

“We are the voices, we are the nations, and we are the United Nations; we shall give these innocent children and their people a high priority.”

As of now, “Laotian soldiers, including Vietnamese mercenary soldiers, are stationing in Moung Cha, Xaysombun, in one battalion; on the north side of Xaysombun in Nam Feng, Na Sen, Pa Dong, Na Sia, there are two battalions. These areas are about 20 kilometres in air North and South of Phou Bia region,” according to Mr Her.

On 4 May 2016 at 5 a.m. Lao time, Ms Pa Moua was killed in her refuge along with Mr True Thao and two other young men were seriously wounded during an invasion for land annexation during early morning.
The region is a battleground between the Hmong indigenous people and the Lao People’s Democratic Republic (PDR). We call upon the Laotian government to refrain its military action and the illegal solicitation of Vietnamese mercenary soldiers in the region immediately.

The Geneva Convention of 21 July 1954 and the Paris Peace Accords of 27 January 1973 clearly emphasised that “Laos must not permit any individual or collective reprisals against persons who have collaborated in any way with one of the parties during the war, or against members of such persons’ families.”

According to Mr Her, about “300,000 Hmong indigenous people died since 1975”. The Laotian government is a member state of the United Nations, and must live up to international laws.

In 2009 there was illegal deportation of more than 4000 Hmong indigenous refugees in Huay Nam Khao Pitchabun back to Laos in front of the international intervention. Today many returnee leaders are gone missing. This is a true failure of how laws are enforced by member states.

On behalf of that brave young man and that little girl, I come upon you, we are the voices, we are the nations, and we are the United Nations; we shall give these innocent children and their people a high priority. They are the future for the Hmong Indigenous people. We shall give them liberty and shall not give them death. No one deserves to die.

We recognise that Sovereignty is critical to protect the integrity of a nation. But we must not forget that lives come before laws. Let us end this meeting with plans for the development of Regional Cooperation as an effective piece of legislation necessary to promote peace and prosperity for the minority and indigenous communities in Southeast Asia and around the world.

Together, we can give priority to that peace process.
Chum Chuon Son  
Vietnam’s Second Class Citizens: Khmer Krom and the Struggle for indigenous Recognition

Today, I am very honoured to have permission to participate in this conference on minority and indigenous rights in South East Asia. This is a special opportunity for the Khmer Kampuchea Krom Federation (KKF) to address the issues of human rights violations against Khmer-Krom people by the Vietnamese authorities.

Kampuchea Krom means “Cambodia Below” or “South Cambodia”. "Krom" in Khmer also indicates “Southern”. The Khmer-Krom describe themselves as “Cambodians of the South”. Kampuchea Krom was the southern territory of the Khmer Kingdom. Once known as (French) Cochin China, it is now located in the South-western part of Vietnam, covering an area of 68,965 km² and including two big islands, Koh Trol (Phu Quoc) and Koh Trolach (Con Non), with Cambodia to the north, the Gulf of Siam to the west, the South China Sea to the south, and the Champa’s territory to the northeast. Prey Nokor, later renamed to Saigon or Ho Chi Minh City, was one of the most important commercial cities in Kampuchea Krom.

Kampuchea Krom was colonised by France in 1862 under the name of French Cochin China during our war against Vietnamese invasion. But after the Second World War, on 4 June 1949, France gave Cochin China to Vietnam without the consent of Cambodia. Since then, the Khmer Krom people are under Vietnamese rule, facing discrimination and lack of basic rights.
Today they are denied the right to freely practice their religion and pass on their culture, and are treated as second-class citizens. The mission of the Khmer Kampuchea Krom Federation is to seek freedom, justice and the right to self-determination for Khmer Krom people living under the oppressive Vietnamese Socialist government, through non-violent measures and through application of international law.

Over the past few years, we, the working group of the Khmer Kampuchea Krom Federation and other Khmer Kampuchea Krom Associations, have monitored the living conditions of the Khmer-Krom people in Vietnam. The Khmer-Krom people continue to suffer oppression and harassment when trying to exercise their rights to religious beliefs and practices, and the rights to freedom of expression and access to information. Their freedom of movement is closely controlled and restricted. All of these rights should be respected by the Vietnamese government. We briefly describe some of the major violations below.

1. Language and education restrictions

The Indigenous Khmer-Krom Peoples are not allowed to freely learn and use the Khmer language. The current teaching of the Khmer language in public schools attended by Khmer-Krom students is not a programme that actually enables Khmer-Krom children to learn their mother tongue. There are very limited Khmer programmes in public primary school and most of Khmer-Krom children have to leave school after primary education in order to help their parents either in farms or as unskilled workers, due to the poverty these families face. Some junior public high schools provide just two to three hours per week to learn Khmer, which is not an adequate amount of time to learn any language. Therefore, most of the young Khmer-Krom now cannot read nor write their own language.

The Vietnamese government forbids anyone from bringing Khmer textbooks from Cambodia to Vietnam for the Khmer-Krom students. In recent years, Vietnam published some Khmer textbooks for Khmer-Krom students to study. However, these textbooks contain propaganda aimed at brainwashing Khmer-Kroms. Moreover, the textbooks are written by Vietnamese people who do not know the Khmer language very well. Thus, they have many grammatical errors and incorrect spelling. This is the reason why Khmer-Krom students want to study Khmer textbooks coming from Cambodia, which Vietnam does not allow.

On 13 February 2014, Vietnamese authorities seized about thirty copies of a Khmer grammar book that was originally
written by Mr Thach Ek in the Tra Vinh province, but was printed and published in Thailand. Mr Thach Ek asked Vietnamese authorities for permission to publish his grammar book for many years, but they kept silent and ignored his request. Venerable Thach Chan Dara, a Khmer-Krom Buddhist monk studying in Thailand, helped printing this book and sent it to the Tra Vinh province for Khmer-Krom students to study their language. Unfortunately, Vietnamese authorities do not allow this book to be distributed even if it is just a grammar book.

2. Discrimination in scholarship awards for overseas studies for monks and laypersons

There are millions of Khmer-Krom people in Kampuchea-Krom, but very few hold a Master Degree or a PhD. Meanwhile, Vietnam has sent thousands of Vietnamese students to study abroad, especially in the United States, Canada, and Australia. But Khmer-Krom students do not receive those benefits, except to go to Thailand and Cambodia. Khmer-Krom students receive no benefit from scholarships that are generously offered by international governments and organisations - such as the European programme of Erasmus Mundus -, due to discriminatory policies of the Vietnamese government. External efforts to support the advancement in education for Khmer-Krom is blocked by the Vietnamese government.

For instance, the study of Theravada Buddhism is limited, not widely available, and the curriculum is regulated by the Vietnamese authorities. Therefore, practitioners must request permission to study certain topics.

3. Right to learn international law

Vietnam adopted the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), but the UNDRIP is not free to interact with the Khmer-Krom. Most of the Khmer-Krom are not even aware of the existence of UNDRIP and the Universal Declaration of Human Rights (UDHR). Human rights workshops to educate Khmer-Krom about their basic rights are not allowed.

4. Right to freely practice Theravada Buddhism

The indigenous Khmer-Krom peoples of the Mekong Delta have centred their community on a strong belief in Buddhism since year 373 in the Christian era. The Theravada Buddhism is not just a religion, but it is part of their unique cultural identity. Unfortunately, the Khmer-Krom people are now practicing their Theravada Buddhism in fear. The Vietnamese government tactically established the Patriotic United Buddhist Association (PUBA - Hội Liên Kết Sự Sái Yêu Nước) only for Khmer-Krom and has successfully forced most of the Khmer-Krom Buddhist monks to join this association.
The Vietnamese government uses the Patriotic United Buddhist Association as a showcase to show to the world that Vietnam allows the Khmer-Krom to form their own Buddhist association. However, the government uses this association to control and degrade the way the Khmer-Krom practice their religion.

The Vietnamese government offers a small amount of salary to most of the Abbots (head monks) that are leading the PUBA in each province throughout the Mekong Delta. As the Buddhist monks, they are not allowed to receive any salary. If they receive a salary, it means that they have to follow orders from the government. Thus, when the Khmer-Krom Buddhist monks and followers stand up for their religious rights, the Vietnamese government uses PUBA leaders along with the Vietnamese police to arrest, defrock and imprison monks who challenge the government or engage in activities that authorities deem problematic.

The Vietnamese government allows wealthy Vietnamese to rebuild Khmer Krom Buddhist monasteries by demolishing old buildings without preserving the old ones. Original Khmer Language Abbot Seals have been confiscated as Khmer script is forbidden.

5. Interference in activities
Traditional Khmer Buddhist ceremonies require submitting a permit request to the government to get permission. Temple committees and leadership, including abbot appointments, must be approved by the government and the government usually makes its own appointments to monitor and control activities.

6. Freedom of expression and right to access information
All the media in Vietnam is controlled by the government to propagate state’s policies. There is no independent newspaper, magazine or television. The Vietnamese government even blocks the Khmers Kampuchea-Krom Federation website (www.khmerkrom.org or www.khmerkrom.net) in Vietnam. Khmer-Krom people are afraid to listen and watch news sources such as Radio Free Asia or Voice of America because of threats and are therefore obliged to consult inaccurate and biased state-run media. Sharing or providing information abroad and to foreign media is tightly regulated through preventative measures, threat and harassment.

7. Right to form an association
Vietnam does not allow the Khmer-Krom to form any association. Throughout the Mekong Delta, there is no independent Khmer-Krom association nor student club. The Khmer-Krom people have two traditional sports: Dragon Boat Racing and Ox Racing. Vietnam just allows them to organise teams for competition to lure the tourist to bring benefits for the government. These sport teams are heavily monitored by local authorities.
8. Right to health

Vietnam has ratified three international conventions that explicitly guarantee the right to health: the International Covenant on Economic, Social and Cultural Rights (ICESCR); the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW); and the Convention on the Rights of the Child (CRC). Most of the Khmer-Krom people do not know of the existence of those international conventions and therefore don’t understand that the health problems they face are human rights violations.

Since 2003, there have been serious blindness issues in the Soc Trang province. There are thousands of Khmer-Krom people who are affected by blindness of either the left or right eye, and in some case both eyes. The main problem that causes this blindness is the fact that drinking water is contaminated by pesticides, herbicides and fertilisers. This problem has been reported to the Vietnamese government, which has taken no action to counter it because of the fact that victims are primarily Khmer-Krom.

9. Arrests, detention, torture, imprisonment

Arrest, prolonged arbitrary detention and torture are common practice in Vietnam and are used against Khmer Krom monks and laypersons. In this context, various vaguely worded articles of the Penal Code are used to charge Khmer Krom people on expression of basic rights, including freedom of religion.

10. Identification card

In late 2015, Vietnamese authorities have released a new citizenship identification. The new ID does not specify the nationality, contrary to the old model with a specific nationality and ethnicity. We are therefore concerned about the loss of identity of Khmer-Krom people, at any time.

11. Some emblematic cases

On 28 March 2013, at the Tuek Sap commune (Chroy Nhor district, Khleang province), Vietnamese authorities accused the monks in the Prey Chop temple and Abbot Venerable Ly Chenda of having connections with the Khmers Kampuchea-
Krom Federation (KKF) and other Khmer Kampuchea-Krom associations abroad.

On 16 May 2013, an event occurred at Prey Chop temple in Lai Hoa commune (Vinh Chau district, Soc Trang province). Police fenced off the temple and arrested Abbot Venerable Ly Chenda along with two other monks and two of the Buddhist temple’s committee members. The police brutally defrocked the monks and held them in custody. Upon his release, Venerable Ly Chenda was having difficulty remaining conscious and had foam coming out of his mouth, signs indicating he had been drugged and tortured by the police. That same day, the police assaulted five older women because they had tried to protect the monks. The police beat the women to the point of unconsciousness.

On 17 May 2013, Venerable Ly Chenda was forced to confess on Vietnamese television his participation in crimes that he did not commit. Under threat of further abuse and oppression by Vietnamese authorities, venerable Ly Chanh Da was forced to flee Vietnam and seek refugee status in Bangkok, Thailand, on 17 June 2013.

On 17 May 2013, at 8 pm, hundreds of Vietnamese police surrounded the Serey Tasek temple with the intent of defrocking Venerable Lieu Ny and Venerable Thach Thoul. The two sought shelter at Serey Tasek temple in fear as they were aware of what happened to Venerable Ly Chanh Da. They were forced to flee to Cambodia, accompanied by two temple members, Thach Phumirith and Tra Van Tha. On 18 May 2013, at the border of Cambodia-Vietnam (Chrey Thom-Long Binh), they were arrested by Vietnamese border authorities. The border authorities also arrested many other Buddhist monks and others under accusations of leaking information about human rights abuses to the media and abroad.

On 1 July 2013, Venerable Lai Lat, who was an Abbot of Don Tru Temple in Vinh Chau district (Soc Trang province), was forced to flee to Cambodia because the Vietnamese government accused him of having contact with Venerable Ly Chanh Da, Venerable Thach Thuol, and Venerable Lieu Ny.

On 26 September 2013, the Vietnamese authority arrested Khmer-Krom Buddhist followers who came to support Venerable Ly Chanh Da protesting his defrocking by Vietnamese police. The following protesters were sentenced up to a year for the alleged crime of causing “public disorder”:

i. Lam Thi Loan – Born 1957 - 1 year of prison.
ii. Ly Thi Danh – Born 1970 - 1 year of prison.

On 27 September 2013, Venerable Lieu Ny and Venerable Thach Thuol and their two students, Tra Quanh Tha and Thach Phum Rich, were sentenced two to six years for
the alleged crime of “fleeing abroad to oppose the Vietnamese government” and “helping other people flee abroad”:

i. Venerable Thach Thuol, Born 1985, 6 years of prison.

ii. Venerable Lieu Ny, Born 1986, 4 years of prison.


iv. Tra Quanh Tha, Born 1978, 2 years of prison.

On 11 February 2013, Venerable Sieng Sovanara, who was the Abbot of Samaki Rainsey temple and Vice President of the Khmers Kampuchea-Krom Buddhist Monk Association (located in Phum Trea, Sangkhat Stung Meancheay, Khan Meanchey, Phnom Penh, Cambodia), took a trip to his homeland in Kampuchea-Krom to visit relatives. A day after he arrived, more than ten Vietnamese police officers invited him to meet in the village of the Hòa Khởi commune (Hòa Đông Vĩnh Chau district, Soc Trang province). There, he was interrogated for three and a half hours, from 8 to 11:30 am. Vietnamese Police treated him like a prisoner and forced him to confess of being behind the event that occurred at the Australian Embassy in Cambodia on 30 January 2013, where Khmer-Krom activists reported human rights violations committed by the Vietnamese government. Furthermore, the police interrogated him on the activities of the Khmer Kampuchea Krom Association in Cambodia and abroad.

On 12 April 2013, Mr Ly Chhuon, editor-in-chief of the Prey Nokor News magazine in Cambodia, left Phnom Penh with his wife and daughter to visit his relatives in his homeland of Kampuchea-Krom to celebrate the Cambodian New Year. When Mr Ly Chhuon and his family arrived at the border between Cambodia and Vietnam, they were refused entry into Vietnam and the customs officers detained, searched, and interrogated them.

There are many cases in which Khmer-Krom living abroad have been refused entry into Vietnam despite having appropriate travel visas. Some were allowed entry into Vietnam but only after enduring interrogations, threats, and intimidation by the Vietnamese police. There are also cases where Vietnamese police have confiscated passports of Khmer-Krom visitors and forced them to spy on and report the activities of Khmer-Krom activists.

From 14 to 28 October 2015, five Buddhist monks of the Samaki Rainsy temple led a group of Buddhist laymen and students for the Kathina traditional Buddhist ceremony at Kveng Thotung village (Kveng Thotung commune, Khleang Moeung district, Kromuon Sar province). However, local Vietnamese authorities stopped them from holding the traditional ceremony. On 28 October 2015 at 8 am, upon returning to Cambodia through the border, at the gates of Prek Chak-Xa Xia (Kompot-Ha Tien), unidentified civilian police confronted the
group and questioned them. Afterwards, they were arrested by the police, tortured and deprived of their properties.

On behalf of Khmer-Krom people, we the Khmer Kampuchea Krom Federation and the Khmer Kampuchea Krom associations urgently call the Human Rights Committee of the United Nations as well as national and international human rights organisations, and the European Parliament, to intervene and protect the Khmer-Krom indigenous people who have been facing gross violations of their rights by the Vietnamese and Cambodian governments.

We implore national and international organisations to make human rights a priority, with compassion and empathy, and to intervene in support of the indigenous Khmer-Krom people.

We kindly ask country donors to promote and support the implementation of human rights legislation in Vietnam and to pressure the Vietnamese government in this direction.

We implore the UN High Commissioner for Human Rights and other international organisations to send representatives to Vietnam to investigate and monitor human rights issues.

We recommend European countries to encourage the Government of the Socialist Republic of Vietnam to respect and uphold human rights and allow NGOs working in the field to operate unimpeded in Vietnam.

Finally, I take this opportunity on behalf of the Khmer-Krom people to express our sincere gratitude for your attention.
Ushatan Talukder

CHT Accord at a Crossroads: What Next for the Chittagong Hill Tracts?

First of all, I’d like to thank the concerned authorities for convening this international conference and I’m very glad to be with you here.

1. Introduction on the CHT

The Chittagong Hill Tracts, in the southeastern part of Bangladesh, is one of the most diverse regions in Bangladesh in terms of geography, ethnicity, culture, and traditions. The CHT is a crucial region in the country in terms of ensuring peace, development and good governance. CHT is homeland of 14 indigenous ethnic groups, collectively known as Jumma (Highlanders). The total population of the CHT is around 1.6 million. Before colonisation, this region was an independent feudal state.

The British administered CHT as an excluded area and Pakistan upheld this status to some extent. Unfortunately, the Constitution of Bangladesh does not recognise the special administrative status of the CHT.

2. 1997 CHT Accord

The Jumma people waged a two and half decades-long movement for self-determination. The CHT Accord was signed on 2 December 1997 between the Bangladesh Government and the Parbatya Chattagram Jana Samhati Samiti (PCJSS) and ended the fierce internal conflict, paved way for peace, development and meaningful engagement of the Jummas. The main objective of the Accord was to restore and protect the rights of the indigenous Jumma people.

“In 1947, when partition from India was going on, the ratio of indigenous people was 97.5% against 2.5% non-indigenous, now the ratio is 51% against 49.”
3. Implementation of self-governance provisions in the CHT

The Accord established a Regional Council - effective body of the region - and three Hill District Councils - to coordinate and monitor all government and development works. However, only 17 out of 33 functions were transferred to the Hill District Councils. Sometimes the government tells the media that they have already transferred 48 functions out of 72. However, the major issues were not handed over, as for example general administration, law and order, local police, land and land administration, forest and environment. So, the government is doing little in practice. These bodies are actually inactive and that’s because the Government of Bangladesh has no will to hand over these major issues, at a moment where the Chittagong Hill Tracts peoples are suffering very much and rehabilitation of refugees - who took shelter in India -, IDPs (internally displaced persons) and ex-combatants remains unimplemented. Moreover, de facto military rule and military interference over civil areas continue unabated.

Provisions on land disputes and its resolution

Actually, in our area, the major problem is the land problem. During the reign of Ziaur Rahman, President of Bangladesh in the 1980s, he transferred 400,000 people from plain lands to the CHT, where they settled and received indigenous peoples’ lands, like in the Israel-Palestine case.
At the moment, the influx and infiltration from plain lands is still going on. So land grabbing is a serious problem: people are taking indigenous lands with the collaboration of administrative authorities and at the moment 60 families from the Tripura and Wom communities are under threat of evacuation. The army is forcefully grabbing the land in order to develop tourism centres. Therefore, that is the situation: people are not getting justice because authorities are constituted only of plain landers.

4. Human rights situation in CHT

The non-implementation of the Accord leads to widespread human rights violations. Communal attacks on Jumma people with the aim of grabbing land continue. Violence against Jumma women and girls is used as a tool for land grabbing and eviction. Militant groups take advantage of the communal situation in the CHT. Militants are using the geographical advantage of the CHT hilly region. These groups are supported by international Islamic militants. Many of them are Rohingya refugees coming from Myanmar, who mostly settle in the CHT. We are therefore facing both influxes: from Bangladeshi plain lands and from Myanmar. CHT might therefore become a safe sanctuary for fundamentalist groups, while indigenous people are evacuating on a daily basis and fleeing to either Myanmar or India. They are taking shelter there because there is no scope for survival in the CHT.

Because of this scenario, the Jumma people are soon going to be a minority in their own homeland. In 1947, when partition from India was going on, the ratio of indigenous people was 97.5% against 2.5% non-indigenous, now the ratio is 51% against 49%.

Yet, the Government’s intention is not to implement the Accord nor to address the major issues in the CHT. But if the Regional Council and the Hill District Councils do not have administrative power, how can they function?

In the Accord, there was a provision to withdraw temporary military camps and other paramilitary ones; however, out of 500 military camps, 400 are still in the CHT, meaning there is still de facto military rule. The Army says “we are here only to aid the civilians”, but it’s not true. We are under military rule since the independence of Bangladesh in 1971.

Because of this situation, within a few years the indigenous people will have to vacate the land or otherwise embrace Islam. We cannot survive.

5. What next for the CHT?

If the CHT becomes a hub of militancy, it will lead to severe concerns for regional security in South Asia. To avoid such situation, support for the full implementation of the CHT Accord is urgently needed. The international community should take a strong stance against political migration to the
Chittagong Hill Tracts. It should provide support for combating Islamic expansionism, terrorism and militancy in the CHT. It should provide support for the implementation of the CHT Accord in order to ensure lasting peace and development. Whenever we have the chance to meet with our European friends, we notice that they understand, they are very moderate and human. However, they have diplomatic limitations. But if they keep limiting themselves, our people will be exterminated. Indeed, our government is becoming increasingly autocratic and is suppressing opposition parties, they have no voice now. I am a Member of Parliament, our opposition party has three ministers in the government. The government has taken various measures to boycott the Bangladesh Nationalist Party. There is no democratic process in Bangladesh and therefore we don’t expect much from the government, it will not come forward to implement this Accord. Although they have signed the agreement, provisions are only found on paper and not implemented.

For all the reasons mentioned, I would like to humbly submit my appeal to the international community as well as to my friends here, to encourage the Bangladeshi government to resolve the land dispute and enact the devolution of political and administrative powers to the Chittagong Hill Tracts institutions. I would also humbly encourage the adoption of a resolution by the European Parliament urging the Bangladeshi Government for a roadmap on the implementation of the CHT Accord.

18 years have already passed after the signing of the Accord; how long will we have to wait more for implementation? We cannot wait because time is not waiting for us.

Therefore, the international community should realise the gravity of the matter and promote a roadmap for implementation of the Accord and the rehabilitation of Bengali settlers outside of the Chittagong Hill Tracts.

My friends and colleagues, through this international conference I kindly urge the international community to please come forward in helping these indigenous minorities, otherwise they will be exterminated from the globe.
Arif Fadhillah

Human Rights in Aceh: Implementing the Helsinki Agreements

Before talking about the recent human rights situation in Aceh in connection with the implementation of the Memorandum of Understanding (Helsinki MoU) − signed by the Government of the Republic of Indonesia and the Free Aceh Movement in Helsinki, on 15 August 2005 −, I would like to make a brief chronological review of one of the longest conflicts in Southeast Asia.

Aceh is located at the northern tip of the Sumatra Island, which was an established internationally recognised state for hundreds of years before European conquerors arrived. On 26 March 1873, the Kingdom of the Netherlands declared war on the Sultanate of Aceh. It was the bloodiest war in Dutch colonial history with an estimated 100,000 deaths. One of the many war atrocities was the tragedy of Kuta Réh in the remote highland area of Gajo in Central of Aceh. On 14 June 1904, 561 villagers, of which 130 children, were killed. However, the Dutch government has never made an apology for this well-documented massacre and other human rights crimes.

During the Second World War, Japanese troops occupied the Aceh territory. An example of atrocities committed was the execution of a religious leader, Teungku Abdul Djalil Tjot Plieng, and over 120 of his followers in Bayu, North Aceh, in November 1942.

After the Second World War, Dutch troops never returned to Aceh, but the Dutch government illegally transferred the sovereignty of Aceh to a newly fabricated state called ‘Indonesia’ on 27 December 1949. Thus, the first violation of UN decolonisation principles took place, as far as the vast Malay Archipelago was concerned. Whereas all Western colonial empires were decolonised by returning each colonial territory to its indigenous peoples and became independent, the Dutch East Indies has never been returned to the respective indigenous peoples from whom the Dutch had confiscated the territories. The Dutch gave their entire colonial empire of the Dutch Indies not to the respective rightful owners of the separate territories, as required by the decolonisation rule and principles, but to the new entity, the Jakarta-based ‘Republic of Indonesia’.

On 4 December 1976, Dr Hasan Muhammad di Tiro declared once again independence of Aceh based undoubtedly on UN Resolutions such as Resolutions 1514-XV, 2621-XXV, 2711-XXV, 3314-XXIX, as well as all relevant Articles of the Charter of the United Nations, the Universal Declaration of the Rights of the Peoples, the Universal
Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights.

In spite of seeking peaceful conflict resolution, the government of the Republic of Indonesia under dictator Suharto launched massive military operations against members and followers of the pro-independence movement. The military operations caused tens of thousands of casualties and uncountable serious human rights violations.

Military operations have continued even more intensively in the post-Suharto era, leading to many massacres, among which are the following:

1. Massacre at KNPI Building, Lhök Seumawè (North Aceh), 9 January 1999: Indonesian troops persecuted the detainees in the youth organisation building, causing five deaths and seriously injuring 44 people.


3. Massacre of Simpang KKA, Krueng Geukuem (North Aceh), 3 May 1999: Indonesian troops shot on a gathering, causing 46 deaths (six of which were children), 156 serious injuries and 10 disappearances.

4. Massacre of Beutong Ateuèh (West Aceh), 23 July 1999: the Indonesian Army executed a religious leader named Teungku Bantaqiah and more than 70 of his students in front of his school.

5. Massacre of Bumi Flora, Idi (East Aceh), 9 August 2001: the Indonesian Army dressed in camouflage uniforms entered one of the housing areas of PT Bumi Flora, a rubber and palm oil plantation in East Aceh, and shot 30 men and a two-year-old child to death, injuring seven other people.

6. Massacre of Jambó Keupok (South Aceh), 17 May 2003: dozens of Indonesian soldiers from the Special Army Forces (Kopassus) and Raider units arrived in three trucks at the village of Jambo Keupok in South Aceh. After rounding up everyone at the village and separating men, women and children, soldiers shot and killed four villagers. 12 men, who were also beaten, had their hands tied and were taken to a house nearby, locked up and the house set to fire. The women and children, locked up in a school building, were able to leave once the military had left.

These massacres and thousands other human rights violations after the 1998 downfall of Suharto have been investigated and well documented by various local, national and international human rights organisations, especially by the Komnas HAM, the official Indonesian Commission on Human Rights.
Moreover, the Komnas HAM conducted a survey of human rights abuses that had taken place in Aceh between 1989 and 1998, when Aceh had been formally designated an area of military operations (Daerah Operasi Militer or DOM). It found out that gross violations of human rights had been committed by Indonesian armed/police forces, in the form of summary executions, torture, enforced disappearances, arbitrary arrests and detention, rape and sexual assault, and property destruction. It recommended prosecution of those responsible, compensation for the victims, restoration of civilian institutions, ending the culture of impunity within the military, a wholesale review of military law and education, and reallocation of resources between the central and provincial governments. However, nothing has happened until now.

Literally, the Geneva Conventions – treaties applicable to times of armed conflict, whether international or domestic – which applied at the time to the situation in Aceh, strictly prohibit the killing of people captured during military operations. Under both human rights law and international humanitarian law, unlawful killings must be investigated and those responsible brought to justice.

In the Helsinki MoU, human rights issues were explicitly included.


Referring to point 2.1 of the Helsinki MoU, Article 1 of both covenants declares that all

“The number of organic military forces to remain in Aceh after relocation is 14,700 and the number of organic police forces is 9100.”

peoples have the right to self-determination. By virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development. In accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights.

To this point, the Gol has not addressed these issues in any of its legal documents, although it has ratified many international treaties, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, and is therefore legally bound to apply them.

Point 2.2: “A Human Rights Court will be established for Aceh”.

The Centre for Humanitarian Dialogue, based in Geneva, reported already in 2008 that Point 2.2. is potentially highly contentious in the Indonesian context,
largely because the Indonesia National Armed Forces (TNI) have already demonstrated their hostility to, and ability to obstruct, human rights trials in other cases around the country.

Point 2.3: “A Commission for Truth and Reconciliation will be established for Aceh by the Indonesian Commission of Truth and Reconciliation with the task of formulating and determining reconciliation measures”.

On 11 June 2006, the Indonesian Parliament passed a law providing for the establishment of the national Commission for Truth and Reconciliation (TRC). The law also had the option to use indigenous principles to settle human rights violation cases. However, in late 2006 the Constitutional Court in Jakarta over-ruled national legislation establishing the national TRC.

In December 2013, over eight years after the signing of the Helsinki MoU, the Aceh Provincial Legislative Assembly (DPRA) adopted a bylaw on the establishment of the TRC in Aceh.

Unfortunately, neither an Indonesian Truth and Reconciliation Commission, nor the Truth and Reconciliation Commission in Aceh were established up to now.

As mentioned above, the Aceh conflict and the just struggle of our people are merely political. It is a struggle of self-determination; it is a struggle for the survival of the Acehnese as a people, as a nation; and it is a struggle borne by centuries of colonialism and decades of repression and injustices under Indonesian rule. Thus, addressing human rights violations in Aceh must be preceded by resolving the political issue, by unravelling Aceh’s status vis-à-vis Jakarta, which should be squarely based on the right to self-determination of the Acehnese to decide their own future.

In this occasion, I would like to underline some other provisions related to justice and security, which have a significant impact on human rights in Aceh.

Part of the security arrangements in the memorandum have been implemented. On its side, the Free Aceh Movement demobilised its 3000 military troops (point 4.2) and decommissioned all of its arms, ammunition and explosives (point 4.3 and 4.4). However, concerning Indonesian armed forces and police (point 4.5 until point 4.9), the situation remains uncertain, especially after December 2006, as the Aceh Monitoring Mission (AMM) – financed by the EU (EUR 9.3 million) and its member states (EUR 6 million) – ended its mandate.

Withdrawal of all elements of non-organic Indonesian military and non-organic Indonesian police forces from Aceh as well as their relocation were not traceable and the real number of these troops was not available publicly.

Referring to point 4.7, the number of organic military forces to remain in Aceh
after relocation is 14,700 and the number of organic police forces is 9100.

About 20,000 troops of the Indonesian armed forces including Army, Navy and Air Force are being deployed in Aceh today. Just as in the case of the military, the number of the Indonesian police forces deployed in Aceh is larger than in the above-mentioned provision. More than 13,000 police are currently on duty in Aceh.

In fact, there are no legal means to ensure the adherence to this important stipulation, except referring to the MoU itself. The Helsinki MoU constrained the major movement of the Indonesian military forces with prior notification of the Head of the Monitoring Mission. Since the AMM left Aceh, the point lost its meaning, so that the Indonesian military can be mobilised anywhere without limits. Even worse, the provincial government has no say in this case.

Furthermore, during the armed conflict in Aceh, the Indonesian armed forces and police used very often civilians in their counterinsurgency operations. Many civilian groups - called militias - were trained and armed by the Indonesian army against any pro-independence movement. There were about 10,000 militia members linked to the army active in Aceh.

Point 4.9. regulates that the GoI undertakes the decommissioning of all illegal arms, ammunition and explosives held by all possible illegal groups and parties. It is impossible that the GoI has really disarmed militia groups, as it has often denied their existence. Additionally, it is hard to believe that the Indonesian police would take weapons from militias – given to them by the army. So far, there is no reliable documents on this matter.

For many political analysts, the Helsinki MoU might be one successful example of conflict resolution, but for us, the Aceh-Sumatra National Liberation Front, who struggle for our self-determination, justice and dignity, it is just a shaky compromise.

In 1952, the UN General Assembly stated in Resolution 637A-VII, that the right of peoples and nations to self-determination is a prerequisite to the full enjoyment of all fundamental human rights. Given the tragic fact that the once independent Acehnese have been subject to centuries of oppression by Dutch, Japanese and Indonesian colonialists, it is not difficult to understand why they firmly believe that independence is the only way forward to resolve the conflict. Therefore, it is the responsibility of the international
community, including the EU – which was actively involved in the Helsinki MoU negotiations – to support and uphold the rights of the Acehnese.

Concerning the implementation of the Helsinki MoU provisions, the AMM left Aceh before all its tasks were accomplished. Once again, we call upon the EU to closely monitor the situation in Aceh and put pressure on Indonesia to end impunity by resolving the gross human rights violations committed during thirty years of armed conflict.

It is also the duty of the EU to prevent the usurpation of Acehnese’s political and human rights by Indonesia on the grounds of ‘territorial integrity’ and the ‘internal affairs’ of the Republic of Indonesia.

Finally, we call on the international community to support the people of Aceh in their struggle for justice, democracy, self-determination and independence. We also call on all states, nations and peoples all around the world to respect the demand of the people of Aceh to exercise their right to decide and the right to secession.
Panel III – Ideas from Europe and Ways Forward – Towards Regional Cooperation?

Csaba Sógor

The European Parliament and ASEAN Countries: Supporting Democratisation and Minority Rights

We have to admit that human rights protection and promotion in the ASEAN countries underwent a significant improvement process in the past years. However, the level of human rights protection in this region is still far from desirable. The European Union, as a key strategic partner of the region, has expressed several times its concerns regarding the worsening climate for political opposition, human rights activists, journalists, bloggers, human rights defenders and dissidents in general. But how can the European Union help ASEAN countries to further improve in this area?

We have several institutionalised tools at our disposal, such as the EU-ASEAN Policy Dialogue on Human Rights, the discussions within the European Parliament’s external delegations as well as - if the situation so demands - the Plenary Human Rights Debates, the so-called ‘Urgencies’. However, no matter how efficient these tools are or will ever be, the most efficient way the EU can help any country across the globe dealing with human rights issues is by setting the right example.

I am convinced that if the Union wants to be a credible actor for human rights in the world it has to start at home and show the best possible example abroad. This is why, in my work, I constantly point out the difficulties that are experienced by European autochthonous minorities, which stem from the lack of common European protection standards.

Despite very positive examples in a few member states (Swedish-speaking minority in Finland, German-speaking minority in Italy, etc.), many member states – especially in Central and Eastern Europe – have not solved the problem of protecting traditional minorities; this is why I constantly call for a European solution.

The problem is that, while the EU recognises the rights of minorities in the pre-accession phase as well as in its external relations, it falls short of protecting minority groups once a country becomes a member state. This is part of the so-called Copenhagen dilemma – the name comes from the Copenhagen criteria on the economic and rule of law conditions that a member state has to fulfil in order to be accepted in the EU. Since 1993, the EU has
laid down the requirement that states may only accede to the Union on condition that they guarantee “respect for and the protection of minorities”, but this criterion is no longer checked following accession.

“I am convinced that if the Union wants to be a credible actor for human rights in the world it has to start at home and show the best possible example abroad.”

This is the situation that we try to solve through various means; one such instrument we are working on in the European Parliament at present is a Monitoring Mechanism for the Rule of Law and Fundamental Rights, which would allow a constant monitoring of such situations in all member states, based on objective criteria. I believe this is also a good opportunity to make the voice of national minorities heard by introducing strong recommendations for their protection.

As we know, when asked about their human rights record, many countries aim to divert focus to social and economic development.

Nevertheless, socio-economic rights are no more fundamental or important than civil and political rights. Economic development and human rights go together; it is only if the latter are respected that a human being can enjoy any fruits of social and economic progress.

I think that we, Europeans, should insist on this in our dealings with ASEAN. Europe needs an approach in which the pursuit of its trade and investment interests does not go against the principles it claims to stand for. It should not ignore the serious human right violations in third countries and the mistreatment of religious or ethnic minorities. Only by dealing with such matters can we build a credible and strong relationship with ASEAN countries, too; one that is in the interest of both the EU and the population of ASEAN countries. This credibility can only be reinforced if it can set the best possible example on fundamental and minority rights on its territory.
Pauio Casaca

The European Union and South East Asia: Strengthening Regional Cooperation

Thank you very much to the organisers for having invited me to this session, it is not only a great pleasure but also an opportunity for learning. I am especially grateful to the UNPO, which has really been a reference organisation in the struggle for indigenous peoples and nations that are not correctly represented. I am also very flattered to see here the Taiwan Foundation for Democracy. As a member of the European Parliament, I was a friend of Taiwan and I visited the island on invitation of the authorities. I was really impressed with the way in which indigenous peoples are considered, the way that their plight is not silenced, and, although Taiwan also has its shortcomings, I do think that Taiwan can be a great source of inspiration for Asia.
This morning I learned a lot about the situation of minorities in several South East Asian countries, which I was not aware of. At the South Asia Democratic Forum (SADF) we are dealing with South Asian democratic countries, and our definition of South Asia goes along the regional cooperation organisation that is SAARC (South Asia Association for Regional Cooperation), that encompasses Bangladesh and many other countries to the West.

As the Honourable Member of the Bangladeshi Parliament explained this morning, situations in the various countries in South East Asia are very much connected. Indeed, he pointed out to the issue of the Rohingya, which has been highlighted in the Western press without it mentioning the consequences of the issue in Bangladesh. According to my sources and contacts in Bangladesh, the problem is that the Rohingya – being persecuted in their own country and therefore fleeing – arrive in Bangladesh without any reference and are therefore very easily manipulated by Islamist extremists. These are using them to commit crimes, namely against indigenous peoples and Buddhists, arguing that Buddhists have persecuted them in Myanmar and therefore they have to take revenge. This is a perverse effect that we should be aware of, without forgetting to look at the whole picture.

And this issue of the Rohingya is one of those for which we do go a bit out of South-Asia with our work, because it is really impossible to distinguish both sides of the problem. Otherwise we did not have and I have not gone out of the Southern Asian borders. However, I would like to tell you a bit about my impressions regarding the Asian construction and the European inspiration.

The European inspiration is there, going along the papers produced by the very small but existing and active secretariat of ASEAN, especially on the ASEAN economic community. Some of the concepts and ideas have been inspired by European history. Of course, Taiwan could be a closer model, but, as Mr Sógor said, Europe can still serve as a source of inspiration. I think that the European project was clearly a political project from the start. Perhaps our South East Asian friends may not know, but before the economic market we already had a European political community and a European defence community, which failed due to the absence of ratification by France in the 1950s. The economic community then came into being in 1957 after the failure of political attempts.

In ASEAN, the concern of remaining apolitical is stronger than in Europe. Nevertheless, political issues are surfacing also in the ASEAN construction process. And it could not be otherwise, because obviously politics there are connected with
economic construction and with everything else. So it would be very unlikely that politics could be completely left aside in the ASEAN construction.

What I notice in the ASEAN construction, especially in the ASEAN Economic Community Blueprint 2025, is that there is a stronger emphasis on issues of environment, regulatory harmonisation and movement of skilled labour. Most of you might not know, but actually we do not have a free movement of people in the EU: legally I am a Portuguese citizen now living in Brussels. After three months spent in Belgium, if I do not convince the Belgian authorities that I have an acceptable motive like a job or my wife having a job in the country, I might be legally asked to return to my country. The issues in Europe started exactly the same way. Now a big chapter of the EU’s work is on regional development which is very important. One of the first initiatives on regional cooperation in Europe took place before the treaties were signed, between a region of both the Netherlands and Germany, West and East Frisia, considered as a minority by the two countries.

And this first initiative was going to help minorities, which is an interesting point. The honourable said what is true, that about the Roma minority. They certainly were not speaking about the Basque minority in France. But the issue is there, and implicit when you start talking about regional cooperation and start speaking about regions that might have an economic development problem. Of course the issue of minorities is not only an economic development problem, it is much more than that. But these very timid steps taken by ASEAN can lead to something good for minorities: they should be followed carefully, not very ambitiously - probably nothing revolutionary will come out of there in ten years –, but significant changes might happen. Knowing the history of the European construction, I would advise you to follow the ASEAN.

These days, in Europe everybody talks about the ‘Brexit referendum’ on the possibility for the UK to leave the EU: if the UK decides to remain, it will be thanks to the minorities living on its territory – the Irish, the Welsh and the Scottish –, who will certainly vote in favour of more Europe. And why is that? Because they feel that Europe has a larger space for integration and that it is more prone to defend their rights as minorities than the UK. This is one of the reasons why I think you should carefully follow what ASEAN is doing.

Last but not least, in relation to an issue within SADF’s mandate, that of the Chittagong Hill Tracts, I would like to express all our solidarity to the Honourable Member of the Bangladeshi Parliament for his efforts. What you are defending - that the Bangladeshi authorities stick to the agreement that Prime Minister Sheikh Hasina signed years ago - is absolutely justifiable. In our capacity, we promise to
do whatever we can to convince the Bangladeshi government to honour this agreement. This is a fundamental agreement and something we should all pursue.

I also think that European citizens and the European Parliament should force ASEAN-EU relations to have a strong chapter on minorities. This is a fundamental issue that should be mainstreamed in every document, in every summit, in every step of EU-ASEAN relations. Certainly, we have to be careful when making pressure. For instance, let’s take the issue of the garments industry in Bangladesh. Despite its negative effects, we also have to consider that for millions of girls and women, working in this industry was the way for them to escape slavery and the very conservative Islamic tradition found at home, which was keeping them in the kitchen. In this case, working at the factory was the path to emancipation. That being said, we cannot tolerate the lack of safety measures, and we have to oppose this policy. But to go and say “This lady should go back home, let’s boycott all this without condition, without going deeper in the issue”, that would not be a very effective strategy, I am absolutely convinced of it.
I would like to thank UNPO for this great opportunity, as it is definitely a great opportunity to be here and talk to so many representatives of indigenous peoples and minorities, as well as to organisations and institutions that are cooperating closely with them.

I would like to explain a bit about this human rights defenders mechanism that is supported by the European Union, mainly through the European Instrument for Democracy and Human Rights (EIDHR). I will try to give you an overview of the project and some practical examples of what we have been doing so far in South East Asia.

1. The project
This project started recently, in October last year (2015). It is a project of €15 million for three years, supported at 95% by the European Instrument for Democracy and Human Rights (EIDHR). It has a global geographical coverage, excluding citizens of the European Union, as they are not falling under the EIDHR. Its objective is to support human rights defenders at risk around the world and local actors within organisations that are promoting and defending them.

2. Human rights defenders
I would like to give a definition of human rights defender. This concept has to be understood in its broadest sense: it does not have to be a full time member of an NGO for example – although of course they are also part of our beneficiaries –, it can be any person or group promoting human rights. For instance, it can be a community leader who is trying to protect his/her community from land grabbing, or trying to promote their cultural rights; it can be a journalist speaking out in the name of communities and therefore subject to pressure; it can be a lawyer taking up a human rights case to court for example. As you see, we do cover and assist all these categories of people who are actively and peacefully promoting human rights around the world.

3. Implementation
This project is implemented by a consortium of twelve NGOs active in the field of human rights. They are based worldwide, many of them in Europe, some of them in the United States, while others in Africa, and we have a partner, Forum Asia, based in Bangkok, Thailand. Among those that are very active in Asia are of course Forum Asia but also Urgent Action
Fund, Peace Brigades International, Frontline Defenders, Reporters Without Borders, and International Federation for Human Rights (FIDH). All these NGOs were already active in protecting human rights defenders before joining the project, but through they aim at strengthening their activities through the latter. The Secretariat of this project, which I represent, is the coordination mechanism based here in Brussels.

4. Emergency support
We assist defenders with emergency support when they face risks related to their work. For this, we have a hotline available 24/7 in five languages (French, Russian, English, Spanish and Arabic). All information is available on our website, ProtectDefenders.eu.

5. Emergency grants
The second type of assistance we provide consists of emergency grants. For instance, since last October (2015), we have allocated close to 200 grants to individual human rights defenders, a quarter of whom in Asia and 15 of whom in South East Asia. These grants were aimed at improving the digital security of the office of the human right defenders and their individual security – e.g. alarm system at home; paying for legal support if a case was filed against a human rights defender because of the rights he/she was trying to promote, which did not match the interests of the authorities. Other grants provide medical support, due to the fact that in many cases human rights defenders face physical aggression and other challenges. In some instances, we also provide office security.

Because of security issues, I am unable to go into very concrete examples, but in the past we have already assisted defenders of communities that were mentioned during the previous panels. Some have faced detention and consequent medical issues, some others have had to leave their homeland for some time.
This mechanism offers assistance for all kinds of rights, but in South East Asia we have registered a majority of cases concerning freedom of expression, women’s rights, indigenous and minority rights, land and environment, mostly in Bangladesh, Myanmar, Thailand, the Philippines and Vietnam.

6. Temporary relocation
If the person has to leave suddenly because of an emergency, threats of reprisal or a general insecurity situation, we provide him/her with temporary relocation. The EU has been promoting this type of support for the last two years and therefore created an EU temporary relocation platform, which gathered 50 institutions based in Europe but also in other regions of the world. These institutions already provide programmes to temporarily accommodate human rights defenders and offer them some activities for this period – we are talking of six months, one year, two years’ periods.

Our mechanism does not aim at replacing other systems: for instance, after a while, if we feel the person cannot return, we will certainly ask for asylum status. However, for shorter and mid-term periods there is the possibility to support these people with grants, relocation aid and concrete activities. These can be for instance advocacy in Geneva, Brussels, or in any region where it makes sense for the defender to promote his/her rights, therefore creating contacts that could speak out in the name of the community. Other activities include medical treatment or psychological assistance, depending on the pressures that the person had to face.

If I take concrete examples of people who have received grants from this temporary relocation project, I can mention a defender from Thailand who was promoting rights of communities affected by the mining industry and who had to relocate to Europe for two months because of ongoing pressure. This was also a good opportunity to discuss about advocacy strategies that could be led in Europe. In addition to this, we also helped Bangladeshi bloggers to relocate.

7. Capacity-building assistance to organisations
We also provide assistance to organisations as such. These can of course be NGOs, which are one of our primary beneficiaries, but, as we know, in some contexts it is not possible to be formally organised and registered as an NGO. There are also very active communities that work as a group to promote rights without being formally registered, and we are very flexible in understanding these constraints as long as the community is able to motivate its actions. To organisations we offer grants for capacity-building. So it is up to the organisation or to the group to explain what are the needs they face.
The support we provide can take the form of paying for advocacy tours, organising a training, or helping with digital security in order to minimise online risks. We can also support in the access to funds and the application process, in putting in place a concrete initiative - for instance, we supported a local human rights organisation of Lumad people in the Philippines to document human rights abuses and to go to the Human Rights Council in Geneva to report about the evidence they had collected. In this context, they could also meet with other diplomatic representations in Geneva and discuss the situation.

We also support local organisations or groups in West Papua to do human rights monitoring and field research that they can then use for their advocacy purposes. Moreover, we are able organise trainings, as our partners already have expertise in some specific aspects of security (e.g. digital security), in constituting protection networks between organisations at the local level, in psychosocial support, physical security, among others.

As you see, monitoring and advocacy of course are an important part of the support we provide, but if the situation does not change at the local level, it can be endless. As the objective is for the situation to change, partners within this project organise some activities regarding the situation of human rights defenders, explaining what they can do for them in terms of issuing alerts and reports, organising field missions, fact-finding missions and trial observations to ensure there is an external eye.

The last aspect linked to this advocacy and monitoring activities consists in reaching out to defenders at risk as much as possible, because it is clear that there are many human rights defenders that do not picture themselves as such, even if their activity is clearly falling into this category. We have therefore to reach out to less-connected and remote areas, sometimes targeting categories of defenders (e.g. women) lacking the possibility of accessing traditional schemes of funding or possibilities of assistance.

For this reason, the twelve consortium members have a lot of affiliated entities and members, extending our network to almost 2000 organisations around the world.

We are definitely reaching out through these organisations, but having this kind of opportunity to talk directly to representatives of indigenous peoples and minorities is surely an efficient way of conveying our message. I therefore invite you to approach us in the future if you face this kind of situation or if you know of people in your communities who are facing this kinds of situation and may need our assistance.