**CIVIL SOCIETY COALITION ON HUMAN RIGHTS IN MANIPUR AND THE UN**

**Thursday, 19 January 2017**

**DRAFT CSCHR SUBMISSION**

**Day of General Discussion (DGD) on the draft general comment on** **“State Obligations under the International Covenant on Economic, Social and Cultural Rights in the Context of Business Activities”**.

This is a submission of the Civil Society Coalition for Human Rights in Manipur and UN (CSCHR Manipur), a coalition of over twenty human rights defender organisations based in in the remote Northeastern region of India. Our activities regarding the on-going work of the United Nations and its specialised bodies, agencies, programmes and treaty-based bodies may be accessed in website <https://humanrightsmanipur.wordpress.com/>.

CSCHR Manipur deeply appreciates the initiative of the Committee on Economic Social and Cultural Rights (CESCR) to elaborate on the fulfilment of the rights enshrined in the International Covenant on Economic, Social and Cultural Rights (ICESCR), including by generating employment opportunities and investing in economic development in the context of the increased globalization of economic activities and a growing trend towards privatization, businesses playing an important role in the realization of economic, social and cultural rights. The business sector is not easily defined, in our understanding, as there is an increasing nexus between states and business that is ill-understood in among the peoples of the world. This nexus of business and states is couched in various forms and arrangements that peoples are not informed about.

Moreover, there is an overwhelming lack of transparency and accountability regarding this nexus. In this context, CSCHR is privileged to submit our views to the general discussion on the significance and meanings of the responsibilities of states with regard to the conduct of business activities in the framework of the economic, social and cultural rights of all peoples.

CSCHR Manipur has perused the draft General Comment on State Obligations under the International Covenant on Economic, Social and Cultural Rights in the Context of Business Activities prepared by Olivier De Schutter and Zdzislaw Kedzia, Rapporteurs (E/C.12/60/R.1) for the sixtieth session of Committee on Economic, Social and Cultural Rights to be held from 20 - 24 February 2017 under Item 4 of the provisional agenda - Substantive issues arising in the implementation of the International Covenant on Economic, Social and Cultural Rights. We deeply appreciate the efforts made by the authors of the draft.

We are aware that this development of the CESCR seeks to assist States parties, including parliaments, domestic courts and national human rights institutions, in fulfilling their Covenant duties, and shall also establish the Committee’s intention to support business entities’ and civil society on taking into account Covenant obligations in their activities.

CSCHR Manipur requests that the CESCR examines our submission in this context.

1. **Non-discrimination: Non-recognition of Indigenous Peoples’ Self Determination:** India’s prolonged domination over India’s provinces (States) of the Northeastern region, such as Manipur, Mizoram, Nagaland, Assam, Tripura, Arunachal Pradesh, Sikkim, Meghalaya and subsequent pursuance of “*Look East Policy*”[[1]](#footnote-1) (now referred as the “Act East Policy by the present government) to consolidate its political and economic domination across South and South East Asia has led to increased intrusion and involvement of multinational corporations, both Indian and foreign and also several international financial institutions, such as World Bank and the Asian Development Bank and Japan Bank for International Cooperation. These have led to increased targeting of the land, natural resources of the indigenous peoples of Manipur and across North East. Several Memorandum of Understandings (MoUs) has been signed to build mega dams, to drill oil and gas, to mine precious minerals and also to build series of mega infrastructure projects, such as Trans Asian Highway, Trans Asian Railway, and Trans Asian High Voltage Transmission and Distribution lines.
2. The pursuance of such mega development processes, in the pretext of ushering development, growth, peace and security in India’s North East involves a clear cut violation of indigenous peoples' right to self-determination. Indigenous Peoples collective rights over their land and resources and their intrinsic and inalienable right to decide all development priorities, as also outlined in several international human rights laws, such as the UN Declaration on the Rights of Indigenous Peoples has been undermined. For instance, contracts are awarded to oil companies such as Jubilant Energy, Canaro etc by the Ministry of Petroleum and Natural Gas, Government of India to explore oil and gas from Manipur without even informing and consulting on the availability of oil with the indigenous peoples of Manipur.
3. **Exclusive Development Decision Making Processes**: In India’s NE, the definition of development priorities continues to be defined by International Financial Institutions with State facilitation, which promoted enabling environment for private sector/business rather than communities in an atmosphere of exclusivity and lack of transparency and accountability.
4. More than 200 MoUs for mega dams has been signed with several dam building companies. On 28 August 2014, four Memorandum of Agreement (MoU) was signed by the Government of Manipur with the North Eastern Electric Power Corporation (NEEPCO) for construction of the 60 MW Irang HEP, 51 MW Tuivai HEP, the 67 MW Khongnem Chakha and 190 MW Pabram HEP projects over Rivers of Manipur. More than 150 MoUs has been signed to build mega dams across Rivers of Arunachal Pradesh. The Jubilant Energy, Holland based Company has been awarded contract and license to explore oil in Manipur by the Government of India in the year 2010 without consulting the people of Manipur.
5. Such process lacks a full scale impact appraisal, denial of information, misinformation, upsetting the fragile ecological integrity and destroying cultures. The adherence to human rights standards, such as, UN Declaration on the Rights of Indigenous peoples, 2007, is absent. The definition of such development process is clearly exclusive, arbitrary and violation of international human rights laws.
6. **Liberalization and deregulation of Policies towards privatization and corporatization of land and resources:** Series of policies are being framed to promote a development process conceding business favors, privileges and rights to multinational companies, rather than upholding and recognizing the rights of indigenous communities. These legislations are framed without consulting and taking consent of indigenous peoples.
7. For instance, the Manipur Hydroelectric Power Policy, 2012 and the Manipur Industrial Investment Policy 2013 has been framed to provide a tacit conducive environment for private sector financing and corporate bodies’ involvement in energy projects. The North East Hydrocarbon Vision 2030 has been introduced in February 2016 to intensify the exploration and drilling and oil resources in Manipur and across North East India without addressing the need for recognizing indigenous peoples rights and according sensitivity to their survival dependence with their land and resources. Policies on Public Private Partnership are also formed to facilitate stronger privatization process and facilitate advancing private sector interest, rather than peoples' rights. These policies are framed to the process of corporatization and privatization while destroying land and resources.
8. **Privatization of Development:** India’s policy and furtherance of its economic policies, including signing of ‘free trade’ agreements has led to increased privatization of land and resources and delivery of essential services. For instance, the Manipur Electricity Department is already converted into Manipur Power Distribution Company Limited and the power supply and distribution is already privatized, despite the objections and concerns. The privatization of power supply in Manipur is already associated with increased of tariff hike; the last increase is 10 percent, being on 19 February 2016.
9. In Manipur, there’s also ongoing process to privatize the water supply with facilitation from the Japan International Cooperation Agency (JICA).
10. The public private partnership (PPP) is one of the key processes of promoting private sector participation. Countries around the world, like Mexico, India, and Bangladesh etc are developing policy frameworks recently, often referring to principles of World Bank’s International Finance Corporation. Most PPP projects followed BOO (Build-Own-Operate) model, with the private sector managing the infrastructure. There’s limited regulatory framework to ensure PPP operation promote human rights and accountability. Already, there’s wide criticism of private sector managing public services through BOO, as had recently happened in India over inefficiency, high toll rates and traffic jams in toll roads.
11. The multiple impacts of privatization of essential social basic services on communities, on accessibility and quality of service etc need careful considerations. The primacy should be to ensure accountability of these IFI’s and to deliver justice in all their development financings and based on the recognition of communities rights and their wishes. Delegating responsibility to manage Manipur’s resources to multinational corporate bodies, driven sole by insatiable profits, with IFIs facilitation, will further impoverish the state and region, marginalize its indigenous people, devastate its environment and complicates the multilayered conflict, within communities and with State.
12. **Business Activity and IFIs:** International Financial Institutions are increasingly involved in promoting corporatization and privatization of peoples land and resources. The State took increased loans from these financial institutions without considering the long term impacts and other tangible and intangible impacts on peoples and environment. These financings from these IFIs will facilitate the ruthless plunder and destruction of resources of Manipur and across NE. For instance, Road projects in Manipur financed by ADB pursued under the North East State Roads Investment Program through its South Asia Sub Regional Economic Cooperation Regional Road Connectivity project will also facilitate the transport of all machineries and vehicles required for mega dam constructions. The ongoing Bishenpur Town to Khoupum road and to Tupul financed by the Asian Development Bank will facilitate the construction of the 66 MW Loktak Downstream Project and the Nungleiband Dam over the Leimatak River in Manipur. The World Bank’s 400 KV high voltage transmission and distribution lines, will not only affect community’s agriculture land and forest in Manipur, but will also directly facilitate the construction of series of mega dams in India’s North East region.
13. **Lack of Accountability:** Most corporate bodies remained unaccountable for the range of violations on people and land: For instance, the National Hydroelectric Power Corporation (NHPC) remained accountable for the violations in Loktak Wetlands in Manipur. Communities depending on the Loktak Lake have long experienced sleepless nights and arduous moments ever since the commissioning of the Loktak Multipurpose Hydroelectric project in 1984. The fate of both Loktak Lake and the communities are increasingly uncertain. The project, not only submerged more than 83,000 hectares of prime agricultural land, displaced several thousands of people, but also devastated Loktak Lake ecosystem leading to extinction of several endemic plant and animal species. Communities affected by the project are yet to be resettled and rehabilitated. The communities also underwent several moments of displacements and human rights violations due to military operations in Loktak Lake, such as Loktak Operation in 1999, Operation Summer Storm in 2008 etc. Indeed, mega dams have already threatened indigenous farming in India’s North East States by submerging vast tract of agriculture land, wetlands and forest[[2]](#footnote-2) and the corporate bodies remained unaccountable for the range of violations. The State has failed to fulfill their obligation to fulfill the rights of affected communities and further to deliver justice, as outlined in both the Constitution of India and international laws.
14. **Militarization:** One of the serious challenges associated with development process involving corporate bodies in the extensive scale of militarization process, which serves as a tacit and undemocratic means to promote the interest and rights of corporate bodies.Occupation of community land and resources in the pretext of protecting the key infrastructures and officials of the corporate bodies has led to series of human rights violations, such as in Loktak wetlands and Ithai village. The Indian military are directly responsible for targeting communities raising democratic rights and basic human rights, such as right to life and to live with dignity. Mega dam building in Manipur is associated with increased militarization and civil rights violations on affected communities. There are even cases of community members including women killed, assaulted and threatened for demanding just development, for fair rehabilitation and resettlement, for review of destructive projects, for calling for rightful space to air in calls for alternatives and impact assessments. On 3 November 2008, Around forty (40) women were injured in policy brutality on women seeking justice for the violations by Mapithel dam[[3]](#footnote-3). On 25 December 2005, three people were killed and 25 injured in another brutality unleashed on communities demanding just compensation to effects of Khuga Dam project.
15. The interventions from UN Human Rights officials and international human rights bodies are either rejected or not implemented. The series of interventions from the UN Special Rapporteurs on Indigenous Peoples rights to respect the rights of indigenous peoples and to stop all forms of militarization in the case of Mapithel dam and Tipaimukh dam in the year 2007 and 2010 remains unimplemented. And indeed, Mapithel dam site and its vicinity remains one of the most militarized regions in Manipur. Other areas identified for dam building and oil exploration also remains highly militarized in Manipur.
16. **Conclusion:** All development processes need respect and recognition of the rights, wishes and aspirations of indigenous communities. A significant consideration of whose development, who defines and who benefits need be seriously explored. Any development process negating human rights and inconsiderate of the human rights based approach to development will only led to multilayered conflict and confusion and will only reinforce development injustice. The State should uphold and respect indigenous peoples' right to freely assert their self-determined development to secure development justice in Manipur and beyond.
17. The State should stop targeting human rights defenders and indigenous organizations involved in promoting sustainable development and in challenging destructive projects such as Mapithel dam, the Tipaimukh dam and other mega dams for inconsideration of alternatives and larger impacts. All projects financed by IFIs should take the free, prior and informed consent of indigenous peoples and fully adheres with the provisions of the UN Declaration on the Rights of Indigenous Peoples, 2007.

1. India's Look East policy is an effort to cultivate extensive economic and strategic relations with the nations of Southeast Asia in order to bolster its standing as a regional power and a counterweight to the strategic influence of the People's Republic of China. Initiated in 1991, it marked a strategic shift in India’s perspective of the world. It was developed and enacted during the government of Prime Minister P.V. Narasimha Rao and rigorously pursued by the successive administrations of Atal Bihari Vajpayee and Manmohan Singh. The present government led by Narendra Modi has further stepped up on this strategic scheme as the “Act East policy”. [↑](#footnote-ref-1)
2. An Assessment of Dams in India’s NE seeking Carbon Credits under CDM of UNFCCC by Jiten Yumnam published by the International Rivers, USA, March 2012

   <http://www.internationalrivers.org/resources/an-assessment-of-dams-in-ne-india-seeking-carbon-credits-from-clean-development-mechanism> [↑](#footnote-ref-2)
3. Mapithel Dam and Endless Violations, by Jiten Yumnam, Imphal Free press, October 28, 2012 [↑](#footnote-ref-3)