Corrs' Pro Bono Initiative:
Training EU Diplomats on Indigenous Matters through the Diplomacy Training Program

By Patrick Earle, Madelyn Attwood and Georgia Smith

Community meeting with 220 kV power transmission line project affected communities in Archalbot, Lamjung, Nepal

The process of the rapid transition to renewable energy sources and new economies designed to address climate change risk are having a disproportionate impact on Indigenous peoples around the world. In June 2023, the Diplomacy Training Program (DTP) and the Asia Indigenous Peoples Pact (AIPP) requested the help of Corrs Chambers Westgarth (Corrs) to develop and deliver an innovative training program for the European Commission on respect for Indigenous peoples and their right to free, prior and informed consent (FPIC) in its international development activities. The course was designed to equip European Union (EU) diplomats with the tools to apply a human rights-based approach to development involving or impacting Indigenous peoples.

"We welcomed the opportunity to build understanding and respect for Indigenous peoples' rights and to present this important training to EU development delegates."

– Gam A. Shimray, Secretary General, Asia Indigenous Peoples Pact

Design and purpose of the course

Corrs was briefed by DTP and AIPP to help develop the curriculum and supporting materials for the course, including detailed case studies. This was all designed to provide participating diplomats with real world examples of how to assess, mitigate and ultimately prevent adverse impacts on the rights of Indigenous peoples in development activities.

The course was delivered online over four two and a half hour sessions and included participants joining from Asia, Africa and Europe. Corrs drew on the technological resources of the Commission to design interactive and innovative sessions, using tools such as Mentimeter and Mural.

The course introduced the international human rights frameworks that establish the rights of Indigenous peoples and explored the recognition of Indigenous peoples' rights in key global development frameworks and EU policies. The course also included content on the Commission's commitment to a human rights-based approach to development cooperation and the responsibilities of the EU's private sector in respecting human rights. This involved discussion of the EU's Corporate Sustainability Due Diligence Directive and what this will mean for the Commission and partnerships with the private sector.

The participating diplomats heard directly from a range of Indigenous peoples' representatives and specialists regarding best practice approaches to promoting the rights of Indigenous peoples and human rights defenders. Their practical insights provided participants with guidance on how to engage with Indigenous peoples' organisations and to be guided by UN and EU standards, even where host governments do not recognise Indigenous peoples or their right to FPIC and contracting companies are not aware of their responsibilities.

This guidance was delivered through multiple case studies. For example, a case study from Nepal was presented by representatives of the Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP), Durga Mani Rai and Shankar Limbu, who had successfully raised a complaint through the grievance mechanism of the European development bank addressing the lack of FPIC obtained in respect of a power transmission line project funded by the EU.

"Working with DTP and Corrs on this project in particular has been instrumental in developing our deeper understanding of the EU and more importantly it provided opportunities to engage the EU and diplomats on holding the EU development funding accountable to human rights standards, FPIC and the realisation of Indigenous peoples right to self-determination."

- Advocate Durga Mani Rai, LAHURNIP

Experience of speakers

A key highlight of the course was the wealth of experience provided by speakers and participants from all over the world, including representatives of many Indigenous communities. The course was facilitated by DTP's Executive Director, Patrick Earle, based in Sydney and Joshua Cooper, an academic based in the United States. The keynote speech was delivered by Gam Shimray, a member of the Naga people and the Secretary General of the AIPP, who has over 30 years' experience working on Indigenous peoples' issues and human rights, while the closing address was delivered by the Chair of the United Nations Expert Mechanism on the Rights of Indigenous Peoples (and DTP alumnus), Binota Moy Dhamai.

Other eminent speakers included the Head of the Indigenous Peoples Unit of the UN Food and Agriculture Organization, Yon Fernandez de Larrinoa, the UN Special Rapporteur on Environmental Defenders, Michael Forst, the Raja (traditional king) of the Chakma Circle, Bangladesh's largest Indigenous community, and representatives from the AIPP, the Forest Peoples Programme, Front Line Defenders, the International Working Group for Indigenous Affairs, and Impact. The speakers facilitated sessions and spoke with the diplomats, drawing from their expansive expertise and lived experience of advocating for and respecting Indigenous peoples' rights.

Corrs' own Phoebe Wynn-Pope (Head of Responsible Business & ESG) and Eloise O'Brien (Senior Associate) shared perspectives on the responsibilities of the private sector to respect human rights, as well as the challenges of obtaining FPIC when partnering with private actors.

Power transmission line in Beshisahar, Lamjung, Nepal

Power transmission line in Beshisahar, Lamjung, Nepal

Key takeaways

The program was very well received by the Commission and the participating EU diplomats. It is hoped the course will have application beyond the EU, as diplomats and development agency officials are required to perform their policy and development responsibilities consistently with respect for the rights of Indigenous peoples.

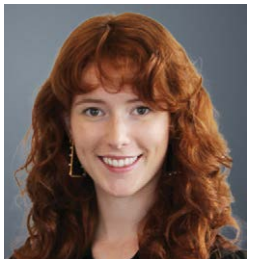
As the EU and other jurisdictions, public institutions and private entities adopt policy commitments to respect Indigenous peoples' rights and obtain FPIC, there is a growing tension between these commitments and the urgency for land and natural resources to achieve the transition to sustainable energy sources and economies. At the same time, there is increasing recognition of the disproportionate impacts of climate change and environmental degradation on Indigenous peoples and communities. The complexity of these global challenges means that there is a clear need to build specialised knowledge by listening to and learning from Indigenous peoples globally.

The course provided a unique opportunity to consider the rights of Indigenous peoples from a holistic perspective, involving Indigenous peoples, government and the private sector in conversation and knowledge-sharing to better navigate the obstacles to respecting Indigenous peoples' rights in the global development context. ■

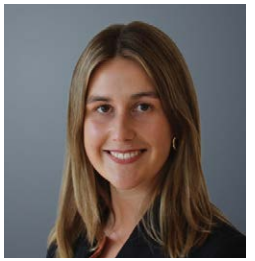
"It is critically important that the rights and self-determination of Indigenous peoples are not a casualty of the transition to a global net-zero economy. This course was a great opportunity to bring the stories of Indigenous peoples from around the world into the training for EU delegates, and to encourage the EU to build and strengthen knowledge and understanding of the rights of Indigenous peoples to free prior and informed consent."

- Patrick Earle, Executive Director, DTP

Patrick Earle is Executive Director of the Diplomacy Training Program (DTP) and has developed and delivered over 100 human rights training programs across Asia, the Pacific and Middle-East. Patrick is co-author of the Human Rights Council of Australia's influential guide "The Rights Way to Development – Policy and Practice". He has worked for Amnesty International and is a member of the Human Rights Council of Australia.



Madelyn Attwood is a lawyer with the Corrs Responsible Business and ESG, and Commercial Litigation practice groups. She has acted for corporate and not-for-profit clients in various transactions and disputes, advising on a range of issues in relation to business and human rights, greenwashing, energy and natural resources, international human rights conventions and sanctions frameworks. Prior to joining Corrs in 2021, Madelyn interned with the United Nations Office of the High Commissioner for Human Rights in Geneva. Madelyn graduated from the Australian National University in 2020 with a Bachelor of Laws (First Class Honours) and Bachelor of International Relations (French minor).



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