

Tenth session of the PFII

Date: 19 May 2011

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Brief statement on human rights¹

Thank you, Madame Chair. In these remarks I want to emphasize the importance of a human rights-based approach, as strongly recommended by the Office of the High Commissioner for Human Rights and diverse UN bodies and mechanisms. This must include the full and effective implementation of the UN Declaration on the Rights of Indigenous Peoples.

Some governments still do not recognize that IPs' collective rights are human rights. Yet the Human Rights Council has adopted by consensus resolution 5/1 on 18 June 2007, which makes clear that the "rights of peoples" shall be permanently considered in its Agenda and Framework for the programme of work under Item 3: "Promotion and protection of all human rights ..."

Regardless of what issues may arise in any given situation - the human rights of Indigenous peoples are always relevant if such rights are at risk of being undermined. In this regard, it is difficult to remove from or segregate Indigenous human rights for any discussion. As I referenced yesterday, one of the fundamental elements of human rights is that they are indivisible, inter-dependent, and inter-related and are therefore, relevant in any context specifically concerning Indigenous peoples, from environment to development to peace and security and many other issues.

At the international level and in many countries at the national level there has been advancement on the recognition of the rights of indigenous peoples. As you are aware, on 13 September 2007 the General Assembly of the United Nations adopted the Declaration on the Rights of Indigenous Peoples. At the domestic level some government have adopted legislation incorporating in its national legislation the recognition of indigenous rights. However, implementation of the standards contained in the Declaration remains our biggest challenge.

¹ Most parts of this briefing note were taken from Chapter VI (Human Rights) of the State of the World's Indigenous Peoples. The Chapter was written by Prof. Dalee Sambo.

As you all know, specialized institutions have been created at the international level to specially address the human rights of Indigenous peoples such as the Special Rapporteur on the Rights of Indigenous Peoples, our Forum, the Expert Mechanism on the Rights of Indigenous Peoples, and the Voluntary Fund for Indigenous Peoples in Geneva.

The work of the United Nations in preparing the Declaration on the Rights of Indigenous Peoples reinforced the need for instruments and processes to accommodate our cultural diversity. Indeed, this was the ultimate objective of the UN Declaration. Such an approach is a necessary element to ensure the effectiveness of universally recognized human rights².

Despite all the positive international human rights standard-setting developments concerning our human rights, indigenous peoples continue to face serious human rights abuses on a day to day basis. Issues of violence and brutality, continuing assimilation policies, marginalization, dispossession of land, forced removal or relocation, denial of land rights, impacts of large-scale development, abuses by military forces and armed conflict, and a host of other abuses, are a reality for indigenous communities around the world. Examples of violence and brutality have been heard from every corner of the indigenous world, most often perpetrated against indigenous persons who are defending their rights and their lands, territories and communities.

In regard to large-scale or major development projects, the Special Rapporteur has summarized some of their effects on the human rights of indigenous peoples by stating that:

The principal human rights effects of these projects for indigenous peoples relate to loss of traditional territories and land, eviction, migration and eventual resettlement, depletion of resources necessary for physical and cultural survival, destruction and pollution of the traditional environment, social and community disorganization, long-term negative health and nutritional impacts as well as, in some cases, harassment and violence³.

² Henkin et al. (1999), 107, quoting Donnelly (1989): “Cultural relativity is an undeniable fact; moral rules and social institutions evidence an astonishing cultural and historical variability. The doctrine of cultural relativism holds that at least some such variations cannot be legitimately criticised by outsiders. But if human rights are literally the rights everyone has simply as a human being, they would seem to be universal by definition. How should the competing claims of cultural relativism and universal human rights be reconciled? I defend an approach that maintains the fundamental universality of human rights while accommodating the historical and cultural particularity of human rights.”

³ Stavenhagen (2003).

Indigenous peoples frequently raise concerns about systemic discrimination and outright racism from the broader society, the State and its authorities. This discrimination manifests itself in a number of ways and I think that it is safe to say that each Indigenous person present has experienced some form of discrimination on an individual and personal level. Furthermore, Indigenous peoples at the community level or collectively have been victims of discriminatory policies and treatment. This is an undeniable fact.

At their most extreme, these forms of discrimination lead to gross violations of human rights, such as murder, rape and other forms of violence or intimidation. These forms of discrimination are often either difficult to quantify and verify or are simply not documented by the authorities or not disaggregated based on Indigenous identity. Among all the members of the society, the situation of indigenous women and children remains particularly delicate.

Many indigenous communities are in extremely difficult situations; many Indigenous peoples and their communities have been destroyed or weakened, their security and integrity compromised. The urgent and dire condition of indigenous peoples' human rights worldwide requires genuine political will, action, and resources.

The Member States of the United Nations must therefore play a more substantive, proactive and central role in the campaign to respect and recognize indigenous peoples' human rights. Indigenous peoples arrive here in New York to demand the attention of the United Nations. However, let us remember that the United Nations is made up of the nation-states around the globe – it is imperative that these member nations take their obligations seriously and more importantly, at the domestic level.. I would encourage states to review their constitutions, domestic policies and legislation to ensure consistency with the minimum standards established by the UN Declaration. Furthermore, where national human rights institutions exist such institutions should be informed and guided by the Declaration; where they do not exist, such institutions should be established with the full cooperation and collaboration with the Indigenous peoples concerned. Indigenous peoples should also be encouraged to engage domestic remedies, such as local commissions.

Further, Indigenous peoples should review and invoke international instruments and initiate comprehensive strategies, including the use of the treaty bodies as most, if not all of these treaty bodies, are aware of and responsive to the human rights standards embraced by the Declaration. In this regard, please recall the expansion of the mandate of the UN Voluntary Fund for Indigenous Peoples based in Geneva.

In some instances, Indigenous peoples may have opportunities to negotiate and dialogue with national governments about how to fully and effectively implement the Declaration. In other instances, unfortunately, Indigenous peoples may need to initiate litigation combined with formal human rights complaints at the local, state-wide, regional, national, and international level.

In conclusion, I urge governments to consider what measures they can take in collaboration with Indigenous peoples to ensure that Indigenous peoples, individually and collectively, can in fact exercise and enjoy their basic human rights and fundamental freedoms. After all, as the preamble of the UN Declaration “*Solemnly proclaims* the [following] United Nations Declaration on the Rights of Indigenous Peoples is a standard of achievement to be pursued in a spirit of partnership and mutual respect. Let us hope that we do not have to wait generations more for the realization of partnership and respect. In regard to the discussion on human rights today, I’m sure that we will hear more about the status and conditions of Indigenous peoples and the denial of their human rights throughout our afternoon focus on the subject of Indigenous human rights. I would urge participants to specify the articles that relate to their distinct concerns, perspectives, and the status and conditions that they are reporting to us. Thank you, Madame Chair.