

**10th Session of the United Nations Permanent Forum on Indigenous Issues
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**Agenda Item 4 (a):
Human Rights:
Implementation of the United Nations Declaration on the Rights of Indigenous Peoples
19 May, 2011**

**Intervention by:
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Madame Chairperson,

I offer my congratulations to the four former members of the Permanent Forum who authored the paper (E/C.19/2011/2) in response to comments made by Observer States on the annexe to the Forum's report on its 8th session (E/2009/43): Mr. Lars-Anders Baer, Mr. Bartolome Clavero Salvador, Mr. Michael Dodson and Mr. Carsten Smith. They correctly assert that the Forum is indeed within its mandate to review countries' follow-up actions with regard to the UN Declaration on the Rights of Indigenous Peoples (UNDRIP).

Let me also take this opportunity to commend several observer state delegations that participated in the discussion on this agenda item yesterday, on 18 May, and/or otherwise provided relevant information about their countries. This obviously makes the job of the Forum, in carrying out its work easier, including to "follow up the effectiveness of this Declaration" as provided in article 42 of UNDRIP.

When the Economic and Social Council set up the Permanent Forum - through Resolution 2000/22 dated 28 July 2000 - it provided it with a mandate, among others to:

(a) "*Provide expert advice and recommendations* [emphasis added] on indigenous issues to the Council, as well as to programmes, funds and agencies of the United Nations, through the Council";

(b) "*Raise awareness and promote the integration and coordination* of activities relating to indigenous issues within the United Nations system";

(c) *Prepare and disseminate information* on indigenous issues;

I can understand that member states of the UN, or at least some of them, may not like to receive a lecture full of advice on what to do on indigenous issues. ECOSOC therefore restricted the advice and recommendation part to the programmes, funds and agencies of the UN system. However, ECOSOC also asked the Forum to **raise awareness, promote integration and coordination** within the UN system, and prepare and disseminate **information**. Member states of the UN are obviously an integral part of the UN system, and perhaps even its nucleus. And if I put it in a light vein, the UN is a "club of the states". Therefore, raising awareness, integrating and coordinating, and disseminating information cannot but be addressed to the states as well,

besides the UN agencies. A pat on the back here, a gentle nudge there, a kind reminder elsewhere of their commitments and words?

Now let me say a few words about the debate on Article 42 of the UNDRIP and implementation of the Declaration and this Forum's role in such. I specifically wish to address the fears of some states, which I strongly feel are misplaced, as expressed at this Forum in a number of other fora.

I suppose the feelings, in simple words were: whether the Forum was stepping beyond its mandate and attempting to act like a "treaty-monitoring body" for an instrument that was not, as they call, "legally binding", meaning, that the UNDRIP is a Declaration, and not a treaty.

But of course the UNPFii is not behaving like a treaty-monitoring body. If it were, it would have insisted on reports, asked questions and provided rulings like a court of law. As I said earlier, the Forum is just trying to facilitate and help the states do what they are supposed to do, to "fully apply" the provisions of the UNDRIP. There is no compunction for any state not to apply provisions of Declarations just because they have not ratified a treaty that expressly refers to the rights concerned. There are states that have not ratified CEDAW, the treaty on discrimination against women. Would the international community today accept any state not a party to CEDAW, to say, "we didn't ratify CEDAW, and the Declaration on the Elimination of Discrimination against Women is a non-binding instrument, and therefore we are not obliged to eliminate discrimination against women". If any state did that, that would be contrary to the peremptory norm of non-discrimination that is now enshrined in international human rights law. And the international standing of that state would certainly diminish in the eyes of the international community.

And in any case, it is well to remember that UNDRIP does not create new rights from nothing. It does not create special rights for a segment of humanity. It merely articulates, clarifies and contextually interprets existing human rights standards in a truly non-discriminatory manner to ensure that indigenous peoples and individuals are able to exercise their rights in a non-discriminatory manner, as stated in articles 1 and 2 of the UNDRIP.

Let me now refer to article 42 of the UNDRIP. This article asks the UN system, including the states, of course, and specifying the Permanent Forum as well, to do two things, among others:

- (a) to promote "**respect for**" the Declaration;
- (b) to promote the "**full application of the provisions of the Declaration**"; and
- (c) to "**follow-up the effectiveness of the Declaration**".

This are the things the Forum is mandated to do. And it is trying to do. And in this, the Forum seeks the cooperation of all, and of course, primarily, the Observer state members of this Forum. And the UN agencies, NGOs and indigenous peoples' organizations and institutions.

Thank you.