

Statement by CAPAJ
April 25, 2007
Complaint Procedure

Thank you, Mr. Facilitator:

With respect to measures which the Human Rights Council may adopt when a State does not cooperate in a confidential investigation, our Commission believes that it should be a prerogative of the Human Rights Council to end the confidentiality of the proceeding if it is agreed that a complaint will be sent to the Public Session of the Council, so that this decision will be more conclusive.

Sending a complaint filed under Procedure 1503 to a public session encourages the State in question to cooperate. There is no other way, because often States against which a complaint has been filed let a lot of time go by without providing an account of their actions. They are indifferent about to facts and circumstances affecting their populations and turn a deaf ear to communications from the Working Group about the confidential proceeding.

When indigenous communities, for example, file a complaint under Procedure 1503 against the State that governs them, the State against which the complaint is filed feels that it is free to respond or not to respond. In addition, the human rights violations against indigenous communities continue, and the State does nothing to compensate for the harm it is causing to indigenous communities. The confidential proceeding under 1503 deals with persistent violations, that is, acts which are institutionalized, such as allowing responsible officials' immunity. In this way, the harm to indigenous communities becomes irreversible.

When a State adopts a non-cooperative position, making new agreements is not a solution. The General Assembly has given the Human Rights Council broad authority to lead States to honor their agreement in General Assembly Resolution 60/251. This enables the States too much freedom. It must be revised.

For these reasons, our commission believes that, if the State does not cooperate and ignores complaints by the victims of consistent and persistent violations, the case should be remitted to the Human Rights Council to be dealt with in a public session.

Thank you, Mr. Facilitator.

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