



**Statement Minority Rights Group International
HRC 21st session: panel discussion access to justice by
indigenous peoples**

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Minority Rights Group International welcomes this opportunity to discuss indigenous peoples and their access to justice.

Their challenges are abundantly clear even if one examines but one issue, namely their relations with extractive industries. This remains a focus for both the Special Rapporteur on the Rights of Indigenous Peoples (A/HRC/21/47) and the Expert Mechanism on the Rights of Indigenous Peoples (A/HRC/21/55) and was the thematic focus for MRG's 2012 *State of the World's Minorities and Indigenous Peoples'* report.

Through our own litigation work involving indigenous peoples in different countries across different continents, MRG would highlight the following major challenges.

1. **Lack of national legislation that protects indigenous peoples' specific rights** such as providing for the collective right to property. Often ownership of particular natural resources is vested in the state.
2. **Many lawyers are poorly equipped and little inclined to take on cases** affecting indigenous communities. Their location far from communities, their fees and their very language increase inaccessibility.
3. **Judiciaries** often have minimal understanding of indigenous peoples' rights and can lack impartiality.
4. **Longstanding discrimination** creates a vicious circle of limited access to education, to employment, to political participation and representation and deepens dependence on outsiders.
5. **Power imbalances** between indigenous communities and multinational corporations are extreme. Corporations can access the best lawyers, influence the judiciary and local media, and use divide and rule tactics within the community itself.
6. **Implementation.** Indigenous peoples *have* managed to win cases before domestic courts and regional bodies. However some States have made no effort to implement decisions, in some case further violating indigenous peoples' rights.

The Maya of Southern Belize have won two domestic cases, as well as one before the Inter American Commission. The decision amongst others, orders the government to demarcate indigenous lands. Not only has the government not demarcated the land but it has granted permits to an oil company for seismic testing and is now in the process of granting a permit for exploratory drilling.

Almost 3 years after the Endorois successfully brought a case before the African Commission, the Kenyan government has still yet to meet with the community to discuss implementation.

Such trends are of extreme concern to MRG given that it leaves states free to act with impunity in the face of clear human rights violations and the international community appears to have no meaningful sanctions at its disposal.

Given this context, MRG urges innovative thinking in tackling these challenges.

- ⌚ Could a UN scholarship programme to train indigenous people as lawyers be considered by the Council?
- ⌚ Could the Special Rapporteur be in regular dialogue with states who have not yet implemented key regional or international court decisions and report to the Council on these cases on an annual basis?
- ⌚ Could a study be commissioned on best practice in the field of indigenous people and access to justice?

Minority Rights Group stands ready to be of assistance wherever possible.

Thank you Madame President.