

## Agenda 6 World Conference on Indigenous Peoples

"Study on the rights of IP and truth commissions and other truth seeking mechanisms on the American continent" (E/C.19/2013/13)

I am glad to present the study on truth commissions and other truth seeking mechanisms. In the 11th session, the Permanent Forum assigned Dr. Myrna Cunningham, Alvaro Pop and Edward John to prepare this study. In the preparation of this study we thank the invaluable cooperation of the International Centre for Transitional Justice.

That historically there have been deep, systemic, systematic and serious violations of the human rights or other international law rights of Indigenous peoples is without question. That it continues today is irrefutable. The study explains a deeply disturbing and chilling pattern of conduct on the part of some States in their historic and even modern day dealings with Indigenous peoples. These violations need to be examined because victims, their families and communities have a right to know the truth.

Truth commissions, official, non-judicial investigative bodies with mandates to search for truth of violations and as a mechanism complementary to criminal justice, provide a process to examine causes of such violations, determine patterns of abuse and crimes, establish political and moral responsibilities, produce an official record of serious human rights violations and provide recommendations to prevent repetition. Over 40 truth commissions have been established. The practice of truth commissions started in Latin American countries transitioning from military dictatorships but has expanded to examine legacies of armed conflicts, apartheid and structural oppression.

These violations include cases of torture, enforced disappearances, murder, extra judicial killings, rape and as well as economic crimes and violations of economic, social and cultural rights. As well Indigenous peoples continue to raise serious concerns about the intimidation, persecution and imprisonment of defenders of the human rights of Indigenous peoples.

The standards and context of international instruments such as ILO 169 and the UN Declaration of the Rights of Indigenous peoples provide a significant and important foundation for the recognition and safeguard of rights of Indigenous peoples. Notwithstanding this Indigenous peoples continue to be among those most affected by conflict, adverse State policies and actions and that many of these have not been adequately addressed.

This study specifically examines the experiences of truth commissions set up to examine the circumstances of Indigenous peoples on the American continent including in Guatemala, Chile, Peru, Paraguay, Canada and Maine, USA. In Brazil and Cote d'Ivoire new truth commissions are in operation. In Burundi, Nepal and Burma they are the subjects of negotiations or recommendations. Given the experiences of these commissions the study provides a significant number of recommendations including:

- ensuring consultations in good faith with Indigenous peoples to obtain their free, prior and informed consent of IP for measures affecting them;
- ensuring respect for Indigenous peoples' representative institutions for broad based consultations;
- ensuring the specific needs of Indigenous women are provided for and that such commissions adopt culturally appropriate methods of work and;
- proposed guidelines which should be taken into account in establishing commissions such as: whether to establish a commission; the mandate of the commission; appointing of the commission and its members; operations of the commission; reporting by the commission and follow up on the report and recommendations of the commission.

If properly developed and implemented, with strong guarantees of independence and with credible leadership, truth commissions will serve to provide concrete expressions to the truth, provide significant measures of justice and reparations, help strengthen rights of Indigenous peoples, recognize and respect the dignity and well being of Indigenous peoples and propose policies to prevent further violations.

## RECOMMENDATION

The PF recommends that States, include the provisions in UNDRIP and ILO 169 as well as the guidelines in the Truth Commissions study where steps are taken to establish truth commissions in situations where there have been or continue to be violations of the human rights of IP. For this to be credible and effective the full participation of IP is essential.