

Declaration of the Indigenous Caucus held on 13 November in Geneva, Switzerland, before the Fifth Annual United Nations Forum on Business and Human Rights

First of all, we would like to begin by paying tribute to all the indigenous defenders of territory who have been killed in the context of the imposition of extractive projects. If it were not for them, we would not be here today.

The historical and asymmetrical situation of dispossession and exploitation in which we indigenous peoples live is a product of the imposition of economic and political models through unmitigated violence.

For businesses, respect for the rights of indigenous peoples, and recognition of our right to ancestral territory and self-determination, must be essential to the realization of any economic activity, not as an added value, but as a fundamental condition, without which they should not operate in our territories. Also, it is urgent to improve the mechanisms of access to full compensation for the peoples that have suffered violations of their rights with respect to investment interests.

This Indigenous Caucus expresses its solidarity with the peoples that resist violations of their rights on the part of States and businesses. There are many mechanisms that allow them to act against us and limit our access to justice and compensation:

-Harassment against indigenous peoples and afro-descendants of Honduras, which has cost the life of Berta Cáceres and other members of COPINH, where investment projects were promoted without free, prior and informed consultations that were in good faith.

-Violations of the human rights of the water protectors of Standing Rock, in the United States, where police and private company security have used violence, threats, arrest and the disproportionate use of force to expel them from their encampment in a territory that had not been ceded in their treaty.

-The case of the Granja Sahebganj-Bagda, Bangladesh, where the inhabitants of 15 indigenous peoples and 5 Bengali peoples were expelled in 1842, 30 acres of the areas of Rampur, Sapmara, Madarpur, Narangabad and Chakarhimpur mouza, of Gobindaganj upazila, in Gaibandha District.

-The case of Russia's Kemerovo Region, where the rights of the Shor Indigenous People are being violated. Coal mining companies are destroying lands and ancestral indigenous villages. Activists are subjected to pressure. Consultations are not being carried out with the peoples; nor is their free, prior and informed consent being obtained.

-Cases of renewable energy on the Isthmus of Tehuantepec, in Oaxaca, Mexico, and Lake Turkana in Kenya, Africa, where wind power generation projects are threatening the life of indigenous communities. A normative framework attached to Human Rights and Indigenous Peoples is needed that guarantees the protection of Indigenous Rights in this context.

-The murder of the defender Fernando Salazar Calvo, President of the Miners Association, indigenous reservation of Cañamomo Lomapieta, Riosucio, Caldas Colombia, which still remains in impunity.

-In Guatemala, the Maya Q'anjob'al Indigenous People has been persecuted since 2012 in relation to extractive interests on their territories, including a hydroelectric project on sacred territory. Opponents of this project have been murdered and their ancestral authorities and defenders of the rights of indigenous peoples have been subject to persecution, criminalized and have suffered arbitrary detentions.

We, representatives of the Indigenous Caucus, demand that the States comply with their obligation to protect, respect and defend our rights as recognized under the various treaties, agreements and other international instruments of Human Rights, which exist in order to eliminate asymmetrical power relations.

For this reason we have analysed and agreed on the following requests and recommendations in relation to the 3 key areas of this Fifth United Nations Forum on Business and Human Rights.

1. Leadership and influence of the State

There is an urgent need for Governments to intensify their efforts to protect, respect and guarantee the human rights of indigenous peoples.

The States, far from protecting the rights of indigenous communities, have privileged companies over the human and collective rights of our peoples. States make our territories available for the benefit of companies, no matter the destructive impacts on our lives and culture. When conflicts occur between peoples and companies, instead of investigating and punishing those responsible, the Governments act in favour of the companies, using the institutions of the State to suppress and criminalize our resistance.

The rights of indigenous peoples that are violated the most are self-determination, the customary property of our ancestral territories, and consultation and consent, guaranteed in ILO Convention 169, the UN Declaration on the Rights of Indigenous Peoples, and in other international instruments.

The Indigenous Caucus notes that violations against defenders of the rights of indigenous peoples include assassinations. Global Witness documented 185 defenders killed in the context of the development of mega-projects in 16 countries. Likewise, women of our peoples suffer rape; we are threatened with death; we are kidnapped and tortured; and we suffer arbitrary detentions, raids, criminal persecution, prosecution, harassment, defamation and surveillance. In addition, Governments and businesses engage in the desecration of our sacred lands, and in the destruction of the environment, the waters, animals and other living things. They obstruct our freedom of expression, and our rights of association, protest and mobilisation. Impunity prevails in each and every one of these violations.

The Indigenous Caucus is attentive to the implementation process of the 2030 Agenda and of the Sustainable Development Objectives. We denounce the side-lining of Indigenous Peoples from the finalization phase of the Objectives. And our opinion on building the concepts of sustainable development of Indigenous Peoples diverges significantly from the concepts devised in the Sustainable Development Objectives. We do not agree with the notion of development continuing to be defined by commercial interests.

2. Leadership and influence of companies

Companies have been known to maintain an arrogant attitude towards us in a context of imbalance of power, brought about by the implementation of coercive measures against indigenous peoples.

They have little transparency in their relationship with the authorities; we have knowledge of cases of corruption in the obtaining of operation licenses.

They have little will to provide information to communities on the systematic enforcement of laws and agreements that can guarantee the rights of indigenous peoples.

Their franchises and subsidiaries do not comply with due diligence along their value chains.

We demand transparency in business operations so that we Indigenous Peoples can be informed about their structure, ownership, beneficiaries and business dealings. State-owned enterprises should take responsibility with regard to the respect and protection of the Human Rights of Indigenous Peoples.

The Indigenous Caucus demands particular respect for and protection of our sacred sites and of all forms of life, including plants and animals. The Indigenous Caucus calls the attention of the Working Group and of the United Nations Forum on Business and Human Rights, to the situation of desecration and destruction of indigenous sacred sites and areas carried out by projects involving mining, energy production, tourism, monoculture and urbanization.

3. The role of financial institutions

Financial entities and international cooperation agencies are involved in the trend of financing extractive projects in indigenous villages, of financing Governments and companies previously noted for violating human rights, territories, and natural and cultural assets, which are part of the heritage of our peoples and which define our identity.

These financial entities and international cooperation agencies are obligated to investigate customers that request loans; they should investigate the complaints that companies and States may have; and they should deny credit to companies and States with projects that are designated as violating human rights.

Financial institutions and international cooperation agencies must comply with their own guidelines prior to granting loans and must verify that the projects financed comply with the right to self-determination, respect for ancestral territories and the principle of free, prior and informed consent.

The Indigenous Caucus calls on the Working Group, States, the United Nations system and businesses, to ensure the protection and the work of human rights defenders and compliance with international treaties and environmental rights, as well as the regulations established in the United Nations Declaration on the Rights of Indigenous Peoples and other normative instruments. These standards must be promoted and integrated into the negotiations on a new binding treaty for States in the area of transnational corporations and human rights, in accordance with Human Rights Council Resolution 26/9, so that they may be included as an integral part of the legal framework of the treaty, not only in the preamble, but also in the operative part of the proposed treaty.

The Indigenous Caucus urges States, companies and civil society organisations to consider indigenous peoples at the forefront of the debate that is taking place on business and human rights; as we are the ones mainly affected in our territories, which are the source of our life and the life of the planet. Thanks to indigenous peoples, we still have a planet where we can dream.