

Statement to the Thirteenth Session of the United Nations Permanent Forum on Indigenous Issues

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Tena koutou katoa (Greetings to all). Tena koe e te Rangatira (Greetings to you Madam Chair).

In Aotearoa New Zealand processes for addressing indigenous claims to lands and waters that were confiscated or alienated in other ways have, at least partially, resolved a number of significant historical grievances. They are often looked to as best practice by our indigenous brothers and sisters around the world. And, rightly so. An indigenous High Court Judge, Justice Williams, has described the settlement negotiations process as ‘the most dynamic and powerful process in the transitional justice game’; ‘a politically realistic approach to the results the Government is prepared to put up with’. Other indigenous commentators view the settlements as steps towards economic independence, as a means of recognising special relationships to lands and waters, and as a necessary pre-requisite to improved relationships between the State and the indigenous Maori in the future. On the other hand, indigenous critics have labelled the settlements as divisive and as compromising self-determination. They are also criticised for not sufficiently compensating for *actual* losses. The processes followed have similarly been criticised as being heavily weighted in the Government’s favour. Diverse claimant groups are forced to negotiate within fixed parameters. I have described the settlements as a ‘tangled web’.

Whatever one’s point of view, there have been 67 Deeds of Settlement signed with some 60 remaining. There have been some interesting and innovative settlements achieved, partly due to the increased willingness of successive Governments to address these grievances, as has been mentioned by the Governor-General of New Zealand at the opening session, but mostly I believe due to the resilience and creativity of the diverse groups of Indigenous peoples in our country. In this statement I refer briefly to a few examples of best practice settlements and will expand on these in a side event that we have planned this afternoon.

Innovations include new forms of ancestral title to returned lands that are inalienable. They also include a growing number of co-management and co-governance regimes in relation to natural resources. There are clauses in the settlements that preserve indigenous claims to ownership of water in light of the Waitangi Tribunal's finding that indigenous rights in water are proprietary in nature. Most recently there are examples of natural resources such as a major river and a national park being afforded legal personality and legal standing. These are exciting developments.

The settlements also include cash quantum. The wealth of Indigenous organisations is increasing. But as the Governor-General indicated on the opening day, the wellbeing of our indigenous peoples is not increasing at the same rate. And, despite the increasing in powersharing models, our people still find ourselves excluded from important decisions. There are recent examples on the East Coast of our North Island of major developments such as exploration for deep-sea oil drilling in tribal waters and the construction of a new dam, with little or no consultation with relevant indigenous groups. Despite our Government’s endorsement of the United Nations Declaration on the Rights of Indigenous Peoples, the existence of the Treaty of Waitangi, and some strong provisions in domestic

law, we too experience what has been a strong theme of this forum - that good law does not always mean good implementation.

This year marks 150 years since the 'New Zealand wars' and the major land confiscations that followed. The indigenous Maori of Aotearoa New Zealand continue to fight for reconciliation and justice, and we have come a long way. But there is a way to go. Our participation in this Thirteenth Session of the permanent forum on indigenous issues reminds us that we are not alone on this journey, and we wish the indigenous peoples of the world strength and courage as we walk this pathway. Me whawhai tonu tatou (we must continue to fight). Kia ora (Be well).