

**Statement by Edward John
UN Permanent Forum on Indigenous Issues
12th Session of the Permanent Forum
United Nations, New York**

Re:1/2 day on Africa-May 23, 2013

- 1. I wish to extend our thanks to the Republic of Congo for inviting and hosting the UNPFII precessional in Brazzaville in March 2013.**
- 2. I also want to acknowledge the support of our colleague, Simon M'Viboudoulou and his colleagues, to members of PFII during our precessional.**
- 3. In 2007 the UNDRIP was adopted by the UN General Assembly. I want to acknowledge the work and support of the African Commission in ensuring the necessary support in the African Union for the adoption of the Declaration.**
- 4. I want to also acknowledge the passage of the law in 2011 by the Republic of Congo in support of the Declaration and to establish a legal platform to address the situation of Indigenous peoples in Congo.**

- 5. I want to thank the representative speaking on behalf of African Commission's "working group on Indigenous populations/communities" and his comments on the recognition of the "existence" of Indigenous communities and peoples in Africa...and the concepts of "unoccupied lands" or "lands belonging to no one". This has been used as a basis to deny Indigenous peoples the legal rights to their lands, territories and resources in many parts of the world.**

- 6. Indigenous peoples in North America and other parts of the Americas and elsewhere in the Pacific and Asia are very familiar with this.**

- 7. The principles and attitudes, including notions of superiority of peoples underlying the "doctrine of discovery" developed by colonizing authorities in Europe and used to justify the very foundation of colonization in Africa are still contemporary realities, despite the fact that these have been condemned, inter alia, in the UN Declaration on the Rights of Indigenous peoples as legally invalid, morally condemnable and socially unjust.**

- 8. In a recent decision of the British Columbia Court of Appeal in June 2012 the "principle of discovery" was applied by the Justices of the court to justify the denial of land rights of the Tsilhqot'in,an Indigenous peoples in Canada, and to justify the taking of Indigenous lands by colonial authorities. This case will now be appealed to the Supreme Court of Canada where, despite a number of cases before it, has not ever made a declaration of the existence of Indigenous peoples' rights to land.**

9. I want to conclude by stating that the principles underlying the doctrine of discovery, the concept of terra nullus/terra nullius are not historic anachronisms...they continue to be current realities and applied in courts in developed countries.

10. This continues to be a very difficult issue but one which still needs to be rectified in States where there are Indigenous peoples, and that such rectification is possible within the framework of the articles in the UN Declaration on the Rights of Indigenous peoples.