

United Nations Permanent Forum on Indigenous Issues

Eleventh Session

New York, 7-18 May 2012

Item 3 Discussion on the special theme for the year: “The Doctrine of Discovery: its enduring impact on indigenous peoples and the right to redress for past conquests (articles 28 and 37 of the United Nations Declaration on the Rights of Indigenous Peoples).” Presented by Migdalia Pellicier, Project Access Global Training Caucus (representing Africa; Asia; Central and South America and the Caribbean; Central and Eastern Europe, Russian Federation, Central Asia and Transcaucasia; North America; and the Pacific).

Thank you Mr. Chair. We take this opportunity to present a brief intervention regarding the Doctrine of Discovery.

Non-Indigenous people came with wooden ships, flags and banners... and now they are coming with their multinationals, corporate logos – and promises of economic development; but for whom? Bio-piracy; imposition of unsustainable industrial, agricultural or legislative development without Free, Prior and Informed Consent; Climate Change negotiations and REDDs; Environmental Racism and Environmental Violence - all of these activities are the products of the doctrine of discovery still in action today. The attitude of the colonial and neo-colonial dominant legal and political systems of national governments in political states is that the land, territories and resources within their borders - are theirs for the taking. Some blatant examples include hydroelectric dams, mining, deforestation and the proliferation of environmental toxics to the detriment of Indigenous Peoples.

We fundamentally and in the most forceful way possible, disagree with and denounce the principle of *terra nullius*; use of term “conquest” to describe the processes of non-Indigenous settlements in Indigenous lands and territories; and the Doctrine of Discovery. We as Indigenous peoples declare, assert and reiterate our collective rights respecting traditional lands and territories, occupancy and use, gathering areas (even though we may not live there anymore).

We take note with approval of important recent advances in the resolution of disputes and conflicts between Indigenous Peoples and states, breaking away from failed models of the past. These include the historic consensus decision of April 20th, 2012 adopting strong language on Treaty Rights taken by States attending the 14th session of negotiations for the proposed American *Declaration on the Rights of Indigenous Peoples* in Washington DC. It included all of the language in Article 37 of the UN Declaration, and recognizes the “true spirit and intent” and the understanding of Treaties by Indigenous Peoples. Most importantly, the final text includes the following:

When disputes cannot be resolved between the parties in relation to such treaties, agreements and other constructive arrangements, these shall be submitted to competent bodies, including regional and international bodies, by the States or indigenous peoples concerned.

We also emphasize the Human Rights Council Resolution at their 18th Session in September of 2011 to appoint a Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence.

We propose, as the Permanent Forum's Expert Group Meeting in the next year, the development of models of conflict resolution and peace-building using the framework offered through the operation/implementation of articles 27, 28 and 40 of the Declaration.

The proposed focus would be to discuss and make proposals for the development of such mechanisms.

The EGM could serve as an opportunity for Indigenous peoples of the various regions of the world to discuss the development of mechanisms for reparations, non-recurrence and conflict resolution, taking into account Articles 18 and 19 of the *Declaration* regarding participation and Free, Prior and Informed Consent.

Finally, we propose that traditional / Indigenous holders of knowledge, innovations and practices, Indigenous youth and Indigenous women attend the EGM along with experts.

Thank you Mr. Chair.