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6th session of the United Nations Expert Mechanism on the Rights of Indigenous Peoples

Agenda item:

6 - United Nations Declaration on the Rights of Indigenous Peoples

Tabea Mr. Chair,

Indigenous relatives,

The people of Maluku takes this opportunity to highlight the failure of the Indonesian government to implement the UNDRIP.

The recommendations made during the 2nd cycle of its Universal Periodic Review in 2012, included amongst others: To increase its Human Rights transparency, ratify ILO convention 169, increase exercise of Human Rights in security forces, address the ill treatment of people deprived of their liberty, implement the Declaration on the Rights of Indigenous Peoples, and to invite the Special Rapporteur on Indigenous Peoples.

With regards to the Special procedures the State of Indonesia issued an invitation to three Special Rapporteurs. On the rights to health, adequate housing and freedom of expression, this invitation was confirmed on June 19, 2012 by Dr. Albert Hasibuan, member of the Indonesian Presidential Advisory Council before the 20th session of the United Nations Human Rights Council in which was stated that "Indonesia is without doubt committed to the rights of freedom of expression".

A start to improve its Human Rights track record but, when visiting Indonesia from January 14, 2013 and on, the Special Rapporteur on the freedom of expression was restricted from meeting political prisoners incarcerated in Maluku and West-Papua. The people of Maluku strongly condemned this unilateral restriction. And is of the opinion that this underlines Indonesia's poor record of protecting the human rights, including the rights of Indigenous Peoples.

Mr. Chair,

Maluku and West-Papua share a continuing and worsening situation with rampant and violent attacks by the Indonesian Army and government-supported paramilitary groups and other continuing violations of human rights committed to deny the right to self-determination. Specifically in the case of Maluku deny the existence of the rightful declared independence of the Republic of the South-Moluccas, the right of self-determination invoked on April 25th 1950.



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In practice, the possible outcome of an exercise of self-determination will often determine the attitude of governments towards the actual claim by a people or nation. Thus, while claims to cultural autonomy may be more readily recognized by States, claims to independence are more likely to be rejected by them.

In this regard we share an advisory opinion of the International Court of Justice of July 22, 2010, on the accordance with international law of the declaration of independence of Kosovo, in which it stated:

“(T)he Court considers that general international law contains no applicable prohibition of declarations of independence. Accordingly, it concludes that the declaration of independence of 17 February 2008 did not violate general international law.”

This determination affirms that the people of Maluku - just like Kosovo - rightfully exercised the right to self-determination with the aim to secede, and such a decision does not violate, and is within the boundaries of international law.'

It is our creator given right to secede, to have freedom. There was always a right to freedom, and there shall always be a right to freedom. There was a time when oppressors and imperialists had a field day when it was illegal to ask for freedom, those days are over.

Although self-determination is an accepted and established human right and is fundamental to all other rights. In international law, we have seen that there has been a lack of agreement about the exact meaning, possible application and potential beneficiaries of this right.

Mr. Chair, members of the EMRIP,

During the 12th session of the PFII the United States voiced that the right to self-determination enshrined in article 3 of the Declaration on the Rights of Indigenous Peoples is different from self-determination under international law. And that the UNDRIP is a non-binding and aspirational document and that self-determination, as expressed in the Declaration, is different from self-determination in international law. We, Indigenous Peoples having applied our inherent right of self-determination, firmly disagree.

Therefore, we fully concur with the statement made by the International Indian Treaty Council in this regard: That Indigenous Peoples do not accept this attempt to redefine international law as affirmed in the U.N. Charter and the Covenants, or to diminish the internationally recognized minimum standard of the Declaration.

The right of self-determination is considered to be *ius cogens* in international law. A status that territorial integrity does not enjoy. It is the most elementary responsibility of the current governments of member states including Indonesia to comply with their human rights obligations including those related to self-determination.



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Mr. Chair,

Before going into the recommendation we underline UN Secretary General's remarks¹ made in February of this year that the Special Committee should identify possibilities for change and promote priorities for decolonization. We encourage the Expert Mechanism on the Rights of Indigenous Peoples to support this ambition.

Given recent developments on a global level It is extremely important for the international community, to emphasize the illegitimacy of existing regimes, including regimes forced upon Indigenous territories. In this regard, international law should be used as an instrument with which to highlight the illegitimacy of the status quo in Maluku but also in the territories of the nine Amerindian Peoples in Guyana, First Nations of Canada, Nagalim, and many more around the globe.

Therefore, we urge the United Nations through the Expert Mechanism to generate political will to formally allow the decolonization of Indigenous territories and the right to self-determination in that process, as enshrined into articles 3 of the UNDRIP, 1 of the ICCPR, ICESCR, and article 1 of the UN Charter.

The plight of many indigenous peoples, underscore the suffering that arises from denials of self- determination which arise in settings where satisfaction would entail territorial dismemberment from the occupying State, which is a right within the context of self-determination under international law.

Denial of this right continues to affect Indigenous Peoples, with the increase of human rights violations committed and/or sanctioned by States. Acts of transmigration, exploitation of natural resources, militarization, poverty, incarceration, forced relocation, are a direct result of colonization, indicate that the oppression of Maluku's struggle to regain its independence has known no bounds.

Matebulu,

Thank you Mr. Chair.

¹ Remarks made on May 28, 2013 during the Caribbean regional workshop to transfer principles into action, become true 'enablers' of decolonization process. <http://www.un.org/News/Press/docs//2013/sgsm15056.doc.htm>