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Submission regarding Human Rights Defenders

1 May 2017 Afternoon Session
- 16th Session of the UN Permanent Forum on Indigenous Issues, New York.

Greetings

Tēnā koutou,

Māori

When 1,400 British troops, surrounding 300 Māori at the Battle of Ōrākau in 1864, called upon the defenders to surrender; a chief replied "My friend we will fight you forever and ever and ever".¹

When asked if the women would come out; a woman, Ahumai replied: "If the men are to die then so will the women and children".²

On the last day, out of food, water and ammunition, they charged the British lines, broke through and attempted their escape. Over half were killed; wounded men, women, children bayoneted to death; our Wounded Knee.

While we continue to suffer violence, we do not suffer the indignity of Human Rights Defender deaths as do our brothers and sisters in Africa, Asia, the Americas - Colombia, six killed last week.

¹ "E hoa, ka whawhai tonu mātou ki a koe, ake, ake, ake".

² "Ki te mate ngā tāne, me mate anō ngā wāhine me ngā tamariki".

Numbers

We are grateful to the agencies that monitor these deaths:

For example, Cultural Survival, International Survival, Global Watch, Human Rights Watch, Amnesty International, the Special Rapporteur on the Rights of Indigenous Peoples and the Special Rapporteur on the Situation of Human Rights Defenders and others.

However, we do not know the full scale of the problem. The data is often not disaggregated:

For example, Front Line Defenders reported 281 Human Rights Defenders deaths in 25 countries in 2016; 49% were environmental protectors and/or Indigenous Peoples. The data is not disaggregated.³

While reports overlap, none comprehensively covers all indigenous cases or regions.

For example, the Special Rapporteur on the Situation of Human Rights Defenders provides good understanding of the most vulnerable groups, including Indigenous Peoples, but not specifically about Indigenous Peoples.⁴

The Special Rapporteur on Rights of Indigenous Peoples also provides the best understanding of violence against indigenous women.⁵

We understand the challenges of existing protections: The Declaration on Human Rights Defenders is insufficiently recognised.⁶ Justice is slow or not forthcoming. Perpetrators and those who order them act with impunity. Companies have more rights than Indigenous Peoples. Governments do not follow their own laws. Agencies may speak to activists, write to countries and activists still die; Berta Caceres in Honduras.⁷

More importantly, as “development” increases the problem is getting worse; in some instances twice as much killing than 10 years ago.

For example, Global Witness documented record 185 environmental activists across 16 countries killed in 2015, close to a 60% increase on the previous year. Brazil was worst hit with 50 deaths, many of them killings of campaigners who were trying to combat illegal logging in the Amazon. The Philippines was second with 33. Colombia had 26 fatal attacks; Peru, 12; Nicaragua, 12; and Democratic Republic of Congo had 11.⁸

³ Front Line Defenders, 2016, *Annual Report on Human Rights Defenders at Risk in 2016*, Front Line, the International Foundation for the Protection of Human Rights Defenders, Dublin, p. 6.

⁴ UN General Assembly, 2015, A/70/27, *Report of the Special Rapporteur on the Situation of human rights defenders*, pp. 12-16.

⁵ UN Human Rights Council, 2015, A/HRC/30/41, *Report of the Special Rapporteur on the Rights of Indigenous Peoples*, pp. 3-17.

⁶ UN General Assembly, 1999, A/RES/53/144, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.

⁷ *Aljazeera*, 21 March 2016, Honduras: Environmentalist Berta Caceres shot dead.

⁸ Global Witness, 2016, *On Dangerous Ground*, United Kingdom.

The Indigenous Mission Council in Brazil reports that 891 indigenous persons were killed in Brazil between 2003 and 2015, with the rates for 2014 and 2015 at 138 and 137 deaths double the average of 68 beginning in 2003.⁹

Recommendation

Noting the separate calls for a thematic study from the Expert Mechanism¹⁰ and the Special Rapporteur on Indigenous Rights, and for action from the Special Rapporteur on the Situation of Human Rights Defenders:

Today, recognizing the tragic and seemingly hopeless situations facing so many defenders is no longer the issue. Indeed, time and again, their plight has been reported, condemned and communicated by many. This dire situation does not allow us the luxury of sitting back and waiting. Let there be no doubt. It is our moral responsibility to embody the ideals of the Universal Declaration of Human Rights and it is urgent to take action.

... the Special Rapporteur is conscious ... more than ever, of the need to develop synergies between the complementary roles of all stakeholders.¹¹

The recommendation is for a single *inter-agency* study on the deaths of Indigenous Human Rights Defenders: collating all data from UN agencies and NGOs; covering a 10 year period; assessing existing protection and justice; and exploring new options, for example, Article 9 of the Rome Statute - amending the definitions of the crimes of Genocide, Crimes Against Humanity and War Crimes to include for example, Crimes against Indigenous Communities such as the Assassination of Leaders;¹² and the potential of action on this through Articles 21 and 22 of the relationship document between the UN and International Criminal Court.¹³

Final Words

Heoi anō, tēnā tātou. [TRANSLATION: Therefore, thank you].

Dr Rawiri Taonui

Indigenous subtribes of Te Hikutū, Te Kapotai, Ngāti Rora, Te Aupouri, Ngāti Te Taonui

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⁹ See *Cultural Survival*, March 22 2016, UN Special Rapporteur on The Rights of Indigenous Peoples Reports on Official Visit To Brazil, <https://www.culturalsurvival.org/news/un-special-rapporteur-rights-indigenous-peoples-reports-official-visit-brazil>; and *The Dawn*, September 16 2016, A Report States that 137 indigenous people were murdered in Brazil during 2015, <http://www.thedawn-news.org/2016/09/21/a-report-states-that-137-indigenous-people-were-murdered-in-brazil-during-2015/>.

¹⁰ UN Human Rights Council, 2016, A/HRC/33/56, Report of the Expert Mechanism on the Rights of Indigenous Peoples on its ninth session, Geneva, 11-15 July 2016, Article 91(a).

¹¹ UN General Assembly, 2017, A/HRC/34/52, *Report of the Special Rapporteur on the Situation of human rights defenders*, Articles 81 and 82.

¹² Rome Statute of the International Criminal Court (1998).

¹³ Negotiated Relationship Agreement between the International Criminal Court and the United Nations (2004).