

**International Day of the World's Indigenous Peoples – Panel discussion on 9
August 2013**

**“Indigenous peoples building alliances: Honouring treaties, agreements and
other constructive arrangements”**

**Remarks by Ivan Šimonović,
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It is a pleasure to take part in this event to mark the International Day of the World's Indigenous Peoples.

For close to 20 years, the International Day of International Peoples has provided us an annual opportunity to celebrate the contribution that Indigenous Peoples make to our societies and the progress achieved in building partnerships and advancing their rights. And impressive progress has indeed been made, with the UN Declaration on the Rights of Indigenous Peoples standing as a prime example of what can be achieved when standards are developed in true partnership with rights holders.

But International Day is also an occasion to highlight key challenges that remain, to explore shortcomings and problems in areas where the implementation gap between rights and reality remains wide.

“Honouring treaties, agreements and other constructive arrangements” is such a theme. It is an area where, while a number of good practices can be found, much more can, and must, be done. Indeed, over the years, calls to honour treaties and agreements have often been at the forefront in indigenous peoples' advocacy.

Just consider:

- The “Idle No More” movement in Canada, whose calls for treaties to be honoured has resonated beyond Canada's borders.
- The Maori efforts to ensure full implementation Treaty of Waitangi of 1840. This treaty plays an important role for settling conflicts to this day.

- The on-going work to ensure implementation of the Chittagong Hill Tracts Peace Accord – which was recognized during the recent Universal Periodic Review of Bangladesh in April 2013.
- Or local awareness raising efforts, such as the campaign that the Haudenosaunee are organizing here in New York today to honor their first treaty, the Two Row Wampum which was concluded in 1613.

And yet, bringing issues related to treaty implementation to the attention of international organisations has not been easy, as States have at times argued that these issues are strictly domestic.

But starting with the attempts by Haudenosaunee Chief Deskaheh and Maori leader T.W. Ratana to approach the League of Nations in 1920s, and continuing with engagement of hundreds of contemporary indigenous representatives with the UN and regional bodies, the indigenous peoples kept on insisting that these issues have a place on the international agenda. Indeed, for many indigenous representatives the improved implementation of treaty commitments was a major motivation in their tireless efforts to have the Declaration adopted.

As a result, today we have in the Declaration on the Rights of Indigenous Peoples an explicit recognition that rights affirmed in treaties are “in some situations matters of international concern, interest, responsibility and character” and that “indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements”.

This means that States’ obligation to keep their treaty promises and commitments are now explicitly rooted also in international standards.

This is crucial not only for the purpose of building trust and reinforcing partnership between States and Indigenous Peoples,

but also for ensuring the implementation of basic human rights. After all, treaty enforcement is in many contexts an instrumental tool for ensuring respect for a range of rights of indigenous peoples. It is in treaties that we often see firm commitments linked to the implementation of rights of indigenous peoples, including self-determination, land rights and non-discrimination in such areas as education and participation in decision-making. It follows that treaty violations often equal human rights violations and vice-versa.

Against this background, the OHCHR, and the UN system as a whole, must continue to promote and call for full observance of treaties, agreements and other constructive arrangements, including through events such as this. This is not only advisable but also our obligation pursuant to Article 42 of the Declaration on the Rights of Indigenous Peoples. With this in mind, OHCHR has organised seminars and pursued other initiatives to engage both states and indigenous representatives to work together to advance enforcement and observance of treaties and other constructive arrangements. The most recent one was organised last year in Geneva, where participants put forward a number of recommendations aiming to ensure that treaties, agreements and other constructive arrangements are honoured in line with the Declaration on the Rights of Indigenous Peoples and other human rights standards.

Let me highlight four key messages stemming from this seminar and other activities we have pursued, messages that should help us narrow the gap between the promises made in treaties and the reality on the ground.

- 1) We must ensure that there are effective remedies available in cases of violations of treaties, in particular when they involve human rights issues. We have some good practices in this respect, but more is needed.

2) UN and regional mechanisms should pay increasing attention to treaty observance, and those involved in the implementation of treaties and other constructive mechanism should engage with human rights bodies when human rights issues are at stake. Several indigenous representatives and organisations have done some impressive work with Special Rapporteurs, the Expert Mechanism on the Rights of Indigenous Peoples and the Permanent Forum as well as treaty bodies and UPR process, but let us expand such practices.

3) While it is crucial we monitor and address violations, we should also identify, and learn from, situations where compliance with treaty obligations have been achieved. This will help us replicate such positive experiences.

4) As we are stressing the need to observe existing treaties and other constructive arrangements, we should also pay attention to the on going work in many States to draw up new ones. In order to ensure that their eventual content is fully in line with the rights of indigenous peoples, we should start by ensuring a process that is fully in line with the principle of free prior and informed consent and other human rights principles. As history of treaty making shows, tilted processes often produce tilted outcomes that can hurt rather than help indigenous peoples. New treaties and their implementation must therefore be pursued, through transparent, inclusive and participatory negotiations.

Ladies and gentlemen,

Let us all together – international community and Member States, indigenous peoples and civil society organizations – send a clear and straightforward message today, in celebration of the International Day of Indigenous Peoples: “Broken treaties must become a thing of the past”.

Thank you for your attention.