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**Statement of
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Madame Chairperson of the Permanent Forum,
Distinguished Members of the Permanent Forum,
Assistant-Secretary-General for Human Rights,
United Nations Special Advisor on the Prevention of Genocide,
Indigenous representatives, Excellencies, ladies and gentlemen,

It is an honour for me to address the Permanent Forum and all those attending the interactive discussion on the human rights situation of indigenous peoples today. As the Special Rapporteur on the rights of indigenous peoples, I continue to receive information and act on accounts of violations of indigenous peoples' rights. I am also trying my best to look at good practices of States and other actors in terms of protecting and fulfilling indigenous peoples' rights. As I am providing this update to you today, I unfortunately cannot conclude that threats to indigenous peoples' rights have become fewer or less severe since I reported to the Forum last year. Rather, I continue to receive reports of escalations in conflicts and continued militarisation on indigenous peoples' ancestral lands; displacements, dispossessions and violence; peaceful mobilisations that are countered with attacks, criminalisation and harassments; and the continued, systematic discrimination against indigenous peoples and the denial of their identity and rights. These violations are part of the everyday lives and struggles of indigenous peoples and indigenous human rights defenders across the world.

I therefore look forward to having an open and honest discussion on the situation between indigenous peoples' organisations, governments and representatives from the UN system, who are present here today. I hope that we can use this session of the Permanent Forum to identify constructive ways forward to ensure indigenous peoples' rights.

In this statement, I would like to report on my activities since I addressed the Permanent Forum last year, with a particular focus on the topics of climate change and criminalisation, which are issues that I have dedicated much attention to. I encourage you to contribute to these issues during the interactive dialogue later this morning, as this will inspire my work going forward.

The 17th UNPFII Session theme: “Indigenous peoples’ collective rights to lands, territories and resources”

Madame Chair,

Before updating further on my activities, allow me briefly to say a few words about the theme of this year's session, “*Indigenous peoples’ collective rights to lands, territories and resources*”. Indigenous peoples' relationship to their lands, territories and resources is what makes them different from other sectors and remains the main foundation of their distinct identities, cultures and knowledge systems, and their physical, economic and social well-being. Their displacement from their ancestral lands causes tremendous physical, mental and spiritual suffering.

This is why the struggle for their rights to their lands, territories and resources are at the heart of most indigenous peoples' movements. It was at the heart of the struggles of their

ancestors whose lands were taken based on the doctrines of discovery and terra nullius and the colonisation project.

I had the honour of chairing the Permanent Forum back in 2007, when the Permanent Forum discussed the topic of “Lands, territories and resources” as the special theme of its sixth session. Today more than a decade later, there is growing body of international standards, instruments and guidelines related to the rights of indigenous peoples to their lands, territories and resources. This includes in particular, the UN Declaration on the Rights of Indigenous Peoples with its references to lands, territories and resources, and its vital affirmation of the rights of indigenous people to own and control our lands (articles 25, 26 and 27); to participate in decision-making (articles 5, 18 and 27) and to free, prior and informed consent to measures or projects that may affect our rights (articles 10, 11, 19, 28, 29 and 32). The Indigenous and Tribal Peoples Convention, 1989 (ILO 169) also enshrines land rights for indigenous peoples in articles 14 to 19; and the expanding jurisprudence developed by human rights treaty bodies and regional human rights courts in the Americas and Africa affirmed indigenous peoples’ collective land rights.

Focusing on the *collective* element of this right is extremely important. This is exactly where the international standards meet implementation challenges on the ground. Notably, this occurs when legal systems recognise only individual rather than collective land titling; when processes fail to demarcate existing indigenous lands and territories and enforce protection of these; and when practices create tensions within indigenous communities in land titling processes.

In performing my mandate as the Special Rapporteur on the rights of indigenous peoples, a significant focus continues to be on indigenous peoples’ collective rights to lands, territories and resources. This is the concern that indigenous peoples across the world raise most often to me through communications and during my country visits. The visits I did after I reported to you last year were to the United States of America, Australia and Mexico. In all these visits, and also in the other countries, which I visited since I was appointed in 2014, these are common threads which I have observed:

Indigenous peoples have highly specialised and complex land use customary laws and practices and diverse livelihood strategies depending on the ecosystems they live in. These were developed over thousands of centuries and transmitted through generations. Since colonisation up to the present, many of these customary institutions and laws were undermined and remain unrecognized. While the knowledge, values and belief systems related to indigenous peoples’ land and water use and traditional livelihoods are not documented, the intergenerational transmission of these continue. Another common thread is the dismal state of protection of the collective rights of indigenous peoples to their lands, territories and resources. Even in countries which have laws recognizing these rights there is weak implementation of these. In fact, contradicting laws, such as Mining Acts, Investment Laws and Forestry and Agriculture laws, are better enforced than indigenous peoples’ rights laws.

In the midst of the financial, environmental, and climatic crisis facing many countries, there is growing recognition of the contribution of indigenous peoples’ traditional knowledge to sustainable development and ecosystem management, biodiversity conservation, and climate change adaptation.

For instance, during my country visit to Mexico last November, I followed up on recommendations made by my predecessor, Stavenhagen, who had devoted much attention to land rights as a critical issue at the root of many of the human rights problems faced by indigenous peoples in Mexico. From my discussions with indigenous peoples, I learnt that the agrarian reform, despite progressively creating communal lands, known as *ejidos*, has not been effective in resolving land disputes or overlapping land claims. It has also not provided adequate safeguards for indigenous peoples affected by mega projects and other activities promoted by authorities or outside interests, which increasingly are putting pressure on indigenous communities today. The agrarian land regime, I was told repeatedly during the visit, has not adequately recognised indigenous peoples' own traditional boundary systems, their concept of territories and their forms of organisation and representation. This is just one example of how human rights standards meet challenges when being implemented on the ground.

We had a fruitful discussion on the theme yesterday and I encourage the Permanent Forum to take this forward through strong recommendations and guidance on how better to protect and realise indigenous peoples' collective rights to lands, territories and resources.

2017-2018 activities of the Special Rapporteur

Madam Chairperson,

Allow me now to briefly provide an update on my work as Special Rapporteur since the last time I addressed the Permanent Forum and to elaborate on some of the activities I have been involved in since then. In accordance with my mandate as Special Rapporteur, these activities fall within four, interrelated areas of work: 1) the preparation of thematic studies, 2) the conduct of country visits, 3) responding to cases of alleged human rights violations, and 4) the promotion of good practices.

Thematic reports to the GA and the HRC in 2017

In the thematic report I presented to the General Assembly last year (A/72/186), I celebrated the tenth anniversary of the UN Declaration on the Rights of Indigenous Peoples, by examining the progress made in the last decade to implement the Declaration.

In the report, I highlighted positive developments as well as some of the obstacles that continue to impede implementation. I also affirmed the conclusions made by my predecessor, James Anaya, on the legal standing of the UNDRIP. The Declaration, as a declaration of the General Assembly, is a standard-setting resolution of profound significance as it reflects a wide consensus at the global level on the minimum content of the rights of indigenous peoples. These rights have been widely ratified, and certain provisions, such as those relating to the protection against racial discrimination, reflect customary international law.

The preamble to the Declaration underlines fundamental aims and principles which should guide its interpretation and implementation: the need to overcome and repair the historical denial of the fundamental human rights of indigenous peoples, and the affirmation of the equality of indigenous peoples and individuals to all other peoples and individuals, paired with their right to be different. The Declaration itself can be considered a remedial tool. Its articles are an extension of binding standards found in various other human rights instruments.

In my report to the General Assembly, I concluded that while significant progress has been made since 2007, closing the gap between the recognition of indigenous peoples' rights at the international level and ensuring concrete improvement on the ground remains a challenge. I will not go into further details of this report now, as I spoke at length about this topic during my statements at the Permanent Forum and at the General Assembly last year.

Climate change and indigenous peoples

In my thematic report to the Human Rights Council last year, I took a thorough look at how climate change and climate finance impacts on indigenous peoples' right. The situation is alarming, and I believe we as indigenous peoples need to dedicate much more attention to these issues.

While indigenous peoples historically have contributed least to the problem of climate change, we are at the same time amongst those most affected by its consequences. The impacts are serious and life threatening; be it the ice melting in the Arctic territories of the Inuit or entire indigenous territories risking to disappear due to rising sea levels in the Pacific. Indigenous peoples live on the frontline of climate change - on the small islands, high altitudes, humid tropics, coastal regions, deserts and polar areas which are most impacted by a changing climate. Moreover, indigenous peoples' ways of living and the fulfilment of our basic needs depend so heavily on the thriving of these ecosystems, making us disproportionately vulnerable to extreme weather events such as floods, droughts, heatwaves, wildfires and cyclones. Climate change has real consequences for indigenous peoples, including increased risk of diseases, reduced biodiversity, destroyed crops, changing animal routes and food insecurity.

In addition, indigenous peoples continue to be overrepresented amongst the poorest and most marginalised, representing a shocking 33 % of the people living in extreme rural poverty, and therefore having fewer resources and resilience to cope with climate change. In a recent estimate from the World Bank, an estimated 100 million people risk being forced into extreme poverty by 2030 due to climate change. Many of those will be from indigenous communities. Climate change moreover has gendered impacts, as new waves of migration or longer walking routes to fetch water due to water shortage have particular impacts on women and girls and exposes them to additional risks.

While the impacts are severe, at the same time, indigenous peoples are not just victims of climate change. In fact, I believe, indigenous peoples have a very active role to play in finding solutions to the problems of climate change. There are at least three important reasons for that. Firstly, indigenous peoples globally are deeply involved in the conservation of biological diversity and the protection of forests and other natural resources. Traditional indigenous territories encompass about 22 percent of the world's land surface and overlap with areas that hold 80 % of the planet's biodiversity. Indigenous peoples thus live in the areas where climate change adaptation and mitigation initiatives need to be urgently rolled out. Secondly, indigenous peoples' traditional knowledge about the environment is a valuable resource which can contribute to address climate change. Examples include the Inuit knowledge of climate variability when hunting, the Inca traditions of crop diversification and knowledge of genetic diversity and, in the Sahel, the use of water-harvesting strategies and weather forecasting.

These essential contributions of indigenous peoples to combat climate change are gradually being recognised. The Paris Agreement makes reference to indigenous peoples' rights and acknowledges the centrality of traditional knowledge to overcome negative impacts of climate change. However, more needs to be done to ensure that they are included in initiatives to mitigate or adapt to climate change. The Paris Agreement also adopted a decision recognizing the need to strengthen knowledge, technologies, practices and efforts of local communities and indigenous peoples related to addressing and establishes a platform for the exchange of experiences and sharing of best practices on mitigation and adaptation in a holistic and integrated manner. The Intergovernmental Panel on Climate Change, which is the international body responsible for assessing the science related to climate change, has observed that indigenous knowledge is not being consistently reflected in existing adaptation efforts. In my report, I therefore highlighted the crucial importance of recognising the traditional knowledge of indigenous peoples in climate change adaptation and mitigation policies and projects.

Another reason why indigenous peoples have to participate actively in discussions on climate change is to ensure their human rights are safeguarded in climate change initiatives. In my report, I discuss how climate mitigation and adaptation projects and climate finance can be a double-edged sword for indigenous peoples. On one hand, climate finance has the potential to reinforce the efforts of indigenous peoples to adapt to the impacts of climate change and contribute to climate change mitigation. However, it also has the potential to create adverse impacts, which undermine the rights of indigenous peoples. As Special Rapporteur, I increasingly hear about violations of indigenous peoples' rights in the implementation of renewable energy projects such as hydroelectric dams, windmills and REDD-plus projects, which are undertaken on indigenous peoples' lands.

I strongly encourage the continued engagement of indigenous peoples in global climate processes, as well as on the ground, where mitigation and adaptation initiatives are carried out. I wish to note the importance of the Green Climate Fund's Indigenous Peoples' Policy, which was adopted in March this year. I am confident that policies such as this will contribute to ensure stronger participation of indigenous peoples in climate change actions. The enhanced participation of indigenous peoples is essential to prevent negative impacts of climate initiatives on indigenous peoples and ensure that our effective contribution to climate change solutions is recognised.

Country visits

Madame Chair,

I would also like to refer to my most recent official country visit, which took place to Mexico from 8 to 17 November 2017, upon invitation by the Government. During my visit, I met with various government agencies at federal and local level, with representatives from civil society and with more than 200 representatives of indigenous peoples, half of which were women, belonging to 23 different indigenous peoples from 18 different states.

Although I recognise and commend Mexico's support for the advancement of the indigenous agenda at the international stage, including the adoption of the UN Declaration on the Rights of Indigenous Peoples, at the end of my visit, I had to conclude that much more still needs to be done to take these commitments forward on a national level.

I observed a serious pattern of exclusion and discrimination against indigenous peoples, who are very overrepresented amongst Mexico's poor. Data shows that poverty among indigenous peoples remains disproportionately high with 71.9 percent of the indigenous population living in poverty or extreme poverty, compared to 40.6 percent of the non-indigenous population. With regards to education, the picture is similar. In light of the 2030 Agenda for Sustainable Development and its commitment to "leave no one behind", I see this situation as worrying and note that more needs to be done to address these inequalities.

There is also an escalating concern about mega-projects promoted by the Government and the lack of appropriate consultations to obtain the free, prior and informed consent of indigenous peoples. During my discussions with indigenous peoples, I repeatedly heard how economic development projects have led to land dispossession, environmental impacts, social conflicts and the criminalisation of indigenous community members opposing them. As we discuss the theme of collective land rights this year, I must emphasise the situation in Mexico as one calling for immediate action.

In terms of access to justice, I was informed that it is particularly difficult for indigenous peoples affected by gross human rights violations to access the ordinary justice system. This has several reasons including, among others, the physical distances from justice administration institutions, language barriers, lack of adequate legal assistance, fears of reprisals if a complaint is filed, and the lack of appropriate protection mechanisms. I also perceived a lack of trust of indigenous peoples in the ordinary justice system.

During the visit, I also observed several good practices. The recognition of indigenous peoples' rights to autonomy and self-determination in Article 2 of the Constitution is a significant advancement. In addition to self-government, indigenous peoples also have the right to participate fully in the political life of the country. I have seen some positive examples that could facilitate indigenous peoples' political participation, such as the possibility to register independent candidates, efforts to increase access to birth certificates and a call to political parties to include indigenous candidates within their lists. However, more needs to be done to make these initiatives effective.

I will be presenting my official country visit report to the Human Rights Council in September this year.

This year, I will visit Guatemala from 1st to 10th of May, at the invitation of the Government, and I look forward to this opportunity to assess and discuss the situation of human rights of indigenous peoples there. I also encourage other governments, especially in Asia and Africa, to invite me to assess good practices and advise on implementation challenges to the full realisation of indigenous peoples' rights.

Communications

As mentioned earlier, Madam Chairperson, my mandate also involves acting upon information of alleged violations of the rights of indigenous peoples in specific situations. I would like to acknowledge and thank the many individuals and groups that have provided valuable information, knowing that often these people find themselves in difficult situations and take risks when speaking out.

I would also like to acknowledge the several governments that have responded to my communications regarding specific cases and in particular those, where a dialogue has led to concrete actions. I am however still concerned that a number of governments have not responded to communications, requesting information on alleged human rights violations. I hope that in the future, more countries will be open to engage in constructive dialogue with me regarding specific cases.

From my side, I will continue to prioritise the communications addressed to governments and other actors in relation to allegations of violations of indigenous peoples' rights. Since the beginning of 2018, I have already sent 10 communications to 9 States and other actors in relation to violations of a wide range of economic, social and cultural as well as civil and political rights.

Good Practices

As mentioned earlier, my mandate also includes the promotion of good practices. When meeting with indigenous peoples as well as governments and other actors, I am always keen to learn about practices that work on the ground with the aim to transfer knowledge and experiences to other related contexts. Since last year, I have been doing this in various contexts and seen some impact in this regard.

In April 2017, I was invited to undertake a working visit to Honduras to provide advice on draft legislation on the obligation to consult with indigenous peoples. I am hopeful that my written comments on the draft law were relevant to make all actors aware of the international human rights standards related to consultation and consent and to encourage the adoption of a law that conforms to international HR standards.

Madame Chairperson,

Finally, allow me to say a few words on one of the core topics that I will be engaging more on during the course of this year and in my upcoming reports to the Human Rights Council and the General Assembly.

Criminalisation of indigenous peoples

Criminalisation, acts of violence and other risks faced by indigenous peoples are matters that are consistently brought to my attention. I have observed a global escalation. To discuss these concerns further, I conducted a two-day consultation in March with indigenous peoples' human rights defenders and other experts. The meeting provided inputs and experiences from the ground, which will contribute to my report to the Human Rights Council in September.

When preparing for this consultation on criminalisation of human rights defenders, I did not expect that I would myself become a victim of accusations from my government of being a "terrorist". I intend to use my own situation to raise awareness of what so many indigenous peoples' experience across the world. One of the ways I will do this will be by sharing the voices of indigenous peoples' advocates and human rights defenders in my upcoming report.

While existing studies have addressed the situation of attacks against environmental human rights defenders, further analysis of the individual as well as collective impacts on indigenous peoples is needed. For instance, when indigenous traditional, cultural or spiritual leaders are criminalised, this has severe consequences for entire indigenous communities and the continuation of traditions and social, political and cultural institutions.

In terms of protection measures, most existing protection initiatives are based on individual measures. There is a need to further develop a collective approach to protection, which takes the cultural and spiritual aspects of indigenous peoples in to account.

Conclusion

This year, my statement and thematic work has touched upon different topics, including climate change and criminalisation. However all these subjects are closely linked to the crucial theme of this session, our collective rights to lands, territories and resources. I look forward to hearing your reflections from the floor, as we discuss this further.

I have worked all my life for the rights of indigenous peoples. While this year has been a challenging one personally, as well as professionally, I do remain an optimist. While carrying out my mandate, I will do all I can to support the struggles of indigenous peoples and take action on human rights violations. I remain deeply committed to my role as Special Rapporteur, and am thankful for this opportunity to work with all of you, indigenous peoples, governments, the UN system and other partners, to promote a better future for indigenous peoples.

I thank you all for your kind attention.
