

CONCEPT NOTE

Indigenous Peoples: Conflict, Peace and Resolution

Tuesday, 17 May 2016

Introduction

The Permanent Forum on Indigenous Issues, an advisory body of the Economic and Social Council, has the mandate to discuss indigenous issues related to economic and social development, culture, the environment, education, health and human rights. The Permanent Forum was established by the Economic and Social Council in 2000.

The special theme of the 15th session of the Permanent Forum is “Indigenous Peoples: Conflict, Peace and Resolution”. The discussion will take place on Tuesday, 17 March 2016.

Background

Since its establishment, the Permanent Forum on Indigenous Issues (UNPFII) has repeatedly raised the issue of conflict in all its manifestations and complexities both during and post conflicts. Participants have shared about the impacts conflicts have had on indigenous peoples, but also about indigenous peoples’ role in conflict prevention, as well as their contributions to a durable and lasting peace.

The discussion of this topic by the UNPFII is particularly relevant considering that increasing numbers of indigenous peoples around the world are suffering from the dynamics of conflicts. Further, it relates to the key purposes of the United Nations, the maintenance of peace and security.

The United Nations Declaration on the Rights of Indigenous Peoples recognizes that indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples (...)¹. The new 2030 Agenda’s Goal 16 calls for the promotion of peaceful and inclusive societies with access to justice for all and effective, accountable and inclusive institutions. However, the United Nations Declaration as well as many other international Human Rights Law and International Humanitarian Law instruments are not always adequately implemented to protect indigenous peoples’ rights from and during conflict situations. This remains an issue that needs further attention and action - and the Permanent Forum has decided to take steps to address this.

The Permanent Forum on Indigenous Issues’ special theme on indigenous peoples, conflict, peace and resolution comes in a year of reflection and change within the United Nations, where new ways forward on peace and security are being considered including follow up to the Global Study of the Implementation of the Security Council Resolution 1325 (2000) on Women, Peace and Security. In this regard, the interactive discussions at the Permanent Forum session will contribute to a larger debate by adding a perspective on the particular challenges for indigenous peoples in conflict and peace processes.

¹ Article 7 of the UN Declaration

Problems

Even in peaceful societies, indigenous peoples often find themselves involved in situations that escalate to conflict mostly relating to their lands, territories and resources or their civil, political, cultural, social, and economic rights. The rapid pace of globalization and processes to identify new venues for resource exploitation has accelerated such conflicts on indigenous peoples' land.²

Activities of extractive industries, including the building of dams, mining, oil palm plantations etc., have devastating consequences on indigenous peoples' lands and livelihoods. The projects often take place without the free, prior and informed consent of indigenous peoples, and thereby undermined their basic right to self-determination. Furthermore, the projects affect the environment, cause displacement and landlessness and violate indigenous peoples' right to health through the negative environmental health impacts such as contaminated soils, air, water and heightened levels of violence in the areas surrounding extractive activities. Although indigenous peoples have often opposed these projects, this has not deterred or halted the projects with grave human rights violations as a consequence.

Although women and men face common challenges from these conflicts, displacements from their land and from the negative environmental health impacts of the extractive sectors, - indigenous women and children are often more vulnerable and suffer more in times of conflict.

Indigenous peoples also increasingly experience situations of armed conflicts and militarization on their lands. In nearly every region of the world, indigenous peoples are being displaced and severely impacted by violence and militarisms. In some countries, indigenous peoples become victims of violence, massacres or even genocide due to their distinct identities. Often, indigenous women are used as "spoils of war" by armed actors and are subjected to sexual violence and rape perpetrated by members of armed/paramilitary forces. Indigenous children are sometimes forcibly recruited to participate in armed conflicts, leaving behind their homes, their childhood and placing them in a situation of high vulnerability.

Violent conflicts and militarization in indigenous peoples' lands and territories fundamentally affect the lives of indigenous women and their families and communities, causing violations of their human rights and displacement from their ancestral lands. Very few indigenous peoples ever recover from the psychological disruption caused by displacement, which has put many indigenous peoples at the risk of extinction.

Unfortunately, indigenous peoples have not had significant gains from the processes of conflict resolution: political remedies have not always been useful, and many legal remedies are not always accessible. Although indigenous peoples are overrepresented as victims in conflicts, often they have not been considered as stakeholders in transitional justice mechanisms or in peace process negotiations and accords.

The United Nations Declaration on the Rights of Indigenous Peoples

The UN Declaration makes direct reference to most of the above issues: Article 7 recognizes that indigenous peoples have the collective right to live in freedom, peace and security as

² SOWIP, p. 222

distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

On development, Article 32 states that indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

On military activities, Article 30 of the Declaration affirms that they shall not take place in the lands or territories of indigenous peoples, unless justified by a relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned. Further, it requires States to undertake effective consultations with the indigenous peoples concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands or territories for military activities.

On resolution of conflicts, according to Article 40 indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights.

Initiatives by the United Nations Permanent Forum on Indigenous Issues

The Permanent Forum has expressed its great concern over the continuation of conflicts in different parts of the world affecting indigenous peoples, including areas where treaties, agreements and other constructive arrangements have been entered into. The UNPFII has continuously urged dialogue and consensus-building to resolve such conflicts, guided by the principles of the United Nations Declaration on the Rights of Indigenous Peoples. It has also urged the United Nations system, including country teams, to actively support and promote such processes of dialogue and consensus-building³.

With regard to the use and exploitation of natural resources in indigenous territories and lands, the Permanent Forum stated that it is crucial that indigenous peoples be fully informed of these consequences through consultations, under the principle of free, prior and informed consent, with the indigenous peoples concerned. Through this, future conflicts can be avoided and the full participation of indigenous peoples in consultation mechanisms, environmental impact assessments and sociocultural impact assessments can be ensured⁴.

The Permanent Forum has reiterated the need to address the impact of militarization, including suppressing constitutional guarantees, appropriation of land, forcible occupation and displacement. In addition, there is a need to address territorial and other collective rights of indigenous peoples perpetrated by security forces, including the military, militias and other armed groups⁵. It has also called for the need to collaborate with indigenous peoples in designing and implementing early warning systems to better ensure peace, security and good

³ UNPFII, Report of the 11th session, para. 11

⁴ UNPFII, Report of the 6th session, para. 21

⁵ UNPFII, Report of the 11th session, para.33

governance in their lands⁶. Furthermore, the Permanent Forum has emphasised that in conflict and post-conflict situations States should ensure that they have the capacity to receive first-hand information on abuses suffered by indigenous peoples and that indigenous peoples should be free to document and report violations without risk of reprisal⁷.

Many UN agencies have taken different initiatives to address the challenges arising from conflict. In some countries, UN agencies have supported the establishment of early warning systems to monitor and prevent massive human rights violations in indigenous peoples' territories. They have supported dialogue mechanisms and mediation between indigenous peoples' organizations and Governments, have carried out investigations into some of the massacres and other human rights violations committed and have issued many recommendations. They also support post-conflict efforts in indigenous regions.

Panel Discussion

At its 15th session, the Permanent Forum will address the issue of Indigenous Peoples: Conflict, Peace and Resolution. Member States, indigenous peoples, the UN system, non-governmental organizations, the academia and others are expected to participate.

There will be two interactive panel discussions to identify strategies and approaches, as well as concrete measures to secure peace and prevent conflict. There will also be a focus on the normative advances for the promotion and respect of the rights of indigenous peoples in times of conflict and post-conflict, and access to justice.

The two panel discussions will focus on the following issues:

- a) Root causes of conflicts involving indigenous peoples today – and to what extent this differs from other conflict patterns;
- b) Normative advances at national and international level for the protection and respect of the rights of indigenous peoples in times of conflict and post-conflict;
- c) Strategies developed by the government, indigenous peoples and the UN System to identify ways of cooperation with a view to encourage the prevention of conflict, promotion of peace and access to justice;
- d) Challenges/barriers to ensure indigenous peoples' participation at all stages as a key element to prevent conflict, negotiate peace, and prevent conflict relapse in post-conflict settings;
- e) Good practices of traditional/indigenous justice mechanisms in resolving conflicts;
- f) The role of indigenous women in conflict and post-conflict societies.

FIRST PANEL: INDIGENOUS PEOPLES: CONFLICT, PEACE AND RESOLUTION

The first panel will be based on concrete cases of conflicts experienced by indigenous peoples around the world today – with the aim to identify the particularities of these conflicts as well as highlight the strategies and best practices to prevent them, to build peace and to seek reconciliation. The panel will discuss the root causes of conflicts experienced by indigenous peoples, and how to prevent them from happening in the first place. It will look at the grave violations of human rights that indigenous peoples continue to suffer during these conflicts - and the pathways they see to sustainable peace, including their participation in

⁶ UNPFII, Report of the 13th session, para. 67

⁷ Study on the Rights of Indigenous Peoples and Truth Commissions and other truth-seeking mechanism on the American Continent. E/C.19/2013/13 of 14 February 2013.

peace processes, their voice in transitional justice processes and in rebuilding harmony in post-conflict societies.

Each panellist will briefly address the topic (5 minutes each) focusing on the good practices, challenges and policy recommendation for future action.

The panellists' presentations will be followed by an interactive dialogue, including representatives from the UN Permanent Forum, indigenous peoples' organizations, UN agencies and Member States.

Panelists (To be confirmed)

SECOND PANEL: INDIGENOUS WOMEN IN PEACE AND CONFLICT

This panel will focus on the particular situation of indigenous women, in their strategies to access justice, in their contribution to peace as well as reconciliation and healing seeking harmony within their communities and the society. These strategies can be considered as important contribution to implement Security Council Resolution 1325 through peace processes to advance indigenous women's rights and ensure their participation in decision-making after the conflict.

Each panellist will briefly address the topic (5 minutes each) focusing on the good practices, challenges and policy recommendation for future action.

The panellists' presentations will be followed by an interactive dialogue, including representatives from the UN Permanent Forum, indigenous peoples' organizations, UN agencies and Member States.

Panelists (To be confirmed)