



Statement to the Permanent Forum on Indigenous Issues
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water and sanitation

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Thank you for the invitation to speak here today. This is the first time that I am appearing before this esteemed body and I am honoured to be among such distinguished participants.

I have been working on the mandate on the rights to water and sanitation since 2008, when this mandate was established. During that time, I have had the occasion to be in touch with numerous indigenous peoples' organizations, not only through my country missions, but also through other meetings and correspondence.

Like in with so many other human rights, indigenous peoples suffer disproportionate violations of their rights to water and sanitation. The people in this room are no doubt well aware of this reality. Today I would like to speak about the types of violations which have been raised with me in my capacity as Special Rapporteur on the rights to water and sanitation. I would like to touch upon some of the measures that we can take to address these violations, and finally, I would like to talk about human rights more broadly and how the human rights framework can be used to analyse the special relationship that indigenous people have to and with water.

Nearly a billion people in the world do not have access to an improved water source. Many more do not have access to safe water. Over 2.5 billion people do not have access to improved sanitation facilities. The numbers demonstrate to us that we are facing a true crisis. However, beyond the enormous numbers, we must constantly ask -- who does not have access and why? In my work, I have seen that it is always the same people who are excluded. It is the marginalized, the poor, those without political voice. In the countries that have indigenous populations, too frequently, it is also these communities who do not have access to water and sanitation. Such lack of access is not simply an unfortunate situation nor a coincidence, but it is a direct result of policies and politics which exclude certain segments of the population.

My very first country visit in 2009 was to Costa Rica. I examined numerous issues related to water and sanitation there, giving also attention to the situation of indigenous people. Let us recall that Costa Rica is on track to meet the MDGs on water and sanitation, which is certainly commendable. However, I was dismayed by the lack of attention towards improving the situation of indigenous peoples. The vast majority of indigenous peoples living in the 24 reserves in the country do not have

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access to safe drinking water or sanitation services, compared with nearly universal access in urban areas and very high access rates in other rural areas. Hence I was concerned about the country's focus on the "general" positive trend in providing access to water and sanitation to the "overall" population, while overlooking the fact that specific, targeted and deliberate policies and measures are needed to make sure that progress also reaches the excluded segments of the population, including the indigenous people.

As Special Rapporteur, I also regularly receive information about threats to indigenous rights, including especially concerns about pollution of water sources. For example, I have received numerous reports about the impact of mining operations -- from uranium mining in the US to bauxite mining in India -- indigenous peoples are seeing severe impacts on their access to clean water, as well as on their way of life and culture. Projects to generate new sources of energy, such as dams and geothermal exploration, have also been reported to me as having a serious impact on access to clean water for indigenous peoples.

As the people in this room know well, indigenous peoples often have a special or even spiritual relationship with water. I witnessed this special bond when I visited the Winnemen Wintu tribe in California a couple of months ago. This tribe uses the local river -- the McCloud River -- for spiritual and ceremonial purposes. For example, they hold the puberty ceremony, which honours the coming of age for young women who have to swim across the river and joins tribal dancers as a full-fledged woman. However, the area used has been turned into a recreational campground serviced by the United States Forest Services, where the presence of tourists, campers and boaters challenges the privacy and dignity of the young women undergoing the ceremony, as well as the continuation of tribal practices.

The activism of indigenous communities has been crucial in bringing these situations to light. This Forum is indeed one opportunity to expose these human rights violations and pressure Governments to ensure that indigenous rights are fully protected. The past year has also seen groundbreaking litigation in Botswana by the Basarwa concerning their right to water. The Basarwa had been denied access to a borehole which they had been using for decades as part of an attempt to get them to move out of the game reserve where they had been living even before its designation as a reserve. This decision was very important not only adding to jurisprudence protecting indigenous rights to remain on their ancestral lands, but also further solidifying the status of the right to water under international law. The court referred to the recent General Assembly resolution on the right to water and sanitation, and found that denying the Basarwa permission to use, at their own expense, the borehole located on the land where they resided amounted to degrading treatment -- which is prohibited, *inter alia*, in the Convention Against Torture.

I am very excited about this case, for many reasons. But most of all because the Court very wisely observed the indivisibility of human rights. Talking about water, traditionally considered an "economic, social and cultural right," in the same breath as degrading treatment, generally known as a "civil and political right." I think that too often we lose sight of the indivisibility of human rights. And especially for indigenous people, we need consider enjoyment of human rights in a holistic way. This holistic

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understanding is crucial for analysing indigenous rights and the right to water and sanitation.

The right to water and sanitation provides that everyone should have access to sufficient, safe, affordable and acceptable water and sanitation for personal and domestic uses. With regard to water, this means water for drinking, cooking, washing clothes and dishes, and basic personal hygiene. Water for agriculture falls under the rubric of the right to food. And water for cultural and spiritual life comes within the understanding of cultural rights, as well as specific rights guaranteed to indigenous peoples. Clearly, these lines get blurred all the time, and individuals do not categorize their water uses into these rigid categories. To understand the individual experience, and the loss of dignity which can occur when access to water is denied, we must take a holistic view.

As you may know, my mandate is part of a larger system called the special procedures system. We are experts appointed by the UN Human Rights Council to examine specific themes related to human rights. James Anaya, the Special Rapporteur on the rights of indigenous peoples, who was here last week, is also part of this system. But there are also other experts, on the right to food, the right to health, the right to education, on torture, on arbitrary detention, and so on. You have probably been in touch with these mandates. We have the capacity to work jointly to raise concern about situations of violations of indigenous peoples rights. What I see when I receive information related to water and indigenous peoples is that it very often also concerns many other mandates. When violations of the right to water are being experienced, sadly, a host of other deprivations and violations are also reported.

I would like to conclude by encouraging people fighting for indigenous peoples rights to continue to engage with the international human rights system - including the system of special procedures, as well as the treaty bodies and the Universal Periodic Review. I express my full support to activism at the national and regional levels as well. I know the sense of frustration that many of you might feel in the interaction with these bodies. They don't react as quickly and as efficiently as you would hope. Their impact is not as pronounced as you would wish. Rest reassured, because I feel the same! However, these efforts are crucial for ending ongoing violations of indigenous peoples rights, including those rights related to water, and to improving their enjoyment of all human rights. The fact that things are hard, the circumstance that sometimes we do not see the light at the end of the tunnel is no reason for giving up. On the contrary. As my favourite Portuguese Poet, Pessoa, once put it "Stones on the path? I collect them all. One day I will build a castle".

I am looking forward to the discussion, and thank you again for having invited me to participate today.