

## Presentation to the UN General Assembly 2018. Special Rapporteur on the rights of indigenous peoples



Statement of

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**Presentation to the Third Committee of the General Assembly  
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*Honourable Chair of the Third Committee, Mr. Mahmoud Saikal  
Distinguished Representatives of Member States,  
Indigenous representatives and authorities in the room and across the world,  
Excellencies, ladies and gentlemen,*

It is a pleasure for me to address the General Assembly today for the fifth time since I took up the mandate as Special Rapporteur on the rights of indigenous peoples in 2014. Over the last half decade, I have been reporting here and at the Human Rights Council on a range of troubling issues for indigenous peoples. I have tried to shed light on the structural reasons behind the human rights violations and marginalisation that indigenous peoples continue to face almost in every country. I have explored topics such as the impact of international investment and free trade agreements on indigenous peoples' rights; the impact of conservation and climate change adaptation and mitigation projects; and the increasing attacks, criminalisation and even murder of indigenous peoples, amongst other issues.

Today, I want to discuss what I see as one of the possible solutions to address the challenges that indigenous peoples face across the world: namely the importance of protecting and promoting the role of indigenous peoples' own institutions and ways of governing themselves. At the core of this are the rights to self-determination, self-governance and autonomy.

In [the report that I am presenting to you today](#) I therefore provide introductory remarks on the subject of "indigenous peoples and self-governance". I aim to focus more on this topic over the next year in dialogue with indigenous peoples, States and other actors in order to provide recommendations on how to strengthen indigenous self-governance.

Some may say that this is a very complicated or even controversial topic. However, as I have seen through my country visits, communications with governments and thematic studies over the last five years, there are many good examples of indigenous self-governance systems that exist as a matter of formal agreement with the State and that are recognised either in the Constitution, legislation, policies or at working-level of the State. I would like to start by focusing and learning more from these existing examples. Every day and as we speak here, these numerous indigenous governance systems are enabling indigenous peoples to practice their right to self-government and achieve sustainable development in ways they define themselves.

Even more, these indigenous governance systems are recognised as playing a positive role in ensuring sustainable development outcomes for indigenous peoples as well as society at large. In the context of the Sustainable Development framework, and its focus on good governance, participation, ownership and leaving no one behind, I consider it very important to better understand the role that indigenous peoples' own governing systems can play in achieving sustainable development.

It is difficult to narrowly describe or define what "indigenous self-governance systems" are, given the broad diversity of indigenous institutions that exist globally and the different histories, contexts and struggles they have been shaped by. What I refer to in my report are the centuries-old governance systems that establish rules on the ways indigenous peoples relate to each other and their neighbours, as well as with nature and the surrounding ecosystems. In many cases, these institutions include customary, oral and written laws as well as dispute resolution and adjudication mechanisms. These systems existed long before indigenous peoples were colonised by external forces and before post-colonial nation-States emerged. In many places, they continue to exist and operate in indigenous communities. They embed indigenous peoples' traditional worldviews, values, norms, laws, and their concepts of authority and ways of exercising leadership. In recent decades, contemporary forms of institutions, including indigenous parliaments, councils and organisations, have also been developed, often in cooperation with States and some with the aim to increase indigenous self-governance. The diversity of indigenous governance systems is a reflection of the diverse cultures, histories and realities of indigenous peoples.

Many of the traditional indigenous governance systems have proven to be better than external actors in ensuring the well-being, peace and security and rights of indigenous peoples. They furthermore contribute to conflict reduction, climate change mitigation and adaptation, conservation, and culturally appropriate education and health services, access to justice, amongst many other positive outcomes. The recognition of and support to indigenous governance systems is hence essential for the realisation of indigenous peoples' rights, and in particular their right to self-determination. Let me give you some examples of this:

Improved public services: Several studies, amongst others from North America, emphasise how indigenous governance systems efficiently manage a broad range of public services, often more effectively than external actors, given the profound understanding that indigenous peoples have of their own cultures, traditions and values.

Conservation and maintaining biodiversity: There is also increasing evidence of the overlap between the territories and areas of indigenous peoples and high levels of biodiversity and healthy forests. While indigenous peoples occupy 22 per cent of the world's landmass, 80 per cent of the world's biodiversity is found in their lands and territories. A key factor explaining this overlap is precisely indigenous peoples' governance systems and customary laws, which define the relationship to their lands, territories and resources and are based on values of reciprocity and solidarity. Another factor is the ability of these systems to adapt to the physical, political and cultural changes which they encounter. One essential element of those customary laws is collective ownership and management of lands, territories and resources, which studies have shown contributes positively to conservation outcomes such as preventing deforestation and loss of wildlife.

Climate change adaptation and mitigation: Indigenous traditional knowledge, governance systems and holistic views of community and the environment have also been broadly recognised as a resource in climate change mitigation and adaptation. The Intergovernmental Panel on Climate Change has for instance documented how indigenous knowledge has been effective in developing measures to cope with climate hazards and has contributed to increased food security in many parts of the world.

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. Through increased self-governance, these practices can provide better safeguards against the effects of climate change.

Conflict prevention and access to justice: Indigenous institutions also play an important role in ensuring conflict prevention, order and dispute resolution. For example, this can be observed in the community police models that are thriving in several Latin American countries. Other examples include traditional justice models that solve conflicts and provide access to justice in ways, which respect both cultural diversity as well as human rights norms.

Self-determination: Of course, the right to self-governance is also a right on its own. It is closely linked to the foundational right of self-determination, as it allows indigenous peoples to freely determine their political status and freely pursue their economic, social and cultural development. Hence, it carries intrinsic value as it supports the ability of indigenous governance systems to evolve and adapt to changes.

These are still preliminary reflections on the topic. Over the next year, I would like to gather much more information about existing indigenous self-governance systems, and the outcomes they have contributed to. Furthermore, we need to learn more about the challenges that indigenous governance systems face and how to overcome them. The right of indigenous peoples to govern themselves is well established in international human rights law and jurisprudence. However, it is when it comes into practice that challenges arise. These include challenges such as the coordination between indigenous and contemporary institutions of the State; the limited financial and human resources available to manage the indigenous governance systems properly; the lack of control and ability to self-govern; as well as the need to ensure that indigenous governance systems are aligned with international human rights standards e.g. gender equality, due process and so on.

My hope is that we in this dialogue will hear good examples from the national level on how you have dealt with these challenges. This may assist in identifying recommendations that can be applied in other contexts.

I wish to mention that this topic has also been a core concern for the other United Nations mechanisms on the rights of indigenous peoples. It was addressed in the 2011 EMRIP study on participation in decision-making and the UN Permanent Forum's recent work on sustainable development in the territories of indigenous peoples. I look forward to

coordinating with these mechanisms over the coming year to enhance our combined knowledge about the role that indigenous peoples' own governance systems can play, particularly as it relates to the achievement of sustainable development.

*Mr. Chair,*

I would now like to say a few words about my overall activities and work since I addressed the General Assembly last year. I will in particular focus on criminalisation, my two country visits to Mexico and Guatemala and the topic of Indigenous Peoples in voluntary isolation.

### **Violence against and criminalisation of indigenous peoples**

My report to the Human Rights Council's 39th session in September (A/HRC/39/17) provided an analysis of the worrying escalation of violence, criminalisation, harassment and threats against indigenous peoples, particularly when they are defending and exercising their rights on their lands, territories and natural resources. These human rights violations often arise when indigenous leaders and community members voice concerns over large-scale projects related to extractive industries, agribusiness, infrastructure, hydroelectric dams and logging.

It seems that once more, indigenous peoples have ended at the forefront as targets of persecution. The rapidly intensifying competition over natural resources on their traditional lands and territories is driving this violence. Indigenous leaders and communities who object to the negative impacts of large-scale projects on their rights, livelihoods and the environment are being targeted and killed, forcibly evicted, threatened and subjected to insidious harassment in the form of criminal charges which are often nebulous, grossly inflated or fictitious. The aim of these attacks, whether violent or legal, is to silence any opposition by indigenous peoples to business interests and to prevent indigenous peoples from exercising their rights.

A crucial underlying cause of the current intensified attacks is the failure to provide indigenous communities with secure land tenure, as this in turn undermines their ability to effectively defend their lands from the damage caused by large-scale projects.

The report is a first step of looking at this issue. I am committed to continue raising attention to attacks and criminalisation of indigenous human rights defenders and to promote solutions in terms of better prevention and protection measures.

### **Indigenous peoples in isolation and initial contact**

At the Human Rights Council in September, I also presented a thematic report on indigenous peoples in isolation and initial contact in South America, following a conference on this topic in Peru last year. This is an underexplored but extremely important topic, as there is an urgent need to redouble efforts to improve protection for the territories and environment of indigenous peoples in isolation and initial contact, in line with international standards. The report recommends that States need to develop and adequately implement differentiated policies directed at indigenous peoples in initial contact, notably in the area of health, while at the same time refraining from implementing actions that affect their lands and resources.

### **Visits and communications**

Let me continue with a few words on my recent country visits as well as my communications with governments and other entities.

Since I reported to the General Assembly last year, I have conducted two official country visits: to Mexico from 8 to 17 November 2017, and to Guatemala from 1 to 10 May 2018. I wish to thank the Governments of Mexico and Guatemala for their invitations, as well as for their cooperation during the missions and for allowing me to pursue them in an independent manner.

Mexico and Guatemala have played an important role in supporting the advancement of the rights of indigenous peoples at the international arena, including in the adoption of the United Nations Declaration on the Rights of Indigenous Peoples and in the establishment of my mandate. However, at the national level, both countries country still face serious challenges in implementing these commitments.

In Mexico, I received information about some positive measures in the fields of health and education, as well as efforts to facilitate indigenous peoples' access to justice. But I could observe that the actual situation of indigenous peoples in the country reflects a huge gap between the international commitments adopted by the State and the reality on the ground.

There is a need for effective and coordinated action at the federal, state and municipal levels to confront the serious situation of indigenous peoples, notably the lack of adequate implementation of their rights to self-determination and to their lands, territories and natural resources, their political participation and access to justice. Urgent measures should also be adopted to solve the violence and insecurity problems as well as the poverty, marginalisation and discrimination affecting indigenous peoples.

In Guatemala, indigenous peoples constitute the majority of the population. In spite of this, they have never participated on equal footing in the political, social, cultural and economic life of the country. I could observe that indigenous peoples face structural racism and discrimination in their daily lives, reflected in the lack of protection of their lands, territories and natural resources and in their difficulties in gaining access to justice, health and education, or political participation. I was concerned to learn that in spite of the overall national economic growth, the levels of inequality are increasing. Around 40 per cent of indigenous peoples still live in extreme poverty, and more than half of all indigenous children in Guatemala are chronically malnourished.

I observed that the implementation of the vast majority of the commitments in 1996 Peace Accord on Indigenous Peoples' Rights and Identity remain unfulfilled, as do most of the recommendations issued in 2002 by my predecessor, Professor Stavenhagen, following his country visit. It is deeply disturbing, that today, 22 years after the signing of the Peace Accords, only 19% of the commitments adopted in the Accord on Indigenous Peoples' Rights and Identity have been implemented. There has been insufficient progress in particular related to securing land and resource rights, bilingual intercultural education, and recognition of indigenous authorities and justice.

Both in Mexico and Guatemala, I received numerous complaints about the impacts of the current 'development' model on the rights of indigenous peoples. The drastic increase of extractive and other projects fails to respect indigenous peoples' right to determine their own priorities and strategies for the development and use of their lands, territories and natural resources. These projects are generally undertaken without adequate human rights impact assessments nor good faith consultations to obtain the free, prior and informed consent of the indigenous peoples concerned.

I am extremely concerned about the increasing levels of violence, forced evictions and the criminalisation of indigenous peoples in both Mexico and Guatemala. In Guatemala, I visited indigenous leaders in prison for defending their lands and I am particularly disturbed by the killings of several indigenous leaders during and since my recent visit.

Apart from the country visits, I have continued to share information with governments and other actors in relation to allegations of violations of indigenous peoples' rights globally. Since last year, I have sent 48 communications to 19 States and other entities in relation to violations of a wide range of economic, social and cultural as well as civil and political rights. I appreciate the responses I have received and the dialogue some of the communications have led to with different Governments.

With these words, I would like to end my report to the General Assembly and give the word to you. I am ready to listen and I am very hopeful that today we can have a constructive dialogue on indigenous peoples' right to self-govern and its contribution to achieving sustainable development for all, also for indigenous peoples.

Thank you.

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Read: [A/73/176 – Report of the Special Rapporteur on the rights of indigenous peoples to General Assembly 2018](#)