

THE UNITED NATIONS PERMANENT FORUM ON INDIGENOUS ISSUES

TOGETHER WE ACHIEVE

Discussion on the theme: Indigenous peoples' collective rights to lands, territories and resources
17th session of the Permanent Forum on Indigenous Issues

Tuesday, 17 April 2018
Conference Room 4

Introduction

The Permanent Forum on Indigenous Issues is an advisory body of the Economic and Social Council established in 2000 with the mandate to discuss indigenous issues related to economic and social development, culture, the environment, education, health and human rights. The Permanent Forum will hold its 17th annual session under the special theme of “Indigenous peoples’ collective rights to lands, territories and resources”.

Discussion on the theme, on 17 April, will be structured in two segments – starting with a general discussion on the theme with a speakers’ list followed by a panel focusing on “Opportunities and challenges for mapping and titling indigenous lands, territories and resources” in the afternoon. Member States, indigenous peoples, the UN system, non-governmental organizations, academia and others are invited to participate in the discussion.

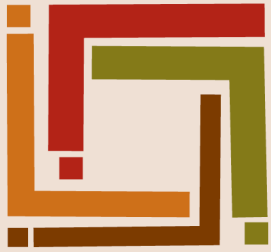
Background

Indigenous peoples have deep spiritual, cultural, social and economic connection with their lands, territories and resources, which is basic to their identity and existence itself. Their tradition of collective rights to lands and resources mostly contrast with dominant models of individual ownership, privatization and development. The territorial framework of operationalization of those rights may be the community, the region or the state depending on demographic facts, political traditions, etc., and aspirations of the peoples.

Only a few countries recognize indigenous peoples’ collective rights to lands, territories and resources with constitutional or legal protections or through adjudication, constructive agreements and administrative programmes. Countries that have taken steps in this direction include Bolivia, Ecuador, Aotearoa (New Zealand), Canada, Denmark, Norway, the Philippines, Indonesia and the Republic of Congo. In other countries, such as Colombia, Australia and USA, tracts of lands and/or territories have been set aside for indigenous collective control. Consequently, progress has been made in realizing indigenous peoples’ rights to lands, territories and resources in many countries.

At the same time, there is growing recognition that advancing indigenous peoples’ collective rights to lands, territories and resources does not only contribute to their well-being but also to the greater good of the world by tackling problems such as climate change. The fact that indigenous lands, which make up around 20 per cent of the earth’s territory, contains 80 per cent of the world’s remaining biodiversity clearly shows that indigenous peoples are the most effective stewards of the environment.





THE UNITED NATIONS PERMANENT FORUM ON INDIGENOUS ISSUES

TOGETHER WE ACHIEVE

The collective rights of indigenous peoples to lands, territories and resources are firmly recognized provided for in the United Nations Declaration on the Rights of Indigenous Peoples. Those rights are generally included within the right of self-determination (Article 3) and specifically detailed in Article 26, which provides that “Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired...States shall give legal recognition and protection to these lands, territories and resources.

Those rights are also guaranteed by the International Labour Organization (ILO)’s Indigenous and Tribal Peoples Convention, 1989 (Convention No. 169) and its predecessor Convention No. 107. The ILO supervisory bodies have made a number of observations on the rights of indigenous and tribal peoples to their lands, territories and resources in examination of reports on State compliance of the Conventions.

Other international human rights instruments, including the International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights and International Convention on the Elimination of All Forms of Racial Discrimination have implicit references to the indigenous peoples’ rights to lands, territories and resources. The treaty bodies monitoring compliances of those instruments have elaborated on those rights through general comments and recommendations to specific Member States.

The UN Guiding Principles on Business and Human Rights have expanded the responsibility to respect those rights of indigenous peoples and remedy violations thereof to business enterprises. At the same time, there are various relevant international standards such as safeguard policies and guidelines of financial institutions and multilateral and bilateral agencies. Regional human rights mechanisms in Africa and the Americas have also affirmed indigenous peoples’ collective rights to lands, territories and resources.

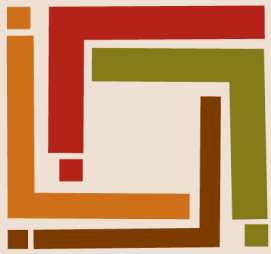
Work of the Permanent Forum

Since the establishment of the Permanent Forum in 2000, indigenous peoples have emphasized the spiritual, social, cultural, economic and political significance of lands, territories and resources to their identity, well-being and survival at each of its sessions.

The special theme of the 6th session of the Permanent Forum, in 2007, was “Territories, lands and natural resources”, which was the year of adoption of the UN Declaration of the Rights of Indigenous Peoples. In its report on the session, the Permanent Forum emphasized that the protection of rights to lands, territories and natural resources was a key demand of indigenous peoples everywhere, central to their material and cultural survival, and that, in order to survive as distinct peoples, indigenous peoples and their communities needed to be able to own, conserve and manage their territories, lands and resources. Building on the discussions and deliberations during the session, following are some recommendations of the Permanent Forum to States in the report:

- take effective measures to halt land alienation in indigenous territories
- provide financial and technical assistance for indigenous peoples to map the boundaries of their communal





THE UNITED NATIONS PERMANENT FORUM ON INDIGENOUS ISSUES

TOGETHER WE ACHIEVE

- lands, finalize legal and policy frameworks for the registration of collective titles
- adopt national legislations with the principle of free, prior and informed consent of indigenous peoples when involving their territories, lands and natural resources

The Permanent Forum also called upon UN agencies to establish clear policy commitments to protect the ancestral lands of indigenous peoples.

The Permanent Forum has continued to focus on rights to lands, territories and resources in its following sessions. More recently, in 2016, at its 15th session under the theme “Indigenous peoples: conflict, peace and resolution”, the Permanent Forum noted that indigenous peoples often find themselves involved in situations of conflict, mostly relating to their lands, territories and resources. Consistent with the commitments in the outcome document of the 2014 World Conference on Indigenous Peoples and the standards for indigenous peoples’ survival, dignity and well-being contained in the UN Declaration, the Forum recommended that States fully engage indigenous peoples in good-faith negotiations of treaties, agreements and other constructive arrangements on the basis of the unequivocal recognition of indigenous peoples’ rights to lands, territories and resources and to fully reject the extinguishment of indigenous rights in form or result. Furthermore, the Forum recommended that States address the call for full and effective redress for the loss of lands, territories and resources and State breaches of treaties, agreements and other constructive arrangements.

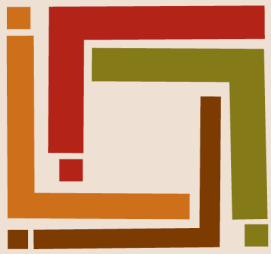
At its 16th session, in 2017, which marked the tenth anniversary of the adoption of the UN Declaration on the Rights of Indigenous Peoples, the Permanent Forum reiterated its position that collective rights to lands, territories and resources and the right to self-determination, are among the most important provisions of the Declaration and the most challenging to implement.

Challenges

Despite all the positive developments in national laws and policies in some countries and international human rights standard-setting, there is still a wide gap in full implementation of indigenous peoples’ collective rights to lands, territories and resources. While many States are yet to fully recognize those rights of indigenous peoples, the gap is significant even in countries where those rights are recognized. Too often, the collective rights of indigenous peoples are simply not being implemented, or procedures for implementation of those rights such as land or resource mapping, demarcation and titling have often not been completed, suffer significant delays or are shelved. This has, for example, been observed in countries like Cambodia, Kenya and the Philippines. Lack of enforcement of laws as well as contradictory laws and regulation frequently result in *de facto* denial of the rights accorded to indigenous peoples. This is reported in many countries, including Russian Federation as observed by the World Bank¹.

More importantly, even where indigenous peoples have obtained legal protection or title deeds to their lands and resources, those are often violated by State or business entities for haphazard development projects such as mega dams or massive highways; mining or logging concessions, mono cropping and bio fuel plantations or other business operations; forced conservation programs such as restricted areas; or security concerns such as





THE UNITED NATIONS PERMANENT FORUM ON INDIGENOUS ISSUES

TOGETHER WE ACHIEVE

military operations in conflict situations. Such violations are mainly due to lack of meaningful consultations with indigenous peoples while obtaining their free and prior informed consent is a far-off matter. Increased competition with non-indigenous communities over ever shrinking land and resources and huge influx of persons fleeing conflict or disasters to indigenous territories have also resulted in violation of land and resource rights of indigenous peoples though to a lesser extent.

Despite positive decisions in courts and human rights bodies for land and resource rights of indigenous peoples, issues of dispossession of land and resources, forced removal or relocation, denial of land rights and accompanying violence and brutality are a reality for indigenous communities around the world. Examples of violence and brutality have been heard from every corner of the world, most often perpetrated against indigenous human rights defenders promoting or protecting their rights and their lands, territories and communities. Forced evictions and dispossession of lands have particularly severe impacts on indigenous women that they face in multiple forms such as increase in physical violence and economic and social dependence, etc.

Discussion on the 17th session theme

The Permanent Forum has heard countless statements and received much information from indigenous peoples testifying to challenges for their rights to lands, territories and resources over a decade since its sixth session in 2007. Further, in too many countries, indigenous peoples have suffered serious set-backs in relation to their rights to lands, territories and resources, which only emphasizes the importance of the thematic focus of this years' meeting of the Permanent Forum.

In order to ensure their rights to lands, territories and resources, indigenous peoples have adopted many strategies, including monitoring of their territories, demarcation and mapping of their lands, litigation, political lobbying and international advocacy. However, there is a daunting need to build accountability for the State agencies, businesses and other actors responsible for violation of the rights.

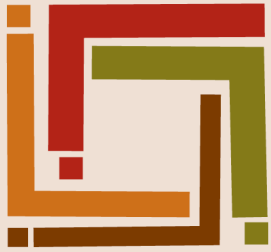
Without full recognition and implementation of their rights to their lands, territories and resources, it is unlikely that indigenous peoples will benefit from the 2030 Agenda for Sustainable Development which aims to “leave no one behind”. Thus, more efforts are also needed from the UN system towards establishing mechanisms at international and country levels to ensure respect for the rights of indigenous peoples.

The discussion on the theme of the 17th session will thus will aim to identify good practices and challenges as well as concrete recommendations in relation to realization of indigenous peoples' collective rights to lands, territories and resources.

Speakers List, 10 AM – 1 PM

The discussion will open with introductory remarks from the Permanent Forum member on the theme, including presentation of the report of the Expert Group Meeting on “Sustainable development in territories of





THE UNITED NATIONS PERMANENT FORUM ON INDIGENOUS ISSUES

TOGETHER WE ACHIEVE

indigenous peoples”. Registered speakers will then be invited to speak within 3 minutes for each speaker, including member states.ⁱⁱ The speakers’ list will rotate among Member States, indigenous peoples’ representatives from seven socio-cultural regions and UN or other inter-governmental bodies.

Panel, 3 PM – 4.30 PM

The Permanent Forum Chair will moderate the panel on “Opportunities and challenges for mapping and titling indigenous lands, territories and resources”, which will begin with a video message from the Director-General of the Food and Agricultural Organization of the UN. The panelists will focus on opportunities and challenges for mapping and titling indigenous lands, territories and resources. They will identify lessons learnt and recommendations for implementation of such initiatives. Each panelist will speak for seven minutes, which will be followed by speakers’ list.

Panelists:

1. Shapiom Noningo Sesen, Technical Secretary, Autonomous Territorial Government of the Wampis Nation, Peru
2. Raja Devasish Roy, Chakma Circle Chief, Chittagong Hill Tracts Land Dispute Resolution Commission member
3. Yon Fernandez-de-Larrinoa, Indigenous Peoples Team Leader, Food and Agriculture Organization of the UN

ⁱ World Bank: Indigenous Peoples of Russia Country Profile. World Bank: Washington 2014.

ⁱⁱ See under “Speakers lists and written statements” in the webpage of the 17th session at <https://www.un.org/development/desa/indigenouspeoples/unpfii-sessions-2/2017-2.html>

