

**Statement of the Indigenous Peoples Caucus conducted on 15th of November
in Geneva, Switzerland**

United Nations Fourth Annual Forum on Business and Human Rights

17 - 18 November 2015

Representatives of Indigenous Peoples from different world regions, meeting at a caucus on the 15th of November 2015, declare that:

"We, the Indigenous Peoples, Mother Nature's sons and daughters, with our world vision and spirituality, demand that States protect, and that business respect, our rights to land, territory and water, the wind and other natural resources, fully guaranteeing our individual and collective rights as recognised in all the conventions, treaties and international norms on the rights of Indigenous Peoples.

*We embrace and restate our ideas in the Indigenous People's caucus Declaration made at the Third Forum on Business and Human Rights, in 2014. We express our great concern that no measures have been taken this regard."*¹

For this reason we have reviewed, debated and agreed upon the following recommendations regarding the subject matter and the six key areas of the fourth forum:

1. Efforts to track performance and progress in the implementation of the Guiding Principles

The United Nations Guiding Principles on Business and Human Rights (hereafter, the "Guiding Principles") are an asset that encourage respect for human rights. However, as the testimonies of Indigenous Peoples show, irreparable damage has been caused to Mother Earth and all living beings, such as murders, abuse, rape, the disappearance

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http://www.ohchr.org/Documents/Issues/Business/ForumSession3/Submissions/BettinaCruz_Declaration_SP.pdf

of rivers, destruction of the social fabric, hunger and poverty. That is why we would like to reiterate that these principles should not justify businesses presence without the free, prior and informed consent of the Indigenous Peoples.

We denounce the militarisation of our land by armies, paramilitaries and other armed groups, who protect business interests and violate our rights. These armed groups are the causes of forced disappearances, they threaten and murder us, they break the balance of our communities and contribute to the destruction of our culture. All of these facts must be investigated independently and those responsible tried and punished.²

Further to the Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises (*Measuring the implementation of the Guiding Principles on Business and Human Rights*) of July 2015, we urge the Working Group to engage in further study regarding gaps in data coverage on Indigenous Peoples described in paragraph 51 of that report. We also urge States and corporations to facilitate culturally appropriate data indicators and collection with the full and active participation of Indigenous Peoples.

In their future work and activities related to the implementation of their remit to promote the Guiding Principles, we urge the Working Group to review the implementation of Indigenous Peoples' rights, building on its 2013 annual report (A/68/279) which addressed the issue of indigenous peoples' rights in relation to its mandate. We particularly request that the Working Group, in cooperation with indigenous peoples, conduct further research and hold discussions on issue of guarantying effective remedial mechanisms.

2. Policy coherence in global governance frameworks

Some States are promoting laws to eliminate Indigenous Peoples' rights in favour of business corporations, therefore negating any coherence in policy action with the Guiding Principles. We demand States and businesses that they ensure the full and effective participation of Indigenous Peoples before undertaking any initiative, in compliance with the norms stated in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and ILO Convention 169.

² This is the case in Honduras, where Indigenous Peoples are being murdered and criminalised by the army.

We ask States to comply with their obligation and commit to following up on the recommendations of the Special Rapporteur on the Rights of Indigenous Peoples, the recommendations of the Human Rights Council's Special Rapporteur report on the rights of Indigenous Peoples regarding international investment and free-trade regimes and their impact on the rights of Indigenous Peoples published in August 2015.

We recommend consulting the *Indigenous Peoples Major Group Position Paper on Proposed SDG Indicators*³, published by AIPP, CADPI, IITC and Tebtebba, in which it is requested that the definition of the indicators be guided by Indigenous People's human rights, and that States include legitimate representation of Indigenous Peoples permanently when collecting official data, in order to guarantee those data are sufficiently disaggregated.

We would also state that existing multilateral development financial institutions (such as the World Bank, the Asian Development Bank, the African Development Bank and the Inter-American Development Bank) and new development financial institutions (such as the Asian Infrastructure Investment Bank and New Development Bank (BRICS), aimed at financing private sector in infrastructure) should comply with the Guiding Principles within the framework of standards governing human rights and the specific rights of Indigenous Peoples, like the UNDRIP and ILO Convention 169.

3. Policy and practice: coherence at the national level

In our review of National Action Plans (NAPs) on business and human rights that have been developed to date and are being developed, it is a matter of great disappointment that human rights obligations of States, including to the rights of Indigenous Peoples, have not been given due regard, specifically, concerning Indigenous Peoples participation in the elaboration of NAPs.

We recommend State bodies, including the Association of South East Asian Nations (ASEAN), to fully address the rights and interests of Indigenous Peoples in developing and implementing action plans aimed at putting into practice the Guiding Principles on Business and Human Rights.

³ <http://aippnet.org/index.php/human-rights/1569-indigenous-peoples-major-group-position-paper-on-proposed-sdg-indicators>

The Caucus restates article 37 of the UNDRIP and recognises that, in those countries where Indigenous Peoples have treaties, these treaties must be respected and fully applied in the context of businesses obligation to respect and State obligation to protect the rights of Indigenous Peoples.

Finally, in order to support coherence in the application of the Guiding Principles, we feel it is necessary that the Human Rights Council ensures there is always an Indigenous People's representative among the members of the Working Group.

4. Corporate respect for human rights in practice

The Indigenous Caucus states that many States have been co-opted by transnational and national companies that promote an economic development model based on extractivism, the destruction of land and territory, and who are unaware of and violate Indigenous People's rights as set out in international regulatory framework.

We reject using the issue of accelerated climate change as a justification for mercantilisation and imposing the implantation of energy projects, that exploit the water, wind, sun and land under the supposed paradigm of 'green energy', which only benefits the businesses involved and continues to displace and rob Indigenous Peoples of their territories.

We demand that transnational companies' countries of origin assume responsibility to guarantee that businesses do not violate human rights in third countries, and where this occurs, that they take all measures necessary so that justice can be done and the necessary remedy provided.

5. Groups at risk

Indigenous Peoples have been the guardians and guarantors of the abundance of natural resources in our territories, but this role we have, which benefits all society, has placed us at particular risk of violations of our individual and collective rights by business interests that promote expropriation, removal and exploitation. We demand that consultations are carried out in good faith, guaranteeing our right to free, prior and informed consent to any business intervention, and thus ensuring self-determination of our territories, in accordance with our ways of organising and decision-making.

We demand that those peoples living in voluntary isolation are respected, and that no business projects are carried out in their territories.

We would also like to express our concern that there are no mechanisms to duly protect the rights of Indigenous Peoples, specifically women. We denounce all acts committed against women and men leaders and Indigenous People's authorities in defence of their territory.

6. Access to effective remedy

The Indigenous Peoples recommend a legally-binding treaty applicable to all transnational, national and sub-national business enterprises. This treaty should cover all violations of human rights (not merely grave violations). Furthermore, the treaty drafting process should be inclusive and participatory for all States, civil society and Indigenous Peoples.

The Indigenous Peoples in attendance at this Forum wish to express our solidarity with all peoples who are suffering serious violations of their rights, particularly:

- **Rwanda:** The petition of the Rwandan Indigenous People to be officially recognised: the indigenous Batwa identity of Rwanda, taking into consideration the recommendations made by States during 23rd Session of the Universal Periodic Review, which makes reference to the Batwa People and thus strengthen their integration into development programmes.
- **Brazil:** We denounce the genocide that is being committed against Guaraní-Kaiowá people, who have been massacred, murdered, assaulted and violently removed from their territories, and whose rights are threatened by the proposed Constitutional Amendment 215, which aims to take the traditional lands away from the Indigenous Peoples, the Quilombolas and all traditional communities.
- **Guatemala:** We express solidarity with Angélica Choc, a Q'eqchi' Indigenous woman from Guatemala, who has a lawsuit against the material and intellectual authors of the murder of her husband Adolfo Ich Chamán, which involves a private security company working for a mining company. We are also concerned with the destruction of the social fabric and the persecution of indigenous leaders who are opposed to the hydroelectric project in Xalalá, which could lead to the disappearance of 40 indigenous communities.