

# **11<sup>TH</sup> SESSION OF THE UNITED NATIONS FORUM ON BUSINESS AND HUMAN RIGHTS**

**Palais Des Nations  
Geneva, Switzerland  
28-30<sup>th</sup> November 2022**

## **Collective Statement of the Indigenous Peoples Caucus**

Agenda Item: Opening Session

Madam Chairperson,

The Indigenous Peoples caucus welcomes the inclusion of indigenous peoples representatives as speakers in several sessions including the opening and closing sessions. We hope our voices as rights holders will be heard and given due consideration by States and business including investors through concrete actions for the realisation of our rights in business activities.

While the decade of UNGP implementation has contributed in raising awareness and attention to the rights and concerns of indigenous peoples in relation to business, more decisive actions especially at the national and local level by states and business are urgently needed in the implementation of the three pillars of the UNGP for the realisation of the rights and wellbeing of indigenous peoples. In spite of these so-called development interventions such as commercial mining, energy projects, agribusiness, infrastructure development and commercial tourism among others, the majority of us belong to the poorest while we are only 6% of the global population. These activities have resulted in forced displacements, the destruction of our livelihoods and indigenous food systems, cultural heritage and sacred sites; undermining our governance systems and our community resilience among others. Likewise, we continue to suffer from massive environmental devastation of our territories including air and water pollution, toxic waste, loss of biodiversity, degradation of our lands, forest and other resources. We fear that this will continue to prevail in the name of economic recovery from the covid pandemic, as well as in relation to some climate actions such as those related to the just transition if our rights are not fully protected. Worst, when we defend our lands, and resources, we are met with violent attacks, criminalization, threats and serious human right violations including killing, arbitrary arrests and detention, violence against indigenous women and girls, torture among others. This needs to stop.

With the theme of the session this year as “Rights Holders at the Center” we expect that this will not remain as a slogan but will catalyse concrete steps, measures and targeted actions by states and business based on the urgent demands of rights holders in line with the implementation of the UNGP in the next decade and beyond.

For indigenous peoples, we wish to remind states of their existing obligations and commitments to recognize and protect the rights of indigenous peoples and for business to respect our rights through the following actions:

## **1. STOP THE CRIMINALISATION OF INDIGENOUS RIGHTS DEFENDERS**

The distressing and increasing criminalization of and attacks against Indigenous rights defenders by governments and business is alarming and indeed antithetical to the entire essence of this forum. In the last 24 months over 2000 Indigenous rights defenders have been killed across the world for standing up to defend their land rights. Indeed, we are extremely concerned about the growing trend and disproportionate effects of killings, criminalization, and violence against Indigenous rights defenders. In cases such as México, over 40% of the killings of human rights defenders correspond to indigenous peoples. Moreover, indigenous defenders and indigenous peoples also suffer from intimidation, persecution, SLAPPs, and forced displacement.

The actions needed to address this worsening condition of indigenous peoples is for states to legally recognize the rights of indigenous peoples affirmed by the UN Declaration on the Rights of Indigenous Peoples- UNDRIP through policy reforms that will also repeal laws and policies criminalising the exercise of indigenous peoples rights and fundamental rights of citizens and the establishment of effective accountability mechanisms for human rights violators; for business to stop filing criminal cases such as trespassing and destruction of property against indigenous leaders defending their rights to their lands and resources; adopt a policy of zero tolerance to human rights violations, mandatory conduct of human rights due diligence including on the collective rights of indigenous peoples.

## **2. ESTABLISH EFFECTIVE ACCOUNTABILITY MECHANISMS FOR BUSINESS**

Due to the economic power of business and their strong influence to states, they are often not made to fully account for their involvement in human rights violations which include land grabbing, violation of the requirement for the Free Prior and Informed Consent (FPIC) of affected indigenous peoples, among others. In line with the UNGP, States need to adopt measures to make business to account for their business operations such as appropriate penalties including cancellation and suspension business permits for violations of land rights and FPIC, rehabilitation and compensation for the destruction of lands and resources of indigenous peoples among others; for business respect and comply with state regulations for human rights and environment protection and to establish meaningful engagement mechanism with indigenous peoples at the project level and an effective grievance mechanisms accessible to indigenous peoples.

In addition to the above, states and business shall support the adoption of a legally binding instrument for corporate accountability to human rights protection including by state and national companies. This Treaty shall include the respect for the rights of indigenous peoples as affirmed by the UN Declaration on the Rights of Indigenous peoples This will also complement the UNGP and the work of the Working Group on Business and Human Rights. We commend the positive initiative of the Government of Canada on the extra territorial responsibilities of Canadian companies and we hope they can strengthen the mandate of the ombudsman for greater accountability of corporations.

### **3. Ensure the meaningful participation of indigenous peoples and inclusion of our collective rights in National Action Plans-NAPs**

Rights holders including indigenous peoples need to have effective engagement mechanisms in the formulation of NAPs by states and business to ensure the alignment of the NAPs to the principles of the UNGP from the perspectives of rights holders, and not just for stakeholders. The continuing invisibility of indigenous peoples in the preparation and implementation of NAPs as evidence in the first decade of implementation is not only alarming but is clearly against the spirit of the UNGP. **Unless our meaningful participation and the inclusion of indigenous peoples rights in the NAPs and in business activities is guaranteed, indigenous peoples will remain at serious risk for the continuing violations of our rights by states and business with impunity which should be prevented. This is a matter for social justice needing actions as no amount of lip service can rectify this condition. We thereby urge states and business to live up to their human rights obligations and commitments in line with the implementation of the UNGP in relation to recognizing, respecting and protecting the rights of indigenous peoples.**

**Thank you.**