**[Oral Presentation- About 2000 Words for 10 minutes]**

**On the need for a Declaration on the Rights of Peoples of African Descent that protects and promotes collective territorial rights; taking lessons from land rights defenders.**

Good afternoon.

Our presence today as African, African-descendant, African-diasporan and Black people is a testament to the struggles and aspirations of our Ancestors who were forced to live under conditions that no persons on this planet should ever experience. They exercised resistance to genocide, slavery, racial apartheid, sexual exploitation, gendered violence, colonialism, institutionalised separation of families, forced cultural and educational assimilation and exploitation, forced displacement, landlessness, disenfranchisement, economic injustice, incarceration and systematic exploitation.

I am speaking as an organiser and activist, grateful for the work of the scholars and Committee members present who provide crucial research in making an indisputable case for an inter-governmental commitment to protect the rights of peoples of African descent.

There is a wealth of testimony and research on the tortures and crimes against humanity that have been committed against the African Diaspora. The same is true regarding the persistence of white supremacist ideology and structural and systematic racism, to the present. The damage is so great, it permeates every part of the institutions around us. Solutions must be many, the starting point today is a Declaration on the Rights of Peoples of African-Descendants that demands an end to the crimes done to us, and promotes our collective dreams.

Put simply, we are all reflecting on how to ensure the equal access to human rights of Peoples of African Descent. This process will include meaningful discussion and actions on how to right wrongs that were done by racism; to do nothing less than recognize grievous crimes committed and being committed, to repair the damage, and to prevent such rights violations from being committed again.

As asserted by the committee on the International Convention for the Eradication of Racial Discrimination (CERD- a Convention with 88 signatories) one cannot deny the continued conditions of legalised and de facto racist human rights violations against the majority of Peoples of African Descent on the African continent and in the Diaspora.

We are denied self-determination regarding our collective cultural, economic, legal and spiritual destinies. These violations are inseparable from continued legacies of centuries of slavery, colonialism, land dispossession, forced migration and racial apartheid, state terrorism and structural inequality. This Declaration must, therefore, be bold and seek to strengthen and more clearly articulate what has come before it.

It is clear that the fullest understanding of human dignity in the international arena, lies precisely in the enumeration of collective rights of Peoples of African Descent in a Declaration on the Rights of Peoples of African Descent. In times of extraordinary racist violence exercised by state, corporate and other non-state actors against Peoples of African Descent, a Declaration will show at the level of nation-states, a commitment to a comprehensive legal framework that codifies the rights of PAD and that would rectify historical atrocities committed against people of African descent.

We need more and not fewer frameworks that disrupt racism, that recognize it as a human rights violation and categorically attack the pervasive state-sanctioning of racism against Peoples of African Descent. Civil society is unified in saying that more needs to be done to combat racism against PAD.

Regarding special measures, systemized efforts and guidelines will be critical to include to recognising African descendants as bearers of a unique history with unique contributions to the world. Such positive measures will contribute to a more vibrant and just world. Ample evidence of this, despite enduring racist legislation, may be seen in the creation of languages, cuisine, poetry, artistry, instruments, environmental stewardship, technologies for building, agriculture, and intellectual practices and philosophical musings born in the African Diaspora.

In this vein, a Declaration would recognize the uniqueness of people of African descent so that the 2030 Agenda for Sustainable Development, Universal Declaration of Human Rights[[1]](#footnote-1), International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), and listless other treaties and plans of action regarding gender, disability, refugees, climate change, youth and children, literacy and so on, provide special measures to prevent racism, racial discrimination, xenophobia and related intolerance generally, and against People of African Descent specifically, and for affirmative actions and reparatory measures to achieve racial equity.

These should take into account General Recommendation 32 (2009) of the CERD on “special measures”, “special concrete measures”, “affirmative actions”, “positive actions”, following discussion with states parties to the Convention, representatives of the Committee on the Elimination of Discrimination against Women (CEDAW), the International Labour Organisation (ILO), the United Nations Educational, Scientific and Cultural Organization (UNESCO) and non-governmental organizations.

Already a practice in international human rights law, reparations are a positive response to when crimes have been committed, especially by states, and they cannot be piecemeal but instead require public acknowledgement, structural changes, restorative actions and restitution in order to rectify damage done by institutionalised discriminatory practices.

In alignment with grassroots and popular movements for collective rights of Peoples of African Descent and reparations and in official declarations from multilateral groupings such as the World Conference Against Racism (WCAR), the African Union (AU), the Caribbean Community (CARICOM), Alianza Bolivariana para los Pueblos de Nuestra América (ALBA), Community of Latin and American States (CELAC), a Declaration for People of African Descent will work to rectify historic harms, end impunity for acts of racism, validate the contributions and humanity of those who were forced into enslavement, ensure judicial accountability, remedy and restitution, ensure that structural racism against Peoples of African Descent is made illegal, and support peoples and states that have been denied equitable and non-discriminatory participation in shaping international laws, agreements and affairs.

The rights of Peoples of African Descent are necessarily intersectional and will advance cross-cutting issues, as evidenced through the movements for Black lives that seek transformation and redress for historical and continuing racialized violence and its connections to poverty, economic disempowerment, gender inequality and environmental destruction.

Where dangers to health, the environment, culture, economic community control, cultural retention and education impact us all as a global community, they impact African-descendants in disparate ways-- evidenced by testimony, historical study and by current research with data disaggregated by race-- as a result of structural racism against PAD. Simultaneously, African-descendants and Africans on the continent are bearers of solutions to global challenges, but we are systematically denied our right to self-determination and participation in decision-making as a collective. Changing this will have a restorative impact on the state of the world.

Recognising this, the leadership of organisations in the Diaspora focused on territorial rights, anti-racism, reparatory justice, autonomy and self-determination have described the necessity of **collective rights as a bedrock of the Declaration, including protection and promotion of the communal ownership of territories by Peoples of African Descent including lands, marine and subsoil environments and to assert the right to reparations for violations of these collective rights.**

Today the situation regarding land access, tenure and rights of African descendants is precarious. Notoriously, multinational corporations which value profit over the rights of African-descendants are imposing megaprojects such as hydroelectric dams, megatourism, monoculture, industrial agribusiness and highly damaging extraction of resources for the benefit of a small elite. Military and paramilitary violence suppresses those who express dissent.

In the Diaspora, African and Indigenous land rights and environmental defenders face incredible risk as they assert their collective territorial rights against encroachment and grabbing; these defenders and their communities need a Declaration of Peoples of African Descent that outlines these rights and promotes global action to ensure them. This is an issue of life and death. The simple act of participating in a community consultation to vote regarding excavation of a foreign-owned mine, a meeting to denounce the spread of palm oil, coffee or fruit industrial plantations or a press conference in defence of Black and Indigenous rights to traditional language and cultural practice, can result in a violent targeting or assassination.

These institutionalised practices harm peoples of African descent and materially benefit, with the sanctioning of the state, political elite and financial interests. These cases of the loss of a loved one and a community member organising for land and justice, often remain in impunity and result in a culture of terror for rights defenders and entire communities. Land and territorial rights are incredibly important to protect and to strengthen. Strengthening the articulation of these rights will benefit all peoples’ rights to pursue their livelihood, for land is essential for housing, food, work and culture.

Lack of access to land and housing is a global issue, impacting Peoples of African Descent in unique ways. Where there is limited disaggregated data on the land tenure of Peoples of African Descent communities, social movements will easily describe the state of landlessness, land insecurity, structural discrimination in land and housing security, land grabbing and foreign control of land experienced by PAD.

This condition of landlessness threatens the enjoyment of a number of fundamental rights because territorial rights are vital for economic self-determination, sustainable and equitable development, poverty reduction, and for the assured access to numerous economic, social and cultural rights, as well as many spiritual, civil and political rights to assert our cultural integrity as PAD.

It is estimated that one quarter of the world’s population does not have land tenure security, or is landless. According to the coalition of peasants’ rights organisations Via Campesina, over 1.2 billion peasants and their families who make up one third of the world’s population, are facing the increase in violation of their rights including forced and often violent evictions, market policies that are discriminatory, substandard labour conditions and the criminalisation and assassinations of those who defend peasant and land rights.

Additionally, these communities are excluded from international decision-making bodies regarding trade and financial policies, agricultural development and developmental aid.

All of these are not newly discussed at the level of the United Nations and would further strengthen rights to identity, culture, spirituality, economic empowerment, lives free of gendered, racialized, military and paramilitary violence and justice for PAD.

While rights have been established in the international legal framework more recently make special mention of Indigenous peoples, women, small-holders, rural people, there needs to be clearly articulated consideration of the legal right to access to land to ensure the right of PAD to collectively determine our destinies and to ensure our livelihood and continued existence as a unique set of peoples with land-based cultures and identities.

Defending the rights of Africans on the continent, who face the most fierce transnational land acquisitions- land grabbing- and have the most persons made refugees due to climate change for which they are not major contributors, representatives of the African Union and land rights organisations on the continent must assert the land rights of Africans who traditionally occupy the ancestral territories of PAD. Especially considering the call for the right to return of PAD and the repatriation to traditional lands before the largest forced migration in history.

The aspiration to and the request for the facilitated of travel of PAD to the continent and within the Diaspora is one demand for reparatory justice where travel is prohibitively expensive and borders are increasingly militarized and the right to travel and migrate is restricted, disparately impacting PAD. These are all issues related to land tenure rights, environmental justice and protections and to the fundamentals of economic, social, spiritual, political, civil and collective rights of PAD in protection of our identity. There is a need for study on the effective implementation of such a program so that it is equitable, reparatory and implemented with the resources and political will of those countries responsible for the forced displacement from the continent.

The Report of the Working Group of Experts on People of African Descent on its fourteenth session (2014) states“[D]espite having gained independence, formerly colonized peoples are still living with the legacies of slavery and colonialism. The forced separation of Africans from their homeland has resulted in cultural and social alienation from their roots and identities. The cultural rupture caused by the transatlantic trade in Africans as well as by European colonization still has an impact on the discrimination faced by people of African descent in their search for justice.” This speaks to the importance on protecting land and territorial rights of PAD and ancestral lands of the PAD on the continent within a context of multiple forms of rights and aspirations that have been denied and need to be codified.

Land tenure rights are also declared within the CEDAW which notes that states have the obligation to ensure equal treatment in land and agrarian reform for women. This is commendable especially when combined with positive actions that account for the specific landlessness of women of African descent. The rights of this subgroup who often take up leadership roles within movements for land, and frequently bearers of ancestral knowledge and the teachers of it is critical to outline clearly. It is women, poor women, and particularly poor women of African descent who are faced with the increased burden of ensuring the well-being of their families when debt payments and structural adjustment programs strangle social spending. They are the community members who walk extra miles when public buses are suspended, care for the ill when clinics are closed down, toil daily on farms for which they are denied ownership.

Similarly to other international plans of action, the Agenda 2030 does not make special mention of PAD as a distinguishable group or communal land ownership as a key positive action. Sustainable Development Goal (SDG) 1 does declare that land and natural resource tenure rights are cross-cutting and essential for the eradication of poverty and hunger everywhere; and that they are necessary for the achievement of gender equality calling for special attention to be paid regarding tenure rights for women and Indigenous Peoples. Target 1.4 notes “By 2030, ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources, appropriate new technology and financial services, including microfinance”.

The FAO’s Voluntary Guidelines (7.3) outlines, “Where States intend to recognize or allocate tenure rights, they should first identify all existing tenure rights and right holders, whether recorded or not. Indigenous peoples and other communities with customary tenure systems, smallholders and anyone else who could be affected should be included in the consultation process, consistent with paragraphs 3B.6 and 9.9. States should provide access to justice, consistent with paragraph 4.9 if people believe their tenure rights are not recognized.” Further, the Voluntary Guidelines (9.5) state, “Where indigenous peoples and other communities with customary tenure systems have legitimate tenure rights to the ancestral lands on which they live, States should recognize and protect these rights. Indigenous peoples and other communities with customary tenure systems should not be forcibly evicted from such ancestral lands”. These non-binding guidelines do not speak directly to PAD, though benefits from their effective implementation would be felt by PAD, they do provide a framework upon which a Declaration on the Rights of PAD should build further so that it is progressive, anti-discriminatory and advances repairing damage done and building a more democratic world.

A Declaration on PAD committed to secure land and territorial rights must support the ongoing efforts to advance the rights of peasants and smallholders’ farming systems, must promote the centrality of the rights of collective land ownership and cooperative housing, equity in land rights for WAD, peasants, the poor, Indigenous peoples, community control in decision-making regarding territorial rights from the depths of the soil’s subsurface to the stars, transparent and accessible information, effective policies and measures of accountability and reparations, the eradication of land grabbing and the protection of PAD land rights defenders.

The Declaration should include the promotion of protecting sacred spaces of PAD and the recognition of communities that maintain a repository for traditional cultural ancestral knowledge. Communal approaches to production, consumption and trade can be better facilitated with the recognition of collective rights of PAD. These, when oriented towards climate smart agriculture and climate justice, provide for protections for PAD.

Considering the dramatic alteration of the planet’s climate, a Declaration of PAD must consider who and what will recover the damages from climate change that has resulted in forced migrancy, increased urbanization, and the increase of extreme weather events that are recognised as having disparate impact on PAD, Indigenous Peoples, women and the poor. Earthquakes and hurricanes are not disconnected from the legacies of colonialism and climate reparations are increasingly recognized as worth of study and legal defence. The issue of climate change and its disparate impacts on African, Asian and Indigenous peoples particularly in small island developing states (SIDS) which, fatally, bare the brunt of industrial-caused climate change, are due reparations.

In the Caribbean, whose population is majority PAD, climate change has immediate connections to the endemic indebtedness that is unparalleled by any other region. Cancellation of debt and the repayment of those debts already paid would have a transformational impact on the wellbeing of Caribbean WAD who have taken on the duties of care when hospitals are shut down. Women and children of African descent have rights to land that must be declared protected rights.

Some examples of laws and court cases worthy of review in Latin America and the Caribbean regarding the rights of people of African descent and collective land tenure as a reparatory justice measure, include the laws, implementations and experiences by PAD regarding: Brazil’s 1988 *Constitutional Article 68 of Transitory Dispositions;* Nicaragua’s 2003 *Law 445 of Communal Property Regime of the Indigenous Peoples and Ethnic Communities of the Autonomous Regions of the Atlantic Coast of Nicaragua and the Rivers Coco, Indio and Maiz*; Colombia’s 1993 *Law 70 Collective Territories of Black Communities;* Ecuador’s 1994 *Article 36 of the Law of Agrarian Development;* Venezuela’s 2011 *Law of Communal Councils* and *Organic Law Against Racial Discrimination*. Court cases: Inter-American Court of Human Right’s *Alfredo López Álvarez vs. Honduras* (2006), *Garífuna Triunfo de la Cruz Community and its Members v. Honduras* (2015) and *Garífuna Punta Piedra Community and its Members v.* Honduras (2015); Caribbean Court of Justice’s ruling on the “Maya Lands Rights Case” *The Maya Leaders Alliance v. The Attorney General of Belize* (2015)*.*

Also, policies and platforms from state and grassroots initiatives including: CARICOM’s Reparatory Justice Program (2013); Belize’s CARICOM Initiative-related work which brought together African Kriol, Black and Indigenous Garinagu, Maya and Indian-descendant peoples with the support of the Republic of Venezuela; Movement for Black Lives Reparations Policy; Guatemala’s Indigenous communities use of Convention 169 of the ILO for community consultations regarding megaprojects in which over one million persons have voted despite well-documented state and corporate violence and repression.

# Concluding thoughts

Today, we have come together to strategize and to put forth ideas for a Declaration on the Rights of African descendants.

A Declaration can support the process to build participatory and collective democracy for equity, equality, agroecology, and solidarity between peoples and respect for collective territories of PAD. There continue to exist laws and rulings that codify racial prejudice and discrimination against PAD. We need a systematic condemnation of racial discrimination against PAD that will strengthen international democratic standards and norms for all people.

We need collective rights, collective territorial rights, and special measures to be outlined. And, for those who are most accountable to these rights, organisations that are not beholden to financial interests, to be included in the drafting process.

A Declaration can support the promotion and realization of the rights of PAD so that we are economically, politically, socially and institutionally empowered to democratically eradicate racism and discrimination and transform states and communities in ways that will advance sustainable development,

1. Committee Chair of the UN Working Group of Experts on People of African Descent Mireille Fanon-Mendès has noted that the Universal Declaration of Human Rights was drafted at a time when the majority of African and Caribbean countries were still colonized by European states and the USA, and not yet politically dependent were excluded from the process. [↑](#footnote-ref-1)