

Expert Mechanism on the Rights of Indigenous Peoples

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Joint Statement by Grand Council of the Crees (Eeyou Istchee), Assembly of First Nations, Canadian Friends Service Committee (Quakers), Union of British Columbia Indian Chiefs, Amnesty International, Native Women's Association of Canada, First Nations Summit, Treaty Four First Nations, Haudenosaunee of Kanehsatake, Indigenous World Association, First Peoples Human Rights Coalition, KAIROS: Canadian Ecumenical Justice Initiatives

Speaker: Ellen Gabriel, Haudenosaunee of Kanehsatake

According to the December 2010 General Assembly resolution, the central purpose of the upcoming World Conference on Indigenous Peoples in 2014 is to "share perspectives and best practices on the realization of the rights of indigenous peoples".

This Conference should provide an important opportunity to examine progress over what will be seven years, since the historic adoption of the *UN Declaration on the Rights of Indigenous Peoples*. It should also give us a chance to comment on procedural impediments in international organizations that are developing standards on a wide range of issues affecting Indigenous peoples' human rights, as well as the ongoing implementation of the *Declaration*.

The modalities for the World Conference must ensure that Indigenous peoples have equal, direct and effective participation at all stages. This must include the preparation and approval of the Outcome Document. If this is not the case, the World Conference will likely have limited positive effect and credibility.

International human rights standards affirm that Indigenous peoples are distinct peoples with the right of self-determination under international law and have the right to meaningful participation in all decision-making processes that may affect the enjoyment of rights. The World Conference must proceed in a manner consistent with these international standards.

Indigenous peoples' participation in international forums has been evolving for decades. The World Conference should be an excellent occasion to affirm that Indigenous peoples have the right to full and effective participation whenever their rights may be affected.

Serious challenges in international organizations

New instruments are increasingly being negotiated or implemented that affect Indigenous peoples' human rights and the *UN Declaration*. Indigenous concerns are often being

addressed to the detriment of Indigenous peoples. Such issues include biodiversity, food security, climate change, development, free trade and intellectual property.

Outside of EMRIP and the Permanent Forum, we still experience resistance by states for Indigenous peoples to be included democratically in a full and effective manner.

Under existing procedures of international organizations, Indigenous peoples have no effective means of safeguarding their rights. When Indigenous representatives raise concerns that State positions are inconsistent with the *Charter of the United Nations* and international human rights law, such concerns are generally not addressed by the Parties.

Within international bodies and processes, consensus-driven procedures can be exploited to the detriment of Indigenous peoples. The lowest common denominator among State positions often prevails. Such procedures undermine the principles of justice, democracy, non-discrimination, respect for human rights and rule of law.

The procedures within international organizations require redress. The extent to which Indigenous peoples' human rights are prejudiced is critical. The World Conference is an important opportunity to re-confirm commitments to the *UN Declaration*, including a commitment to changing procedural rules and eliminating systemic discrimination.

In calling for strengthening the rule of law nationally and internationally, the UN Secretary-General affirmed in a report of March 2012: "The rule of law is a core principle of governance that ensures justice and fairness, values that are essential to humanity."

This report further emphasizes: "The United Nations defines the rule of law as a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and *which are consistent with international human rights norms and standards.*"

To achieve best practices – international rules must change

The rules of procedure in international organizations are generally out-dated. In its 2011 report to the Human Rights Council, EMRIP highlighted: "Reform of international and regional processes involving indigenous peoples should be a major priority and concern."

Indigenous peoples' rights in the *UN Declaration* were affirmed as "minimum standards for the survival, dignity and well-being of the indigenous peoples of the world." (art. 43) The *Declaration* calls on all states, the United Nations, and its bodies and specialized agencies to promote respect for these minimum standards and their "full application" – as well as "follow up the effectiveness" of this instrument.(art. 42)

It is unacceptable that procedural rules in international organizations should be anything less than clear and explicit in affirming the rule of law, consistent with international

human rights standards including the *UN Declaration on the Rights of Indigenous Peoples*.

States cannot avoid Indigenous peoples' human rights and related State obligations in the *UN Declaration* by attempting to diminish or disregard the legal significance of this human rights instrument when addressing a wide range of international issues.

It would be beneficial to examine the practices that governed the negotiations on the *UN Declaration*. An inclusive and democratic process of Indigenous participation was established within the United Nations. It constitutes today an impressive precedent and best practice.

Conclusions and recommendations

The World Conference on Indigenous Peoples should set a much-needed example in ensuring full, equal and effective participation of Indigenous peoples at all stages. EMRIP, along with other UN mechanisms focusing on Indigenous peoples – as well as the Office of the High Commissioner for Human Rights – should work to achieve this standard in the World Conference.

The Outcome Document should include clear commitments by States that they will seek reforms in the procedural rules of international organizations, in collaboration with Indigenous peoples. Such reforms should ensure that the rule of law is significantly strengthened, consistent with the *Charter of the United Nations* and international human rights law.

The Outcome Document should also affirm that the United Nations, its bodies and specialized agencies, and States shall make it a priority to achieve full realization of the *UN Declaration on the Rights of Indigenous Peoples* and establish processes to follow up on its effectiveness. Such initiatives should include the full, equal and effective participation of Indigenous peoples.

Through all of the above measures, best practices can be realized. The international human rights system can be significantly strengthened.