

UN Expert Mechanism on the Rights of Indigenous Peoples (EMRIP)
11-15 July 2016
Intervention on Agenda Item 9, Follow-up to Thematic Studies and Advice
Presented by Rochelle Diver

Thank you Mr. Chairman.

I speak on behalf of the International Indian Treaty Council, an organization that represents Indigenous Peoples in four UN regions and the Maskwacis Cree, our affiliates and delegates to this 9th Session.

Mr. Chair, IITC notes that there is currently a lack of a clear mechanism or process for monitoring impacts or implementation by States of the Expert Mechanism's thematic advice. We look forward to this shortfall being remedied in the strengthened EMRIP mandate and methods of work. However, we recognize that this advice, combined with active engagement of EMRIP members, has contributed in important specific ways to advances in the recognition of the rights of Indigenous Peoples.

For example, the Expert Mechanism Study on the right to Cultural Heritage of 2015 included a recommendation that:

States should take effective measures to assess, redress and remedy the effects of past injustices and violations of the rights of indigenous peoples by ensuring the restitution and repatriation of their cultural heritage...

This recommendation supports and elaborates implementation of the UN Declaration's Articles 12 and 13 and Operative Paragraph 27 from the World Conference Outcome Document calling for the establishment of a new international process for repatriation of sacred items and ancestral remains.

It also built on recommendations by the UN Permanent Forum on Indigenous Issues at its 14th session in 2015 provided instrumental support for the establishment by Indigenous Peoples, States, UN bodies and mandate holders of an Ad-hoc UN Working Group on International Repatriation of cultural items and ancestral remains. We emphasize that for Indigenous Peoples, these are not just cultural items. They have sacred and spiritual aspects that affect the holders of this cultural patrimony as well as the Indigenous Peoples who have been separated from it. Housing sacred items, human remains and those items we imbue with living spirit in institutions without cultural and spiritual care cannot be endured.

This ongoing harm was expressed in a letter by a Yaqui cultural leader to the government of Sweden in 2003 regarding the possession by their National Ethnographic Museum in Stockholm of a sacred Maaso Kova, a ceremonial deer head. *"These sacred objects are part of the Yaqui religion. They are used in ceremonies and need to be treated appropriately, and in the hands of Yaqui Cultural leaders. The Yaqui People can suffer if they are not treated the way they were meant to be"*.

We note that 10 years later after this letter was read and despite many meetings and dialogues with Sweden and the museum, this sacred item has still not been returned to the Yaqui cultural leaders. We are encouraged however by the re-initiation of negotiations by Sweden which occurred this year.

We greatly appreciated the participation of EMRIP's Chairman Alexey Tyskarev in chairing the Consultation on International Repatriation in May of this year during UNPFII 14, where he also shared the EMRIP's important advice on this issue. We also appreciate the role EMRIP has taken with regard to ongoing negotiations with UNESCO as referenced in the Chair's opening remarks to this Agenda Item.

We note that UNESCO recently elaborated a **Recommendation concerning the protection and promotion of museums and collections, their diversity and their role in society** that includes the **UN Declaration on the Rights of Indigenous Peoples** in the list of the international instruments directly and indirectly relating to museums and collections. In Recommendation 18, UNESCO says that:

In instances where the cultural heritage of indigenous peoples is represented in museum collections, Member States should take appropriate measures to encourage and facilitate dialogue and the building of constructive relationships between those museums and indigenous peoples concerning the management of those collections, and, where appropriate, return or restitution in accordance with applicable laws and policies.

We are encouraged by the Permanent Forum's further recommendations from its 15th session in May of this year calling for coordination between EMRIP and UNESCO to carry out next steps towards establishing a new process or mechanism for international repatriation as called for by the World Conference Outcome Document.

46. The Permanent Forum recognizes the recent formation of an ad hoc working group on international repatriation, with the participation of States, indigenous peoples and specialized agencies of the United Nations system, including the Expert Mechanism on the Rights of Indigenous Peoples, UNESCO, and the Special Rapporteur in the field of cultural rights, which was reported at the 2016 session as another positive step forward in the implementation of recommendation No. 8 of the Forum at its fourteenth session.

47. The Permanent Forum requests UNESCO to host a joint seminar with the Expert Mechanism on the Rights of Indigenous Peoples and other relevant United Nations mechanisms for the purpose of exploring the development of a new international mechanism on the repatriation of ceremonial objects and human remains. Furthermore, the Forum calls upon all States with national repositories of indigenous cultural items and ancestral remains, including museums and universities, to work with UNESCO to create an international database and inventory of these items accessible to indigenous peoples as a basis for initiating dialogue.

In light of these positive developments, we ask the EMRIP to call on additional States to join the Ad Hoc Working Group on International Repatriation and to provide financial, ethical, moral and principled support including for the convening of the Symposium and related activities.

In closing, we are looking forward to continued advances and outcomes for the rights of Indigenous Peoples in this regard. We thank the EMRIP for their advice to the Human Rights Council and their sustained interest and involvement in this critical human issue impacting Indigenous Peoples around the world.

Thank you.

