

**INDIGENOUS WORLD ASSOCIATION****Statement on Agenda Item No. 9: Follow up to thematic studies and advice**

Before the UN Expert Mechanism on the Rights of Indigenous Peoples

Ninth Session, Geneva, Switzerland, July 14, 2016

Greetings on behalf of the Indigenous World Association. Today we wish to address the study completed last year, entitled: **Promotion and protection of the rights of indigenous peoples with respect to their cultural heritage** and highlight the need to add another dimension to the EMRIP'S recommendations in its Advice No. 9, on the issue of repatriation of cultural objects; that of Business and Human Rights, and the guiding principles.

This study highlighted rights enshrined in articles 3, 11, 12, 13, and 31 of the UNDRIP. Important elements of these rights are our collectively held cultural heritage, our right to transmit this heritage to future generations; and the right to maintain, **control, protect** and develop our cultural heritage.

Paragraph 24 of the study recognizes that “[a]lthough a multitude of legal regimes exist to protect cultural heritage, there is a lack of adequate integration of protections for indigenous peoples. Such complex and parallel systems of protection of cultural heritage leads to fragmentation within a multitude of legal frameworks, which ultimately do not adequately protect the cultural heritage of indigenous peoples. The systems fail to recognize that, for indigenous peoples, cultural heritage is holistic and encompasses their spiritual, economic and social connections to their lands and territories.”

Paragraph 68 recognizes that “[m]any cultural items and human remains of indigenous peoples are held by public museums and by private collectors worldwide, without the free, prior and informed consent of the peoples concerned.” Paragraph 71 recognizes that “repatriation of the cultural heritage of indigenous peoples is an important aspect of [] restitution,” and paragraph 72 observes that “repatriation of ceremonial objects and human remains requires the **cooperation of the places where the objects and remains are stored, such as museums and auction houses.**’

Advice No 8 makes references to state obligations in paragraph 22 and 35:

Paragraph 24 advises States to “ensure **that investors and corporations respect the cultural heritage of indigenous peoples**” and stresses that “businesses have a responsibility to protect the right to cultural heritage” as well as a responsibility to remedy” negative impacts on indigenous peoples. Paragraph 35 calls upon the Human Rights Council to “consider calling for an immediate halt to any removal of ancestral remains and cultural items[ from] indigenous peoples for any reason, unless their free, prior and informed consent is obtained.”

One of the submissions to the expert group meeting in 2015 raised several examples of indigenous peoples who have had their cultural patrimony offered for sale in Paris auction

houses. This practice has continued, and many smaller tribes, with fewer resources to pursue their rights overseas, continue to struggle with these practices. This issue is urgent for many indigenous peoples.

We are grateful for the measures taken thus far by EMRIP members and the Permanent Forum, as set forth by the IITC. Additionally, we urge that EMRIP consider the role of non-state actors, in further actions and recommendations. We ask that consideration of **the Guiding Principles on Business and Human Rights** be added to future recommendations, as many of the auction houses who currently offer our cultural patrimony for sale are transnational, million dollar businesses who should be held accountable to these principles.

Thank you.