

# Indigenous Peoples and Nations Coalition

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Item 7 Participation of NGOs at the Human Rights Council  
Ambassador Ronald Barnes

Greetings distinguished participants,

In promoting the right to participate under the equal right and self-determination of peoples under Article 1.2 and Article 73 of the Charter, international law is clear that State obligations to the Charter of the United Nations prevail over international agreements<sup>1</sup> such as the Outcome Document from the High Level Plenary as the so-called World Conference Outcome Document. Let me be clear: You cannot use the Outcome Document to reduce the international rights to Indigenous Peoples recognized under Article 73 and therefore Article 1.2 under the “equal right and self-determination” principle of the Charter of the United Nations. The right of participation and consent is a higher standard than mere “consultation” by applying pro forma consultation, that is – to listen and do less or nothing. Alaska and Hawaii and New Caledonia and other cases cannot be limited to domestic law definitions of participation and consent by reducing our right to mere pro forma consultations. Participation, consent and consultation must also engage the proper agents and authorities of Indigenous Peoples under the free political institution principle, without engaging puppet governments.

The Land Rights Report of the late Erica Irene Daes (E/CN.4/Sub.2/2001/21), whom we pay homage to, made it clear that the Alaska Native Claims Settlement Act of 1971 was not consented to by the Indigenous Peoples of Alaska. The Non-Profit Arms and ANCSA corporations are now being recognized as Tribal Governments without the consent of Indigenous Peoples of Alaska, who are subjects of international law. The Treaty Study of the late Miguel Alfonso Martinez (E/CN.4/Sub.2/1999/20) supports these principles. In one Progress Report he stated that the 1867 Treaty of Cession of Alaska from the Tsar of Russia to the United States of America granted neither title nor jurisdiction. It is for this reason we cannot accept the rationalization with the participants of ANCSA representatives to tacitly justify as good practices the exploitation of our territory and resources without our consent. IPNC is asking for amendments to the Draft Business Report (A/HRC/EMRIP/2017/CRP.1).

The Declaration on the Right to Development including the principles of the right to self-determination must apply for Alaska and other cases recognized with international treaty rights. We call upon EMRIP to not violate these principles in their reports by reducing our right to domestic law in the Declaration based on the Outcome Document of the WCIP.

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<sup>1</sup> See the Declaration on Friendly Relations, GA resolution 2625 (XXV).