



AAIA

Association on American Indian Affairs

**UN Expert Mechanism on the Rights of Indigenous Peoples 8th Session
(20-24, July 2015)**

Item 9: Proposals to be submitted to the Human Rights Council for its consideration and approval

Statement by the Association on American Indian Affairs, the Hopi Tribe, and Edward Halealoha Ayau (Kingdom of Hawaii)

Mr. Chair,

The Association on American Indian Affairs' (AAIA) International Repatriation Project formally submits the following proposal, reflecting its position on the repatriation of Indigenous ancestral remains, funerary objects, sacred/ceremonial objects, and objects of cultural patrimony, which is supported by the U.N. Declaration on the Rights of Indigenous Peoples, the Outcome Document of the U.N. General Assembly World Conference on Indigenous Peoples, and Indigenous law. We formally request that the EMRIP advise the Human Rights Council to specifically address Indigenous international repatriation, as it is a human rights issue, and for EMRIP to conduct a study on Indigenous international repatriation, focusing upon the concerns expressed below by Indigenous Peoples, providing advice to the Human Rights Council with the support of Indigenous Peoples, and seeking responses from states regarding these issues and inventories of Indigenous human remains, funerary objects, sacred/secret/ceremonial objects, and objects of cultural patrimony.

Indigenous Peoples have asserted that museums, universities, collectors, private auction houses, and other repositories have: 1) failed to consult with Indigenous Peoples; 2) cannot provide evidence of consent by Indigenous Peoples to hold Indigenous remains, funerary objects, sacred/secret objects, and objects of cultural patrimony; 3) failed to repatriate or have engaged Indigenous Peoples in resource-draining and excessively long repatriations; 4) refused to provide supporting archival and document information to Indigenous Peoples to assist with identifications; 5) placed preservation conditions upon repatriations; and 6) are forcing Indigenous Peoples to buy back their ancestors, funerary objects, sacred/ceremonial objects, and objects of cultural patrimony, despite these egregious and ongoing human rights violations that have occurred in the past and continue today.

Indigenous Peoples also assert that museums, universities, collectors, private auction houses, and other repositories should: 1) engage in consultations with Indigenous Peoples; 2) provide inventories of Indigenous ancestral remains, funerary objects, secret/sacred objects, and objects of cultural patrimony to Indigenous Peoples that remain cognizant of cultural sensitivities in their approach; and 3) develop international repatriation policies. Indigenous

Peoples further assert that nations should develop laws and policies for Indigenous consultation and repatriation. Indigenous Peoples assert that the U.N. should: 1) create an Expert Working Group on International Repatriation, composed of Indigenous Peoples; 2) implement mechanisms for international repatriation that incorporate the various views of Indigenous Peoples and include Indigenous consultation requirements; 3) call for the modification of Customs regulations to allow for the cultural and religious needs of Indigenous Peoples during international repatriations; and 4) remain cognizant that many Indigenous Peoples' nations are located across international borders. Further information regarding the positions of Indigenous Peoples is available in the document on international repatriation submitted to the cultural heritage study of the UNEMRIP by the Association on American Indian Affairs/International Repatriation Project and the International Indian Treaty Council, in conjunction with several Indigenous nations. In addition, supporting statements were made during the 8th session of the U.N. Expert Mechanism on the Rights of Indigenous Peoples by Edward Halealoha Ayau, the Hopi Tribe, and the Association on American Indian Affairs supporting the establishment of the Working Group on International Repatriation and a more focused study on international repatriation with the purpose of facilitating investigations into the private art market, private auction houses, universities, museums, government holdings, and illegal markets.

The Association on American Indian Affairs supports these statements and concerns made by Indigenous Peoples and formally requests that the UNEMRIP advise the Human Rights Council to create an Expert Working Group on International Repatriation with Indigenous representatives. Within the mandate of the U.N. EMRIP is the ability to provide "the Human Rights Council with thematic advice, in the form of studies and research, on the rights of Indigenous peoples". We request that the UNEMRIP, in conjunction and consultation with Indigenous Peoples, create a study on Indigenous international repatriation to highlight the ongoing abuses of private auction houses, museums, universities, and other repositories. This study should be thorough and well-researched, as there are many Indigenous international repatriation efforts active with Indigenous communities and as inter-Indigenous efforts, including the Te Papa Museum International Repatriation Programme (New Zealand), the Advisory Committee for Indigenous Repatriation (Australia), and the AAIA International Repatriation Project and Working Group on International Repatriation (US). Indigenous consultations should take no more than two years to compile such information. Incorporated into this study should be considerations for the market in the sale of Indigenous ancestors, funerary objects, sacred objects, and objects of cultural patrimony, which Indigenous Peoples assert are illegal, and the intersections they play in illegal markets in drugs, guns, and crime throughout the world, as well as fakes and forgeries that misrepresent Indigenous culture. It is important, within this study, not to lose the individual statements made by Indigenous Peoples, as it is their inherent right to self-determination. Therefore, we also advise the EMRIP to collate all statements at the end of the research study from Indigenous communities.

We also support an extension of the UNEMRIP cultural heritage study that will provide more focus and in-depth recommendations on Indigenous international repatriation, covering the concerns of Indigenous Peoples listed above and advising the U.N. Human Rights Council to seek State responses on these issues and to provide inventories of Indigenous ancestral remains, funerary objects, sacred/secret/ceremonial objects, and objects of cultural patrimony to Indigenous Peoples.