

Fifteenth Session of the United Nations Permanent Forum on Indigenous Issues (UNPFII)

9-20 May 2016, UN headquarters, New York, NY

Agenda Item 4: Implementation of the six mandated areas of the Permanent Forum with reference to the United Nations Declaration on the Rights of Indigenous Issues

Joint Intervention of: American Indian Law Alliance, Onondaga Nation, TONATIERRA, Sacred Places Institute, Center for Earth Ethics at Union Theological Seminary, Skä•noñh Great Law of Peace Center, Indigenous Values Initiative, Neighbors of the Onondaga Nation, Southern Diaspora Research and Development Center, Loretto Community, Native Women's Association of Canada, Ontario Native Women's Association, NGO Mining Working Group, International Presentation Association, Sisters of Charity Federation, Society of Catholic Medical Missionaries, European Congress of Ethnic Religions, UNANIMA International, Temple of Understanding, NGO Congregation of the Mission, Edmund Rice International, WESPAC Foundation, Connie Hogarth Center for Social Action

Presented by Betty Lyons (Onondaga Nation),
President of the American Indian Law Alliance on 19 May 2016

1. Honorable Chair, Permanent Forum Members, Member States, Sisters and Brothers,
2. We applaud the study by Permanent Forum Members Dalee Sambo Dorrough and Grand Chief Edward John entitled, "States Exploit Weak Procedural Rules in International Organizations to Devalue the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and Other International Human Rights Laws."¹ In particular paragraph 15 addressing the United Nations Framework Convention on Climate Change states, "*Indigenous peoples face marginalization in the negotiations of multilateral environmental instruments. Those procedural injustices directly translate into substantive injustices.*"
3. We the Haudenosaunee, along with all Indigenous peoples, have a sacred relationship with and a mandate to speak for those things that can't speak for themselves. The laws we live by regarding Mother Earth have been handed down from time immemorial. We need to stay mindful that these are gifts and should be met with gratitude and conservation. Water is a most precious gift, without her there would be no life.
4. We acknowledge that all living beings on Mother Earth have a purpose with specific duties and responsibilities. We affirm that all of humanity has a responsibility to protect Mother Earth and her life sustaining forces for all, but most thoughtfully for the seventh generation yet unborn. Indigenous peoples do not compartmentalize the environment, water, health, culture and our wellbeing. Everything is interrelated and cannot be neatly separated. We are not separate from our identity, culture or Mother Earth but we are one with them.
5. The continuing effects of the Doctrine of Discovery have many Indigenous Nations facing the same issues in the protection of their lands, waters and resources. Our Indigenous sisters and

¹ E/C.19/2016/4.

brothers, while in peaceful protest, are being detained, criminalized, persecuted and killed daily, to protect their homelands from extractive industries and member states in their never-ending quest for the consumption of natural resources. We are left with the devastation of pipelines, toxic waste disposal, mining, dams, as well as hydraulic fracturing and tar sands in our territories.

Rights of Mother Earth

6. We affirm these are violations of the UNDRIP, the UN Charter, nation-to-nation treaties and conventions. We should always remember that the laws of nature and the rights of Mother Earth supersede all other laws.

7. We acknowledge the resolution adopted by the General Assembly on 22 December 2015 on Harmony with Nature, *"Recognizing that a number of countries consider Mother Earth the source of all life and nourishment and that these countries consider Mother Earth and humankind to be an indivisible, living community of interrelated and interdependent beings."*²

Water is Life

8. We are deeply concerned with the condition of Mother Earth's fresh water lakes, rivers, streams, springs, tributaries and watersheds.

9. In keeping with the theme of the 15th Session of the United Nations Permanent Forum on Indigenous Issues, "Indigenous peoples: conflict, peace and resolution," we wish to highlight Onondaga Lake, located in the Onondaga Nation's original territory, is our sacred lake and is the birthplace of democracy. The Haudenosaunee Confederacy was formed when the Peacemaker came to the shores of Onondaga Lake delivering the Great Law of Peace, bringing the message of peace, the power of unity and the power of the good mind. Our sacred Onondaga Lake remains the second most polluted lake in the world.³

² See Resolution 70/208 adopted by the General Assembly on 22 December 2015 [on the report of the Second Committee (A/70/472/Add.7)]. *Harmony with Nature*. United Nations Document A/RES/70/208. Available from http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/70/208

³ Even after a 4.5 million dollar "clean up" (emphasis added) effort, our sacred Onondaga Lake remains dangerously polluted. Recently, our people had to endure a public relations stunt called a "celebrity swim" where local officials and Honeywell Corporation, the company that bears the biggest responsibility for the contamination of lake, publically stated the lake was clean enough to swim in this past summer. Twenty-two Onondaga Nation youth felt compelled to protest this shameful act while being berated by representatives of Honeywell. This while 9.5 million cubic yards of toxic waste remain on the Lake's bottom. As of 2015, Honeywell Corporation has an annual operating revenue of 38.58 billion US Dollars. From: Honeywell International Inc. Annual Report (Form 10-K) (Feb. 2, 2016). Honeywell Corporation is responsible for over 150 superfund sites. From: *U.S. Environmental Protection Agency Superfund Program Noticed Parties at cerclis sites (list-11), version 1.02. 28 Oct. 2013*. Available from <https://www.epa.gov/sites/production/files/2015-09/documents/list-11.pdf>. Honeywell also has paid over 93 million US dollars in penalties to the EPA since 2010. From: *Good Jobs First Violation Tracker Parent Company Summary, Report on Penalties Paid by Honeywell International to U.S. EPA*. Available from http://violationtracker.goodjobsfirst.org/prog.php?parent=honeywell-international&order=agency_code&sort=asc. One of the American Indian Law Alliance's current concerns is for the growing refugee population located in the city of Syracuse. Refugee caseworkers estimate hundreds of refugees are consuming fish out of Onondaga Lake daily. A formal study of fish consumption rates and effects is underway by the New York State Department of Health and results are expected in Autumn 2016. Women of childbearing years and anyone under the age of 15 should not be eating any fish from the lake because of the levels of contamination. Men are only to consume selected fish and only one fish per month. We have asked for signs in different languages be placed around the Lake for their protection and yet no signs have been created or placed. *New York State Department of Health. Health Advice on Eating Sportfish and Game 2016*. Available from <http://www.health.ny.gov/publications/2800.pdf>.

10. We note that water issues affect Indigenous Peoples across the globe. We know in our communities, each one of our six Nations is affected by serious water issues. For many Indigenous Peoples, there is no water treatment plant. We drink the water as it is, from our rivers and lakes. We have to consider who is downstream, as our water is affected by every interaction we have with it. From the Yaqui River to the Saint Lawrence River, our waterways are in desperate need of healing.

11. We wish to remind member states of Article 29 of the UNDRIP which establishes that Indigenous Peoples *"have the right to the conservation and protection of the environment."* In the 2011 publication entitled, Report of the Special Rapporteur on the rights of indigenous peoples by James Anaya in paragraph 31, *"With respect to the negative impact of extractive operations on water resources, it was noted that water resource depletion and contamination has had harmful effects on available water for drinking, farming and grazing cattle, and has affected traditional fishing and other activities, particularly in fragile natural habitats."*⁴

12. We are deeply saddened and hold in our hearts our many sisters and brothers that have lost their lives in the effort to keep our sacred waters safe. Indigenous peoples are not the aggressors and will never give up looking for a peaceful resolution and cleanup of our waters as provided for under Article 28 of the UNDRIP.

Recommendations:

13. We recommend that a study on sacred waters be conducted by Permanent Forum Members Dalee Sambo Dorrough and Grand Chief Ed John on the effects of extractive industries' impacts on freshwater in North and South America (Turtle Island) including groundwater and sacred waters. This study could explore the ways in which the contamination regarding sacred waters results in a loss of culture for Indigenous Peoples, as well as the catastrophic effects on the health, reproductive health, emotional, physical and spiritual well being of our women, communities, Nations and our youth. This study could give special attention to the affects on women and children.

14. We recommend all member states take action to implement and enforce the UNDRIP and assist in the cleanup of all sacred waters. All of humanity will stand to gain from it and could be used as a model of best practice within the UN fora and the world stage.

15. We affirm that member states and extractive industries, operating or seeking to operate in Indigenous territories, have the full free, prior and informed consent of the particular Indigenous Nation and other provisions as provided for under UNDRIP Articles 8, 25, 26, 28, 29, 32, and 37.

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⁴ (A/HRC/18/35)