

Statement Of Umbrella Groups National Congress Of American Indians, United South And Eastern Tribes, And California Association Of Tribal Governments, 72 Indigenous Nations, and Seven Indigenous Organizations

Twelfth Session of the United Nations Permanent Forum on Indigenous Issues
(May 28, 2013)

Agenda Item: 6. Discussion on the World Conference on Indigenous Peoples

Speaker: Darwin Hill, Tonawanda Seneca Nation

By the Navajo Nation, Yurok Tribe, Hoopa Valley Tribe, Tonawanda Seneca Nation, Quinault Nation, Citizen Potawatomi Nation, Central Council of Tlingit and Haida Indian Tribes of Alaska, the Confederation of Sovereign Nanticoke-Lenape Tribe (including Nanticoke Lenni-Lenape Tribal Nation, Lenape Indian Tribe of Delaware, and the Nanticoke Indian Tribe of Delaware), the Crow Nation, Ewiiapaayp Band of Kumeyaay Indians, Jamestown S'Klallam Tribe, Mashantucket Pequot Tribal Nation, Nez Perce Tribe, Shoalwater Bay Tribe, Sisseton Wahpeton Oyate, the National Congress of American Indians, California Association of Tribal Governments (32 Tribes), United South and Eastern Tribes (26 Tribes), the Native American Rights Fund, the Indian Law Resource Center, National Native American AIDS Prevention Center, Papa Ola Lokahi, the Native Hawaiian Health Board, Americans for Indian Opportunity, and the Self-Governance Communication and Education Tribal Consortium.

This statement is made by 72 Indian nations located in the United States and acting through their own governments. Also joining in this statement are nine Indian and Hawaiian Native organizations. The indigenous governments making this statement speak for their citizens or members totaling more than 515,000 indigenous individuals. These nations govern more than 19 million acres of territory, and we own more than 16 million acres of land.

We believe that the World Conference on Indigenous Peoples is an important opportunity for the United Nations to take much-needed action to advance the purposes of the Declaration on the Rights of Indigenous Peoples, especially to promote the implementation and realization of fundamental rights. Despite the shortcomings of the process, creative and effective action must be taken by the United Nations to press for implementation of the Declaration's principles, since violations of indigenous rights are actually increasing in many parts of the world. Violence on a horrific scale is being inflicted on indigenous communities, and increasingly it is inflicted on indigenous women, as recently reported by the Permanent Forum's own *Study on the extent of violence against indigenous women and girls* and by the Continental Network of Indigenous Women of the Americas.

Without adequate implementing measures by states as yet, the Declaration is having little significant effect in reducing human rights violations against indigenous peoples, and violations appear to be increasing in many countries. Some states profess support for the Declaration, but in practice they ignore the Declaration's requirements. The increased incidence of adverse actions violating indigenous rights is apparently due in part to growing pressures from climate change, increased demand for energy, and increased competition for natural resources in indigenous territories.

Sadly, we cannot yet say that the Declaration has reduced the attempts to destroy indigenous cultures and societies, or the taking of indigenous homelands and resources, or the economic marginalization of indigenous peoples. Without effective implementing measures and without international monitoring of indigenous peoples' rights, the purposes of the Declaration cannot be achieved.

Our greatest concern is for the physical security of our people, especially women, and of our homes. Our right of self-determination is our most important right – it is the right that makes all other rights possible – and it is also our right that is most at risk – most likely to be violated. Our lands and resources and the ecosystems where we live are most precious to us because they are essential to our existence. We believe that United Nations action is critical to addressing these rights and all of the rights in the Declaration.

We offer three recommendations for action that we hope can be adopted by the World Conference.

First, we recommend that the United Nations establish a new body responsible for promoting state implementation of the Declaration on the Rights of Indigenous Peoples and monitoring states' actions with regard to indigenous peoples' rights. At least four regional indigenous caucuses have now made the same or a similar recommendation. Such a monitoring and implementation body must have a mandate to receive relevant information, to share best practices, to make recommendations, and otherwise to work toward the objectives of the Declaration. Such an implementing and monitoring body would do more than anything else to achieve the purposes of the Declaration and promote compliance with the Declaration.

Second, we recommend a three-pronged course of action to address the problem of violence against indigenous women:

- a. A decision to convene a high-level conference to examine challenges to the safety and well-being of indigenous women and children and to share perspectives and best practices.

- b. A decision to require that the UN body for monitoring and implementing the Declaration (recommended above) give particular attention, on at least an annual basis, "to the rights and special needs of indigenous . . . women, youth, children and elders . . . in the implementation of the Declaration"; and
- c. A decision to appoint a Special Rapporteur to focus exclusively on human rights issues of indigenous women and children, including but not limited to violence against them and on changing state laws that discriminate against them.

Finally, we recommend that action be taken to give indigenous peoples, especially indigenous constitutional and customary governments, a dignified and appropriate status for participating regularly in UN activities. Indigenous peoples deserve to have a permanent status for participation in the UN that reflects their character as peoples and governments. This is a problem that has already been studied and examined within the UN system, and now it is time to take action at last so that indigenous peoples do not have to call themselves NGOs or depend upon *ad hoc* resolutions to be able to participate in UN meetings, processes, and events.

The full text of our recommendations is available on the web at www.indianlaw.org, and on paper in the meeting room.

We have begun conversations with states about these recommendations, and we look forward to speaking with as many state delegations as possible. We are also talking with other indigenous peoples and we are eager to hear the ideas of others. We are not inflexible about precisely what actions should be taken by the UN, and we hope that broad agreement can be reached about the general principle or idea of each of these recommendations. When the World Conference on Indigenous Peoples 2014 has decided to take action, then it will be necessary to create inclusive processes, with the full participation of indigenous peoples and indigenous governments, to elaborate these decisions and put them into effect.

We call upon all countries to make a commitment for action to implement the Declaration and to support these modest and workable recommendations for UN action.

Thank you.

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Implementing the UN Declaration on the Rights of Indigenous Peoples: Creating a UN Mechanism for Monitoring and Promotion

May, 2013

The UN Declaration on the Rights of Indigenous Peoples now enjoys a worldwide consensus of states. No country today opposes the Declaration. It is an historic declaration of rights, and the UN General Assembly has decided to hold the UN World Conference on Indigenous Peoples in order to “contribute to the realization of the rights of indigenous peoples, pursue the objectives of the [Declaration], and promote the achievement of all internationally agreed development goals.” A/RES/66/296 (17 September 2012) The General Assembly has explicitly decided to take action to realize or implement the rights in the Declaration, and it is urgent that a body be created within the United Nations to do this work.

Many indigenous peoples in various regions of the world are now calling for the creation of some form of implementing or monitoring body to promote compliance with the Declaration and to promote the realization of the rights of indigenous peoples. One group of indigenous nations in North America has made the following recommendation for action by the World Conference:

Recommend that the UN World Conference decide to create an implementing and monitoring body with a mandate to promote and monitor implementation of the Declaration and to encourage compliance with the obligations expressed in the Declaration. Such a monitoring and implementation body should have a mandate to receive relevant information, to share best practices, to make recommendations, and otherwise to work toward the objectives of the Declaration. The body should be made up of expert members, including indigenous experts. The General Assembly should, in conjunction with indigenous peoples, establish a process, which would include indigenous peoples’ representatives, for elaborating the structure and mandate of such a body or mechanism at the earliest possible time.

Recommendations for an implementing and monitoring body have also been made by the Inuit and Sami Peoples in the Nuuk Arctic Declaration, by Indigenous Peoples in Asia, by the North American Indigenous Peoples Caucus, by the African Regional Preparatory Meeting, by the Preparatory Meeting of America Latina y el Caribe, and by the Preparatory Meeting for Pacific Indigenous Peoples. A study has been undertaken by the Permanent Forum on an Optional Protocol to the Declaration, which is

another possible mechanism. All of the recommendations and proposals deserve consideration in order that the most effective and most workable ideas can be adopted.

Experience shows that human rights instruments may have practically no effect unless steps are taken to implement the rights in question, that is, to make it possible to exercise or enjoy the rights. An implementing and monitoring body will improve respect for indigenous rights, will encourage and foster implementation at the state level, and will help to achieve the objectives of the Declaration, especially improving the well-being of indigenous peoples and helping to avoid or stop the abuse of their rights.

International monitoring and oversight are especially needed to guard against fraud, misdealing, and legal manipulation to deprive indigenous peoples of their lands and natural resources. The great disparities in economic and political power that most indigenous peoples endure make them especially vulnerable to wrong-doing. The need for an international mechanism to implement the UN Declaration is discussed in an expert paper submitted to a UN Expert Seminar on indigenous rights in January 2006. HR/GENEVA/IP/SEM/2006/BP.2

Without strong and effective measures at the international level, the promise of the UN Declaration will be lost. The Declaration needs an implementing and monitoring body because of the grave human rights situations of indigenous peoples in many parts of the world, especially the horrendous violence against certain indigenous people and the pandemic of violence against indigenous women and girls. An implementing and monitoring body is appropriate for the Declaration, because it already enjoys a global consensus, because it contains very specific and detailed provisions, and because the Declaration contains many provisions calling for specific state actions to implement rights.

Implementing bodies or mechanisms have, of course, long been used to promote respect for human rights instruments and to monitor compliance by states. Committees of experts, such as the Human Rights Committee (Covenant on Civil and Political Rights) and the Committee on the Elimination of Racial Discrimination (Convention on the Elimination of All Forms of Racial Discrimination), monitor and promote compliance with a number of human rights treaties. Many such bodies are working effectively today.

The UN Permanent Forum on Indigenous Issues has an important role in terms of implementation, but implementation work is required beyond what the Permanent Forum can do. The Expert Mechanism on the Rights of Indigenous Peoples also has a role, but only a very limited one because of its narrow mandate. We believe at this early stage that a new body, made up of independent experts, including indigenous experts, with a broad new mandate, will be the best but not the only possible approach.

After states have made the decision to create such a body, it will be necessary to discuss and negotiate the details about the structure, mandate, and functioning of the body. The process of elaborating the structure, mandate, and functioning of the body must be one that includes full and active participation by indigenous peoples.

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REGULARIZING INDIGENOUS PARTICIPATION IN THE UNITED NATIONS **Proposed Recommendation for the World Conference on Indigenous Peoples**

May 2013

Indigenous peoples deserve a regularized and permanent status in the United Nations that enables their full and effective participation in all relevant UN activities. Many indigenous peoples have their own governments, and all have the right of self-determination. Yet, the existing rules for indigenous peoples' participation in UN activities do not take into account the distinct character of indigenous peoples and governments. Many indigenous peoples and governments are prevented from participating in meetings of the UN that concern them, because they do not have consultative status as non-governmental organizations. Indeed, they are not non-governmental organizations, and frequently they cannot meet the requirements for non-governmental organization status.

Some indigenous peoples have been advocating for a more appropriate status to participate in UN activities for many years. The Expert Mechanism on the Rights of Indigenous Peoples has recognized that current UN processes "can prevent indigenous peoples' governance bodies and institutions, including traditional indigenous Governments, indigenous parliaments, assemblies and councils, from participating in decision-making processes at the United Nations, as they are not always organized as non-governmental organizations".¹ Yet, indigenous peoples and their governments are often relegated to participating, if at all, as non-governmental organizations, civil society actors, or as parts of State delegations – precisely what indigenous peoples and governments are not.

The World Conference on Indigenous Peoples presents an historic opportunity to take lasting action recognizing the value of indigenous peoples' contributions to UN activities. There appears to be worldwide support amongst indigenous peoples that action to enable their full and effective participation in UN activities is necessary. One group of indigenous nations in North America has made the following recommendation:

Recommends, That the UN World Conference decide to create a distinct and appropriate status for Indigenous Peoples within the United Nations system in order to regularize and facilitate the participation of Indigenous Peoples in the work of the United Nations. Such a status within the UN system must give appropriate recognition to Indigenous Peoples

¹ The Expert Mechanism on the Rights of Indigenous Peoples, *Report of the Expert Mechanism on the Rights of Indigenous Peoples on its fourth session*, U.N. Doc. A/HRC/18/43 (Aug. 19, 2011).

represented by their own governments. The Permanent Forum on Indigenous Issues [or the Expert Mechanism on Rights of Indigenous Peoples], in consultation with States and Indigenous Peoples, should be given responsibility for elaborating a resolution on this matter for adoption by the General Assembly at the earliest possible time.

Similar recommendations have been made by, at least, the Inuit and Sami Peoples in the Nuuk Arctic Declaration and by the Preparatory Meeting of America Latina y el Caribe.

The recommendation quoted above is consistent with the views and recommendations of various bodies of the UN, including the Expert Mechanism, the Human Rights Council, and the Third Committee of the General Assembly, and consistent with a report of the Secretary-General. The Human Rights Council in 2009 requested the Expert Mechanism to produce a study on indigenous peoples and the right to participate in decision-making.² The Expert Mechanism recommended that the Council encourage the General Assembly to “adopt, as a matter of urgency, appropriate permanent measures to ensure that indigenous peoples’ governance bodies and institutions, including traditional indigenous Governments, indigenous parliaments, assemblies and councils, are able to participate at the United Nations as observers with, at a minimum, the same participatory rights as non-governmental organizations in consultative status with the Economic and Social Council.”³

At the Council’s request, the Secretary-General prepared a report on the issue, which recognized many functional advantages when indigenous peoples participate in UN processes, including the strengthening of cooperation between States and indigenous peoples.⁴ In 2012, the report was submitted to the Third Committee of the General Assembly, which recommended the General Assembly consider the issue at its sixty-ninth session, in 2014, the time set for the World Conference on Indigenous Peoples.⁵

This issue has been studied and discussed at length in the UN system, and the time is appropriate to take action to enable indigenous peoples’ full and effective participation in UN activities. Of course, after the States have made the decision to create a new and regularized status for indigenous peoples in the UN, it will be necessary to create a process to discuss and negotiate the details and rules of the new status, with the full and effective participation of indigenous peoples.

² H.R.C. Res. 12/13, U.N. Doc. A/HRC/RES/12/13 (Oct. 12, 2009).

³ The Expert Mechanism on the Rights of Indigenous Peoples, *Report of the Expert Mechanism on the Rights of Indigenous Peoples on its fourth session*, U.N. Doc. A/HRC/18/43 (Aug. 19, 2011).

⁴ The Secretary-General, *Report of the Secretary-General on Ways and means of promoting participation at the United Nations of indigenous peoples’ representatives on issues affecting them*, ¶ 13, U.N. Doc. A/HRC/21/24 (July 2, 2012).

⁵ Third Committee, *Report of the Third Committee on the Rights of indigenous peoples*, ¶ 11, U.N. Doc. A/67/454 (Dec. 3, 2012).

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Combating Violence Against Indigenous Women— Proposed Recommendations for the World Conference on Indigenous Peoples

May 20, 2013

On September 22-23, 2014, the United Nations will host a World Conference on Indigenous Peoples of all countries of the UN, with the participation of indigenous peoples and non-governmental organizations. The result will be an action-oriented outcome document, which among other things, will pursue the objectives of the UN Declaration on the Rights of Indigenous Peoples.

Violence Against Indigenous Women and Girls is a Pandemic. Actions to stop the horrendous violence against indigenous peoples, including the pandemic of violence being inflicted on indigenous women and girls, are critically needed. Indigenous women often suffer disproportionately high, multiple forms of discrimination, violence, and murder based not just on their gender, but also because they are indigenous and members of indigenous communities.

UN Action is Needed to End the Violence Now. United Nations action is crucial to restore safety to indigenous women, children, and communities and to address indigenous rights in the UN Declaration. Indian nations and other organizations are urging the UN General Assembly to adopt recommendations at the World Conference to combat violence against indigenous women and children. These recommendations would be valuable in protecting and promoting the rights of indigenous women globally and are actions that the UN General Assembly may realistically adopt at the World Conference:

1. *A decision to convene a high-level conference to examine challenges to the safety and well-being of indigenous women and children and to share perspectives and best practices on the realization of the rights of indigenous women and children under the UN Declaration with respect to protection against all forms of violence and discrimination;*
2. *A decision to require that a UN body for monitoring and implementing the Declaration give particular attention, on at least an annual basis, "to the rights and special needs of indigenous . . . women, youth, and children . . . in the implementation of the UN Declaration;" and*
3. *A decision to appoint a Special Rapporteur to focus exclusively on human rights issues of indigenous women and children, including but not limited to violence against them and on changing state laws that discriminate against them.*

Violence Against Indigenous Women and Girls is a Human Rights Crisis. Violence against women is discrimination and violates women's human rights.¹ An international policy and legal framework recognizes that states have an obligation to protect women from violence, hold perpetrators accountable, and provide justice and remedies to victims.² The UN Declaration offers opportunities to restore safety and access to justice to indigenous women and girls. Violence against indigenous women and girls is addressed in Article 22(1), which calls for "particular attention" to "be paid to the rights and special needs of indigenous . . . women" and children in implementing the Declaration. Article 22(2) goes on to call on states to "take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection . . . against all forms of violence and discrimination."

Indigenous women are especially likely to be targets for various forms of violence, including intimate partner violence, custodial violence by police, and murder, often at a much higher rate than non-indigenous women.³ Because data on violence against indigenous women and girls is scant, international experts have called on countries to strengthen both their legal frameworks on the rights of women and their policies addressing violence against indigenous women and girls.⁴ These experts also encourage "greater coordination among UN agencies, including with states and indigenous peoples, on the issue of violence against indigenous women and girls and the implementation of inter-agency programmes on these issues."⁵

Take Action! Please support the safety and human rights of indigenous women and children everywhere and at the World Conference. Circulate these recommendations widely.

¹ United Nations Division for the Advancement of Women, *Background Paper for the Expert Group Meeting on Good Practices in Legislation on Violence Against Women*, U.N. Doc. EGM/GPLVAW/2008/BP.01 (May 2008), 3.

² United Nations General Assembly, Report of the Secretary General, *In-depth Study on All Forms of Violence Against Women*, U.N. Doc. A/61/122/Add.1 (2006), 12-17. See also UN Special Rapporteur on violence against women, its cause and consequences, Report on the Due Diligence Standard, E/CN.4/2006/61 (Jan. 2006).

³ United Nations General Assembly, Report of the Secretary General, *In-depth Study on All Forms of Violence Against Women*, U.N. Doc. A/61/122/Add.1 (2006), ¶¶ 33, 148. For example, in the United States, American Indian and Alaska Native women are 2.5 times as likely to experience violent crimes and at least 2 times more likely to experience rape or sexual assault crimes, compared to all other races. See Greenfeld, L. A., & Smith, S. K., *American Indians and crime* [NCJ 173386], Washington, DC: US Department of Justice, Bureau of Justice Statistics (1999); Perry, S. W. *American Indians and crime: A BJS Statistical Profile, 1992-2002* [NCJ 203097] Washington, DC: US Department of Justice, Bureau of Justice Statistics (2004); Tjaden, P., & Thoennes, N., *Full report of the prevalence, incidence, and consequences of violence against women: Findings from the National Violence Against Women Survey* [NCJ 183781], Washington, DC: US Department of Justice, National Institute of Justice & the US Department of Health and Human Service, Centers for Disease Control and Prevention (2000).

⁴ United Nations Economic and Social Council, Permanent Forum on Indigenous Issues, *Combating Violence against Indigenous Women and Girls: Article 22 of the United Nations Declaration on the Rights of Indigenous Peoples*, E/C.19/2012/6 (Feb. 2012), 13.

⁵ United Nations Economic and Social Council, Permanent Forum on Indigenous Issues, *Combating Violence against Indigenous Women and Girls: Article 22 of the United Nations Declaration on the Rights of Indigenous Peoples*, E/C.19/2012/6 (Feb. 2012), 15; see also United Nations Economic and Social Council, Permanent Forum on Indigenous Issues, *Study on the extent of violence against indigenous women and girls in terms of article 22(2) of the United Nations Declaration on the Rights of Indigenous Peoples*, E/C.19/2013/9 (Feb. 12, 2013).