

UN Expert Mechanism on the Rights of Indigenous Peoples (EMRIP)
11-15 July 2016
Intervention on Agenda Item 5, Read by Rochelle Diver

Thank you Mr. Chair

I speak on behalf of the International Indian Treaty Council, an organization that represents Indigenous Peoples in four UN regions. IITC takes this opportunity to welcome the draft Study on the Right to Health.

We greatly appreciate that the draft Study recognizes environmental health as an essential aspect of the right to health of Indigenous Peoples, in particular children's, maternal and reproductive health. In this regard, we call your attention to the decision of the Committee on the Rights of the Child to devote its 2016 Discussion Day to the issue of children's rights and the environment, taking place during the 73rd session of the Committee on 23 September 2016.

For the past several years, the International Indian Treaty Council has raised awareness about the concept and terms environmental health and environmental violence, particularly in regard to environmental toxics and their impacts on Indigenous women and children. Rights to health and culture are closely linked to the rights to food, subsistence and a healthy environment.

For example, it is well documented that environmental toxins have a serious impact on traditional foods, creating a false and forced choice for Indigenous Peoples, in particular, pregnant and nursing mothers. They are often forced to choose between the cultural and nutritional value of their traditional foods and subsistence way of life, and the health and development of their unborn children, as well as their ability to have children at all. The severe and ongoing harm caused by environmental toxics to Indigenous women, girls and unborn generations include severe and undeniable impacts such as developmental disabilities, reproductive impairment, untold physical and mental health impacts including emotional pain and suffering, and even death.

Advice No. 9 includes reference to "adequate food" as a health determinant under paragraph 8. We recommend that the Expert Mechanism change this reference to "food security" which is already described in the draft Study under the section 7(B) regarding "Environmental Health, Climate Change and Displacement".

Another example of the link between environment and health is artisanal small-scale gold mining, the largest global source of mercury that has disproportionately affected Indigenous Peoples. Women, children, and vulnerable populations are particularly impacted by the creation and legacy of mercury contaminated sites which in many cases are located on or near traditional Indigenous lands and territories.

We are very encouraged that under Advice No. 9 paragraph 10, the Expert Mechanism calls on states to take legislative and practical steps to protect indigenous peoples from environmental damage. We note that the Committee on the Elimination of Racial Discrimination has repeatedly

called upon states like Canada and the United States to regulate the activities of corporations registered in those countries whose activities are infringing the rights of Indigenous Peoples in other parts of the world.

While important, community-controlled health care will **not** be an effective protective measure **on its own** against the proliferation of hazardous toxics and wastes around Indigenous homes, schools, sacred areas, and traditional territories. Furthermore, in the experience of our affiliates including Maskwacis Cree, community-controlled health authorities may not be funded equitably to mainstream health authorities.

Paragraph 9 of Advice No. 9 does call on states to repeal laws or policies that permit or sanction violence against indigenous peoples. We recommend that this be extended to include environmental violence. We also recommend that laws or policies that permit or sanction violations of treaty rights and the right to health of Indigenous peoples be reviewed and repealed. Building on this paragraph of the draft Study, we recommend that the Expert Mechanism expand the application of this advice to states parties, international agencies and international organizations to monitor and review international laws that jeopardize the health of Indigenous Peoples, such as the UN Chemicals Conventions.

Mr. Chair, the International Indian Treaty Council applauds the inclusion in the draft Study of treaty rights **as aspects of international law** and as mechanisms of rights to health and self-determination. We were happy to note the example of Treaty No. 6 in paragraph 19 of the draft Study, and recommend that in addition to referencing the "medicine chest clause", that the Expert Mechanism also include a reference to the "famine and pestilence clause" of the same treaty, as it would more accurately define the broad spectrum of health rights provided for pursuant to Treaty No. 6.

We noted that Advice No. 9 calls on states to implement relevant treaty commitments where they exist, and to provide redress and remedy for treaty rights violations. We urge the Expert Mechanism to consider strengthening advice to states to take a rights-based approach to health care service and delivery that includes treaty rights. It isn't just about "implementation" or "infringements" – it is also about understanding all facets health care frameworks and service delivery impacting Indigenous peoples through the lens of treaty.

Finally Mr. Chair, while we support the call for Indigenous language interpretation services in the delivery of health care under Advice No. 9, we urge the Expert Mechanism to also cite the important role Indigenous languages play in the healing process, not just as obstacles to achieving better health outcomes.

In my language, Chi-Miigwech.