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Expert Mechanism on the Rights of Indigenous Peoples

Eleventh session

9-13 July 2018

Item 7: *United Nations Declaration on the Rights of Indigenous Peoples: good practices and lessons learned*

Joint Statement of: Amnesty International Canada; Assembly of First Nations; Assembly of First Nations of Quebec and Labrador; BC Assembly of First Nations; Canadian Friends Service Committee (Quakers); First Nations Summit; Grand Council of the Crees (Eeyou Istchee) / Cree Nation Government; Indigenous World Association; KAIROS: Canadian Ecumenical Justice Initiatives; Grand Chief Wilton Littlechild, International Chief for Treaties 6, 7 and 8; Mariam Wallet Aboubakrine, Indigenous Independent Expert; Professor Brenda Gunn, University of Manitoba

Speaker: Grand Chief Wilton Littlechild

Proposed EMRIP Recommendations to Human Rights Council:

1. THAT States formalize their commitment to the *UN Declaration* through adoption of legislative frameworks for implementation. This should include processes where Indigenous peoples are full participants in the creation of national action plans and the review and reform of national laws, policies and regulations.
2. THAT States establish, in collaboration with Indigenous peoples, training programs for civil servants and the judiciary to improve understanding of the *Declaration* and its application.
3. THAT States create mechanisms for responding to recommendations made by UN Treaty bodies, Special rapporteurs and other human rights mechanisms and to ensure the full and effective participation of Indigenous peoples in such mechanisms.

We are pleased to share that since the last session of EMRIP, Canada has committed to adopting a legislative framework for implementation of the *UN Declaration*. A private members bill that will achieve this, Bill C-262, is before the federal Parliament.

Measures required include a collaborative review of existing laws to ensure consistency with the *Declaration* and joint development of a national action plan for implementation. The Bill also requires regular reporting to Parliament so that there can be greater transparency and accountability.

The government has other legislation that also references the *Declaration* currently in process.

Bill C-262 recognizes that the *UN Declaration* already has legal effect. Indigenous peoples are using the *Declaration* before courts, human rights tribunals and quasi-judicial bodies such as environmental impact assessment panels.

The results have been mixed. In some instances, courts have embraced the *Declaration* as a relevant source of interpretation. In other instances courts have demonstrated a misunderstanding of the *Declaration* and international law generally. In too many instances, government lawyers have opposed use of the *Declaration*.

Canada's Truth and Reconciliation Commission called for training on the *Declaration* for lawyers and public servants and greater transparency concerning the litigation strategies. In fact, the government of Alberta recently announced that they will provide mandatory training for all of their employees (27,000 people).

Our Coalition welcomes the fact that UN Treaty bodies are increasingly engaging with the *Declaration*. Treaty bodies have long been concerned with the violations of the human rights of Indigenous peoples. In the Concluding Observations of its 2017 review of Canada, the UN Committee on the Elimination of Racial Discrimination made 47 recommendations that addressed violations of the rights of Indigenous peoples.

Unfortunately, Canada, like many other States, does not have systems to adequately follow-up on the recommendations of Treaty bodies, Special rapporteurs and other human rights mechanisms. States need effective means to review and act on the recommendations.

Our Coalition continues to develop educational resources to assist various sectors of society to better understand the *Declaration*. We are submitting some of these to the Secretariat as examples. Last fall we held a Symposium to mark the 10th anniversary of the adoption of the *Declaration*. Raising awareness continues to be a key need for advancing the *Declaration*. Another example is the international research project supported by Canada that seeks to inform the studies of this Expert Mechanism. We believe that implementation is a long-term commitment and we encourage States to cooperate with Indigenous peoples to realize this.