

Global Indigenous Peoples Caucus Statement

May 12, 2014

Thank you and congratulations Madame Chair and Permanent Forum members for providing this time for the Global Indigenous Peoples Caucus to present its statement of the items on the organization of work for the Thirteenth Session of the United Nations Permanent Forum on Indigenous Issues.

Over this past weekend, May 10th and 11th, 2014, The Global Indigenous Peoples Caucus adopted its own organization of work mirroring the work to be conducted here at the Thirteenth Session. On both days, during the Caucus, Indigenous Peoples from throughout the world presented issues and concerns after which a Global Indigenous Peoples Caucus Statement was drafted. The GIPC would like to note the Arctic Region withdrew from the GIPC, however the scope of withdrawal is not known in addition to whether the withdrawal is intended to be temporary or permanent. With all due respect, the Global Indigenous Peoples Caucus Statement on the "Principles of good governance consistent with the United Nations Declaration on the Rights of Indigenous Peoples: articles 3 to 6 and 46" is as follows:

Agenda Item 3

Discussion on the special theme for the year:

"Principles of good governance consistent with the United Nations Declaration on the Rights of Indigenous Peoples: articles 3 to 6 and 46"

Regarding UNDRIP Article 46:

Article 46, which introduces the concept of territorial integrity, is also part of the special theme for this year. This article must be interpreted in relation to the preceding articles, the Preamble as well as the peremptory norm of non-discrimination, affirms the right to self-determination. Article 46.1 affirms that UNDRIP must be interpreted within the framework of the U.N. Charter. Article 46.2 specifies that the exercising of rights set forth in UNDRIP, including the rights associated with lands, territories and resources that are specified throughout the document, can only be limited by "such limitations as are determined by law and in accordance with international human rights obligations." These limitations must be applied in a non-discriminatory way. Article 46.3 strengthens these limitations by asserting that UNDRIP "shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith (Article 46.3)."

As Indigenous Peoples, we have our own principles of territorial integrity. This is part of our right to self-determination and our right to maintain our nationalities as defined in Articles 3 to 6. Our right to maintain relationships across international borders is fully affirmed in Article 36. Indigenous Peoples have our own borders all across the globe. We have been dealing with border crossing

issues for millennia, and we would be pleased to help States which are newly dealing with border issues.

The US Constitution states that treaties are the 'supreme law of the lands.' Treaties, agreements, and constructive arrangements is the way in which we establish who we are as sovereign people. This is an essential part of our own right to self-determination. According to the Alta Outcome Document, "failure to honor treaties, agreements and other constructive agreements... are producing a range of detrimental impacts of which climate change could prove to be the most destructive." Treaties were the underlying reason we went to Geneva in the first place, this was the reason we first came to the United Nations as Indigenous Peoples.

Recommendations:

1. Article 46 must be always be interpreted within the framework of the entirety of UNDRIP as well as the peremptory norm of non-discrimination.
2. The territorial integrity of Indigenous Peoples must be respected through upholding the various treaties, agreements, and other constructive arrangements made between Indigenous Peoples and Nations and states in order for Indigenous Peoples and Nations to fulfill our right to self-determination.

The US, and other states who have suggested that UNDRIP presents a new form of the right to self-determination, cannot craft a lesser degree of self-determination for Indigenous Peoples than for other peoples without violating the Charter of the United Nations which states in Article, Number 2, "To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace." The claim that the right to self-determination of Indigenous Peoples is different than the right to self-determination for all other peoples is discriminatory on its face.

Recommendation: We recommend that the claim by some states that the right to self-determination under UNDRIP Article 3 is a new form of self-determination be strongly rejected as untrue, discriminatory on its face and inconsistent with the UN Charter and established international law. Indigenous Peoples are equal to all other peoples.

The Global Indigenous Peoples' Caucus expresses its concern over the "Study on an optional protocol to the United Nations Declaration on the Rights of Indigenous Peoples, focusing on a potential voluntary mechanism to serve as a complaints body at the international level, in particular for claims and breaches of Indigenous Peoples' rights to lands, territories and resources at the domestic level" (E/C.19/2014/7)

Paragraph 30 of the study concedes that the Declaration on the Rights of Indigenous Peoples has a “non-treaty status.” The Declaration is by definition also not a Convention. The study cites no historical precedent for the approval or the application of an optional protocol for a Declaration, such as the UNDRIP. Consequently, the potential negative implications for Indigenous Peoples around the world are too great for us to endorse the continued consideration of an optional protocol at this time.

Of additional concern for Indigenous Peoples is that optional protocols are voluntary mechanisms, which exist only for Conventions under the UN system. An optional protocol for the UNDRIP, without any historical guidelines or precedents, allows for the creation of an ad hoc and unaccountable set of procedures that would allow states to move disputes regarding lands, territories and resources from international processes to domestic judicial and political forums.

Additional research and explanation of the rational and potential benefit of an optional protocol for Indigenous Peoples globally must be pursued and reported. Proponents of an optional protocol should focus their attention on laying the foundation for moving the UNDRIP to Convention status, where an optional protocol has self-evident justification and precedent for its application. The Global Indigenous Peoples' Caucus finds no justification for the advancement of the discussion of an optional protocol at this time, and recommends the removal of this topic from the agenda for the 14th Session of the UN Permanent forum on Indigenous Issues.

Before Indigenous Peoples are ready to engage in redress, states must admit culpability. We want to put forward that parties must first admit their culpability before we begin discussions on Restitution, Redress and Reconciliation.

Recognizing the recommendation in paragraph 37 of Chief Ed John's “A study on the impacts of the Doctrine of Discovery on indigenous peoples, including mechanisms, processes and instruments of redress, with reference to the Declaration, and particularly to articles 26-28, 32 and 40” (E/C.19/2014/3) The GIPC recommends that the United Nations and states wholly repudiate colonial doctrines.

In addition, good governance is the right and ability to enforce and exercise all rights such as those of health, education, food, housing and the many other basic human rights. Internationally, climate change and global warming has intensified through the introduction of pesticides and extractive industries among other industries affecting the environment. States are not ensuring or guaranteeing protection of our rights against these environmental harms and is completely contradictory to good governance.

Ensure the Article 1 of the International Covenant on economic, social and

cultural rights, which establishes: "all peoples have the right of self-determination. By virtue of this right they freely establish their political status and also provide for their economic, social and cultural development.

Good governance is to determine our judicial system as indigenous peoples and have our own mechanisms to defend ourselves legally. It is to take control over our territories, which implies States must respect the treaties and international instruments which are signatory, with an emphasis on free, prior and informed consent on Article 46 of the UNDRIP it should be checked, and ensure the rights set out in articles 4, 5 and 6 of the UNDRIP.

Agenda Item No. 3

Report of the international expert group meeting:

Sexual health and reproductive rights: articles 21,

22 (1), 23 and 24 of the United Nations Declaration on the Rights of Indigenous Peoples

On the item of the Expert Group meeting on the "Sexual Health and Reproductive Rights" it is recommended GIPC States ensure education for sexual and reproductive knowledge to the indigenous youth, addressing the problems of maternal and infant mortality, educate on the subject of sexually transmitted diseases with the participation of the youth and urging States to put an end to practices affecting the health of women, such as genital mutilation and guaranteeing Indigenous woman's right to decide.

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-Achieve intergenerational development, consistent with the UNDRIP.

-To follow up on the Agenda POST 2015, mainly on the subject of health.

We request of eh PF makw an urgent call to the states to stop in our territories the transnational cos nuclear plans, hydro electrical companies, mines and transgenic seeds and agro chemiclas and pesticides mentioned in articles 26 and 27of the Declaration becuase it depletes and deteriorates the envirnment and creates poverty amongst Indigenous Peoples.

We recommend to the Permanent Forum Indigenous Peoples are proctedat borders in regards to:

- 1) providing language interpretation when detained;
- 2) protection against orgainzed crime;
- 3) protection against sexual abuse in all forms;
- 4) Free access to cross borders.

Agenda Item 4: Human Rights Implementation of the UN Declaration on the Rights of Indigenous Peoples

It is recommended by the Global Indigenous Peoples Caucus:

The Permanent Forum make all efforts to ensure the security all Indigenous Peoples, including those in Crimea affected by intensifying conflict.

The production of Nuclear energy affects the lives of the Indigenous Peoples. Nuclear waste harmfully affects Indigenous Peoples. Any permitting for nuclear disposal, storage, processing, licenses for renewal must respect the principle of free, prior and informed consent, respecting article 32 of Declaration.

Mechanism to give reports by State and regions on what they have done in favour of the human rights of Indigenous

Urge States to ensure the free passage of borders placing an emphasis on the right of Indigenous Peoples to be consulted and informed about decisions made in their respective territories.

Agenda Item 5: Half Day Discussion on Asia

UN Agencies must implement ILO No. 169 and the Declaration. UN Agencies need to investigate the situation in Taiwan and other Asian countries. This is a common problem with Indigenous Peoples because of the close connection to the land.

Agenda Item 6: Half Day Discussion on the High Level Plenary to be known as the World Conference on Indigenous Issues

In the Global Indigenous Peoples' Caucus, the following conclusions and recommendations were advanced regarding the High Level Plenary Meeting, to which no objection was lodged.

The High Level Plenary Meeting of the UN General Assembly to be called a World Conference on Indigenous Peoples does not respect the right of self-determination of Indigenous Peoples, our right to full, effective, and equal participation, and our right to participate in decision-making in matters that affect us. Therefore, the Global Indigenous Peoples Caucus calls for the cancellation of the High Level Plenary meeting to be called a World Conference on Indigenous Peoples, and urges Indigenous Peoples, and the United Nations to work toward a real world conference on Indigenous Peoples.

The GIPC requests the UNPFII to transmit this decision to ECOSOC and other UN agencies.

Agenda Item 8: Comprehensive dialogue with United Nations agencies and funds

Regarding the North-South issue of access to UN agencies:

When inter-agency support group makes their report, we need to bring the fore

the issue of North vs. South in terms of access to UN agencies. UN agencies can only support the work for Indigenous Peoples in the south. However the statistics and social indicators facing Indigenous Peoples are similar in states in both the north and south. According to the "State of the World's Indigenous Peoples" (2009) published by the Department of Economic and Social Affairs Division for Social Policy and Development Secretariat of the Permanent Forum on Indigenous Issues, available online.

We recommend UN agencies review this policy to allow Indigenous Peoples in all countries, developed and developing, access to support from UN agencies and funds.

Agenda Item 9: Future work of the Permanent Forum, including emerging issues
Permanent Observer Status:

We wish to raise Permanent Observer Status for Indigenous Nations within the UNPFII. Recognizing the "Decisions and Recommendations of the North American Indigenous Peoples' Caucus to the 13th Session of the United Nations Permanent Forum on Indigenous Issues and to other bodies and fora, as appropriate" as decided at the NAIPC meeting in Secwepemc Territory, Kamloops, BC, Canada from February 28 - March 2, which further affirms the need for Permanent Observer Status for Indigenous Nations.

We would respectfully request that the UNPFII consider for its future work the following recommendation:

We would bring to your attention the permanent observer status of entities which have received a standing invitation to participate as permanent observers in the sessions and the work of the General Assembly and while maintaining permanent observers at UN Headquarters, as examples we suggest you look towards the Permanent Observer Mission of the Holy See and the Permanent Observer Mission of Palestine. Indigenous Peoples and Nations cannot lock ourselves into a minor position; our position has always been that we are equal to all peoples and nations.

Due to the global problems of water, it is recommended the theme for the United Nations 15th session of the Permanent Forum on Indigenous Issues to be held in 2016 be "The protection of the waters"

That the Global Indigenous Peoples' Caucus recommends that the UNPFII work in coordination with UNEP and UN Water to call for an Expert Group meeting on Water that specifically initiates a close review and assessment of states' water allocation, contamination, use, regulation, and access policies that affect the rights of Indigenous Peoples and Nations, the health of our communities and ecosystems, and that of our future generations.

Recommendation that daily reports from the Permanent Forum be made available, via email, to the Indigenous delegates attending the UNPFII. In addition, we would ask that the draft final report that is issued on the last day of the Permanent Forum, be made available to the Indigenous delegates, before the Permanent Forum goes into session.