

Expert Mechanism on the Rights of Indigenous Peoples

Twelfth Session

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Item 8: United Declaration on the Rights of Indigenous Peoples, including Study on Recognition, Reparation and Reconciliation

Statement by Wilton Littlechild on behalf of the National Centre for Truth and Reconciliation

Good afternoon, Madame Chair and all delegations,

I welcome this opportunity to make submissions in relation to three important developments under this agenda item focusing on recognition, reparation and reconciliation.

The first comment I want to make is in relation to the Report of the Expert Mechanism on the efforts to implement the *UN Declaration on the Rights of Indigenous Peoples*. I want to express my gratitude and full support for this report, in particular, the section on reparation and reconciliation. Based on my experience as a former Commissioner of the Truth and Reconciliation Commission of Canada (TRC of Canada), I fully endorse the principles set out at paragraph 45, and would recommend their adoption for global implementation.

Specific to the Conclusions and Recommendations of the report, I have a recommendation related to paragraphs 71, 73 and 82, that is, to change the word “should” to “must” in both cases. The rationale for this is, first of all, for consistency. Also, given the experience of the outcomes of the TRC of Canada, I know that it is necessary to ensure there is a positive obligation for follow-up.

On paragraph 83, I would respectfully suggest including persons with disabilities, consistent with article 21 of the *UN Declaration on the Rights of Indigenous Peoples*.

Related to paragraph 86, I would recommend one way regional courts can play a key role in granting reparations is to familiarize all judges with the *UN Declaration* through a handbook for judges as we did for Parliamentarians.

My second comment relates to paragraph 84. I would like to highlight an important development in Canada on four Calls to Action (numbers 53, 54, 55 and 56) for the establishment of a National Council for Reconciliation. Equally important to the establishment of a Truth and Reconciliation Commission is the establishment of a mechanism for follow-up to ensure a long-lasting commitment to truth, reconciliation and healing. I would like to submit to the Expert Mechanism a presentation that highlights this issue, where we reviewed more than 30 Truth and Reconciliation Commissions established since 1973 globally.

Our Final Report begins with the importance of hope, and concludes with this same message of hope. Hope is the basic building block upon which reconciliation must lay its foundation. Hope gives us the belief that all actions matter. Our report sets out an approach for engagement, proposes a model and mandate for the National Council for Reconciliation, and recommends an independent, legislated oversight mechanism. It also proposes a funding model and importantly, direct annual reporting to Parliament that requires a response by the Prime Minister to each annual report by issuing an annual “State of Indigenous Peoples” report. This report will outline the Government of Canada’s plans for advancing the cause of reconciliation.

My third comment is that while there has been tremendous advancement of reconciliation in many sectors of Canadian society, there is a very challenging issue to which we would like to draw your attention. The National Centre for Truth and Reconciliation is currently advocating for the important issue of preservation of the records of residential schools in Canada. I have a full submission on this serious matter that I will submit to the Expert Mechanism.

The core concern is to honour the voices of residential school survivors in Canada through the preservation of records received during the Independent Assessment Process and the Truth and Reconciliation Commission. A Supreme Court of Canada case has been issued to destroy these records by 2027. While many parties shared concerns about confidentiality, another core concern expressed was whether there was a duty of the state to preserve records of mass human rights violations and whether there were rights of future generations to know.

The international community has an important role to play to signal to Canada that it has a duty and responsibility to preserve these records of human rights violations. These are internationally significant records, and a neutral, third-party international examination of this situation must occur. Destruction is permanent and cannot be undone.

I recommend that the Expert Mechanism should consider direct follow-up with the Government of Canada to urge the preservation of these records. It is also recommended that the Expert Mechanism work with the Special Rapporteur on the Rights of Indigenous Peoples to issue a communications to Canada on this issue. I also welcome a review and follow-up of this issue by the Permanent Forum on Indigenous Issues.

Finally, I would like to inform all delegations of a very positive outcome of the TRC of Canada on the theme of recognition, reparation and reconciliation. Last week, a report was issued that three-quarters of the youth surveyed believe that they will see reconciliation occur in their lifetime.

Hai Hai. Thank you.