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Study on access to justice in the promotion and protection of the rights of indigenous peoples

Thank you Mr. Chair

I recognize Fellow Experts, Distinguished Representatives of States, Indigenous Elders and Leaders, other Indigenous Peoples' Representatives, Representatives of United Nations Treaty Bodies and Mandate Holders, Representatives of Civil Society Organizations and friends.

Mr. Chair

I join with this august body in extending my sincere thanks to the authors of the United Nations Expert Mechanism on the Rights of Indigenous Peoples' Document A/HRC/EMRIP/2013/3 entitled: Study on the access to justice in the promotion of the rights of Indigenous Peoples.

In view of the nature, magnitude and universal importance of the subject matter under consideration, and having listened to the inspiring contributions of Indigenous Peoples' Representatives and States' Representatives, permit me to draw on history, recognizing the contributions of the United Nations Special Rapporteur on the Rights of Indigenous Peoples, the United Nations Permanent Forum on Indigenous Peoples, Treaty Bodies, States and the invaluable contributions of Indigenous Peoples.

Mr. Chair

In 1999, the United Nations initiated a programme of activities that culminated in the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance (UN WCAR) in 2001. Several Preparatory Regional Meetings and Inter-sessional Meetings were held. The WCAR held in Durban, South Africa was staged in two parts: The Non Governmental Organizations Forum from August 28th to 01st September 2001 and the Meeting of States from August 31st to 08 September 2001. Indigenous Peoples' Representatives featured prominently at both the NGO Forum and the Meeting of States.

In late 2002, the United Nations General Assembly adopted the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance Declaration and Programme of Action as a follow-up to the said UN WCAR.

For my intervention, comments are being made on the relevant sections of the UN WCAR Report pertaining to Indigenous Peoples pursuant to Preamble Paragraph 6 of the United Nations Declaration on the Rights of Indigenous People; which states that:

“Indigenous Peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests.”

The UN WCAR emphasized the importance and necessity of teaching about the facts and truth of the history, causes, nature and consequences of racism and racial discrimination with a view to achieving a comprehensive and objective cognizance of the tragedies of the past. The UN WCAR also acknowledged and profoundly regretted the massive human suffering and the tragic plight of the Indigenous Peoples of the Americas, and other parts of the world; caused by evils, slavery, colonialism and genocide (a crime against humanity with grave consequences); and called upon States, in particular the former colonial powers to honour the memory of the victims of Indigenous Peoples of past tragedies.

With a view to closing those dark chapters in history and as a means of reconciliation and healing, States were invited to honour the memory of the victims of these tragedies and to contribute to restoring their dignity. One of the measures recommended was the establishment of a mechanism for Indigenous Peoples to seek just and adequate reparation of satisfaction for any damage suffered as a result of such discrimination.

The UN WCAR recommended that States examine; in conformity with relevant international human right instruments, norms and standards; their Constitutions, laws, legal systems and policies in order to identify and eradicate racism, racial discrimination towards Indigenous Peoples; whether implicit, explicit or inherent; and to consult Indigenous Peoples Competent Authorities in the process of decision-making concerning policies and measures that directly affect Indigenous Peoples.

The UN WCAR recognizing that these historical injustices have undeniably contributed to the poverty, underdevelopment, marginalization, social exclusion, economic disparities, instability and insecurity that affect Indigenous Peoples; recommended the development of programmes for the social and economic development of Indigenous Peoples, “within the framework of a new partnership based on the spirit of solidarity and mutual respect” in the areas of, but not limited to; self-determination, poverty eradication, intensifying efforts to meet the internationally agreed targets for official development assistance transfers, agriculture and food security, transfer of technology, investment in health infrastructure, human resource development, capacity-building, and restitution of art objects, historical artefacts and documents to their country of origin.


Pursuant to Article 20:2 of the United Nations Declaration on the Rights of Indigenous Peoples, Indigenous Peoples “deprived of their means of subsistence and development as a result past activities of occupying powers and their agents, “are entitled to just and fair redress”.

In addition to the above; the UN WCAR recognizing, that treaties, agreements and other constructive arrangements, and the relationship they represent, are the basis for a strengthened partnership between Indigenous Peoples and the States concerned; invited the States concerned to allocate finances to financial and development institutions and the operational programmes and specialized agencies of the United Nations, in accordance with their regular budgets and the procedures of their governing bodies to assign particular priority to and allocate sufficient funding to the improvement

of the status of Indigenous Peoples; and to carry out special projects, through appropriate channels and in collaboration with Indigenous Peoples.

In this regard, I submit that the concerns and recommendations made on this, Item 5 of the Sixth session of the United Nations Expert Mechanism on the Rights of Indigenous Peoples be submitted to the United Nations Human Rights Council, for review and adoption.

My sincere appreciation to my Indigenous Peoples' Representatives, Member States, fellow Experts and friends.

Signed: 
Albert DeTERVILLE