

**Expert Mechanism on the Rights of Indigenous Peoples (EMRIP)**

**Item 5: Study on Access to Justice**

**Statement by the Delegation of the United States of America**

**Tuesday, July 9, 2013**

We thank EMRIP for its study on access to justice in the promotion and protection of the rights of indigenous peoples. We would like to comment on several of its recommendations and explain what the United States is doing along similar lines.

The study recommends that states and indigenous peoples collaborate on helping indigenous women seek justice for crimes committed against them. The United States sees this as a high-priority issue and worked to ensure that the March 2013 reauthorization of the Violence Against Women Act (VAWA) helps address this problem. VAWA expands the protections and services available to survivors of violence, including those who experience intimate partner violence and rape, crimes which remain underreported. The Act addresses domestic violence, dating violence, sexual assault, and stalking. It provides for safe shelters and housing assistance, legal services for victims, training for law enforcement officials, skilled prosecutors and victim advocates, and improved tools to investigate rape cases. Indigenous women in the United States face disproportionately high rates of domestic violence, and VAWA contains an important provision enabling indigenous tribes to prosecute non-Native perpetrators of dating and domestic violence against indigenous women for acts that occur on tribal lands.

The EMRIP study suggests that law enforcement and judicial officials receive training on indigenous peoples' rights, and various U.S. government

agencies have initiated efforts in this regard. The Department of Justice launched the National Indian Country Training Initiative to make sure that federal prosecutors, as well as state and tribal criminal justice personnel, receive the necessary training to address crime on U.S. tribal lands. With respect to training of particular relevance to indigenous women, the Department of the Interior's Bureau of Indian Affairs (BIA) conducts training for law enforcement officials responding to domestic violence calls that focuses on diffusing potentially lethal situations surrounding domestic violence. In addition, BIA's Tribal Courts division, with the support of the Department of Justice's Access to Justice Initiative (ATJ), provides hands-on technical assistance to tribal court judges, prosecutors, and public defenders on domestic violence cases.

The United States has made major progress on recognition of indigenous peoples' rights to their lands, territories, and resources, including through resolving legal claims – another issue underlined in the EMRIP study. In April 2012, the Administration announced that lawsuits filed by 41 federally recognized tribes against the United States had been settled. The tribes had alleged that the United States mismanaged monetary assets and natural resources that it held in trust for the tribes' benefit. Subsequently, the Administration reached settlements with 18 additional tribes. As of November 2012, the Administration has settled the trust accounting and trust mismanagement claims of 59 tribes for approximately \$1.25 billion dollars.

The study recommends that states consult and cooperate with indigenous peoples about the criminal justice system. In April 2013, the Department of Justice and BIA's Tribal Courts division co-hosted an expert group meeting on using traditional Native American justice interventions to respond to criminal and

delinquent behavior. The meeting advanced the Tribal Law and Order Act's mandate that U.S. government agencies should help tribes develop alternatives to incarceration. It also demonstrates the U.S. commitment to tribal sovereignty by recognizing and showcasing the importance of traditional responses to crime. Special Rapporteur James Anaya delivered remarks at the April meeting on how the Declaration on the Rights of Indigenous Peoples and international law support the traditions and customs of indigenous communities. A report summarizing the meeting's proceedings is being prepared by the Access to Justice Initiative.

In closing, we are pleased to be able to share with the Expert Mechanism the foregoing examples of what the United States is doing to improve the access of indigenous peoples and individuals in the United States to justice. Thank you for your attention.