

**INDIGENOUS WORLD ASSOCIATION and
LAGUNA ACOMA COALITION FOR A SAFE ENVIRONMENT**

Statement on Agenda Item No. 5: Study and Advice on
The Right to Health and Indigenous Peoples, with a focus on children and youth

Before the UN Expert Mechanism on the Rights of Indigenous Peoples
Ninth Session, Geneva, Switzerland, July 12, 2016

Greeting on behalf of the Indigenous World Association, and congratulations to the Chair and Vice Chair of this 9th Session of the EMRIP.

We congratulate EMRIP on the completion of the Draft Study on the Right to Health and Indigenous peoples, and understand its purpose is to “analyze the content of the right to health vis a vis indigenous peoples,” and to “review the legal obligations of States and other actors in fulfillment of this right.” To that end, we offer the following comments and suggestions for improvement.

First we commend EMRIP for highlighting the interrelated and collective nature of the right to health for indigenous peoples. For us, health is always connected to our rights of self-determination, culture, language, and lands and territories. We believe that this study will add to a growing body of literature that seeks to educate the world on the importance of integrating all the aspects of our lifeways when we talk about the right the health.

Advice No. 9 urges States to recognize and protect the right of indigenous peoples to their lands, territories and resources. We recommend that this language be expanded with a reference to rights contained in Articles 12 and 26, so that this advice incorporates indigenous peoples’ rights to access in privacy to [our] religious and cultural sites, and to “lands, territories and resources which [we] have traditionally owned, occupied or otherwise used.” Our rights of access are **not** limited to those areas currently demarcated as indigenous territory. Many indigenous peoples still struggle to get access to sacred places for collection of medicinal plants and observation of ceremonies; thus the realization of these rights are essential to traditional healing practices.

Second we are grateful that the study includes environmental health issues. We wish to add the consideration of 2 studies done in communities affected by uranium mining. A Navajo Birth Cohort Study was completed in cooperation with affected Navajo communities and discusses the underlying science about whether environmental exposures contribute to child

developmental delays, birth defects and other ailments.¹ For years, indigenous communities affected by uranium mining have tried to demonstrate the impacts of extractive activities on the health of our people.² In the Dakotas, an indigenous group known as the Defenders of the Black Hills presented in 2015 a study on impacts of over 3,000 abandoned uranium mines in Western South Dakota on surface and ground water before the US Nuclear Regulatory Commission.³ They demonstrated that uranium extraction in the area had polluted a major aquifer with radioactive contaminants.

These studies were completed by or in partnership with indigenous communities as best practices. We have provided citations for these studies in our written submission.

Third, we wish to highlight the responsibilities of **non-state actors**, as discussed in paragraphs 17 and 77 of the draft study. We are grateful to see an articulation of the relevance of the UN Guiding Principles on Business and Human Rights to the right to health for indigenous peoples. As a number of indigenous representatives have already stated, large multinational corporations are responsible for numerous violations of the rights of indigenous peoples, many of which clearly have affected their health and well-being. They do have a responsibility to protect human rights, and adherence to the guiding principles should continue to be seen as part of the solution to many of the challenges we continue to face in realizing our right to health.

Finally, we join other state and indigenous delegations which have raised the importance of the rights of indigenous peoples in voluntary isolation, as provided in paragraph 35 of the study. We thank the Vice Chair for highlighting this portion of the draft study. We also note that Article 26 of the recently adopted American Declaration on the Rights of Indigenous Peoples provides that "Indigenous peoples in voluntary isolation or initial contact have the right to remain in that condition and to live freely and in accordance with their cultures." This regional instrument complements the UNDRIP, which does not contain similar language.

¹ Hunter, C. M., Lewis, J., Peter, D., Begay, M., & Ragin-Wilson, A. (2015). The Navajo birth cohort study. *Journal of Environmental Health*, 78(2), 42.

² Brugge, D., Cajero, M., Downs, M., Durant, J. L., George, C. M., Henio-Adeky, S., ... & Shuey, C. (2009). Development of risk maps to minimize uranium exposures in the Navajo Churchrock mining district. *Environmental Health*, 8(1), 1.

³ See Statement of Charmaine Whiteface before the Nuclear Regulatory Commission, Atomic Licensing and Safety Board, In the Matter of Crow Butte Resources, Inc., Docket No. 40-8943.