

# INDIAN LAW RESOURCE CENTER

CENTRO DE RECURSOS JURÍDICOS PARA LOS PUEBLOS INDÍGENAS

602 North Ewing Street • Helena, Montana 59601 • (406) 449-2006 • Email: mt@indianlaw.org  
WASHINGTON OFFICE: 601 E Street, S.E. • Washington, D.C. 20003 • (202) 547-2800 • Email: dcoffice@indianlaw.org

## **REGULARIZING INDIGENOUS PARTICIPATION IN THE UNITED NATIONS Proposed Recommendation for the World Conference on Indigenous Peoples**

May 2014

Indigenous peoples' governments deserve a regularized and permanent status in the United Nations that enables their full and effective participation in UN activities. Many indigenous peoples have their own governments, and all have the right of self-determination. Yet, the existing rules for indigenous peoples' participation in UN activities do not take into account the distinct character of indigenous peoples and governments. Many indigenous peoples and governments are prevented from participating in meetings of the UN that concern them, because they do not have consultative status as non-governmental organizations. Indeed, they are *not* non-governmental organizations, and frequently they do not qualify for non-governmental organization status.

The Expert Mechanism on the Rights of Indigenous Peoples has recognized that current UN processes “can prevent indigenous peoples’ governance bodies and institutions, including traditional indigenous Governments, indigenous parliaments, assemblies and councils, from participating in decision-making processes at the United Nations, as they are not always organized as non-governmental organizations.”<sup>1</sup> Indeed, indigenous peoples and their governments are often relegated to participating, if at all, through non-governmental organizations, civil society actors, or as parts of State delegations – precisely what indigenous peoples and governments are not.

The World Conference on Indigenous Peoples presents an historic opportunity to take action recognizing the value of indigenous peoples’ contributions to UN activities. There appears to be worldwide support amongst indigenous peoples for the position that action to enable their full and effective participation in UN activities is necessary. A large number of indigenous nations in North America has made the following recommendation:

*Recommends*, that the UN World Conference decide to create a distinct and appropriate status for Indigenous Peoples within the United Nations system in order to regularize and facilitate the participation of Indigenous Peoples in the work of the United Nations. Such a status within the UN system must give appropriate recognition to Indigenous Peoples represented by their own governments. The Permanent Forum on Indigenous Issues [or the Expert Mechanism on Rights of Indigenous

---

<sup>1</sup> The Expert Mechanism on the Rights of Indigenous Peoples, *Report of the Expert Mechanism on the Rights of Indigenous Peoples on its fourth session*, U.N. Doc. A/HRC/18/43 (Aug. 19, 2011).

Peoples], in consultation with States and Indigenous Peoples, should be given responsibility for elaborating a resolution on this matter for adoption by the General Assembly at the earliest possible time.

Similar recommendations have been made by, at least, the Alta Outcome Document, the Inuit and Sami Peoples in the Nuuk Arctic Declaration and by the Preparatory Meeting of America Latina y el Caribe.

The recommendation quoted above is consistent with the views and recommendations of various bodies of the UN, including the Expert Mechanism, the Human Rights Council, and the Third Committee of the General Assembly, and is consistent with a report of the Secretary-General. The Human Rights Council in 2009 requested the Expert Mechanism to produce a study on indigenous peoples and the right to participate in decision-making.<sup>2</sup> The Expert Mechanism recommended that the Council encourage the General Assembly to “adopt, as a matter of urgency, appropriate permanent measures to ensure that indigenous peoples’ governance bodies and institutions, including traditional indigenous Governments, indigenous parliaments, assemblies and councils, are able to participate at the United Nations as observers with, at a minimum, the same participatory rights as non-governmental organizations in consultative status with the Economic and Social Council.”<sup>3</sup>

At the Council’s request, the Secretary-General prepared a report on the issue, which recognized many functional advantages when indigenous peoples participate in UN processes, including the strengthening of cooperation between States and indigenous peoples.<sup>4</sup> In 2012, the report was submitted to the Third Committee of the General Assembly, which recommended the General Assembly consider the issue at its sixty-ninth session, in 2014, the time set for the World Conference on Indigenous Peoples.<sup>5</sup>

The purpose of the recommended new status is to make it possible for genuine, authentic indigenous governments and equivalent indigenous institutions to participate effectively as observers in UN meetings and processes on an on-going basis after proper accreditation. The process of accreditation must assure that indigenous government observers are in fact indigenous and are genuine, freely chosen representatives of the indigenous people or peoples they purport to represent. The process of accreditation should be adapted to the needs and characteristics of indigenous peoples in various parts of the world.

Among the various possible options for creating the new status, one possible approach would be for the General Assembly to create a committee or direct the Economic and Social Council to create a Committee on Indigenous Government Observers to be responsible for elaborating and publishing standards and procedures for

---

<sup>2</sup> H.R.C. Res. 12/13, U.N. Doc. A/HRC/RES/12/13 (Oct. 12, 2009).

<sup>3</sup> The Expert Mechanism on the Rights of Indigenous Peoples, *Report of the Expert Mechanism on the Rights of Indigenous Peoples on its fourth session*, U.N. Doc. A/HRC/18/43 (Aug. 19, 2011).

<sup>4</sup> The Secretary-General, *Report of the Secretary-General on Ways and means of promoting participation at the United Nations of indigenous peoples’ representatives on issues affecting them*, ¶ 13, U.N. Doc. A/HRC/21/24 (July 2, 2012).

<sup>5</sup> Third Committee, *Report of the Third Committee on the Rights of indigenous peoples*, ¶ 11, U.N. Doc. A/67/454 (Dec. 3, 2012).

accreditation. Mere self-identification should not be sufficient for accreditation. Rather, an applicant should provide documentary or other evidence of its identity as indigenous and of its status as an authentic government of the people or peoples concerned. No particular form or structure of government should be required, and all genuine, indigenous governing institutions should have an opportunity to apply and to demonstrate their qualification for accreditation. The Committee should consider evidence and views from all relevant sources. The Committee should be authorized to recommend to the General Assembly or, in the alternative, to ECOSOC, the accreditation of indigenous governments that meet the requirements. Indigenous peoples and governments should, of course, be consulted in the process of creating the standards and procedures for accreditation.

Accredited indigenous government observers should be permitted to attend meetings and participate in processes throughout the United Nations system. Indigenous government observers should be able to propose agenda items for meetings, submit written statements as official documents for meetings, and to make oral statements at meetings, all subject, of course, to reasonable rules for the conduct of meetings. Indigenous government observers, because they are governments, should have priority over NGOs for seating in meeting rooms and for making oral statements in meetings.

Naturally, these and other details concerning the new status for indigenous governments will need to be discussed and elaborated in consultation with indigenous peoples. The details suggested here are intended as proposals and are all open to discussion.

The issue of a new and appropriate status for indigenous governments has already been studied at length in the UN system, and the World Conference is an appropriate moment to enable indigenous peoples' full and effective participation in UN activities.

---