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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Indian Law Resource Centre, a non-governmental organization on the roster*

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[21 August 2013]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

The World Conference on Indigenous Peoples: Recommendations for Action

The UN World Conference on Indigenous Peoples is seen by many indigenous peoples as a crucial opportunity for action to implement the historic UN Declaration on the Rights of Indigenous Peoples. In preparation for the Conference, an unprecedented number of indigenous nations and peoples have come together in various parts of the world to prepare recommendations for action by the World Conference.

More than 72 Indian nations located in the United States, acting through their own indigenous governments, endorsed three recommendations (see below) for action by the Conference, and these recommendations were submitted through the UN Permanent Forum on Indigenous Issues in May. The indigenous governments making these recommendations speak for their citizens or members totaling more than 515,000 indigenous individuals. These Indian nations govern more than 19 million acres of territory, and own more than 16 million acres of land. The recommendations are supported by many Indian and Alaska Native organizations as well, including this organization.

Participation by large numbers of indigenous peoples exercising their right of self-determination and represented by their own governments is tremendously important for the success of United Nations work. Genuine indigenous governments and authentic, democratically chosen indigenous leaders are the indispensable and true voice of indigenous peoples. Non-governmental organizations must play a supporting role, subordinate to indigenous governments and leaders chosen by indigenous peoples exercising the right of self-determination.

Creative and effective action must be taken by the United Nations to press for implementation of the Declaration's principles, because violations of indigenous rights are actually increasing in many parts of the world. Violence on a horrific scale is being inflicted on indigenous communities, particularly on indigenous women, as recently reported by the Permanent Forum's *Study on the extent of violence against indigenous women and girls* and by the Continental Network of Indigenous Women of the Americas.

Because little has been done to implement the Declaration, it is having little effect in reducing human rights violations. Some states profess support for the Declaration, but in practice they ignore the Declaration's requirements. The increased incidence of actions violating indigenous rights is apparently due in part to growing pressures from climate change, increased demand for energy, and increased competition for natural resources in indigenous territories.

The Declaration has not yet reduced the attempts to destroy indigenous cultures and societies, or the taking of indigenous homelands and resources, or the economic marginalization of indigenous peoples. Without effective implementing measures and without international monitoring of indigenous peoples' rights, the purposes of the Declaration cannot be achieved.

Three recommendations proposed by the group of 72 indigenous nations

The first recommendation is that the United Nations establish a new body responsible for promoting state implementation of the Declaration on the Rights of Indigenous Peoples and monitoring states' actions with regard to indigenous peoples' rights. Such a monitoring and implementing body must have a mandate to receive relevant information, to share best practices, to make recommendations, and otherwise to work toward the objectives of the Declaration. Such an implementing and monitoring body would do more than anything else to achieve the purposes of the Declaration and promote compliance with the Declaration.

The General Assembly has explicitly decided to take action to realize or implement the rights in the Declaration [A/RES/66/296 (17 September 2012)], and it is urgent that a body be created within the United Nations to do this work.

Recommendations for an implementing and monitoring body have also been made by the Inuit and Sami Peoples in the Nuuk Arctic Declaration, by Indigenous Peoples in Asia, by the North American Indigenous Peoples Caucus, by the African Regional Preparatory Meeting, by the Preparatory Meeting of America Latina y el Caribe, by the Preparatory Meeting for Pacific Indigenous Peoples, and by the Global Indigenous Caucus. All of these recommendations and proposals deserve consideration.

Second, the group of indigenous governments recommends a three-pronged course of action to address the problem of violence against indigenous women:

- a. A decision to convene a high-level conference to examine challenges to the safety and well-being of indigenous women and children and to share perspectives and best practices.
- b. A decision to require that the UN body for monitoring and implementing the Declaration (recommended above) give particular attention, on at least an annual basis, “to the rights and special needs of indigenous . . . women, youth, children and elders . . . in the implementation of the Declaration”; and
- c. A decision to appoint a Special Rapporteur to focus exclusively on human rights issues of indigenous women and children, including but not limited to violence against them and on changing state laws that discriminate against them.

Violence against indigenous women and girls is a human rights crisis. Indigenous women are especially likely to be targets for various forms of violence, often at a much higher rate than non-indigenous women.¹ International experts have called on countries to strengthen both their legal frameworks on the rights of women and their policies addressing violence against indigenous women and girls.²

Finally, the Indian nations recommend that action be taken to give indigenous peoples, especially indigenous constitutional and customary governments, a dignified and appropriate status for participating regularly in UN activities. Indigenous peoples deserve to have a permanent status for participation in the UN that reflects their character as peoples and governments. Existing rules prevent many indigenous peoples and governments from participating in meetings of the UN that concern them, because they do not have consultative status as non-governmental organizations. It is time to take action so that indigenous peoples do not have to call themselves NGOs or depend upon *ad hoc* resolutions to be able to participate in UN meetings.

This recommendation is consistent with the recommendations of various bodies of the UN, including the Expert Mechanism on the rights of Indigenous Peoples, the Human Rights Council, and the Third Committee of the General Assembly, and 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.³ 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”.⁴

At the Council’s request, the Secretary-General prepared a report on the issue, which recognized many advantages when indigenous peoples participate in UN processes, including the strengthening of cooperation between States and indigenous peoples.⁵ In 2012, the report was submitted to the Third Committee, which recommended the General Assembly consider the issue at its sixty-ninth session, in 2014.

The full text of these recommendations, along with the indigenous governments and organizations that support them, is available on the web at www.indianlaw.org.

¹ United Nations General Assembly, Report of the Secretary General, *In-depth Study on All Forms of Violence Against Women*, U.N. Doc. A/61/122/Add.1 (2006), ¶¶ 33, 148.

² United Nations Economic and Social Council, Permanent Forum on Indigenous Issues, *Combating Violence against Indigenous Women and Girls: Article 22 of the United Nations Declaration on the Rights of Indigenous Peoples*, E/C.19/2012/6 (Feb. 2012), 13.

³ H.R.C. Res. 12/13, U.N. Doc. A/HRC/RES/12/13 (Oct. 12, 2009).

⁴ 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).

⁵ 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).

Naturally, all parties must be flexible about what actions should be taken by the UN, and we hope that agreement can be reached about the principle or idea of each of these recommendations. When the World Conference on Indigenous Peoples 2014 has decided to take action, then it will be necessary to create inclusive processes, with the full participation of indigenous peoples and indigenous governments, to elaborate these decisions and put them into effect.

We call upon all countries to make a commitment to implement the Declaration and to support these modest and workable recommendations for UN action.
