

# INDIAN LAW RESOURCE CENTER

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### UN EXPERT MECHANISM ON THE RIGHTS OF INDIGENOUS PEOPLES 10<sup>TH</sup> SESSION 10-14 JULY 2017

#### *Agenda Item 3: New mandate of the Expert Mechanism on the Rights of Indigenous Peoples: Activities and methods of work*

Statement by the Indian Law Resource Center, a non-governmental organization in consultative status with ECOSOC

It is urgent for this body to respond strongly to the violence and other human rights violations inflicted on indigenous peoples, particularly indigenous women. For years, indigenous peoples have demanded an implementing body for the Declaration with the authority to gather information and to disseminate reports about implementation and violations of indigenous rights. The mandate of the Expert Mechanism contains many elements that can and should be used to good effect. The Expert Mechanism must make full use of the tools the Human Rights Council has provided it, and indigenous peoples must make full use of this new mechanism.

- The mandate of the Expert Mechanism includes preparing an annual report on the status of the rights of indigenous peoples worldwide. But even more importantly it can report to the Council as often as desired and make public those reports. It can and should bring issues and situations before the Human Rights Council not only during its annual report but at other times as well.
- The mandate includes identifying, disseminating and promoting both good practices and lessons learned regarding the efforts to achieve the ends of the Declaration. Lessons learned can be almost any information about implementation and violations of indigenous rights.
- It also includes identifying needed domestic legislation and policies and providing technical advice on those matters, upon the request of indigenous peoples or states. This gives the Expert Mechanism the power to investigate and offer recommendations to eliminate harmful elements in domestic law—elements like those that leave indigenous women and girls less protected and without justice when they do suffer sexual assault or violence.

- The Expert Mechanism may “seek and receive information from all relevant sources as necessary to fulfil its mandate.” The power to ask directly for information from official sources can itself be a very important tool for good.

The Expert Mechanism now has the tools and authority to be proactive, to ask questions and obtain answers, to evaluate this information and share its findings as broadly as possible--with states and the UN, with national human rights institutions and NGOs, and with the public. The Mechanism can and should, like the special procedures, issue press releases to draw attention to urgent matters.

There are additional elements of the mandate that the Expert Mechanism, and indigenous peoples, must also make use of.

- The Expert Mechanism can, upon request, facilitate dialogue between indigenous peoples, governments, and the private sector. While all parties must agree to such a dialogue, indigenous peoples should consider when it may be helpful to ask the Expert Mechanism to open communication with states or other actors and to actively seek to establish acceptable frameworks for dialogue. This sort of constructive, national level engagement can result in positive solutions for all parties.
- The Expert Mechanism can assist states with implementation of recommendations made at the UPR, by treaty bodies, or by other relevant mechanisms. While state’s must request such assistance, the Expert Mechanism should take steps to publicize this element of its mandate and encourage states to make use of this function.
- The Expert Mechanism should also coordinate closely with other UN bodies and procedures, especially with the Special Rapporteur on the Rights of Indigenous Peoples. Both of these special procedures have distinct mandates and distinct competencies that are complementary and mutually strengthening. For example, with seven members, the Expert Mechanism has significant capacity to gather and analyze information and share it with the Special Rapporteur. The Special Rapporteur has the mandate to make and disseminate recommendations and proposals on appropriate measures and activities to prevent and remedy violations of the rights of indigenous peoples. Thoughtful coordination and information sharing between the Expert Mechanism and the Special Rapporteur will go very far towards achieving effective implementation and monitoring of the UN Declaration.
- Finally, the public meetings of this body, including the intersessional meetings, are important opportunities for indigenous peoples to report on violations of their rights and on the implementation or failure to implement and respect those rights.

The Expert Mechanism has a strong and far-reaching mandate. The grave situations of indigenous peoples demand that this body to take the terms of this mandate and translate them into institutional practices and procedures that will do real good outside the UN campus here in Geneva.

We urge each member of this body to listen carefully, to act vigorously, and to speak out fearlessly on behalf of indigenous peoples around the world.