

# INDIAN LAW RESOURCE CENTER

CENTRO DE RECURSOS JURÍDICOS PARA LOS PUEBLOS INDÍGENAS

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## **Second Informal UN Consultation on “how to enable the participation of indigenous peoples’ representatives and institutions in meetings of relevant United Nations bodies on issues affecting them”**

*Statement on terminology used in the compilation and discussion paper: addressing potential misunderstandings [NOT DELIVERED]*

May 18, 2016

This statement is submitted on behalf of the Citizen Potawatomi Nation and the Indian Law Resource Center. Thank you for allowing me to make some additional comments. I would like to comment briefly on what may be potential misunderstandings, especially in regard to the terminology used in the compilation and discussion paper.

At the World Conference on Indigenous Peoples, indigenous participants proposed that indigenous governments or governance institutions be enabled to participate in UN meetings. There was no proposal to change the status or rights of participation of other indigenous groups or NGOs. However, the compilation of views now makes it appear that some states or indigenous peoples are calling for a new status and new rules of participation for all indigenous participants, including indigenous NGOs, indigenous groups, and indigenous governance institutions. This may be the result simply of misunderstanding about what the World Conference Outcome Document sought to address. Practically nothing has been said or submitted to explain why a new status or new rules are needed for all indigenous participants. In contrast, the case has been clearly made that indigenous governments are not NGOs, and therefore they need some new rules to enable their participation. Practically everyone agreed on this point and this was widely understood as the intent of OP 33 of the World Conference Outcome Document. In fact, many indigenous groups *are* NGOs and they are already accredited as NGOs. Many other indigenous groups could apply and be accredited as NGOs. There does not appear to be a problem that needs attention, except for indigenous governments.

Some of the misunderstanding may arise because of the use of terms that are not always well understood. The term “Indigenous People(s)” is sometimes used to mean practically any indigenous group of any kind. Others use the term in its proper sense to mean a “people” (a people distinct from others that has shared bonds of history, location, culture, language, self-

government, ties to land, or other such bonds) that is “indigenous” as that term is used in international practice, including the definitions in the ILO Convention No. 169, in the Martinez-Cobo study, and in other bodies and instruments. Some common features of these definitions include descentance from a people existing prior to the development of the present state or prior to conquest or colonization, connection to an ancestral territory, having distinct social, economic, cultural and political institutions, and self-identification as a distinct people.

It would be helpful if states and indigenous participants could be clear when they make their submissions about what indigenous groups they are referring to. We might suggest that indigenous groups or organizations that are not “peoples” in the proper sense should be referred to as indigenous groups, organizations, or non-governmental organizations. One submission referred to “voluntary indigenous organizations”, and we would understand this to be some form of organization or group, not a people in the proper sense. Without doubt these organizations and groups should continue to participate fully, but the existing UN rules appear to accommodate their participation already, and there does not appear to be any serious problem in that regard.

We believe it is a mistake to turn the present process into an effort to create a new status for all indigenous participants. Such an effort goes far beyond what has been called for by the World Conference, resolutions of the Human Rights Council, reports of the Expert Mechanism and the Secretary-General, and by many recommendations of indigenous participants. Such a broad effort will inevitably be complex and difficult and is beyond the scope of this process. Instead, the present process should address the need to enable genuine indigenous governance institutions to participate in the work of the United Nations. This is a relatively narrow and achievable objective, and we look forward to working toward this end.