

INDIAN LAW RESOURCE CENTER

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Enabling the Participation of Indigenous Governing Institutions At the United Nations

*Comments related to the “Potential elements for discussion during the seventy-first session of
the General Assembly” regarding accreditation standards
[AS DELIVERED]*

Mr. Chair,

On behalf of the Indian Law Resource Center, we thank you for the opportunity to comment on the standards and criteria for accrediting indigenous governing institutions to participate in the work of the United Nations.

Regarding accreditation standards, first, we must point out that the new category for participation should apply exclusively to indigenous peoples’ governing institutions which may be known as customary, traditional, or constitutional governments, indigenous parliaments, assemblies, or councils. Such institutions must govern indigenous peoples, as that term is used and understood in the United Nations and other intergovernmental bodies. The elements for discussion paper sets out a very good starting point for the standards and criteria to be employed by the accreditation committee. Importantly, these standards are in keeping with over thirty years of UN practice and custom. Focusing this process on indigenous governing institutions will ensure their most meaningful and effective participation while using the least amount of limited UN and other resources, including those of indigenous applicants.

To further assist in the application of existing and emerging international standards and customary practice, we propose that indigenous governing institutions should be accredited if they demonstrate that: (1) they represent a people; (2) the people is indigenous; and (3) the government is duly constituted. The first requirement is that the government represents a *people*, that is, a people distinct from others and having shared bonds of history, language, culture, ethnicity, location, self-government, or other social or political bonds.

Secondly, the people must be shown to be *indigenous*, as that term is used in practice and

understood in the United Nations and other international intergovernmental bodies, such as the International Labor Organization, the World Bank, and the Inter-American Development Bank, and as discussed in the Martinez-Cobo study. Some common elements these sources use to identify indigenous peoples, some of which are outlined in the elements paper, include descent 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. The people must not be an ethnic, national linguistic, racial, or other group that is not, in fact, indigenous. This is a question of fact and history, and it cannot be determined by self-identification alone, but no particular definition should be required, similar to the approach and practice of accrediting NGOs and National Human Rights Institutions, two processes for participation which do not require a particular definition.

The third requirement is that the government be *duly constituted* by, and therefore, genuinely representative of, the indigenous people that it purports to represent. Naturally, such a government must be representative of, and responsible and accountable to, the people, though no particular form of government should be required. However, because some duly established and genuinely representative indigenous governments are appointed by traditional authorities, we caution against requiring proof of a government's democratic election as an essential element in its accreditation.

Regarding the application process, initially, an applicant should be requested to provide documentation or other reliable evidence establishing their existence as a governing institution. Documentation could include written or oral testimony or statements. Each applicant should, for example, briefly describe the people, indigenous nation, or community that it represents, the governing powers or authority that it exercises, and the principal officials or office holders in the government. The accrediting body should consider evidence and views from all relevant sources and give some consideration to recognition of the applicant by the relevant state or states and by other indigenous peoples, though this alone cannot be determinative. Whatever accreditation standards are decided upon, they must be strong but flexible and responsive to the differences among indigenous governing institutions around the world, and to enable the accreditation body to develop through its practice.

A government that meets these and other related requirements should be accredited to participate permanently, subject to periodic reporting on a reasonable basis, and the accredited government would then designate individuals to represent it in particular UN meetings. Giving sufficient consideration to each of these factors during the process for accreditation will assure that applicants are in fact indigenous, that they are genuine, duly chosen representatives of the people and governing institution they purport to represent, and it will assure that indigenous leaders are always at the UN to directly assert and defend their rights.

Thank you.