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IMPLEMENTING THE OUTCOME DOCUMENT OF THE WORLD CONFERENCE ON INDIGENOUS PEOPLES

Enabling the Participation of Indigenous Governing Institutions at the United Nations

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Indigenous peoples' governing institutions are not presently recognized by the United Nations system in any formal sense. Indigenous individuals and groups, as voluntarily-constituted non-governmental or civil society organizations, have well-established accreditation mechanisms to participate in the work of the UN. However, no existing process or mechanism recognizes the distinct political, social, and legal nature of indigenous governing institutions, which are unable to participate in their own right in important meetings and activities affecting them. Without a special invitation, indigenous governing institutions cannot even attend or observe sessions of the Human Rights Council or the Third Committee of the General Assembly, which adopt annual resolutions on the rights of indigenous peoples. Nor can they participate in any meetings of, among others, the Commission on the Status of Women or other functional commissions of the Economic and Social Council, which regularly address matters affecting indigenous peoples.

In the World Conference on Indigenous Peoples' Outcome Document, states commit to consider how to enable the participation of indigenous peoples' representatives and institutions (governments) in the work of the United Nations.¹ The President of the General Assembly, tasked with conducting consultations with states and indigenous peoples, prepared a final compilation of views based on submissions during the consultations and previous submissions of states and indigenous peoples.² Previous submissions and the compilation demonstrate intent to establish a new specific category for indigenous governing institutions to participate in the work of the UN.³ The new category should not affect the existing ability of indigenous peoples' non-governmental organizations to work within the UN. The final compilation is to form the basis for a draft text, likely a resolution, to be finalized and adopted by the Assembly during its seventy-first session (September 2016-September 2017).⁴

We recommend that the new status ensure that indigenous governing institutions are, at the very minimum, able to participate in activities of the UN in a manner comparable to that exercised by non-governmental organizations in consultative status with the Economic and Social Council. This level of participation would include, among other things, attending

meetings, submitting written information, making oral statements, and proposing agenda items. As representative bodies, indigenous governing institutions should enjoy more relaxed rules on the length of their oral and written statements compared to non-governmental organizations and also have priority over them with regard to seating and order of speaking.

Indigenous governing institutions should be enabled to participate in all meetings of relevant UN bodies, as called for in the Outcome Document. Indigenous governing institutions should enjoy opportunities to contribute to the work of, among others, the Economic and Social Council and its subsidiary bodies, the Human Rights Council and its subsidiary bodies, the treaty bodies, and in meetings of the General Assembly and its Main Committees. All are relevant bodies dealing with issues concerning indigenous peoples.

The new status should apply only to indigenous governing institutions, which are the authoritative and duly comprised decision-making bodies recognized by their own indigenous constituents. Such bodies may be known as, inter alia, customary, traditional, or constitutional governments, indigenous parliaments, assemblies, or councils. It will be important to assure the new status and rules for indigenous governing institutions apply only to *indigenous* peoples and not to ethnic, national, linguistic, racial, or other groups that are not, in fact, indigenous.

Whether the General Assembly decides to use an existing committee or working group or to create a new body to process applications and recommend the accreditation of indigenous governing institutions, the accreditation body must include some indigenous government leaders or, at minimum, must consult with indigenous government leaders, experts, or advisers. Accreditation standards must be strong but flexible and responsive to the differences among indigenous governing institutions around the world.

While the accreditation body could further elaborate standards and procedures for accreditation, a preliminary set of criteria for applicants could include: self-identification as an indigenous governing institution; presentment of documentary or other evidence of its identity as indigenous and of its character as an authentic indigenous governing body of the indigenous people concerned, including written or oral testimony or statements, a brief description of the people, nation, or community represented, the governing powers or authority exercised, and principal officials or office holders in the government; evidence of state recognition; and evidence of recognition by other indigenous peoples. Whatever process and standards are decided, the United Nations should provide the necessary financial and technical support for accredited indigenous peoples' governing institutions to participate in the work of the UN.

¹ G.A. Res. 69/2, U.N. Doc. A/RES/69/2, ¶ 33 (Sept. 25, 2014).

² Specifically, submissions made to inform the Secretary-General's report on progress made in the implementation of the Outcome Document. See The Secretary-General, *Report of the Secretary-General on the Progress made in the implementation of the outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples, delivered to the Economic and Social Council*, U.N. Doc. A/70/84-E/2015/76 (18 May 2015).

³ See, e.g., Participation of indigenous peoples at the United Nations: Overview of responses by indigenous peoples and Member States to a 2015 questionnaire ("the summary of responses"), available at:

http://www.un.org/esa/socdev/unpfii/documents/2016/Docs-updates/questionnaire_overview7Briefing.pdf.

⁴ G.A. Res. 70/232, U.N. Doc. A/RES/70/232, ¶ 19 (Dec. 23, 2015).