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An Implementing and Monitoring Body for the UN Declaration on the Rights of Indigenous Peoples

A Joint Oral Statement Offered at the 30th Session of the UN Human Rights Council
by the Indian Law Resource Center, National Congress of American Indians, Ewiiapaayp Band of Kumeyaay Indians, Native American Rights Fund, and Americans for Indian Opportunity

Item 3 – Clustered ID with the Special Rapporteur on the rights of indigenous peoples and the Expert Mechanism on the Rights of Indigenous Peoples (September 22 2015)

The Indian Law Resource Center, National Congress of American Indians, Ewiiapaayp Band of Kumeyaay Indians, Native American Rights Fund, and Americans for Indian Opportunity offer this joint statement with recommendations for how to modify and improve the Expert Mechanism on the Rights of Indigenous Peoples to implement and monitor the UN Declaration on the Rights of Indigenous Peoples.

The World Conference on Indigenous Peoples' Outcome Document contains valuable decisions to advance the UN Declaration. Adoption of the UN Declaration took over 35 years to achieve and there is now no longer any country in the world who opposes it. In spite of this important progress, there remain significant gaps in fulfilling the objectives of the UN Declaration, applying its principles, and advancing the rights of indigenous peoples.

Among the most important decisions made by the World Conference is the decision to consider the development of an implementing and monitoring body for the UN Declaration, a decision that can greatly promote implementation and significantly improve indigenous peoples' lives – but only if properly carried out in the coming months. We are eager to contribute to planning and fashioning such a body in the most effective way. We welcome the Expert Mechanism's proposal to the Human Rights Council to ensure the full and effective participation of indigenous peoples in the process to review the mandate of the Expert Mechanism to serve as the implementing and monitoring body.¹

We also welcome the Secretary-General's recent report, which recommends strengthening and expanding the mandate of EMRIP.² A strong and effective implementing and monitoring body with a broad mandate that promotes respect for indigenous rights and discourages violations is crucial for achieving the ends of the Declaration, and a repurposed and improved Expert Mechanism would be well-suited to take on these important new functions.

We recommend the new body, at minimum, have the authority to invite and receive information, issue reports and studies, and issue recommendations, guiding interpretations, and

¹ The Expert Mechanism on the Rights of Indigenous Peoples, *Draft Report of the Expert Mechanism on the Rights of Indigenous Peoples on its Eighth Session, Geneva, 20-24 July 2015*, U.N. Doc A/HRC/30....

² The Secretary-General, *Report of the Secretary-General on 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 and the General Assembly*, U.N. Doc A/70/84-E/2015/76 (May 18, 2015).

general observations on recurring or systemic issues. The ability to consider information from relevant parties and to present reports with recommendations for action is an essential function of any serious implementing body. The body should be authorized to conduct country visits and to work jointly with other special procedures mandate holders on issues of mutual concern.

Yet, the body must not jeopardize the existing mandates and must not duplicate the important work of the Special Rapporteur on the rights of indigenous peoples or the Permanent Forum on Indigenous Issues.

The Special Rapporteur on the rights of indigenous peoples recognizes in her report significant gaps and weaknesses in monitoring and implementing the rights of indigenous peoples and, in particular, indigenous women and girls.³ We recommend the implementing body pay particular attention to the rights of indigenous women and children and, in this regard, we welcome recommendations made by the Special Rapporteur and we support the Expert Mechanism's proposal for the Human Rights Council to organize a panel discussion on violence against indigenous women and girls at its 33rd session.⁴

The composition and structure of the implementing and monitoring body should ensure a balance of indigenous and other experts from all regions of the world, and both states and indigenous peoples' representatives should play a role in nominating and selecting members. The body will require a sufficient number of members and meeting days to accommodate its expanded mandate. Existing human rights treaty bodies that do similar work consist of 10 to 25 experts who meet from four to nine weeks per year. The reformed body should include at least ten experts meeting in three annual two-week sessions. The body should be innovative and flexible and use cost-effective tools such as internet and teleconferencing technology when possible.

The last four decades have seen important victories to advance human rights and indigenous peoples' rights. Yet, much work remains. Indigenous peoples remain the poorest of the poor; violence against indigenous women is at epidemic levels; sacred sites are turned over to mining companies; and indigenous leaders are threatened, assaulted, and even murdered for their work protecting indigenous lands. Repurposing the Expert Mechanism, with new implementing and monitoring functions will best assure that the Declaration on the Rights of Indigenous Peoples will be effective and meaningful and at last bring permanent and critical improvements to the lives of indigenous peoples.

³ Human Rights Council, *Report of the Special Rapporteur on the rights of indigenous peoples, Victoria Tauli Corpuz, delivered to the Human Rights Council*, U.N. Doc. A/HRC/30/41 (6 August 2015).

⁴ The Expert Mechanism on the Rights of Indigenous Peoples, *Draft Report of the Expert Mechanism on the Rights of Indigenous Peoples on its Eighth Session, Geneva, 20-24 July 2015*, U.N. Doc A/HRC/30/...