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IMPLEMENTING THE OUTCOME DOCUMENT OF THE WORLD CONFERENCE ON INDIGENOUS PEOPLES

Participation of Indigenous Peoples' Governing Institutions in the United Nations

September 2015

The World Conference on Indigenous Peoples recognized the need to implement the UN Declaration on the Rights of Indigenous Peoples. The best way to implement the Declaration and safeguard indigenous peoples' rights is for indigenous nations and peoples, represented by their own governments, to be able to participate fully and permanently in the work of the UN.

Yet, indigenous peoples' governing institutions are presently unable to participate effectively in UN meetings that impact their interests. Existing rules require indigenous peoples, including their governments and representatives, to acquire consultative status as non-governmental organizations in order to participate in important meetings of the Economic and Social Council, the Human Rights Council, the Commission on the Status of Women, and other UN bodies affecting their interests. Status as a non-governmental entity or civil society actor, however, is inadequate for indigenous governments; most indigenous governments refuse to seek NGO status because it is contradictory or counterintuitive to their governmental nature, and many will never be able to meet the requirements, which may be inappropriate or inapplicable to the situation of certain indigenous governments.

Full, effective, and meaningful participation of indigenous peoples' governing institutions in the UN is supported by the UN Declaration on the Rights of Indigenous Peoples, which affirms the right of indigenous peoples to self-government and autonomy, and the right to participate in decision-making in matters affecting their rights.¹ The Declaration further recognizes the obligations of states to consult and cooperate with indigenous peoples through indigenous peoples' governing or representative institutions before adopting or implementing measures that may affect them and calls on the UN system to ensure participation of indigenous peoples, to provide financial and technical support, and to promote respect for and full application of the Declaration.²

The UN is keenly aware of the present inadequacies for participation of indigenous governments in the UN,³ and the Outcome Document of the World Conference on Indigenous

¹ G.A. Res. 61/295, ¶¶ 3, 4, 18 U.N. Doc. A/RES/61/295 (Sept. 13, 2007).

² *Id.* at ¶¶ 19, 41, 42.

³ Lack of effective means of participation for indigenous peoples' governing institutions has been recognized by the Secretary-General, the Human Rights Council, the Expert Mechanism on the Rights of Indigenous Peoples, and the Third Committee of the General Assembly. See A/HRC/21/24, Ways and means of promoting participation at the United Nations of indigenous peoples'

Peoples includes a commitment by member states to address the issue during the 70th session of the General Assembly.⁴ The Secretary-General's recent report also encourages states to "move forward on developing measures to enable the effective participation of indigenous peoples' representatives and institutions in meetings of relevant United Nations bodies on issues affecting them, through representatives chosen in accordance with their own procedures[.]" citing to the participation of national human rights institutions in the work of the Human Rights Council as a positive practice. The Secretary-General is aware of the many functional advantages of indigenous peoples' participation in the UN, including the "strengthening of cooperation between states and indigenous peoples in a peaceful and constructive fashion" and his recent recommendations are positive steps toward institutionalizing these mutually beneficial relationships in the UN.⁵

The Secretary-General's proposal for the President of the General Assembly to establish an open-ended consultation process with states and indigenous peoples to determine next steps concerning participation⁶ and the Permanent Forum's call for the General Assembly to establish a new procedure to guarantee the effective participation of indigenous governments in the UN⁷ are positive developments and provide momentum to develop and establish new rules to ensure the participation of indigenous peoples' governing institutions. Toward that end, we recommend the creation of a stand-alone accreditation committee for indigenous governing institutions.

Indigenous peoples must be heard directly in developing the standards and procedures for accreditation, as recommended by the Secretary-General. Accreditation standards and committee rules must be flexible and responsive to the regional realities and diverse characteristics of indigenous peoples' governing institutions. Mere self-identification should not be sufficient alone for accreditation. Rather, an applicant should provide documentary or other evidence of its identity as indigenous and of its status as an authentic government of the indigenous peoples concerned. No particular form or structure of government should be required, and all genuine, indigenous governing institutions should have an opportunity to apply and to demonstrate their qualifications for accreditation. The committee should consider evidence and views from all relevant sources. The committee should be authorized to recommend to the General Assembly the accreditation of indigenous governing institutions that meet the requirements.

Once accredited, indigenous governments should be able to participate in practically all UN meetings, to submit documents and proposals, make statements, and take part in UN activities on a permanent or ongoing basis. They should have priority over NGOs with regard to seating and order of speaking. Indigenous governing institutions are sovereign governments, and these new rules will enable them to make valuable contributions to the UN. Enabling indigenous governing institutions greater and permanent participation in the UN will mean representative indigenous voices will always be heard, and will result in more informed deliberations, better decisions, more successful programs, and progress toward achieving the purposes of the Declaration.

representatives on issues affecting them, Report of the Secretary-General (2 July 2012); A/HRC/18/42; Final report of the study on indigenous peoples and the right to participate in decision-making, Report of the Expert Mechanism on the Rights of Indigenous Peoples, ¶ 36 (17 August 2011); A/HRC/18/43, Report of the EMRIP on its Fourth Session (Geneva, 11-15 July 2011) (19 August 2011); A/67/454, Report of the Third Committee (3 December 2012), ¶ 11.

⁴ A/RES/69/2, ¶ 33.

⁵ The Secretary-General, *Report of the Secretary-General on Ways and means of promoting participation at the United Nations of indigenous peoples' representatives on issues affecting them*, ¶ 13, U.N. Doc. A/HRC/21/24 (July 2, 2012).

⁶ 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).

⁷ Permanent Forum on Indigenous Issues, *Report on the fourteenth session* (20 April-1 May 2015), E/2015/43-E/C.19/2015/10.