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Statement by the Indian Law Resource Center, a non-governmental organization in consultative status with ECOSOC

At the Ninth Session of the Expert Mechanism on the Rights of Indigenous Peoples

Item 3: Follow-up to the World Conference on Indigenous Peoples including the review of the mandate of the Expert Mechanism (11 July 2016)

Mr. Chair,

We welcome the report of the Office of the High Commissioner for Human Rights on the review of the mandate of the Expert Mechanism. Importantly, the report recognizes that the review is for the specific purpose of modifying and improving the Expert Mechanism so that it can more effectively promote respect for the UN Declaration on the Rights of Indigenous Peoples by, among other things, assisting member states to monitor, evaluate, and improve the achievement of the ends of the Declaration. Toward this end, the report recognizes the “need to expand the mandate of the Expert Mechanism so that it could better *engage* States and indigenous peoples in advancing implementation of the Declaration, including by addressing *country-specific* situations in some way. . .” We agree that the core of the mandate must be the authority to seek and receive information relating to indigenous rights, to prepare and distribute reports on these matters, and to make recommendations to states and others concerning implementation of the rights in the Declaration.

That is the major premise of this review. Nothing is more important than to achieve a strong, effective body capable of actually *implementing* and *monitoring* states’ compliance with the Declaration. Because the situation of indigenous peoples is not getting better. Because serious violations of indigenous peoples’ human rights are worsening.

According to one organization, in 2015, 185 environmental activists were murdered world-wide, the largest number since data collection began in 2002. Of these victims, two-thirds were from Latin America, and almost 40 percent were indigenous peoples. These leaders were murdered for resisting mines, dams, and other megaprojects. In Peru, four indigenous leaders were assassinated in 2014, just before the World Conference, for speaking out against extractive industries, particularly palm oil production. Justice has not yet been served in those cases.

Such grave loss of life results from the lack of human rights protections, monitoring of rights violations, and implementation of the Declaration. It is a testament to the urgent need for

an on-going body capable of responding to major problems or issues concerning indigenous lands and resources, protection of the environment, and the well-being and self-governance of indigenous peoples and communities, including indigenous women and children.

Anything less than a full reform of the Expert Mechanism would be contrary to the Outcome Document and a betrayal of the Declaration itself. The mandate to gather information and to disseminate reports about implementation or violations of the Declaration is the irreducible, indispensable part of the mandate. No other duties or possible activities should interfere with this core obligation. To accomplish its work, the body should have the authority to make country visits, to disseminate information about successful implementation and good practices, and to issue general comments including interpretations of the Declaration and observations about its application. It would also be a positive step to see the body renamed and new members appointed or re-appointed. Otherwise, we risk maintaining the status quo.

Regarding structure and composition, we suggest a balance of indigenous and other experts, and both states and indigenous peoples' representatives should play a role in nominating and selecting members, from all regions of the world. The body will require a sufficient number of members and a sufficient number of meeting days to accommodate an 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. This reformed body should include at least 10 experts meeting in three annual two-week sessions. To ensure continuity, sharing of information, and follow-up processes, the experts should serve four-year staggered terms, with five experts chosen by lot to serve an initial two-year term. The body should be innovative and flexible, and use cost-effective tools such as internet and teleconferencing technology when possible.

We also wish to comment briefly on two other World Conference follow-up issues.

First, we are deeply concerned about the global pandemic of violence against indigenous women and girls. In its work to implement the Declaration, the reformed body should pay particular attention to the rights and special needs of indigenous women and children to ensure their full protection against all forms of violence and discrimination. The body could address serious implementation gaps and serve as a unique complementary body with the necessary expertise to address violence against indigenous women and girls. Several UN special procedures have also recognized the need for an implementing and monitoring body to secure the rights of indigenous women and children.

In the Outcome Document, states invited the Commission on the Status of Women to consider empowerment of indigenous women at a future session and invited the Human Rights Council to examine the causes and consequences of violence against indigenous women and girls. We welcome the Council's decision to hold a half-day panel discussion on this issue in September. To fulfill commitments in the Outcome Document to address violence against indigenous women, we urge the Expert Mechanism to support our call to the Council:

- To request that the Office of the High Commissioner respond to the September panel with a report of recommendations for actions;

- To request a report from the Secretary-General on ways existing special procedures can better respond to this issue; and
- To request that the Secretary-General, during the 2017 event marking the tenth anniversary of the adoption of the Declaration, convene a high-level panel on intensifying efforts, in collaboration with indigenous peoples, to prevent and eliminate all forms of violence and discrimination against indigenous women and girls.

Finally, we welcome the President of the General Assembly's final compilation of views and related addendum on how to enable the participation of indigenous peoples' representatives and institutions in the United Nations. We believe the new status should apply to indigenous governing institutions who, once accredited, should be able to participate in practically all United Nations meetings, to submit documents and proposals, make statements, and take part in United Nations activities on a permanent or ongoing basis. They should have priority over NGOs with regard to seating and order of speaking. These new rules will provide a means for indigenous governing institutions to make valuable contributions to the UN and enable them to regain a place in the international community. We look forward to contributing further to this discussion and the work to enable the participation of indigenous governing institutions in the UN.

Taken together, these recommendations are essential to the effective implementation of the Outcome Document and vital to the achievement of the ends of the Declaration.

Thank you.