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## **The Need for Tribal Nations to Participate in Follow-up to the United Nations World Conference on Indigenous Peoples**

*March 11, 2016*

The adoption of the UN Declaration on the Rights of Indigenous Peoples in 2007 was a major victory for indigenous peoples. The culmination of 35 years of careful work and thoughtful negotiations, the Declaration is a global statement of the rights of Indian and Alaska Native tribes and other indigenous people. These include the right of self-government, the right to exist as tribes and distinct peoples, the right of tribes to own land and resources, the right to enforcement and respect for treaties, and the right to protection and access to sacred sites, among many others. It is not, strictly speaking, a binding legal instrument, but it is a very powerful influence on the policies and actions of countries, including the United States.

Like all human rights instruments, the Declaration has little effect unless steps are taken to implement their provisions. In recent years, with many Indian and Alaska Native Nations leading the way, we have had the opportunity to get positive UN action to implement the UN Declaration on the Rights of Indigenous Peoples – to put the Declaration into effect and to take action to help assure that countries do not violate those rights. For more than two years, 136 tribes and 23 tribal organizations and coalitions, prepared for the World Conference on Indigenous Peoples held in September 2014. At the World Conference we won tremendous commitments from the UN and member states to: (1) create an implementing body for the UN Declaration; (2) enable the participation of indigenous governments at the UN; and (3) take steps to combat violence against indigenous women and girls. We have created a window of opportunity to secure real actions that will put the Declaration into effect and help ensure that countries are not free to violate indigenous peoples' rights at will.

***The World Conference is over. Why should you participate now?***

**Because further action is required to implement decisions of the Conference.** The Outcome Document of the World Conference requires further decisions to make good on the commitments that it contains. The UN has announced plans for consultations and meetings in the next several months, and the efforts by tribal nations during this time will largely determine the success of work to secure measures to guarantee there will always be a place at the UN for indigenous governments and an

implementing body for the UN Declaration. In 2015, 90 tribes and 21 tribal organizations and coalitions submitted proposals to the Permanent Forum on Indigenous Issues with further details to enable the participation of indigenous governments and to establish an implementing body (Annex: Statement of 111). Indian and Alaska Native Nations must continue to speak out and participate in this work in order to make sure that their voices are heard and their positions are reflected in the UN's final decisions.

**Because your participation can win a permanent place for indigenous governments in the world community.** Indigenous governments must have an appropriate status at the UN as governments. The Statement of 111 offers key recommendations for this important reform.

- The new status should apply only to indigenous peoples' representative institutions (or governments).
- There must be a new process for accrediting indigenous peoples' representative institutions. Accreditation standards must be robust, but flexible and responsive to the regional realities and diversity of indigenous peoples.
- The General Assembly or some other body should create a new committee to carry out the accreditation process. The committee must include some indigenous government leaders.
- The new status should ensure that indigenous peoples' representative institutions can participate by, at a minimum, attending meetings, submitting written statements, making oral statements, and proposing agenda items; they should have priority over NGOs in regard to seating and order of speaking, and should enjoy reduced restrictions on the length of written and oral statements.
- Participation should be broadly permitted in all bodies and agencies relevant to indigenous interests.

**Because your participation can promote implementation of the UN Declaration and protect against human rights violations.** The Expert Mechanism on the Rights of Indigenous Peoples should be completely reformed to include a new broad mandate to effectively promote, implement, and monitor compliance with the Declaration, and it will necessarily require the budget and staff to fulfill the mandate. The Statement of 111 makes suggestions for the mandate and structure of the body.

- The body must be composed of independent experts.
- The body must include a balance of indigenous and other experts.
- The process for selecting experts must include both states and indigenous peoples' representative institutions.
- The mandate of the body must include, among other matters, the authority to gather, receive, and consider information from all sources, including states and indigenous peoples; to make country visits; to conduct studies; to prepare and disseminate reports and recommendations; to issue general observations relating to the rights of indigenous peoples and individuals; to share information about best practices; to issue interpretations of the provisions of the Declaration on the Rights of Indigenous Peoples; and to collaborate and take joint action with other special mandate holders.

**Because your participation can result in protections for indigenous women and children, to combat epidemic levels of violence, and to address other human rights crises.** The UN is the most important international forum to address human rights concerns and it provides numerous high profile opportunities to address urgent issues Tribal Nations face. Tribes can participate in the UN by speaking

out, making proposals, urging action by UN bodies and mechanisms, and objecting to bad actions by countries. Tribes can raise concerns about human rights violations, self-determination, environmental protection, climate change, protection of sacred sites and cultural sites, economic development and trade, health disparities and health care issues, protection of intellectual property, and protection and repatriation of cultural and sacred items and human remains. Violence against indigenous women and children is a global human rights crisis. The Statement of 111 urges the UN to address this epidemic by deciding to hold a panel discussion at the Human Rights Council with a request for a Secretary-General's report and joint action by mandate holders on the issue, as well as attention by the Commission on the Status of Women. The Council is the largest human rights body of the UN and the Commission is the global policymaking body on women's issues.

**Because participating in the work of the UN is an opportunity to reassert the sovereignty of Indian and Alaska Native nations and to build international support and respect for your nations and your governments.** It is a way to find and build political support through diplomacy to influence or press the United States on crucial issues when there is little or no avenue for relief in federal law. This is especially important where tribes are being very wrongly treated or discriminated against and it is urgent now because of the U.S. Supreme Court's sustained opposition to Indian interests and difficulty of working with the U.S. Congress.

**We must act NOW.** The UN has already committed to serious implementing steps in 2016. The next several months will involve many difficult conversations. Tribal Nations are their own best advocates to advance an agenda for change, and to achieve the best results possible. Tribal Nations must be at the table with UN member states, to share and exchange views, and to make good decisions to benefit the generations to come. Your views matter. They can be critically important and influential. The ship is moving and tribes need to be able to steer its course. This is for the future of your tribe as a sovereign nation in the world community.

### **2016 Calendar of Meetings**

<b>To enable the participation of indigenous governments</b>		<b>To establish an implementing and monitoring body for the UN Declaration</b>	
<b>Date</b>	<b>Meeting</b>	<b>Date</b>	<b>Meeting</b>
<b>March 8- April 8</b>	Electronic consultations		
<b>April 27</b>	First draft compilation of views	<b>April 4-5</b>	Expert Workshop to review the mandate of the Expert Mechanism – Geneva
<b>May 9-20</b>	Permanent Forum on Indigenous Issues – New York <ul style="list-style-type: none"> <li>• May 11: First consultation</li> <li>• May 16: Second draft compilation of views</li> <li>• May 18: Second consultation</li> </ul>	<b>June 13- July 1</b>	Report and recommendations from Workshop presented to the Human Rights Council – Geneva
<b>May 27</b>	Third draft compilation of views		
<b>June 28</b>	Third consultation – New York		
<b>July 11</b>	Final compilation of views – Geneva	<b>July 11-15</b>	Report and recommendations from Workshop discussed at the Expert Mechanism annual meeting – Geneva
<b>September 13</b>	General Assembly's 71 <sup>st</sup> session opens – New York	<b>September 12-30</b>	Report and recommendations from Workshop considered by the Human Rights Council – Geneva

## **ANNEX: Statement of 111**

### **UN Permanent Forum on Indigenous Issues 14th Session (20 April to 1 May 2015)**

Agenda Item 3(a): Outcome of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples

April 20, 2015

This statement is made by 90 indigenous nations in the Americas acting through their own governments. Also joining in this statement are 21 indigenous organizations and coalitions.<sup>1</sup>

The World Conference on Indigenous Peoples was an historic success. Indigenous nations and organizations around the world joined together to achieve concrete commitments to fulfill the promise of the Declaration. Yet, this is only the beginning. We must now follow through on the achievements of the World Conference if we are going to change our realities at home.

Today we make recommendations about three matters: creation of a strong implementing and monitoring body; adoption of rules to enhance participation of indigenous peoples' governments at the UN; and action to combat violence against indigenous women.

The outcome document itself calls for indigenous input into these decisions, and the voices of indigenous peoples' governments must be heard directly. Indigenous governments must have the opportunity to present proposals, to make comments on existing proposals, and to review and comment on the Secretary-General's report and recommendations to ECOSOC and to the General Assembly.

Regarding the implementing body, we wish to see a broad mandate with innovative elements that will let the body effectively promote, implement, and monitor states' compliance with the Declaration. The body should have authority to: gather and receive information from all sources; make country visits; conduct studies; write reports and recommendations; make general observations; share information about best practices; issue interpretations of the Declaration; take friendly measures to resolve conflicts through consensual solutions; and collaborate with other special mandate holders.

The body should have a balance of indigenous and other experts selected by both states and indigenous peoples' representative institutions with a sufficient number of independent experts with relevant expertise, capacity, and experience, to accommodate its expanded mandate, with a sufficient number of meeting days, and should, when possible, make use of internet and teleconferencing technology. The body must also have adequate financial resources to fulfill its mandate.

Importantly, the mandates of the Special Rapporteur and the Permanent Forum should not be jeopardized by the new body. Both perform critical functions in their own right, and the implementing body should enhance, not duplicate, their important work.

We also recommend new rules to give indigenous governments greater rights of participation within the UN and a new status that respects them as rights-holders and global actors. Indigenous governments must be able to participate as governments, not as civil society or NGOs, and they must be

able to fully, effectively, and meaningfully participate in all UN meetings affecting their interests.

These new rules must, at the least, allow them to: attend and participate in meetings relevant to indigenous interests as determined by indigenous governments; submit written and oral statements; propose agenda items; and have priority over NGOs with regard to seating arrangements and order of speaking.

There will need to be a process to accredit indigenous governments. State recognition could be one criterion for accreditation, but it cannot be the only one. Indigenous governments are inherently sovereign. Their status does not, and must not, depend on states' recognition.

Accreditation standards must be robust, but they must also be flexible and responsive to regional realities and the diverse characteristics of indigenous peoples. To do this work, the UN should create a Committee, made up of both states and indigenous peoples' representative institutions.

Finally, we are deeply concerned about the global pandemic of violence against indigenous women and girls. We support the outcome document's call for the Commission on the Status of Women to consider empowerment of indigenous women, and we urge that this take place during the Commission's session in 2016. We also support the call for the Human Rights Council "to consider the causes and consequences of violence against indigenous women and girls," and we request the Council hold a panel discussion and request a research-based report by the Secretary-General on the issue.

We would welcome a joint report by the Special Rapporteurs on the rights of indigenous peoples and on violence against women, to address this crisis. We also urge the UN to request the new implementing body to pay particular attention to the rights of indigenous women and children, in order to ensure their full protection from all forms of violence and discrimination. The full text of our recommendations is available at [indianlaw.org](http://indianlaw.org), and copies are available in the room.

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<sup>1</sup> This statement is made by 14 indigenous governments acting on their own behalf: Central Council of Tlingit Haida Indian Tribes of Alaska; Cherokee Nation of Oklahoma; Chickasaw Nation; Citizen Potawatomi Nation; Greenville Rancheria of Maidu Indians of California; Ewiiapaayp Band of Kumeyaay Indians; Jamestown S'Klallam Tribe; Karuk Tribe of California; Mashantucket Pequot Tribal Nation; Metis Nation; Mille Lacs Band of Ojibwe; *Pauma Band of Luiseño Indians*; *Tonawanda Seneca Nation*; and the *Yurok Tribe of California*. And by 5 indigenous intergovernmental organizations representing 84 tribes: Alliance of Colonial Era Tribes (11 tribes: Haliwa Saponi Indian Tribe; Lenape Indian Tribe of Delaware; Lumbee Tribe; Monacan Indian Nation; MOWA Band of Choctaw; Nanticoke Indian Tribe; Nanticoke Lenni-Lenape Tribal Nation; Pocasset Tribe; Rappahannock Tribe; United Houma Nation; Upper Mattaponi Indian Tribe); California Association of Tribal Governments (32 tribes: Big Lagoon Rancheria; Big Pine Rancheria; Big Sandy Rancheria; Cabuilla Band of Mission Indians of the Cabuilla Reservation; Cher-Ae Heights Indian Community of the Trinidad Rancheria; Cloverdale Rancheria; Enterprise Rancheria of Maidu Indians of California; Ewiiapaayp Band of Kumeyaay Indians; Greenville Rancheria of Maidu Indians of California; Habematolel Pomo of Upper Lake; Hoopa Valley Tribe; Hopland Band of Pomo Indians of the Hopland Reservation; Ione Band of Miwok Indians of California; Jamul Indian Village; Karuk Tribe of California; Kashia Band of Pomo Indians of the Stewarts Point Rancheria; Los Coyotes Band of Cabuilla and Cupeno Indians; Mesa Grande Band of Kumeyaay Indians; Morongo Band of Mission Indians; Northfork Rancheria of Mono Indians of California; Pit River Tribe; Ramona Band of Cabuilla Indians; Resigini Rancheria; Scotts Valley Rancheria Band of Pomo Indians of California; Smith River Rancheria; Soboba Band of Luiseno Indians; Susanville Indian Rancheria; Sycuan Band of the Kumeyaay Nation; Washoe Tribes of California and Nevada; Wiyot Tribe; and the Yurok Tribe of the Yurok Reservation); the Confederation of Sovereign Nanticoke-Lenape Tribes (3 tribes: Lenape Indian Tribe of Delaware; the Nanticoke Indian Tribe; and the Nanticoke Lenni-Lenape Tribal Nation); United South and Eastern Tribes (26 tribes: Alabama-Coushatta Tribe of Texas; Aroostook Band of Micmacs; Catawba Indian Nation; Cayuga Nation; Chitimacha Tribe of Louisiana; Coushatta Tribe of Louisiana; Eastern Band of Cherokee Indians; Houlton Band of Maliseet Indians; Jena Band of Choctaw Indians; Mashantucket Pequot Tribal Nation; Mashpee Wampanoag Tribe; Miccosukee Tribe of Indians of Florida; Mississippi Band of Choctaw Indians; the Mohegan Tribe; Narragansett Indian Tribe; Oneida Indian Nation; Passamaquoddy Tribe – Indian Township; Passamaquoddy Tribe – Pleasant Point; Penobscot Indian Nation; Poarch Band of Creek Indians; Saint Regis Mohawk Tribe; Seminole Tribe of Florida; Seneca Nation of Indians; Shinnecock Indian Nation; Tunica-Biloxi Tribe of Louisiana; and the Wampanoag Tribe of Gay Head (Aquinnah)); and the United Tribes of Michigan (12 tribes). And by 16 indigenous organizations and coalitions: Alliance of Tribal Coalitions to End Violence; Americans for Indian Opportunity; American Indians in Texas; Amerindian Peoples Association; Indian Law Resource Center; National Indigenous Women's Resource Center; National Congress of American Indians; Native Americans in Philanthropy; Native American Rights Fund; Native Women's Society of the Great Plains; Restoring Ancestral Winds, Inc.; Southwest Indigenous Women's Coalition; Strong Hearted Native Women's Coalition, Inc.; Vision Maker Media; Washington Indian Civil Rights Commission; and the Washington State Native American Coalition Against Domestic Violence and Sexual Assault – Women Spirit Coalition.