

INDIAN LAW RESOURCE CENTER

CENTRO DE RECURSOS JURÍDICOS PARA LOS PUEBLOS INDÍGENAS

www.indianlaw.org

MAIN OFFICE
602 North Ewing Street, Helena, Montana 59601
(406) 449-2006 | mt@indianlaw.org



WASHINGTON OFFICE
601 E Street, S.E., Washington, D.C. 20003
(202) 547-2800 | dcoffice@indianlaw.org

IMPLEMENTING THE OUTCOME DOCUMENT OF THE WORLD CONFERENCE ON INDIGENOUS PEOPLES

Enabling the Participation of Indigenous Governing Institutions at the United Nations

November 2016

Indigenous peoples' governing institutions are not presently recognized by the United Nations system in any formal sense. By comparison, indigenous *groups*, as voluntary, non-governmental or civil society organizations, are recognized through an accreditation mechanism and are authorized to participate in the work of the UN. Yet, no existing process or mechanism recognizes the distinct political, social, and legal nature of indigenous governing institutions, and for this reason they are unable to participate in their own right in important meetings and activities affecting them and their citizens. Without a special invitation, indigenous governing institutions cannot even attend or participate in 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 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 committed to consider how to enable the participation of indigenous peoples' representatives and institutions (governments) in the work of the United Nations.¹ In 2015, the President of the 70th session of the General Assembly was tasked with soliciting input on this matter and subsequently issued a compilation of views based on submissions² and in-person consultations with indigenous peoples and states. The President of the current 71st session recently announced further consultations to be held between December, 2016 and March, 2017,³ with a draft text, likely a resolution, to be finalized and adopted by the Assembly during its current session ending September 11, 2017. Previous submissions by indigenous participants and the compilation of views support the creation of a new UN participant category specifically for indigenous governing institutions.⁴ We believe the new category should not affect the existing ability of indigenous peoples' non-governmental organizations to work within the UN as they now do.

We recommend that the new category 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 would include, among other things, the ability to attend meetings, submit written information, make oral statements, and propose 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 should 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, the Universal Periodic Review process, 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 established 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; presentation 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 (not required); and evidence of recognition by other indigenous peoples (not required). Whatever process and standards are decided upon, the United Nations should provide the necessary financial and technical support for the accreditation of indigenous governing institutions to participate in the work of the UN.

Providing a new status for indigenous governing institutions will not only meet the call of the World Conference Outcome Document, it will result in more informed deliberations, better decisions, more successful programs, greater security for indigenous rights, and progress toward achieving the objectives of the Declaration.

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 The schedule of consultations is available at: <https://www.un.org/development/desa/indigenouspeoples/participation-of-indigenous-peoples-at-the-united-nations.html>

⁴ 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.