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Urgent Need to Renew Mandate and Improve the U.N Standard-Setting Process on Indigenous Peoples' Human Rights

Joint Statement of the Grand Council of the Crees (Eeyou Istchee), Na Koa Ikaika Kalāhui Hawai'i, Traditional Kirati Peoples' Alliance (Nepal), International Organization of Indigenous Resource Development (IOIRD), Samson Cree Nation, Ermineskin Cree Nation, Montana Cree Nation, Louis Bull Cree Nation, Fédération des Organisations Autochtones de Guyane (FOAG), Nepal Indigenous Peoples Development and Information Service Centre (NIPDISC), First Peoples Human Rights Coalition, South African First Indigenous and Human Rights Organization (SAFIHRO), Innu Council of Nitassinan, Buffalo River Dené Nation, Peace Campaign Group (India), Saami Council, Inuit Circumpolar Conference, Tebtebba Foundation, Mainyoito Pastoralist Integrated Development Organisation - MPIDO (Kenya), Pauktutit Inuit Women's Association, Native Women's Association of Canada, Indigenous Peoples of Africa Co-ordinating Committee (IPACC), Tamaynut (Morocco), Iles Umazigh (Algeria), Association Tunfa (Niger), Tin Hinan (Burkina Faso), Tagazt (Algeria), African Indigenous Women's Organisation, Indigenous Information Network (Kenya), ACPROD (DR Congo), Maasai Women for Education and Economic Development (Kenya), PIDP-Kivu (DR Congo), UNIPROBA (Burundi), Communauté des Autochtones Rwandis (Rwanda), Pastoralist Forum (Ethiopia), Anyuak Women Committee - Gambella (Ethiopia), Concerned Women Action for Peace (Sudan), Gambella Development Agency (Ethiopia), Ogiek Peoples Development Programme (Kenya), CAMV (DR Congo), Mboscuda (Cameroon), Maasai Women Development Organisation (Tanzania), Indigenous Educators Caucus (South Africa), Working Group of Indigenous Minorities in Southern Africa (Namibia), Asian Indigenous and Tribal Peoples Network (AITPN), Congress of Aboriginal Peoples, Cordillera Peoples Alliance (CPA), Consejo de Todas Las Tierras Mapuche, Aboriginal and Torres Strait Islander Commission (ATSIC), CORE Manipur, Foundation for Aboriginal and Islander Research Action (FAIRA), CONAIE ECUARUNARI (Ecuador), Parlamento Indígena de América (PIA), CAPAJ (Peru), KUS-KURÁ S.C. - KKSC (Costa Rica), CEM-Aymara (Bolivia), AKUAIPA WAIMAKAT (Colombia), Asociación Ixacavaa (Costa Rica), Caribbean Antilles Indigenous Peoples Caucus (CAIPC), Consejo Continental de Sabios y Ancianos de América (Ecuador), Comité de Solidaridad Triqui - CST (México), Consejo de Pueblos Nahuatl Alto Balsas - CPNAB (México), Asociación Napguana (Panamá), Universidad de las Regiones Autonomas de la Costa Caribe Nicaragüense - URACCAN (Nicaragua), Centro de Desarrollo Integral de la Mujer Aymara "Amuyt'a" CDIMA (Bolivia), Nacionalidad Zapara del Ecuador - NAZAE (Ecuador), Confederación de los Pueblos y Organizaciones Indígenas Evangelicos del Ecuador - FEINE (Ecuador), Nacionalidad Tsachila, Pichincha (Ecuador), Asociación Nacional Indígena Salvadoreña - ANIS (El Salvador), Consejo de Organizaciones Mayas - COMG (Guatemala), Netherlands Centre for Indigenous Peoples (NCIV), International Work Group for Indigenous Affairs (IWGIA), Almaciga, Canadian Friends Service Committee, El fondo de Asistencia Internacional de los estudiantes y academicos Noruegos SAIH (Norway), Hawai'i Institute for Human Rights

Introduction

1. In regard to Agenda Item 4(d), we welcome this opportunity to address the urgent need to renew the mandate and improve the U.N. standard-setting process on Indigenous Peoples' Human Rights.
2. Since its inception in 1995, the Commission on Human Rights' inter-sessional Working Group (UNCHR Working Group) has only approved 2 of the 45 Articles of the draft *U.N. Declaration on the Rights of Indigenous Peoples*. This means that the General Assembly is unlikely to adopt a Declaration within the *International Decade of the World's Indigenous People*. If so, a major objective of the *Decade* will not be achieved.
3. In view of the rampant violations of Indigenous Peoples' Human Rights that continue in all regions of the world, it would be unconscionable for the United Nations to terminate or otherwise abandon the present standard-setting process. Therefore, we respectfully propose the following recommendations:

Recommendations

4. We call upon the Permanent Forum to strongly recommend to the Economic and Social Council (ECOSOC) the continuation of the U.N. standard-setting process relating to Indigenous Peoples' Human Rights. A reasonable deadline for the adoption of the Declaration by the U.N. General Assembly would be December 2008, so as to coincide with the 60th anniversary of the adoption of the *Universal Declaration on Human Rights*. This would also entail a two-or three-year extension of the mandate of the Working Group.
5. We further call upon the Permanent Forum to determine concrete ways to substantially improve the standard-setting process within the Commission on Human Rights' inter-sessional Working Group on the draft *U.N. Declaration on the Rights of Indigenous Peoples*. In this regard, specific recommendations urgently need to be made to the Economic and Social Council.
6. In regard to significantly improving the performance of the UNCHR Working Group, the Permanent Forum should urge ECOSOC to consider timely implementation of the following measures, among others:
 - i) Introduction of specific criteria within the Working Group, so as to ensure compatibility with international law and its progressive development, when States or Indigenous Peoples propose new or modified Human Rights norms;
 - ii) in particular, there must be strict adherence to the Purposes and Principles of the *U.N. Charter*, and proposals to undermine the Human Rights of Indigenous Peoples or create discriminatory double standards must not be permitted or tolerated within the Working Group;

- iii) increase of the Working Group sessions to twice a year or every eight months in order to foster progress, provided that the process is significantly improved and sufficient funding is made available for Indigenous Peoples' participation;
 - iv) alteration of existing rules so as to allow the appointment of two co-chairs (one of whom would be an Indigenous person);
 - v) fair and balanced consideration of Indigenous and State positions in preparing the Chair's yearly report;
 - vi) consensus within the Working Group should be explicitly confirmed as not requiring unanimity, but consensus must include both participating States and Indigenous representatives;
 - vii) improved translations procedures so that representatives of Indigenous Peoples and States could have timely Spanish, French, Russian, etc. versions of proposed revisions to the draft *Declaration*;
 - viii) increased encouragement of *joint submissions* with a view to reaching consensus on specific Articles in the draft *Declaration*;
 - ix) use of U.N. web site to make available Indigenous and State positions on the various Articles of the draft *Declaration*;
 - x) increased financial assistance to ensure equitable and democratic participation of Indigenous Peoples from all regions of the globe, including extension of the Voluntary Fund;
 - xi) live transmission on the internet of UNCHR Working Group sessions;
 - xii) use of expert panels or committees to address specific Human Rights issues relating to Indigenous Peoples;
 - xiii) ensuring an effective role for the Permanent Forum and its members in advancing the goals of Human Rights standard-setting consistent with their mandate; and
 - xiv) encouraging greater participation by the specialized agencies in the Working Group.
7. With regard to the overall U.N. Human Rights standard-setting process concerning Indigenous Peoples, the following additional changes or innovations should also be considered:
- i) Increased attention and priority should be accorded by the U.N. General Assembly and Commission on Human Rights to the adoption of a strong and uplifting *U.N. Declaration on the Rights of Indigenous Peoples*;

- ii) at all stages of the standard-setting process, no Declaration should be provisionally approved or adopted by the U.N. unless it has the strong support of Indigenous representatives participating in such process;
- iii) new strategies should be developed to increase State commitment to the objectives of the Human Rights standard-setting process relating to Indigenous Peoples;
- iv) there should be greater coordination between such standard-setting processes at the United Nations and those at a regional level (such as the Organization of American States); and
- v) public education and awareness of the importance of developing international Human Rights standards relating to Indigenous Peoples should be increased.

Rationales for above recommendations

8. The rationales or substantiating arguments for our specific recommendations have been elaborated in detail in a Joint Submission entitled *Assessing the International Decade: Urgent Need to Renew Mandate and Improve the U.N Standard-Setting Process on Indigenous Peoples' Human Rights*. It was formally submitted to the Office of the High Commissioner for Human Rights in Geneva on March 30, 2004. Copies in English and Spanish have been provided to all of the Members of the Permanent Forum on Indigenous Issues.
9. This important Submission has been prepared and endorsed by a large number of Indigenous organizations and nations. It is also strongly supported by non-Indigenous organizations committed to Human Rights and social justice.
10. The diverse rationales for our recommendations would include the following:
 - i) The draft *U.N. Declaration on the Rights of Indigenous Peoples* that was approved by the Sub-Commission is a significant success, both in terms of its normative value and the democratic process that led to its formulation.
 - ii) The United Nations and its Member States, specialized agencies and Indigenous Peoples have invested considerable time, as well as human and financial resources, in contributing to the formulation of the draft *U.N. Declaration on the Rights of Indigenous Peoples*. This valuable investment and important precedent must not be discarded or otherwise abandoned by the U.N.
 - iii) The severe impoverishment of most Indigenous Peoples worldwide – which to an overwhelming degree is the result of the discriminatory, colonial, exclusionary, assimilative, and genocidal policies and actions of

States – clearly entails States’ responsibilities. This damaging legacy must be effectively redressed.

- iv) Grave violations and denials of Indigenous Peoples’ Human Rights have resulted in the severe undermining of Indigenous nations, communities and families and impairment of the mental and physical health of individuals – which in turn results in further obstacles to the enjoyment of our Human Rights. This debilitating cycle is intolerable and must be remedied. It most often results in disproportionate impacts on Indigenous women and is severely affecting new generations of children and youth.
- v) In accordance with the Purposes and Principles of the *U.N. Charter*, the U.N. and Member States have strict, legally binding obligations to promote the respect and observance of Human Rights.
- vi) In relation to Indigenous Peoples, the duty to respect Human Rights and other foundational values and principles of international and domestic legal systems continues to be seriously undermined.
- vii) The U.N. and Member States unequivocally affirm their support for and commitment to these values and principles. Therefore, it would be contradictory for them to terminate the UNCHR standard-setting process concerning Indigenous Peoples’ Human Rights.
- viii) The U.N., Member States and regional organizations have unequivocally committed themselves to combating impunity for violations of Human Rights. Impunity remains rampant in terms of contraventions of Indigenous Peoples’ Human Rights.
- ix) This ongoing Human Rights crisis impacting upon Indigenous Peoples is a stark reminder that the international Human Rights system is woefully inadequate and incomplete. In relation to Indigenous Peoples, this system can and must be made more responsive, inclusive and effective.
- x) Improvement of the standard-setting process is consistent with current objectives to reform and strengthen the operations of the United Nations.

11. As a crucial first step, it is imperative that the U.N. ensure the adoption of relevant and uplifting standards through a strong Declaration on the Rights of Indigenous Peoples.

12. Rather than penalizing the estimated 370 million Indigenous Peoples worldwide by terminating the Human Rights standard-setting process, the U.N. should be examining ways to ensure that all participating States fulfill their responsibilities and fully respect their obligations under international law.