

Permanent Forum on Indigenous Issues

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Special theme: “Principles of good governance consistent with the United Nations Declaration on the Rights of Indigenous Peoples, articles 3 to 6 and 46”

Principles of Good Governance Consistent with the United Nations Declaration on the Rights of Indigenous Peoples, Articles 3 to 6 and 46

Joint Statement of the Grand Council of the Crees (Eeyou Istchee), Assembly of First Nations of Québec and Labrador/Assemblée des Premières Nations du Québec et du Labrador; Canadian Friends Service Committee (Quakers); Federation of Saskatchewan Indian Nations; Femmes Autochtones du Québec/ Québec Native Women; First Peoples Human Rights Coalition; Indigenous World Association; Inuit Circumpolar Council; KAIROS: Canadian Ecumenical Justice Initiatives; NaKoa Ikaika KaLahui Hawaii; Native Women’s Association of Canada; Union of British Columbia Indian Chiefs

Thank you for the opportunity to address the principles of “good governance”. The relevance of good governance to the *UN Declaration on the Rights of Indigenous Peoples* is affirmed in article 46(3). Every provision in the *Declaration* must be interpreted in accordance with good governance, as well as justice, democracy, respect for human rights, equality, non-discrimination and good faith. All of these principles are interlinked and mutually reinforcing.

While there is no single definition of the term, key characteristics of “good governance” in the context of Indigenous peoples must include respect and protection of our inherent human rights, including the right to self-determination. Good governance must also, *inter alia*, be participatory, accountable, transparent, responsive, effective and efficient, equitable and inclusive and respect the rule of law. Effective governance institutions and systems must be responsive to Indigenous peoples’ needs and priorities and deliver quality essential services, such as education, health and housing.

A root cause of the debilitating dispossessions, impoverishment, discrimination and other human rights abuses is the Doctrine of Discovery and related racist constructs. Under such doctrines, colonizing powers claimed to unilaterally extinguish the pre-existing sovereignty of Indigenous peoples and establish their own jurisdiction over Indigenous peoples’ lands, territories, and resources.

Such racism and discrimination are the antithesis of good governance. In September 2011, the UN Human Rights Council by consensus "condemned" doctrines of superiority "as incompatible

with democracy and transparent and accountable governance".¹ Without good governance, "human rights cannot be respected and protected in a sustainable manner".² We commend the Permanent Forum on its February 2014 *Study on the impacts of the Doctrine of Discovery on indigenous peoples*.³ We strongly support the recommendations that call for decolonization processes to be devised, in conjunction with Indigenous peoples concerned. Such processes must be compatible with Indigenous perspectives and approaches. Such processes should encourage peace and harmonious and cooperative relations between States and Indigenous peoples. Where desired by Indigenous peoples, constitutional space must be ensured for Indigenous peoples' sovereignty, jurisdiction and legal orders.

As affirmed by the General Assembly by consensus: "democracy, good governance and the rule of law, at the national and international levels ... are essential for sustainable development, including ... social development, environmental protection and the eradication of poverty and hunger".⁴ Also, the "recognition of indigenous ... peoples' own governance structures ... must be respected and strengthened in the process of development."⁵

Good governance by States necessarily implies full and effective implementation of Indigenous peoples' inherent human rights. Regretfully, in regard to Indigenous peoples, many States continue to exemplify bad governance.

For example, in Canada, the national police service just released data that 1,017 Indigenous women and girls are known to have been murdered between 1980 and 2012 – a homicide rate at least 4 times greater than that for all other women. Yet the Canadian government has refused to initiate an independent national inquiry or develop a comprehensive national action plan. Generations of Aboriginal families continue to be devastated. For many Aboriginal females in Canada, the most fundamental human right to life remains uncertain and elusive.

Canada's failure to uphold good governance is also evident in the tabling of Bill C-33 - *First Nations Control of First Nations Education Act*. First Nations across Canada are deeply committed to significantly improving education services on reserves. However, any legislation must be developed in conjunction with Indigenous peoples. In the current form, ultimate control over First Nations education on reserves would vest in the federal government, which is unacceptable.

¹ Human Rights Council, *Incompatibility between democracy and racism*, UN Doc. A/HRC/RES/18/15 (29 September 2011), para. 5.

² Office of the High Commissioner for Human Rights, "Good governance and human rights", <http://www.ohchr.org/EN/Issues/Development/GoodGovernance/Pages/GoodGovernanceIndex.aspx>.

³ Permanent Forum on Indigenous Issues, *Study on the impacts of the Doctrine of Discovery on indigenous peoples, including mechanisms, processes and instruments of redress: Note by the secretariat*, UN Doc. E/C.19/2014/3 (20 February 2014) [Study by Forum member Edward John].

⁴ Rio+20 United Nations Commission on Sustainable Development, *The future we want*, Rio de Janeiro, Brazil, 20-22 June 2012, UN Doc. A/CONF.216/L.1 (19 June 2012), para. 10. Endorsed by General Assembly, *The future we want*, UN Doc. A/RES/66/288 (27 July 2012) (without vote).

⁵ International Labour Organization, "ILO Submission to the International Expert Group Meeting on the Millennium Development Goals, Indigenous Participation and Good Governance", New York, 11-13 January 2006, www.un.org/esa/socdev/unpfii/documents/workshop_MDG_ilo.doc at 3; and *UN Declaration*, arts. 3-5 and 34.

Good governance demands that States engage in good faith with Indigenous peoples on any legislative or policy development that affects Indigenous peoples' rights. A one-sided arrangement perpetuates colonial abuse of power rather than ensuring a relationship based on accountability, partnership and good faith.

Recommendations

1. THAT, consistent with principles of good governance, the Permanent Forum urge States to repudiate continued colonialism in favour of a contemporary human rights framework that fully and effectively implements the *UN Declaration on the Rights of Indigenous Peoples*.
2. THAT the Permanent Forum endorse the recommendations in the February 2014 *Study on the impacts of the Doctrine of Discovery on indigenous peoples, including mechanisms, processes and instruments of redress*, especially the creation of decolonization processes in conjunction with the Indigenous peoples concerned. Such processes should encourage peace and harmonious and cooperative relations between States and Indigenous peoples. Where desired by Indigenous peoples, constitutional space must be ensured for Indigenous sovereignty, jurisdiction and legal orders.
3. THAT good governance must be wholly inclusive and ensure justice, equality and non-discrimination in regard to Indigenous peoples, as self-determining peoples, in a context of dignity, security and well-being.
4. THAT the Permanent Forum affirm the vital links between good governance, development, environment, human rights and the eradication of poverty, and recommend that good governance play a strong role in the UN post-2015 sustainable development agenda.
5. THAT the Permanent Forum emphasize that good governance requires affirmation of Indigenous forms of autonomy and self-governance, including customary governance systems and land tenure systems over lands, territories and resources. Extinguishment of Indigenous rights is a relic of colonialism and such destruction of rights is incompatible with good governance and international human rights law.
6. THAT the Permanent Forum remind States that good governance includes the taking of effective measures to ensure freedom from violence, particularly in regard to Indigenous women and girls.