

United Nations Permanent Forum on Indigenous Issues

Sixteenth Session

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Item 8 Discussion on the theme “Tenth anniversary of the United Nations Declaration on the Rights of Indigenous Peoples: measures taken to implement the Declaration”

Developed by participants in the Project Access Capacity Training Workshop at the Sixteenth Session of the UNPFII (2017) including: the International Indian Treaty Council; Tribal Link; Xuri Xuri (Africa- Botswana); Musa Usman Ndamba (Africa- Cameroon); Martha Ntoipo (Africa- Tanzania); Rod Little (Pacific- Australia); Irvince Mitchel Auguiste (Central America, South America and Caribbean-Dominca); Janene Yazzie (North America- Navajo Nation); Ulai Baya (Pacific- Fiji); and Ghazali Ohorella (Pacific- Maluku)

Presented by: Irvince Mitchel Auguiste, Caribbean Amerindian Development Organization (South and Central America, and the Caribbean)

Thank you Madame Chair.

We acknowledge the work of our predecessors in promoting the adoption of the Declaration and the progress that has been made by some states to overcome the challenges of implementation at the national level, like the state government of the Commonwealth of Dominica who established the Ministry of Kalinago Affairs, and ratified ILO 169.

However there is still much work to be done, to ensure that the Declaration is upheld as the minimum standard for the protection of the rights of Indigenous Peoples. For example the EGM report highlights good practices in some African countries, but the reality is that the Declaration was adopted as a regional block which has resulted in progress in some countries while others continue to fall short. Whilst there has been positive movements in the DR Congo to implement the Declaration—and the constitutions of both Cameroon and Kenya make specific reference to the existence of Indigenous Peoples—the majority of African countries do not yet acknowledge their existence. This is unacceptable.

The recognition of some provisions but not others stems from the piecemeal implementation of the Declaration. For instance, the Declaration is accepted in the *Australian Capital Territory Human Rights Act* but there is no implementation by the Australian government. The resistance is grounded on unfounded fear about the impact to the greater Australian society. This argument is also used by the United States and it's based on the false assumption that implementing the Declaration poses a threat to non-Indigenous populations. Some states, such as a number of the pacific states that abstained on the adoption of the Declaration, argue that it is not relevant because they consider Indigenous Peoples constituents whose rights are already protected under existing laws. Others, like Botswana, avoid implementation by taking the position that all citizens, except naturalized citizens, are Indigenous. These arguments continue to create vulnerabilities for Indigenous peoples. This is unacceptable.

There's a need for Indigenous Peoples and states to learn from the collaborative successes of others; to establish independent bodies; and to implement the Declaration in its entirety while monitoring meaningful progress. Consistent information sharing will allow us to create more effective and efficient strategies for all Indigenous Peoples. We all must strive for full recognition and actual implementation by states rather than continuing to celebrate the passage of time since the adoption of the Declaration.

To this end, we make the following recommendations:

1. **We call upon Indigenous Peoples to establish an independent monitoring body to report progress and challenges of implementation of the Declaration in its entirety, to the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) and that states, pursuant to articles 38 and 39 of the Declaration, provide support for the development of this body.**
2. **We further recommend that the next four Expert Group Meetings provide guidelines on the implementation of the Declaration, commencing in 2018 with a priority focus on the Free, Prior and Informed Consent and to determine culturally appropriate protocols to uphold this right.**

Thank you Madame Chair