

Statement by the U.N. Expert Mechanism on the Rights of Indigenous Peoples (EMRIP)

Fourth Session of the Subsidiary Committee of the Meeting of States Parties to the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property

Paris 26-28 September 2016

(Read on behalf of EMRIP by Andrea Carmen, Executive Director, International Indian Treaty Council)

Mr. Director General of UNESCO
Excellencies; and Ladies and Gentlemen:

On behalf of my colleagues Experts, I, as Chairperson of the United Nations Experts Mechanism on the Rights of Indigenous Peoples (EMRIP), take this opportunity to acknowledge and thank UNESCO for its open engagement with EMRIP, a subsidiary body of the UN Human Rights Council.

EMRIP appreciates the recent meeting invitations by UNESCO, including to attend an expert meeting held in Beijing, China this year on the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage and this Fourth Session of the Subsidiary Committee of the Meeting of States Parties to the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, which we unfortunately could not attend due to a conflict of timing with the Human Rights Council's review of our mandate and due to the lack of resources to attend the meeting. EMRIP was equally appreciative of the Skype conference call held with UNESCO during EMRIP's 9th session of July 2016 in Geneva.

EMRIP welcomes the consideration of a new international mechanism for repatriation of ceremonial objects and human remains of Indigenous Peoples at this Fourth Session of the Subsidiary Committee of the Meeting of States Parties to the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

The issue of cultural heritage of Indigenous Peoples has been of central importance to the work of EMRIP. In 2015, EMRIP devoted its annual study, followed by its Advice No. 9, on cultural heritage that highlighted the rights of Indigenous Peoples related to cultural heritage, which includes tangible and intangible manifestations of their ways of life, world views, achievements and creativity, and should be considered an expression of their self-determination and their spiritual and physical relationships with their lands, territories and resources. For Indigenous Peoples, the preservation of heritage is deeply embedded and linked to the protection of traditional territories. Indigenous cultural heritage is a holistic and inter-generational concept based on common material and spiritual values influenced by the environment.

The Expert Mechanism supports the creation of specific international tools and mechanisms for the return of cultural items and ceremonial objects to the ownership of

Indigenous Peoples concerned. These objects play a critical cultural role and hold critical meaning for the identity of their Indigenous owners. In most cases, these objects were unlawfully taken away from Indigenous Peoples without their free, prior and informed consent. Now these items are owned by others, inaccessible to Indigenous Peoples and exhibited or stored in museums and private collections across the globe. This is a legacy of colonization that continues to deny Indigenous Peoples their right to cultural self-determination.

With the view to contributing to the redress of this situation, the EMRIP Study on Cultural Heritage calls upon states and museums to agree on the restitution mechanisms. Furthermore, at the UN Permanent Forum on Indigenous Issues session of May 2016 in New York, EMRIP chaired also a multi stakeholder consultation on international repatriation, with States representatives, UN agencies such as UNESCO, Indigenous Peoples and other relevant institutions, organised as a follow-up to implementation of Operative Paragraph 27 of the Outcome Document of the World Conference on Indigenous Peoples, which states: *“We commit ourselves to developing, in conjunction with the indigenous peoples concerned, fair, transparent and effective mechanisms for access to and repatriation of ceremonial objects and human remains at the national and international levels.”*

All participants to this New York consultations meeting agreed on the need to establish a relevant existing instrument or mechanism, which could be instrumental in order to move forward with this issue. Participants agreed also at that meeting, and during a following-up conference call in July 2016, that in case of the absence of such mechanism, or if existing mechanisms are not fully applicable, a series of expert seminars should be held to find out further possibilities to complement existing tools, or to create a completely new mechanism to achieve the purpose of the full protection of the cultural heritage rights of Indigenous Peoples.

EMRIP considers this meeting as a concrete starting opportunity to address the issue of repatriation and restitution of indigenous peoples’ rights related to cultural heritage. Despite not being able to attend the present discussions due to financial constraints, EMRIP would like to reiterate its commitment to this process of dialogue with indigenous peoples and looks forward to continue taking any step possible to ensure its efficiency, including participating in relevant meetings and facilitating dialogue with museums. Should resources become available, EMRIP would welcome the opportunity to participate in person at future meetings.

The Expert Mechanism, whose mandate is now being strengthened by the UN Human Rights Council, will continue to keep Indigenous Peoples’ cultural heritage among its priorities and look forward to following-up on the recommendations or resolution of this Fourth Session of the Subsidiary Committee of the Meeting of States Parties to the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

We wish you a constructive and fruitful meeting and look very much forward to the outcomes of your session.

We thank you,

On Behalf of EMRIP,
Albert K. Barume, Chair-Rapporteur