

United Nations Educational, Scientific and Cultural Organization
5th Subsidiary Committee of the UNESCO's 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property
Statement on the Development of a new International Mechanism on International Repatriation of Indigenous Peoples' sacred objects and human remains
Statement by the International Indian Treaty Council, presented by Andrea Carmen
May 17th, 2017

Thank you, Madame. President. Operative Paragraph 27 of the World Conference on Indigenous Peoples Outcome Document adopted by the UN General Assembly in September 2014 committed States “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.” Articles 11 and 12 of the UN Declaration on the Rights of Indigenous Peoples, the internationally recognized minimum standard for the survival, dignity and well-being of the world;s Indigenous Peoples also call for return of Indigenous Peoples’ cultural property taken without their free prior and informed consent or in violation of their laws, traditions and customs.

At the recently concluded 16th session of the UN Permanent Forum on Indigenous Issues in New York we presented the following examples of progress made in response to the specific recommendations on this matter in paragraphs 46 and 47 of the Permanent Forums’ report on its 15th session:

- 1. Dialogue through a conference call with members of the UN Expert Mechanism on the Rights of Indigenous Peoples (EMRIP), UNESCO, the UN Permanent Forum and Indigenous Peoples’ representatives during EMRIP’s 9th session in July 2016 regarding the organizing of a joint seminar or seminars to advance the new mechanism;**
- 2. Meetings between Swedish, Swiss and other National Museums and Indigenous Peoples to discuss repatriation of specific items as well as the role of national museums in contributing to the new mechanism and an international data base;**
- 3. Invited presentations by IITC and EMRIP to the Subsidiary Committee of UNESCO’s 1970 Convention in September 2016.**

Despite recent advances, international repatriation for Indigenous Peoples remains challenging and slow. The need for this new mechanism is critical for Indigenous Peoples around the world. For example, despite renewed dialogue between Yaqui cultural leaders, the Swedish government and its National Museums of World Culture, our sacred Yaqui Maaso Keva remains in captivity across the ocean with no date set for its return. As our Peoples continue to express, such items are not artifacts or collections, they are sacred living beings on which our holistic health, spiritual life and cultural identity depends. Their continued display or storage in museums and other repositories, their sale by auction houses and purchase by private collectors, is an open wound for Indigenous Peoples. It is evidence of a history of colonization and plunder whose legacy continues with impunity in violation of our traditions, laws and customs and our right to free prior and informed consent.

We appreciate the willingness of the UN Permanent Forum, the EMRIP and UNESCO, as well as the State Parties to the Convention to actively engage in these discussions which have, along with persistence of Indigenous Peoples, contributed greatly to the progress made to date and the growing realization that something further must be done. As we presented to this body last September, we see that the 1970

Convention Article 6 calling on State Parties *(a) To introduce an appropriate certificate in which the exporting State would specify that the export of the cultural property in question is authorized, and Article 13 (b) which calls upon the State parties “to ensure that their competent services co-operate in facilitating the earliest possible restitution of illicitly exported cultural property to its rightful owner”* can provide a good basis for the development of UNESCO’s further work in this regard. We were informed by UNESCO’s representative who participated in the panel we sponsored on this topic earlier this month during the Permanent Forum’s 16th session that elements of the 1995 UNDRIT Convention on Stolen or Illegally Exported Cultural Objects, as a complementary instrument to the 1970 Convention may also be useful to consider as this discussion process develops.

Madame President, we respectfully call on this Committee to adopt a resolution at this session that will accelerate progress through the consistent engagement of UNESCO, including during the [UN Expert Mechanism of the Rights of Indigenous Peoples’ 10th anniversary session in July of this year in Geneva and the Expert Group Meeting on Indigenous Peoples Rights to their Cultural Heritage planned for October at the University of Helsinki in Finland. These sessions will serve as important opportunities to discuss in detail the substance and elements of the potential repatriation mechanism. We propose that the following elements for actions and follow-up be included in this resolution:

- 1. Co-organizing a seminar or seminars in 2017 – 2018 with UN EMRIP and Indigenous Peoples’ representatives to discuss the development and implementation of the new mechanism, as called for in the recommendations in the 15th session of the Permanent Forum on Indigenous Issues**
- 2. Establishing and hosting a new data base listing Indigenous Peoples sacred cultural items held in State repositories and encourage States and museums to post information as also recommended by the Permanent Forum**
- 3. Adopting and enforcing a new export certificate and regulation requiring proof of FPIC from appropriate Tribal/Cultural Indigenous entities before sale or international transport of ceremonial items or human remains is permitted (example: CITES for endangered species)**

IITC also joins with the EMRIP in recommending that a paragraph on the repatriation of Indigenous peoples’ cultural heritage be included in the new UNESCO policy and further that UNESCO invite the participation of Indigenous Peoples representatives in addition to States and UN Experts in the process of its finalization.

In closing Mr. President, the IITC and our affiliates from the Arctic, Pacific, North, Central and South America and Caribbean regions greatly appreciate the invitation by the UNESCO Secretariat to attend this session as well as the 4th meeting of the Subsidiary Committee last September. These invitations indicate to us a recognition that the perspectives and experiences of Indigenous Peoples can contribute positively to the Convention’s implementation and the realization of its objectives. We thank the members of the Subsidiary Committee as well as the observer States who have expressed an interest in developing a resolution UNESCO’s role on the new mechanism. We will be pleased to participate in this process as an observer representing Indigenous Peoples and to undertake this work with you without delay.

Choeque Utesia, thank you very much.