

Permanent Forum on Indigenous Issues
Eleventh Session
New York, 12 – 23 May 2014

Decisions and Recommendations of the North American Indigenous Peoples' Caucus to the 13th Session of the United Nations Permanent Forum on Indigenous Issues and to other bodies and fora, as appropriate

Preamble

We are the originally free and independent nations of Great Turtle Island, and we have our own laws given to us by the Creator, which, through our oral traditions instruct us to live in a spiritual manner with all living things. We have met in a spiritual manner in the territory of the Secwepemcú'cw Nation. The Indigenous Peoples' representatives attending this year's NAIPC gathering took particular note of the fact that the 13th session of the UN Permanent on Indigenous Issues will be addressing the fundamental right of self-determination. Article 3 of the UN Declaration on the Rights of Indigenous Peoples, states, "All Indigenous Peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development." Our original self-determination is the right of our nations to exist free from all patterns of colonization and domination which are cloaked by states in the euphemistic language of "good governance" and "reconciliation."

Organizational Details

1. The North American Indigenous Peoples Caucus (NAIPC) met on March 1 and 2, 2014 at Thompson Rivers University, in the traditional territory of the Secwepemcú'cw Nation. The meeting was hosted by the Shuswap Nation Tribal Council and Neskonlith Indian Band.
2. The meeting was opened with a traditional prayer and song by Secwepemcú'cw Elder, Mike Arnouse, in accordance with traditional protocol.
3. The NAIPC meeting was attended, for varying amounts of time, by over 90 representatives from 41 Indigenous Peoples' Nations and organizations, including: The

NAIPC meeting was attended by representatives from Indigenous Peoples' Nations and organizations, including the following: Acjachemen Nation-Juaneno Band of Mission Indians, AIM-West, Assembly of First Nations, AYIP, Adams Lake Indian Band, Buffalo River Dene Nation, Barbareno Chumash, Coastal Band of Chumash Nation, Confederacy of Treaty Six First Nations, Carrier Sekani Tribal Council, Emerging Indigenous Leaders Institute, Esk'etemc, Gila River Indian Community, Gwichin, International Indian Treaty Council, IILG, Indigenous Law Institute, Indigenous Peoples Council on Biocolonialism, Kitchenumaykoosib Inninuwig, Lil'wat Nation, Lipan Apache Band, Lower Nicola Indian Band, Muskeg Lake Cree Nation, Neskonlith Indian Band, Okanagan Indian Band, Oneida Nation Council, Onion Lake Cree Nation, Quapaw Tribe of Oklahoma, Sacred Places Institute for Indigenous Peoples, Saddle Lake Cree Nation, Sakimay First Nations-Treaty 4, Samson Cree Nation, Secwepemc, Seventh Generation Fund, Star Blanket First Nation-Treaty 4, Tonatierra, Treaty 4, Treaty 6, UBC NITEP, Wolf Lake First Nation, and Xat'sull.¹

4. Observers in attendance included North American expert to the UN Permanent Forum on Indigenous Issues (UNPFII), Ed John, and Sonia Smallacombe from the UNPFII Secretariat.
5. Participants selected Arthur Manuel (Secwepemc) and Angela Mooney D'Arcy (insert Nation), to co-chair the meeting.
6. Nominations were taken for Rapporteurs, Steven Newcomb, Wes George, Janice Makokis, and Donna Goodleaf were nominated and they agreed to serve in that capacity.
7. Opening remarks provided by Chief Ed John, current member for North America on the United Nations Permanent Forum on Indigenous Issues and Sonia Smallacombe, Secretariat of the Permanent Forum on Indigenous Issues. Sonia went over the agenda for the upcoming 13th Session of the UNPFII.
8. After the report made by Chief Ed John and Sonia Smallacombe, questions and concerns were raised about the agenda of the upcoming UNPFII. Specifically, there were concerns around the move the UNPFII is taking to change the name from UN Permanent Forum on Indigenous "Issues" to "Peoples" and the implication this has to potentially limit the right to self-determination. Changing the name will require opening the UNPFII mandate which also has implications, and in so doing we should be aware of how this would likely affect us.
9. There were concerns raised by Chiefs in attendance that Nations are not able to register for the UNPFII under their own nation but instead must register under a UN accredited and recognized non-governmental organization (NGO). Therefore, it is recommended to the UNPFII that Indigenous governments be recognized in their own right (as a nation

¹ Two participants registered under the Federation of Saskatchewan (FSIN), but at the request of Chief Perry Bellegarde the FSIN has been removed as a NAIPC participant from this report.

and/or government), as well as traditional knowledge holders when registering for the UNPFII.

Report from the preceding International Seminar on Self-Determination

10. Nichole Schabus gave an overview of the seminar on self-determination that was held the day before the official NAIPC meeting. Presentations were made by Arthur Manuel, Sharon Venne and Deborah Sanchez to assist NAIPC participants in working towards consensus decisions and recommendations to put forth at the upcoming UNPFII.

Agenda 3: Special Theme: Self-Determination: Principles of good governance consistent with the UNDRIP (articles 3-6, 46)

11. There was discussion around concerns related to the use of “territorial integrity” in Article Forty Six of the UN Declaration. One elder spoke to the refusal of member states of the United Nations to recognize our nations as nations. He considered it necessary for the member states to recognize our nations. He also discussed Article Four of the Declaration and its focus on “autonomy,” a word used by states to mean “internal self-determination.” He noted that this is far short of political independence. None of the Articles of the UN Declaration appears to cover the right of political independence. Every nation on Turtle Island has lived with Natural Law. He noted that it is the member states that are the violators, and reminded everyone “we’re human beings.”
12. American Indian Law Alliance (AILA) provided a statement regarding their concerns about the HLPM/ WCIP emphasizing the message of 'nothing about us without us'. The right to self-determination, this broadest of all human rights legitimizes the other rights we fought so hard for and we must vigilantly defend it. The right to self-determination is precisely what drove Indigenous Peoples and Nations to seek out the international fora in the first place, to have the right to self-determination apply to us as peoples. We did this in the hopes that international law could and would help our Nations and Communities retain or regain control of the homelands that shaped our distinctive identities. We are now affirming our right of self-determination as clearly expressed in international law.
13. Another Indigenous representative noted that the concept of “territorial integrity” is one of the fundamental reasons why the United States and Canada oppose our original rights. When we talk about states we’re talking about the very people who have been working to steal the land from us. The states have a backwards way of talking about Indigenous Peoples’ rights. There is also the concept of “radical title,” which is also called “crown land.” What is commonly called “the territorial integrity of Canada” is otherwise known as “Crown land.” What the states are saying is that anything that disrupts what the state considers to be its ‘territorial integrity’ is considered to be disallowed. It was also noted that the idea of “territorial integrity of the state” traces back to symbolic acts of

“possession” premised on the doctrine of Christian discovery, and the supposed ‘discovery’ of the lands of non-Christians, the religious basis of which is not dealt with in Ed John’s Advanced Unedited Version of report “A Study on the impacts of the Doctrine of Discovery on indigenous peoples, including mechanisms, processes and instruments of redress, with reference to the Declaration, and particularly to articles 26-28, 32 and 40.” (E/c.19/2014/3).

14. NAIPC recommends that the UNPFII conduct an expert study of the historic and contemporary domination and dehumanization of Indigenous Peoples, placing a particular focus on the uses of Christianity and dehumanizing terminology (e.g., “pagan,” “heathen,” “infidel,” “barbarians,” and “savages”) to deny the independence of the original nations of Great Turtle Island and other parts of the world.
15. The NAIPC recommend to the members of the UNPFII that any further discussion on self-determination take into consideration previous and existing work already being done in other UN Bodies. Recently, the independent expert to the UNHRC, Alfred de Zayas released the "Report of the Independent Expert on the Promotion of a Democratic and Equitable International Order"² at the General Assembly that should be taken up and supported widely.
16. NAIPC calls upon the UNPFII to set the theme of the right to Water for the 2016 session or in the alternative, in 2018 that specifically initiates a close review and assessment of water allocation, contamination, use, regulation, and access policies that affect the rights of Indigenous Peoples and Nations, the health of our communities and ecosystems, and that of our future generations. Reaffirming water is crucial for bio-cultural diversity and for sustaining all aspects of Indigenous Peoples’ full expression of our self-determination and essential for our physical, cultural, and spiritual well-being.
17. State governments are not recognizing the economic rights of Indigenous Peoples who practice trade of goods and services across borders. The NAIPC recommends the UNPFII to reinvigorate the study done on cross-border issues and direct the UN to implement its findings.
18. That NAIPC calls on the state governments in negotiation with affected Indigenous Peoples to rescind domestic laws and policies that restrict or impede the right of Indigenous Peoples to self-determination, including but not limited to, land claims and self-government policies.

² http://www.ohchr.org/Documents/Issues/IntOrder/A-HRC-24-38_en.pdf

19. That NAIPC recommends that the UNPFII conduct a study of state governments' efforts to convert Indigenous Peoples land rights, title and tenure into non-Indigenous property systems.
20. That NAIPC recommends that the UNPFII facilitate a comprehensive dialogue with the Human Rights Committee on the application of Article 1 in common of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights to Indigenous Peoples and its implementation to Indigenous Peoples by state Parties.
21. The NAIPC is gravely concerned with the increasing criminalization of Indigenous Peoples by labeling them as terrorists or anarchists. This criminalization is enacted against Indigenous Peoples who are exercising their right of self-determination and who are acting in defense of their rights. The NAIPC recommends that the UNPFII call for a study to examine the scope and identify remedies that protect Indigenous Peoples right to freely exercise their right to defend their peoples and lands.
22. The NAIPC recommends that the UNPFII address the violations of the Right of Self Determination and Full and Equal Participation as Peoples, equal to all other peoples in the conceptualization, the design, the implementation and evaluation of regional trade agreements among the UN member states such as are evidenced in North American by the North American Free Trade Agreement NAFTA, and the impending menace of the Trans Pacific Partnership Agreement (TPP).
23. With regard to the increased militarism and militarization and its destructive impacts and how this affects Indigenous Peoples' capacity to decolonize and to assert self-determination, the NAIPC calls to direct state Parties a part of the International Covenant on Civil and Political Rights to respect and enact articles 1, 2 and 3 of the Covenant and to enact a half-day discussion on the UNDRIP, Article 3 with regard to militarism and militarization.
24. NAIPC endorses AILA's "Statement on Territorial Integrity" addressing the United Nations Declaration on the Rights of Indigenous Peoples, specifically Article 46. It reviews Territorial Integrity and the Right to Self-Determination (SD) applying the 1970 Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations (DFR) (A/RES/2625(XXV)) and the 1993 Vienna Declaration and Programme of Action (VD) (A/CONF.157/23).
25. NAIPC notes that Article 46 cannot serve as a "caveat" to the UNDRIP. The provision set forth in the UNDRIP Article 46 (1 and 2) must be interpreted in the entirety of the UNDRIP. Article 46 (1 and 2) must be interpreted in accordance with the principles of

justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith. Indigenous Nations' and Peoples' right to our own territorial integrity needs to be taken into consideration.

26. NAIPC recommends the adoption of the report of the Expert Seminar on Treaties for assertion and enforcement; and the designation of an appropriate UN body as the Registry for indigenous treaties.
27. NAIPC recommends that an accurate and appropriate nation-to-nation fiscal relationship be established with Indigenous Nations in accordance with UNDRIP Article 19.
28. NAIPC calls on the UNPFII to participate in enabling and operationalizing UNDRIP Article 41 and to conduct a UN Study on the Indigenous Rule of Law in accordance with UNDRIP Article 27.

AGENDA ITEM 4: Human Rights:

b. Dialogue with the Special Rapporteur:

29. The NAIPC sincerely thanks Professor James Anaya for his historic work in defending and promoting the rights of Indigenous Peoples as the Special Rapporteur on the Rights of Indigenous Peoples over the past 6 years. His official country visits to the United States and Canada during his term were greatly appreciated by Indigenous Peoples and Nations in these regions. Important issues raised during his country visits were related to: denunciation of Treaty violations, desecration of sacred sites, violations of the rights of Indigenous women and children, environmental violence and other types of violations of the rights of Indigenous Peoples. We recognize his tireless and dedicated efforts to advance the work of Indigenous Peoples and wish him all success in his next endeavors.
30. We also recognize the Special Rapporteur's historic visit in January 2014 to Leonard Peltier in prison and thank him for this important work. NAICP calls upon United States President Barack Obama to implement the recommendation made by Special Rapporteur James Anaya in the report submitted to the UN Human Rights Council in September 2012, "The situation of indigenous peoples in the United States of America" [A/HRC/21/47/Add.1], that "new or renewed consideration should be given to clemency for Leonard Pelltier."
31. The NAIPC recommends that the Final Report of Special Rapporteur James Anaya, generated on the basis of his visit to Canada, and his meetings with Indigenous Nations and Peoples, be proactively advanced by the newly appointed Special Rapporteur on Indigenous Peoples to reflect the situation, positions and solutions recommended by various Indigenous Chiefs, leaders, Nations, Peoples and experts during his country visit.

AGENDA ITEM 6: Discussion on the High Level Plenary (HLP) To Be Known As the World Conference on Indigenous Peoples (WCIP)

- 32.** NAIPC will engage other regions and caucuses to move toward a global consensus on the cancellation of the HLP also known as the WCIP. The following text is the consensus position reached by the NAIPC calling for the cancellation of the High Level Plenary Meeting (HLPM) to be known as the World Conference on Indigenous Peoples (WCIP):

In March of 2013, at the NAIPC meeting at Sycuan, we established, through consensus, standards of analysis and review regarding the proposed UN high-level plenary meeting (HLPM), also known as the World Conference on Indigenous Peoples (WCIP). These standards were applied by the North American delegation at the meeting in Alta, Norway in June of 2013. The bedrock of the NAIPC position regarding Indigenous Peoples participation in the HLPM is that participation must be **FULL and EQUAL**. We decided last March that we would revisit the question of the HLPM at the 2014 NAIPC meeting, and decide upon any further participation in planning or participating in the HLPM.

In the months following the Alta meeting and in particular on February 26, 2013, the President of the General Assembly (PGA), has made it clear in an Aide Memoir that equal and effective participation by Indigenous Peoples **WILL NOT** be allowed at the HLPM. Therefore, the NAIPC conditions that were established at Sycuan, and that were reiterated at Alta, have not been respected and have been ignored by the PGA. Given this chain of events, and given the short timeline between now and the scheduled HLPM, we do not foresee our conditions for participation as equals in the HLPM being met.

Therefore, the NAIPC calls for the immediate cancellation of the HLPM by the UN General Assembly. We also call on the state of Mexico to cancel its planned technical meeting to begin drafting the outcome document for the HLPM-WCIP; we call on the UNPFII to cancel any further participation and additional preparatory or advisory meetings for the HLPM. Additionally, NAIPC advances the position throughout Great Turtle Island, and to the world's Indigenous Peoples, to call for the cancellation of the HLPM, and to withhold any and all support and participation. We call for the withdrawal of any support, active or tacit, for the HLPM by Indigenous Peoples anywhere in the world.

- 33.** By consensus the above text was agreed upon and it was decided that the NAIPC will call for cancellation of the HLPM and withdraw from the Global Coordinating Group of the HLPM/WCIP. Debra Harry and Kenneth Deer, the two NAIPC representatives to the GCG will go to New York to deliver this message to a group of states on Tuesday March 4th, after which time the NAIPC formally withdraws from the GCG.

Verbal Report: International Expert Group Meeting: Sexual Health and reproductive rights: articles 21, 22, (1), 23 and 24 of UNDRIP held on January of 2014.

28. Andrea Carmen, reported on the work IITC has been doing on impacts of environmental pollution on reproductive health; including looking into impacts from pesticides and persistent organic pollutants (POPs). Some of these chemicals are endocrine disruptors, and they devastatingly impact Indigenous peoples and their health on the ground. As such, multi-lateral environmental agreements violate international human rights standards and the rights of Indigenous peoples. Indigenous Peoples are also working with the independent expert on environment and human rights. Andrea presented about this work at the International Expert Group Meeting: Sexual health and reproductive rights: articles 21, 22 (1), 23 and 24 of UNDRIP in January 2014.

29. On the basis of this discussion, the NAIPC recommends that :

- 1) The UNPFII conduct a legal review of UN Chemical Conventions, in particular the Rotterdam Convention to ensure that they are in conformity with the UN's own human rights standards.
- 2) The UNPFII identify the export of banned and unregistered pesticides from countries that prohibit their use in their own country as environmental racism and environmental violence with direct, proven and devastating impacts on reproductive and sexual health and demand an immediate halt to this practice.
- 3) The UNPFII reaffirm its commitment to eradicate Environmental Violence and to document its impacts on Indigenous Peoples along with the National and International policies, laws and practices that perpetuate this form of violence.

Agenda Item 7: Ongoing priorities and themes and follow-up:

- a. Indigenous children;
 - b. Indigenous youth;
 - c. Second International Decade of the World's Indigenous Peoples;
 - d. Post-2015 development agenda.
30. Noting the ever-increasing number of missing and murdered Aboriginal women in Canada, including the recent murder of Loretta Saunders, an Inuk woman researching the issue, NAIPC supports the call for the Canadian federal government to hold a national inquiry into Missing and Murdered Women. The scope and mandate of such a national inquiry has to be determined by Indigenous Peoples.

31. Such a national inquiry has also been supported by Committee on the Elimination of Discrimination against Women (CEDAW), and the UNSR on Indigenous Peoples, but continues to be rejected by Canadian Prime Minister Harper, in which case NAIPC, supports the call for an Indigenous Peoples led inquiry in the event that the federal government of Canada continues to maintain an immoral and unjust position for not supporting a national inquiry.
32. NAIPC noted that the removal of Indigenous children from their families and nations constitutes ongoing genocide, based on the international definition of genocide.
33. Noting that government policies discriminate against Indigenous children, including in terms of inequities in funding between different jurisdictions and Indigenous and non-indigenous children, NAIPC recommends that these policies be revised to overcome inequities and discrimination.
34. NAIPC noted with great concern that present state governments do not identify, recognize and implement the rights of Indigenous Children and that Indigenous Children are dying and impacted in the custody of states at alarming rates. The Genocide of Indigenous Peoples is continued through the removal of Indigenous children. NAIPC recommends that the UNPFII ensure that Convention on the Rights of the Child to be fully and effectively implemented to protect the rights of Indigenous Children with the full participation of Indigenous Nations and Peoples.
35. NAIPC recommends that the UNPFII perform a Study on the impacts of Militarization on Indigenous children.
36. Noting that the Right to Health has to be recognized in all of its manifestations in UNDRIP, especially in connection to Article 37. NAIPC further recommends that the UNPFII urgently conduct a study on Indigenous Peoples Right to Health.
37. Delegates note the lack of effectiveness of the First and Second International Decade of the World's Indigenous Peoples, noting that in the first decade they had called for appointment of an under-secretary, which never happened.
38. NAIPC calls for a study on the reviewing the effectiveness of the Second International Decade of the World's Indigenous Peoples and to specifically review the following:
 - (a) The activity or activities that should conclude the second Decade;
 - (b) How the second Decade should be evaluated and;
 - (c) What follow-up should be undertaken?

Indigenous Peoples suggest that (a) and (b) be merged and that a major closing event be organized with the full participation of Indigenous Peoples.

39. NAIPC further recommends compiling a check-list for what is to be accomplished and what needs to be accomplished by the United Nations and by states as it relates to Indigenous Peoples?

Agenda Item 8: Comprehensive dialogue with United Nations agencies and funds.

40. NAIPC notes that colonization must not be continued through the mechanisms of the UN system. The United Nation's stated purpose is to be a global instrument of world peace and affirming the right of self-determination of all peoples. This mandates that the mechanisms of and processes of colonization normalized by the Doctrine of Christian Discovery of the Americas in particular be repudiated and intentionally dismantled. The Doctrine of Christian Discovery continues to serve as the immoral and illegal justification of the ongoing violations of Human Rights and Territorial Integrity of Indigenous Peoples/Nations of Turtle Island [the Americas].

Agenda Item 9: Future work of the Permanent Forum, including emerging issues

41. Chiefs, Elders, and leaders in attendance expressed concern about the role of political and other non-governmental organizations that pretend to speak on behalf of rights holders and Nations. In light of this, there was emphasis that these organizations have to seek the Free, Prior and Informed Consent (FPIC) of rights holders when they purport to represent Indigenous rights holders and Nations at various national and international meetings.
42. Our knowledge keepers recommended the NAIPC advance a true United Nation(s) gathering based on the original instructions that our Creation gave to us. Our Peoples used to gather under our own ways and we need to light those sacred fires across our territories again so we send a message to our ancestors, spirit helpers and Creation through our own languages, our lodges, our pipes, songs, feathers and other sacred ways that makes our position known. Through these acts, we are exercising our ancestral ways, pursuing our original expressions of self-determination for our future generations.
43. The NAIPC is considering changing our name to "Original Nations and Peoples of Great Turtle Island" and recommends that this proposal be discussed by Indigenous Peoples during the next year.