

CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES
OF WILD FAUNA AND FLORA



Seventy-seventh meeting of the Standing Committee
Geneva (Switzerland), 6–10 November 2023

LETTER FROM THE UN SPECIAL MECHANISMS ON THE RIGHTS OF INDIGENOUS PEOPLES
ON THE USE OF THE TERM "INDIGENOUS PEOPLES AND LOCAL COMMUNITIES"

1. This document has been submitted by the Secretariat in relation to agenda item 28.

15 September 2023

Dear Ms. Andersen,

We, the members of the United Nations mechanisms, are mandated specifically within the area of Indigenous Peoples' rights, to assist Member States and the UN system to achieve the ends of the United Nations Declaration on the Rights of Indigenous Peoples. Collectively and over decades of engagement at the UN and other intergovernmental fora, we have advocated for and advanced the distinct rights of Indigenous Peoples as well as for the establishment of every Indigenous-specific mandate presently in existence. As a result of our efforts, the world community has recognized their unique yet diverse conditions, and more importantly, affirmed their distinctive rights as Indigenous Peoples, including their collective and individual rights.

As part of our efforts to uphold the rights of Indigenous Peoples, we have requested all UN entities to refrain from conflating, associating, combining, or equating Indigenous Peoples with non-Indigenous peoples or entities, including minorities, vulnerable groups, or "local communities." We firmly believe in the importance of affirming the distinct identity, status, rights, and jurisdictions of Indigenous Peoples. At every level, Indigenous Peoples must maintain their own status, laws, jurisdictions, rights, and integrity as distinct peoples, as Indigenous Peoples. In our view and consistent with the adoption of the UN Declaration, the American Declaration on the Rights of Indigenous Peoples, Indigenous and Tribal Peoples Convention, No. 169 and other relevant law, others must also recognize this.

In particular, in the reports of its 21st¹¹³ and 22nd¹¹⁴ sessions, the United Nations Permanent Forum on Indigenous Issues (UNPFII) urged "all United Nations entities and State parties to treaties concerning the environment, biodiversity and the climate to eliminate the use of the term 'local communities' in conjunction with Indigenous Peoples, so that the term 'Indigenous Peoples and local communities' would be abolished (Para. 85 and 25 respectively)."

Moreover, the UN Special Rapporteur on the Rights of Indigenous Peoples has been actively monitoring and assessing the state of Indigenous Peoples' rights worldwide. In this regard, in his 2022 report "Protected Areas and Indigenous Peoples' Rights: the obligations of States and international organizations"¹¹⁵, the Special Rapporteur underlines that Indigenous Peoples enjoy a unique status under international law, protected by a legal framework distinct from the rights of minorities, peasants and "local communities". He also urges avoidance of the use of terms or phrases such as "Indigenous Peoples and local communities" so as not to prejudice or misstate the nature and scope of the distinct rights of Indigenous Peoples in international law. (Paras. 11 and 12)

Similarly, the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) in its 2021 report "Efforts to implement the United Nations Declaration on the Rights of Indigenous Peoples: Indigenous Peoples and the right to self-determination"¹¹⁶ emphasized that combining the terms "Indigenous Peoples" and "local communities" in diverse international conventions "may have the impact of undermining the rights of Indigenous Peoples under the Declaration, in particular their right to self-determination (Para. 34)." The legal status as distinct Indigenous Peoples may also be significantly impacted, even if unintentional.

¹¹³ See E/2022/43

¹¹⁴ See E/2023/43

¹¹⁵ See A/77/238

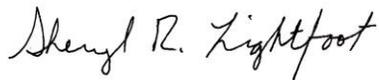
¹¹⁶ See A/HRC/48/75

These statements and recommendations do not seek to undermine “local communities” but are aimed at explicitly promoting and protecting the rights of Indigenous Peoples affirmed by the United Nations, the International Labor Organization, the Organization of American States, and other international bodies. Our primary concern is to safeguard the rights of Indigenous Peoples, including individual and collective rights, and ensure that they are not diminished or otherwise compromised.

We take our respective mandates and responsibilities seriously. We have collectively agreed to assist UN bodies with the objective of recognizing, respecting, and promoting the realization of Indigenous Peoples’ rights. While recognizing the intergovernmental nature of most UN bodies that precludes unilateral changes to agreed text by UN system organizations without the agreement of Member States, we would, nevertheless, respectfully request to indicate to the United Nations Indigenous-specific mandates how your Organization is addressing or planning to address this important issue in your methods of work. Furthermore, we would kindly solicit information concerning the respective progress on the implementation of our request and above recommendations, as well as to be kept informed on an ongoing basis of your proactive steps and any related progress on this regard in accordance to our programmes of work and cycles.

We eagerly await your response and seek your steadfast partnership in safeguarding and advancing the rights of Indigenous Peoples.

Sincerely,



Sheryl Lightfoot
Chairperson
United Nations Expert Mechanism on the Rights of Indigenous Peoples



Dario José Mejía Montalvo
Chairperson
United Nations Permanent Forum
on Indigenous Issues



José Francisco Cali Tzay
United Nations Special Rapporteur on the rights of Indigenous Peoples

Statement by the
UNITED NATIONS
Permanent Forum on Indigenous Issues
Special Rapporteur on the Rights of Indigenous Peoples,
and the
Expert Mechanism on the Rights of Indigenous Peoples
Geneva, July 2023

The 100-year commemoration of the Deskaheh mission's attempt to reach the League of Nations in Geneva is a moment to remember that Indigenous Peoples have existed long before States were formed. They have always fought to preserve their governance structures, autonomy, and inherent right of self-determination.

The adoption of the *United Nations Declaration on the Rights of Indigenous Peoples* represents a milestone global achievement of the Indigenous Peoples movement as the most comprehensive statement regarding the rights of Indigenous Peoples. Its adoption is the clearest indication that the international community is committed to protecting the individual and collective rights of Indigenous Peoples. These rights and their participation were reinforced and reiterated during the 2014 World Conference on Indigenous Peoples.

In the challenging journey of recognizing Indigenous Peoples' rights, the establishment of three United Nations Indigenous-specific mandates, namely the United Nations Permanent Forum on Indigenous Issues (UNPFII), Special Rapporteur on the Rights of Indigenous Peoples, and the United Nations Expert Mechanism on the Rights of Indigenous Peoples (EMRIP), have been significant decisions by UN Member States to advance the realization of Indigenous Peoples' rights.

Despite the existing global consensus around the *UN Declaration on the Rights of Indigenous Peoples*, we have observed developments that have raised concerns about the integrity and backdrop of the rights of Indigenous Peoples. In particular, we have observed that in many conventions and processes, the term Indigenous Peoples has been used in conjunction with other ambiguous terms and groups such as "local communities." In fact, the characteristics, nature, and origins of the rights of Indigenous Peoples are very different from other groups. Therefore, Indigenous Peoples should not be grouped with an undefined set of communities that may have very different rights and interests.

In response to this situation, we take our responsibility seriously in assisting UN entities in respecting and promoting the realization of these rights consistent with those affirmed in the *UN Declaration on the Rights of Indigenous Peoples*. Therefore, we, the UN mechanisms of Indigenous Peoples urge all UN entities, while recognizing the intergovernmental nature of most UN bodies that precludes unilateral changes to agreed text by UN system organizations without the agreement of Member States, to indicate to the United Nations Indigenous-specific mandates how their Organization is addressing or planning to address this important issue in your methods of work. We further request that all UN Member State parties to treaties related to the environment, biodiversity, and climate cease using the term "local communities" alongside "Indigenous Peoples," so that the term "Indigenous Peoples and local communities" is no longer used.



José Francisco Calí Tzay
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