

# International Indian Treaty Council



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## **Co-chairs' meeting with representatives of Major Groups and other stakeholders**

Conflict prevention, post-conflict peacebuilding and promotion of durable peace, rule of law and governance, 02/07/2014

*Submitted by Roberto Múkaro Borrero (Taíno), International Indian Treaty Council*

Thank you honorable co-Chairs.

Let me begin by noting that during previous sessions, the Indigenous Peoples Major Group addressed the broader theme of governance and those statements are available at the Sustainable Development Knowledge Platform. Our presentation today will therefore focus more specifically on the rule of law, which is certainly not an abstract concept to the World's Indigenous Peoples.

The rule of law and human rights do matter to Indigenous Peoples; affirming and implementing these legal and conceptual frameworks are among the reasons why we engage with the UN system and the States.

Indeed, the Indigenous Peoples Major Group takes note of the Secretary-General's Report on 'Delivering Justice' where he states: "The rule of law is a core principle of governance that ensures justice and fairness, values which are essential to our humanity".<sup>i</sup>

From an indigenous perspective, justice and fairness, along with other key themes such as durable peace, human rights, security, accountability and sustainable development, cannot be promoted in isolation or at the expense of Indigenous Peoples. With justice, fairness, and the rule of law based in the human rights framework, there is much that can and must be done to ensure the voices, interests, and concerns of Indigenous Peoples are included in the post-2015 development agenda.

Honorable Co-Chairs, we are aware that all 193 United Nations Member States endorsed the idea that the rule of law and development are mutually reinforcing. Additionally, States affirmed that this interrelationship should be considered in the post-2015 development agenda.<sup>ii</sup> Moreover, there already seems to be a broad consensus that the post-2015 agenda needs to move forward with sustainable development at its core and the eradication of poverty as its top priority. Indigenous Peoples, however, are well aware that poverty will not be alleviated without respect for rights, justice and fairness.

Based on this reality, and to better address inequalities faced by Indigenous Peoples, it is essential that the advancement of the rule of law at the national and international levels be clearly articulated as a priority in this new agenda. There is a need for Governments, for instance on the country-level, to strengthen their regulatory systems with strong, yet adaptable legal frameworks that not only take into account of the special situations and legal frameworks of Indigenous Peoples, but that conform fully with internationally accepted human rights standards and resulting legal obligations and

commitments.

In this context, the rule of law as defined by the Secretary General forms a critical point of reference for the empowerment and meaningful participation of Indigenous Peoples and other marginalized groups in the post-2015 agenda.<sup>iii</sup> While the OWG process is considering the linkages between the rule of law and sustainable development, there are a number of challenges and issues relevant to Indigenous Peoples that should be taken into consideration. These include, but are not limited, to: Treaties, agreements and other constructive arrangements between States and Indigenous Peoples; engagement with indigenous legal and justice systems; Constitution-making; institution-building; participatory mechanisms for conflict resolution; and meaningful and effective participation in processes aimed at strengthening the rule of law. Fortunately, there are mechanisms that can guide States and the United Nations System toward meaningful engagement with Indigenous Peoples in these areas.

The UN Declaration on the Rights of Indigenous Peoples, for instance, builds on existing human rights standards, many of which represent established, legally-binding obligations of States, and applies these standards to the specific needs and circumstances of Indigenous Peoples. The Declaration sets out minimum standards for the “survival, dignity and well-being” of Indigenous peoples around the world as well as participatory frameworks for resolution of conflicts.<sup>iv</sup>

The Rio+ 20 Outcome Document stressed the importance of the participation of Indigenous Peoples in the achievement of sustainable development. It also recognizes the importance of the UN Declaration on the Rights of Indigenous Peoples in the context of global, regional, national, and sub-national implementation of sustainable development strategies.

In closing, the Indigenous Peoples major group affirms that the rule of law is a principle of governance that promotes justice, fairness, and accountability. We call upon the OWG co-chairs to ensure that the culmination of this process includes a clear message that implementation by States of the UN Declaration on the Rights of Indigenous Peoples and other human rights standards including the Human Rights Covenants and the Convention on the Elimination of all Forms of Racial Discrimination should be regarded as political, moral and legal imperatives without qualification.

Hahom/Thank you.

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<sup>i</sup> “Delivering justice: programme of action to strengthen the rule of law at the national and international levels”, 16 March 2012, A/66/749, paragraph 1.

<sup>ii</sup> See <http://www.un.org/News/Press/docs/2013/dsgsm721.doc.htm>

<sup>iii</sup> The Secretary-General defines the rule of law as “a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.” (Report of the Secretary-General: The rule of law and transitional justice in conflict and post-conflict societies” (2004))

<sup>iv</sup> There are other mechanisms that should be highlighted in this context such as the CERD, the Convention on the Rights of the Child, ILO Convention 169, etc.