



International Indian Treaty Council

2940 16th Street, Suite 305,
San Francisco, CA 94103-3664
Telephone: (415) 641-4482; Fax: (415) 641-1298
email to: andrea@treatycouncil.org; roberto@treatycouncil.org
www.treatycouncil.org



To: The Expert Mechanism on the Rights of Indigenous Peoples
c/o EMRIP Secretariat expertmechanism@ohchr.org

Date: March 10, 2015

Re: Additional Information for the EMRIP Study on Cultural Heritage on the role of museums and the need for an international protocol for International Repatriation of Cultural and Spiritual Items and human remains.

States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

- UN Declaration on the Rights of Indigenous Peoples Article 11, paragraph 2

We affirm and recognize the importance of indigenous peoples' religious and cultural sites and of providing access to and repatriation of their ceremonial objects and human remains in accordance with the ends of the United Nations Declaration on the Rights of Indigenous Peoples. 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.

- Operative Paragraph 27, World Conference on the Rights of Indigenous Peoples (September 22, 2014)

Please find enclosed some of the documentation and correspondence which pertain to the ongoing refusal by the government of Sweden to return a ceremonial Deer Head (Maaso Kova) used in the Yaqui Deer Dance ceremony, a sacred item of the highest spiritual and cultural significance for the Yaqui Nation. The Yaqui Nation is located in Northern (Sonora) Mexico and in Southern Arizona United States, with the international border which divides the US and Mexico also dividing the Yaqui traditional territories between two countries.

We very much appreciate the visit of EMRIP member Chief Wilton Littlechild to the Pascua Yaqui Reservation in Tucson Arizona in 2014. He was able to speak on this matter with Pascua Yaqui Tribal Chairman Peter Yucupicio, representatives of the Yoemem Tekia Foundation Yaqui cultural museum, the International Indian Treaty Council (IITC) and traditional Yaqui cultural participants.

The enclosed documents were presented at that time to Chief Littlechild, who at that time was the EMRIP Chair (as well as Permanent Forum member Grand Chief Edward John and Sami Parliament representative John Henriksen) regarding the ongoing violation of our cultural rights and heritage by the Swedish government in their refusal to return this item. They say it was acquired in the 1930's in Southern Mexico (the Yaqui are from Northern Mexico but were taken as slaves to Yucatan) by two Danish anthropologists. It was subsequently transferred to the Swedish National Museum of

Ethnography in Stockholm where it was put on display in a glass case. We understand that it has now been taken out of display but it still has not been returned. In fact, the museum has stated that they do not intend to do so and see no reason why there should (please refer to the enclosed correspondence, some of which has been received since his visit).

Our correspondence began with the Swedish government over 12 years ago, including several meetings with the Swedish government in Geneva and New York, with the participation of the IITC, Yaqui and other Indigenous representatives from the US and Mexico, and representatives of the Sami Parliament and Sami Council who expressed their support for the return of this sacred item. I have also enclosed a photo of the Maaso Kova as I found it on display in 2003 when I visited Stockholm at the invitation of the Samis for International Indigenous Peoples Day.

Additional correspondence with the US government is also included from the San Carlos Apache Nation (also in Arizona) regarding their cultural and spiritual items currently being held and auctioned in France (in that case by a private party) to provide another example of challenges facing Indigenous Peoples with international repatriation of cultural items, which is a widespread problem. Regarding the Yaqui case, the United States State Department has offered to discuss this matter with Sweden (the Yaqui in Arizona USA are a federally recognized tribe) but no results have yet been reported.

The main challenge regarding the exercise of the rights specified in the UN Declaration Article 11 is that no mechanism or protocol currently exists for the great many Indigenous Peoples who are directly affected because their cultural items and human remains are being held in both public/national museums and by private collectors around the world without their Free Prior and Informed Consent. We were gratified that this gap is addressed specifically in paragraph 27 of the WCIP Outcome document as quoted above.

We greatly appreciate consideration of the EMRIP members to highlight these violations as examples in their current Study on Cultural Heritage. We encourage the EMRIP to provide specific advice to the Human Rights Council regarding how to move forward in the implementation of paragraph 27 of the World Conference on Indigenous Peoples outcome document based on this and other examples. This could be based on the State obligation stipulated in Article 11 paragraph 2 of the UN Declaration.

There is an urgent need for a mechanism to be developed collaboratively by States and Indigenous Peoples to address international repatriation. Today this does not exist, and this is left to the good will of individual states on a case by case basis which is far too falls short and provides little security for Indigenous Peoples struggling to ensure that their sacred items are returned from other countries so that they can be cared for and healed with the appropriate ceremonies and protocols.

Please note that the Yaqui cultural leaders have offered to provide other cultural items which CAN be appropriately and respectfully displayed in such a museum, along with the offer to explain their significance and history for the benefit of the Swedish People. The Deer Head should not, under any circumstances, be used in this way and needs to come home. The current situation demonstrating a blatant lack of respect for the wishes and rights of the Yaqui Nation, is causing grave spiritual harm to the Yaqui, to the spirit of the Maaso Cova itself and, many believe, to the Swedish Peoples themselves. We seek a respectful remedy that can be acceptable to all concerned.

We commit, as requested, to submit a proposal, in conjunction with other Indigenous Peoples working on these issues, with specific elements that could be included in such a protocol or mechanism for

inclusion in the report of the Study as advice to the Council. We will submit these materials within 2 weeks from today's date.

Thank you for your consideration of these materials and this serious matter. They has already by referenced by Chief Littlechild as an EMIRP member for inclusion in this Study, both in terms of the role of museums and the need for follow to paragraph 27 of the WCIP outcome document, which we greatly appreciate.

In closing, I reiterate our request that that the EMRIP provide specific advice to the Human Rights Council in regards to both content and next steps for developing and implementing such a vital mechanism in the report of its upcoming session.

Sincerely,

A handwritten signature in cursive script that reads "Andrea Carmen".

Andrea Carmen, Executive Director
International Indian Treaty Council