United Nations Expert Mechanism on the Rights of Indigenous Peoples
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Submission by the International Repatriation Project/Association on American Indian Affairs and the International Indian Treaty Council (IITC) for the EMRIP Study on the Promotion and Protection of the Rights of Indigenous Peoples with respect to their Cultural Heritage

"Today, Native Americans face the enormous task of locating ancestral remains and cultural items, which are presently dispersed throughout the world in repositories and private collections. There are an estimated 1-2 million Native American ancestral remains and cultural items that have been taken from Native American Peoples and now reside in repositories." *-- Submission to UN Special Rapporteur James Anaya by the International Repatriation Project, Association on American Indian Affairs and Working Group on International Repatriation (U.S.), May 2, 2012*

"There are thousands of Mayan cultural and ceremonial items being held and displayed in US and European Museums, University and private collections. We look forward to the implementation of an international mechanism to achieve the restoration of these sacred ceremonial items that are essential for the healing of our Peoples." -- Francisco Cali Tzay, Mayan Kaqchikel, Centro de Proyectos de Desarrollo Integral (CEPRODI), Tecpan Guatemala, and Chair of the United Nations Committee on the Elimination of Racial Discrimination-March 19, 2015.

"Aboriginal people have collective rights of ownership over all Aboriginal ancestral remains and cultural materials. This collective right must, under Aboriginal law, give full respect to the ownership, cultural obligations and duties of custodians… Aboriginal ownership continues over and extends to our ancestral remains and cultural property that exist overseas. No government or other authority can claim ownership or other rights from Aboriginal people."
-- Report of the Aboriginal Ancestral Repatriations National Workshop, Brisbane Australia May 11th and 12th, 2008

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A. INTERNATIONAL RIGHTS FRAMEWORK

Among the important commitments made by the UN General Assembly in the Outcome Document adopted at the World Conference on Indigenous Peoples on September 22, 2014, Operative Paragraph 27 states:

> *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.*** *(emphasis added)*

The Outcome Document also reaffirmed in paragraph 3, the UNGA member State's "support for the United Nations Declaration on the Rights of Indigenous Peoples, adopted by the General Assembly on 13 September 2007,[1] and our commitments made in this respect to consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them, in accordance with the applicable principles of the Declaration."

In addition, in Operative Paragraph 4, States reaffirmed *"our solemn commitment to respect, promote and advance and in no way diminish the rights of indigenous peoples and to uphold the principles of the Declaration".*

The United Nations Declaration contains a number of provisions affirming the cultural rights of Indigenous Peoples that directly pertain to the issues of International Repatriation of Cultural heritage, including ceremonial objects and human remains, as addressed above in OP 27.

Specifically Article 11, paragraph 2 affirms that:

> *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.*

[1] Resolution 61/295, annex.

In addition, preambular paragraphs 5, 7, 8, 9, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 and articles 3,5, 8, 11, 12 15, 18, 19, 25,31, 43, 37, 37, 38, 39, 40, 41 and 42, inter alia, affirm cultural and other relevant rights that are violated when cultural and ceremonial items and ancestral remains are removed and/or held by museums, institutions and private collections without the consent of Indigenous Peoples who are rightful caretakers. In addition, many of these preambular paragraphs and articles underscore the importance of cooperation, good faith, and partnership among Indigenous Peoples and States for ensuring the recognition and implementation of these rights, as well as the development of relevant activities and processes by the UN System.

These principles and rights, which constitute the internationally accepted minimum standards, along with various declarations, resolutions and statements from Indigenous Peoples from around the world on this critical theme, must form the basis for implementation of OP 27 and the advancement of ***"fair, transparent and effective mechanisms for access to and repatriation of ceremonial objects and human remains at the national and international levels.***

This joint submission to the UN Expert Mechanism for the Rights of Indigenous Peoples (EMRIP) for inclusion in its current Study on Cultural Heritage of Indigenous Peoples will focus on the aspect of "international repatriation". It is the request of the Co-submitters that the EMRIP present advice to the UN Human Rights Council to address the content and process for advancing such a mechanism. It is our intention to make recommendations in this regard based on substantial collective work by Indigenous Peoples addressing this theme as a core aspect of their cultural rights, well-being and identity.

B. BACKGROUND AND INTRODUCTION: WHAT IS INTERNATIONAL REPATRIATION?

International repatriation involves the return of Indigenous Peoples' ancestral remains, funerary objects, sacred objects, and objects of cultural patrimony from repositories and locations located outside the boundaries of the States in which the impacted Indigenous Peoples now reside. Such repositories are inclusive of State and privately owned museums, educational and scientific institutions and collections owned by private individuals and families, to name a few.[2]

According to Honor Keeler, Director, International Repatriation Project Association on American Indian Affairs, there are an estimated 1 million Indigenous Ancestral remains and cultural items located in repositories throughout the world.

[2] Terms pertaining to Indigenous international repatriation encompass the same or similar definitions. These include: "Ancestors", "ancestral remains", "human remains", "human tissue", "funerary objects", "sacred objects", "objects of cultural patrimony", "ceremonial objects", "secret/sacred objects," regalia etc. etc. Collectively, in this document we are using Ancestors (or Ancestral remains) and cultural items. Many Indigenous Peoples also assert that any knowledge derived from the study or testing of such items is also the patrimony and property of the Indigenous Peoples from whom the items were without their Free Prior and Informed consent.

This situation is an ongoing and egregious violation of human rights of Indigenous Ancestors and cultural items that were taken, exhumed, excavated, looted, stolen or removed under duress, from Indigenous lands and Peoples without their free, prior, and informed consent, which was the case in the vast majority of instances. The holding by museums, repositories, institutions (including universities), auction houses, and collections of Indigenous Ancestral remains and cultural/ceremonials items perpetuate colonial domination and give rise to a range of other human rights violations. When Indigenous Peoples' ancestral remains and cultural items are retained, displayed, studied, tested, photographed and profited from without the Free, Prior and Informed Consent of the rightful caretakers, immeasurable spiritual, religious and cultural harm is inflicted.

This reality affecting Indigenous Peoples around the world is an affront to Indigenous rights, spiritual and cultural well-being, and fundamental cultural identity. It affects every other aspect of their collective lives and survival. These cultural items and ancestral remains require care under strict and, often, secret protocols by designated and recognized spiritual, ceremonial, clan and family leaders, as determined by the Indigenous Peoples affected. In the vast majority of cases, they must remain in the homelands where they were used and placed under very strict and sometimes secret cultural and ceremonial protocols. Their presence in museums, institutions and collections thousands of miles from their original places of use or resting is a continuing egregious violation of the cultural rights of Indigenous Peoples as well as their rights to exercise their free, prior and informed consent, in relation to a situation of the most profound significance and importance.

Currently, there are no international mechanisms or protocols in place to provide effective redress or a process for repatriation for the impacted Indigenous Peoples. Some States have implemented laws and measures that provide limited and partial relief for return of items held within the same States where the impacted Indigenous Peoples live. However, even in the national laws and processes, many limitations exist, including the status of "recognition" of the Indigenous Peoples within a given State, national and international norms that recognize such items to be the cultural patrimony of States rather than Indigenous Peoples, and exemptions for privately held items. And the lack of international mechanisms provide little to no effective relief for Indigenous Peoples whose cultural items have been removed across state boundaries.

C. INTERNATIONAL REPATRIATION: A HISTORY FROM NATIVE NORTH AMERICA

The removal of Ancestors and cultural items from Indigenous lands and Indigenous Peoples has occurred for nearly five centuries in Native North America. Indigenous Peoples of the Americas (American Indians, Alaska Natives, Native Hawaiians, and other Indigenous Peoples) suffered enormous human rights violations, including the robbing of Indigenous graves and the taking of important sacred, ceremonial, funerary, and patrimonial items, without their consent or under situations of extreme duress, such as massacres, war, concentration camps, removal, and poverty. This Western

policy pertaining to the Ancestors and cultural items of Indigenous Peoples was set early in colonialism, and has persisted to the present day around the world.

After first contact, European trading companies settled near Indigenous waterways on Indigenous lands, renaming the places around them in foreign languages, and began the transfer of Indigenous Ancestors and cultural items overseas. Such grave robbing was justified in Western law, as Indigenous Peoples remained outside the protection of the laws of citizens, even though European law was extended over them in efforts to take their lands, resources, and possessions. The free, prior, and informed consent of Indigenous Peoples was never sought, and these foundational principles of trading companies, who were afforded law-making abilities under European governments and some of which became their own colonial governments (and, in the case of the United States, states of the union), were perpetuated.

These have formed the foundational basis of present-day principles in federal Indian law, maritime law, corporate law, intellectual property, and international law where Indigenous Peoples were historically excluded from the decision-making powers of the laws and policies imposed upon them. Thus, Indigenous Peoples were unable to protect their lands, Ancestors, and cultural items, and were often punished for doing so.

During the nineteenth century, Native American human remains were used in medical schools and laboratories without the consent of American Indian, Alaska Native ("AI/AN"), and Native Hawaiian Peoples, their governments, communities, or families. Many Native American human remains were exhumed and experimented on, sacred and cultural items were taken, and all of this was done in the name of the furtherance of scientific advancement, religion, manifest destiny, and profit. Native American Peoples who had recently died at battle sites or through devastating removals from their traditional homelands were also collected for scientific study without the consent of the families and communities.

As a result, vast collections of Native American ancestral remains and cultural objects are now housed in repositories around the world, having come from medical museums, curio collections, expeditions, anthropological and archaeological excavations, geological surveys, and studies, national or city collections, looting of other European museums during World Wars, looting of Native American graves, or through exchanges among museums. These policies of collecting persisted into the 20th century within federally funded collections in the U.S. and still persist today in private collections in the U.S. and many international collections, and auction houses.

In the United States, the first piece of legislation pertaining to the repatriation of Native American ancestral remains and cultural items was the National Museum of the American Indian Act (*NMAI Act*), which also created a National Museum of the American Indian within the Smithsonian Institution. It is limited to the Smithsonian Institution and its collections. In 1990, the Native American Graves Protection and Repatriation Act (*NAGPRA*) was passed and has, arguably, become the most influential piece of domestic legislation in the world regarding repatriation of Indigenous ancestors and cultural items. NAGPRA required federally funded institutions in the United States

to inventory Native American human remains and associated funerary objects, and summarize unassociated funerary objects, sacred items, and objects of cultural patrimony, and notify lineal descendants, American Indian tribes, and Native Hawaiian Organizations. It also requires consultation, which is not merely perceived as sending a letter, but involves a "good faith" effort by the institution to consult on an ongoing basis with lineal descendants, American Indian tribes, and Native Hawaiian Organizations.

NAGPRA also establishes a Review Committee to oversee repatriations. In addition, laws, such as the Archaeological Resources Protection Act (ARPA) and NAGPRA in the United States, prevent the looting of Native American graves and archaeological sites on federal property, and prevent the illegal trafficking of Native American human remains and cultural items. However, laws in the United States still, generally, have not extended into the private art market.

These laws, in general, are reflective of the government-to-government relationship that federally recognized tribes have with the U.S. government, and also reflect Treaty rights. They do not apply in general to those tribes or Indigenous Peoples who are not "federally recognized", including some of those in colonized territories, such as Hawaii, and those in Puerto Rico (Boriken). And, except in limited circumstances, these laws do not extend internationally.

Today, Native American and other Indigenous Peoples around the world are seeking the return of their Ancestors and cultural items because their Ancestors and cultural items were looted, taken under the extreme duress of removal from their homelands, stolen, taken from massacred family members, or exchanged, all without the free, prior, and informed consent of Indigenous Peoples who continue to be impacted on an ongoing basis. Many Indigenous Nations also have established repatriation offices that specifically deal with repatriation of their Indigenous Ancestors and Cultural items.

D. **CURRENT CASES PRESENTED BY INDIGENOUS PEOPLES**

In the United States, Native Nations, which pre-date the existence of the U.S. government, have a recognized government-to-government relationship with the U.S. government. Native Nations have sovereign rights, including executive, legislative, and judicial branches. They also maintain their continued legal jurisdictions, which has also been affirmed many times over in treaties with the U.S. government and other European governments. The U.S. State Department has been willing in some cases to informally approach other countries on this matter at their request of federally recognized tribes. This approach may be helpful in some cases. However, the sovereign status of Native Nations' both in and outside the U.S. requires direct government-to-government relationships with other countries. As OP 27 underscores, an international mechanism or protocol has yet to be established to carry out the required international negotiations and diplomatic relations between Indigenous Peoples and States that could formalize and facilitate this process.

The following provides some examples of the experiences of Indigenous Peoples from in and outside the United States, along with some of their recommendations.

Native Hawaiians: Hui Mālama I Nā Kūpuna O Hawai'i Nei is a Native Hawaiian Organization that has been involved with international repatriation of its iwi kūpuna (ancestral bones) and moepū (funerary objects) for the past 24 years. As Hui Mālama demonstrates in its Statement (*See* Supporting Documents), neither museums nor private collectors have ever provided evidence that "the family of deceased Native Hawaiians have consented to the taking of the ancestral remains", and Hui Mālama reaffirms that Native Hawaiians have a right and a duty to care for iwi kūpuna and moepū. In addition, institutions have forced the balancing of scientific interests against Native Hawaiian cultural interests embodied by the ancestral and living family. Hui Mālama currently has five international repatriation cases that have stalled. International repatriation can be a lengthy process, and for Hui Mālama, one repatriation took nearly 23 years to resolve. Obstacles encountered in international repatriations for Hui Mālama have included: refusals to repatriate, to consult, to share information and to consider historic documentation as a means of identifying ancestral remains. (See Supporting Documents for a Statement from Hui Mālama I Nā Kūpuna O Hawai'i Nei.)

Lakota (Wounded Knee Survivors Association, South Dakota US): In 1995, the Wounded Knee Survivors Association (Pine Ridge Reservation and Cheyenne River Reservation) began to engage in consultations and the international repatriation of a Ghost Dance shirt at the Kelvingrove Museum (Museums Glasgow, Glasgow, Scotland). The Ghost Dance shirt was taken by George Crager from a Lakota who was killed at the Wounded Knee Massacre in 1890 and, later, worked with Buffalo Bill's Wild West Show. While in Glasgow, Crager sold the Ghost Dance shirt, along with 13 other items. Initially, in 1995, the City Council of Glasgow declined repatriation, citing the necessity for the object to tell the story of the Massacre at Wounded Knee, that the item was purchased in good faith, and that the items were part of the public domain. However, public support within Scotland for the return of the Ghost Dance shirt helped to establish the Working Group on Repatriation and a set of criteria was established to address repatriations. The City Council decided to repatriate the Ghost Dance shirt through a conditional repatriation, which required the Wounded Knee Survivor's Association to preserve the Ghost Dance shirt in perpetuity and that it be on display at all times.

Although the return of this sacred and ceremonial item was among the first of its kind to U.S.-based Indigenous Peoples (and criteria for repatriation at Museums Glasgow has since changed), it highlights the problems with conditional repatriations. In the United States, it is the right, through federal and tribal law of Native Nations to self-determine what happens to their own Ancestors and cultural items after transfer of control occurs. This right of self-determination is highlighted in the U.N. Declaration on the Rights Indigenous Peoples and, therefore, it should be the right of Indigenous Peoples to self-determine the repatriation process, proper protocols, and what occurs after transfer of control of Ancestors and cultural items.

Chickasaw Nation (Oklahoma US): The Chickasaw Nation is currently beginning international repatriation efforts, and has an active case in England that began in 2002.

Initially, the British Museum of Natural History (London) cited the British Museum Act as actively preventing international repatriation, despite previous international repatriations at other institutions within the country. When the Human Tissues Act (2004) was passed, it permitted specific institutions like the Museum of Natural History to repatriate, if the museums desired this, and the Museum commenced talks to repatriate to Chickasaw Nation. However, the Chickasaw Nation has had to wait in line for over a decade while other international repatriation requests prior to their own have been addressed by the Museum. Chickasaw Nation asserts that the lengthy process of international repatriation can be decreased if there is a centralized process for international repatriation, and institutions are required to inventory their Indigenous Ancestors and cultural items, and notify Indigenous communities of their holdings. Furthermore, Customs regulations can be modified to allow for the process of Indigenous international repatriation.

Yaqui Nation (Arizona US and Sonora Mexico): The Yaqui Nation's traditional territory is located in Southern Arizona, United States and Sonora Mexico, currently divided by that international border. The Yaqui traditional cultural leaders, with the support of the Pascua Yaqui Tribe of Arizona and the International Indian Treaty Council, have been engaged in international discussions with the Swedish government and the Swedish National Museum of Ethnography for the past 12 years to achieve the repatriation of a sacred ceremonial Deer Head (Maaso Kova). The Maaso Kova was on display in the Swedish National Museum and has since been removed from display. However, the Swedish National Museum refuses to repatriate. The Museum acquired this item, which is great cultural significance for the Yaqui, in 1937 in Southern Mexico where the Yaquis were forcibly removed and forced to work as slaves and soldiers, calling into question the existence of free, prior, and informed consent in its removal by anthropologists as reported by the Museum. The Yaqui Nation is seeking the implementation of mechanisms for international repatriation that will respect their rights, as expressed in the U.N. Declaration on the Rights of Indigenous Peoples (Art. 12) and the High Level Plenary Meeting of the U.N. General Assembly Outcome Document OP 27. (Please see Supporting Documents from the International Indian Treaty Council and the Yaqui People.)

Sault Ste. Marie Tribe: The Sault Ste. Marie Tribe of Chippewa Indians learned of scalps on display at the Karl May Museum in Radebeul, Germany, last year. Initially, tensions ran high until pressure was exerted on the Museum to consult by the German media. As the Tribe stated, "It is not acceptable for those remains to be stored in a depot and not re-interred to the Earth for a proper burial." Now, the Karl May Museum is consulting with the Sault Ste. Marie Tribe of Chippewa Indians, and the scalps were taken off of display. A Letter of Understanding was signed in June, 2014, regarding consultative research. The Tribe is awaiting further consultation, which they are hopeful will lead to repatriation. The Sault Ste. Marie Tribe asserts that international repatriation is a human rights issue, that legally binding laws for Indigenous International Repatriation must be passed, and that the U.N. must consider various views of international repatriation among Indigenous Peoples. (Please see Supporting Documents for a Statement from the Sault Ste. Marie Tribe of Chippewa Indians.)

Navajo Nation (Arizona and New Mexico, US): In 2014, after being alerted to the impending sale of several Yei 'Bi 'Chei masks, which are an important part of Navajo ceremonies, from the United States Department of the Interior – Bureau of Indian Affairs, the Navajo Nation was forced to purchase the masks for $9,120 from Eve Auction House during a public auction in Paris, France. The Navajo Nation, Navajo Nation Legislators, Navajo Nation Subcommittee on Sacred Sites, Navajo Nation Human Rights Commission, and Navajo Nation Historic Preservation Department attempted to retrieve the sacred items prior to the public auction. However, the auction house refused to remove the sacred and ceremonial items from sale. The Navajo Nation was then forced to purchase the sacred items. This case highlights the unethical and immoral practices of international auction houses, which do not consult with Native Nations and other Indigenous Peoples, and continue to sell Indigenous Ancestors and cultural items. The Navajo Nation recommends: Implementation of the "Convention on the Means to Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property of 1970" to included private business as the Convention is the primary source and foundational instrument in regulating artifacts and protecting sacred objects.

Little Traverse Bay Bands of Odawa Indians (Michigan US): The Little Traverse Bay Bands of Odawa Indians are just entering into international repatriation efforts. Like other Native Nations they find it difficult to locate Ancestors and cultural items due to the lack of inventories available in international repositories of Indigenous human remains and cultural items, as well as a formal, centralized process for international repatriation. Heavy burdens lay upon Indigenous communities to locate their Ancestors, which were taken from their Indigenous communities and graves, and displaced within world museums and other repositories. In addition, traditional Indigenous borders are a paramount consideration in International Repatriation. As Eric Hemenway states, the "western border of the United States and Canada is not a traditional border for the Odawa, Ojibway, and many other tribes that live along the upper Great Lakes." The Little Traverse Bay Bands of Odawa Indians asserts that: international repatriation policies must take into consideration Indigenous traditional lands that might be located across international borders, adopt mechanisms for international repatriation, and ensure the Indigenous Peoples self-determine the international repatriation process.

Hopi Tribe (Arizona, US): In April, 2013, the Néret-Minet Tessier & Sarrou auction house (Paris) sold 70 Hopi cultural items, ceremonial Katsinam masks, amassing $1.2 million for the total sale.[3] In December, 2013, Drouot auction house sold 21 Hopi cultural items and 3 sacred Apache items for about $530,000.[4] However, the Annenberg Foundation stepped in and purchased these for the tribes. On June 27, 2014, more Hopi cultural items were sold, marking the third auction of Hopi cultural items in two years. The U.S. Embassy in Paris and the Hopi Tribe objected to the sale of these

[3] "Eve Auction House in Paris, France Again Puts Hopi Religious Objects Up for Sale", THE HOPI TUTUVENI, July 1, 2014, http://www.auctioneve.com/uploads/File/eve_hopi.pdf

[4] "Eve Auction House in Paris, France Again Puts Hopi Religious Objects Up for Sale", THE HOPI TUTUVENI, July 1, 2014, http://www.auctioneve.com/uploads/File/eve_hopi.pdf

items.[5] With regard to the Katsinam that were sold, Leigh Kuwanwisiwma, Director of the Hopi Cultural Center, stated, "The Katsinam represent cultural heritage, objects of tribal and ceremonial rites. It's the Hopis' collective property—they have never belonged to anyone, have no commercial value."[6] The Hopi Tribe asserts that the sales were illegal, that the cultural, sacred, and ceremonial items sold embody core elements of their cultural, spiritual, and religious rights, and that the items were taken illegally from their Tribe and should be repatriated. These sales are examples of the failure of auction houses to consult with Indigenous Peoples and recognize Indigenous human rights. It illustrates the continued religious and cultural oppression present in world markets against Indigenous Peoples, and the absence of ethical and moral codes pertaining to Indigenous Rights. It is furthermore, a violation of customary norms in international law and human rights pertaining to Indigenous Peoples.

San Carlos Apache Tribe (Arizona, US): The San Carlos Apache Tribe (Arizona US) attempted to stop the sale of three Gaan Bich'an (Apache headdresses) at the Eve Auction at the L'Hotel Druout on December 9, 2013. As the tribe explained, "[t]heir continued separation from Apache lands contributes directly to real harm to our people and to our ceremonies. The only proper disposition of these items is to return them to knowledgeable Apaches and for proper ceremonial treatment." Despite these requests to take the sacred, ceremonial, and patrimonial items off of sale and repatriate them back to the San Carlos Apache Tribe, Eve went ahead with the auction. The tribe received assistance from the Department of the Interior, the U.S. State Department and in particular the French Embassy, in requesting the half of the auction. But this still was not enough as France has no laws to stop such sales, and there are no binding international laws barring such sales. The Annenberg Foundation stepped in and bought these, as well as Hopi cultural items, at the same sale for nearly $530,000, and have repatriated them to both tribes. The San Carlos Apache Tribe appreciates the effort of the Annenberg Foundation, but also asserts that Indigenous Ancestors and cultural items should not be sold, and that Indigenous Peoples should not have to purchase their Ancestors and cultural items back, particularly given the circumstances under which they have been taken without the free, prior, and informed consent of the San Carlos Apache Tribe.

E. PRINCIPLES FOR INTERNATIONAL REPATRIATION BASED ON INDIGENOUS PEOPLES' RIGHTS AND CULTRUAL PERPECTIVES

In addition to the Indigenous Peoples located in the US, other Indigenous Peoples from around the world have engaged in international repatriation and developed significant international repatriation programs. This includes the Te Papa Tongarewa Museum International Repatriation Programme (New Zealand), which is dedicated to the international repatriation of Māori and Moriori ancestral remains and cultural items.

[5] "Eve Auction House in Paris, France Again Puts Hopi Religious Objects Up for Sale", THE HOPI TUTUVENI, July 1, 2014, http://www.auctioneve.com/uploads/File/eve_hopi.pdf

[6] Thomas Adamson. THE HUFFINGTON POST. "Native American Hopi Tribe Sues Auction House in Attempt to Stop Sale of Sacred Masks." Dec. 3, 2013. Accessed March 17, 2015. http://www.huffingtonpost.com/2013/12/03/hopi-masks_n_4379591.html

The Aboriginal and Torres Strait Islander Peoples of Australia have also developed an international repatriation program and process, as well as an Advisory Committee for Indigenous Repatriation (ACIR) to the Australian government, which assists with the coordination of international repatriations of ancestral remains and cultural items.

Indigenous Peoples from many regions have addressed this issue of fundamental and profound concern. Their statements, resolutions and cultural understandings, including those excerpted below, can serve as a framework for the EMRIP's advise on this issue on how to move forward on this issue to the Human Rights Council:

1. Edward Halealoha Ayau, Esq. (Native Hawaiian) of Hui Mālama I Nā Kūpuna O Hawai'i Nei affirmed the lack of consent regarding the holding of ancestral remains in the enclosed "Position Statement on the Need for United Nations Support for International Repatriation of Human Remains, Funerary Objects and Sacred Objects":

   For Hawaiians, the care of ancestral remains and burial sites is fore mostly a family matter. In every single repatriation case conducted by the Native Hawaiian organization Hui Mālama I Nā Kūpuna O Hawai'i Nei over the past 24 years… not once did a museum or private collector provide evidence that the family of the deceased consented to the taking of the ancestral remains. Not once. The acquisition of ancestral human remains without consent and knowledge of the living descendants is an illicit act that must no longer be supported.

2) Colleen St. Onge-Medicine, Cultural repatriation specialist, Sault St. Marie tribe of Chippewa Indians, Michigan USA, expressed the pain of this cultural violation:

   They [our Ancestors and cultural items] are left on shelves and in boxes crying out for their descendants to come forward and fight for their return.

3) Regarding the 12 year effort by the Yaqui Nation to achieve the return of their sacred ceremonial deer's head (Maaso Kova) from the Swedish National Ethnographic Museum in Stockholm, Pascua Yaqui Tribal Chairman Peter Yucupicio stated in a letter directly to United Nations bodies on June 4th , 2014:

   We are certain that this item was not given or sold to 2 European women anthropologists by any authorized Yaqui cultural leader under conditions which constitute Free Prior and Informed Consent because of the historical situation explained in the enclosed information from our Culture and Language

Department, as well as the strict cultural customs and protocols which are upheld regarding this item. This was carefully explained to the Museum officials on our call. Although the museum representatives informed us at the time of our phone call with them that that they are no longer displaying the Yaqui Maaso Cova, they also have not expressed any change of position regarding returning it to its rightful home.

4) On November 26, 2013, Chairman Terry Rambler of the San Carlos Apache Tribe wrote to Eve Auction House in Paris, France about the importance of the Gaan Bich'an (headdresses) to the Apache People:

Their continued separation from Apache lands contributes directly to real harm to our people and to our ceremonies. The only proper disposition of these items is to return them to knowledgeable Apaches for proper ceremonial treatment.

5) On May 2, 2013, on the occasion of his official country visit to the US, the International Repatriation Project, Association on American Indian Affairs and Working Group on International Repatriation (U.S.), submitted the following written statement to UN Special Rapporteur James Anaya :

Native Americans were subject to human rights violations when ancestral remains, funerary objects, sacred objects, and objects of cultural patrimony were robbed from graves or taken without free, prior, and informed consent. These human rights violation remain today with the continued possession, display and study of, or profit from, ancestral remains and cultural items. Article 12 of the U.N. Declaration on the Rights of Indigenous Peoples (UNDRIP) recognizes that: "States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with Indigenous Peoples concerned." Therefore, all nation-states presently acknowledge the right to Indigenous international repatriation. Today, Native Americans face the enormous task of locating ancestral remains and cultural items, which are presently dispersed throughout the world in repositories and private collections. There are an estimated 1-2 million Native American ancestral remains and cultural items that have been taken from Native American Peoples and now reside in repositories."

6) Roberto "Mukaro Agueibana" Borrero, President, United Confederation of Taino People; Kasike (chief), iukaieke Guainia, presented the following statement on March 20, 2015 to the IITC for inclusion in this submission, addressing the lack of redress

or mechanisms for the Taino People located in an insular territory under the jurisdiction of the US :

Even though one of the islands that is homeland to the Taino Peoples of the Caribbean, Boriken (known as Puerto Rico), is currently under the territorial jurisdiction of the United States, the Taino are not considered to be a "federally recognized" Indigenous Peoples by the US. National repatriation laws such as NAGPRA (the Native American Graves Repatriation Act) therefore do not apply to the Taino. The looting and removal of our scared items began with the ceremonial gold medallions and masks taken from us by Christopher Columbus and his sailors in 1492. There are still countless Taino human remains and cultural items including ceremonial spatulas, stools, stone icons and necklaces in museums and institutions in both the US and Europe. An international process for repatriation would be of great assistance to Indigenous Peoples like the Taino who are living in colonial insular territories to be able carry out the repatriation of our ancestral remains and ceremonial items. Currently there is no process in place for us to address this continuing injustice and violation of our cultural rights which has continued for 523 years."

7) Francisco Cali Tzay, Mayan Kaqchikel, Centro de Proyectos de Desarrollo Integral (CEPRODI), Tecpan Guatemala, and Chair of the United Nations Committee on the Elimination of Racial Discrimination (CERD), presented the following statement for this submission on March 19, 2015:

"There are thousands of Mayan cultural and ceremonial items being held and displayed in US and European Museums, Universities and private collections. These have been stolen from our sacred places and our burial sites it Guatemala, Southern Mexico and Belize. We never agreed for them to be removed from our homelands and this is violation of our fundamental inherent rights. We know that many other indigenous Peoples are suffering from these same kinds of human rights violations due to the removal of their sacred items to other countries without their consent. There is no protocol or mechanism in place so that the Mayan Peoples can achieve the return these items to their rightful caretakers for the spiritual well-being for our Peoples and future generations. We look forward to the implementation of an international mechanism to achieve the restoration of these sacred ceremonial items that are essential for the healing of our Peoples."

8. The report of the Aboriginal Ancestral Repatriations National Workshop which took place in Brisbane Australia May 11th and 12th, 2008 stressed the collective and inherent nature of rights related to international repatriation and the knowledge derived from Indigenous Peoples cultural items and ancestral remains:

Aboriginal people have collective rights of ownership over all Aboriginal ancestral remains and cultural materials. This collective right must, under Aboriginal law, give full respect to the ownership, cultural obligations and duties of custodians. Ownership extends to the knowledge derived, and ceremonies and customs associated with ancestral remains and cultural materials.

Aboriginal ownership continues over and extends to our ancestral remains and cultural property that exist overseas. No government or other authority can claim ownership or other rights from Aboriginal people.

Aboriginal people must be acknowledged as the owners of all information about ancestral remains, including original documentation, and they should be the ones to exercise control as to who can access the information and how it can be used. Traditional owners should be able to access and control all information regarding their cultural property.

F. RECOMMNEDATIONS TO EMRIP FOR IT'S ADVICE TO BE PROVIDED TO THE UN HUMAN RIGHTS COUNCIL

Based on the rights affirmed in the UN Declaration on the Rights of Indigenous Peoples as well as the statements and declarations of Indigenous Peoples themselves on this matter, including those sited above, the following core principles should be the basis for development of a new mechanism or process for international repatriation:

1. International Repatriation as an aspect of the inherent and inalienable right to freely pursue Cultural Development as contained in the Right of Self Determination. This right is affirmed as the internationally recognized minimum standard and is not subject to negotiation or diminishment.
2. Cultural and ceremonial items as well as ancestral remains, whether or not they are currently housed in repositories outside their places of origin, are the cultural heritage, patrimony and property of the Indigenous Peoples from whom they were taken or obtained. Such ownership or "property" rights are both intergenerational and collective in nature (whether they belong to families, clans, specific spiritual or cultural societies or entire Peoples, based on the protocols and traditions of the specific Indigenous Peoples in question).
3. Free, Prior and Informed Consent will be the governing principle in this matter at all steps and stages of repatriation including determination and confirmation of provenance. Due to the intergenerational nature of this right (see point #2 above) as well as many unresolved questions and challenges posed by Indigenous Peoples as to the conditions under which these items were originally acquired,

such consent must be renewed in each new generation by the designated authorities and recognized caretakers of the specific cultural items.

4. The criteria, process, protocol and final disposition, once returned, of such items must be freely determined by the Indigenous Peoples affected without restriction or conditions imposed by the repository. Indigenous Peoples' own traditional cultural and spiritual norms and standards will govern the protocols for repatriation at all stages.
5. Free, Prior and Informed Consent is also required prior to any and all scientific testing, display, educational and all other uses. Indigenous Peoples who are the descendants and/or rightful caretakers of ancestral remains and cultural items will determine which items can be respectfully displayed in museums or other repositories, or used for educational or other purposes, and under what circumstances and conditions, as well as which items must be repatriated without delay.
6. Indigenous Peoples must be directly involved at all stages in the planning development and implementation of International, National, state, local, and other policies pertaining to display and repatriation of cultural items.
7. Since Indigenous ancestral remains and cultural/ceremonial items were overwhelmingly removed from Indigenous lands and Peoples without free, prior and informed consent, the burden of proof should be upon the repositories or States to notify and repatriate Indigenous ancestral remains and cultural items. Inventories and a data bank of Indigenous Ancestral remains and cultural items, with dates, locations, source and provenance (Indigenous Peoples, Nation and/or territory from which it was obtained) and documentation of circumstances and conditions of acquisition must be provided by all repositories holding Indigenous Peoples cultural items and remains, and be made available on line or in person to Indigenous Peoples.
8. A consistent agreed upon process or mechanisms for carrying out international repatriations, including a process for determining as needed the rightful recipients of returned items, should be developed by an international working group consisting of Indigenous Peoples representatives including cultural knowledge holders and elders, States and UN Experts established by the UN Human Rights Council.
9. Eliminating the negative impacts of border policies impacting Indigenous Peoples divided by International Borders should be a priority in the development of this mechanism or process.
10. Photographs and duplications of repatriated items will be returned to the Indigenous Peoples or destroyed unless otherwise agreed by mutual consent.
11. A process that also addresses items held by private institutions and collectors must be developed, and States' responsibility for intervention in such cases must be determined.

12. The UN Human Rights Council should adopt a resolution within the next year calling for an immediate halt to any removal of Indigenous Peoples ancestral remains and cultural items for any reason unless Free, Prior and Informed Consent is ensured.

Finally, we call upon the EMRIP to advise the UN Human Rights Council to:

Convene an International Repatriation Expert Group Meeting to bring Indigenous Peoples and States together from all regions to discuss the next steps in the process for developing and implementing this mechanism within the next year.

G. RESOURCES AND DOCUMENTS SUPPORTING INTERNATIONAL REPATRIATION (ATTACHMENTS AND LINKS)

1. Statement from Hui Mālama I Nā Kūpuna O Hawai'i Nei (Native Hawaiian Organization) (Attached)
2. Letter of Support from The Hopi Tribe (Attached)
3. Letter of Support from San Carlos Apache Tribe (Attached)
4. Letter of Support from Sault Ste. Marie Tribe (Attached)
5. Letter of Support from Little Traverse Bay Bands of Odawa Indians (Attached)
6. Letter from Pascua Yaqui Tribal Chairman Peter Yucupicio (Attached)
7. Resolution supporting International Repatriation from the United Tribes of Michigan (Attached)
8. InterTribal Council of the Five Civilized Tribes Resolution (attached)
9. National Congress of the American Indian, Resolution #SAC-12-008, Support for International Repatriation, attached. http://www.ncai.org/attachments/Resolution_DuwbLqpfrhQZrLoqKUXshHYKXcvQNfLTUBIPSJWHSmpYZnFkOQL_SAC-12-008.pdf.
10. The report of the Aboriginal Ancestral Repatriations National Workshop (2008) available via email from the National Congress of Australia's First People, Les.Malezer@nationalcongress.com.au
11. Keeler, Honor. *Indigenous International Repatriation*. Available via email contact: hk.aaia@indian-affairs.org
12. Kathryn Beaulieu et al. Protocols for Native American Archival Materials, April 9, 2007. Available at: http://www2.nau.edu/libnap-p/protocols.html

The co-submitters wish to thank the EMRIP members for their interest in this vital matter impacting the rights of Indigenous Peoples around the world, as well as the Indigenous Nations, Tribes, communities and organizations whose important contributions and struggles were sited in this submission.

Position Statement on the Need for United Nations Support for

International Repatriation of Human Remains, Funerary Objects and Sacred Objects

Edward Halealoha Ayau, Esq., ʻOiwi (Native Hawaiian)

We understand that the United Nations is doing a cultural heritage study through the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP), who is directly under the U.N. Human Rights Council and have requested recommendations. We further understand that the U.N. General Assembly passed an Outcome Document last September, which stated that mechanisms for international repatriation needed to be adopted. This Position Statement is provided in support of international repatriation as a human right and cultural duty. We have included a table of the international repatriation cases that we have conducted and 5 cases which have stalled. It is these 5 cases which United Nations support is critical. Finally, we provide two recommendation for EMRIP to consider adopting.

Mālama I Nā Iwi Kūpuna

For Hawaiians, the care of ancestral remains and burial sites is fore mostly a family matter. In every single repatriation case conducted by the Native Hawaiian organization Hui Mālama I Nā Kūpuna O Hawaiʻi Nei[1] over the past 24 years (see attached list), not once did a museum or private collector provide evidence that the family of the deceased consented to the taking of the ancestral remains. Not once. The acquisition of ancestral human remains without consent and knowledge of the living descendants is an illicit act that must no longer be supported.

There are certain fundamental rights that transcend national boundaries and jurisdictions--- certain aspects of the human experience that demand respect regardless of political, cultural, philosophical, religious, scientific or other value systems. One such essential right is for descendants to be able to care for ancestral remains. Institutions that refuse to support the repatriation of ancestral human remains violate humanity by denying the inherited ability to maintain the integrity of the cultural family, both living and deceased.

One thing that we learned from 24 years of repatriation experience is that there is a need to critically analyze the needs of science and where acquisitions of human remains are illicit and void of consent, scientific needs cannot be held to outweigh the needs of the ancestral and living family. In the case involving the Natural History Museum in London, England which took 23 years to resolve and which resulted in the repatriation of 145 Hawaiian skulls in August 2013, we were faced with this issue of weighing scientific interests and cultural interests.

Hui Mālama I Nā Kūpuna O Hawaiʻi Nei received support for its efforts to repatriate the iwi kūpuna from the Natural History Museum from many sources, one of which is mentioned here. Dan Monroe is the current Executive Director of the Peabody Essex

[1] The corporate body of this organization was legally dissolved of its own accord on January 23, 2015. This statement reflects its position in the past and the position of those Native Hawaiians including the author who will forever have the kuleana (duty, responsibility, privilege) to care for ancestral remains.

Museum in Salem, Massachusetts. He is also the former President of the American Association of Museums and a founding member of the NAGPRA Review Committee. In his statement, Monroe points out that the limited scientific value of these remains is outweighed by the tremendous cultural importance to Native Hawaiians[2],

> 'weighing scientific values against cultural and religious values is an exercise that all modern museums must confront. Since nearly all Native Hawaiian human remains were removed without permission of heirs, or appropriate Native Hawaiian groups, it is necessary for museum professionals to also consider basic human rights in weighing rights of scientific study, possession, or return of human remains. While laws in the United States clearly have no bearing on your Institution, the ethical issues involved with Hui Mālama's request remains the same.'[3]

Two Recommendations

We respectfully recommend that the U.N. Human Rights Council through the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) formally declare and adopt the following findings as part of its official record and take steps to ensure these rights are protected:

1. It is an international human right and for many a sacred duty to repatriate ancestral human remains and funerary items including those held in foreign jurisdictions. Civilized nations must accord the utmost respect to ancestral remains removed without consent. The ability of living descendants and representative organizations to exercise requisite care through repatriation must be recognized, honored and supported.

2. The ability of science to attain higher levels of understanding of the world and the universe is respectfully acknowledged. It is also recognized that science is an important value, but not an absolute right. In the absence of consent, the values of science shall not be imposed over the ability to care for ancestral remains and funerary items. Where repatriation is requested, science officials should become a cooperative partner in efforts to honor the deceased and elevate the level of the human experience.

---

[2] Letter Dan Monroe, Executive Director, Peabody Essex Museum, Salem, Massachusetts, Sept 10, 1999.

[3] Id.

THE HOPI TRIBE

Herman G. Honanie
CHAIRMAN

Alfred Lomahquahu Jr.
VICE-CHAIRMAN

March 19, 2015

Honor Keeler, Director
International Repatriation Project
Association on American Indian Affairs
1005 Main Street, Suite 1209
Pawtucket, Rhode Island 02860

Dear Ms. Keeler,

This letter is in support of the Association on American Indian Affairs' submission to the United Nations Expert Mechanism on the Rights of Indigenous Peoples 8th Session, 20-24 July 2015. The Hopi Tribe strongly supports the Association on American Indian Affairs efforts for the International Repatriation of Sacred Objects, Objects of Cultural Patrimony, Human Remains and Funerary Objects.

In the United States since the 1990 enactment of the Native American Graves Protection and Repatriation Act, many thousands of human remains and associated funerary objects, sacred objects and objects of cultural patrimony have been returned to Native people from federal and federally funded museum collections.

Hopi Tribal Council Resolution H-70-94 (attached), recognizes the importance of the Native American Graves Protection and Repatriation Act. The Hopi Tribe has repatriated and reburied thousands of our ancestors and their objects, and repatriated many sacred objects and objects of cultural patrimony for the appropriate clans and traditional religious practitioners. Many more remains and object are awaiting repatriation.

Many Hopi sacred objects, objects of cultural patrimony, human remains and funerary objects are currently in possession of foreign museums or private individuals. Hopi Tribal Council Resolution H-70-94 further declares the Hopi Tribe's interest into Hopi cultural artifacts and human remains "which have been exchanged, traded or sold to foreign museums or private individuals by U.S. Museums and other entities subject to the Native American Graves Protection and Repatriation Act."

However, most Hopi sacred objects, objects of cultural patrimony, human remains and funerary objects that are currently in possession of foreign museums or private individuals are not subject to the Native American Graves Protection and Repatriation Act. In the case of the Hopi Tribe and other Native American Nations, these objects are currently held in museums and private collections in Germany, Finland, Japan, and other parts of the world.

The Association on American Indian Affairs' submission to the United Nations Expert Mechanism on the Rights of Indigenous Peoples 8th Session includes a case study on the Hopi Tribe and the ongoing auction of or Katsina Friends in France. The French action of Hopi sacred objects is a violation of customary norms in international law and human rights pertaining to Indigenous Peoples, and we seek redress for the absence of ethical and moral codes pertaining to Indigenous Rights.

If you have any questions or need additional information, please contact Leigh J. Kuwanwisiwma at the Hopi Cultural Preservation Office. Thank you for your consideration.

Respectfully,

Herman G. Honanie, Chairman
THE HOPI TRIBE

Enclosure: Hopi Tribal Council Resolution H-70-94

SAN CARLOS APACHE TRIBE
Historic Preservation & Archaeology Department
P. O. Box 0
San Carlos, Arizona 85550
(928) 475-5797
apachevern@yahoo.com

Terry Rambler
Tribal Chairman

Tao Etpison
VIce-Chairman

Position Statement to Support International Repatriation of Human Remains, Funerary Objects and Sacred Objects within the Framework of the United Nations

March 2015

Members of the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) and the Human Rights Council (HRC), my name is Vernelda Grant, I am the Director of the Historic Preservation & Archaeology Department and the Tribal Historic Preservation Officer (THPO) of the sovereign nation of the San Carlos Apache Tribe (Tribe), located in southeastern Arizona. I am a tribal member, my family raised me to understand our traditional Indeh (Apache) ways of life, including speaking the Apache language.

The purpose of this statement is to support international repatriation as a human right and cultural duty. We, the Tribe, understand that the United Nations (UN) is conducting a Cultural Heritage Study through the EMRIP, who is directly under the UN's Human Rights Council. In September 2014, the UN General Assembly passed an Outcome Document which stated that mechanisms needed to be adopted for International Repatriation. We respectfully request that you consider the Tribe's statement and the recommendations bulleted.

Although the Tribe does not have a lengthy history in international repatriation, we have had a recent introduction in working within international repatriation within the past two years. We worked with the Department of Interior, US State Department and the French Embassy to request a stop of sale on Apache holy items that were up for auction in France. Since there were no binding laws and protocols within international repatriation and no international organization that supported or addressed concerns that we were aware of during that time, the items continued to remain up for auction. Ultimately, a Foundation purchased these cultural items (including Hopi tribal items) and returned them to the San Carlos Apache Tribe and the Hopi Tribe.

We believe that this statement be made strong because the beliefs we have in our Creator and our prayers are strong. We believe that everything in the natural world is alive and has a power. We have a name for everything: our ancestors (the People), the plants, the animals, the birds, the atmosphere, the

minerals, the winds, the stars, the bodies of waters, the places and everything else surrounding us. We recognize the power that each element of the natural world has, and that each individual power is directly related to particular Holy Beings.

Disturbance, dislocation and disconnection of Indeh (Apache) human remains, the remains of our ancestors who were wrongfully taken, continues to hurt our community. Social ills remain because our family, our ancestors, were taken wrongfully and relocated to foreign lands and put on display. All these things negatively affect our well-being and way of life, even though it may seem that there is no negative effect scientifically, it is to us, spiritually.

Desecration, destruction and damage to our cultural items and to the species found within them, weakens their power and shows great disrespect to the Holy Beings with whom they are associated, who have the ability to deny the benefits of this power, or the spiritual or physical access to these cultural items. Losing access to these cultural items, both by their sale or their disconnection to their people and homeland profoundly weakens the strength to Apache peoples prayer and ceremony, and severely limits the ability of Apaches to effectively practice their religion, ultimately resulting in physical and spiritual harm to Apaches and Indigenous peoples and neighboring Communities.

Negative Experiences in US Repatriation Law:

The United States Government has an existing law, the Native American Graves Protection and Repatriation Act (NAGPRA) and departments that administer this law on behalf of the US government. Unfortunately, our Western Apache NAGPRA Working Group (Working Group), a group comprised of four federally-recognized Western Apache Tribes, have made efforts to work accordingly to the NAGPRA law but the information provided has been mis-interpreted by certain museums making repatriation of holy Apache cultural items nearly impossible, and without review by the NAGPRA Review Committee. Our Working Group has testified and turned in documents to the National NAGPRA Review Committee, and although the Review Committee has sided with our Working Group, the final decision of the Review Committee remains in an advisory capacity, with no teeth for reinforcing repatriation.

Second, the well-established Smithsonian Institution's National Museum of Natural History (SI-NMNH), refuses to repatriate items that have successfully been repatriated with many other museums by our Working Group. Identical items with identical information continues to be rejected by the SI-NMNH. The lack of repatriation of these items is allowing the continued destruction of places sacred and holy to Apaches and other Native Peoples.

Recommendations:

1. The Permanent Forum on Indigenous Issues (UNPFII) should have International Repatriation as one of the themes. We have presented to the General Assembly of the UNPFII on three different occasions to support our claim to protect holy and sacred sites and places that are important to the religious

practices, including access to these areas, such as Oak Flat and Apache Leap. We feel that International Repatriation fits into the UNPFII arena as well.

2. Full consideration under the Free Prior an Informed Consent (FPIC) in which companies and individuals with money and power have yet to duly fulfill, in many areas that concern Indigenous Peoples, including the Apache. We hope that these foreign entities adhere to international law due to their foreign company status.

3. The Indigenous Nations create a partnership with the UN-EMRIP and the UN so that the Indigenous Nations have an arena to centralize protocols, follow appropriate procedures for issues pertaining to International Repatriation and Indigenous Nations. This partnership should include all aspects of forming successful partner relations such as, forming working committees, networks, meetings, confidentiality agreements, etc.

4. Creation of Inventories of Human Remains, Funerary Objects, and Sacred Objects and point of contact for these items and with Indigenous Nations. Possibly a place with central access to these inventories where we can look up all inventories listed as Apache or as Unknown, for example.

We have much more to list but this is the main start to a fruitful beginning of International Repatriation that we feel must be created immediately. The San Carlos Apache Tribe's Tribal Historic Preservation Office and Archaeology Department fully supports International Repatriation efforts being made and will continue to work with many other Indigenous Nations that are networking and concerned with international repatriation and the protection and preservation of human remains, funerary objects, and sacred objects, especially within the framework of the United Nations.

Ahiye'eh' (thank you)

Cultural Division

Office of Cultural Repatriation

531 Ashmun Street

Sault Ste. Marie

Michigan

49783

Phone

906.635.6050

Fax

906.635.8644

March 18, 2015

Office of the United Nations High Commissioner for Human Rights (OHCHR)
Palais Wilson
52 rue des Pâquis
CH-1201 Geneva, Switzerland

Re: international repatriation

Mr. Zeid Ra'ad Al Hussein,

It is my pleasure to write to you as the Cultural Repatriation Specialist for the Sault Ste. Marie Tribe of Chippewa Indians (Sault Tribe). My office is dedicated to bringing home our Ancestral Remains, funerary objects, sacred objects, and objects of cultural patrimony from museums and universities across the globe.

Repatriation is a topic of unparalleled importance in the world today, particularly as more and more Indigenous people from around the world are rising up and asking for the return of their Ancestral human remains, funerary objects, sacred objects, and objects of cultural patrimony. However, with no international repatriation law, it is difficult for Indigenous people to make claim to their Ancestral Remains and objects, and see that claim through to repatriation.

The idea of repatriation is a highly sensitive issue where different world views come to a head on collision. It is a point where all of these different views from Indigenous people, museums, scientists, archaeologists, anthropologists, the media, and the law must intersect. It is difficult to navigate all of these world views when the playing field is the whole global community.

It is not to say that international repatriation does not occur, as I can account for at least four times that international repatriations have taken place. These repatriations are usually done in good faith with no real international law to lean on. As you are aware, Article 12 of the Declaration on the Rights of Indigenous Peoples does indicate that Indigenous people have a right to their human Ancestral remains and that States shall seek to enable access to repatriation.

However, as you are also aware UN Declarations are not legally binding. Declarations seek to hold States to a certain standard of conduct and set legal norms and principles, but do not legally bind States into compliance. This makes it extremely hard for all parties involved in international repatriation cases because there is no legal precedence to stand on.

Interestingly enough, the right to an appropriate and respectful burial can be viewed as a human rights issue. Human rights laws are guaranteed by treaties, customary international law, general principles and other sources of international law. Among those human rights is: self-determination, cultural rights, civil rights, and equality. All of the mentioned human rights are the kinds of rights that one would think guarantees the right to a respectful and appropriate burial.

In my humble but educated opinion, international repatriation is highly important and will continue to appear in the global community. There ought to be some sort of international repatriation law implemented that could guide the process. On the other hand, human rights laws do exist and could hold some States accountable for violations of human rights when it comes to denying a person the right to a respectful and appropriate burial. I am aware that there are mechanisms for monitoring set up by international treaties and those set up by UN resolutions.

Ultimately, if there is no resolve to these issues, the ones who lose are the Ancestral remains and objects that cannot be returned home. They are left on shelves and in boxes crying out for their decedents to come forward and fight for their return.

As someone who continually stands up and fights for the return of my Ancestral remains and objects, I urge you to consider all the different views of international repatriation. I also urge you to consider international repatriation in your cultural heritage study.

If you would like to contact me, please call my office at (906) 635-6050 or by email at cstonge@saulttribe.net

Best,

Colleen St.Onge-Medicine
Cultural Repatriation Specialist
Sault Ste. Marie Tribe of Chippewa Indians

PASCUA YAQUI TRIBE

OFFICE OF THE CHAIRMAN

June 5, 2014

United Nations Human Rights Bodies and Processes

To Whom it May Concern:

I am in support of requests for your assistance on behalf of the Pascua Yaqui Tribe and our cultural leaders to achieve the repatriation of our sacred Yaqui Maaso Kova (Ceremonial Deer Head) which has been in the possession of the Swedish National Museum of Ethnography in Stockholm Sweden apparently since 1937. It is referred to by the museum as item # 113, which they call a "head banner" as part of a collection of items called "collection 1937.19". This violates the human rights of the Yaqui Nation to freedom of religion and culture, repatriation of cultural heritage, freedom from all forms of discrimination, and Free Prior and Informed Consent among others.

The Yaqui Nation has communities in both the US and Mexico and has been federally recognized in the United States since 1979. The Pascua Yaqui Reservation is located South West of Tucson Arizona. This sacred cultural item is very sacred and is central to the Yaqui cultural and religious practices. The deer dance ceremony in which the Maaso Kova is used is the center of our cultural and religious identity as a People. The presence of this item in the National Museum of Ethnography in Stockholm, was brought to our attention over 10 years ago by Ms. Andrea Carmen Valencia, Executive Director of the International Indian Treaty Council which is closely affiliated with the Yoemem Tekia Foundation, the organization of traditional cultural leaders founded by Mr. Anselmo Valencia Tori, one of the great Yaqui cultural and political leaders. Ms. Carmen documented this (see enclosed photo) when she was at an event held at the Museum in 2003 at the invitation of the Sami Council of Sweden.

The International Indian Treaty Council, an Indigenous human rights organization with General Consultative status with the UN Economic Council and the Yoemem Tekia Foundation which maintains the cultural museum on the Pascua Yaqui reservation, are taking the lead on the efforts for repatriation with the full support and involvement of the Pascua Yaqui Tribe. Ms. Carmen Valencia, with the authorization of the Yoemem Tekia Foundation, has had numerous meetings and discussions with the Swedish Government during UN sessions in Geneva and New York, as well as museum officials. Some of this correspondence is enclosed. She has explained to them that this item should not be located outside of the Yaqui homeland where it can be properly cared for by authorized cultural leaders.

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1-888-443-0044

I participated, along with Ms. Carmen Valencia, representatives of the Yoemem Tekia Foundation and the Tribal Government in a phone call on March 20th, 2014 with officials of the National Museum of Ethnography to explain why this item must be returned for the spiritual health, dignity and well-being of our Tribe as well as to respect our human and cultural rights. We pointed out that they have not been able to explain exactly how it came to be in possession of two Danish women anthropologists in 1937 in Tlaxcala Mexico. This was also not addressed in their written communication sent via email to Ms. Carmen Valencia of February 13th where they stated they would not return this item (letter enclosed). The Tribe's cultural leaders and historians do not agree with the history and cultural explanation that their letter presented.

We are certain that this item was not given or sold to the two European women anthropologists by any authorized Yaqui cultural leader under conditions which constitute Free Prior and Informed Consent because of the historical situation explained in the enclosed information from our Culture and Language Department, as well as the strict cultural customs and protocols which are upheld regarding this item. This was carefully explained to the Museum officials on our call.

We have enclosed a description of the item in question in both Swedish and translated into English provided by the museum in 2003. Although the museum representatives informed us at the time of our phone call that that they are no longer displaying the Yaqui Maaso Kova, they also have not expressed any change of position regarding returning it to its rightful home. We have offered to provide cultural items that our cultural leaders agree can be respectfully displayed in exchange on several occasions.

Since Sweden voted in favor or the United Nations Declaration on the Rights of Indigenous Peoples we call upon that government to implement Article 11 which deals with the return of sacred and cultural items.

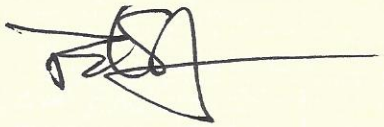
I endorse the continuing efforts of the Yoemem Tekia Foundation and the International Indian Treaty Council to approach United Nations Human Rights mechanisms and processes which may assist in this vital matter. These include but are not limited to United Nations Special Rapporteurs on the Rights of Indigenous Peoples and on Freedom of Religion or Belief, the Independent Expert on Cultural Rights and the UN Committee on the Elimination of Racial Discrimination.

Please do not hesitate to contact me with any questions. I can be reached at my office at the Pascua Yaqui Tribal Administation via phone 1 (520) 883-5008, or via email to Peter.S.Yucupicio@pascuayaqui-nsn.gov. You can also contact Ms. Andrea Carmen Valencia, Executive Director, International Indian Treaty Council via email andrea@treatycouncil.org, or Mr. Joe Gastello, Vice-Chairman of the Yoemem

Tekia Foundation and Cultural Museum, who also works at the tribes Culture and Language Department, via email to JoeMGastello@yahoo.com.

We greatly appreciate your assistance in this regard which is of the upmost importance to the Pascua Yaqui Tribe, the Yaqui cultural leaders and our Tribal citizens.

Respectfully,



Peter S. Yucupicio
Chairman
Pascua Yaqui Tribe

cc: Pascua Yaqui Tribal Council
Ms. Andrea Carmen, International Indian Treaty Council, andrea@treatycouncil.org
Mr. Joe Gastello, Vice-Chairman, Yoemem Tekia Foundation JoeMGastello@yahoo.com

Little Traverse Bay Bands of Odawa Indians
Repatriation, Archives and Records Department
7500 Odawa Circle, Harbor Springs, Michigan 49740

March 21, 2105

Expert Mechanism on the Rights of Indigenous Peoples
c/o Juan Fernando Nunez EMRIP Secretariat

Re: Support for international repatriation of indigenous human remains, funerary objects and sacred items.

Dear Mr. Nunez:

The Repatriation, Archives and Records Department for the Little Traverse Bay Bands of Odawa Indians (LTBB Odawa), a federally recognized Indian tribe, would like to offer this letter of support in regards to indigenous communities across the world, in their pursuit of their ancestral remains, funerary objects and sacred items, currently housed at museums across the world. In addition to offering support for indigenous repatriation efforts, the Repatriation, Archives and Records department would like to offer these experiences and recommendations on international repatriation.

The Anishnaabek (Odawa/Ottawa, Ojibway/Chippewa and Potawatomi) of the Great Lakes hold strong beliefs and traditions in regards to honoring and caretaking for their dead. One of the cornerstone traditions and ceremonies for the Odawa is holding annual feasts to feed relations whom have walked on. “Feasts of the Dead”, as they were called by early French explorers, were held annually at villages. Today, hundreds of years later, these ceremonies have adapted to contemporary life in North America and are called “Ghost Suppers”. While the methods of carrying out the ceremony have changed, the essentials of the tradition have remained; feeding the ancestors through a sacred fire and having a community feast. Anishnaabek believe this tradition goes back thousands of years and the prosperity of a community partially depends on the positive relationship between the living and the dead.

In recent years, LTBB Odawa has made concentrated efforts to help keep that relationship positive with their ancestors by engaging in the repatriation of ancestral human remains, primarily under the Native American Graves Protection and Repatriation Act. Working individually and in other cases, with other tribes in Michigan, LTBB Odawa has been involved in over thirty successfully repatriations from museum within the United States, resulting in over five hundred ancestors being returned. Through public education via media, private citizens and organizations not subject to NAGPRA have been returning human remains in their possession over to the tribe. The means by which ancestors are returned is flexible and dynamic. Whether through a federal law, a

sympathetic individual or a country's decision to repatriate, the important thing is the ancestors coming home. Having our ancestors returned home, reburied with respect and laid back to rest in their ancestral homelands of the Great Lakes coincides with the Anishnaabek belief of honoring the dead. The dilemma of having our ancestors dug out of their graves, taken across the ocean and put in museums by foreign people is not a tradition by any means for the Anishnaabek. But seeking their return absolutely coincides with their belief of maintaining a positive relationship with their ancestors.

The Great Lakes is home to the Anishnaabek, where their villages would be found in such modern day locations as Quebec, Ontario, Ohio, Michigan, Wisconsin, Indiana, Illinois, Minnesota and Manitoba. Odawa, Ojibway and Potawatomi communities would often co-inhabit the same villages, have villages unto themselves or live in large, multi-tribal villages, such as 18th century Green Bay and Detroit, where six to ten tribes would live in the same area. Essentially, the Great Lakes are the Anishnaabek home and up until American rule, borders were non-existent. Tribal communities recognized another tribe's traditional use of an area and with proper agreements; tribes would have access to the land and resources of another tribe. If not such agreements were made, war would break out.

In the 21st century, borders are plentiful in North America. But the age old belief that the Anishnaabek still call the Great Lakes home has not changed. The western border of the United States and Canada is not a traditional border for the Odawa, Ojibway and many other tribes that live along the upper Great Lakes. In the event that a repatriation needs to occur in which remains need to cross the American/Canadian border, difficulties have arisen. Exact paperwork, acknowledging indigenous beliefs, customs agents examining the remains and other issues make repatriation across the American/Canadian border at times difficult. While it is understood some of these measures are in place for a reason, steps can be taken to alleviate some misunderstanding and speed up the process. Perhaps a policy can be drawn up regarding repatriation across the border, both on a state and federal level. Having a process, that both countries agree to, would help in a smooth transaction of remains. American tribes have helped Canadian tribes in their repatriation efforts in the past, where the American tribe would coordinate with the museum in the states that has remains from Canada. American tribes have helped with: consultation, providing contacts, picking up the remains, providing resources and transporting the remains over the border. A more comprehensive process and agreement on the process would be of great benefit.

The Little Traverse Bay Bands of Odawa Indians have a unique history in the United States, as do all tribes here. The Odawa have fought in wars against other tribes, the British and Americans to stay in Michigan. We also know part of Odawa community is in Canada on Manitoulin Island, Ontario. We have gone through tremendous changes to stay in the Great Lakes, assimilating to American culture, politics, religion, economics and social standards. Without adapting to the changes forced upon us, many Odawa would have been forced to Kansas during the removal period of the 1830s-40s. In 1994, the Little Traverse Bay Bands of Odawa Indian received reaffirmation of their status as a federally recognized Indian tribe in the United States. This battle to have treaty rights

recognized started in 1836. This 158 year struggle resulted in the Odawa reaffirmation, which no other tribe had done previously. And to this day, no other tribe has gone through the reaffirmation process (Little River Band of Ottawa and the Pokagon Band of Potawatomi were on the same bill as LTBB Odawa). One aspect the Odawa refused to compromise on was the caretaking of their dead.

The Odawa fought to stay in Michigan during the removal period and one of their strongest arguments for staying home was to be by their ancestors. I am ending this letter with quotes from Odawa leaders during the 1830-50 time period. This dark time period saw over 100,000 native people uprooted from their homes in the eastern United States and forced west, on genocidal marches that resulted in a tremendous loss of life, culture and place. The Odawa, in the midst of losing everything, fought to be by their dead.

On December 5, 1835, Odawa head man and interpreter for treaty negotiations Augustin Hamlin wrote this impassioned letter to Lewis Cass, then Secretary of War under President Jackson:

"*The principal objects of our visit here, are these: we would make some arrangements with the government of remaining in the Territory of Michigan in the quiet possession of our lands, and to transmit the same safely to our posterity. We do not wish to sell all the lands claimed by us and consequently not to remove to the west of the Mississippi...*

"It is a heart-rending thought to our simple feelings to think of leaving our native country forever, and which has been bought with the price of, their native blood, and which has been thus safely transmitted to us. It is, we say, a heart-rending thought to us to think so; there are many local endearments which make the soul shrink with horror at the idea of rejecting our country forever—the mortal remains of our deceased parents, relations and friends, cry out to us as it were, for our compassion, our sympathy and our love."

In 1841, as the Little Traverse Odawa were facing being removed for their lands, their leaders petitioned Congress and the Senate, asking to remain in northern Michigan. Part of their argument is about their dead:

"*That there was a time when we were numerous, powerful and the undisputed lords of this continent. Then it was that we gave and not asked, assistance. No smoke then curled from amidst the forest, but that of that of the Indian, whose country extended from the shores of the Atlantic to the Rocky Mountains; and hence to the Pacific in the west. In this vast region we roamed unmolested, basking in the sunshine of savage prosperity, when a different race of people came and almost in suppliant manner, asked a seat among us. We gave it to them in pity, others came and asked the same soon. We gave a second time. Others and others arrived, we yielded, and we yielded so far that at last they becoming powerful, we were required or compelled to receded and abandon the graves of our fathers in the hands of this new people. Our ancestors were drive back and by degrees their descendants disappeared; and at this day we think that nothing is to be seen but scanty and dejected tribes here, or remnants there, of once powerful people, drooping under the consciousness that they are fast dwindling way from the face of the earth*."

No matter where Anishnaabek remains currently at in museum in Michigan, the United States, Canada or in Europe, the need for them to be returned to their homelands is paramount.

Miigwetch (Thank You)

Eric Hemenway
Director, Repatriation, Archives and Records
Little Traverse Bay Bands of Odawa Indians
231-242-1527
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United Tribes of Michigan

5453 Hughston Rd, Harbor Springs, Michigan 49740
Phone: 517-802-8650 --- Email: fettawa@charter.net

Frank Ettawageshik, Executive Director

RESOLUTION # 034-10-13-2014

United Tribes of Michigan support for the Establishment of Cooperative Relationships Regarding International Institutions Housing Native American Human Remains, Funerary Objects and Items of Cultural Patrimony

WHEREAS, the membership of United Tribes of Michigan (UTM) is open to all of the twelve federally recognized tribes located in Michigan; and

WHEREAS, the organization provides a forum for the Tribes in Michigan to address issues of common concern and is committed to join forces to advance, protect, preserve and enhance the mutual interests, treaty rights, sovereignty, and cultural way of life of the sovereign Indian Tribes of Michigan throughout the next seven generations; and

WHEREAS, UTM accepts the mission to engage, as a matter of mutual concern, issues that impact the health, security, safety, and general welfare of Native Americans; and

WHEREAS, the protection of sacred sites and objects including the remains of our ancestors is of paramount concern for Tribal Nations in fulfilling our sacred duties to honor these ancestors; and

WHEREAS, the United States passed the Native American Graves Protection and Repatriation Act which in its subsequent implementation has led to the establishing of many successful partnerships between Tribal Governments and museums and other institutions that have housed items of interest to the Tribes; and

WHEREAS, the United Nations adopted the Declaration on the Rights of Indigenous Peoples in 2007 which contains in article 12 language that addresses these concerns about the desecration of our burial sites and human remains, and states the intentions of the United Nations Member States to work internationally to redress the past and continuing abuse of our ancestors human remains, funerary objects, and items of cultural patrimony; and

WHEREAS, tribes such as the Sault Sainte Marie Tribe of Chippewa Indians and other Tribal Nations have established a working relationship with the Karl May Museum of Germany and other institutions beginning a process of information that objects in their collections are not just of historical interest but also have a continuing spiritual and cultural life for the Tribes and their citizens; and

WHEREAS, these institutions have expressed a desire to have a broad showing of support from Tribal Nations and Intertribal organizations for this continued partnership work.

THEREFORE, BE IT RESOLVED, that the United Tribes of Michigan hereby supports member Tribes such as The Sault Ste. Marie Tribe of Chippewa Indians and other Tribal Nations in their efforts to repatriate from international repositories, through collaborative and diplomatic avenues; and

BE IT FINALLY RESOLVED that this shall be the policy of the United Tribes of Michigan until changed or rescinded by subsequent resolution.

Adopted by a vote of _10_ in favor, __0___against, __0___abstaining, at a meeting of the United Tribes of Michigan held on October 13, 2014.

Chairman Homer A. Mandoka
UTM President

Chairman Fred Kiogima
UTM Secretary

The INTER-TRIBAL COUNCIL of the FIVE CIVILIZED TRIBES

Bill John Baker
Principal Chief

Bill Anoatubby
Governor

Gregory Pyle
Principal Chief

George Tiger
Principal Chief

Leonard M. Harjo
Principal Chief

October 12, 2012

A Resolution on International Repatriation of the Five Civilized Tribes

Resolution No. 12-07

WHEREAS, the Inter-Tribal Council of the Five Civilized Tribes (ITC) is an organization that unites the tribal governments of the Chickasaw, Choctaw, Cherokee, Muscogee (Creek), and Seminole Nations, representing over 750,000 Indian people throughout the United States; and,

WHEREAS, ITC, Native nations, and indigenous communities globally are facing a human rights violation whereby Native American ancestral remains, funerary objects, sacred objects, and objects of cultural patrimony were exhumed, excavated, stolen, exchanged, studied, or taken under duress, without the free, prior, and informed consent of Native nations and moved beyond the boundaries of Native Nations and the United States; and,

WHEREAS, this human rights violation is perpetuated through the continued possession, display, study, or profit from our ancestral remains, funerary objects, sacred objects, and objects of cultural patrimony; and,

WHEREAS, the U.N. Declaration on the Rights of Indigenous Peoples has been signed by all nation-states of the U.N. and it supports international repatriation in Article 12, which states:

> States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with Indigenous peoples concerned; and,

WHEREAS, Native nations are experiencing difficulty locating ancestral remains, funerary objects, sacred objects, and objects of cultural patrimony in international repositories due to various reasons, such as misidentification, no listed cultural affiliation, lack of available records from international repositories to Native nations; and no presently existing centralized notification system to Native nations; and,

WHEREAS, the ITC and the national community of Native nations have prioritized the need for the investigation and implementations of legal protections to ensure the repatriation of all ancestral remains, funerary objects, sacred

objects, and objects of cultural patrimony taken, exhumed, excavated, exchanged, studied, and otherwise residing in repositories worldwide; and,

WHEREAS, the ITCFCT supports the International Repatriation Project at the Association on American Indian Affairs (AAIA), which is advised by the Working Group on International Repatriation.

NOW THEREFORE BE IT RESOLVED, That the ITC hereby supports its member tribes and other Native nations in their efforts to repatriate from international repositories.

BE IT FURTHER RESOLVED, That the ITC requests that the State Department, U.S. embassies, U.S. Senators, U.S. Representatives, and other U.S. governmental bodies make themselves available to assist Native nations in international repatriations, and that the U.S. government takes immediate action after consultation with Native nations to adequately address this five hundred-year-old, ongoing human rights issue.

BE IT FURTHER RESOLVED, That the ITCFCT will advocate on behalf of its member tribes and other Native nations to ensure international repatriation is addressed nationally and internationally.

BE IT FURTHER RESOLVED, That the ITC urges President Obama and future Presidents of the United States of American to call on Congress to address international repatriation.

BE IT FURTHER RESOLVED, That the ITC will urge the U.N. to convene a special session and implement a formalized Working Group or Subcommittee comprised of indigenous community members to formally look into this human rights issue.

BE IT FURTHER RESOLVED, That the ITC will support the International Repatriation Project at the AAIA and the Working Group on International Repatriation in their efforts to assist and facilitate international repatriations in partnership with Native nations, if requested.

BE IT FINALLY RESOLVED, That this Resolution shall be the policy of the ITC until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the Inter-Tribal Council of the Five Civilized Tribes meeting in Tulsa, Oklahoma on this 12th day of October, 2012, by a vote of _____ for _____against and _____ abstentions.

Bill Anoatubby, Governor
The Chickasaw Nation

George Tiger, Principal Chief
Muscogee (Creek) Nation

Gregory E. Pyle, Chief
Choctaw Nation of Oklahoma

for Leonard M. Harjo, Principal Chief
Seminole Nation of Oklahoma

Bill John Baker, Principal Chief
Cherokee Nation

The National Congress of American Indians
Resolution #SAC-12-008

TITLE: Support for International Repatriation

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, NCAI member tribes, Native nations, and indigenous communities globally are facing a human rights violation whereby Native American ancestral remains, funerary objects, sacred objects, and objects of cultural patrimony were exhumed, excavated, stolen, exchanged, studied, or taken under duress, without the free, prior, and informed consent of Native nations and moved beyond the boundaries of Native Nations and the United States; and

WHEREAS, this human rights violation is perpetuated through the continued possession, display, study, or profit from our ancestral remains, funerary objects, sacred objects, and objects of cultural patrimony; and

WHEREAS, the U.N. Declaration on the Rights of Indigenous Peoples has been signed by all nation-states of the U.N. and it supports international repatriation in Article 12, which states:

> States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with Indigenous peoples concerned; and

WHEREAS, the United States has consistently supported Native nations seeking to repatriate Native American ancestral remains, funerary objects, sacred objects, and objects of cultural patrimony, through U.S. Congress when it passed the NMAI Act in 1989 and the NAGPRA in 1990, and international repatriation has more recently been supported by the United States in a Statement of the United States to the Working Group to Prepare the Draft American Declaration on the Rights of Indigenous Peoples and the Organization of American States in 2008, which stated:

> Indigenous peoples should be able to maintain, protect, and have access to their religious and cultural sites and should have the collective right to repatriation of their human remains, ceremonial object and cultural patrimony; and

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1516 P Street, N.W.
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WHEREAS, an estimated 1-2 million Native American ancestral remains, funerary objects, sacred objects, and objects of cultural patrimony currently exist in international repositories; and

WHEREAS, Native nations are experiencing difficulty locating ancestral remains, funerary objects, sacred objects, and objects of cultural patrimony in international repositories due to various reasons, such as misidentification, no listed cultural affiliation, lack of available records from international repositories to Native nations; and no presently existing centralized notification system to Native nations; and

WHEREAS, the NCAI member tribes and the national community of Native nations have prioritized the need for the investigation and implementations of legal protections to ensure the repatriation of all ancestral remains, funerary objects, sacred objects, and objects of cultural patrimony taken, exhumed, excavated, exchanged, studied, and otherwise residing in repositories worldwide.

NOW THEREFORE BE IT RESOLVED, that the NCAI hereby supports the NCAI member tribes and other Native nations in their efforts to repatriate from international repositories; and

BE IT FURTHER RESOLVED, that the NCAI requests that the State Department, U.S. embassies, U.S. Senators, U.S. Representatives, and other U.S. governmental bodies make themselves available to assist Native nations in international repatriations, and that the U.S. government takes immediate action after consultation with Native nations to adequately address this five hundred-year-old, ongoing human rights issue; and

BE IT FURTHER RESOLVED, that the NCAI will advocate on behalf of its member tribes and other Native nations to ensure international repatriation is addressed nationally and internationally; and

BE IT FURTHER RESOLVED, that the NCAI urges President Obama and future Presidents of the United States of American to call on Congress to address international repatriation; and

BE IT FURTHER RESOLVED, that the NCAI will urge the U.N. to convene a special session and implement a formalized Working Group or Subcommittee comprised of indigenous community members to formally look into this human rights issue; and

BE IT FURTHER RESOLVED, NCAI will work with the Association on American Indian Affairs (AAIA) and other organizations to collaborate with Native nations in support of international repatriation; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2012 Annual Session of the National Congress of American Indians, held at the Sacramento Convention Center from October 21-26, 2012 in Sacramento, California, with a quorum present.

President

ATTEST:

Recording Secretary