

IHRAAM at the 12th Session of the UN Permanent Forum on Indigenous Issues, New York City, 2013

Participation Summary

IHRAAM was drawn to the 12th Session of the UN PFII to intervene in two key agenda items:

Implementation of the Declaration on the Rights of Indigenous Peoples, item 7.a;

and the PFII's **study on Truth Commissions** in the Americas, item 6.

Kerry Henselwood, a consultant with IHRAAM, attended the Forum from May 17 to May 28.

IHRAAM also used the opportunity in New York to promote its co-publication of ***The Colonial Present, The Rule of Ignorance and the Role of Law***. It is Henselwood's book, published under her writing name of Kerry Coast. Three public presentations and two recorded interviews were made during the week of May 20-25. Copies of the book were given to key Forum members.

Agenda of the 12th Session

May 20th, 3pm-6pm, Item 3. (a) Health

May 21st, 10am-1pm and 3pm-6pm Item 3. (b) Education; Culture; Youth and identity

May 22nd, 10am-1pm, and 3pm-6pm, Human rights:

(a) Implementation of the United Nations Declaration on the Rights of Indigenous Peoples;

(b) Dialogue with the Special Rapporteur on the rights of indigenous peoples and the Chair of the Expert Mechanism on the Rights of Indigenous Peoples.

May 23rd, 3pm-6pm, Item 4: Half-day discussion on the African region.

May 24th, 10am-1pm, Item 5. Comprehensive dialogue with United Nations agencies and funds.

May 28th, 10am-1pm: Discussion on the World Conference on Indigenous Peoples.

May 28th, 3pm-6pm: PFII Study on national constitutions, and Truth Commissions in the Americas

May 29th, Item 8. Future work of the Permanent Forum, including issues of the Economic and Social Council and emerging issues.

General Observations on Forum events

- 1) Prior to the commencement of the 12th Session, two international Caucuses held meetings. The **Women's Caucus** met on Friday, May 17th, from 9am to 4pm at the Church Center.

The Global Caucus held its preparatory meeting there on Saturday and Sunday, May 18th and 19th. The overwhelming result of the latter was the complaint that the DRIP is not being implemented, and that Indigenous Peoples have no recourse. The Women noted that their participation as a Caucus in the UN's High Level Plenary Meeting planned for 2014 has not been accommodated. Many speakers remarked on their concern at states' increasing tactic of labeling as "terrorists" indigenous who try to defend their lands from resource extraction industries.

- 2) The Chair of the PFII for 2013-14 is now Paul Kanyinke Sena, the indigenous-appointed member for the African Region, from Kenya, by acclamation. The Chair during the last year was Grand Chief Edward John, indigenous-appointed PFII member for North America.

Pictured below, Edward John and Paul Kanyinke Sena



- 3) **Side events** are held each day of the Forum during the lunch break, from 1:15 to 2:45, and occasionally in the mornings and afternoons during the meeting proper. In the past these events have been booked at least 50% by Indigenous Peoples' Organizations to present on their work to implement the DRIP, or obstacles to that, but this year the exclusive majority of side events were given by states and NGO's, and UN agencies.
- 4) The most popular agenda item for speakers delivering interventions was indeed 7.a, **Human Rights: Implementation of DRIP**, which was addressed on Wednesday, May 22nd. *The Forum had not concluded its study on an Optional Protocol to the Declaration, as had been listed as a presentation item on the agenda.*

More than 50 speakers were inscribed on the list to deliver interventions under 7.a, and they were not all accommodated. Clearly the morning session designated for this discussion was inadequate, and the Permanent Forum Members' introduction of the subject was not illuminated.

- 5) After that, the most controversial point on the agenda was the **UN's High Level Plenary session** on Indigenous Peoples, to be known as the World Conference, to be held in New York, September, 2014. Most speakers referred to the mis-naming of the HLPF as a World Conference and many itemized the reasons for their objections – being that the preparation for it does not include the Indigenous as equal participants but only as contributing recommendations to an outcome document, nor are there the usual preparations.
- 6) Interventions delivered by states and UN agencies have been posted by the PFII Secretariat to an online portal: <http://papersmart.unmeetings.org/en/ecosoc/unpfii/twelfth-session/documents/>
Interventions made by Indigenous organizations are posted by DOCIP at <http://www.docip.org/gsd/cgi-bin/library?e=d-01000-00---off-0cendocdo--00-1--0-10-0---0---Oprompt-10---4-----0-1l--11-en-50---20-about---00-3-1-00-0-0-11-1-OutfZz-8-00&a=d&c=cendocdo&cl=CL2.4.16>
(Or begin at <http://www.docip.org/Permanent-Forum-on-Indigenous.65+M5f42c2390f9.0.html> and follow the directions to “PFII 2013” and “Statements”)
- 7) In the interventions by Indigenous Peoples' Organizations, many speakers made their recommendations to the Forum as appeals for **equal access for indigenous individuals to services provided by states**, for example, to medical services. In previous years, the focus has been on collective rights: *peoples' rights*, where under the right of self-determination Indigenous Peoples would see to appropriate access to the services their citizens require. There was a notable absence of some of the most staunch advocates of the collective right among the indigenous participants this year.

States also tended to refer to a general objective of achieving “equal rights” for Indigenous people; equal to other citizens within the state. For instance, the Mexican representative stated, “The majority of Indigenous Peoples have been excluded from development. We are working to ensure Indigenous Peoples have the same access to development, including health rights.”
- 8) 2,300 people were registered to attend the 12th Session, but the number of actual participants who attended was not substantial enough even to warrant the overflow rooms which the Permanent Forum Secretariat had arranged for.
- 9) This year marked the formation of the Indigenous Persons with Disabilities Caucus.
- 10) It has long been Canada's policy to refer to the Indigenous at this Forum, in their statements, as “aboriginal individuals” in Canada – instead of recognizing the collectivities of nations and

peoples. At the other side of the spectrum, we have states such as Botswana failing to refer to “Indigenous” people or communities at all: instead, they are “remote area communities.”

- 11) Many of the African states who participated at this Forum do not recognize individual peoples within their borders as Indigenous. Several do, however, and they are mentioned in the notes from the Forum, which is posted as a separate document and organized by agenda item.
- 12) Many of the South American states who intervened referred to “inter-cultural” services in the areas of health, justice and education. This language is somewhat unknown legally, but appears to refer to services which are pluralistic in terms of access for Indigenous people; development of the services’ practical aspects; and delivery of services.
- 13) Great strides seem to have been made among South American countries in establishing and empowering Indigenous court systems, which are conducted in Indigenous languages by appropriate Indigenous Justices. Individual cases are in the “Notes on the Forum.”
- 14) Improvements in state-funded education were remarkable among several South American countries where classes are delivered in the children’s first Indigenous language. This was particularly so in the case of primary education. It is elaborated on in the PFII’s study on Education, which can be found among all the studies prepared for this 12th session:
<http://social.un.org/index/IndigenousPeoples/UNPFIISessions/Twelfth/Documents.aspx>
All PFII previous reports are archived here:
<http://social.un.org/index/IndigenousPeoples/RecommendationsDatabase.aspx>)
- 15) A half-day session on the African Region was held on Thursday, May 23rd. There was a marked decline in general attendance on this afternoon; there were very few Indigenous participants from Africa.

Observations Particular to Canada

Assembly of First Nations participation:

- 1) The National Chief of the Assembly of First Nations, Shawn Atleo, attended the Forum for about two hours. He came on Wednesday, May 22nd, and delivered an intervention to item 7.a. He was placed for priority on the speakers’ list,* second only to the Global Caucus.

Atleo’s statement was that, “In Canada, the overarching goal for First Nations is to achieve reconciliation of pre-existing rights to the claimed rights of Canada.” His organization, AFN, does not represent all Indigenous Peoples occupied by Canada, and many of them do not seek “reconciliation” in the legalistic sense that Atleo used, generally meaning a settlement or codification of indigenous rights under a Canadian policy, but recognition, reparation, restoration and restitution.

He continued to say that he “supports a study on the development of an international mechanism on implementation of the DRIP. Indigenous Peoples need to be involved. There should be an Optional Protocol to this International Mechanism. Development of any International Mechanism must proceed with full and effective participation of Indigenous Peoples.” Alternatively, other Indigenous Peoples occupied by Canada say that they will determine their terms with Canada themselves, rather than “participate” in development of an International Mechanism. Which remains to be overseen by the fairly unresponsive international community.

Finally, Atleo stated that he “notes the Special Rapporteur’s visit to Canada, it is welcome news, and wants the Special Rapporteur to have access to everyone.”

Pictured below, National Chief of the Assembly of first Nations, Shawn Atleo



Truth and Reconciliation, agenda item 6

- 1) The Permanent Forum presented on its study of Truth Commissions in the Americas on Tuesday, May 28th. Grand Chief Edward John was one of three authors. John has been on the Executive of the First Nations Summit, the organization which facilitates First Nations participation in the BC Treaty Commission (BCTC), for twenty years.

Wilton Littlechild is the Chief Commissioner of the Truth and Reconciliation Commission of Canada. He is also the UN’s Expert Mechanism on the Rights of Indigenous Peoples. Littlechild acknowledged his own assistance in creating the PFII’s study on Truth Commissions in the Americas.

The PFII’s study said that Canada had paid “reparations” to indigenous peoples. In none of Canada’s communications about its Truth and Reconciliation Commission did it mention “reparations.” Edward John, North America’s PFII representative, said they had, and his expert

advice, Wilton Littlechild, said they did. The PFII report that Canada engaged in reparations to the indigenous nations which they assaulted with the Indian Residential Schools program is incorrect. While Canada provided compensation to individuals for personal abuse and suffering, it did not pay reparations to indigenous nations upon whom it had inflicted the genocidal practice of transfer of children.

The PFII report does not mention the fact that the Truth and Reconciliation Commission of Canada was retarded in its work by the dissolution of its first Commissioners in 2010. It does not mention the impact of such delay to the would-be indigenous participants, nor the causes of it, nor the effect of that ultimate three year delay on the process itself.

Canada's Truth and Reconciliation Commission promises to find no wrongdoing: this Commission will not refer to the Royal Canadian Mounted Police criminals revealed during its mission.

Although only a dozen speakers were inscribed to address agenda item 6, which included the report on Truth and Reconciliation Commissions, the PFII study of national constitutions and the PFII report on democratic processes, and the afternoon session of 3-6pm was reserved for these, the PFII Chair returned to the morning speakers' list and accepted no speakers on the subject of the TRC report except Wilton Littlechild and Eduardo Gonzalez, of the International Center for Transitional Justice, who had advised Canada on the development of its Truth and Reconciliation Commission. IHRAAM had been posted on the speakers list for this topic, presumably along with others.

The IHRAAM intervention was not invited to be delivered. The IHRAAM intervention on this agenda item is posted on this webpage in a separate document which is headed:
Agenda Item 6: Study on the links between indigenous rights, truth commissions and other truth-seeking mechanisms on the American continent (E/C.19/2013/13)

Pictured below, Wilton Littlechild, TRC Commissioner and UN EMRIP



Health Item 3a

A representative of Canada delivered a statement in response to the PFII study on health. The study made no mention of Canada, but Canada stated in response to the theme that:

First Nations enjoy universal comprehensive health coverage, including primary care and public health in over 600 communities.

All First Nations have access to primary care “24/7”.

Government covers the costs of medication, dental care and transportation for medical visits.

Health care delivery is culturally appropriate.

First Nations have access to mental health care regardless of where they live.

In a typical year, these services are accessed by 75% of the First Nations population.

A tripartite framework agreement between British Columbia, some First Nations and Canada is beginning to transfer greater control of health delivery by First Nations. The transfer of responsibility for health services is beginning in July, 2013.

There are many ways in which these statements are completely untrue, particularly in the cases of mental health care, cultural appropriateness of service, the provision of fees for transportation to medical treatment, the provision of fees for medication, the quality of access “24/7,” the percentage of indigenous individuals accessing health care. All of these statements can be contradicted by examples from a single community within the borders of British Columbia: In Lil’wat, a recent suicide was caused by the inability to get adequate medication for a treatable disease that proved too painful to endure without the generally available, but expensive, drugs. There is no provision whatsoever, by government funding arrangement, of traditional healing practices or traditional medication. Mental health counseling is categorically and exclusively western in style and delivery. “24/7” primary care in this community, a ten minute drive from the closest city, features ambulance travel times of 45 minutes which delays have resulted in fatality. Emergency first aid equipment and paramedic personnel is not a feature of most First Nations. The critical shortage of funds to pay for transportation to medical treatments was recently the subject of a blockade of the local health center, which is primarily a day care but hosts doctor visits. Lil’wat is one of the largest First Nations in British Columbia with 2,000 Band Members living on the Reserve.

Canada’s reference to the tripartite Health Jurisdiction agreements coming into play in British Columbia was somewhat inadequate. In accepting these agreements, a First Nation releases Canada from any constitutional obligations under section 91/24 of the British North America Act, in Canada’s Constitution, where the federal government is responsible for “Indians.”

Further, the First Nation agrees it will provide services at a similar or better quality to those provided by the provincial government – with only a five year financial arrangement to do so, an arrangement which must be renegotiated every five years and which the province does not have a constitutional mandate to fulfill. Rather, the province must balance and prioritize its expenses in this regard with the needs of all British Columbians.



Canada in the general remarks of other speakers

- 1) Excluding the optimistic comments of Wilton Littlechild about Canada's Truth and Reconciliation Commission, the only mention of Canada during the 12th Session was in the cases of perhaps two remarks on violence against indigenous women and girls, and in one remark by PFI Member Dalee Sambo Dorrough, speaking to the agenda item of youth and indigenous identity, who noted that youth suicide among Inuit in Canada is over ten times higher than the national average.

While many speakers articulated issues particular to certain states and illustrating the various urgent needs for implementation of the DRIP, a monitoring body and a means of ensuring compliance, Canada was never the subject of such an intervention.