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Report of the Special Rapporteur on the Rights of Indigenous Peoples on the Situation of Indigenous Peoples in the United States of America

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SUMMARY

In this report the Special Rapporteur examines the human rights situation of indigenous peoples in the United States, on the basis of research and information gathered, including during a visit to the country from 23 April to 4 May 2012. During his mission, the Special Rapporteur held consultations with United States officials as well as with indigenous peoples, tribes, and nations in Washington, D.C., Arizona, Alaska, Oregon, Washington state; South Dakota and Oklahoma, both in Indian country and in urban areas. Appendices I and II to this report include, respectively, summaries of information provided by the Government and of information submitted by indigenous peoples, organizations and individuals in connection with the mission.

The Special Rapporteur concludes that indigenous peoples in the United States – including American Indian, Alaska Native and Native Hawaiian peoples – constitute vibrant communities that have contributed greatly to the life of the country; yet they face significant challenges that are related to widespread historical wrongs, including broken treaties and acts of oppression, and misguided government policies, that today manifest themselves in various indicators of disadvantage and impediments to the exercise of their individual and collective rights.

Significant federal legislation and programmes that have been developed over the last few decades, in contrast to early exercises of federal power based on misguided policies, constitute good practices that in significant measure respond to indigenous peoples' concerns. Especially to be commended are the many new initiatives taken by the executive to advance the rights of indigenous peoples in the last few years.

The Special Rapporteur finds, however, that existing federal programmes need to be improved upon and their execution made more effective. Moreover, new measures are needed to advance toward reconciliation with indigenous peoples and address persistent deep-seated problems related to historical wrongs, failed policies of the past and continuing systemic barriers to the full realization of indigenous peoples' rights.

The United Nations Declaration on the Rights of Indigenous Peoples is an important impetus and guide for improving upon existing measures to address the concerns of indigenous peoples in the United States, and for developing new measures to advance toward reconciliation. The Declaration, which is grounded in widespread consensus and fundamental human rights values, should be a benchmark for all relevant decision-making by the federal executive, Congress, and the judiciary, as well as by the states of the United States. The Special Rapporteur makes a series of recommendations in this regard.

The Special Rapporteur would like to thank the United States Government, especially the Department of State, for the cooperation it provided for the mission. He would also like to express his deep gratitude to representatives of indigenous peoples, nongovernmental organizations and academic institutions – named in appendix II– whose assistance in planning and carrying out of this visit was

indispensible. The Special Rapporteur is grateful to the indigenous peoples that welcomed him into their communities and for the hospitality he received. Finally, the Special Rapporteur is grateful to the Office of the High Commissioner for Human Rights and the Support Project for the Special Rapporteur on Indigenous Peoples at the University of Arizona for their assistance in carrying out the mission and preparing this report.

I. THE INDIGENOUS PEOPLES OF THE UNITED STATES

1. The indigenous peoples of the United States include a vast array of distinct groups that fall under the generally accepted designation of Native Americans, which include American Indians and Alaska Natives; also included are the people indigenous to Hawaii, or Native Hawaiians. These indigenous peoples form tribes or nations – terms used interchangeably in this report – and other communities with distinctive cultural and political attributes.

A. The diverse indigenous nations, tribes and communities

2. Broadly speaking, Native Americans living in the contiguous United States constitute tribes or nations with diverse cultural and ethnic characteristics that can be grouped geographically. Linguistic families and other cultural markers, however, cross rough geographic categories, and within these categories differences abound. For historical and other reasons, Alaska Natives and Native Hawaiians are considered distinct from Native Americans in the contiguous United States.

3. The United States presently recognizes and maintains what it refers to as government-to-government relations with approximately 566 American Indian and Alaska Native tribes and villages, around 230 of these being Alaskan Native groups. For the most part each of these tribes and villages determines its own membership. While having some form of federal recognition, Native Hawaiians do not have a similar status under United States law as that of American Indians and Alaska Native groups. Many other groups in the United States that identify as indigenous peoples have not been federally recognized, although some of these have achieved recognition at the state level.

4. It is estimated that prior to colonization, the indigenous population within the territory that now constitutes the United States numbered several million, and represented diverse cultures and societies speaking hundreds of languages and dialects. After the arrival of Europeans, the indigenous population suffered significant decline due to the effects of disease, war, enslavement and forced relocations.

5. Today, according to United States census data people who identify as Native American represent approximately 1.7 per cent of the overall population of the United States, with 5.2 million persons identifying as American Indian or

Alaska Native, either alone or in combination with one or more other races.[1] It should be noted that this number significantly exceeds the number of those who are enrolled or registered members of federally recognized indigenous groups. In addition, there are roughly a half a million persons that identify entirely or partly as Native Hawaiians.

6. Characteristically, the federally recognized tribes have reservations or other lands that have been left to or set aside for them, and over which they exercise powers of self-government. While the land holdings vary significantly among the tribes, in all cases they pale in comparison to the land areas once under their possession or control. Still, the diminished landholdings provide some physical space and material bases for the tribes to maintain their cultures and political institutions, and to develop economically.

7. While many indigenous persons live on reservations or other Native-controlled land areas, many others live in urban areas beyond the boundaries of indigenous lands. It is quite common, however, for indigenous persons living in urban areas to maintain close ties to the land-based communities of the tribes with which they are affiliated, and to develop bonds of community with other indigenous persons in their urban settings.

8. Several indigenous peoples live in border areas and face unique challenges, especially tribes living along the United States-Mexico border, where heightened border security measures implemented by the federal Government in recent years have increasingly made cross-border contact between members of the same tribes very difficult.

B. The contributions of indigenous peoples to the broader society, despite negative stereotypes

9. Within the United States stereotypes persist that tend to render Native Americans relics of the past, perpetuated by the use of Indian names by professional and other high-profile sports teams, caricatures in the popular media and even mainstream education on history and social studies. Throughout his mission, the Special Rapporteur heard complaints from indigenous representatives about such stereotypes, and about how they obscure understanding of the reality of Native Americans today and instead help to keep alive racially discriminatory attitudes.

10. Beyond the stereotypes, one readily sees vibrant indigenous communities, both in reservation and other areas, including urban areas, which have contributed to the building of the country and continue to contribute to the broader society. Of course their greatest contribution is in the vast expanses of land that they gave up, through treaty cessions and otherwise, without which the

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[1] U.S. Census Bureau, the American Indian and Alaska Native Population: 2012, pages 1, 3

United States and its economic base would not exist. Native Americans have also added to the defence and security of the United States and are represented among the ranks of the United States military services at a rate higher than that of any other ethnic group.

11. Today, indigenous peoples in the United States face multiple disadvantages, which are related to the long history of wrongs and misguided policies that have been inflicted upon them. Nonetheless, American Indians, Alaska Natives and Native Hawaiians have survived as peoples, striving to develop with their distinct identities intact, and to maintain and transmit to future generations their material and cultural heritage. While doing so, they add a cultural depth and grounding that, even while often going unnoticed by the majority society, is an important part of the country's collective heritage. Further, the knowledge that they retain about the country's landscapes and the natural resources on them, along with their ethic of stewardship of the land, are invaluable assets to the country, even if not fully appreciated.

II. UNITED STATES LAW AND POLICY REGARDING INDIGENOUS PEOPLES

12. Laws and policies related to indigenous peoples have developed over centuries since the colonial era, and today they comprise a complex array of decisions by the United States Congress, the executive branch of the federal Government and the federal courts, in particular the United States Supreme Court.

A. The basic framework

13. The Constitution of the United States (1787) makes little reference to indigenous peoples, the principal mention being in its article I, section 8, which provides Congress the power to "regulate commerce with ...with the Indian Tribes." This provision signals that, within the federal structure of government of the United States, competency over matters relating to indigenous peoples rests at the federal, as opposed to state, level.

14. Looking beyond the constitutional text to historical practice, the colonial era law of nations and reason, the United States Supreme Court established, in a series of early 19th century cases, foundational principles about the rights and status of Indian tribes that largely endure today. Supreme Court doctrine recognizes that Indian tribes are inherently sovereign with powers of self-government; indeed they are "nations" with original rights over their ancestral lands. Within this same body of doctrine, however, the sovereignty and original land rights of tribes are deemed necessarily diminished and subordinated to the power of United States, as a result of discovery or conquest by the European colonial powers or the successor United States.

15. The federal power to regulate commerce with the Indian tribes is thereby enlarged to one that is deemed plenary in nature and that can be used to unilaterally modify or extinguish tribal sovereignty or land rights. This power is also related to and justified by a duty of protection the federal Government is deemed to have over Indian tribes, in a so-called trusteeship. In all, tribes are sovereign nations with certain inherent powers of self-government and original rights, but they are rendered, in words penned by the famous Supreme Court Justice John Marshall, "domestic dependent nations," subject to the overriding power of the federal Government.

16. While acknowledging positive characteristics of the rights-affirming strain of this judicial doctrine, the Special Rapporteur notes that the rights-limiting strain of this doctrine is out of step with contemporary human rights values. As demonstrated by a significant body of scholarly work, the use of notions of discovery and conquest to find Indians rights diminished and subordinated to plenary congressional power is linked to colonial era attitudes toward indigenous peoples that can only be described as racist. Early Supreme Court decisions themselves reveal perceptions of Indians as backward, conquered peoples, with descriptions of them as savages and an inferior race.

17. At times, however, the Supreme Court and lower courts have been protective of indigenous peoples' rights by affirming original Indian rights to the extent consistent with operative doctrine, or more often by enforcing treaty terms, legislation, or executive decisions that are themselves protective of indigenous rights.

B. The evolution of federal policy and legislation

18. Federal legislative and executive action, in the exercise of the broad authority over indigenous affairs affirmed by the Supreme Court, has evolved over time along with shifting policy objectives shaped by historical circumstances and prevailing attitudes of the time.

19. After achieving its independence, the United States continued the practice that had been established by Great Britain and other colonial powers of treaty-making with Indian tribes. These treaties were means both by which the United States or its colonial precursors acquired land from Indian tribes, as well as means by which the tribes retained rights over lands and resources not ceded. The treaties, moreover, dealt with diverse issues and provided a foundation for the United States' relations with tribes on the basis of their recognition as nations with inherent sovereignty.

20. Although the United States ceased dealing with Indian tribes through treaties in 1871, after having consolidated its control over the territory it had acquired across the continent, many of the historical treaties with tribes continue in force as part of federal law and to define United States-tribal relations. At the same time, numerous flagrant violations of historical treaties constitute some of the principal wrongdoings committed by the United States towards indigenous

peoples, which was a recurring subject of concern raised to the Special Rapporteur during his visit.

21. Subsequent to the end of the treaty-making era, United States law and policy was characterized by a series of steps aimed at acculturating indigenous peoples in the ways of the dominant society and diluting or eliminating their sovereignty and collective rights over lands and resources. In the late nineteenth century, a vast government bureaucracy emerged under a United States Commissioner of Indian Affairs to consolidate and manage the system of reservations, pueblos, rancherias and settlements that were home to the surviving indigenous peoples in the country.

22. Under the Dawes General Allotment Act of 1887, tribal landholdings were broken up into individual plots that could become alienable, which eventually resulted in a substantial further loss of Indian land and a complex system of interspersed Indian and non-Indian titled land that now characterizes tenure within many reservations. The Dawes Act resulted in even greater impoverishment and social upheaval among the tribes, and thus, after conferring United States citizenship on all Indians in 1924, Congress passed the Indian Reorganization Act of 1934 as a major reform measure.

23. The Indian Reorganization Act included provisions to secure the Indian land base from further erosion and provided for establishing reservation-based governments akin to local municipalities under the authority of the Secretary of Interior of the federal Government, on the basis of model constitutions that were developed by the Secretary. While providing a degree of self-government, the Act was considered a transitional measure to prepare the Indians for, in the words of its chief architect, United States Indian Commissioner John Collier, "real assimilation."[2] Many Indian tribes today continue under the IRA regime.

24. In the 1950s the United States Government attempted to complete its programme of assimilation with Congress's adoption of a formal policy of "termination,"[3] which involved steps to end the special status of Indian tribes and convert their lands to private ownership. The termination policy was eventually abandoned, but not before several tribes lost federal recognition and their self-governing status, and saw their landholdings dissipate, with invariably devastating social and economic consequences that are still apparent today.

C. The contemporary federal legislative and policy regime

25. In the face of past federal programmes of assimilation and acculturation, Native Americans continued to make clear their determination, as they still do, to hold on to and recover their own distinctive cultures and institutions of self-

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[2] House Committee of Indian Affairs, 73rd Cong., 2nd sess., Hearings on Readjustment of Indian Affairs (1934), p. 21.

[3] H.Cong.Res. 108, 3d Cong., 1st Sess., 67 Stat. B137 (1953).

government as a basis for their development and place in the world. With this resolve eventually came a change in federal policy, as it moved to reflect, if not entirely accommodate, indigenous peoples' own aspirations. In 1970, the President of the United States advanced this change in a message to Congress, in which he affirmed, "The time has come to break decisively with the past and to create the conditions for a new era in which the Indian future is determined by Indian Acts and Indian decisions."[4]

26. The contemporary thrust of federal policy is marked by several pieces of major legislation, including the Indian Self-Determination and Education Assistance Act of 1975, by which tribes are able to assume the planning and administration of federal programmes that are devised for their benefit; the Indian Child Welfare Act of 1978, which favours indigenous custody of indigenous children; the American Indian Religious Freedom Act of 1978, which directs federal officials to consult with tribes about actions that may affect religious practices; the Native American Graves Protection and Repatriation Act of 1990, which directs federal agencies and museums to return indigenous remains and sacred objects to appropriate indigenous groups; and the Native American Languages Act of 1990, which provides support for the use and recovery of indigenous languages through educational programmes. A number of other laws provide protections for indigenous religion and culture, and still others address Indian economic and natural resource development, education and civil rights.

27. In alignment with the existing federal legislation, there are dozens of executive directives and programmes that apply specifically to indigenous peoples, many of which are listed in appendix I, and that reflect a significant level of dedication on the part of the Government to indigenous concerns within the self-determination policy framework.

28. Several agencies throughout the Government are dedicated specifically to indigenous affairs, the principal one being the Department of Interior, which includes the Bureau of Indian Affairs. Under federal law, pursuant to its historical protectorate, or trusteeship, the United States holds in trust the underlying title to the Indian lands within reservations and other lands set aside by statute or treaty for the tribes. The Department is responsible for overseeing some 55 million surface acres and the subsurface mineral resources in some 57 million acres.

29. There are numerous other indigenous-specific agencies and programmes in various parts of the Government. Notably, and especially in recent years, the Government has made an important, increased effort to appoint indigenous individuals to high-level government positions dealing with indigenous affairs, including the position of Assistant Secretary for Indian Affairs, which heads the Bureau of Indian Affairs. Also significantly, in 2009, the position of Senior Policy Advisor for Native American Affairs was created to advise the President on issues related to indigenous peoples.

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[4] H.R.Doc. No. 91-363, 91st Cong., 2d Sess. (July 8, 1970).

III. THE DISADVANTAGED CONDITIONS OF INDIGENOUS PEOPLES: THE PRESENT DAY LEGACIES OF HISTORICAL WRONGS

30. United States laws and policies in the last few decades undoubtedly have contributed to halting the erosion of indigenous identities, and have weighed in favour of placing indigenous peoples on a path toward greater self-determination, as well as economic and social health. Nonetheless, the conditions of disadvantage persist with the continuing effects of a long history of wrongs and past, misguided policies.

A. Economic and social conditions

31. At the close of the Special Rapporteur's mission to the United States, he received a manila envelope stuffed with letters written by students from a class at White River High School in South Dakota, a school where a majority of the students are from the nearby reservation of the Rosebud Sioux Tribe. In a cover letter the class's teacher explained that the students "would like to feel they have a voice as it is so desolate here that it is sometimes hard to remember there is an outside world. Despite all the hardships here, these kids are so incredibly resilient and talented."

32. The teacher's words were a poignant introduction to the first letter in the stack, which was from a 15-year-old girl who lamented:

> Life here is very hand to mouth. Out here, we don't have the finer things. You get what you get and you don't throw a fit. And I'm going to be honest with you, sometimes I don't eat. I've never told anyone this before, not even my mom, but I don't eat sometimes because I feel bad about making my mom buy food that I know is expensive. And you know what? Life is hard enough for my mom, so I will probably never tell her. My parents have enough to worry about. I do not know what you can do, but try your very best to help us. Please help us. We can do this. Yes we can!

33. The evident hardship combined with resilience was reflected in the other letters, giving a highly personalized gloss on the conditions of disadvantage faced by indigenous peoples in the United States. These conditions vary widely among the diverse indigenous tribes, nations and communities. United States census data and other available statistics, however, show Native Americans to fare much worse along social and economic indicators than any other ethnic group in the country.

34. For example, Native Americans, especially on reservations, have disproportionately high poverty rates, rising to nearly double the national average.[5] Along with poverty, Native Americans suffer poor health conditions, with low life expectancy and high rates of disease, illness, alcoholism and suicide.[6] As for education, 77 per cent of Native Americans aged 25 or older hold a high school diploma or alternative credential as compared with 86 per cent of the general population, while 13 per cent of Native Americans hold a basic university degree as compared to 28 per cent of the general population.[7] Indigenous peoples also face disproportionate rates of incarceration, and rates of violent crime on Indian reservations exceed those of any other racial group and are double the national average.[8]

35. The image now often popularized of Native Americans flush with cash from casinos is far from the norm. A number of tribes do have casino operations as part of economic development efforts, taking advantage of special exemptions from ordinary state regulation and taxation that are available to them under federal law. Most tribes, however, do not have casinos and, of those that do, only a handful have reaped substantial riches sufficient to significantly reduce poverty levels.

B. Violence against women

36. The continuing vulnerabilities of indigenous communities are highlighted by alarmingly high rates of violence against indigenous women, a grave and persistent problem that has been well documented.[9] The United States Department of Justice estimates that indigenous women are more than twice as likely as all other women to be victims of violence[10] and that one in three of them will be

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[5] National Center for Education Statistics (2008). *Statistical Trends in the Education of American Indians and Alaska Natives*. Washington, DC: US Department of Education .

[6] Life expectancy is 5.2 years less than the national average, and death rates are higher from tuberculosis (500% higher), alcoholism (514% higher), diabetes (177% higher), unintentional injuries (140% higher), homicide (92% higher) and suicide (82% higher). U.S. Dept. of Health and Human Services, http://www.ihs.gov/PublicAffairs/IHSBrochure/Disparities.asp.

[7] U.S. Census Bureau Fact Sheet, American Indian and Alaska Native Heritage Month: November 2011; http://www.census.gov/newsroom/releases/archives/facts_for_features_special_editions/cb11-ff22.html.

[8] Steven W. Perry, American Indians and Crime - A Bureau of Justice Statistics Statistical Profile 1992-2002,
Department of Justice, Office of Justice Programs, December 2004.

[9] See, e.g., A/HRC/17/26/Add.5, paras. 62 – 66.

[10] Perry, supra, p. v.

raped during her lifetime.[11] Estimates are that nearly 80 per cent of the rapes of indigenous women are by non-indigenous men, many of who have made their way into indigenous communities but who are not presently subject to indigenous prosecutorial authority because of their non-indigenous status. Congress has yet to pass key reforms in the Violence Against Women Act that would bolster tribes' ability to prosecute these cases. In order to get away from violent situations, many victims are forced to leave their homes and communities, which is particularly troubling in the context of indigenous peoples. As one Tinglit woman expressed, "when I left, I didn't just leave my family. I left my culture behind... I ran away from my traditions, from my songs, my dances, and my heritage."

C. Lands, resources and broken treaties

37. The conditions of disadvantage of indigenous peoples undoubtedly are not mere happenstance. Rather, they stem from the well-documented history of the taking of vast expanses of indigenous lands with abundant resources, along with active suppression of indigenous peoples' culture and political institutions, entrenched patterns of discrimination against them and outright brutality, all of which figured in the history of the settlement of the country and the building of its economy.

38. Many Indian nations conveyed land to the United States or its colonial predecessors by treaty, but almost invariably under coercion following warfare or threat thereof, and in exchange usually for little more than promises of government assistance and protection that usually proved illusory or worse. In other cases, lands were simply taken by force or fraud. In many instances treaty provisions that guaranteed reserved rights to tribes over lands or resources were broken by the United States, under pressure to acquire land for non-indigenous interests. It is a testament to the goodwill of Indian nations that they have uniformly insisted on observance of the treaties, even regarding them as sacred compacts, rather than challenge their terms as inequitable.

39. In nearly all cases the loss of land meant the substantial or complete undermining of indigenous peoples' own economic foundations and means of subsistence, as well as cultural loss, given the centrality of land to cultural and related social patterns. Especially devastating instances of such loss involve the forced removal of indigenous peoples from their ancestral territories, as happened for example, with the Choctaw, Cherokee and other indigenous people who were removed from their homes in the south-eastern United States to the Oklahoma territory in a trek through what has been called a "trail of tears," in which many of them perished.

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[11] U.S. Depart. of Justice, Office of Justice Programs, Full Report of the Prevalence, Incidence and Consequences of Violence Against Women, Nov. 2000, p. 22 & 60; https://www.ncjrs.gov/pdffiles1/nij/183781.pdf.

40. Another emblematic case involves the Black Hills in South Dakota, part of the ancestral territory of the Lakota people that, under the Treaty of Fort Laramie of 1868, was reserved to the Lakota and other tribes known collectively as the Sioux Nation. Following the discovery of gold in the area, in 1877 Congress passed an act reversing its promise under the treaty and vesting ownership of the Black Hills to the Government. The Lakota and other Sioux tribes have refused to accept payment required in accordance with a 1980 Supreme Court decision and continue to request the return of the Black Hills; this is despite the fact that the people of these tribes are now scattered on several reservations and are some of the poorest among any group in the country. Today, the Black Hills are national forest and park lands, although they still hold a central place in the history, culture, and worldviews of surrounding tribes and at the same time serve as a constant visible reminder of their loss.

41. In addition to millions of acres of lands lost, often in violation of treaties, a history of inadequately controlled extractive and other activities within or near remaining indigenous lands, including nuclear weapons testing and uranium mining in the western United States, has resulted in widespread environmental harm, and has caused serious and continued health problems among Native Americans. During his visit, the Special Rapporteur also heard concerns about several currently proposed projects that could potentially cause environmental harm to indigenous habitats, including the Keystone XL pipeline and the Pebble Mine project in Alaska's Bristol Bay watershed. By all accounts the Pebble Mine would seriously threaten the sockeye salmon fisheries in the area if developed according to current plans.

42. In many places, including in Alaska and the Pacific Northwest in particular, indigenous peoples continue to depend upon hunting and fishing, and the maintenance of these subsistence activities is essential for both their physical and their cultural survival, especially in isolated areas. However, indigenous peoples face ever-greater threats to their subsistence activities due to a growing surge of competing activities, restrictive state and federal regulatory regimes, and environmental harm.

D. Sacred places

43. With their loss of land, indigenous peoples have lost control over places of cultural and religious significance. Particular sites and geographic spaces that are sacred to indigenous peoples can be found throughout the vast expanse of lands that have passed into government hands. The ability of indigenous peoples to use and access their sacred places is often curtailed by mining, logging, hydroelectric and other development projects, which are carried out under permits issued by federal or state authorities. In many cases, the very presence of these activities represents a desecration.

44. A case that has been reviewed in detail by the Special Rapporteur involves the San Francisco Peaks in Northern Arizona, an area sacred to the

Navajo, Hopi and other indigenous peoples, where under a federal permit the Snowbowl ski resort plans to make artificial snow using recycled sewage effluent.[12] Numerous other examples brought to the attention of the Special Rapporteur can be found in appendix II. The desecration and lack of access to sacred places inflicts permanent harm on indigenous peoples for whom these places are essential parts of identity.

E. The removal of children from indigenous environments

45. Historically, added to the taking of indigenous lands was the direct assault on indigenous cultural expression that was carried out or facilitated by the federal and state governments. Likely the programme of this type with the most devastating consequences, which are still felt today, was the systematic removal of indigenous children from their families to place them in government or church-run boarding schools, with the objective of expunging them of their indigenous identities. Captain Richard Pratt, founder of the Carlisle Indian school, coined the phrase, "kill the Indian in him, save the man," in instituting the boarding school policy in the 1880s which continued well into the mid 1900s.

46. Emotional, physical, and sexual abuse within the boarding schools has been well-documented. Typically, upon entering a boarding school, indigenous children had their hair cut, were forced to wear uniforms and were punished for speaking their languages or practising their traditions. The compounded effect of generations of indigenous people, including generations still living, having passed through these schools cuts deep in indigenous communities throughout the United States, where social problems such as alcoholism and sexual abuse are now pervasive and loss of language is widespread.

47. Additionally, a pattern of placing indigenous children in non-indigenous care under state custody proceedings, with similar effects on indigenous individuals and communities, continued until well into the 1970s, only to be blunted by passage of the Indian Child Welfare Act in 1978, federal legislation that advances a strong presumption of indigenous custody for indigenous children but that continues to face barriers to its implementation.

F. Open wounds of historical events

48. The open wounds left by historical events are plentiful, alive in intergenerational memory if not experience. The Special Rapporteur heard emotional testimony from a direct descendant of victims of one of the most well-known atrocities committed against Native Americans, the massacre at Sand Creek in 1864. Scores of Cheyenne and Arapaho were attacked by surprise and

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[12] A/HRC/18/35.Add.1, Annex X, and A/HRC/19/44.

massacred by some 700 armed United States troops. Previously, the tribes had signed a treaty with the United States, under which they willingly gave up their arms and flew a flag of truce at the Sand Creek camp. No action was ever taken against those responsible for the massacre and, despite the promises made in a later treaty of reparations for the descendants of the victims at Sand Creek, none has yet been made.

49. A more recent incident that continues to spark feelings of injustice among indigenous peoples around the United States is the well-known case of Leonard Peltier, an activist and leader in the American Indian Movement, who was convicted in 1977 following the deaths of two Federal Bureau of Investigation agents during a clash on the Pine Ridge Reservation in South Dakota. After a trial that has been criticized by many as involving numerous due process problems, Mr. Peltier was sentenced to two life sentences for murder, and has been denied parole on various occasions. Pleas for presidential consideration of clemency by notable individuals and institutions have not borne fruit. This further depletes the already diminished faith in the criminal justice system felt by many indigenous peoples throughout the country.

G. Self-government

50. Many indigenous representatives in all the locations visited by the Special Rapporteur stressed the importance to the health and well-being of their peoples of securing and recovering the various expressions and practices of their cultures, including indigenous languages, and of being able to transmit their cultures and identities to future generations, along with securing ties to land and natural resources and enhancing self-government capacity.

51. As noted in paragraphs 25-29 and in appendix I, several government programmes are in place to address the concerns of indigenous peoples and to provide them substantial assistance. Indigenous leaders stressed to the Special Rapporteur, however, that the solution lies fundamentally in further strengthening indigenous peoples' ability to develop and implement their own programmes for economic development and job creation, education, preservation and development of cultural expressions and knowledge, and public order, including the protection of indigenous women and children.

52. Yet, the government policy of indigenous self-determination in place for several decades has not abated problematic restrictions that have been imposed on indigenous peoples' self-government. As a general matter, the sovereignty of federally-recognized Indian tribes, as far as it goes, displaces the authority of the states over so-called Indian country, that is, reservation and other lands under Indian control. But United States courts have continued to see the inherent sovereignty of tribes, and hence their self-governance authority, as an implicitly diminished sovereignty, and this view has served to limit the powers of tribal regulatory and judicial authorities especially in relation to non-indigenous persons. Additionally, tribal sovereignty may succumb to substantial state

sovereignty interests,[13] and the Supreme Court has restrictively interpreted the Indian Reorganization Act to prevent many tribes from extending their sovereignty over recovered or newly acquired lands.[14]

53. Judicially-established limitations on tribal sovereignty are in addition to those imposed by Congress, especially under acts devised under the earlier eras of assimilation. These include the Major Crimes Act of 1885, which established paramount federal jurisdiction over certain crimes committed in Indian country, whether by an indigenous or non-indigenous person; and Public Law 280 of 1953, which extended state criminal and civil jurisdiction to Indian country in specified states.

54. Especially in light of inadequate state and federal law enforcement on reservations, these jurisdictional limits imposed on indigenous tribes result in situations in which, as one tribal judge lamented, "we can't police and punish people who come into the community and cause harm to that community and its people." The Special Rapporteur also heard numerous frustrations based on concerns that jurisdictional limitations send the constant message to tribes that their institutions are incompetent and inferior, no matter how capable they have demonstrated themselves to be. Further impeding self-governance capacity are financial constraints.

55. It is important to note, however, that despite these impediments, many tribal governments and justice systems are gaining strength, and the Special Rapporteur was impressed by the determination of tribes to continue build their governance institutions. During the Special Rapporteur's consultation in Oklahoma, the Principal Chief of the Cherokee Nation put it this way: "As the Principal Chief of the largest Indian Tribe in the United States, my vision for our people is one of becoming great."

H. Recognition

56. In order for its powers of sovereignty, or self-government, to be recognized and officially functional within the United States legal system, or to be eligible for assistance designated for Indian tribes, an indigenous group must have specific recognition by the federal Government. A number of indigenous peoples, for reasons related to the same cluster of historical events that have broadly affected indigenous peoples in the country, lack such federal recognition and hence are especially disadvantaged. Several of these are tribes that were stripped of their federal status as a result of the termination policies of the 1950s.

57. Unrecognized indigenous groups have been striving to achieve federal recognition for decades, principally through an administrative process provided for this purpose by the Department of the Interior. Concerns regarding the cost

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[13] See Nevada v. Hicks, 533 U.S. 353 (2001).

[14] See Carcieri v. Salazar, 129 S.Ct. 1058 (2009).

and the length of the federal recognition process, and the challenges faced by lack of recognition, were repeatedly brought to the attention of the Special Rapporteur. Indigenous groups have invested millions of dollars and filed thousands of documents in support of their claims. Figures about the pace of the recognition process yield differing perspectives. Nonetheless, as described by one Senator "it is not a system that is working under any stretch of the imagination."

I. Alaska

58. Indigenous peoples in Alaska have federal recognition within a unique legal regime that developed under a specific set of circumstances. In 1971 Congress enacted the Alaska Native Claims Settlement Act (ANCSA), which extinguished "all claims of aboriginal title," as well as "any aboriginal hunting and fishing rights that may exist," throughout Alaska. The act set up a system of native-run corporations with assets provided under the settlement, and Alaska Natives born as of the date of the act were given shares in the corporations.

59. With its design of replacing rights in land and resources with individual shares in corporations, ANCSA can be seen as being driven by the policy of assimilation that had long been in place and that presumably was coming to an end around the time of the act's adoption (see paras. 21-24 above). Yet ANCSA continues to define realities for indigenous peoples in Alaska, leaving in its aftermath precarious conditions for indigenous peoples in their ability to maintain the subsistence and cultural patterns that have long sustained them amid abundant fish and wildlife resources, or to craft their own vehicles of self-determination.

60. Subsequent federal legislation has done little to restore Alaska Native hunting and fishing rights, but instead has left indigenous hunting and fishing subject to the same regulatory regime that applies to non-indigenous activities. And this regulatory regime is a highly complex, difficult one to navigate, in which both the federal Government and the state play a part, with the state in effect having a dominant role. The matter of subsistence hunting and fishing remains crucial both for cultural purposes and for food security. However, subsistence activities are subject to a state regulatory regime that allows for, and appears to often favour, competing land and resource uses such as mining and other activities, including hunting and fishing for sport, that may threaten natural environments and food sources.

61. Representatives of Alaska Native tribal governments, villages, corporations and organizations with whom the Special Rapporteur met coincided in the view that ANCSA was faulty in its inception. There were divergent views, however, about the extent to which the corporations can and are being responsive to the needs and aspirations of Alaska Natives, within the limitations of the corporate model. The Special Rapporteur did find indications that in many respects the native-run corporations are functioning to provide important economic and other benefits to Alaska Natives.

62. At the same time, the Special Rapporteur was struck by indications about how the economic and cultural transformations accelerated by ANCSA have bred or exacerbated social ills among indigenous communities, manifesting themselves, for example, in high rates of suicide, alcoholism, and violence.

63. Several Alaska Native representatives expressed to the Special Rapporteur the view that the problem runs deeper than ANCSA, to the incorporation of Alaska into the United States as a federal state through procedures that allegedly were not in compliance with the right of the indigenous people of Alaska to self-determination.

J. Hawaii

64. Also uniquely vulnerable are the indigenous people of Hawaii, having experienced a particular history of colonial onslaught and resulting economic, social and cultural upheaval. They benefit from some federal programmes available to Native Americans, but they have no recognized powers of self-government under federal law. And they have little by way of effective landholdings, their lands largely having passed to non-indigenous ownership and control with the aggressive patterns of colonization initiated with the arrival of the British explorer James Cook in 1778. Indigenous Hawaiians have diffuse interests in lands "ceded' to the United States and then passed to the state of Hawaii, under a trust that is specified in the 1959 Statehood Admission Act and now managed by the Office of Hawaiian Affairs.

65. Remarkably, the United States Congress in 1993 issued an apology "to Native Hawaiians on behalf of the people of the United States for the overthrow of the Kingdom of Hawaii on January 17, 1893 with the participation of agents and citizens of the United States."[15] The apology recognized that the overthrow resulted in the suppression of the "inherent sovereignty of the Native Hawaiian people" and called for "reconciliation" efforts.

66. The call for reconciliation, however, remains unfilled, while a growing movement of indigenous Hawaiians challenges the legitimacy and legality of the annexation of Hawaii following the overthrow, as well as the process by which Hawaii moved from its designation as a non-self-governing territory under United Nations supervision, to being incorporated into the United States as one of its federal states in 1959. In the meantime, indigenous Hawaiians see their sacred places under the domination of others, and they continue to fare worse than any other demographic group in Hawaii in terms of education, health, crime, and employment.

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[15] Public Law 103-150, 103d Congress Joint Resolution 19 (1993).

IV. MORE NEEDS TO BE DONE

A. Welcomed, but still not sufficient, government initiatives

67. The Special Rapporteur acknowledges the high level of attention to indigenous peoples' concerns that is represented by numerous acts of Congress and federal executive programmes (see paras. 25-29 above and appendix I). Such attention represents some acknowledgment of the historical debt acquired toward the country's first peoples, and partially fulfils historical treaty commitments.

68. It is evident that the federal executive has taken steps in recent years to strengthen these programmes, in addition to its new initiatives to develop consultation policies and open spaces of dialogue with tribes; to strengthen support for the recovery of indigenous languages; to settle outstanding claims for mismanagement indigenous assets held in trust by the Government; to increase funding for federal programmes; to address the problem of violence against indigenous women; to clean up environmental pollution caused by natural resource extraction; to assist tribes with acquiring land to restore their land bases; and to enhance tribal capacity and cooperative arrangements in the area of law and order, among others.

69. The Special Rapporteur notes however, concerns that were raised with him about the adequacy of effective implementation of the highly developed body of law and government programmes concerning indigenous peoples. While welcoming improved consultation procedures, for example, a number of indigenous leaders complained that they have yet to see significant change in the decision-making of government agents about matters of crucial concern to their peoples, in particular decisions about lands that are outside of indigenous-controlled areas but that nonetheless affect their access to natural or cultural resources or environmental well-being.

70. The Special Rapporteur also repeatedly heard concerns about a lack of sufficient funding for housing, health, education, environmental remediation, women's health and safety, language and other programmes, concerns that were raised by both federal officials and representatives of indigenous peoples. Also pointed out were complicated or confusing bureaucratic procedures, and an inadequate understanding and awareness among government officials about tribal realities or even about the content of relevant laws and policies themselves.

71. The Special Rapporteur observes, nonetheless, that the overall thrust of the policy underlying the federal legislation and programmes adopted in the last few decades – a policy of advancing indigenous self-determination and development with respect for cultural identity – is generally in line with the aspirations expressed by indigenous peoples. The problems signalled are that the laws and programmes do not go far enough to meet those aspirations and that they are underfunded or inadequately administered. The Special Rapporteur takes special note, moreover, that they fail to go so far as to ultimately resolve persistent, deep-seated problems.

B. The need for determined action within a programme of reconciliation

72. It is evident that numerous matters relating to the history of misdealing and harm inflicted on indigenous peoples are still unresolved. In all his consultations with indigenous peoples during his visit to the United States, it was impressed upon the Special Rapporteur that historical wrongs continue to live in intergenerational memory and trauma, and that, together with current systemic problems, they still inflict harm. Across the United States, he heard of specific unresolved problems of historical origins and systemic dimensions, and indigenous representatives made abundantly clear that these problems continue to breed disharmony, dislocation and hardship.

73. The Special Rapporteur is of the firm view that, unless genuine movement is made toward resolving these pending matters, the place of indigenous peoples within the United States will continue to be an unstable, disadvantaged and inequitable one, and the country's moral standing will suffer. Determined action should take place within a cross-cultural, encompassing programme of reconciliation, aimed at closing the latent wounds and building just and equitable conditions, and at providing needed redress consistent with the United States' human rights obligations.

74. The Special Rapporteur notes that the Government took a step that could be one on a path toward reconciliation, when in 2010 Congress adopted a resolution of apology to the indigenous peoples of the country, following in the spirit of the apology previously issued to Native Hawaiians (para. 65 above). Acknowledging widespread wrongdoing, the Apology states: "The United States, acting through Congress ... apologizes on behalf of the people of the United States for the many instances of violence, maltreatment and neglect inflicted on Native Peoples by citizens of the United States [and] expresses its regret". The apology also "urges the President to acknowledge the wrongs of the United States against Indian tribes in the history of the United States in order to bring healing to this land."[16] The full text of the apology bears reading. However, strangely, the apology was buried deep in a defense appropriations act, and apparently few indigenous people, much less the public in general, were made aware of it.

75. Such an apology should not go unnoticed. Rather, it should be a point of public awakening and mark a path toward reconciliation, a path for concrete steps to address issues whose resolution is essential to defeating disharmony, and a path toward more enlightened framing of relations between indigenous peoples and the United States.

76. Among the pending issues that should be addressed with firm determination, within a programme of reconciliation, are the severed or frayed connections with culturally significant landscapes and sacred sites, such as those resulting from the taking of the Black Hills or from environmental pollution in countless places; imposed limitations on indigenous self-governance capacity,

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[16] H.R. 3326 (111th): Department of Defense Appropriations Act, 2010.

such as that preventing indigenous authorities from acting with full force to combat violence against women; the pathologies left by the removal of indigenous children from their communities; and other persistent symbols of subordination, such as the refusal of the United States thus far to make good on its long-standing promise to provide reparations for the Sand Creek massacre. Also to be addressed are the pervasive problems left in the aftermath of Alaska Statehood and the Alaska Native Claims Settlement Act, and the still not remedied, yet acknowledged, suppression of indigenous Hawaiian sovereignty.

77. The Special Rapporteur notes the previous significant effort made by the United States to comprehensively resolve the grievances of Indian tribes by its creation in 1946 of the Indian Claims Commission and by extending the Commission's authority widely to include claims based on "fair and honourable dealings," inter alia. Over its life the Commission determined hundreds of land claims based on treaties or ancestral occupation, but the only remedies provided under the relevant statute were for monetary compensation upon a finding of extinguishment or taking of rights, a product of the assimilationist frame of thinking of the period in which the Commission was created, which left many fundamental issues unresolved or further complicated. Still the establishment of the Commission represents the capacity of the United States to take sweeping action to address evident wrongs on the basis of prevailing policy preferences.

78. What is now needed is a resolve to take action to address the pending, deep-seated concerns of indigenous peoples, but within current notions of justice and the human rights of indigenous peoples. Exemplifying the kind of restorative action to be taken consistent with contemporary human rights values is the return of the sacred Blue Lake to Taos Pueblo and the restoration of land to the Timbisha Shoshone Tribe. Both land areas were restored from land under federal administration, with no consequence for any individual property interests. Another exemplary action is the more recent initiative to transfer management of national park lands to the Oglala Sioux Tribe in South Dakota. Such measures reveal a needed understanding of the centrality of land and geographic spaces to the physical and cultural well-being of indigenous peoples, in accordance with standards now prevailing internationally and accepted by the United States.

V. THE SIGNIFICANCE OF THE DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

79. The United Nations Declaration on the Rights of Indigenous Peoples stands as an important impetus and guide for measures to address the concerns of indigenous peoples in the United States and to move toward reconciliation. An authoritative instrument with broad support, the Declaration marks a path toward remedying the injustices and inequitable conditions faced by indigenous peoples, calling on determined action to secure their rights, within a model of respect for their self-determination and distinctive cultural identities.

80. The Declaration represents a global consensus among Governments and indigenous peoples worldwide that is joined in by the United States as well as by indigenous peoples in the country. It was adopted by the General Assembly with the affirmative votes of an overwhelming majority of United Nations Member States amid expressions of celebration by indigenous peoples from around the world. At the urging of indigenous leaders from throughout the country, the United States declared its support for the Declaration on 16 December 2010, reversing its earlier position.

81. By its very nature, the Declaration on the Rights of Indigenous Peoples is not legally binding, but it is nonetheless an extension of the commitment assumed by United Nations Member States – including the United States – to promote and respect human rights under the United Nations Charter, customary international law, and multilateral human rights treaties to which the United States is a Party, including the International Covenant on Civil and Political Rights, and the International Convention on the Elimination of All Forms of Racial Discrimination.[17]

82. Whatever its precise legal significance, the Declaration embodies a convergence of common understanding about the rights of indigenous peoples, upon a foundation of fundamental human rights, including rights of equality, self-determination, property and cultural integrity. It is a product of more than two decades of deliberations in which the experiences and aspirations of indigenous peoples worldwide, along with failures and successes of the relevant laws and policies of States, were closely examined, with a view toward promoting human rights.

83. With these characteristics, the Declaration is now part of United States domestic and foreign policy, as made clear in the United States' announcement that its endorsement of the instrument:

> - reflects the U.S. commitment to work with [indigenous] tribes, individuals, and communities to address the many challenges they face. The United States aspires to improve relations with indigenous peoples by looking to the principles embodied in the Declaration in its dealings with federally recognized tribe, while also working, as appropriate, with all indigenous individuals and communities in the United States.
> - Moreover, the United States is committed to serving as a model in the international community in promoting and protecting the collective rights of indigenous peoples as well as the human rights of all individuals.

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[17] See A/HRC/9/9, paras. 18-43.

84. As part of United States domestic and foreign policy, an extension of its international human right commitments, and reflecting a commitment to indigenous peoples in the United States, the Declaration should now serve as a beacon for executive, legislative and judicial decision-makers in relation to issues concerning the indigenous peoples of the country. All such decision-making should incorporate awareness and close consideration of the Declaration's terms. Moreover, the Declaration is an instrument that should motivate and guide steps toward still-needed reconciliation with the country's indigenous peoples, on just terms.

VI. CONCLUSIONS AND RECOMMENDATIONS

85. **Indigenous peoples in the United States – including American Indian, Alaska Native and Native Hawaiian peoples – constitute vibrant communities that have contributed greatly to the life of the country. Yet they face significant challenges that are related to widespread historical wrongs and misguided government policies that today manifest themselves in various indicators of disadvantage and impediments to the exercise of their individual and collective rights.**

Existing federal legislation and executive programmes

86. **Many acts of Congress and federal programmes that have been developed over the last few decades – in contrast to earlier exercises of federal power based on misguided policies – constitute good practices that in significant measure respond to indigenous peoples' concerns. Especially to be commended are the many new initiatives taken by the executive to advance the rights of indigenous peoples in the last few years.**

The need to build on good practices and advance toward reconciliation

87. **Relevant authorities should take steps to address the concerns of indigenous leaders that, in certain respects, federal legislation protective of their rights is not adequately implemented and that federal programmes are not adequately funded or administered.**

88. **Further, the federal executive and Congress should respond to initiatives promoted by indigenous peoples for new or amended legislation and programmes, in accordance with the international human rights commitments of the United States.**

89. **Despite positive aspects of existing legislation and programmes, new measures are needed to advance reconciliation with indigenous peoples and to provide redress for persistent deep-seated problems. Federal authorities**

should identify, develop and implement such measures in full consultation and coordination with indigenous peoples.

90. Measures of reconciliation and redress should include, inter alia, initiatives to address outstanding claims of treaty violations or non-consensual takings of traditional lands to which indigenous peoples retain cultural or economic attachment, and to restore or secure indigenous peoples' capacities to maintain connections with places and sites of cultural or religious significance, in accordance with the United States international human rights commitments. In this regard, the return of Blue Lake to Taos Pueblo, the restoration of land to the Timbisha Shoshone, the establishment of the Oglala Sioux Tribal Park, and current initiatives of the National Park Service and the United States Forest Service to protect sacred sites, constitute important precedents or moves in this direction.

91. Other measures of reconciliation should include efforts to identify and heal particular sources of open wounds. And hence, for example, promised reparations should be provided to the descendants of the Sands Creek massacre, and new or renewed consideration should be given to clemency for Leonard Peltier.

92. Issues of self-governance, environmental degradation, language restoration, and federal recognition, as well as the particular concerns of indigenous peoples in urban settings and border areas, among other matters, should also be addressed.

The United Nations Declaration on the Rights of Indigenous Peoples

93. The United Nations Declaration on the Rights of Indigenous Peoples is an important impetus and guide for improving upon existing measures to address the concerns of indigenous peoples in the United States, and for developing new measures to advance toward reconciliation. The Declaration represents an international standard accepted by the United States, at the urging of indigenous peoples from across the country, and is an extension of the United States historical leadership and commitment to promote human rights under various sources of international law. With these characteristics, the Declaration is a benchmark for all relevant decision-making by the federal executive, Congress, and the judiciary, as well as by the states of the United States.

The federal executive

94. The federal executive should work closely with indigenous leaders, at all levels of decision-making, to identify and remove any barriers to effective implementation of existing government programmes and directives, and to improve upon them. In this regard, efforts should be made to ensure

coordinated and clear delineation of tasks among the various government agencies working on indigenous issues, effective means of interaction and consultation with indigenous peoples, and coherent, coordinated federal executive action on indigenous issues.

95. **In keeping with the expressed commitment of the United States to the principles of the Declaration on the Rights of Indigenous Peoples and its related international human rights obligations, the President should consider issuing a directive to all executive agencies to adhere to the Declaration in all their decision-making concerning indigenous peoples.**

96. **Independently of such a presidential directive, given that the Declaration has already been adopted as part of United States policy, all executive agencies that touch upon indigenous affairs should become fully aware of the meaning of the Declaration with respect to their respective spheres of responsibility, and they should ensure that their decisions and consultation procedures are consistent with the Declaration. To this end there should be a crosscutting executive level campaign to ensure awareness about the content and meaning of the Declaration.**

97. **In following up to the apology resolution adopted by Congress in 2010, which directs the President to pursue reconciliation with the country's indigenous peoples, the President should develop, in consultation with them, a set of relevant initiatives in accordance with paragraphs 87-92 above. As an initial measure, the President should make the apology resolution widely known among indigenous peoples and the public at large, in a way that is appropriate to the sensitivities and aspirations of indigenous peoples, and within a broader programme that contributes to public education about indigenous peoples and the issues they face.**

Congress

98. **Congress should act promptly on legislative proposals advocated by indigenous leaders for the protection of their peoples' rights, and ensure that any legislation concerning indigenous peoples is adopted in consultation with them. Particular, immediate priority should be placed on legislation advocated by indigenous peoples and proposed by the executive to extend protection for indigenous women against violence by, inter alia, enlarging the law enforcement capacities of tribal authorities.**

99. **Following up to the hearing on the Declaration held by the Senate Committee on Indian Affairs on 9 June 2011, Congress should hold hearings to educate its members about the Declaration on the Rights of Indigenous Peoples and to consider specific legislative measures that are needed to fully implement the rights affirmed therein. Attention should be paid to aspects of already existing legislation that should be reformed, and to new legislation that could advance needed measures of reconciliation. Consideration should**

also be given to providing judicial remedies for infringements of rights incorporated in the Declaration.

100. Congress should, in consultation with indigenous peoples, enact legislative reforms or altogether new legislation as required to achieve the reconciliation called for in its apology resolution of 2010.

101. Any legislation adopted by Congress should be in alignment with the human rights standards represented by the Declaration. To this end Congress should consider adopting a resolution affirming the Declaration as the policy of United States and declaring its resolve to exercise its power to advance the principles and goals of the Declaration.

102. At a minimum, Congress should continuously refrain from exercising any purported power to unilaterally extinguish indigenous peoples' rights, with the understanding that to do so would be morally wrong and against United States domestic and foreign policy, and that it would incur responsibility for the United States under its international human rights obligations.

The federal judiciary

103. The federal judiciary, in particular the United States Supreme Court, has played a significant role in defining the rights and status of indigenous peoples. While affirming indigenous peoples' rights and inherent sovereignty, it has also articulated grounds for limiting those rights on the basis of colonial era doctrine that is out of step with contemporary human rights values.

104. Consistent with well-established methods of judicial reasoning, the federal courts should discard such colonial era doctrine in favour of an alternative jurisprudence infused with the contemporary human rights values that have been embraced by the United States, including those values reflected in the United Nations Declaration on the Rights of Indigenous Peoples. Furthermore, just as the Supreme Court looked to the law of nations of the colonial era to define bedrock principles concerning the rights and status of indigenous peoples, it should now look to contemporary international law, to which the Declaration is connected, for the same purposes.

105. Accordingly, the federal courts should interpret, or reinterpret, relevant doctrine, treaties and statutes in light of the Declaration, both in regard to the nature of indigenous peoples' rights and the nature of federal power.

The states of the United States

106. **Although competency over indigenous affairs rests at the federal level, states of the United States exercise authority that in various ways affects the rights of indigenous peoples. Relevant state authorities should become aware of the rights of indigenous peoples affirmed in the Declaration on the Rights of Indigenous Peoples, and develop state policies to promote the goals of the Declaration and to ensure that the decisions of state authorities are consistent with it.**

Indigenous peoples' authorities

107. **Indigenous authorities should endeavour to educate the members of their tribes, nations or communities about the Declaration and its contents. They should apply the Declaration in their own self-governance, as well as use it as a common point of understanding in dealings with federal and state legislative, executive and judicial authorities.**

Alaska and Hawaii

108. **The situations in Alaska and Hawaii are each unique and merit particular attention and action on the part of the United States to secure the rights of indigenous peoples there. The Special Rapporteur intends to address these situations further in future communications with the United States.**

APPENDIX I: SUMMARY OF INFORMATION ON FEDERAL PROGRAMMES, POLICIES, LEGISLATION AND OTHER INITIATIVES RELATED TO INDIGENOUS PEOPLES SUBMITTED TO THE SPECIAL RAPPORTEUR BY GOVERNMENT REPRESENTATIVES, AGENCIES AND DEPARTMENTS

Executive Orders

1. Executive Order No. 13007 - Indian Sacred Sites of 1996: Calls on federal agencies responsible for management of federal lands, to accommodate, to the extent practicable, access to and ceremonial use of Indian sacred sites by Indian religious practitioners and avoid adversely affecting the physical integrity of such sites, and where appropriate, maintain the confidentiality of sacred sites.

2. Executive Order 13175 Consultation and Coordination with Indian Tribal Governments of 2000: Aims to establish regular and meaningful consultation and

collaboration with tribal officials in the development of certain federal policies related to tribes, to strengthen the United States government-to-government relationships with Indian tribes, and to reduce the imposition of unfunded mandates upon Indian tribes.

3. Presidential Memorandum of November 5, 2009: Directs each agency to submit to the Director of the Office of Management and Budget (OMB), within 90 days, a detailed plan of actions the agency will take to implement the policies and directives of Executive Order 13175.

4. The plan should be developed after consultation by the agency with Indian tribes and tribal officials as described in Executive Order 13175. Further, each agency head must submit to the Director of the OMB, within 270 days after November 5, 2009, and annually thereafter, a progress report on the status of each action included in its plan together with any proposed updates to its plan.

5. Executive Order 13592 Improving American Indian and Alaska Native Educational Opportunities and Strengthening Tribal Colleges and Universities of 2011: Establishes the White House Initiative on American Indian and Alaska Native Education chaired by the Secretaries of Interior and Education. Its purpose is to help expand educational opportunities and improve educational outcomes for American Indian and Alaska Native students including instruction in indigenous languages, cultures and histories and preparation for college and career building.

Legislation

6. Omnibus Appropriations Act H.R. 2764-526, Sec. 699B of 2008: Establishes an Advisor for Activities Relating to Indigenous Peoples Internationally who is required to advise the Director of United States Foreign Assistance and the Administrator of USAID on matters relating to indigenous peoples, and who should represent the United States Government on such matters in meetings with foreign governments and multilateral institutions.

7. Tribal Law and Order Act of 2010: Improves the capacity of tribal governments to deal with domestic violence and sex crimes, alcohol and substance abuse, strengthens services to victims, and provides enhanced tribal sentencing authority. The Act also expands recruitment and retention of Bureau of Indian Affairs and tribal officers and provides new guidelines and training for officers handling domestic violence and sex crimes. Establishes the Office of Tribal Justice within the Justice Department.

8. Claims Resolution Act of 2010: Authorizes and funds the Cobell v. Salazar settlement agreement (regarding alleged mismanagement of Indian trust accounts). Additionally, it included four water settlements for seven tribes in Arizona, Montana and New Mexico and provisions for over $1 billion for new water infrastructure projects to meet drinking water supply needs and rehabilitation of existing, aging infrastructure. To date, there are 26 congressionally enacted Indian water rights settlements.

9. Patient Protection and Affordable Care Act (PPACA) of (2010): Authorizes new and expanded programmes and services to American Indian and Alaska Natives through the Indian Health Service to make health care accessible and affordable. Created permanent authorization for the Indian Health Care Improvement Act (IHCIA), which is the legal authority for the provision of health care to American Indians and Alaska Natives.

10. American Recovery and Reinvestment Act of 2009: Provides more than $3 billion to help tribal communities renovate schools on reservations, promote job creation, improve housing and support health and policing services.

11. Indian Arts and Crafts Amendments Act of 2010: Amends the Indian Arts and Crafts Act, which makes illegal to sell, offer, or display for sale any art or craft product falsely suggesting it was Indian made. The Act empowers federal law enforcement officers to enforce this prohibition and it differentiates among penalties bases on the price of goods involved in the offense.

Legislative proposals

12. Proposed American Jobs Act: Intended to provide employment opportunities and tax cuts to small businesses and employees. Within Indian Country, the Act will serve to provide tax cuts to Native American-owned businesses, the extension of payroll tax cuts to Native American workers, the extension of unemployment insurance, subsidized employment opportunities for Native American youth and adults, community rebuilding and revitalization, and expansion of high-speed internet.

13. S. 1925 - Proposed Violence Against Women Reauthorization Act: Title IX addresses violence perpetrated against American Indian and Alaska Native women by restoring concurrent tribal criminal jurisdiction over all persons who commit misdemeanor domestic and dating violence in Indian Country and clarifies tribal court authorities to issue and enforce civil protection orders.

14. H.R. 4970 - Proposed Violence Against Women Reauthorization Act: Among other measures, would authorize Native American victims of domestic violence or Indian Tribes on behalf of Indian victims to seek protection orders from United States district courts against suspects of abuse.

Other Executive/White House Initiatives

15. Presidential Proclamation of National Native American Heritage Month November of 2011: Proclamation to celebrate the rich and diverse ancestry of American Indians and Alaska Natives and their contributions to the United States.

16. Presidential Website: Winning the Future - President Obama and the Native American Community: Serves to assist Native Americans and Alaska Natives navigate federal government programmes and policies. The site contains a resource center designed to bring together over 25 different agencies and

departments into one, navigable location. See http://www.whitehouse.gov/nativeamericans

17. White House Tribal Nations Conferences 2009 – 2011: Over the past three years, the President has hosted three White House Tribal Conferences that brought together Cabinet Secretaries and senior Administration officials with leaders invited from all the federally recognized tribes in order to strengthen the relationship between the United States Government and tribal governments. Issues discussed by representatives from federal agencies and tribal leaders include job creation and tribal economies; promotion of safe and strong tribal communities; protection of natural resources and respect of cultural rights; and social issues including health care, education, housing, and infrastructure.

18. Office of National Drug Control Policy (ONDCP)/ High Intensity Drug Trafficking Area Program: Provides funding for enforcement and drug prevention efforts nationwide including Native American projects in Oregon, Arizona, New York and Oklahoma. The ONDCP engaged in a consultation process for the National Northern Border Counternarcotics Strategy in five northern states which included federal, state and tribal officials.

19. America's Great Outdoors and the Call to Action: Presidential initiative that includes the support of tribal historic preservation efforts and tribal cultural traditions. Grants support tribes in fulfilling responsibilities under the National Historic Preservation Act including conducting surveys of historic places, maintaining historic site inventories, nominating properties to the National Register of Historic Places, and reviewing Federal agency undertakings under Section 106 of the National Historic Preservation Act.

20. White House Rural Council: Works across federal agencies to address challenges faced by tribal communities in the area of sustainable economic development and to promote economic prosperity in Indian Country.

21. Let's Move! in Indian Country is a comprehensive initiative dedicated to solving the problem of obesity within a generation, so that children born today will grow up healthier and able to pursue their dreams. .

Department of Agriculture

22. USDA Office of Tribal Relations (OTR): Established in 2009 to serve as point of contact between the Department and all federally recognized tribal governments, tribal communities, individual tribal members, as well as state-recognized tribal governments. OTR is responsible for working with all departmental agencies to build a collaborative and integrated approach to issues, programmes and services addressing the needs of American Indians and Alaskan Natives, including Tribal consultation.

23. USDA Action Plan for Tribal Consultation and Collaboration: Outlines actions the Department intends to take to develop consultation processes across all departmental agencies at a regional level regarding their different programmes and

services, which would include a reporting, accountability and performance assessment structure for these consultation processes.

24. Sacred Sites Policy Review: Review by the USDA's Office of Tribal Relations (OTR) and the Forest Service of the effectiveness of existing policies and procedures for the protection of Native American sacred sites on National Forest System Lands, which involved national and regional level listening sessions with tribal governments and traditional cultural practitioners to gather recommendations. A final report with recommendations for needed action at the level of USDA will be developed in consultation with tribal governments and cultural practitioners.

25. USDA Rural Development: Provided for investment in business in Indian Country through multiple programmes that included $7.6 million for their Business & Industry Loan Guarantee programme and $4.2 million in grants to support economic development. The USDA also provided over $50 million through Natural Resources Conservation Service programmes to improve and benefit trust lands across the country.

26. Internet Access: Both the Department of Agriculture and the Department of Commerce have dedicated programmes to bring high-speed, affordable broadband into tribal communities and have awarded loans and grants worth over $1.5 billion for projects to benefit tribal areas.

27. Keepseagle v. Vilsack settlement of 2010: The Government reached a $760 million settlement with Native American farmers and ranchers who sued the Department of Agriculture for discrimination in loan programmes. In addition to monetary damages and debt relief awarded to Native American farmers, the settlement contained programmatic reforms including the establishment of a Council on Native American Farming and Ranching that responds directly to the Secretary of Agriculture, technical assistance to help access farm loan programmes, a moratorium on further collection of delinquent loans during the pendency of the settlement process and an additional round of loan servicing after completion of the claims process.

Department of Interior

28. Department of the Interior Action Plan and Tribal Consultation Policy: Developed by a joint federal-tribal team. Provides for a Department-wide tribal governance officer, early tribal involvement in the design of actions implicating tribal interests.

29. Department of the Interior Indian Loan Guaranty Insurance and Interest Subsidy Program: Established by the Indian Finance Act of 1974 to stimulate American Indian and Alaska Native economic enterprises and employment. In fiscal year 2011, the programme made over 46 loan guarantees, totalling more than $78 million.

30. Department of the Interior Indian Water Rights Office leads, coordinates, and manages the Department's Indian water rights settlement program.

31. National Commission on Indian Trust Administration and Reform: The Secretary of the Interior appointed five prominent American Indians to service on the Commission. The Commission will undertake an evaluation of Interior's trust management of Native American trust funds.

32. Department of the Interior Pilot program to reduce crime on Indian reservations: Engages reservation communities experiencing high crime rates to reduce violent crime, juvenile delinquency, and criminal behaviour.

33. Proposed Lease Reforms: Aims to simplify the leasing process on tribal lands and enhance tribally driven renewable solar and wind energy projects.

34. Management of Indian trust lands: Over 11 million acres belong to individual Indians and nearly 44 million acres are held in trust for Indian tribes. On these lands, the Department manages over 109,000 leases.

Office of the Special Trustee for American Indians

35. The Office of the Special Trustee for American Indians manages approximately $3.7 billion in trust funds from leases, use permits, land sales and income from financial assets. The Office has a Trust Beneficiary Call Center to implement the Cobell v. Salazar decision, which provides the Department with the ability to resolve trust claims. The call centre uses a toll-free phone number to provide comprehensive account information to beneficiaries.The Office also has a Trust Asset and Accounting Management System, an integrated database containing land title documents, including supporting revenue distribution, invoicing, acquisitions and all legal details relating to land transactions.

Bureau of Indian Affairs

36. Water Rights Negotiation/Litigation Program: A programme of the Bureau of Indian Affairs (BIA) to provide funds to the United States and tribes for activities associated with securing or defending federally reserved Indian water rights through negotiations and/or litigation. It primarily provides funds for necessary documentation, expert witnesses and technical reports to further water rights claims.

37. Water Management, Planning, and Pre-Development Program: A BIA programme for assisting tribes in managing, conserving and utilizing trust water resources, primarily by providing funds for necessary technical research, studies and other information for Indian tribes.

38. High Priority Performance Goal crime reduction initiative of 2009: Programme implemented by the Bureau of Indian Affairs in collaboration with tribal law enforcement officials intended to reduce violent crime in four targeted reservations by five percent over a 24-month period. The initiative was expanded to two additional reservations.

Bureau of Indian Education

39. The Bureau of Indian Education funds 183 elementary and secondary schools on 64 reservations throughout the United States, serving approximately 42,000 Indian students. Of these, 58 are tribally-operated under contracts or grants. The Bureau also funds or operates off-reservation boarding schools and provides higher education scholarships to Indian students.

United States Geological Survey

40. Technical Training in Support of Native American Relations (TESNAR): A programme that provides grants for the development and implementation of technical training, by USGS scientists, for the employees of Tribes and tribal organizations in order to strengthen the technical capacity of Tribes in managing tribal natural and cultural resources.

Bureau of Reclamation

41. Native American Affairs Program: A programme of the Bureau of Reclamation (BOR) that provides support for Indian water rights negotiations and the realization of various irrigation, water development, drought relief and other services and programmes implemented by the BOR.

42. Water Rights Settlement Projects: Provides support for Indian water rights settlements, including serving as the construction entity for water supply projects approved as part of enacted settlements.

43. Bureau of Reclamation/ Rural Water Projects: Works with Indian tribes to assess their water supply needs, including for domestic uses, and to address these needs by designing and constructing water supply projects. Construction of water projects to provide safe and reliable domestic water supplies to Indian tribes, and other local entities, are ongoing in several states.

US Fish & Wildlife Service

44. Tribal Wildlife Grants Program: Provided approximately 360 grants to nearly 200 tribal governments to conserve, protect and enhance fish, wildlife, plants and habitats.

National Park Service

45. Agreements on gathering of traditional plants and minerals: The National Park Service is preparing to issue a rule to authorize agreements between Park Service and federally-recognized tribes to permit limited gathering of plants and minerals for traditional purposes.

46. Proposed Tribal National Park: The National Park Service is working with the Oglala Sioux Tribe to develop legislation to establish the first tribal national park in the South Unit of the Badlands National Park, which is located entirely in the Pine Ridge Indian Reservation.

47. National Park Service Management Policies: Management policies and other official guidelines such as Director's Order # 53 - Special Park Uses, direct officials to respect the government-to-government relationship, to provide access to and use of Indian sacred sites, and to ensure that consultation to ascertain and address the concerns of Indian tribes and tribal traditional religious practitioners is carried out when actions that may have an effect on Indian tribes and their cultural traditions are proposed.

48. National Park Service Shared Beringian Heritage Program: United States and Russian joint cooperation for the protection of the area's natural, cultural resources and the rights of indigenous peoples in both countries. The National Park Service is to consult with Alaska indigenous peoples regarding initiatives under the program.

Bureau of Land Management

49. BLM Tribal Consultation Policy: Developed in response to Executive Order 13175 with the purpose to identify the cultural values, the religious beliefs, the traditional practices, and the legal rights of Native American people which could be affected by BLM actions on Federal lands.

50. BLM - 8100 Manual and Handbook: Instructs BLM managers on identification and management of cultural resources on public lands. Provides for tribal consultation to identify and manage sacred sites, including providing access to such sites.

51. BLM/Co-management Agreements: Provides for co-management agreements to manage areas of significant value to Tribes. These have included co-management agreement with the Pueblo de Cochiti in New Mexico to manage the Kasha-Katuwe Tent Rocks National Monument; and a co-management agreement with Taos Pueblo, New Mexico to jointly manage the "Wild Rivers Section" of the Rio Grande.

52. BLM Cultural Resources Management program: Provides for repatriation to Native American peoples of human remains and cultural items held in BLM's collections and enhancing management of culturally significant sites on public lands.

Department of Justice

53. Violence Against Women Federal/Tribal Prosecution Task Force: Composed of federal and tribal prosecutors that facilitate and coordinate action between the Justice Department and tribal governments regarding the prosecution of violent crimes against women in Indian Country including the development of recommendations and resource materials on prosecutions of these offenses.

54. Coordinated Tribal Assistance Solicitation: Provides a single streamlined application process for tribal government-specific grant programmes administered by the Office of Justice Programs, Community Oriented Policing Services, and the Office on Violence Against Women.

55. Consideration of Policy Regarding Eagle Feathers: Departments of Justice and the Interior have worked to facilitate tribal members' access to eagle feathers for religious and cultural purposes and to address concerns over the effects of federal laws protecting eagles on tribal and cultural practices.

Department of Homeland Security

56. Tribal Relations Program: Seeks to include tribal governments in many facets of homeland security and emergency management, through joint law enforcement operations with Customs and Border Protection and improved response to disasters affecting tribal members and tribal lands.

Department of Labor

57. Indian and Native American Program/ Employment and Training Administration: Provides funding for tribes and Native American non-profit organizations to provide employment and training services to unemployed and low-income Native Americans, Alaska Natives, and Native Hawaiians.

Department of Commerce

58. The Minority Business Development Agency of the Department of Commerce: Funded six Native American Business Enterprise Centers in Arizona, California, New Mexico, North Dakota, Washington and Oklahoma.

Department of the Treasury

59. Community Development Financial Institutions Fund (CDFI) – Native Initiatives Program: Designed to increase capital, credit, and financial services for Native populations across the nation and build the capacity of Native community

development financial institutions to provide financial products and services to Native Communities.

Department of Housing and Urban Development

60. Section 184 Loan Guarantee Program: Based on the Housing and Community Development Act of 1992, the programme provides home ownership opportunities to American Indians and Alaska Native living on trust or restricted lands.

61. Native Hawaiian Housing Block Grant Program Section 184A Loan Guarantee Program for Native Hawaiians: Provides access to private financing on Hawaiian home lands and promotes homeownership, property rehabilitation and new home constructions for eligible Native Hawaiian individuals.

62. Native American Housing Needs Assessment: Study undertaken by Housing and Urban Development that included regional and national outreach meetings with tribal housing stakeholders to seek input on methodology for survey of housing needs.

63. Indian Housing Block Grant (IHBG) Program: Provides annual funding to Native American tribes or tribally designated housing authority to make housing assistance available to low-income Indian families. IHBG was established through the Native American Housing Assistance and Self-Determination Act of 1996.

64. Indian Community Development Block Grant (ICDBG) Program: Provides grants to improve housing and economic opportunities in Native American and Alaskan Native communities.

65. Rural Housing and Economic Development (RHED) Program: Provides for rural housing and economic development activities at the state and local levels including reservation and tribal communities in rural areas.

66. Tribal Colleges and Universities Program (TCUP): Assists Tribal Colleges and Universities to build, expand, renovate and equip their facilities and support their role as service providers for health programmes, job training and economic development.

67. Resident Opportunity and Self-Sufficiency (ROSS) Program: Provides funding for job training and support services to assist public housing residents to transition from welfare to work.

68. Department of Housing and Urban Development Tribal Government-to-Government Consultation Policy of 2001: Enhances communication and coordination between the Department and federally recognized Indian tribes or Alaska Native tribes.

Department of Veterans Affairs

69. Home Loans to Native American Veterans: The Department of Veterans Affairs Loan Guaranty Service works with federally-recognized tribes to provide loans to Native American Veterans for the purchase, construction, or improvement of homes located on federally-recognized trust land.

Department of Energy

70. Office of Indian Energy/ Indian Country Energy and Infrastructure Working Group: An informal group of tribal leaders who provide advice and input to the Office of Indian Energy and Department of Energy on energy development issues in Indian Country.

71. Office of Indian Energy: Engaged in the development of programmes for tribal energy education, strategic and targeted technical assistance for tribes on renewable energy project deployment, transmission and electrification, innovative project development, and best practices forums.

72. Strategic Technical Assistance Response Team (START): An initiative of the Office of Indian Energy Policy and Programs (DOE-IE) that advances modern clean energy project development in Indian Country.

73. Department of Energy Technical Assistance and Grants: Technical assistance and grants to help Native American communities develop renewable energy resources and energy efficiency.

74. Tribal Energy Program: Provides funds to tribes to undertake assessments of energy efficiency of tribal buildings and provide training for assessing clean energy options.

75. American Indian Research and Education Initiative: Department of Energy facilitated partnership between the American Indian Higher Education Consortium and the American Indian Science and Engineering Society to bring science, technology, engineering, and mathematics research and education funding to Native American students in tribal colleges and universities.

Department of Health and Human Services

76. Tribal Advisory Committee: Established by the Secretary to improve services, outreach, and consultation efforts with tribes.

77. Indian Health Service and Health Resources and Services Administration/ National Health Service Corp program: Seeks to improve the recruitment and retention of healthcare providers in the Indian healthcare system.

78. Special Diabetes Program for Indians: Provides funding to Indian Health Service, tribal, and urban Indian health programmes for community-driven strategies to address diabetes treatment.

79. National Action Alliance for Suicide Prevention: Developed new task forces to address and improve suicide prevention programmes in American Indians and Alaska Native communities.

80. Indian Health Service Sexual Assault Policy and Protocol: Establishes a standard of care for sexual assault victims who seek clinical services within an Indian Health Service operated hospital; seeks to ensure that care is culturally sensitive, patient-centered, and needs are addressed with a coordinated response from the community. The policies also assist in evidence collection for possible use in the criminal justice system.

81. Administration for Native Americans/US Department of Health & Human Services: Promotes self-sufficiency for Native Americans by providing discretionary grant funding for community-based projects, and training and technical assistance to eligible tribes and Native organizations. Conducted a Language Symposium in September 2011 to build and share best practices, discuss challenges and barriers and identify necessary resources to support language and culture in Native communities.

Department of Education

82. National Advisory Council on Indian Education: Advises the Secretary of Education on the funding and administration of Department programmes relevant to American Indians and Alaska Natives and reports to Congress on any recommendations that the Council considers appropriate for the improvement of federal education programmes that include or may benefit Native Americans.

Environmental Protection Agency

83. Office of Air and Radiation: Supported initiatives for tribal involvement in the designation and application of Clean Air Act standards within Indian Country.

84. Indian Environmental General Assistance Program: Provides technical and financial assistance to tribes to develop and administer federal environmental programmes.

85. EPA Targeted Grants: Provided $12 million in grants to 83 tribes to establish Tribal Environmental Response Programs to address contamination on tribal lands.

86. Border 2012 Program: Provides for the improvement and expansion of clean water and wastewater management capacity to tribal communities in border areas.

87. Tribal Solid Waste Interagency Workgroup: Environmental Protection Agency, in collaboration with the Bureau of Indian Affairs, Indian Health Service, Department of Defense and United States Department of Agriculture, provides financial assistance to tribes to manage new solid waste initiatives.

88. EPA-Tribal Science Council: Partnership with tribal representatives to integrate Environmental Protection Agency and tribal interests, including the integration of traditional ecological knowledge in environmental science, policy and decision-making.

89. EPA - Policy on Consultation and Coordination: Provides for consultation with federally recognized tribal governments when Environmental Protection Agency actions and decisions may affect tribal interests. The EPA has developed a guide to consulting with Indian Tribal Governments for Federal Government personnel.

90. Toxics Release Inventory (TRI) Reporting for Facilities Located in Indian Country and Clarification of Additional Opportunities Available to Tribal Governments under the TRI Program: Requires each facility located in Indian country to submit TRI reports to the Agency and the appropriate Tribe, rather than to the State in which the facility is located. The rule also provides Tribes with the opportunity to request that facilities located in their lands be added to the TRI and that a particular chemical be added or deleted from the TRI chemical list.

91. Health and Environment Impacts of Uranium Contamination in the Navajo Nation (June 2008): Five-year plan developed by the Bureau of Indian Affairs, Department of Energy, Nuclear Regulatory Commission, Environmental Protection Agency and Indian Health Service at the request of the House Committee on Oversight and Government Reform to address the public health and environmental impacts from historical uranium mining on the Navajo Reservation.

92. National Environmental Justice Advisory Council: Currently developing a national tribal and indigenous peoples' environmental justice policy to improve the Agency's effectiveness when addressing the environmental justice concerns of federally-recognized tribes, tribal members, state-recognized tribes, indigenous organizations, and other indigenous stakeholders.

93. National Tribal Operations Committee (NTOC): Works to ensure more affective representation of tribal interests within the NTOC and stronger connections between the NTOC and regional and subject matter tribal partnership groups including air, water and science councils.

94. American Indian Environmental Office (AIEO): Supports implementation of federal environmental laws consistent with the federal trust responsibility, the government-to-government relationship, and Agency's 1984 Indian Policy. It participates in the Arctic Council Indigenous Peoples Contaminant Action Program (IPCAP), which intends to build awareness and capacity among Arctic indigenous communities to better understand their contaminant exposures and to more effectively engage in governmental efforts to address exposure issues.

95. Border 2020 Program: American Indian Environmental Office collaborates with the Office of International and Tribal Affairs (OITA) in conducting effective coordination and formal government-to-government consultation with United States border tribes and in outreach to Mexican border indigenous communities.

96. North American Tribal/First Nations/Indigenous Climate Change Adaptation Project: American Indian Environmental Office is a lead partner with other federal agencies, the Canadian government, and a Canadian indigenous not-for-profit organization in an effort to design a workshop scheduled for September 2012 to focus on climate change adaptation needs of North American indigenous communities in the area of food security and traditional plant use.

Department of Transportation

97. Indian Reservations Roads Program: Provides funds for planning, designing, construction, and maintenance activities on Indian Reservation Roads. The programme is jointly administered by the Bureau of Indian Affairs (BIA) and the Federal Highway Administration's Federals Lands Highway Office.

98. Public Transportation on Indian Reservations Program/Tribal Transit Program: Provides a total of $45 million in direct funding to federally recognized tribes to support tribal public transportation in rural areas.

The Special Rapporteur met with representatives of the following federal departments, offices, bureaus, agencies, and other institutions during his visit to the United States from 23 April to 4 May 2012

Federal Level

Department of State

- United States Agency for International Development
- Bureau of International Organizations, Office of Human Rights and Humanitarian Affairs
- Bureau of Democracy, Human Rights, and Labor
- Office of the Legal Adviser
- Office of the Special Representative for Global Intergovernmental Affairs
- Office of Global Women's Issues
- Office to Monitor and Combat Trafficking in Persons
- Bureau of Western Hemisphere Affairs

Department of the Interior

- Bureau of Indian Affairs
- The Bureau of Indian Education
- Bureau of Land Management
- National Park Service
- Bureau of Reclamation
- Office of the Special Trustee for American Indians
- The United States Geological Survey

- International Affairs Coordinator for the Office of the Assistant Secretary - Indian Affairs

Department of Justice
- Office of Tribal Justice

The White House
- Senior Policy Advisor for Native American Affairs
- Advisor on Violence Against Women
- Office of Intergovernmental Affairs and Public Engagement and Others

Department of Health and Human Services
- Director, Indian Health Service
- Chief Medical Officer, Indian Health Service
- Office of the General Counsel
- Office of Multilateral Affairs

Environmental Protection Agency
- American Indian Environmental Office, including its Tribal/Indigenous Peoples Environmental Justice Work Group
- Assessment and Remediation Division, Office of Superfund Remediation and Technology Innovation
- Office of Solid Waste and Emergency Response
- Cross-Cutting Issues Law Office of General Counsel

Department of Housing and Urban Development
- Office of Native American Programs
- Office of Public and Indian Housing
- Office of Fair Housing and Equal Opportunity
- Secretary for Public Affairs
- Office of International and Philanthropic Innovation
- Office of Policy Development and Research

United States Department of Agriculture
- Office of Tribal Relations
- Natural Resources and Environment
- Forest Service

Department of Education

State Level
- Office of the Governor of South Dakota
- Office of the Governor of Alaska

APPENDIX II:
SUMMARY OF INFORMATION AND ALLEGATIONS PRESENTED BY INDIGENOUS PEOPLES, GROUPS, AND ORGANIZATIONS TO THE SPECIAL RAPPORTEUR ON THE RIGHTS OF INDIGENOUS PEOPLES

1. During his mission, the Special Rapporteur held consultations with United States officials as well as with indigenous peoples, tribes, and nations in Washington, D.C.; Arizona; Alaska; Oregon; Washington state; South Dakota; and Oklahoma, both in Indian country and in urban areas. The Special Rapporteur is very grateful for the assistance he received from the National Congress of American Indians; the Navajo Nation; the Indian Law Resource Center; the International Indian Treaty Council; the University of Arizona Indigenous Peoples Law and Policy Program; the Alaska Native Heritage Center; Port Graham Village; Chickaloon Village; the Curyung Tribal Council; the National Indian Child Welfare Association; the Cowlitz Indian Tribe; the University of Tulsa; and Sinte Gleska University for their assistance in planning key consultations in the various locations visited. He would also like to thank the numerous individuals who provided essential assistance in this regard, in particular, Dalee Sambo Dorough (Alaska), Armstrong Wiggins (Washington, D.C.), William Means (South Dakota), Andrea Carmen (Alaska), Melissa Clyde (Oregon), Gabe Galanda (Oregon), Bill Rice (Oklahoma), and Seanna Howard and Robert Williams, Jr. (Arizona).

2. The Special Rapporteur received the following information either in person during his consultations or via electronic or other means. The submissions are divided roughly by the region of their origin for organizational purposes.

Northeast and Washington, D.C.

3. Seneca Nation of Indians: United States has frequently breached treaty promises to the Seneca Nation; Government infringement on Seneca rights, including the construction of the Kinzua Dam and the violation of treaty-protected lands rights, waters rights, and resources rights, and the right to economic development.

4. Algonquin Confederacy of the Quinnipiac Tribal Council, Inc.: Discriminatory practices and removal of Quinnipiac artifacts and landmarks from traditional territories.

5. Haudenosaunee Ska-Roh-Reh: Contaminated drinking water; barriers to practising traditional religion; treaty breach by the United States Government.

6. Association of American Indian Affairs: Stronger protection needed for sacred sites; reform is needed for the federal recognition process; promotion of international repatriation with recommended modalities; call to create a Special US/Tribal Nations Joint Commission on Implementation of the United Nations Declaration on the Rights of Indigenous Peoples.

7. Ramapough Lunaape Nation: Industrial pollution threatens the health and well-being of community; state recognition by resolution has been achieved but federal recognition is still lacking.

8. Maine Indian Tribal - State Commission (MITSC): Maine Indian Claims Settlement Act and Maine Implementing Act create structural inequalities that limit the self-determination of Maine tribes; structural inequalities contribute to Maine tribal members experiencing extreme poverty, high unemployment, short life expectancy, poor health, limited educational opportunities and diminished economic development.

9. Members of the Beaver Clan, Onondaga Nation: Report on sexual violence and criminal acts against indigenous children.

10. Indian Law Resource Center: Highlights areas of Government policy that present significant concerns for indigenous peoples located in the United States and elsewhere including the effect of United States' foreign policy on indigenous peoples in other countries; recommendations are made for policy change that would bring the United States into compliance with the United Nations Declaration on the Rights of Indigenous Peoples.

Southeast region

11. Lummi Nation: Need for protection of sacred sites and repatriation of ancestral remains.

12. Council of the Original Miccosukee Simanolee Nation Aboriginal People: Affirm rights to land, culture and way within the context of historical violations by the Government.

13. Choctaw Nation of Florida: Historical taking of lands and treaty breach issues.

14. Yamasi People: Need for sustainable development and peaceful and productive communication between indigenous peoples and the Government regarding environmental issues.

Midwest and Great Lakes region

15. Keweenaw Bay Indian Community (KBIC): Mining activities, including prospective mining development, is negatively affecting indigenous lands and waters within the Anishinaabeg territory and established reservation homelands, which includes the destruction of the sacred place, Migi zii wa sin (Eagle Rock).

16. Anishinaabe representative: Increased mining in the Great Lakes region is a growing threat to native communities on both sides of the United States/Canada border.

17. Native American Alliance of Ohio (NAAO): Report that "documentary genocide," the practice of eliminating recognition of native peoples, is taking place in Ohio.

South Dakota and broader Great Plains region (including submissions at Sinte Gleska University consultation)

18. Sioux Nation Treaty Council: Contamination from extractive industries including gold mining, uranium mining and strip mining for coal in treaty territory; breach of the 1868 Fort Laramie Treaty; high rates of cancer among indigenous people of the Northern Great Plains; misrepresentation of Sioux peoples by non-indigenous person; proposed war games in Buffalo Gap National Grasslands.

19. Cheyenne River Sioux Tribe: Uncertainty remains regarding compensation stemming from the Tribal Equitable Compensation Act (TECA) and P.L. 106-511, an act to provide for equitable compensation for the Cheyenne River Sioux Tribe, and for other purposes.

20. Lakota People's Law Project: Native children are taken from their families in violation of the Indian Child Welfare Act and this is reflected by the disproportionately high rate of Native American children in foster care.

21. Chief Iron Eagle, Nakota Sioux Fire (Yankton Sioux Reservation): Lack of adequate legal recourse to address treaty breach and sovereignty issues faced by indigenous peoples in the United States.

22. Black Hills Sioux Nation Treaty Council and Owe Aku International Justice Project: Treaty violation of the 1868 Fort Laramie Treaty; laws and policies in the United States do not extend equal rights to Native peoples and nations; inadequate implementation of the United Nations Declaration on the Rights of Indigenous Peoples by the United States Government.

23. Oceti Sakowin Omniciye and Treaty of 1805 Task Force: United States Government in violation of the 1805 Treaty, the first treaty between the Dakota, Lakota, & Nakota and the Government.

24. Mandan, Hidatsa, and Arikara Nation (Fort Berthold Reservation): Need to streamline process for federal review and approval of individual Indian tribes mineral leases while maintaining trust responsibility; Bakken Formation can provide numerous benefits to the Mandan, Hidatsa, and Arikara Nation and its members but must be developed in a way that does not harm community.

25. Nueta, Hidatsa, & Sahnish Allottee Economic Development Corporation: Environmental degradation resulting from oil development in the area; lack of corporate responsibility regarding oil development in Fort Berthold; lack of consultation regarding development of the Garrison Dam / Lake Sakakawea Project.

26. Ihanktonwan Dakota: Self-government and self-determination in light of the United Nations Declaration on the Rights of Indigenous Peoples; Doctrine of Discovery in addition to a patchwork of federal statutes, regulations and policies create foremost barriers to self-determination.

27. American Indian Movement Interpretative Center: Concerns regarding development activities in the Penokee Range and Bad River Watershed of Wisconsin; opposition to the Keystone XL Pipeline Project; concerns regarding

effects of uranium mining in the Navajo Nation; call for the immediate release of Leonard Peltier.

28. Community for the Advancement of Native Studies: Underrepresentation of Native American students in higher education and as teachers and administrators in the South Dakota education system; discriminatory practices within the state education system.

29. Sisseton and Wahpeton representative: Treaty information 1668 – 1817; information regarding the Waldron – Black Tomahawk Controversy and the Status of "Mixed Bloods" among the Teton Sioux.

30. Emerson Elk, Fred Sitting Up, Bill Means, Shawn Bordeaux, and Sam Mato: Indigenous identity theft is taking place through academic colonialism, legislation, agency rule making, and other activities.

31. Oahe Landowners Board of Directors: Inadequate compensation for the dispossession of indigenous lands as part of the Oahe Dam and Reservoir Project.

32. Cante Wanjila: Inability of Native Americans incarcerated in federal, state and private prisons to freely practise their traditional religions without discrimination, harassment, indifference and racial profiling.

33. Ihanktonwan Treaty Steering Committee: Continued interest in the seven treaties the tribe has with the federal government; lack of consultation by the United States Government regarding the Keystone XL Pipeline Project, poor groundwater quality due to uranium mining; mismanagement of tribal lands by the Government; land dispossession.

34. National Boarding School Healing Project: Information regarding the experiences of American Indians attending boarding schools during the years of 1920 to 1960 in the northern plains region; accounts of emotional, physical and sexual abuse and neglect of children and separation from families and communities.

35. Native American Women's Health Education Resource Center: Native American and Alaska Native women are often denied due process within courts and health care services following a sexual assault; denial of health services based on race; need for improved standard of care for sexual assault victims, including the collection of forensic evidence to assist with the prosecution process.

36. Bryce in the Woods: Historical overview of Lakota economic system and secretarial orders regarding Cheyenne River Sioux Tribe lands.

37. Chief Arvol Looking Horse and Indigenous Elders and Medicine Peoples: Call for United States Government to acknowledge indigenous peoples' right to self-determination, respect their religious and cultural practices, and include indigenous peoples in consultation and decision-making processes.

38. International Indian Treaty Council: Failure of the United States Government to fully accept the rights to self-determination and free, prior and informed consent of indigenous peoples; importance of implementation of Committee for the Elimination of Racial Discrimination concluding observations regarding the Western Shoshone indigenous peoples and nuclear testing, toxic and dangerous waste storage and other activities carried out in areas of spiritual or cultural significance to indigenous peoples; the United Nations Declaration as a

framework for a "new jurisdiction" for redress of treaty violations; proposed language to strengthen and recognize treaty rights within the proposed American Declaration on the Rights of Indigenous Peoples.

39. President of the Rosebud Sioux Tribe: Non-consultation by state and federal authorities regarding the development of the Keystone XL Pipeline Project; treaty breach of the 1851 and 1868 Fort Laramie Treaty; loss of lands due to the General Allotment Act 1887; call for improved implementation of the United Nations Declaration on the Rights of Indigenous Peoples.

40. Rosebud Sioux Tribe member: Concerns regarding Indian health-care services, home energy costs, the Supplemental Nutrition Assistance Program (SNAP), and the Keystone XL Pipeline Project.

41. Owe Aku (Bring Back the Way): Environmental degradation caused by uranium, oil and gas development; lack of free, prior and informed consent; treaty violations by the United States Government; genocide by the Government in Lakota homelands.

42. Oglala Sioux Tribe: Infringement on treaty lands by construction and operation of Keystone XL Pipeline Project; negative environmental consequences if the pipeline is constructed and operated; provided several resolutions from native nations and organizations opposing the Keystone XL Pipeline Project.

43. Chief Iron Eagle, Nakota Sioux Fire: Working to address issues related to treaty rights for the Nakota people.

44. Standing Rock Sioux Tribe:

- Resolution opposing the original route of the development of the Keystone XL Pipeline Project through the Standing Rock Sioux Tribe aboriginal homelands and the new proposed route through the Lakota Homelands.
- Obstruction of the right to education; need to improve intellectual development of Lakota children.

45. Sicangu Lakota Nation: Complex federal and state laws and regulations negatively affect tribal sovereignty and hinder economic development of indigenous peoples.

46. Chief Oliver Red Cloud: Taking of lands after the ratification of the 1868 Fort Laramie Treaty; Indian Reorganization Act promoted colonialism and assimilation of Native Americans.

47. Lakota Rose LaPlante: South Dakota Department of Social Service is in non-compliance with the Indian Child Welfare Act.

48. International Native Indian Programs Incorporated (INIPI): Alleged misuse of funds on the Pine Ridge Reservation.

49. Cante Tenza Okolakiciye – Strong Heart Warrior Society, Free & Independent Lakota Nation and Elders: Call for the United States Government to investigate alleged graft and corruption within the Oglala Sioux Tribal Government as well as elder abuse by Oglala Sioux tribal members.

50. Unites Sioux Tribes Development Corporation: Difficulties with gaming compacts and tribal-state relations.

51. Mniwakhanwozu Oyate: Presentation is in his native language, with attachment of an article of Sinte Gleksa University hosting the Special Rapporteur on the rights of indigenous peoples.

52. Sheryl Lightfoot (Ojibwe): United States Government qualified support for the United Nations Declaration on the Rights of Indigenous Peoples appears to be an active process of self-exemption and a pre-emptive strike against implementation that preserves the status quo while also offering some relief from transnational and domestic political pressure.

53. Lawrence Swallow: Indian Reorganization Act constitutions do not reflect culture or identity of indigenous peoples; inadequate management of land claims; physical abuse of children.

Oklahoma and South-Central region (including submissions at Tulsa consultation)

54. Lipan Apache Band of Texas: Community members of El Calaboz Ranchería are harassed by United States Government agents working along the United States – Mexico border; lack of free, prior and informed consent regarding seizure and destruction traditional ranchería lands.

55. Osage Indians: Wrongful transfer of headrights in the Osage Mineral Trust to non-Indians and corporations.

56. United Keetoowah Band of Cherokee: Overview of the Western/Arkansas Cherokee people; current status of the United Keetoowah Band of Cherokees, the band's history, and how it has staved off termination attempts.

57. Kickapoo Tribe of Oklahoma: Difficulties of tribal members in obtaining a I-872 card and using the card for entry into the United States; need to protect and respect Native American religious practices, customs, and observances; encroachment of urban areas on wildlife habitat that inhibits hunting and gathering; delays in placing newly acquired tribally owned lands into trust status.

58. Sac and Fox Nation: Refusal by the Department of the Interior to acknowledge the rights granted to the Nation through their Federal Corporate Charter undermines self-determination; proposed pump station for the Keystone XL Pipeline Project threatens water sources and gravesites; violation of Native American Graves Protection and Repatriation Act by the state of Pennsylvania.

59. Tusekia Harjo Band of the Seminole Nation of Oklahoma: Outlines the negative effects of discrimination on the social conditions of American Indians; many Indians have lost faith in law enforcement and justice systems in Indian Country; mistreatment of Indians in state and federal courts; need to implement United Nations Declaration on the Rights of Indigenous Peoples as a means to end discrimination.

60. Muscogee (Creek) Nation representative: Unequal treatment in economic for opportunities inhibits economic development, which is connected to social, political and legal issues for Muscogee (Creek) Nation.

61. Cherokee Nation representative: Tribal courts are not afforded the same respect as federal and state courts; tribal court judges and justices are viewed and treated with less esteem than their federal and state counterparts.

62. Executive Director Choctaw/Cherokee: Federal recognition is a flawed and arbitrary process with the primary objective being forced assimilation.

63. Chickasaw Nation Department of Justice: Compacting with the United States as one of the original "demonstration" tribes with Indian Health Services proved to be a positive and empowering experience in self-governance; recent challenges to tribal self governance by federal and state agencies; protection of natural resources; and litigation connected to water rights agreements.

64. Euchee (Yuchi) Tribe: Tribe is not federally recognized but is trying to gain federal recognition, which it sees as critical to its self-determination.

65. Principal Chief Cherokee Nation: Department of the Interior adoption of a tribal consultation policy; resolution of longstanding breach of Indian Trust lawsuits; national criminal justice training program; preservation and revitalization of native languages; ongoing problems, including violence against indigenous women.

66. Prairie Band Potawatomi: State taxation of Native American veterans domiciled in Indian Country violates the Soldiers and Sailors Civil Relief Act of 1940.

67. Descendants of the Sand Creek Massacre: Call for the United States Government to make reparations in connection to the 1864 Sand Creek Massacre near Fort Lyon, Colorado.

68. Gregory Bigler (Tribal Court Judge): Lack of jurisdiction over non-Indians; jurisdiction questions over activities within the Tribes'/Nations' territory; inability to craft solutions for some criminal and certain juvenile cases due to limited resources.

69. Walter R. Echo-Hawk (Chief Justice for the Supreme Court of the Kickapoo Tribe of Oklahoma; Justice of the Supreme Court of the Pawnee Nation): Discusses multiple aspects of federal Indian law and policy that require strengthening or could benefit from reform in light of the U.N. Declaration on the Rights of Indigenous Peoples.

70. Haskell Indian Nations University Student Senate: Chronic underfunding undermines Native American education and institutions; call for improved federal support for Native American education.

71. Wetlands Preservation Organization: Development threatens the Wakarusa Wetlands; forced relocation of plants and animals creates an environmental and social threat.

72. Ponca Tribe Business Committee: Pollutants from the Continental Carbon Company facility in Ponca City, Oklahoma continued to interfere, with the Ponca peoples' health and the use of their property.

73. National Indian Youth Council (Dr. Kay McGowan): Governments, including the United States, that have systematically used boarding school programmes to diminish their indigenous populations and the need to systematically redress the damage of such programmes.

74. Indigenous Environment Network: Overview of difficulties involved in living in the modern world and yet staying rooted to tradition, particularly in light of continuing racism toward Indians and development of the Keystone XL Pipeline Project, which threatens archaeological and historical sites.

75. Tribal Towns of the Muscogee (Creek) Nation (Hickory Grounds): Making efforts to protect, preserve and maintain sacred historical sites in the aboriginal homelands of the Muscogee people.

76. Ponca Tribe of Oklahoma member: Provided information regarding treaties with the United States beginning in 1858 and 1865, which ceded thousands of acres of land.

Pacific Northwest region (including submission at Portland consultation)

77. Columbia River Intertribal Fish Commission: Importance of the Columbia River and its fish population to Northwest Coastal Indians is reinforced by a map showing the various native peoples associated with the river.

78. Snoqualmie Tribal Elder: Violations of Snoqualmie tribal member's civil and human rights due to banishment from the tribe and lack of due process.

79. Métis Consulting, LLC: Métis descendants excluded from consultation and planning process regarding Fort Vancouver Barracks Transfer; continued occupation by the United States Army and U.S. National Park Service of Métis traditional lands that were confiscated in 1846.

80. National Indian Child Welfare Association: Current national trends in American Indian and Alaska Native child welfare policy and practice; disproportionate rate of American Indian and Alaska Native children in United States state foster care systems.

81. Seattle Human Rights Commission: Poor social and economic conditions of Seattle urban Indian populations include high rates of accidental deaths, diabetes, liver disease, alcohol-related deaths, infant mortality, poverty, homelessness and lower education achievement.

82. City of Seattle Native American Employees Association (CANOES): Violence against native women is a serious concern in the Pacific Northwest as women have very few resources aimed at preventing such violence or assisting victims of violence.

83. Honor the Earth /1000 Nations: Lack of compliance with essential elements of the United Nations Declaration on the Rights of Indigenous peoples undermines sacred sites protection and religious freedoms; militarization of Indian Country.

84. Cowlitz Tribe: Efforts to consolidate their land base and engage in economic development opportunities following their "restoration" to federal recognition, having previously been terminated during the 1950s.

85. Makah Tribe Chairman: Barriers to indigenous management of natural resources, especially marine resources; need to integrate tribal governments into higher levels of natural resource management at federal level, especially energy, land and ocean management.

Southwest region (including submissions at Tucson consultation)

86. San Carlos Apache Tribe representative: Opposition to a land exchange process that would facilitate mining in the Oak Flat area in Arizona's Tonto National Forest, a region that has cultural, social, religious and political significance to for the Apache and other indigenous peoples.

87. Chairman of the Tohono O'odham Nation: Increased border security and other restrictive measures have made travel difficult across the United States – Mexico border for tribal members and restricted freedom of movement; and the proposed Rosemont Copper mine threatens cultural and archaeological sites containing numerous funerary and sacred objects.

88. Gente de l'ioti, A.C.: Tohono O'odham Nation exercise of the right to self-determination is severely restricted by the presence of United States federal agents on the Nation's main reservation; the United States Customs and Border Patrol regularly violate the rights of indigenous peoples that reside in near the United States – Mexico border.

89. Tohono O'odham (Mexico): The Tohono O'odham peoples in Mexico and the United States were separated by metal barriers installed by the United States Government without consultation; the Department of Homeland Security fails to recognize the right of indigenous people to freely enter and exit the Tohono O'odham reservation.

90. Individual from Tohono O'odham: Deaths of immigrants crossing on Tohono O'odham Nation; access to water as a human right.

91. O'odham Voice Against the Wall: Failure to adequately recognize and protect the human rights of indigenous peoples whose communities span the United States – Mexico border.

92. Leonard Peltier Defense Offense Committee: Concerns regarding the health, safety and reintegration of Leonard Peltier.

93. Keepers of the Secret (from Havasupai Tribe): Current ban on uranium mining does not protect Havasupai territory and drinking water sources.

94. Navajo Nation Office of the Vice President: The goal of the Navajo Nation is to develop an educational system that endorses Navajo culture by sustaining the language while promoting academic success; the Navajo nation is moving forward to create and operate a school system specifically designed to meet the needs of Navajo students despite disparities among the funding levels for state and private education systems and the Navajo Nation education system.

95. Navajo Nation Human Rights Commission: The United States frequently allows for the desecration and economic exploitation of indigenous peoples' sacred sites, including the San Francisco Peaks located in Flagstaff, Arizona for the benefit on non-indigenous peoples, business owners and the non-indigenous public to the detriment of indigenous peoples.

96. Navajo Nation Corrections Project and International Indian Treaty Council: High rate of Native Americans incarcerated in state and federal prisons; Native peoples are often denied access to traditional religious and spiritual ceremonies and services while incarcerated; wrongful conviction and prosecutorial misconduct of Leonard Peltier.

97. Dine' bi Siihasin: Mismanagement of housing programmes in the Navajo Nation result in discrimination and oppression.

98. Chihene Nde Nation: Due to lack of federal recognition, the tribe is having great difficulty protecting sacred and ancient sites from being excavated and looted.

99. Pueblo of Laguna: Indigenous transmission of knowledge to future generations is difficult without access to traditional lands, language and cultural practices; uranium mining has contaminated water sources and threatens many sacred sites.

100. Nahuacalli and Tonatierra Project: Rights of indigenous peoples are threatened by Arizona Senate Bill 1070, the North American Free Trade Agreement, and the Doctrine of Discovery.

101. Native American Church of North America, Inc.: Concerns regarding health and sustainability of naturally occurring peyote in peyote gardens; reoccurring issues for peyote users and harvesters include wrongful arrest, confiscation, prejudicial treatment in family custody cases, and discrimination in employment.

102. Native American Directions: The Tucson Unified School District's Mexican American Studies program is a good example how a school district should reflect the community that it serves.

103. Indigenous Elders and Medicine Peoples Council: A recent report regarding the USDA Forest Service Policies and Procedures fails to provide meaningful and effective direction for the development of policies for the protection of indigenous sacred sites.

104. Indigenous Youth Experience Council: United States Government has statutory and treaty obligations as well as standing agreements to protect the sacred places of indigenous peoples.

105. National Congress of American Indians: Importance of "Carcieri Fix" to restore the benefits provided by the Indian Reorganization Act and to remove the uncertainty surrounding development and strategic planning in Indian Country; support for reform of federal surface leasing regulations for American Indian lands; important that tribes have equal access to states of all programmes.

106. Indian Law Resource Center, National Congress of American Indians Task Force on Violence Against Women, National Indigenous Women's Resource Center, Inc., and Clan Star, Inc.: Violence against American Indian and Alaska

Native women and girls in the United States has reached epidemic levels in Indian Country and Alaska Native villages.

107.Morning Star Institute: Hundreds of Native American sacred places, heritage languages and cultures are endangered; Native Americans encounter serious barriers when attempting to exercise their cultural rights.

108.Inter Tribal Council of Arizona: Mining in the Oak Flat area will result in the destruction of sacred sites, notably mining in any part of the ecosystem will negatively affect the religious and cultural integrity of the area as a whole.

109.Black Mesa United-Dzilijiin Bee Ahota, Inc. (BMU-DzBA): Strip mining and related activities threaten Black Mesa, a sacred mountain, and area drinking water sources.

110.International Council of Thirteen Indigenous Grandmothers: Mining threatens the survival of indigenous cultures, contaminates soil and drinking water; government, financial institutions and decision-making bodies should have better implementation of free, prior and informed consent with regard to indigenous peoples.

111.Representative of boarding school survivors, Leo Killsback: Boarding schools and forced assimilation created historical trauma that is now imbedded in the contemporary lives of Native Americans.

112.Tewa Women United: Extractive industry threaten natural resources including water, air and land in New Mexico; Historical Document Retrieval and Assessment Project document.

113.Honor Our Pueblo Existence: Indigenous peoples in the Southwest region of the United States live in the shadow of a violent culture created by Government and military projects to research, develop, and manufacture weapons of mass destruction.

114.Black Mesa Water Coalition: Department of the Interior has a trust responsibility to indigenous communities to protect drinking water sources.

115.Individual from Navajo reservation: Need to protect indigenous peoples' right to water.

116.Wooden Shoe People representative: Working to bring attention to the non-binding apology to Native Americans on behalf of the citizens of the United States that was included in the 2010 Department of Defense Appropriations Bill.

117.Pueblo of Jemez, New Mexico: The Jemez Pueblo has never ceded or abandoned the Indian title to the Valles Caldera, which is critically important to the group for both spiritual and resource reasons. Jemez Pueblo has never been compensated for the taking of these lands by the United States.

118.National Indian Youth Council:

- The contemporary legal framework for prosecuting domestic violence in Indian Country is in adequate; tribes need criminal and full civil jurisdiction over non-Indian offenders in order to protect Native women against violence;
- Urban Indians are frequently landholders of allotments, and given current emphasis on extractive industries, mineral extraction, and

energy policy, off and near reservation Indian are affected by on-reservation policymaking; and

- United States Government consistently ignores urban Indians generally, and in the following areas, specifically: the right to participation, violence against women, cultural and spiritual issues, education and related services, and person sovereignty.

119. Forgotten People organization:

- Failures of the United States Government to remediate conditions in the Hopi Partition Land and the area affected by the Bennett Freeze, which was lifted in 2009 with inadequate funding for rehabilitation or the protection of water rights;
- Mental, physical and psychological trauma resulting from the Bennett Freeze including youth suicide and mental illness;
- Expropriation of land and for energy resource exploitation;
- Health and remediation issues related to uranium mining on the Navajo Nation;
- Land and animal confiscation;
- Extractive industries and the contamination of water sources and high rates of cancer and contamination resulting from abandoned uranium mines;
- Destruction of spiritual and sacred sites on Black Mesa as the result of mining;
- Forced relocation of the people from Black Mesa has resulted in the inability to practise traditional religion, which is based on a spiritual relationship with ancestral lands;
- Threats to indigenous peoples while they are attempting to protect burial and sacred sites; destruction of sacred sites; and
- Opposition to Senate Bill 2109 /House Resolution 4067, Little Colorado River Water Rights Settlement and its potential benefits for the Navajo Generating Station (NGS) owners and Peabody Coal Company; settlement grants a waiver without redress for past, present and future contamination of our water sources.

Alaska (including submissions at Anchorage consultation)

120. Native Village of Point Hope: Importance of accessibility to subsistence resources including whales, seals, polar bears and fish; negative repercussions of military activities and radiation on village population and wildlife; high poverty rates and substance abuse in area.

121. Alaska–Hawaii Alliance for Self Determination: Self-determination for Native Alaska and Hawaiian peoples; government and corporate practices are abusive toward indigenous natural resources and cultural practices.

122.Chugachmiut Tribal Consortium: High rate of suicide among Alaska Natives; intergenerational stress and related long-term consequences on children and communities.

123.Indian Law Resource Center: Legal barriers regarding violence against Native American and Alaska Native women include the lack of jurisdiction over non-Indians, lack of adequate response to violence against Alaska Native women due to jurisdictional limitations created by United States law, and ramifications of Public Law 280.

124.Native Village of Eklutna: Need to balance subsistence needs of indigenous peoples with development of urban areas in Alaska.

125.Akiak Native Community and Akiak IRA Council: Restrictions on king salmon fishing inhibit families and elders from gathering a sufficient fish supply for the winter; confusing fishing regulations hinder some indigenous peoples from harvesting fish.

126.Yupiit Nation, Akiak Native Community: The Alaska Native Claims Settlement Act restricts traditional fishing activities; request for Congressional hearings to examine high rates of suicide, domestic violence, sexual assault, accidental death, and health issues in Alaska Native communities.

127.Iñupiat Community of the Arctic Slope: Maps of Arctic Slope area; proposed oil and gas exploration development; information about possible oil spill in Arctic Ocean.

128.Kenaitze Indian Tribe Community members:

- Status of Alaska Native peoples is distinct from indigenous peoples in the contiguous United States; Alaska Natives must be afforded rights of self-determination and self-government.
- The United States provided false and misleading information regarding the United Nations list of Non-Self-Governing Territories.

129.NANA Regional Corporation: Importance of the Declaration on the Rights of Indigenous Peoples and the promotion of indigenous rights domestically; need to protect and promote subsistence activities at the federal and state levels; Kuskokwim river king salmon closure places severe stress on the food security of Yupiit households in the region; economic barriers to rural economic development; diminishing population of indigenous language speakers.

130.Alaska Native and Indigenous Faculty Council: Significant disparities exist between Alaska Natives and other Alaskans.

131.Ahtna, Inc.: Ongoing adverse land title and subsistence disputes are exacerbated by differential enforcement of property laws and a lack of enforcement of trespass laws.

132.Sealaska Corporation: The equitable settlement of Native land claims is fundamentally an issue of Native rights, but also of job fairness and self-determination; the importance to pursue subsistence activities, both to preserve aspects of culture and to ensure food security; the legal framework governing

subsistence in Alaska significantly hampers the ability of Alaska Natives to access their traditional foods.

133.Native Village of Paimiut, Yupiaq: Alaska Natives Commission: Final Report, Volume I, Anchorage, Alaska (May 1994).

134.Occupy Bearing Sea: Commercial fishing is having damaging effects on native fishing practices; North Pacific Fisheries Management Council needs to enact policies to protect native fishing.

135.Yup'ik Eskimo Dillingham community member: Pebble Mine Project will have devastating consequences on the Bristol Bay cultural landscape and salmon stocks used for subsistence harvest.

136.Atmautluak Traditional Council: Call to the Special Rapporteur on the rights of indigenous peoples to review the denial of the right to self-determination regarding the situation of Alaska and Hawaii.

137.Native Village of Unalakleet community member: Off-shore oil and gas development threatens indigenous communities that rely on marine mammals and fish as primary sources of food; flooding and erosion related to climate change; lack of education; high suicide rates; and lack of self-government.

138.Alaska Federation of Natives: Need for food security is a basic human right and a vital part of Alaska indigenous cultures; provided information regarding way to empower indigenous people to have an active and meaningful role in issues that affect them.

139.Chickaloon Village Traditional Council; Chickaloon Native Village: Proposed Usibelli coal mine threatens indigenous lands and culture.

140.Chickaloon Village community members:

- Negative effects of Alaska Native Claims Settlement Act on indigenous families and culture.
- Education at the Ya Ne Dah Ah school includes traditional Athabascan culture, history, language in addition to math, reading, and writing while creating relationships between elders and young people of the village.
- Importance of language in Athabascan culture, tradition and spirituality.
- Indigenous lands and watersheds that support salmon habitat should be protected from the negative effects of coal mining and related activities.
- Concern regarding environmental degradation and mental health issues related to the proposed coal mine.
- Mental health of village residents is not being adequately considered under the Rapid Health Impact Assessment of the Wishbone Hill Coal Mining Project.
- Importance of several rivers and creeks in area to indigenous peoples including Moose Creek, Buffalo Creek, Eska Creek, Chickaloon and King rivers.

- Federal Indian law and the Alaska Native Claims Settlement Act have undermined efforts of Alaskan tribes to realize self-determination, to promote native education, and to assert tribal sovereignty.

141. Second International Indigenous Women's Symposium on Environmental and Reproductive Health:

- Gwich'in Arctic Village; Venetie Tribal Government, Alaska; Resistance of Environmental Destruction on Indigenous Lands (REDOIL): Tribal challenges to oil and mining industries; right to a healthy environment; need to protect environment and traditional food resources, particularly caribou.
- Gwich'in Steering Committee: Importance of Arctic National Wildlife Refuge and the Porcupine Caribou Herd for the Gwich'in Nation who are a remote and traditional people; threats to communities from oil and gas development.
- Resistance of Environmental Destruction on Indigenous Lands (REDOIL): Dramatic increase in respiratory ailments in native communities has occurred due to industrial activities, particularly mining.
- International Indian Treaty Council; North – South Indigenous Network Against Pesticides; Indigenous Women's Environmental and Reproductive Health Initiative; and the Native Village of Savoonga: Negative effects of environmental toxins on the health, well-being, and cultures of indigenous peoples particularly indigenous women, children and future generations; framework for assessing United States laws, policies and practices regarding the production, use export, and disposal and dumping of environmental toxins.
- Elim Students Against Urainium: Uranium exploratory activities damaging effects on the Tubutulik River and Norton Bay watersheds.
- Importance of traditional medicine and how it can be used to achieve better physical and mental health for Alaskan Natives.
- Alaska Inter-Tribal Council: Expression of political will by Atmautluak Traditional Council and Native Village of St. Michael to be reinstated to the list of non-self-governing territories.
- Native Youth Sexual Health Network: Indigenous peoples and HIV in the United States; suicide rates among indigenous youth; detention and incarceration of indigenous youth; child apprehension; violence against indigenous women.
- Native American Women's Health Education Resource Center: Roundtable report on the accessibility of Plan B as an over the counter (OTC) within Indian Health Services.

142.Curyung Tribal Council and community members:

- Background and history of Curyung tribe; value of subsistence;
- Information regarding the proposed Pebble Mine Project; risks of Pebble Mine Project; potential negative effects of oil spills;
- Efforts by the tribe regarding environmental and economic issues, particularly preservation of populations of marine resources;
- Tribal resolutions that provide for protection of the Bristol Bay watershed; tribal resolution to re-instate Alaska to the list of Non-Self-Governing Territories; and
- Pebble Partnership Report; Bristol Bay Regional Vision Statement; and the Environmental Protection Agency Bristol Bay Watershed Assessment.

143.Nunamta Aulukestai: Potential harm regarding with offshore drilling in the Bristol Bay region; risks to regional indigenous peoples, wildlife and natural resources from the Pebble Mine Project; environmental reports regarding the Pebble Mine Project; and information regarding opposition to the Pebble Mine Project.

144.Bristol Bay Native Corporation: Information on Pebble Mine Project; Bristol Bay Native Corporation opposition to Pebble Mine Project; concerns regarding unacceptable environmental effects of the project; and information regarding the importance of responsible resource development.

145.Bristol Bay Vision: Report that documents a yearlong effort by the residents of Bristol Bay to create a vision for their schools and community.

146.Atmautluak Traditional Council: Resolution declaring the tribe's sovereignty.

147.Knugank Tribe: The tribe was omitted from the list of federally recognized tribes in 1993, which inhibits efforts to promote sovereignty and the exercise the right to self-govern; and the inability of the tribe to gain title to a traditional cemetery.

148.Qutekcak Tribe: As a result of historical circumstances and administrative errors, Qutekcak Native Community has not been allowed federal recognition.

149.Knikatnu, Inc.: Concerns regarding the proposed Susitna – Watana Hydroelectric Project, No. 14241; concerns regarding wildlife management and declining wildlife populations in Alaska and effects on indigenous peoples.

150.Alaska Native Tribal Health Consortium: The Southeast Alaska Regional Suicide Prevention Task Force is developing coping strategies to reduce the high rate of suicide among Alaska Natives.

California

151.La Cuna de Aztlan Sacred Sites Protection Circle: Development of solar power projects threatens sacred sites in Eastern Riverside and San Bernardino counties.

152.Kawaiisu Tribe of Tejon, Kawaiisu National Council: Lack of recognition and treaty breach contribute to the tribe's inability to exercise its right to full and effective participation in matters related to culture, land and territories; tribe opposes corporate ownership of grave goods, artifacts and cultural sites.

153.American Indian Rights and Resources Organization (Temecula Indians): Damaging effects of disenrollment, banishment, and denial of tribal membership, including exclusion from participation in regularly schedule elections for the Tribal Council.

154.Tosobol Clan (Temecula Indians): Allottee disenrollment and membership results in denial of access to housing, education, and health assistance; banishment and exclusion are barriers to accessing on-reservation allotments.

155.Sherwood Valley Rancheria: Opposes certain aspects of the Marine Life Protection Act (MLPA), which places restrictions and regulations on the gathering of native foods including seaweed, abalone, smelt and salmon along the coastline.

156.Nuumu Yadoha Language Program (Hupa Mattole Indian): Lack of recognition has negative consequences on health and education programmes for small California Indian groups.

157.Tübatulabal Tribal Chairwomen: Certain tribes in California that have allotment lands and are seeking federal recognition; state government has created a definition for "California Native American Tribes" that includes both federally and non-federally recognized tribes.

158.Winnemem Wintu Tribe: Tribe is unable to conduct a spiritual ceremony for young girls due to refusal by the U.S. Forest Service to effectuate a mandatory closure of a small section of the McCloud River.

159.InterTribal Sinkyone Wilderness Council: The Marine Life Protection Act (MLPA) is an example of a successful collaboration between the state of California and North Coast Indian Tribes developing regulations that will protect the continuation of traditional tribal gathering, harvesting and fishing in designated marine protected areas outside of reservation lands.

160.California Traditional Basket Weavers: Information about the traditional methods of basket weaving by Native Californians; traditional basket weavers and their children suffer from health conditions caused by high levels of mercury in the water and soil of California's Central Valley

161.Juaneño Band of California Mission Indians: Ineligibility of members of terminated tribes to direct health care from Indian Health Services, educational scholarships and other benefits directed by the United States for the welfare and advancement of Indian people.

162.Viejas Band of Kumeyaay Indians: Lack of consultation regarding the proposed development of wind farm; proposed construction of industrial-seized

wind turbines on lands traditionally used and occupied by area tribes that are home to sacred sites and burial grounds.

163.Basket Weavers In Action and Indigenous Youth Foundation; California Traditional Basket Weavers: Indigenous people in California suffer from serious health problems caused by exposure toxins, pollutants and pesticides in areas where Tule reeds are gathered for basket making.

164.AIM – WEST: Indigenous peoples in the United States face challenges to protecting sacred sites, as well as the ability to exercise the freedom of religion; hate crimes and violence against Native women, the insensitive use of American Indians as mascots in sports images, and team names by non-native schools, and imprisonment of Leonard Peltier.

Hawaii

165.Indigenous Peoples and Nations: Importance of self-determination for Alaska and Hawaiian Natives.

166.Commission on the Restitution of the Hawaiian Government in Exile: Resolution calling for fact finding commission on the political status of Hawaii to compel the United States to fulfill its treaty obligations to the Hawaiian people and to the United Nations.

167.Indigenous Hawaiian individuals: Native Hawaiians experience loss of traditional lands, territories and culture; The plight of native Hawaiian people as presented in a short documentary film: occupation of the Hawaiian Islands; justification for Hawaiian self-governance and self-determination.

168.Koani Foundation - Ke Aupuni O Hawaii: Joint resolution of political will of the people of the Hawaiian islands asserting the international legal and political status of the Hawaiian Islands; Hawaiian Sovereignty Elections Council Report.