

**United Nations Permanent Forum on Indigenous Issues
Sixteenth Session**

New York, 24 April- 5 May 2017

Dialogue with the Special Rapporteur on the rights of Indigenous Peoples and the Chair of the Expert Mechanism on the Rights of Indigenous Peoples with regard to Indigenous human rights defenders

Intervention by the International Indian Treaty Council presented by: Janene Yazzie

Thank you Madame Chair and thank you EMRIP chair and Special Rapporteur.

We celebrate the adoption of the new EMRIP mandate by the Human Rights Council on September 30th 2016, and recommend that the EMRIP address as a priority, the criminalization of Human Rights, Treaty Rights, and Environmental Rights Defenders in its implementation specifically of paragraph 2 (c). We look forward to working with EMRIP to initiate dialogue with States, such as the US, that utilize their criminal justice system, domestic legislation, and militarized law enforcement to violate the rights of Indigenous Rights Defenders.

We note that some states label such Defenders as terrorists or use their domestic legal systems to treat them as common criminals. For example, Leonard Peltier, imprisoned in the United States for nearly 40 years, was denied clemency although the U.S. courts, the lead prosecutor, as well as Amnesty International acknowledged government misconduct.

These tactics serve to justify systemic violence and repression while enabling impunity by the states, and in many cases, the corporate security forces and private militia acting in tandem. This repression is consistently carried out in response to legitimate human rights activism of Indigenous Peoples opposing resource extraction and development carried out on their lands without their free, prior and informed consent.

In another example, Bumpy Kanahale, Head of State for Nation of Hawai'i and IITC Board Member was imprisoned for crimes he didn't commit, as an attempt to suppress his strong political stance for Hawaiian independence, truth and justice. Mr. Kanahale was not allowed to use the 1993 US Apology Law or Hawaiian Kingdom Treaties as a defense in his trial. His wrongful arrest and conviction record, limit his freedoms to this day, as in the case of Mr. Peltier, such politically-based criminal convictions have ongoing impacts that sometimes last a lifetime

Of equal concern is the legalization of "less-lethal crowd control weaponry (CCWs)", which is being used by internal law enforcement and private security forces, against peaceful defenders. This includes chemical weapons such as tear and pepper gas outlawed for use in international conflicts. The 2016 International Network of Civil Liberties Organization (INCLEO) and Physicians for Human Rights (PHR) joint study states "the proliferation of CCWs without adequate regulation, training, monitoring and/or accountability, has led to the widespread and routine use or misuse of these weapons, resulting in injury, disability, and death". These weapons were recently employed against the Water Protectors protesting the Dakota Access Pipeline including elders, women, youth, and children. In response to a joint submission by IITC and the Standing Rock Sioux Tribe Maina Kiai, UN Rapporteur on the rights to freedom of peaceful assembly and association, stated that "Law enforcement officials, private security firms and the North Dakota National Guard have used unjustified force to deal with the opponents of the Dakota Access pipeline" (December 15, 2016). The primary perpetrators, the Morton County police

force, are now touring the country training others on the use of these weapons that resulted in the injury and maiming of unarmed Water Protectors, while several states in the US consider legislation further criminalizing peaceful resistance. This must stop.

IITC also supports the statements and recommendations presented on this item by the International Indigenous Cultural Exchange and the Leonard Peltier Defense Committee.