

# INDIGENOUS PEACEMAKING INITIATIVE

A project of the NATIVE AMERICAN RIGHTS FUND



## SUPPORT for PEACEMAKING in the UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP or the Declaration) was adopted by the United Nations on September 13, 2007. According to UNDRIP Article 43, the rights recognized thereby “constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.” It is noteworthy that the Declaration protects collective rights, in addition to safeguarding individual rights of Indigenous people. The Declaration is the product of decades of deliberation and effort by U.N. member states and Indigenous Peoples.

UNDRIP provides plentiful, broad, and welcome support for the rights of Indigenous Peoples to continue or revitalize their own ways of dispute resolution. The Native American Rights Fund’s Indigenous Peacemaking Initiative (IPI) helps tribes develop and establish dispute resolution and other justice programs that are true to their own cultural beliefs. This paper summarizes how UNDRIP supports peacemaking.

The following discussion lists various Articles of UNDRIP, then after each relevant Article provides a brief explanation of how the Article recognizes the inherent authority of Indigenous Peoples to provide for Peacemaking in Indigenous communities.

### **Article 3**

*“Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social, and cultural development.”*

A component of self-determination is an Indigenous Peoples’ ability to exercise their own jurisdiction and the institutions necessary to exercise that jurisdiction. Peacemaking is a social and cultural institution, and therefore this Article supports its existence and development.

## **Article 4**

*“Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.”*

Peacemaking, as a system of managing relations between tribal members and the community as a whole, is supported as a means by which nations handle their own internal and local affairs.

## **Article 5**

*“Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.”*

This Article recognizes that Indigenous Peoples can exist both separate from and within the life of the nation-states. This supports the rights of Indigenous Peoples to use their traditional methods of Peacemaking as a component of their own justice systems while also guaranteeing them access to a nation-state’s judicial systems.

## **Article 8**

*“(1) Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture. (2) States shall provide effective mechanisms for prevention of, and redress for:*

- (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;*
- (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;*
- (c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;*
- (d) Any form of forced assimilation or integration;*
- (e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.”*

Article 8(1) provides that culture, which includes Peacemaking, should not be taken away or denied, while Article 8(2) provides that redress should be available for certain acts that might operate to suppress or eliminate culture. Through this lens, Article 8(2)(a) and (d) provide strong support for redress against any attempts to prevent Indigenous Peoples from practicing

their own dispute resolution methods, like Peacemaking.

### **Article 11(1)**

*“Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.”*

This Article strongly affirms the right to maintain, protect, develop, revitalize, and recover cultural traditions and customs such as Peacemaking.

### **Article 23**

*“Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.”*

Applied to Peacemaking, this Article supports a tribal nation’s decision to make such processes a priority in its own development, and to assert control over its own programs, including dispute resolution programs.

### **Article 31(1)**

*“Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.”*

This Article protects the cultural heritage, traditional knowledge, and traditional cultural expressions which are clearly encompassed within and which characterize Peacemaking. Peacemaking can be said to be essential in maintaining and expressing an Indigenous Peoples’ culture and their rights to maintain, control, protect, and develop it should be protected.

## **Article 33(2)**

*“Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.”*

This provision protects the right to develop Peacemaking and determine the relevant internal operations to carry out Peacemaking.

## **Article 34**

*“Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.”*

This is a clear affirmation of a right to develop Peacemaking programs. They serve as a form of juridical system as well as a component of an Indigenous People’s “distinctive customs, spirituality, traditions, procedures, [and] practices.” As explained in the previous section, this Article, when read in conjunction with Article 33(2), recognizes the right to develop these institutions and appoint people to operate them.

## **Article 35**

*“Indigenous peoples have the right to determine the responsibilities of individuals to their communities.”*

Peacemaking serves as a method of resolving issues between members, sometimes including when one has failed to meet their responsibilities to the community. This Article recognizes the right to establish Peacemaking programs that take into account tribal members’ responsibilities to the tribal nation, as determined by the tribe itself.

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