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Statement by Celeste McKay on behalf of the Native Youth Sexual Health Network, 15 May 2012

Eleventh Session of the UN Permanent Forum on Indigenous Issues, May 7-8 2012

Agenda Item 4 (a): Human Rights: Implementation of the UN *Declaration on the Rights of Indigenous Peoples*

Honorable Chairperson, Members of the Permanent Forum, distinguished representatives of Indigenous Peoples, sisters and brothers here today;

The Native Youth Sexual Health Network would like to speak to the inextricable connections between the critical human rights, violence against Indigenous women and girls, and the overrepresentation of Indigenous children and youth in the child welfare system, in violation of, *inter alia*, articles 2 and 22 of the UN *Declaration on the Rights of Indigenous Peoples*. As an organization that works across the United States and Canada by and for Indigenous youth, the Native Sexual Health Network works to rectify the injustices in the child welfare, youth detention, and other apprehension systems.

Indigenous Peoples have a vital and unbreakable relationship with our children. Children are integral to the sustainability of our culture and the well-being of our communities. Too often, Indigenous women must not only contend with the potential of domestic abuse in the home that is often met with minimal redress, but also the subsequent removal of children from that home, without their free, prior, and informed consent, if the abuse is reported to authorities. It is an ongoing form of colonialism that the governments of Canada and the United States continuously perpetuate violence, by way of child removal, against Indigenous peoples, from the era of boarding, day and

residential schools up until the present day.

This is an issue of state-sanctioned violence perpetrated against Indigenous peoples; and particularly against Indigenous women and children. These actions are in direct violation of article 22(2) of the United Nations *Declaration on the Rights of Indigenous Peoples*, as outlined in the Report of the International Expert Group Meeting (EGM) on Combating Violence against Indigenous Women and Girls. The Report states that “Indigenous women should be encouraged to submit complaints to treaty-bodies, including the Committee on the Rights of the Child, and issue shadow reports and submit them to the Universal Periodic Review of the UN Human Rights Council”. (para. 52)

States have an obligation to redress human rights violations related to land seized and resources stolen without the free, prior and informed consent of Indigenous Peoples. It is too often the case that Indigenous children receive disproportionately less funding for education, health, and child welfare simply because they are Indigenous peoples. In Canada, this systemic discrimination has been well-documented by the First Nations Child Caring Society. When a complaint was brought forward to the Canadian Human Rights Tribunal by the First Nations Child Caring Society in 2007, it was immediately dismissed. Discrimination, the tribunal found, could not be established unless one could compare the provision of the same service to two different groups. As services for off-reserve Indigenous children are funded by the federal government, and non-Indigenous children are funded provincially, the tribunal refused to hear the case. On April 18, 2012, a milestone for children and youth in the child welfare system was overcome when the Supreme Court of Canada ordered the Canadian Human Rights Tribunal to hold a new hearing on the case before a newly constituted panel of adjudicators.

Recommendations:

In response to and in support of this case, we make the following recommendations:

1. That the Permanent Forum and its members examine the outcome of this case and apply the non-discriminatory principles applied by the Supreme Court of Canada to utilize this outcome for use in other states where Indigenous children and youth face discrimination in their respective child welfare systems.
2. That the Permanent Forum call upon states to stop the practice of apprehending Indigenous children at alarmingly high rates, and of all too frequently placing the child in the care of non-Indigenous families and communities, contrary to the best interests of

the child. There is well-documented evidence of these negative effects by numerous other Indigenous community and family service organizations and by the International Expert Group Meeting: Indigenous Children and Youth in Detention, Custody, Foster-Care and Adoption (held 4-5 March 2010 in Vancouver, Canada).

3. That the Permanent Forum call for increased dialogue and coordination between the United Nations system, particularly the Committee on the Rights of the Child, the United Nations *Declaration on the Rights of Indigenous Peoples*, United Nations Permanent Forum on Indigenous Issues and the United Nations Expert Mechanism on the Rights of Indigenous Peoples to ensure the full, equal, and effective participation of women, girls, children and youth.

In conclusion, Indigenous women are the life-givers and backbones of our communities, contributing great strength, particularly in relation to our children. When this connection is affected by violence from the state, the strength between all of our families and specifically our children is harmed. Now is the time to ensure these ties are no longer broken.

Thank you for your consideration of these recommendations