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TO THE UNITED NATIONS



TRIBUNAL ELECTORAL
del Poder Judicial de la Federación

Public Electoral Defender's Office: Its Contribution to the United Nations Declaration on the Rights of Indigenous Peoples

Friday, April 28th 2017
13:15 hrs

Conference Room B (CRB)
Conference Building,
Headquarters of the United Nations



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WELCOME

DEAR PARTICIPANT:

It is our great pleasure to invite you to “**The Public Electoral Defender’s Office: Its Contribution to the United Nations Declaration on the Rights of Indigenous Peoples**” side event of the Sixteenth Session of the United Nations Permanent Forum on Indigenous Issues (UNPFII). This event is part of the project “**Best Practices for Access to Electoral Justice and Promoting Lawfulness Culture**”, co-implemented by the United Nations Development Programme (UNDP) and the Electoral Tribunal of the Federal Judicial Branch of Mexico (TEPJF, *Tribunal Electoral del Poder Judicial de la Federación*). Your participation is greatly appreciated and we look forward to your attendance at this side event on Friday April 28th at 13.15 hrs in Conference Room B (CBR), in the Conference Building at the Headquarters of the United Nations, located at 750 First Avenue, NY, NY.



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INTRODUCTION:

1. UNDP-TEPJF Collaboration

Since 2008, the UNDP, in coordination with the TEPJF, has carried out assessments and promoted electoral rights for indigenous peoples; created spaces for the exchange of experiences; as well as presented initiatives regarding the strengthening and spread of such rights. These efforts have partly been carried out by means of the projects "*Regulatory System and State Intervention in Indigenous Communities, Political and Social Participation from a Gender Perspective*" and "*Plan of Initiation: Elements for a Working Strategy Regarding the Rights of Indigenous Peoples.*"

In 2014, the UNDP Democratic Governance Program launched the project "***Best Practices for Access to Electoral Justice and Promoting Lawfulness Culture***". This project aims at strengthening the Mexican democracy and promoting an effective justice system that encourages transparency and electoral judicial ethics, and safeguards human rights, particularly electoral-political rights, with a focus on indigenous peoples and women. This project also strengthens the institutional strategy of TEPJF by providing technical assistance with regard to the exchange of best practices on national and international levels. The project has the following objectives:

- To bring electoral justice closer to the citizenry and particularly to indigenous communities;
- To strengthen the work of electoral judges, through practices focused on electoral judicial ethics;
- To promote institutional transparency in order to bring electoral justice closer to citizens.

In order to achieve this project's objectives, and ensure indigenous peoples' right to self-determination and the protection of their rights of access to justice, defense and hearings, TEPJF established the **Public Electoral Defender's Office for Indigenous Peoples and Communities**. With its technical and operational independence, this Office is responsible for providing electoral defense and



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advisory services for indigenous communities, peoples and persons, free of charge.

Addressing the need for real access to justice and protection of rights by the State, and favoring an open, inclusive and pluralistic dialogue with indigenous communities, peoples and individuals, the Public Electoral Defender's Office recognizes the constitutional right to assistance from interpreters and defenders who have knowledge of the different languages and cultures.

2. Anniversary of the United Nations Declaration on the Rights of Indigenous Peoples

The United Nations Declaration on the Rights of Indigenous Peoples (the Declaration) was adopted on September 13, 2007 by the General Assembly. It is a comprehensive document that addresses, among other issues, collective, cultural and identity rights, as well as the right to education, health and employment. The Declaration emphasizes the right of indigenous peoples to preserve and strengthen their own institutions, culture and traditions, and to work for their development according to their own aspirations and needs. Moreover, it supports indigenous peoples in their efforts to combat discrimination and racism¹.

Ten years after its adoption, the Permanent Forum on Indigenous Issues will carry out an assessment of the achievements, evaluate the challenges to the rights of indigenous peoples and examine further follow-up activities to the Declaration, including the possibility of proclaiming a third International Decade².

3. The Electoral Public Defender's Office and its Contribution to the Implementation of the United Nations Declaration on the Rights of Indigenous Peoples

¹ Website of the Division for Social Policy and Development. Indigenous peoples. UN. <https://www.un.org/development/desa/indigenous-peoples-es/declaracion-sobre-los-derechos-de-los-pueblos-indigenas.html>

² Resolution of the General Assembly (A/RES/70/232) adopted on 23 December 2015.



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In this context, the work of the Public Electoral Defender's Office contributes as a special legal protection so that indigenous peoples and communities are able to, in material equality with other people, have access to full and effective electoral justice and protection of their political-electoral rights stipulated in the country's legislation and in the Declaration.

In addition to the support of the Public Electoral Defender's Office during judicial proceedings, its work has also had a big impact on the study and dissemination of informative material about the indigenous legal systems based on traditions and customs; as well as the implementation of events that bring together authorities and the users of the services of the Public Electoral Defender's Office. This impact has been facilitated by the Office's collection and publication of judgments, theses and case-law on the subject.

It is worth mentioning that the dissemination strategy of the Public Electoral Defender's Office includes a microsite where it publishes the judicial criteria that have decided rulings of electoral justice cases and makes all the informative material available to the public³. Likewise, a free-of-charge telephone number has been established so that members of indigenous communities in need of advice on electoral matters can make use of this service and resolve any questions they may have. In addition, the strategy allowed the creation of a brochure, which was translated into 14 indigenous languages⁴, that presents the Public Electoral Defender's Office in a clear and accessible way so that prospective users may learn about its scope of free-of-charge services and that they have the possibility of receiving assistance in various indigenous languages.⁵In addition to this, there

³ Website of the Electoral Public Defender's Office for Indigenous Peoples and Communities, of the TEPJF: <http://sitios.te.gob.mx/Defensoria/#>

⁴ (i) Zapotec of the coastal plain; (ii) Mixtec of the West Coast; (iii) Mixe Bajo; (iv) Mazateco; (v) Otomi; (vi) Mexican; (vii) Nahuatl; (viii) Tzotzil; (ix) Tzeltal; (x) Nomndaa; (xi) Nahuatl of Guerrero; (xii) Mayo; (xiii) Maya; and (xiv) Purépecha, the above, to ensure its dissemination and understanding.

⁵ (i) Zapotec of the coastal plain; (ii) Mixtec of the West Coast; (iii) Mixe Bajo; (iv) Mazateco; (v) Otomi; (vi) Mexican; (vii) Nahuatl; (viii) Tzotzil; (ix) Tzeltal; (x) Nomndaa; (xi) Nahuatl of Guerrero;



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have been regional forums to inform the public about the activities of the Public Electoral Defender's Office.

3.1 Relevant Criteria

Based on studies, awareness and rulings on cases that involve special legal protection of indigenous peoples and communities, the Public Electoral Defender's Office has received 103 requests since its establishment in February 2017. 27 of them have been directed to the defense service, 74 to the consultancy service, and 2 others were abstained since the requested services dealt with commercial and criminal matters.

The majority of requests for services are received from the following states: Oaxaca, Chiapas, Michoacán, Mexico City and the State of Mexico.

For the most part, rulings on matters studied by the Public Electoral Defender's Office have been favorable. Among the ones that have been heard by the different Chambers of the TEPJF, the following stand out:

(xii) Mayo; (xiii) Maya; and (xiv) Purépecha, the above, to ensure its dissemination and understanding.



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Case Record	SUP-JDC-1654/2016
Relevant Chamber	High Chamber
Responsible Authority	Congress of the State of Chiapas
Municipality and State	Chenalho, Chiapas
Main Topics	Political Gender Violence Right to be voted, in terms of holding a post and carrying out the duties
Meaning of the Resolution	The represented party (a woman) reoccupies the post of Mayor of the Municipality of Chenalhó, Chiapas

Case Record	SUP-JDC-1697/2016 joined to case SUP-JDC-1690 / 2016
Relevant Chamber	High Chamber
Responsible Authority	Congress and City of Oxchuc, both of the State of Chiapas
Municipality and State	Oxchuc, Chiapas
Main Topic	Political Violence
Meaning of the Resolution	They are ordered to: take office at the council, following the principle of proportional representation of the given municipality, town council meetings shall be summoned, and full exercise of their duties is allowed, as well as the collection of corresponding emoluments



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Case Record	SUP-REC-170/2016
Relevant Chamber	High Chamber
Responsible Authority	Regional Chamber Xalapa
Municipality and State	San Juan Cotzocón, Oaxaca
Main Topic	Political Gender Violence
Meaning of the Resolution	The decision of the Xalapa Chamber is revoked and the dismissal of members of the municipal agency of San Felipe Zihualtepec, in the aforementioned municipality, presided by the applicant, is rescinded

It should be noted that a large number of indigenous women have sought the services of this Electoral Public Defender's Office, claiming that they have been victims of political violence and/or political gender violence.

As a result, the Public Electoral Defender's Office has taken charge of and has guaranteed the protection of the political-electoral rights of indigenous peoples and communities and their members, through means of appeal before the local court or before the chambers of TEPJF.

4. United Nations Permanent Forum on Indigenous Issues (UNPFII) and the participation of UNDP Mexico and the TEPJF

The UNPFII is an advisory body of the Economic and Social Council which has a mandate to discuss indigenous issues related to economic and social development, culture, education, health, the environment and human rights.

In the framework of their collaboration, UNDP Mexico and TEPJF have promoted and provided various spaces for discussion, in which the challenges and innovations of the Mexican State in the fields of political participation of indigenous peoples, as well as the mechanisms of implementation and defense of their rights, have been presented.



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In developing and implementing such efforts, there has been great support and participation of various partner institutions such as the Central America and Mexico Indigenous Youth Network; the Permanent Mission of Mexico to the United Nations; the Committee of Indigenous Affairs of the Federal Chamber of Deputies, LXII Legislature; the National Coordinating Committee of Indigenous Women; the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women); the National Electoral Institute (INE, previously IFE) ; and especially of the members of the Permanent Forum. The results of the inter-institutional cooperation are summarized below:

- In **2011**, the side event *"Mexican Electoral Agencies and Indigenous Peoples: 20 Years of Experience in Support of Indigenous Political Participation"* was held and the documentary film, "Indigenous Identity and Democracy in Mexico" was presented at the event. This documentary presented a historical account of the road to political representation of indigenous peoples in Mexico, featuring the views of indigenous leaders, experts and representatives of the Mexican electoral agencies.
- In **2012**, the round table discussion *"Election Observation from the Perspective of Indigenous Peoples"* provided elements that contributed to the construction of an election observation methodology from the perspective of indigenous peoples, formulated by this target group themselves.
- In **2013**, the objective of the side event labeled *"Views of Justice. Protection of the Political-Electoral Rights of Indigenous Peoples"* was to present the decision made by the Superior Chamber of the TEPJF in favor of the creation of the political party "Shuta Yoma". Its establishment was enabled through an affirmative action, waiving the requirements that any organization or group aspiring to establish a political party must comply with, based on a systematic and functional interpretation of various constitutional and legal provisions, as well as the international treaties signed by Mexico, in the field of indigenous rights.
- In **2014**, the Mexican Government and the TEPJF presented its efforts promoting access to electoral justice for indigenous peoples. The primary aim of this side event was the inclusion and identification of best practices



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and proposals of inclusive induction policies that safeguard an intercultural approach and facilitate access to electoral justice for indigenous peoples.

- In **2015**, the benefits to indigenous peoples that have emerged from the collaboration between UNDP Mexico and TEPJF were presented. Moreover, a discussion on the short, medium and long term challenges facing electoral justice in these matters was held, and certain recommendations were developed during the event "*The Electoral Justice Committed to the Political Electoral Rights of Indigenous Peoples*". Also, the results from the mapping of best practices and institutional models that have brought electoral justice closer to indigenous peoples were disseminated.
- In **2016**, the side event "*Open Legal System and Active Defense of the Political Rights of Indigenous Peoples and Communities*" comprised presentations on the actions taken by TEPJF and UNDP in promoting an open legal system and on effective protection of the political rights of indigenous peoples and communities. In this context, the structure of the Public Electoral Defender's Office was presented. In addition to this, there was an exchange of experiences between experts and representatives of groups self-identify as indigenous, regarding best practices in access to justice for indigenous peoples and communities, as well as to the protection of the right of self-determination.

This year, as a result of institutional collaboration between the UNDP Mexico and the TEPJF, the side event "**The Public Electoral Defender's Office: Its Contribution to the United Nations Declaration on the Rights of Indigenous Peoples**" will take place on **Friday, April 28th at 01:15 pm in Conference Room B, in the Conference Building at the Headquarters of the United Nations, located at 750 First Avenue, NY, NY.**



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OBJECTIVES AND METHODOLOGY

Objectives:

The objectives of this event are to:

- a. Present the activity of the Public Electoral Defender's Office of the TEPJF, one year after its creation, as a tool for the active defense of rights to participation and political representation of the indigenous peoples and communities, within the framework of the tenth anniversary of the United Nations Declaration on the Rights of Indigenous Peoples;
- b. Discuss some cases handled by the Public Electoral Defender's Office, in which the TEPJF has interpreted and applied the provisions of the United Nations Declaration on the Rights of Indigenous Peoples;
- c. Exchange experiences with experts, representatives of groups that identify as indigenous and/or other relevant audiences, with respect to the access to justice for indigenous peoples and communities, taking the experience of the Public Electoral Defender's Office as a point of reference;
- d. Analyze, from a comparative perspective, the potential of the Public Electoral Defender's Office and other mechanisms to implement the provisions of the United Nations Declaration on the Rights of Indigenous Peoples.

Methodology Using the United Nations Declaration on the Rights of Indigenous Peoples as a reference document, the work of the Public Electoral Defender's Office on the effective protection of the political rights of indigenous peoples and communities shall be evaluated. Likewise, an assessment of its principles and constituent elements, the challenges it currently faces and those it is expected to face, will be assessed. This analysis will ensure that it operates well in the medium and long term, as well as enhances its potential contribution to the international sphere in various contexts.

After the participants' introductory interventions lasting five to six minutes, the floor will be opened for questions from the audience, after which there will be a second



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round of interventions of three to five minutes, for the exchange of points of view among the speakers. At the conclusion of this exchange, the Chief Justice of the TEPJF, Janine Otálora Malassis, and the Permanent Representative of Mexico to the United Nations, Ambassador Juan José Gómez Camacho, will close the round table discussion.



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PROGRAM OF THE SIDE EVENT

Friday, April 28th – 01:15 pm

The Public Electoral Defender's Office: Its Contribution to the United Nations Declaration on the Rights of Indigenous Peoples	
01:00 - 01:15 pm	Registration of participants and assistants
01:15 - 01:20 pm	Welcoming remarks by the moderator and commencement of the round table discussion
01:20 - 01:25 pm	Ambassador José Gómez Camacho , Permanent Representative of Mexico to the United Nations (Welcoming Remarks)
01:25 – 02:00 pm	Initial interventions (5-7 minutes per intervention) Mariam Wallet , President of the Permanent Forum Tarcila Rivera , Member of the Permanent Forum Anne Nuorgam , Member of the Permanent Forum Jesús Guadalupe Fuentes Blanco , Vice President of the Permanent Forum Janine M. Otálora Malassis , Chief Justice of the TEPJF
02:00 – 02:30	Questions and second round of interventions (3 minutes per intervention)
Conclusions and closing of the round table discussion	