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ON THE QUESTION OF
WHICH GROUPS OF PEOPLE
SHOULD BE CONSIDERED AS
INDIGENOUS POPULATIONS

and

ON THE QUESTION OF INTERNATIONAL
STANDARDS OF INDIGENOUS LAND RIGHTS

Statement of the Quinault Indian Nation before the United Nations Working Group on Indigenous Populations; 31 July, 1984, Palais De Nations, Geneva, Switzerland.

Purpose:

To convey to the United Nations Working Group on Indigenous Populations of the Commission on Human Rights, Sub-commission on Prevention of Discrimination and Protection of Minorities the views of the Quinault Government regarding the "evolution of standards concerning the rights of Indigenous populations" as noted at Part two of the UN Economic and Social Council Resolution 1982/34. And, further, it is the purpose of the Quinault Government to transmit the views of the Quinault Government concerning "the question of which groups of people should be considered as Indigenous populations", and concerning "the question of international standards of Indigenous Land Rights".

Description of the Quinault Indian Nation:

The Quinault Indian Nation is a multi-national population of indigenous peoples occupying a reserved territory of 200,000 acres located on the Northwest Coast of the United States of America. The Quinault has a population of 1,500 people and the Quinault Nation owns 12,000 acres of its reserved territory. In 1855 the Quinault entered into a "land cession" treaty with the United States of America which, among other things, obliged the United States of America to perform certain duties in perpetuity in exchange for Quinault land cessions. The Quinault Nation is affiliated with the National Congress of American Indians, and through that agency the Quinault is af-

filiated with the World Council of Indigenous Peoples which is recognized as having category status II by the United Nations Economic and Social Council.

Standards for defining Groups as Indigenous Populations:

The term "indigenous" as applied to specific populations has evolved during the last decade as being the most acceptable generic reference to groups of people which are politically, culturally and socially distinct; and who are descendants from the original inhabitants of an area or region. Many groups to which the term indigenous is applied use and apply locally more specific terms of reference to themselves. In the South Pacific, for example, terms like aboriginal, islanders, polynesians, micronesians and melanesians and native are used to refer to the original inhabitants of the various islands and the continent of Australia. In the Western Hemisphere the term "Indian" has been adopted along with the term "native". Eskimo, native and aboriginal are terms used in the Circumpolar region. These apparent differences often reflect the thinking of peoples who colonized non-European territories rather than the original thinking of original inhabitants in these territories. Each of these terms is an externally imposed designation or classification of colonized peoples.

A more precise term of reference for peoples descendent from original inhabitants is the group name given by the group itself. The Maori, the Masai, Tongans, Dene, Quinault, Sami, Mapuche, Yanomamo, Hopi, Basque, Kurds, Maank and the Naga are among the many original peoples who use self-imposed terms. Such peoples constitute whole peoples distinct from others in the world.

Some of the key elements in applying the term "indigenous" include: population homogeneity, longevity of population residency in a particular geographical area, the practice of common customs and common cultural characteristics. In other words, the term "indigenous" applies in reference to a people. While it is true that a great diffusion of populations has repeatedly occurred during the history of humankind

and these population moves have altered languages, customs, social and economic structures and cultural practices of many indigenous peoples, the successors of ancient peoples have continued to live in and occupy specific territories and maintain their distinct identity. Up to now we have discussed what may be called the social meaning of the term, indigenous. The more contemporary application of the term implies a political meaning.

The political meaning of the term "indigenous" relies in part on historical, social and cultural evidence that a particular group of humanbeings is descendent from an ancient people, but it is conditioned on a number of specific political factors which can now be spelled out as follows:

1. The group has a definable population and occupies (and therefore, exercises some measure of political control over) a definable territory.
2. the group is obstructed from exercising control over its own territory, cultural development, economic life, social development and governance. It is therefore, prevented from exercising the natural right of self-determination.
3. The group seeks to exercise the right of self-determination.
4. The group seeks to achieve economic self-sufficiency.
5. The group does not now exercise political control over the governing institutions of an existing nation-state.
6. The group seeks to define its status relative to other nations and groups (e.g. stand as an independent nation with its own territory, population and government; stand as a nation freely associating with an existing nation-state; stand as a group which is distinct, but seeks to integrate into an existing nation-state.)
7. The group has exercised the capacity for self-identification and has established social, economic, political or cultural norms which enforce group solidarity and constancy.

A combination of the social definition of the term "indigenous" and the political definition provide a framework within which a group may be consider an "indigenous population".

International Standards for Indigenous Land Rights:

All beings on the earth require a comfortable and satisfying environment in which to survive and prosper. To deny any being its natural right to exist and survive imperils the capacity of all beings to survive and exist. This principle is at the root of most existing international law. For indigenous populations the international community has rarely been satisfied that indigenous populations are "legally" beings. Indeed, it has been a common practice in the international community and within established states to "legally" avoid dealing with indigenous peoples as human beings. Finally, the international community has been reluctant to consider indigenous populations as peoples. The failure to recognize Indigenous populations as beings, human beings and as peoples has continued to frustrate those who would deal with the rights of Indigenous peoples to land.

As we assert in the preceding section, indigenous populations do constitute peoples in large measure for the same reasons that established states can be said to be constituted by a people. Accordingly, an indigenous group is a people and therefore, their right to lands sufficient to their wants fall under provisions of existing international legislation (i.e. International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights, the Declaration on the Granting of Independence to Colonial Countries and Peoples and Resolution 1514, December 1960). Indeed, if the term "peoples" is applied to Indigenous populations then the already accepted principles would hold: "all peoples may, for their own ends, freely dispose of their natural wealth and resources. In no case may a people be deprived of its own means of subsistence." The ability of any people to sustain an economically viable society is dependent upon their ability to freely reside within a territory without interference from outside. The methods indigenous peoples chose on their own to use and dispose of their natural wealth and resources should be entirely up to them. As it is normally accepted between states, when an action unduly interferes with the normal development of another nation it is appropriate to a peaceful world that neighboring countries should seek accommodations. When states interfere with the normal development of indigenous peoples, the same principle should apply.

The Quinault Nation submits to the United Nations Working Group on Indigenous Populations these guiding principles on the question concerning international standards for Indigenous land rights:

1. The concept of original and inherent group ownership of territory must be recognized as a binding principle of international law which applies to Indigenous peoples no matter the size or the size of territory they define as sufficient to their needs and wants.
2. Indigenous territories must be recognized as lands which are the common heritage of an Indigenous group and as areas under their political control.
3. Indigenous ownership of land must, in all cases, include the right to use and dispose of sub-surface minerals, water, foreshore, off-shore, air and flora and fauna.
4. Indigenous lands must be regarded as being under the permanent control of an Indigenous people -- use by others with the consent of the Indigenous people cannot mean alienation or the loss of jurisdiction over lands and resources exercised by an Indigenous people. In the event of disputes the question of land rights must be open to international supervision.

For further consideration of the Working Group, the Quinault Nation urges that in the course of the Working Groups inquiries into the question of which groups should be considered Indigenous populations, we believe it is essential that the term "peoples" be applied to such defined groups. We find that in the course of its negotiations and subsequent reports concerning the "Helsinki Final Act", the United States of America has sought to apply the term "peoples" to the Quinault and other Indigenous nations when it asserted in November 1979 (Report to the Commission on Security and Cooperation in Europe, "Fulfilling Our Promises: The United States and the Helsinki Final Act", American Indians, Page 149):

** * * Indian Rights issues fall under Principle VII of the Helsinki Final Act, where the rights of national minorities are addressed, and under Principle VII, which addresses equal rights and the self-determination of peoples. (emphasis added)