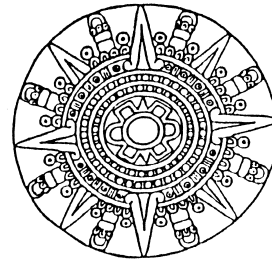


# TONATIERRA

PO Box 24009  
Phoenix, AZ 85074  
Tel: (602) 254-5230  
www.tonatierra.org



September 4, 2007

To: Indigenous Peoples Global Caucus  
New York, NY

Dear Relatives:

In regards to the UN Declaration on the Rights of Indigenous Peoples adopted on June 29<sup>th</sup>, 2007 by the UN Human Rights Council (CD), and the Modified Declaration (MD) now being proposed by the Co-sponsoring states to be presented for adoption before the General Assembly on September 13<sup>th</sup>, allow us to submit the following comments and perspective as Nican Tlachah Izkalotekah:

## Principle

For we Nican Tlachah, the power of self-definition is the precept of the right of Self Determination. This power is the indomitable foundation of our millennial systems of jurisprudence and cultural identity as Nican Tlachah Cemanahuac, Indigenous Peoples of the World. As Nican Tlachah Izkalotekah, we uphold to this day, the traditional accords which were established under the protocols of International Law with the first representatives of Christendom who arrived on the shores of our beloved Anahuac in the 1500's:

*It was an honor to receive your delegation at our humble embassy, the NAHUACALLI (House of the Four Directions) and we reiterate in this communication our willingness to work together for the benefit of all humanity under the guiding principles upon which our tradition stands. Our TLAHTOKAN is bound by the archives of honor that were set among stars when the first representatives of the European governments arrived on our shores. They too were received with the smoke of copal, (as you were at NAHUACALLI), with the understanding that the relationship thus initiated between our peoples, cultures, and governments was to be based on mutual respect and reciprocity in recognition of our common humanity.*

February 2, 1998 Communiqué to Mr. Abdelfattah Amor  
UN Special Rapporteur on Religious Intolerance

## Process

The CD and the MD are two distinct instruments, both created following a path of development that is characterized by the **systematic reduction** of participation, proposition and submission by Indigenous Peoples of the final texts to be presented for further review, amendment and adoption within the UN system. While the CD is accorded a global consensus of support by the Indigenous Peoples, in spite of the defects in process and content which are inevitable due to the process of reduction, the Global Indigenous Caucus strategically has supported the CD for adoption without amendment by the General Assembly as an expression of the minimum

standards of recognition of the **Inherent Rights of Indigenous Peoples**.

The distinction between the CD and the MD is marked infamously by the actions of November 2006 by the African Group of States (AGS) to effectively prevent the CD from being adopted on the floor of the General Assembly. The MD appears within two weeks of the close of the present session of the UN General Assembly as the latest reduction, negotiated between the Co-sponsoring states and the AGS, modified with nine amendments to the CD. Only the UN member States have power of negotiation over the MD text now to be submitted on September 13<sup>th</sup>, with the Indigenous Steering Committee in New York operating within the extreme limitations of time and resources that makes impossible the generating of consensus of the Global Indigenous Caucus.

The UN Declaration on Rights of Indigenous Peoples is the first element within a more extensive and substantive strategic process, the drafting of a **United Nations Convention on the Rights of Indigenous Peoples**. Such a convention would codify the rights of Indigenous Peoples within the system of International Law of the States, defining procedures and venues to address violation of these rights as violations of International Law.

The Declaration on the Rights of Indigenous Peoples (either the CD, the MD, or XD), upon adoption by the General Assembly is understood as initiating the global standard setting process for the UN system internationally concerning the Rights of Indigenous Peoples. This could occur within the next two weeks, or next two decades. Yet this standard setting process is already underway, and is evident.

#### Position

The CD is accorded a global consensus of support by the Indigenous Peoples assembled in Caucus at the UN as an expression of the minimum standards of recognition of the inherent rights of Indigenous Peoples. In fact, here in our territories of the O'odham Nations the **Salt River Pima Maricopa Indian Community Council (SRPMIC)**, acting under sovereign authority an entity of Indigenous Peoples Self Government with juridically acknowledged territorial jurisdiction, unanimously passed a resolution on March 6<sup>th</sup>, 2007 affirming the CD, as an initial step **IMPLEMENTING** the **standard setting** process redefining of the relationship between the Nations of Indigenous Peoples and the States as currently represented in the present UN System. To quote the SRPMIC resolution:

*BE IT FURTHER RESOLVED that the SRPMIC affirms throughout our tribal lands the United Nations Declaration on the Rights of Indigenous Peoples adopted by the UN Human Rights Council on June 29, 2006, as an expression of the minimum standards of recognition of the rights of Indigenous Peoples.*

Our ancestral forms of jurisprudence as Nations of Indigenous Peoples institute the principles of respect, inclusion, reciprocity and community which leads to Peace within our regional confederations, which is to say that as Nations of Indigenous Peoples we possess a body of jurisprudence that is international in scope, coherent in authority and with powers of jurisdiction that supercede historically the government-state, and the government-state systems. (i.e.: League of Nations, UN, OAS, AGS, etc.)

Under this system, we are traditionally obligated and thus **empowered** by our rights as Indigenous Peoples, to continue to honor our affirmation of the CD to the extent that these

principles are reflected in the Declaration on the Rights of Indigenous Peoples as adopted by the Human Rights Council on June 29, 2006.

As further evidence and clarification that the **process of standard setting** (whether the CD or the MD), must be being essentially driven by the elucidation of the **inherent rights** of the Nations of the Indigenous Peoples for **themselves**, followed by actions of accord by the entities of the States and with final approval by the Indigenous Peoples, the SRPMIC resolution was also proclaimed by two levels of local governance within the State of Arizona, namely the Arizona House of Representatives and the City of Phoenix, with language as follows:

- WHEREAS, the Arizona House of Representatives affirms the **UN Declaration on the Rights of Indigenous Peoples** as adopted by the UN Human Rights Council;  
Nican Tlach Ilhuitl – Indigenous Peoples Day - March 12, 2006
- WHEREAS, the city of Phoenix hereby the affirms the **United Nations Declaration on the Rights of Indigenous Peoples** as adopted by the United Nations Human Rights Council on 29 June 2006,  
Nican Tlach Ilhuitl – Indigenous Peoples Day - March 12, 2006

### Strategy

The statement has been made that the CD is not an International Instrument because it has not been adopted by the General Assembly, although it was adopted by the UN Human Rights Council on June 29, 2006. Developments in New York this week portend that the CD will not be adopted by the General Assembly, and that only the MD has a chance for passage. While this may be true in the context of the present UN System, in the context of our Indigenous Nations and in light of the above history and reality, the CD is already very much an international instrument, having been implemented as a standard setting mechanism in O’Odham Nations territories to achieve recognition, respect, and protection for the full right of self determination of Indigenous Peoples.

Standards once set, cannot and must not be lowered. That the standard setting process has been initiated from a Nican Tlach protocol of self-determination, and not the hierarchy of the UN system does not diminish the validity of the standard as process and product. In fact this procedure expresses the universal and fundamental reality of all systems of international jurisprudence, emerging from the evolving inter-relations of customs and usages of distinct peoples, and finally codified in the statutes and mandates of the government states, individually and collectively. The UN Charter itself proposes to defend this process as an instrument of world peace, by implementing mechanisms of combined effort among the Peoples of the United Nations through international cooperation. To deny the precedent the Nican Tlach Ilhuitl would be to argue for the Divine Right of States, a bastard relic of the regimes of intellectual doctrines that originate from the Divine Right of Kings.

The difference, now, in terms of the Nican Tlach Ilhuitl is that it is a systemic standard that institutes complementary readjustment among the entities of government states and the Nations of the Indigenous Peoples, normalizing peaceful relations based on mutual respect and cooperation. This in itself is a higher standard than has been historically practiced by the UN member states (individually and collectively) in historical relationships with the Indigenous Peoples. In contrast to the agenda setting procedures of the UN, the Nican Tlach engages internationally with an order of priorities mandated from the LAWS of the natural world. The potential that this systemic standard may serve to assist in addressing the global climate crisis is

only just beginning to emerge, linked with the principle of respect for cultural diversity and collective ecological responsibilities, and therefore, rights, such as are proposed in the UN Declaration on the Rights of Indigenous Peoples.

The collective consensus of the Global Indigenous Peoples Caucus is a necessary element for presentation of any a text of the Declaration on the Rights of Indigenous Peoples, in collaboration and consultation with the States, and with final approval by the Indigenous Peoples. Without consensus from the Global Caucus of Indigenous Peoples, such a declaration would be disempowering on a *prima facie* basis.

We therefore stand on the principles of self-determination, autonomy and sovereignty of the Nations of Indigenous Peoples, and Good Governance, clarifying that the process described above presents the legitimate and considered expression of our position in regards to the issue of the status of the Declaration on the Rights of the Indigenous Peoples.

Further we express caution on inferring support or neutrality regarding the discriminatory nature of the proposed language changes in MD Article 30 (1) regarding military activities on indigenous territories and, MD Article 46 (1), specifically the use of the concept of political unity, juxtaposed with the term territorial integrity of states.

The point is that though we must contend with the parameters of the UN system, we are obligated and ultimately empowered by the collective obligations among our own Nations and Confederations of Indigenous Peoples. The UN is a system, ultimately we must respond systematically if we are to be effective in fulfilling our obligations, in asserting our rights as defenders of Tonantzin - Our Sacred Mother Earth. The systems that empower us, and do not lend to the process of reduction are our traditional systems of International Law as Nations of the Nican Tlach - Indigenous Peoples.

In closing, we submit the following from the February 2, 1998 Communiqué to Mr. Abdelfattah Amor, UN Special Rapporteur on Religious Intolerance:

*We of the TLAHTOKAN AZTLAN believe in humanity. We believe in the Spirit of Truth, which resides in Aztlan. We also believe that the Sun of Justice which is dawning for Indigenous Peoples commands that the injustices of the past be exposed and eliminated as forms of oppression and a deformation of our common humanity. It is our desire that through the efforts of your commission as Special Rapporteur, this message serve as a reminder to the organization of government states which you represent, the United Nations. A reawakening as to what should be our relationship as cultures, nations, and Peoples of the Earth must occur for our future generations to achieve true peace with dignity. We of TLAHTOKAN AZTLAN are bound by tradition to uphold our part of the agreement which is transcribed in the smoke of our first encounters. There will be no modification or amendments made to the understanding that we are all human beings and no one Peoples have the right to impose by force a doctrine of superiority over any other.*

Respectfully,

Tupac Enrique Acosta, Yaotachcauh  
Tlahtokan Nahuacalli  
TONATIERRA  
[www.tonatierra.org](http://www.tonatierra.org)