

U.N. Declaration on the Rights of Indigenous Peoples

Human Rights Response:

Why a proposal to delay adoption should not be supported

1. **Declaration based on core international principles and values.** The *Declaration* is based on core international principles and values that embrace tolerance, peace and respect for the dignity of all cultures and peoples. In particular, the *Declaration* is described as a “standard of achievement to be pursued in a spirit of partnership and mutual respect”.
2. **Human rights of all must be respected.** Human rights are generally relative in nature and not absolute. Consistent with the *U.N. Charter*, the *Declaration* specifically requires that the “human rights and freedoms of all shall be respected”.
3. **Provisions must be read in overall context.** Each provision of the *Declaration* cannot be read in isolation, but rather interpreted in the context of the instrument as a whole. To do otherwise, would lead to extremist and absolute interpretations that could not be justified under the *Declaration* or international human rights law as a whole. Regretfully, the CANZUS group – Canada, Australia, New Zealand and United States – continues to interpret the *Declaration* in this fragmented and erroneous manner.
4. **No new rights created.** The *Declaration* does not create new rights. It elaborates upon existing international human rights standards as they apply to Indigenous peoples.
5. **Rule of law and other core international principles always considered.** Every provision of the *Declaration* must be “interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith.” This allows for both flexibility and balance. The reference to “good governance” ensures that the rule of law within States is fully considered in every instance without exception. As an aspirational instrument, the *Declaration* does not upend the rule of law domestically or internationally.
6. **Broader agreement not possible.** As the Chair of the intersessional Working Group on the *Declaration* has concluded, along with many States, additional time will not lead to any broader agreement. This is in large part because of the obstructionist role repeatedly played by United States, Australia and New Zealand during the Working Group.
7. **Re-opening negotiations likely to kill the *Declaration*.** Re-opening negotiations on the *Declaration* is certain to create serious new divisions and prevent its

adoption by the General Assembly. Such an extreme step would be unconscionable.

8. **Harmonious and cooperative relations encouraged.** The *Declaration* explicitly encourages “harmonious and cooperative relations” between States and Indigenous peoples. Nine preambular paragraphs and 15 operative articles specify consultations, cooperation or partnership between Indigenous peoples and States.
9. **Over 20 years of discussion.** There have already been more than 20 years of discussions on the *Declaration* among States and Indigenous peoples in U.N. Working groups. This makes the *Declaration* one of the most discussed and studied declarations in U.N. history. All revisions by the Chair were based on prior discussions.
10. **Any “procedural” resolution for delay would be highly detrimental.** It is shocking and disturbing that there could be an amendment or resolution to re-open negotiations on the *Declaration*. Such a proposal is not procedural since it could destroy the *Declaration*.
11. **Misleading strategy already attempted at Human Rights Council.** Last June, Canada tried and failed with a similar strategy at the first meeting of the Council. In its Statement on June 27, 2006, Canada quoted its Minister of Indian Affairs as saying issues could be resolved by all parties “in a few more months”. This claim was knowingly false and misleading. Just the day before, Canada’s Prime Minister Stephen Harper indicated in writing the need for a “two-year negotiation mandate”.
12. **CANZUS group of States politicizing rights in the *Declaration*.** Based on their own domestic agendas, a few Western States are actively encouraging other States to delay the adoption of the *Declaration* under the guise of seeking “improvements”. In so doing, the CANZUS group is continuing to politicize Indigenous peoples’ human rights. Such actions severely undermine the Council and current U.N. reforms.
13. **For the past 8 months CANZUS group has avoided all consultations with Indigenous peoples.** The CANZUS group already had the past *eight months* to consult with Indigenous peoples within their own respective countries on any State concerns with the *Declaration*. Yet none of these States engaged in any consultations with Indigenous peoples. None of these States genuinely seek to “improve” the *Declaration*.
14. **Canada violating its constitutional and international obligations.** Despite its constitutional obligations to consult Indigenous peoples, Canada has opted to vigorously and unilaterally oppose the *Declaration* through procedural and other strategies during the past eight months. As a Human Rights Council member, Canada is failing to “uphold the highest standards in the promotion and protection of human rights ... [and] fully cooperate with the Council”, as required by the General Assembly.

15. **Essential for survival, dignity and well-being of Indigenous peoples.** The *Declaration* promotes equality and non-discrimination for all. The *Declaration* is essential for the survival, dignity and well-being of the Indigenous peoples of the world.
16. **Strengthens international human rights system.** Adoption of the *Declaration* by the General Assembly supports the vital work of the Human Rights Council and strengthens the international human rights system as a whole.

Issued by the Indigenous Peoples' Caucus – November 12, 2006