

International Indian Treaty Council

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UN Working Group on Indigenous Populations

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Agenda item 4: Standard-setting activities, evolution of standards concerning the rights of Indigenous Peoples, including (a) the Concept of Indigenous Peoples

Distinguished Madame Chairperson, and respected Indigenous delegates:

We address this item on the Working Group's agenda with some frustration, but also with some hope. The standard setting activities of this Working Group under the direction of our distinguished Chairperson have been for Indigenous Peoples a source of encouragement, in particular the Working Group's draft of a declaration on the rights of Indigenous Peoples, recognizing universally and without qualification, the right of Indigenous Peoples to Self-Determination.

Our continuing source of frustration is the inability if not the refusal of states to adopt the text as written by the Working group and endorsed by hundreds of Indigenous Peoples as a minimum standard recognizing this basic right as applied to Indigenous Peoples, which is firmly established as a principle by the United Nations Charter itself.

Madame Chairwoman, this frustration extends to the very name of this body, The Working Group on Indigenous "Populations" which has never been formally changed despite the ongoing recommendations of Indigenous Peoples and the commitment of this body to use the term Peoples in its writings.

Although some states now deny it, there is no doubt that the Right of Self-Determination exists and that it is a collective right applicable to all Peoples.

What is most disturbing, and in our minds, most shameful, is that some states, on the floor of the Commission's Open-ended intersessional working group considering the draft declaration, as well as in discussions and meetings on the Permanent Forum, question the application of the term "Peoples" to Indigenous Peoples, within the full meaning of well-established international norms. The IITC delegation cites with approval the Chairperson's Explanatory note concerning the draft declaration on the rights of indigenous peoples, E/CN.4/Sub.2/1995/26/Add.1:

"Indigenous groups are unquestionably 'peoples' in every political, social, cultural and ethnological meaning of this term...." and "...it is neither logical nor scientific to treat them as the same 'peoples' as their neighbors, who obviously have different languages, histories and cultures." And, "[t]he United Nations should not pretend, for the sake of a convenient legal fiction, that those differences do not exist.

The recognition by the United Nations of Indigenous Peoples as "Peoples" is critical to our survival. This Working Group, in its Report on its tenth session (UN Doc. E/CN.4/Sub.2/1992/33 (1992)), and Special Rapporteur H. Gros Espiell, On the right to self-determination: Implementation of United Nations resolutions (UN Doc. E/CN.4/Sub.2/405/Rev.1 (1980)), among many others, have long recognized that the right to Self-Determination is "a fundamental human right the enjoyment of which is an essential precondition for the enjoyment of any other human rights and fundamental freedoms." It cannot be less for Indigenous Peoples.

Until the right to Self-determination is recognized and applied by the United Nations to Indigenous Peoples, all other human rights and fundamental freedoms will be denied us. The implementation of Agenda 21, with its stated recognition of and respect for Indigenous Peoples' knowledge and practices, as included in Article 8j of the Convention on Biological Diversity, are two examples of standard setting activities within the international community's agenda impacting Indigenous Peoples which lack any meaningful guarantees for safeguarding the rights or resources of Indigenous Peoples, principally because of the international community's failure to recognize the right to Self-determination as a fundamental and essential prerequisite.

It is not enough to recognize that the survival of Indigenous Communities all over the world has historically been threatened by the continuing theft of their traditional lands and resources, toxic contamination, resource exploitation, and constant human rights violations. More recently, with the advent of world-wide "trade liberalization," these encroachments and gross and massive human rights violations are reaching proportions unprecedented in modern times. There is a realization among Indigenous communities that many local threats to their survival arise from decisions made internationally through agreements between nation-states, world financing institutions and transnational corporations, and that concerns of grass-roots Indigenous communities have international origins.

Until Indigenous Peoples are recognized internationally as Peoples, their historical oppression will continue unabated. [Until universally recognized human rights norms are applied to that oppression, it will continue unabated.] We note, for example, that the World Bank, in Operational Directives 4.20, adopted standards of ILO 169, with respect to Indigenous

Peoples, "...in order to ensure that the development process fosters full respect for their dignity, human rights, and cultural uniqueness." But not all international development proceeds through the World Bank, and the World Bank itself has difficulty uniformly applying their directives.

We also note that ILO 169 is not applicable to the states that have not adopted it, and that even in the few states that have adopted it, ILO 169 does little to curb encroachments on Indigenous lands or the displacement of Indigenous Peoples. When examining the "concept" of Indigenous Peoples, it is not enough to examine our historical oppression, it is imperative that the source of the oppression be identified as the continuing denial of our collective rights as Peoples. [Until our rights as Peoples are universally recognized international norms, the historical oppression of Indigenous Peoples will continue unabated.]

In conversations with states with regard to the draft declaration, the Permanent Forum, and other standard setting activity, we often hear the words, "political reality." Distinguished members of this Working Group, Indigenous Peoples also have a reality. As standard setting on behalf of Indigenous Peoples evolves, and this Working Group continues its own standard setting activity, we urge it and its Chairperson, as well as the Sub-Commission and its distinguished members, not to back away from their commitment to the text of the draft declaration they have adopted, and to continue to speak out on its behalf as independent experts, keeping in mind the stark reality of Indigenous Peoples' and our right to survive as Peoples.

To paraphrase the distinguished Chairperson's Explanatory note concerning the draft declaration on the rights of indigenous peoples, the United Nations and the international community cannot be allowed to pretend that Indigenous Peoples are not Peoples, as that term is commonly understood within international norms.

For all our relations.