

UNITED NATIONS WORKING GROUP ON INDIGENOUS POPULATIONS  
ELEVENTH SESSION

STATEMENT OF KATHRYN SKIPPER  
OBSERVER DELEGATION OF THE UNITED STATES OF AMERICA  
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Madame Chairperson,

On behalf of the U.S. delegation, I congratulate you on your re-election as Chairperson/Rapporteur of the Working Group. The United States looks forward to actively participating in this year's session, as the Working Group, under your leadership, endeavors to complete its efforts on the draft declaration.

The United States recognizes that persons belonging to indigenous groups have been the victims of serious and sometimes widespread human rights abuses. Accordingly, we firmly support the need for a properly drafted declaration. The United States expects to participate actively in future work on such a declaration.

The effort to draft a declaration is an important forward step in protecting and promoting the human rights of persons belonging to indigenous groups. We endorse much of what is contained in the existing text. We respect and commend the thought and effort that has gone into it.

At the same time, however, we believe that further reflection and work are required to produce an instrument that can find broad international acceptance and make a useful contribution to promoting and protecting the rights of all persons belonging to indigenous groups. I would like to point out briefly some of our main concerns about the draft declaration as it is reflected in the revised working paper E/CN.4/Sub.2/1993/26. These concerns will be supplemented with more specific comments on particular provisions as we proceed in the course of these discussions.

First, we note that there are many explicit and implicit references to self-determination throughout the text. Because the inclusion of a reference to self-determination has become so central in discussions about this document, and because the principle of self-determination is so apt to be misunderstood,

we must ensure that if the term is used in the declaration, it is clear what it means. Self-determination is generally understood to mean the right to establish a sovereign and independent state under international law. Self-determination, however, can be achieved through arrangements other than independence. The United States could not accept the inclusion of self-determination as applying specifically to indigenous groups if it implies or permits full independence generally recognized under international law.

Moreover, the World Conference debate whether to speak of "people" or "peoples," and the Conference decision not to use the term "peoples," suggests that many governments share our concerns about the risks and uncertainties of extending the international legal concept of self-determination specifically to indigenous groups.

Second, the draft declaration refers in numerous instances to collective rights about which we have serious questions. The references generally go far beyond the limited collective rights recognized in international law or the practice of states. We note that many of the proposed new collective rights are extremely general and imprecise, thus

they will be unable to be implemented in practice. In this respect, there also are serious problems of definition. The draft declaration does not define "indigenous peoples." Hence, there are no criteria for determining what groups of persons can assert the proposed new collective rights. Moreover, we are concerned that in some circumstances, the articulation of group rights can lead to the submergence of the rights of individuals. For example, some paragraphs contemplate broad autonomy for indigenous populations, but without any requirement that such autonomy be exercised consistently with the rights of individuals. One can envision situations in which the exercise of such broad powers could be highly detrimental to individual rights.

Finally, the document refers extensively to various "rights" of indigenous peoples. Some of these are not recognized as "rights" in existing international instruments, or in state practice. They are neither recognized as enforceable by any national legal systems, nor are they likely to be so. Accordingly, the pervasive use of the language of rights is both inaccurate and misleading. It tends to diminish

the credibility of the declaration and to lessen the likelihood of its broad acceptance.

My government has highlighted these primary concerns so that they can be borne in mind as the discussions continue over the course of this week. Continued open dialogue will be the key in addressing the novel, complex, and contentious issues that the draft declaration raises. We encourage the Working Group to precisely articulate rights and obligations in this document as it will be difficult for governments to subscribe to an imprecise and vaguely worded text. It is our hope that the text will be capable of attracting broad international support and serve as a basis for effective monitoring and implementation.