

STATEMENT OF REPRESENTATIVES OF INDIGENOUS PEOPLES
WITH RESPECT TO THE CURRENT DRAFT OF THE DECLARATION
ON THE RIGHTS OF INDIGENOUS PEOPLES

UN Working Group on Indigenous Populations
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Madame Chairperson,

We wish to make some important points of relevance to any new proposals made. These points are equally relevant to the paragraphs we have already read, but need, in our view, to be stated at this point in time.

We are concluding the first reading of the Draft Declaration on the Rights of Indigenous Peoples. A number of representatives of indigenous nations, peoples and organizations believe it is important to convey to the Working Group their feelings with respect to important principles referred to in the draft, and which may be referred to also in new proposals.

The Declaration is intended to reflect the rights of indigenous peoples, so it is crucial to understand our views.

There is a strong feeling that the draft declaration does not reflect the views of indigenous peoples. In particular we note:

1. Self-determination

Under international law, all nations and peoples have the right to self-determination. In our view, the right to self-determination is not a right that can be given or taken away by governments. It is an inherent and inalienable right. It exists, whether or not governments and international organizations recognize it.

We are concerned that in this process, governments have and will attempt to use the drafting of this declaration as an instrument to limit our inherent right to self-determination.

The right to self determination means to us, as it does in international law, the right to determine our own destiny and political status, in economic, cultural, social, and spiritual terms, and in respect to the natural environment.

Self-determination must necessarily include the right of indigenous peoples to develop an economic base, impose taxes and engage in cross border trade. It must include not only their criminal and

civil jurisdiction with respect to the indigenous peoples themselves, but also with respect to non indigenous people on their territory.

2. The Term "People"

The declaration must consistently refer to indigenous peoples and nations. It is not for governments to determine who constitutes a nation or a people. It is for the people to decide for themselves.

3. Lands and Territories

Indigenous people have an inalienable right to define their own system of land, sea and ice-sea tenure. This includes rights to top and subsoils, and the air above it.

4. Treaties

It is not sufficient to address the issue of treaties between states and indigenous nations and peoples. It must be reaffirmed that states do not have the right to conclude treaties with other states that affect the rights of indigenous peoples without their informed and free participation and consent. Where treaties do exist between states and indigenous peoples, there should be a right to re-negotiate them, where those treaties were unequal.

5. We are also concerned about the frequent qualification in the draft declaration and in statements by governments of rights by the phrase "to the extent possible." This dilutes the meaning of the provisions of the declaration and should be avoided in new proposals also.

At this point, we will not elaborate for lack of time. We will, however, submit to the Working Group a written statement on these and other issues with respect to the provisions of the draft declaration.

Thank You, Madame Chairperson