

COMMISSION OF HUMAN RIGHTS  
Sub-Commission on Prevention of  
Discrimination and Protection  
of Minorities  
Working Group on Indigenous Populations  
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STATEMENT ON RECENT DEVELOPMENTS PERTAINING TO  
THE PROTECTION AND PROMOTION OF HUMAN RIGHTS OF INDIGENOUS PEOPLES  
by  
Coalition of First Nations  
under the International Indian Treaty Council (Consultative Status II)

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We wish to appraise the Working Group of certain developments occurring in the framework of the Helsinki Accords review that pertain to matters now under discussion in this forum. We are concerned specifically with Principles VII and VIII of the Final Act of the Conference on Security and Cooperation in Europe (1975) dealing with the rights of national minorities and equal rights and self-determination of peoples respectively.

Our Indian nations and governments would first express the view that the activities of the United Nations concerning indigenous populations have evolved in the past 14 years to the point where indigenous peoples have been clearly distinguished from national and ethnic minorities. There are at this time two separate Working Groups, each involved in the examination of distinct principles, standards, declarations and international instruments. The application of self-determination to indigenous peoples has, for instance, been discussed at previous sessions of this Working Group and not at all in the Working Group on Minorities. We support this development because the critical issue of self-determination is, in our view, central to the rights and freedoms of indigenous peoples.]

Our Indian nations and governments welcomed the Ottawa Meeting of Experts from Helsinki signatories to review states' compliance. Despite the exclusion of NGOs from the meeting, our Coalition circulated documentation dealing with Canada's racism in its structural and societal manifestations, the colonial era legal system used to oppress us, and the denial of our rights of define our own identity. It is unfortunate that the case of the Indian nations in American was used by the Eastern Bloc to counter the trumped up United States charges of violations of rights of Soviet Jews and others. More important, however, is the fact that the Ottawa meeting broke down without agreement on even the most basic issue of human rights--the right to life in conditions of peace and freedom in the present dangers of nuclear

war. Our Indian nations, along with other peace-loving peoples prayed that some progress would be made so that all our children and future generations could live out their lives. We are concerned about the cancerous expansion of neo-colonial empires, because 40 years after the defeat of Nazi Germany, world order is disintegrating under pressure from aggressive policies of states belonging to the nuclear club and peoples around the world being denied their fundamental rights and freedoms. It appears to us that European peoples, including those who colonized our lands, are bent on committing global hari kari.

Our fear for the safety of all peoples on Mother Earth is fed by events including the collapse of an independent Canadian foreign policy, full participation in the "Star Wars" project, and the expansion of American nuclear facilities onto our traditional lands. The failure of the Helsinki process in Ottawa is a step towards oblivion, but it may be hoped that future agreement on human rights in the context of detente can be reached at subsequent meetings.

As regards self-determination proclaimed in Principle VIII of the Accord, we would note that in the political as opposed to the legal context, this right has until recently only been applied to dark-skinned peoples oppressed by whites in a typical colonial situation. The Helsinki Final Act, concerning primarily European peoples' governments, affirmed its application to all peoples, including those within the boundaries of existing sovereign states. The Helsinki Accords incorporate the UN Charter and relevant norms of international law, including the 1970 Declaration of Principles of International Law Concerning Friendly Relations between States, where it is stated that modes of implementation include "the emergence of any other political status freely determined by a people". Thus, a distinct but not independent political status for peoples is an acceptable form, as opposed to secession and the breakup of sovereign states, of implementing self-determination. In view of the redirection of the Cobo Study towards the matter of self-determination in its latter stages, and findings that most states discriminated against indigenous peoples and do not represent them, the matter of "internal" self-determination of states and indigenous peoples remains in international law an overlooked and unresolved matter. In the long term, the best guarantee a state can have against secession is full respect for the equal rights and self-determination of its indigenous people. The United Nations can at this juncture assist states with indigenous peoples by providing the option to them to adhere to a fair and just international instrument that respects the rights of peoples to self-determination. This, in our view, is the direction the Working Group must take.

The contentious issue of the rights of national minorities in Europe and North America is dealt with clearly in the Helsinki Accords in Principle VIII where it is stated that, "The participating states on whose territories national minorities exist will respect the right of persons belonging to such minorities to equality before the law, will afford them the full opportunity to the actual enjoyment of human rights and fundamental freedoms and will, in this manner protect their legitimate interest in this sphere". We are aware of the immense technical difficulties inherent in any attempt to group

together under a general definition every minority in need of special protection, and thus the problem of defining beneficiaries of minority rights. According to statements of governments at the Ottawa Conference of Human Rights, national minorities can be defined as groups of peoples who are recognized by treaties between states, as in North, Central and South Europe, and groups within a multi-national state where a national link exists in the form of constitutional rules. In our view, these developments represent a realistic assessment of the contemporary status of minority rights in Europe.

We are, however, disturbed by recent statements by Canada's Minister for External Affairs, Joe Clark, and Canadian statements at the Meeting of Human Rights Experts--that we are considered "national minorities". The European context for dealing with the rights of national minorities is many generations and thousands of miles removed from the situation in Upper North America. We restate our position: The First Nations are not now, nor have they ever been, part of Canada. The fact that the Government of Canada is constitutionally committed to a process of consultation to identify and define rights to be included in the future in Canada's Constitution with some groups has not placed us in the Constitution. The Canada Constitution Act of 1982 is silent on our rights. No provision is made for our equality as peoples, languages, culture, schools and religious freedom. We do not fall within the European definition of a "national minority" as now defined in the Helsinki Accords and the review process. In this connection, we would observe that the Canadian contribution to the UNESCO project, "Cultural Development in Countries Containing Different National and/or Ethnic Groups" categorically states that "native communities are in fact not yet incorporated into our society", and "native groups have a long historical background as on-going societies on this continent. Because of this, they are "nations" rather than ethnic minorities in the use of the term".

It must be noted that the Helsinki Accords excluded national minorities (and a fortiori, or religious, racial or linguistic minorities) from the concept of peoples. The Report of the Special Rapporteur on the Right to Self-determination, Mr. Cristescu, indicated that "national minorities exercise this right through the enjoyment of the rights granted to them by Article 27 of the CCPR and other individual human rights, whether civil, political, economic, social or cultural" (E/CN/Sub 2/404/Rev. 1, para. 691). [Current attempts by Canadian politicians at international human rights meetings to define the Indian nations as minorities must be seen as a blatant attempt to deny us our self-determination since national and other minorities do not, by international definition, possess a right to self-determination. This development runs contrary to the progressive evolution of standards concerning the rights of indigenous peoples.]

We, the Indian nations, welcomed immigrants from Europe who sought to escape from oppressive regimes. We shared our lands, yet in return we have been isolated, dominated, deprived of our lands and fundamental freedoms, and placed in a state of enforced dependency and poverty. The solution must hereafter involve self-determination, and would thus require a new political formula for Canada going beyond the 19th century Germanic notion of the state being composed of one nation.