



UNITED NATIONS

## Economic and Social Council

WORKING GROUP ON INDIGENOUS POPULATIONS

### AMERICAN INDIAN LAW ALLIANCE

NGO in Special Consultative Status with the  
Economic and Social Council of the United Nations

Item Number: 6(a) Cooperation with other bodies in the sphere of indigenous issues  
Intervention by: Kent Lebsock, American Indian Law Alliance

Mr. Chairperson,

My name is Kent Lebsock. My Lakota name is Tetuwan Okshila. I am making this intervention on behalf of the American Indian Law Alliance. We would like to bring to the attention of the Working Group recent developments in the standard-setting process regarding the rights of Indigenous peoples that is taking place within the Organization of American States (OAS).

In particular, we would like to express our grave concern about a resolution regarding the American Declaration on the Rights of Indigenous Peoples that was recently adopted by the OAS General Assembly at its thirty-third regular session in Santiago, Chile, on 10 June 2003. In this resolution, AG/RES. 1919 (XXXIII-O/03), the OAS General Assembly instructs the OAS Working Group charged with preparing the Draft American Declaration on the Rights of Indigenous Peoples "to begin the final phase of negotiation" of the Declaration, with "a first round" of negotiations in October 2003. According to the resolution the negotiations "will take place exclusively among the member states".

We do not agree that states should "negotiate" our human rights - especially in view of their overall human rights record concerning Indigenous peoples. Human rights are inherent and inalienable, and should be recognized, promoted, and protected. They should not be the subject of deal making or compromises.

Further, we are deeply concerned that the standard-setting process on our human rights within the OAS is now defined as "exclusively" among member states. Although the Working Group is instructed to "ensure ... effective participation by representatives of indigenous peoples during the negotiations", the definition of the "negotiations" as "exclusively among member states" relegates Indigenous peoples' participation to a marginal appendage, with no control over the outcome on a wide range of human rights standards relating to us. "[A]mplified participation by representatives of indigenous peoples" is only deemed necessary "in order to review progress and assess the level of consensus on the Draft Declaration."

There is no assurance that Indigenous peoples will have more than a single "special meeting" to discuss the OAS draft Declaration with states, propose changes and address our concerns. The resolution of the OAS General Assembly fails to recognize that Indigenous peoples must be an integral part of the consensus on any proposed OAS text on the human rights of Indigenous peoples, and that any OAS Declaration on the Rights of Indigenous Peoples must have the strong support of Indigenous peoples before being adopted.

Over 30 Indigenous nations and organizations raised these issues last May in a joint letter to the OAS and its member states. However, to date our concerns have been virtually ignored.

Further serious problems relate to the new so-called "Consolidated Text of the Draft Declaration" prepared by the Chair of the OAS Working Group (OEA/Ser.K/XVI - GT/DADIN/doc.139/03, 17 June 2003). This recently prepared text is being imposed as the starting point for the discussions in the "final phase of negotiation" of the OAS Declaration. Despite the widespread opposition of Indigenous representatives, the document contains highly discriminatory new draft provisions relating to Indigenous peoples' right to self-determination that are totally inconsistent with Art. 1 of the human rights Covenants as well as the Purposes and Principles of the U.N. Charter. Clearly, the OAS and its member states have no authority to create discriminatory double standards concerning the right of Indigenous peoples to self-determination under international law.

In closing, we request the Working Group to give these issues serious attention and include our concerns regarding the standard-setting process in the OAS in the final report of the Working Group.

Thank you, Mr. Chairperson.

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