

**North American Indigenous Peoples Caucus Statement
UN Permanent Forum on Indigenous Issues, Sixth Session
AGENDA ITEM 4. (f) HUMAN RIGHTS**

May 18, 2007

Presented by: Beverley Jacobs, President, Native Women's Association of Canada

Skeno Swagwegoh. Good morning, Madam Chair.

I would like to begin by acknowledging the critically important work that the Special Rapporteurs do on our behalf that they outlined this morning.

I am speaking on behalf of the many participants of the North American Region Preparatory Meeting, which took place on April 21 and 22, 2007, at the University of Minnesota Human Rights Center and Law School in Minneapolis, Minnesota. The meeting was a voluntary effort of Indigenous Peoples from North American who used their own limited resources to come together.

As noted by my North American colleagues, who have presented on previous items, we are referring to Document No. E/C.19/2007/CRP.7.

The United Human Rights Council and Human Rights of Indigenous Peoples

We noted the vital need to create and strengthen effective mechanisms within the United Nations systems to effectively address the pervasive and ongoing violations of Indigenous Peoples human rights in North America and all regions of the world. In this regard, we recommend that the Permanent Forum advise the UN Human Rights Council (UNHRC) to continue its progress in implementing structures, procedures and mechanisms as recommended by the Indigenous Peoples Global Caucus attending the 5th Session of the Permanent Forum (PF). In particular, we endorse the recent efforts of the UNHRC to establish an Expert Group on the Human Rights of Indigenous Peoples as a subsidiary body of the UNHRC that will include at minimum 2 Indigenous experts nominated by Indigenous Peoples. In our view, this will ensure the effective and representative participation of Indigenous Peoples to defend their human rights and fundamental freedoms, and to redress violations of these rights. We call upon the PF to recommend that a resolution to create this Expert Group be adopted at the June 2007 session of the UNHRC.

We request that the PF advise the UNHRC to authorize at least one more session of the UNWGIP so that it can review and, as needed, complete its pending work. This will also facilitate an appropriate transition to the new Expert Group as well as other appropriate structures in the UN. We further call upon the UNPFII to put forward names of at least four expert members of the UNPFII to serve as members of the UNWGIP at this last session, to include an equal representation of States and Indigenous experts.

Violence Against Indigenous Women and Gender Equality

We expressed our profound concern regarding the violence against Indigenous women which continues to be pandemic in North America and in all regions of the world. We call upon states and Indigenous nations to engage in discussions and implement solutions that shall address ending *all* forms of violence, specifically including femicide, perpetrated against Indigenous women. Participants note that this violence takes place in both “developing” and “developed” countries. The participants strongly endorse paragraph 20 of the Committee on the Elimination of Racial Discrimination’s Concluding Observations on Canada where it states:

“20...In light of its general recommendation 25 (2000) on gender-related dimensions of racial discrimination, the Committee recommends that ...[Canada] strengthen and expand existing services, including shelters and counselling, for victims of gender-based violence, so as to ensure their accessibility. Furthermore, it recommends that ...[Canada] take effective measures to provide culturally-sensitive training for all law enforcement officers, taking into consideration the specific vulnerability of aboriginal women and women belonging to racial/ethnic minority groups to gender-based violence.” [Emphasis is original.] (CERD Concluding Observations on Canada 2007, para. 20)

Another very disturbing example of the level of violence against Indigenous women in this region is presented in the new landmark study by Amnesty International, focusing on Indigenous women in Alaska, Oklahoma and North and South Dakota. Amnesty referred to the “shockingly high” US Justice Department statistics documenting that Indigenous women are 3.5 times more likely to be raped than other women in the US. Further, the study warns that one in three Indigenous women in the US will be raped in their lifetimes. The study reported that Alaska had the highest levels of sexual violence against Native women. Between 2000 and 2003 in Anchorage, Alaska’s largest city, Native women were sexually assaulted 9.7 times more often than other women. Lack of adequate governmental services and protections for Indigenous women in cities and in many Native rural communities were identified by Amnesty International as a primary reason for this appalling situation. It should be noted that Indigenous women who work with sexual assault victims in their own communities and reservations in the US think that these statistics are lower than the reality due to underreporting and other factors.

We note with appreciation paragraph 15 of the CERD Concluding Observations on Canada 2007 which aims to address concerns of gender inequalities facing Indigenous women in Canada. In this regard, we support the right to equal benefit of property between Indigenous men and women on Indigenous territories, through legislative reforms “in consultation with First Nations organizations and communities, including aboriginal women’s organizations, without further delay.” (CERD Concluding Observations on Canada 2007, para. 15)

We call for States to continue to report to UNPFII regarding the human rights of Indigenous girl-child and women, specifically the right to live free from violence and the progress in implementing programs, services and legal protections, in conjunction with Indigenous Peoples, aimed at effectively reducing the levels of violence.

Non-Discrimination and Human Rights Legislation

The participants note the vital importance of equal protection and non-discriminatory application of all human rights standards, including the implementation of the *UN Declaration on the Rights of Indigenous Peoples* as well as the right of free, prior and informed consent as governing principles in the establishment of human rights legislative reforms impacting the lands, territories and resources of Indigenous Peoples. In this regard, the participants highlight recommendation 25 of the CERD Concluding Observations on Canada:

“25. The Committee, while welcoming the recent decision of ...[Canada] to repeal Section 67 of the Canadian Human Rights Act (CHRA) which effectively shielded the provisions of the Indian Act and decisions made pursuant to it from the protection provided by the CHRA, notes that *the repeal in itself does not guarantee enjoyment of the right to access to effective remedies by on-reserve Aboriginal individuals* (article 6).

The Committee urges the State party to engage in effective consultations with aboriginal communities so that mechanisms that will ensure adequate application of the Canadian Human Rights Act (CHRA) with regard to complaints under the Indian Act are put in place following the repeal.” [Emphasis is original.] (CERD Concluding Observations on Canada 2007, para. 25)

Battle Honours and “Truth in History”

The participants of this meeting recognize the need to clarify and correct the historical misinformation which continues to affect Indigenous Peoples in our relationship with settler state governments. In this regard, we endorse the call upon the United States of America government to:

- Accept the National Congress of American Indians calling for the removal of the “battle streamer” for the Massacre at Wounded Knee and Sand Creek; and removal of the “Battle of Pine Ridge 1890” (which was in reality a Massacre at Wounded Knee, South Dakota) “battle streamer” from [the USA]’s flags;
- Rescind the “20 Medal of Honors” awarded for this massacre and remove their names from the Medal of Honor Roll; and
- Recognize December 26-29, as days of prayer and observance.

We call upon other States to make similar corrections in the historical records in their own countries.

Criminal Justice System

We are concerned about the disproportionately high rate of incarceration of Indigenous Peoples in North America and the negative impacts of this reality on the cultures, survival, dignity and well-being of Indigenous individuals and Peoples. On that basis, the participants endorse recommendation 19 of the CERD Concluding Observations:

“19. While welcoming the introduction of the initiative entitled *Addressing Race-Based issues in the Justice system*, as part of the Action Plan Against Racism, the Committee is concerned about ... the disproportionately high rate of incarceration of aboriginal peoples compared with the general population (article 5 a)).

In the light of its general recommendation 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends to ...[Canada] that it give preference, wherever possible, to alternatives to imprisonment with respect to aboriginal persons, considering the negative impact of separation from their community that imprisonment may entail. Furthermore, the Committee recommends that ...[Canada] increase its efforts to address socio-economic marginalization and discriminatory approaches to law enforcement, and consider introducing a specific programme to facilitate re-integration of aboriginal offenders into society.” [Emphasis is original.] (CERD Concluding Observations on Canada 2007, para. 19)

The participants note that the “new” government of Canada has instituted regressive measures in relation to access to justice, including the cancellation of the Court Challenges Program, which provided test case funding for cases related to the equality rights of “disadvantaged groups” cases which was supported by CERD Concluding Observations.

Nia:wen: Thank you.