



THE NATIONAL INDIAN YOUTH COUNCIL

COMMISSION ON HUMAN RIGHTS  
SUB-COMMISSION ON THE PREVENTION OF  
DISCRIMINATION AND PROTECTION OF MINORITIES

WORKING GROUP ON INDIGENOUS POPULATIONS  
NINTH SESSION  
GENEVA; SWITZERLAND  
22 JULY - 2 AUGUST 1991

STATEMENT TO THE WORKING GROUP  
2 AUGUST 1991

ITEM # 7

WGIP 91/NAM. USA/3

THANK YOU, MADAME CHAIRPERSON. MY NAME IS TERRY JANIS, REPRESENTING THE NATIONAL INDIAN YOUTH COUNCIL.

WE ACKNOWLEDGE THE FAIRNESS OF THE PROCESS AS GUIDED BY YOU THUS FAR. WE OFFER A SUGGESTION, HOWEVER, REGARDING THE CONTINUING PROCESS OF THE WORKING GROUP AS IT SEEKS TO COMPLETE THE DRAFT DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES.

THE DUAL MANDATES OF THE WORKING GROUP:

- TO REVIEW NATIONAL DEVELOPMENTS PERTAINING TO THE PROMOTION AND PROTECTION OF THE HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS OF INDIGENOUS PEOPLES; AND
- TO DEVELOP INTERNATIONAL STANDARDS CONCERNING THE RIGHTS OF INDIGENOUS PEOPLES, TAKING ACCOUNT OF BOTH THE LIMITATIONS AND DIFFERENCES IN THEIR SITUATIONS AND ASPIRATIONS THROUGHOUT THE WORLD,

ARE BEING MET AT THIS WORKING GROUP BY A UNIQUE PROCESS WHICH IS OPEN TO ALL STATES AND REPRESENTATIVES OF INDIGENOUS PEOPLES, COMMUNITIES, ORGANIZATIONS AND NON-GOVERNMENTAL ORGANIZATIONS. THIS PROCESS ALLOWS THE WORKING GROUP TO HEAR DIRECTLY FROM INDIGENOUS PEOPLE THEIR CONCERN REGARDING THE STATUS OF THEIR FUNDAMENTAL FREEDOMS AND HUMAN RIGHTS AND THEIR ASSERTION OF COLLECTIVE RIGHTS AS INDIGENOUS PEOPLES. THIS UNIQUE PROCESS ALSO PROVIDES THE POTENTIAL FOR STATES NOT ONLY TO RESPOND TO THE INDIGENOUS PEOPLES, BUT TO ASSERT THEIR OWN POSITIONS ON THE DEVELOPMENT OF INTERNATIONAL STANDARDS CONCERNING THE RIGHTS OF INDIGENOUS PEOPLES. EACH OF THESE POSITIONS ARE THEN TAKEN INTO CONSIDERATION BY THE WORKING GROUP AND ARE REFLECTED IN THE VARIOUS DRAFTS OF THE DECLARATION.

WE HAVE SEEN THE VERY POSITIVE BENEFITS OF THE CONSISTENT PARTICIPATION OF SEVERAL STATES AT THIS SESSION. STATEMENTS OF CONCERNS AND FULLY OR PARTIALLY DEVELOPED POSITIONS, WHETHER IN AGREEMENT WITH INDIGENOUS PEOPLES' POSITION OR DISAGREEMENT, HAVE PROVIDED THE WORKING GROUP WITH THE MATERIALS NECESSARY TO CRAFT A BALANCED AND OBJECTIVE DRAFT. EQUALLY IMPORTANT, IT HAS ALLOWED BOTH PARTIES TO BEGIN THE PROCESS OF IDENTIFYING THE MOST CONSTRUCTIVE COURSE OF ACTION TO SATISFY THEIR DISTINCTIVE, BUT NOT NECESSARILY, CONFLICTING INTERESTS.

REGRETFULLY, WE HAVE NOT WITNESSED SUCH PARTICIPATION FROM THE GOVERNMENT OF THE UNITED STATES. WE ARE CONCERNED AND SURPRISED AT THE ABSENCE OR SILENCE OF THE UNITED STATES DELEGATION IN THIS AND OTHER SESSIONS OF THE WORKING GROUP. THIS SILENCE IS AN ELOQUENT STATEMENT OF THE UNITED STATES' DENIAL OF THE PROBLEMATIC NATURE OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS OF INDIGENOUS PEOPLES IN THE UNITED STATES. RIGHTS IN THE UNITED STATES ARE SEEN BY THE GOVERNMENT EXCLUSIVELY AS INDIVIDUAL RIGHTS WHICH ARE ADEQUATELY PROTECTED BY THE U.S. CONSTITUTION AND BILL OF RIGHTS. THE LIMITATIONS OF THIS PERSPECTIVE, HOWEVER, ARE OBVIOUS. INDIGENOUS PEOPLE IN THE U.S. HAVE BEEN:

- DENIED THE FREE EXERCISE OF SPIRITUAL AND RELIGIOUS PRACTICES AT SACRED SITES WITHIN THEIR ABORIGINAL LAND BASE;
- DENIED THE AUTHORITY TO ASSERT JURISDICTION OVER ALL PEOPLE WITHIN THEIR OWN TERRITORIES, BEING LIMITED BY RACE-BASED LEGAL STANDARDS;
- DENIED CONSENT RIGHTS BY THE FEDERAL GOVERNMENT IN ISSUES DIRECTLY AFFECTING INDIGENOUS PEOPLE; AND
- DENIED EFFECTIVE ACCESS TO IMPARTIAL AND OBJECTIVE INTERNATIONAL FORA TO RESOLVE DISPUTES BETWEEN INDIGENOUS PEOPLES AND THE FEDERAL AND STATE GOVERNMENTS.

PRESENCE BY THE UNITED STATES AT THIS RESPECTED FORUM WOULD NOT ONLY PROVIDE AN OPPORTUNITY FOR DIALOGUE WITH US INDIGENOUS PEOPLES, IT WOULD ALLOW OTHER INDIGENOUS PEOPLES TO DISCUSS ISSUES AND CONCERNS WHICH ARE IMPACTED BY THE UNITED STATES THROUGH THEIR INVOLVEMENT IN THE WORLD BANK AND OTHER INTERNATIONAL ORGANIZATIONS.

THIS FORUM COULD FACILITATE DIALOGUE BETWEEN INDIGENOUS PEOPLES AND THE UNITED STATES GOVERNMENT, PROVIDING A NEUTRAL FORUM IN WHICH ALL PARTIES MEET ON AN EQUAL BASIS TO CONSTRUCTIVELY FORMULATE A MUCH NEEDED UNIVERSAL DECLARATION.

FOR THE LAST PHASE OF THIS WORKING GROUP'S DRAFTING PROCESS OF A DRAFT DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES, WE WOULD LIKE TO ENCOURAGE THE WORKING GROUP AND ALL INDIGENOUS REPRESENTATIVES TO WORK FOR INCREASED INVLOVMENT BY THE VARIOUS STATES WHO ALONE WILL VOTE AND HENCE HAVE PRIMARY INFLUENCE ON THE CONTENT AND EVENTUAL PASSAGE OF A DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES.

THANK YOU, MADAME CHAIRPERSON, FOR THIS OPPORTUNITY.