

**United Nations Working Group on Indigenous Peoples
Seventh Session, July 28, 1999**

**Oral Intervention on Item No. 5, Principle Theme:
Indigenous Peoples and their Relationship to the Land**

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Thank you, Madame Chairperson, we appreciate this time to address the Working Group. The Assembly of First Nations is a political forum for the 633 First Nation Communities in Canada which undertakes collective efforts and pursues specific mandates with the Government of Canada or other bodies, both domestic and international. Land rights issues are amongst the priorities First Nations have set out for the organization.

We would like to address a key aspect in the recognition of the rights of Indigenous Peoples. That is the need for building mutual respect and cooperation between Indigenous Peoples and nation states. In Canada, we are now considering the establishment of an Independent Claims Body to resolve specific claims, which relate to the federal government's administration of reserve lands and other assets. A First Nations-Canada Joint Task Force has recommended a mechanism consisting of a Commission to facilitate fair negotiations and a Tribunal, with binding powers to resolve legal disputes. The Assembly of First Nations has endorsed the Task Force recommendations and we are awaiting Canada's decision on the proposal.

As the Government of Canada has highlighted, the Assembly of first Nations and Government of Canada have agreed on an Agenda for Action which identified some 47 important policy issues. There are concerns about the progress being made, as it is a large agenda and real progress is slow. Our leadership is increasingly concerned about the urgent situation of poverty our peoples find themselves in. While Canada is being identified as one of the best places in the world to live, First Nations peoples still find themselves with the poorest living standards and severe social problems.

As the theme for this years session is the relationship of the indigenous peoples to the land, it is important to note that the UN Human Rights Committee recommends that Canada abandon the practice of extinguishing inherent aboriginal rights. While Canada claims to be doing this, we still have concerns about how this might be achieved. The lack of recognition for First Nations ownership and jurisdiction of lands and resources is the underlying source of our social and economic deprivation.

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The UN's Committee on Economic, Social and Cultural Rights pointed to this disparity in its observations on Canada made in a report last December. The Committee referred to the "direct connection between Aboriginal economic marginalization and the ongoing dispossession of aboriginal people from their lands". The Committee also expressed concern about the continuing dispossession of indigenous peoples traditional lands and the violation of treaty rights, pointing to the urgent need to implement the Royal Commission's recommendation that the policy of extinguishing aboriginal title be abandoned.

We want to point out that in Canada, we have not yet achieved success in the recognition and implementation of inherent, aboriginal and treaty rights, which are the key to alleviating social and economic deprivation. It is important to recognize that the two are directly connected.

An important aspect in recognizing the rights of the indigenous peoples to the lands and resources is the need for effective negotiations. First Nations have consistently sought a fair approach in negotiations with Canada and to establish consistent standards for consultation. The Supreme Court of Canada's *Delgamuukw* decision affirmed that the First Nation's interest in lands and resources are property rights in Canadian law.

The Court said this must be taken into account whenever governments are undertaking any decision that will impact those rights. Any infringement of those rights must be justified in accordance with criteria set out by the court. Whenever First Nations are deprived of those rights, compensation is due. There is also a legal requirement for consultation and consent.

The Court also said there is a moral, if not legal obligation, to resolve the existence of aboriginal title with the assertion of Crown sovereignty through negotiations that are conducted in good faith. This is the only way by which the needs of all parties can be satisfied, First Nations, as well as other governments, the corporate sector and general public.

In Canada, the issue of indigenous land and resource rights is getting a higher profile, but there is misunderstanding and mistrust promoted by racist elements. There remains much to do in terms of educating people about the legal basis of indigenous peoples' land rights. It is crucial that we affirm land rights as an essential element in the proposed United Nations Declaration on the Rights of Indigenous peoples.

In closing, we wish to thank you, Madame Chairperson, for your efforts in promoting a broader understanding of indigenous peoples' land rights through your crucial study on the relationship of indigenous peoples to the land. We will be ensuring that First Nations are aware of the opportunity to make submissions to assist you in that work.

Meegwetch.