



ASSEMBLY OF FIRST NATIONS

Intervention on Standard Setting before the
United Nations Working Group on Indigenous Populations

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WGIP 88/NAM.CAN/2

Thank you, Madame Chairperson.

Permit me on behalf of the AFN to thank you and the working group for the work being done under your strong and determined leadership. The 28 articles contained in your Draft Working Paper E/CN/Sub. 2/1988/25 are a significant and progressive development when compared to the previous fourteen principles set out in annex 11 of the report of the working group's session last year.

However, I am sure that you and the working group will appreciate that the Assembly of First Nations, on our initial review of the draft, feel that it does not completely reflect the full range and scope of indigenous rights that should be recognized by the United Nations. We spent some time discussing your draft. We found it to be an excellent basis for discussion of our rights, and the duties of States, but we also noticed its shortcomings from our own point of view. We therefore developed our own draft, as a preliminary step.

Madam Chairperson, may I now turn to some of the basic concepts in the formulation of standards and law that will be consistent with our view of our inherent rights.

First of all, we are peoples, not populations. [The word "populations" is similar to the words "pagan" and "savage", which were used by newcomers from other lands and other cultures to justify and rationalize their prohibition by force, their intended destruction of our spiritual beliefs and traditions. Today, we find the word "populations" to be no less derogatory, equally as ethnocentric and aimed towards the same mischief. It is being used to justify and rationalize the denial of our right to self-determination.]

We are greatly encouraged by the fact that your draft working paper has used the proper term "peoples" in its preambular paragraphs. We are just as confident that the final Declaration on Indigenous Peoples that will be adopted by the United Nations will contain the phrase "indigenous peoples".

Madame Chairperson, what are our fundamental rights and freedoms as indigenous peoples and, how do our rights as indigenous peoples differ in scope and nature from the international standards and law contained in existing international instruments ?

To understand our approach and perspective, it is necessary first to understand our basic framework for future work on this declaration of indigenous rights :

First : of course, as members of the human family, we have the right to the full realisation of human rights and fundamental freedoms set out in existing human rights instruments and laws. But as I said we are more than individuals. And I repeat, we are peoples, nations. We are not mere ethnic ~~group~~ groups or minorities, let alone indigenous populations.

Secondly : as citizens of indigenous nations we affirm our right to the full benefit of indigenous collective rights and freedoms that derive from our distinct indigenous histories, laws, philosophies and traditions, spirituals beliefs and practives, as well as our social and political structures. In particular, our rights derive from our unique and different relationships to our environments, territories, lands, water and sea resources and, especially, to our creator.

Thirdly : not being members of the United Nations, we acknowledge that the existing international instruments, developed as they were without our best interests in mind and without our participation, could not possibly nor accurately reflect the collective nature of our rights.

As a distinguished legal scholar, you know very well, Madame Chairperson, that existing international law is premised heavily on respect for individual human rights. Nevertheless, a start was made in the recognition of collective rights when the two major international covenants decreed, in their very first articles, that "All peoples have the rights to self determination". All peoples, Madame Chairperson, without discrimination.

Our draft deals with many fundamental concepts and rights. I will simply identify a few in no particular order or priority. These are :

- 1) Indigenous peoples have a right to self determination.
- 2) Indigenous peoples have a right to participate at the state and international level in matters affecting them.
- 3) Indigenous peoples have a right to development.
- 4) Indigenous peoples have the right to collective title and unimpeded ownership, possession and control over the territories and lands they traditionally occupied or otherwise used.
- 5) Indigenous peoples have a right to safe environment.
- 6) Indigenous peoples have the right to reclaim land, surface, and subsurface resources when property has been taken from them without their consent.

- 7) States have a duty to respect, honor and implement treaties with indigenous peoples in accordance with their spirit and intent and measures must be taken by states, in conjunction with indigenous peoples to guarantee the validity of treaties as international agreements.
- 8) The establishment and formalizing of arrangements with indigenous peoples on fundamental matters must be a treaty making process unless the indigenous peoples select an alternative process.

Madame Chairperson, before I close, I would like, on behalf of the Assembly of First Nations, to officially request the Working Group through you, a resolution to the Sub-Commission on a matter of serious ^{to us} to us.

That resolution should request the Working Group, in future sessions, to devote particular attention to the plight of indigenous peoples whose traditional economic activities include hunting and trapping of fur-bearing animals. Thousands of indigenous people, especially in Canada, depend for their livelihood on hunting and trapping, for their collective economic security and cultural survival. Their livelihood is being seriously threatened by international boycott campaigns, restrictive marketing practices and other forms of economic sanctions.

It is a matter of urgency that some form of action be taken at the level of the United Nations to help stave off a profound and far reaching human tragedy among indigenous peoples.

Finally, Madame Chairperson, I hope that this will be the last time this working group on indigenous populations meets. I hope very much that, next year, we will be congratulating you on your election as Chairperson of the Working Group on Indigenous Peoples.

Thank you, Madame Chairperson.

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We have the responsibility within Canada, to bring our people together who are involved in this international work to respond to your document as our preliminary comments. The National Chief and the Executive Committee of the AFN have fully endorsed our preliminary draft response. We have had direct dialogue on our positions with other indigenous organizations in Canada. We also presented this draft as our contribution to the preparatory session. Today, because of our working relationship and respect for other indigenous peoples, we will not officially table our draft, but we in the AFN will continue during the course of the coming year to further develop our position in accordance with the direction set by our Chiefs.