

JOINT STATEMENT

UN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES: MOVING TOWARDS EFFECTIVE IMPLEMENTATION AND CONSENSUS

United Nations Permanent Forum on Indigenous Issues Eighth Session
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Item 4(a): Human rights: Implementation of the United Nations Declaration on the Rights of Indigenous Peoples

Presented by Ashley Iserhoff, Deputy Grand Chief, Grand Council of the Crees
(Eeyou Istchee) on behalf of:

Grand Council of the Crees (Eeyou Istchee)
Inuit Circumpolar Council
Assembly of First Nations
Québec Native Women
First Nations Summit
Assembly of First Nations of Québec and Labrador (AFNQL)
First Peoples Human Rights Coalition
Indigenous World Association
Canadian Friends Service Committee (Quakers)

*UN Declaration on the Rights of Indigenous Peoples: Moving Towards Effective
Implementation and Consensus*

Indigenous peoples and civil society organizations from Canada are pleased to share our views on the *UN Declaration on the Rights of Indigenous Peoples*, its implementation and the growing momentum towards consensus.

The *Declaration* is an historic instrument that has universal application to countless Indigenous contexts in over 70 countries. This human rights instrument provides a principled and normative legal framework for achieving reconciliation between Indigenous and non-Indigenous peoples. As Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya, has stated in his August 2008 report, the *Declaration*

represents an authoritative common understanding, at the global level, of the minimum content of the rights of indigenous peoples,

upon a foundation of various sources of international human rights law.

The *Declaration* is broadly crafted, so as to be capable of addressing a wide range of circumstances both now and in the future. In the 20 months since the historic adoption of the *Declaration* by the General Assembly, the extreme interpretations of a few dissenting States have not been confirmed. Instead, we are witnessing harmonious, cooperative and systematic approaches to effectively implement the *Declaration*.

Although much work remains to be done, diverse initiatives are being taken by Indigenous peoples, States and organizations to use and implement the *Declaration*. These entities include UN bodies and mechanisms, such as the Human Rights Council; Permanent Forum on Indigenous Issues; Special Rapporteurs and independent experts; a vast range of UN specialized agencies; and regional and domestic courts. In addition, a growing number of UN General Assembly resolutions are making specific reference to this new international human rights instrument.

UN treaty monitoring bodies are referring to the *Declaration* in interpreting existing human rights treaties. In the Universal Periodic Review (UPR) of particular States, many countries from different regions are referring to the *Declaration* in crafting their recommendations.

All of these dynamic and ongoing initiatives serve to ensure that the *UN Declaration* is a “living” instrument. It is strengthening the international human rights system as a whole.

With the endorsement of the *Declaration* by Australia on 3 April 2009, there are now only three States that have voted against. Both New Zealand and the United States have recently indicated that they are in the process of reconsidering their opposing positions. We urge these States to express unequivocal support for the *Declaration*.

We welcome the election of the United States to the Human Rights Council. However, in its “Human Rights Commitments and Pledges”, the United States omitted any mention of Indigenous peoples or the *UN Declaration*. This represents a missed opportunity for the Obama administration to reverse the regressive policies of its predecessor. In honouring its commitments and pledges, we encourage the United States to strongly support the human rights of Indigenous peoples and assume an international leadership role.

In regard to Canada, it has continued its ideological opposition to the *Declaration*. The current minority government has ignored the April 2008 Motion adopted by Parliament – calling for the Parliament and government of Canada to “fully implement” the standards in the *Declaration*.

In relation to Indigenous peoples, Canada has repeatedly violated the rule of law both internationally and domestically. It has failed to “uphold the highest standards in the promotion and protection of human rights”, as required of all Human Rights Council members. During its three-year term, Canada has pursued the lowest standards of any Council member within the Western European group of States.

The Canadian government has opposed the *Declaration* in various international forums. It has encouraged other States to not support the *Declaration*. In taking its opposing positions, Canada has ignored its obligations under s. 35 of the *Constitution Act, 1982*. It has failed to consult and accommodate Indigenous peoples and uphold the honour of the Crown.

In the preparation of Canada’s National Report for the UPR, the government did not engage in any consultations with Indigenous organizations or civil society. During the follow-up meetings convened by the government on 20-21 April 2009, federal officials refused to discuss the Crown’s constitutional obligations. A Department of Justice official declared that that the government was “putting aside” such constitutional issues in its UPR process and adopting a “narrower approach”.

At the world climate talks in Poland in December 2008, Canada’s Environment Minister announced at a press conference that the *UN Declaration* “has nothing whatsoever to do with climate change.” Such statements unfairly politicize Indigenous peoples’ human rights and undermine global attempts to respond effectively to climate change.

Indigenous peoples are working with many partners at home and on the world stage. We welcome all States to be a part of the positive international momentum that continues to grow with respect to the *UN Declaration*.

Recommendation:

We urge the Permanent Forum to recommend to ECOSOC and the Human Rights Council that:

- i) all States be encouraged to endorse and implement fully the *United Nations Declaration on the Rights of Indigenous Peoples*;
- ii) in countries that include Indigenous peoples, the *Declaration* be incorporated by such States when preparing their national reports to the Universal Periodic Review;
- iii) increasing reference be made to the *Declaration* in relevant resolutions, decisions and reports of ECOSOC, Human Rights Council and other related bodies and mechanisms; and

- iv) treaty monitoring bodies be encouraged to make increased reference to the *Declaration* when interpreting Indigenous peoples' rights and corresponding State obligations.

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