



UN Declaration on the Rights of Indigenous Peoples



Deklarasyon ng UN sa mga Karapatan ng mga Katutubo
Deklarasyon ti UN para iti Karbengan ti Kaingngadan nga Umili
Deklarasyon sa UN Babahin sa Katunggod sa Katuwang Lumad

UN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES



Tebtebba

Indigenous Peoples' International
Centre for Policy Research and
Education

UN Declaration on the Rights of Indigenous Peoples
Tebtebba Foundation

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Published by

Tebtebba Foundation

No. 1 Roman Ayson Road

2600 Baguio City

Philippines

Tel: 63 74 4447703 Tel/Fax: 63 74 4439459

E-mail: tebtebba@tebtebba.org

Website: www.tebtebba.org

Cover Design, Lay-out and Production: Raymond de Chavez

Printed in the Philippines

by Valley Printing Specialist

Baguio City, Philippines

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**With support from
Evangelischer Entwicklungsdienst (EED), Germany**

Acknowledgements

Tebtebba would like to extend its appreciation to our friends and colleagues who helped in translating the UN Declaration on the Rights of Indigenous Peoples: Glenda Opong-Delideli of SILDAP (Bisaya); Borromeo Motin and Raymond de Chavez (Pilipino); Kathleen Okubo, Brenda Dacpano, Bernabe Almirol, Josie Almirol and Ador Ramo (Ilokano). To EED, who has consistently supported our initiatives, goes our warmest gratitude. The translations, while unofficial, are hoped to popularize the Declaration so that indigenous peoples can use the Declaration in the assertion of their rights.

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How the UN Declaration on the Rights of Indigenous Peoples Got Adopted

By Victoria Tauli-Corpuz

When the UN Declaration on the Rights of Indigenous Peoples was adopted on 13 September 2007, the indigenous peoples who were present at the General Assembly Hall of the UN were ecstatic and very emotional. There could have been no better time to be at the UN Headquarters in New York than this day. More than two decades of work were put by us on this which makes it almost impossible to believe that we finally got the Declaration. But we did.

With the historic adoption of this Declaration which has been drafted and negotiated between independent experts, States and us, indigenous peoples, we deemed it important to disseminate this immediately. Since it will not be appreciated very much by our indigenous sisters and brothers if it is just in English we tried our best to get the Declaration translated into three major Philippine languages - Filipino, Cebuano and Ilocano. These are unofficial translations which are still works in progress. We hope to get comments and suggestions for improvement from those who speak these languages.

Aside from putting the Declaration in this booklet in English and the three languages, it will also contain this report which will present a historical background of work of indigenous peoples within the UN and an account of how this Declaration finally got adopted before the 61st Session of the UN General Assembly ended.

The beginnings of indigenous peoples engagement with the international community

The first attempt of indigenous peoples to reach out to the international community started as early as 1923 with the at-

tempt of Chief Deskaheh, the speaker of the Council of the Iroquois Confederacy, to get the League of Nations to address the Iroquois' dispute with Canada. This was followed in 1925 by W.T. Ratana, a Maori leader, who wanted to bring the violations against the Waitangi Treaty by New Zealand. They were not given an audience by the League but the fact that they sought this was already an assertion that indigenous peoples are subjects of international law. With the establishment of the United Nations in 1945 and with human rights being one of the key foundational elements of its Charter, the justification for indigenous peoples' engagement with the UN was strengthened.

The International Labour Organization was the first multilateral body which managed to adopt a Convention addressing indigenous peoples. This was Convention No. 107 Concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries which was adopted in June 26, 1957. Unfortunately, this took a paternalistic and assimilationist approach. Its solution to the indigenous problematique was to integrate indigenous peoples into the dominant society and within the dominant development model. To rectify this, the ILO, with pressure from indigenous peoples, proceeded to revise this and in 1989 it adopted the ILO Convention 169 Concerning Indigenous and Tribal Peoples in Independent Countries. This has been ratified by 20 countries, most of which are in Latin America with only two in Asia-Pacific.

ILO Convention No. 169 has already been used in several cases or complaints filed by indigenous peoples against their governments before the Inter-American Court of Human Rights, the Human Rights Committee and the Committee on the Elimination of Discrimination. In the Philippines the campaign to get this ratified by the government continues. Spain and Nepal are the countries which just ratified it this year.

The Martinez Cobo Study and the International Conference on Discrimination Against Indigenous Peoples in the Americas

Meanwhile, indigenous peoples started working on the UN to address their issues. In 1971 the UN Economic and Social

Council authorized the UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities to undertake a study on the "Problem of Discrimination Against Indigenous Populations."¹ The Special Rapporteur, Mr. Martinez Cobo, came up with a series of partial reports between 1981-83 and the final paper which contains the Conclusions and Recommendations was released in 1986. This report, popularly known as the Martinez Cobo Study, became the major UN reference document on indigenous peoples.

On 20-23 September 1977 the NGO Subcommittee on Racism, Racial Discrimination, Apartheid, and Decolonization held the "International NGO Conference on Discrimination Against Indigenous Populations in the Americas" at the Palais des Nations in Geneva. Around 400 persons participated of which 100 of these are delegates of 60 indigenous nations and peoples coming from 15 countries in the Americas. Observers from 38 member states of the UN took part as well as UN agencies like the UNESCO and the ILO. This was the first major event which took place in the UN with a massive participation of indigenous peoples. This conference came up with a Declaration which called on the UN to set up a body which will address the violations of indigenous peoples rights. This echoes a recommendation made by the Martinez Cobo study.

The UN Working Group on Indigenous Populations (UN-WGIP)

The UN Working Group on Indigenous Populations² (UN-WGIP) was established in 1982 and held its yearly session until last year, 2006. This is an expert body which consists of 5 independent experts, none of which are indigenous. Year by year the number of indigenous representatives participating in this body increased and at its peak, the number reached 600. This body was mandated to review developments concerning indigenous peoples and to work towards the development of international standards on indigenous peoples' rights. Since then, indigenous representatives occupied this space and actively participated in drafting the UN Declaration on the Rights of Indigenous Peoples. The WGIP provided the opportunity for us, indigenous peoples, to come together not just to make state-

ments at the Working Group but to consolidate our own movement at the global level.

From Asia, the first indigenous peoples represented in 1982 were the Igorots of the Cordillera Region in the Philippines and the Jummas of the Chittagong Hill Tracts in Bangladesh. The Igorot who participated in 1982 was Joji Carino. After the Cordillera Peoples' Alliance was established in 1983 it participated in most of the sessions. Personally, my participation was in different capacities. First as a representative of the Cordillera Women's Education and Resource Center, then as the Chairperson of the Cordillera Peoples' Alliance and finally as a representative of Tebtebba.

It was in 1985 when the UN-WGIP decided to work on a "Draft Declaration on Indigenous Rights." In the process of drafting the Declaration substantial dialogues between us, the experts and the states took place. This became the global forum where we discussed extensively our worldviews, justified why our rights to our ancestral lands, territories and resources should be respected, that we as distinct peoples have the right of self-determination, why free, prior and informed consent has to be part of the Declaration, among others.

There were several Chair-Rapporteurs of the WGIP but the one who stayed on the longest when the draft was being made, was Madame Erica-Irene Daes. The drafting finished in 1993 and was submitted to the UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities. The Draft consisted of 19 preambular paragraphs and 45 operative articles. This body adopted the Draft in 1994 and submitted it to the Commission on Human Rights.

UN Working Group on the Draft Declaration

Since the WGIP is not an intergovernmental body, but just an expert body, the Draft it made has to be negotiated between governments before it can be finalized as a text that is agreed upon by States. Thus, the Commission on Human Rights set up the "Working Group established in accordance with Commission on Human Rights resolution 1995/32 of 3 March 1995" to further elaborate and negotiate the Draft.³ Since the name of this Working Group is too long, we call it the Working Group on the

Draft Declaration (WGDD). This Open-ended Intersessional Working Group had its first session from 20 November to 1 December 1995 and completed its work at its 12th Session in February 3, 2006. The first Chair-Rapporteur was Ambassador Jose Urutia of the Government of Peru. He only stayed for the 1995 session and Luis Enrique Chavez Basgoitia, also from the Government of Peru, took over.

When this body first met in 1995 it had to work out its procedures and the first issue was whether indigenous representatives are allowed to have a voice in the meetings. The initial view of the States was no because this is now an intergovernmental process. We rejected this view and walked out of the process with the threat not to come back unless they agree that we have an equal voice as the governments. The Indigenous Caucus made a statement saying that any Declaration on the Rights of Indigenous Peoples which will come out of the UN will only have legitimacy if we, who are the subjects of the rights, are part of the drafting process. The States who are members of the UN Commission on Human Rights met and agreed that they will let us have a voice in the negotiations. So in all the sessions, we were allowed to speak in equal terms as the States.

When the negotiations started, the indigenous caucus position was that we will only push for the original draft as adopted by the Sub-commission. So year in and year out we went to the meetings and asserted that the original paragraphs should be adopted and we gave the justification why this was so in each article being discussed. In November 1997, two articles were provisionally adopted. These were Article 5 (indigenous individual has the right to a nationality) and 43 (all rights and freedoms are equally guaranteed to male and female individuals). As these are referring to individual rights there was no controversy.

The pace was so slow as indigenous representatives kept asserting the “no change” stance, which meant that the WGDD can only adopt the Sub-Commission text. The States, on the other hand, started raising issues with the original text. For instance, the US refused to accept the term “indigenous peoples” without qualifying it by saying the use of the term “cannot be construed as having any implications as to rights under international law.” This is language from the ILO Convention 169 and also the Durban Declaration and Programme of Action of the World

Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Most of the articles were unacceptable to some States as these referred to collective rights which they thought were against International Human Rights Law which are basically about individual rights. Thus, they questioned whether we have the right to self-determination (Article 3), whether our rights to lands territories and resources are part of our right of self-determination, among others. One of their fears was that with the right of self-determination, indigenous peoples can justify secession which would damage State Sovereignty and Territorial Integrity. We questioned the validity of their positions using existing international human rights law.

Proposals for Changes in the Draft

By 2002, eight years after the WGDD started its work, some friendly governments led by Norway came up with a proposal to include a reference on territorial integrity which comes from the 1970 Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations. This can allay the fears of States. Some governments were comfortable with this proposal while others were not. Indigenous representatives had divided views. Some were of the view that by accepting this we were already going against the “no change” position of the Caucus.

Others thought that if we would not move to accommodate some changes, the negotiations would come to an end and we would lose our chance of getting a UN Declaration on our rights.

We were also made aware that the Commission on Human Rights could not continue to support a process which does not seem to have prospects of ending with an outcome. In fact in 2000, the CHR made a decision (2000/19) which set five years as the specific time-frame for a working group to finish its task. The WGDD had been going on for eight years already, so we had to work harder to come up with agreements.

By this time, some of us in the caucus decided that a “no change” position was untenable and so we had to show some flexibility. Since the only position put forward has been a global

caucus position, the regions asserted that they would like to also present their own positions. The Arctic and Asia indigenous peoples' caucuses came out to say they can consider some changes as long as these would not undermine the most fundamental rights such as self-determination and rights to land, territories and resources. With the regions becoming the center of decision-making, the global caucus was not anymore used by some indigenous representatives to impose the "no change" position.

During the 61st Session of the Commission on Human Rights, the International Indian Treaty Council initiated a process to call for a recess of the WGDD. Without consulting the regional caucuses, it sent a letter to the President of the Commission on Human Rights, Ambassador Makarin Wibisono (Indonesia) dated March 15, 2005 asking the Commission to adopt the Sub-Commission Text and if this was not possible, then they would support the CHR to call

for a pause or recess in this process in order to take effective steps that would make the chances of success much greater. This recess will provide the Commission on Human Rights, beginning at this session, with the opportunity to establish, in full consultation with Indigenous Peoples,...⁴

I was present at the Session where the IITC was pushing for this, although they did not inform me of what they were up to. I found it unacceptable that a major step such as this was being taken by a group of indigenous persons without bringing it to the attention of the other regions. If it was presented before the indigenous caucus during the previous WGDD and there was a chance to discuss it, then this would have been a different story. I thought this was political suicide for indigenous peoples as many governments who were against the Declaration would jump on this and support it. So I sent out an alert to other indigenous colleague and, together with the Saami Council led by Mattias Ahren, mobilized to get other views from indigenous peoples in other parts of the world. The result of this was a joint letter addressed to the President of the CHR stating that what was sent by the IITC was just one view. Many other indigenous

peoples' organizations from other parts of the world do not agree that a recess should be called because this would bring a lot of uncertainty on the future of the Declaration. This was distributed widely to all the governments. The IITC tried to get a State to sponsor a resolution on this but they did not succeed. Several organizations, like the Grand Council of the Crees and the Inuit Circumpolar Conference, sent their joint letter to the President of the CHR protesting against this proposal. In the end, the proposal was killed.

Human Rights Council Adopts the Declaration

Between 2003 to 2005 there were already movements towards revisions in some articles. In 2006, the Commission on Human Rights ended its existence and was replaced by the Human Rights Council. The WGDD held its 11th and last session in December 2005 and it requested for an extension in 2006 so it could complete its work. The Chairman came up with a draft which we would be working on when we come back the next year. The last day of the WGDD-extended 11th session was February 3, 2006. There was still no complete agreement on the full text but most of the articles were more or less acceptable to most States and indigenous representatives. The Chairman was then asked to complete the text and have this circulated before it would be brought before the First Session of the Human Rights Council.

To prepare the ground for a favorable vote at the Human Rights Council, indigenous representatives started lobbying states during the 2006 session of the UN Permanent Forum on Indigenous Issues (UNPFII) which was held the last two weeks of May. I was already the Chair of the Forum by that time and we came up with a strong recommendation that the Human Rights Council adopt the Declaration and also that the 61st Session of the General Assembly also adopts it. The Human Rights Council had 47 member states so we had to lobby each and everyone of these states.

During the Human Rights Council, we were very apprehensive on which way the votes would go. The States in which we had confidence that will deliver the yes votes were those from Latin America and the European Union. We were not sure

about Asia and Africa. The burden of lobbying States from the regions rested with the regional caucuses. So in Asia, we tried our best to talk with the governments. The Philippines, whom I was expecting to vote yes, abstained in spite of our efforts to convince them.

On 29 June 2006, the Declaration, through Human Rights Council Resolution 2006/2, was adopted through a vote: 30 voted yes, 2 voted against (Canada and Russia) and 12 abstained.⁵ This was the first major victory for us.

For this we expressed our thanks first to, indigenous peoples, of course, because we did not lose hope that this would happen one day. We also thanked the governments who voted yes and those who played key roles in convincing other governments to vote yes. Among these were Peru, Mexico, Guatemala, Norway and Denmark. The Chair of the 1st Session of the Human Rights Council was Ambassador Luis de Alba of the Government of Mexico. His government sponsored a meeting in Patzcuaro, Michoacan, Mexico in September 2005 which brought governments and indigenous peoples together to bridge their differences. This was through the work of Xothchil Galvez, the head of the National Commission on Indigenous Peoples' Development of Mexico. She is an indigenous person herself. Through the whole HRC session, she was also there lobbying other governments to vote yet. We also thanked Luis Enrique Chavez, the Chairman-Rapporteur, who was able to bring the WGDD to a successful conclusion with a text on the Declaration. Finally, we thanked the support NGOs like the International Workgroup on Indigenous Affairs (IWGIA) which accompanied us in this whole journey.

Back to the Philippines

When I came back from the HRC session, Tebtebba together with other organizations of indigenous peoples, held an activity to celebrate the International Day of the World's Indigenous Peoples. This was held from 7-9 August 2006 at the SEAMEO-INNOTECH in Diliman, Quezon City, Philippines. We invited representative of indigenous peoples' organizations from all over the country, representatives of government agencies, NGOs, the UN and other multilateral bodies like the Euro-

pean Union and the Asian Development Bank and members of Congress. I told the story on how the Declaration got adopted by the HRC and discussed the contents of the Declaration. We also shared the Second Decade of the World's Indigenous Peoples Programme of Action. The abstention of the Philippine government was decried by the indigenous participants. A strong request was put before the government agencies and the members of Congress to push the government to vote yes when the Declaration is put for adoption by the General Assembly.

On August 9, the Chair of the National Commission on Human Rights, Hon. Purificacion Quisumbing invited me to meet with government agencies whom she invited. She was present at the HRC shortly before the Declaration was adopted and promised me that when we were back home, she would organize a meeting with the various government agencies to discuss the Declaration. This meeting was attended by the members of the National Commission on Human Rights, representatives of the Department of Foreign Affairs (Section on the UN and Other International Organizations), Office of the Solicitor General (OSG), National Commission on Indigenous Peoples, among others. The OSG, which penned the legal opinion on why the Philippines should abstain, explained their position. The Department of Foreign Affairs also spoke up. Chair Quisumbing demolished the arguments made by the OSG and all the Commissioners spoke up to say they thought that the Philippine Government should vote for its adoption at the General Assembly.

In the meantime, the National Commission on Indigenous Peoples prepared an *en banc* resolution asking the Philippine Government to adopt the Declaration. This was presented to me as the Chair of the Permanent Forum at the gathering we organized. According to the then Chair of the NCIP, Janette Cansing Serrano, they were going to work on this. A few months later, there was a budget hearing in Congress for the NCIP. Just before their turn came, the Department of Foreign Affairs Budget was being heard. She invited several Party-List representatives, Rafael Mariano and Riza Hontiveros, to question the DFA on why they abstained during the adoption of the Declaration in Geneva. They asked them to explain why their budget should be approved when they were going against a Declaration which

was consistent with the Indigenous Peoples' Rights Act (IPRA), a legislation passed by Congress. A short recess was called and the DFA had a caucus among themselves. They came back and committed that they would vote yes when the Declaration would come up for adoption at the General Assembly. Serrano reported this to me so I got assured that there would be no problems during the GA, as far as the Philippines was concerned.

61st Session of the General Assembly: September – December 2006 session

The HRC-adopted Declaration was brought before the 61st Session of the General Assembly, in particular, in its September to December 2006 session. The Global Indigenous Caucus held strategy meetings to talk about the lobbying activities. There were apprehensions about the fact that this would be brought before the Third Committee (Social, Humanitarian and Cultural Committee) of the General Assembly. This was the Committee which could reopen the Declaration and amend it. The Human Rights Council wanted the resolution on the adoption of the Declaration to immediately go to the Plenary without passing through the Third Committee. In the end, this was still brought to the Committee.

The date for the discussion of the Declaration was set for November 28, 2006. There was news that the Africans were not happy with the Declaration and that they might table an amendment to the resolution of Peru and other co-sponsors calling for the adoption of the Declaration. They claimed that it was the first time for most of them to see the Declaration so they needed time to discuss this among themselves and also in the capitals. This made the co-sponsoring governments and the indigenous caucus worried. Indigenous representatives tried to get to the African governments to talk with them but they were not interested. They had the view that this was a negotiation between member-states of the UN and not between them and non-state actors.

Before November came, some of us paid visits to the Permanent Missions of Asian governments like that of China, the Philippines, Indonesia to ask how they would respond to the African position. It was obvious to us that if Africa will, indeed,

table a resolution it will be difficult for Asian countries to oppose them. We were advised that we should work hard to clarify with the Africans their doubts and encourage them to support the adoption.

In a document dated October 31, 2006, the government of Peru and a number of co-sponsors tabled a draft resolution A/C.3/61/L.18.⁶ This resolution called on the General Assembly to adopt the UN Declaration on the Rights of Indigenous Peoples, as adopted by the Human Rights Council on June 29, 2006. This was formally introduced at the 37th meeting of the Third Committee on November 2.

Then on November 28 at the 53rd meeting of the Third Committee, Peru, again with the same co-sponsors but with Albania, Andorra and Malta joining, introduced an amended version of the earlier draft resolution (A/C.3/61/L.18/Rev.1). This contained some changes to accommodate some of the concerns of the African Group of States.

Deferral of the Adoption of the Declaration

In spite of this, though, Namibia, on behalf of the Group of African States still presented an amendment to the amendment (resolution A/C.3/61/L.57 - Peru's resolution.). This is to "defer consideration and action on the United Nations Declaration on the Rights of Indigenous Peoples to allow time for further consultations." Peru then withdrew its resolution. Then at the 57th Meeting on December 3, the Chairman of the Committee then presented the Draft Resolution which would be presented to the General Assembly which reads;

Draft resolution II

Working group of the Commission on Human Rights to elaborate a draft declaration in accordance with paragraph 5 of General Assembly resolution 49/214 of 23 December 1994

The General Assembly,

Guided by the purposes and principles of the Charter

of the United Nations, in particular the principles of self-determination of peoples, respect for the territorial integrity of States and good faith regarding the fulfilment of the obligations assumed by States in accordance with the Charter,

Taking note of the recommendation of the Human Rights Council contained in its resolution 1/2 of 29 June 2006,¹ by which the Council adopted the text of the United Nations Declaration on the Rights of Indigenous Peoples,

Recognizing that the situation of indigenous peoples varies from country to country and from region to region,

1. *Expresses its appreciation* to the Working Group of the Commission on Human Rights for the work done in the elaboration of a draft declaration on the rights of indigenous peoples,

2. *Decides* to defer consideration and action on the United Nations Declaration on the Rights of Indigenous Peoples to allow time for further consultations thereon;

3. *Also decides* to conclude its consideration of the Declaration, as contained in the annex to the present resolution, before the end of its sixty-first session.

The Africa group also released a Draft *Aide-Memoire* in November 9 which contained their concerns with the Declaration and this included, among others, definitions of indigenous peoples, self-determination, rights to lands, territories and resources, establishment of distinct political and economic institutions and national unity and territorial integrity. On the basis of these concerns, they proposed that a deferment on action on the Declaration for one year be taken to allow time for these to be addressed.

In November 28, 2006, the draft Namibia Resolution to defer the adoption was passed through a vote at the Third Committee. Eightytwo (82) voted yes, 67 voted no and 25 abstained.⁷ This was a terrible day for the indigenous peoples. This was not what we expected at all. We thought that because this is one of the two standard-setting instruments adopted by the Human

Rights Council in its First Session, the General Assembly would adopt it without much fanfare. We could not imagine that the General Assembly would behave this way.

Obviously, we were wrong with our projection. The various regions came up with statements condemning the Africa States for their action. As Chair of the Permanent Forum, I also came up with a statement during the International Human Rights Day, December 10, stating that there was nothing to be celebrated because the General Assembly failed in its responsibility to recognize indigenous peoples' rights when it deferred the adoption of the Declaration.

Those who voted with the Africans from Southeast Asia were Brunei, Indonesia, Myanmar, Singapore and Thailand. Indonesia behaved strangely because it voted yes at the HRC but voted with the Africans for the deferral. This time, the Philippines abstained.

Role of the African Commission on Human and Peoples' Rights

The co-sponsoring governments for the adoption and the indigenous peoples had to recover from this defeat and start picking up the pieces again. As the resolution of Namibia still says that the Declaration should still be adopted before the end of the 61st Session of the GA, there was still time to repair this damage and still attain the objective of getting the Declaration adopted. The end of the 61st Session is September 17, 2007. One of the things which should be done is to change the position of the African Group of States. While there might be a possibility to win the votes if we work hard on those who abstained on the Namibian Amendment, this was going to be a high risk proposition.

The Africans were able to get the Assembly of Heads of State and Government of the African Union to concur with the resolution passed at the GA. Because of this, the African Commission on Human and Peoples' Rights (ACHPR) prepared an Advisory Opinion which responded to the concerns raised in the Aide-Memoire of 9 November 2006. This was given to the governments with the hope that this would allay some of the concerns raised and will help lead towards the adoption of the

Declaration. This was the result of the work of the African Commission Working Group of Experts on Indigenous Populations/Communities. This Working Group had done a study on the concept of indigenous populations in the African Continent and the report on this was adopted by the ACHPR in its 34th Ordinary Session in November 2003.

The ACHPR advisory opinion tackled the concerns one by one. I will not go into all of these but just to give an example, this is what it said on the concern on the lack of definition of indigenous populations.

From the studies carried out on this issue and the decisions it has made on this matter, the ACHPR is of the view that a definition is not necessary or useful as there is no universally agreed definition of the term and no single definition can capture the characteristics of indigenous populations. Rather, it is much more relevant and constructive to try to bring out the main characteristics allowing the identification of the indigenous populations and communities in Africa.⁸

In spite of this, the Africa Group prepared their amendments which they released in May 2007. There were around 36 changes which effectively would mangle the whole Declaration. Indigenous peoples condemned these as discriminatory. There was not much movement between January to May except for this.

The African Indigenous Peoples' Caucus decided that the Experts of the African Commission Working Group on Indigenous Populations, together with a few indigenous representatives⁹ should go to New York to lobby the African delegations based there. With the support of IWGIA, this trip materialized on April 28 – May 4, 2007. They were able to visit many Permanent Missions of the African countries and a roundtable was also held where they had a discussion with African and other governments.

6th Session of the Permanent Forum on Indigenous Issues

Before the 6th Session of the Permanent Forum, there were some regions which held their preparatory meetings for the session. Asia was one of these which held their meeting in Cambodia in April. In this meeting, we discussed the situation regarding the Declaration and tasked each of the representatives from all the countries who attended to do their share of the work in terms of lobbying their governments. We specifically made a resolution addressing the President of Indonesia as AMAN, the National Federation of Indigenous Peoples' Organizations in that country, will hold their General Assembly. They would like to present their own resolution and the regional one to the President. Among the countries singled out for special attention were Indonesia and Thailand, because they voted yes for the Namibia Amendment. Laos, Cambodia and Vietnam were also included as they were absent during the HRC adoption in Geneva.

Indigenous peoples renewed their lobbying efforts and during the 6th Session of the UN Permanent Forum on Indigenous Issues in the last two weeks of May, strategy meetings were held. The African indigenous representatives were urged to do more work with their governments so that in the next round they would vote for the Declaration. The aim was still to get the GA to adopt the UN Human Rights Council Text.

The Permanent Forum invited the President of the 61st Session of the General Assembly, Ambassador Sheikha Haya Rashed Al Khalifa (Bahrain), the President of ECOSOC, and the President of the Human Rights Council, H.E. Ambassador Luis de Alba (Mexico) to speak at the opening plenary session. This was an opportunity to get their commitments for the adoption of the Declaration before the indigenous representatives who were in the session. In my opening statement as the elected Chair for the 6th Session of the Forum, I appealed to the member states of the ECOSOC, especially to the African Group of States, to support the adoption.

Many of the indigenous representatives who intervened also said the same. Some of the States who co-sponsored the resolution for adoption at the Third Committee spoke up to say that they would do all they can to make sure that this happens. The Forum reiterated its 2006 recommendation that the Declaration be adopted before the 61st Session ends as this will be an important framework for the work of the Forum. While the Fo-

rum was meeting, the indigenous peoples used their time to keep talking with the governments. The Arctic representatives, for instance, met with the European Union and the Pacific caucus met with the Pacific States. There were dinners organized by the Quakers of Canada which brought the indigenous representatives and the African Group of States and the Asian States together.

Some of the regional coordinators of the Caucus met with the President of the General Assembly to express our concern about the fate of the Declaration and to impress on her that she should do all she can to ensure that this be adopted during her Presidency. If this happens, the indigenous peoples will forever remember her. She told us that since nothing has moved in relation to the informal consultations held so far, she was going to appoint a facilitator to try once more to bring together governments, informally, to agree on the changes. The Secretariat of the Forum helped set up the meeting with the President and also the press conferences where we did not only to talk about the Forum issues, but also to appeal to governments to support the adoption.

Appointment of Ambassador Davide as the Facilitator

There were a lot of speculations on who would be appointed as the facilitator. Guatemala told us that President was considering Bahamas or Singapore. This did not look good as these countries were not interested at all in the Declaration. But it seemed nobody really liked to be in this position. By June 6, the President came out with a letter appointing Ambassador Hilario Davide of the Philippines to be the facilitator. He was instructed to conduct informal consultations and then to come back with a report on July 15.

In the meantime the Steering Committee of the Indigenous Peoples' Caucus requested Les Malezer, who was chairing the Global Caucus, to make provisions to stay in New York from June until the Declaration is adopted. We needed a person who can be an anchor in New York to monitor developments and to constantly speak with the States. He agreed to do this and so he based himself there by mid-June 2007. We agreed that some of us would try to be in New York for some days or weeks to be

with him and help him.

Since the facilitator was the Philippine Ambassador, as a member of the Steering Committee from Asia and from the Philippines, I scheduled some meetings with him and his technical expert, Ivy Banzon, from the Philippine Permanent Mission. I flew to New York at the end of June to help Les Malezer. There was an information that some of the co-sponsors were asking what my position as the Chair of the Permanent Forum is and some members of the Steering Committee felt that I had to go to New York to meet with some of them. So instead of going to Salekhard, Russia where the Permanent Forum was having a meeting, I had to make a decision to reroute and fly to New York instead. Les Malezer and I met with several delegations on a one-on-one basis. We met with Mexico, Guatemala and Libya. I met with Ivy Banzon who briefed me about the results of the consultations Ambassador Davide held with various groups.

Amd. Davide met with the African group of States, then combined them with the co-sponsors and they also held meetings with Canada, Australia and New Zealand. The indigenous peoples asked that he also holds a meeting with them which also took place. Davide invited the indigenous caucus to a meeting he was holding with governments. When they were all in the room, the Russian Federation complained that non-state actors were in the room. So, as per General Assembly ruling that if a member state complains, then a decision has to be made to let these non-state actors leave. After this government meeting, Davide still met with the indigenous caucus to brief them on the situation.

I had to go to Geneva to attend the ECOSOC Functional Commissions Meeting which was scheduled July 10.. The Permanent Forum on Indigenous Issues is a subsidiary body of the ECOSOC so it takes part in the meetings of the Functional Commissions.¹⁰ The Chair of this meeting was Ambassador Davide as he was one of the Vice-Presidents of the ECOSOC. After the ECOSOC session, I scheduled to meet with him. I and Mattias Ahren, a Saami from Sweden who is the co-coordinator for the Arctic Indigenous Peoples' Caucus, went to meet him. He told us about his own assessment of the situation and he said that he was finishing his report to the President of the General Assembly. His conclusion was that there was no consensus that

can be reached. However, he said that States cannot complain anymore that they were not heard as he spent time hearing their concerns and discussing these with them.

The situation so far was that the position of the co-sponsors was still to stick with the Human Rights Council text, that the Africans were still pushing their 36 amendments and that Canada, Australia, New Zealand, Russia, Colombia, Guyana and Surinam (we call them the Group of 7) will present their own proposal which was to reopen the discussion around several themes. So he will say in his report that this was the situation and that he would propose a way forward which is to agree on a few amendments. He posed questions which should be asked to judge whether the amendments are acceptable.

- Does it represent a genuine effort to address the various concerns?
- Does it build on, and not undermine, the efforts and achievements of the process at the Commission on Human Rights and Human Rights Council?
- Does it preserve the purpose for the Declaration for indigenous peoples?
- Will it ensure that the Declaration does not fall below existing human rights standards?

In July 16, he submitted his report to the President of the General Assembly, thus ending his role as a facilitator. The Group of 7 met with him after the submission to present their amendments, requesting that these be included in his report. He said that his report was already submitted so he would just send these as an annex. By this time, we got the impression that the Africans no longer wanted to be seen as the bad guys so they were reaching out to the co-sponsors to see what they can work on. This was a major development in the process.

The Strategy of the Global Indigenous Caucus Steering Committee

The Global Indigenous Caucus Steering Committee¹¹ continued to hold electronic discussions on the next steps should

be. We already got word that there were ongoing informal negotiations between the co-sponsors (led by Mexico, Peru and Guatemala) and the leaders of the African Group of States (Namibia and Botswana). So the developments around this was what we were closely monitoring. While the official position of the Caucus was still to push for the adoption of the Human Rights Council text, there were several of us who were open to see the amendments and to judge whether these were acceptable or not. We felt that the best chance that we would get the Declaration was to bring the Africans on board. It would be very difficult to bring the Middle East countries and the other Asian countries to support the adoption if the Africans would vote against it. To do this, we had to show good faith that we were willing to accommodate some of their amendments. But we still kept counting the possible votes we would get in case we insisted that the Human Rights Council text be adopted.

There were a few voices within the Caucus suggesting that maybe we should drop the plan to get this Declaration adopted by the General Assembly. We can just settle with the Human Rights Council version and implement it together with the 30 States who voted for it. The General Assembly can just note the existence of this Declaration and then it was up to indigenous peoples to use it as they wish. Mattias Ahren of the Saami Council wrote a long email stating his vehement disagreement with this option because there are 192 member-states of the General Assembly and only 30 voted for this in the HRC. Its legitimacy as an international instrument will be very compromised if this was the route we would take.

We were also monitoring the moves of Canada, Australia, New Zealand and Russia as they were doing their own moves to undermine the process and the Declaration. They submitted their amendments dated August 13, 2007 which were on 13 articles.¹² Like the amendments of the African Group of States, these were totally unacceptable to the indigenous peoples caucus. One example of this was their proposal to change Article 26 (right to lands, territories and resources) to say that indigenous peoples "... may have rights to the lands, territories and resources which they have traditionally owned, occupied or used."

The Group of 7 were not being consulted anymore by the co-sponsors as their concentration was with the Africans. We

also agreed with this move as we did not see any possibility of these countries changing their position to vote against the Declaration. We still might get Guyana and Surinam as the Latin American indigenous peoples were working on them. The indigenous peoples from Canada went all out to condemn their government who still took the hardline position in spite of the fact that it was a Minority government and the opposition in the Parliament made a stand to support the Declaration. We were not clear on what the US was doing but what we heard was that it was not actively lobbying. We surmised that Canada was already doing the work, so why should the US bother?

We decided that most of us should be in New York by the last week of August to monitor the developments and to make recommendations to the regional caucuses based on the possible amendments which will be agreed upon by the co-sponsors and African states.

To get the involvement of NGOs based in the United States, I worked closely with the International Forum on Globalization, of which I am the co-President, to work on this. The IFG organized a meeting in Washington in August where we, Les Malezer and I, met with almost 20 representatives of international NGOs based in Washington. It was there where we planned that we would hold a rally on August 30 before the Permanent Missions of Canada, Australia and New Zealand. This was to shame them publicly for their opposition to the Declaration.

This mass demonstration, which was organized by the International Forum on Globalization, took place in August 30 and we managed to get a group of around 50 persons who went to the Canadian Permanent Mission, the New Zealand Mission - which was just in front of the UN Building - and the Australian Mission on 42nd Street. The indigenous persons and NGO representatives from these countries were the ones who spoke. A joint letter from the NGOs¹³ were brought to the missions and at the Australian Mission, the Deputy Permanent Representative came down to receive the statement. Rainy Bluecloud, a young Mohawk activist who was hired by IFG was the one who mainly anchored this activity. Most of the indigenous representatives present in New York took part in this historic demonstration.

On 27 August 2007, the Steering Committee met for updates and to plan out what we will do while we were in New York. During this period, continuous negotiations were already taking place between Mexico, Guatemala and Peru on one hand, and the African Group of States represented by Namibia and Botswana on the other. We were being updated by Mexico, Guatemala and Peru on the developments and we set a meeting with them on August 29 to get the latest situation.

On August 30, just before the rally took place, I met Enrique Javier Ochoa Martinez, the lead Mexican negotiator, on the way to the UN. I asked him what the situation was and he said they stayed up late the night before because they could not yet come to an agreement on the Preambular Paragraph which says “*Recognizing that indigenous peoples have the right on an equal basis with others* freely to determine their relationships with States in a spirit of coexistence, mutual benefit and full respect.” The UK was not happy with this as they see it as recognizing that others also have collective rights. So I suggested that they strike this out as the essence of this has been said in other parts of the Declaration. He said that he would suggest this and he would inform us if they already have agreed. I assured him that the caucus won’t mind this. By 2:00pm, while we were in the rally, he called up and said that they finally agreed and there was now a text which they can present to us the next day.

The Global Indigenous Peoples Steering Committee prepared a very comprehensive account of what happened in the meeting with the co-sponsor group on the 29th of August and on the 31st. This report was sent to all the regional caucuses. Instead of recounting what happened, I will quote most parts of this report as this is a report of the body I was part of.

Report of the Global Indigenous Peoples’ Caucus Steering Committee, 31 August 2007

Developments this week

“On Tuesday, August 29, the co-sponsors met with the Steering Committee to report on their negotiations with the African Group. They reported that this has been a very difficult process, but that they were now very close to an agreement, however, a few details still need to be resolved. They did not

provide the Steering Committee with any of the language being discussed, and did not go into any details as to what the emerging agreement looked like. They assured us that the provisions on land, territories and resources, self-determination, free prior and informed consent and treaties remained intact but they have to agree to the insertion of a reference to state territorial integrity in the Declaration text. The co-sponsors thanked the indigenous peoples for putting a lot of pressure on the African States as this has definitely helped in bringing them to negotiate with them.

They further explained that they had no option but to enter into negotiations on the actual Declaration text as it is evident that it would be impossible to reach an agreement with the African Group if they did not consider some amendments to the Declaration text. Further, the co-sponsor group deemed it too risky to try to push the Declaration as adopted by the Human Rights Council through the General Assembly against the opposition of the African Group. To do so would seriously jeopardize the adoption of the Declaration and would ensure that very unfavourable amendments would be presented on the floor during the debate at the General Assembly. Hence, in the co-sponsor group's assessment it was necessary to enter into text negotiations with the African Group.

The Steering Committee responded by expressing its gratitude for the co-sponsors' efforts to reach an agreement on the Declaration. The Steering Committee further stated that it would not be in a position to comment on any agreement until they had been provided with the actual agreed text. The states responded that they would provide the Steering Committee with the agreed text as soon as a formal agreement with the African Group had been reached.

The co-sponsors further said that the momentum to have a Declaration adopted is strong at this time. An agreement between the co-sponsors and the Africa Group has to be reached in the next few days as the opposing states – predominantly Canada and New Zealand – are trying very hard to stop the coming into being of such an agreement. Pressure from the opposing states is reaching the heads of states of some of the co-sponsors. The forthcoming Asia-Pacific Economic Cooperation (APEC) meeting on 4-7 September 2007, which will be held in Australia and attended by heads of states from the CANZUS

(Canada, Australia, New Zealand and the US) group will be a fertile ground for such lobbying thus, the urgency of finalizing the agreement. The opposing states demanded to be included in the negotiations and that their proposed language (see attachment) also be considered. The co-sponsors expressed the opinion that if the deliberations on the Declaration are extended beyond the General Assembly's 61st session, it would no longer be possible to keep Canada, New Zealand et. al – nor their proposed amendments - out of the negotiations. The outcome of such a process could only, in the co-sponsors' opinion, be a seriously diluted Declaration.

The co-sponsor group also informed the Steering Committee that an agreement with the African Group would include a pact to jointly vote down any amendments on the floor of the General Assembly, coming from Canada, or other opposing nations.

The Chair of the Steering Committee distributed a document containing the amendments to the Declaration that he foresaw might be included in a negotiated agreement between the co-sponsor group and the African Group. Since these amendments were not confirmed, the Steering Committee decided not to distribute the document. It was considered better to wait for an official text before circulating the agreement in the regions.

Nevertheless, the Steering Committee discussed and analysed the amendments, as foreseen and presented by the committee Chair. The Steering Committee quickly concluded that of the envisioned amendments, the one that caused the most concern was the inclusion of a reference to territorial integrity in Article 46. The committee understood that it would be nearly impossible to avoid a reference to territorial integrity in the Declaration. It is evidently too important to many African (and also Asian) states. Some committee members, however, thought that the proposal was discriminatory, and potentially could be harmful to Indigenous peoples and the rights in the Declaration. Other committee members did not see any problem with the proposed language as this is standard language in most international instruments and this is balanced and safeguarded with several clauses in the various parts of the Declaration.

Given that an agreement between the co-sponsor group

and the African Group was imminent, the Steering Committee recognized that it would be very difficult, probably impossible, to influence the text amendments at this stage. Some committee members thought that the language on territorial integrity, if it had to be included, should be stated in a way that was more consistent with texts that already exist in international law. The committee decided to make an attempt to craft language on territorial integrity to be handed over to Mexico for use in the final negotiations with the African Group. Two paragraphs with suggested wording along those lines were drafted to present to the co-sponsors without delay.

On the evening of August 29, the Chair of the Steering Committee together with the Chair of the Permanent Forum, and also regional member of the Steering Committee, Victoria Tauli-Corpuz met with the co-sponsors and presented the committee's suggested wording for improvements on the language on territorial integrity.

The Co-sponsor/ Africa Agreement

On the afternoon of August 30, the government of Mexico informed the Steering Committee that the co-sponsor group and the African Group had reached an agreement on the Declaration. On August 31 the co-sponsors met with the Steering Committee and presented the text of the negotiated agreement, which contained nine changes to the Declaration as passed by the Human Rights Council.

Committee members first expressed gratitude to the co-sponsors for all their efforts and for being able to successfully reach an agreement with the African Group. The Steering Committee stated that Indigenous peoples in the seven regions would now study the agreement, and come back to the co-sponsors with their position. Since time is short, it was decided that the committee would meet with the co-sponsors after the regional consultations and report back indigenous people's positions on the Declaration with the negotiated changes.

Responding to questions and concerns from members of the Steering Committee, the co-sponsors offered the following information about the agreement:

- In their view this is the final document. The African Group has committed to not come forward with any

further request for additional amendments to the Declaration and has agreed to vote against any amendments made on the floor.

- The co-sponsors were satisfied that they had managed to reach an agreement with the African Group that includes amendments to very few of the provisions in the Declaration, in particular compared to the long list of amendments that the African Group initially wanted to see included in the Declaration. The co-sponsors further stated that they were very pleased to present an agreed Declaration that leaves all – in their opinion – the most central articles in the Human Rights Council Declaration intact. These include the articles on self-determination; lands, territories and natural resources; free, prior and informed consent; treaties; and preambular paragraphs recognizing inherent and equal rights of Indigenous peoples.
- The co-sponsors stated that even though technically speaking it is not a closed document, that in their view it would not be possible to open up the negotiated text for any further amendments without other interested parties – such as opposing states like Canada, New Zealand and the Russian Federation – also being invited to the negotiating table.
- They further stated that the agreement must be seen as an integrated whole or “package”. This means that if the co-sponsor group would go back to the African Group and attempt to re-negotiate the language on territorial integrity, the African Group would instantly respond by wanting to open up the articles on lands and natural resources for negotiation, which are unchanged from the Human Rights Council text. Hence, in the co-sponsor group’s opinion, it is not a viable option for Indigenous peoples to try to further amend the agreed changes as presently drafted. Their interest now is to know whether Indigenous peoples can accept the Declaration or not with the newly negotiated changes.
- They repeated what has always been the case: that the

co-sponsors will not go ahead and push for adoption of a Declaration that Indigenous peoples do not want. They said that this amended text should be analysed from a political lens than from a legalistic lens.

- If a Declaration that enjoys the support of the African Group is presented to the UN General Assembly, the co-sponsor group is certain that the vast majority of Asian, Eastern European and Caribbean states will also support the Declaration. Western Europe and Latin America's votes have already been secured. If the Indigenous peoples of the world support the adoption of the Declaration as agreed to by the co-sponsors and the African Group, the co-sponsors believe it will be adopted by the UN General Assembly with overwhelming majority. (Currently there are 67 co-sponsors plus the 53 countries of the African Group which adds up to 120 votes. This is a clear majority as there are a total of 192 members of the General Assembly).

Discussions regarding changes to Article 46 and "territorial integrity"

The co-sponsors were well aware that many Indigenous peoples had argued for many years against the inclusion of a provision upholding state territorial integrity in the Declaration. They explained that they understood that this might be the most difficult provision for Indigenous peoples to accept in the newly negotiated text. They also once again expressed that an agreement with the African Group would not be possible without this inclusion.

Members of the Steering Committee again asked the co-sponsors why their suggested wording on territorial integrity had not been included in the final agreed changes. The co-sponsor group responded that it was not possible to include the language on territorial integrity submitted by the Steering Committee, because it would have led to the African Group insisting on opening up the land and resource articles for changes. They were also asked if the opening phrase of Article 46 which says "Nothing in this Declaration may be interpreted as implying..." would affect all the rights in Declaration. The co-sponsors said that in existing international law, territorial integrity

is clearly tied to the exercise of the right to self-determination and therefore would not be construed as affecting other rights. They further added that the reference to the Vienna Declaration and Programme of Action in the preamble would reaffirm this.

In further discussions, members of the Steering Committee responded to concerns expressed for Indigenous peoples' territorial integrity by affirming that in their view Article 26 left intact in fact recognizes Indigenous peoples' territorial integrity over lands they have traditionally owned and occupied. Article 37 on treaties further affirms these rights. They also agreed that the reference to the Vienna Declaration and Program of Action will be an additional safeguard clause."

Feedback from Indigenous Peoples' Organizations from the Regions

This letter quoted above was sent to all the members of the various regional caucuses which came with the Amended Text of the Declaration (9 changes) which highlighted the changes from the HRC Text; the Canada/New Zealand/Russia/Columbia Proposals (20 changes, Aug. 13, 2007); and the original Africa Proposed Amendments (36 changes, May 2007). These additional attachments were sent for them to compare what was finally agreed upon with the earlier proposals. The instruction was that they should send back their position not later than September 4, at 12 noon, New York time. The regional coordinators were in charge of sending out the information and receiving the responses from their regions. Then the Steering Committee will meet on Sept. 5 to consolidate the results. I prepared one for Asia, as I was the only one left again in New York after Joan Carling of the Cordillera Peoples Alliance, who stayed for the first week, had to leave. Different modes were adopted. I mainly sent this through email and asked my office in the Philippines to call those who were not responding. The North American caucus and Latin America did conference calls in addition to the emails.

The time given was short because we already knew that the Declaration would be presented before the General Assembly on 13 September 2007. By September 5, we will have to inform the co-sponsors if the indigenous caucuses agree with the

changes. Then this has to be translated into the six UN languages. All the caucuses,¹⁴ except the North American caucus (mainly the US groups), had a consensus that they accepted the amendments. The few indigenous organizations in the US who did not accept the changes said they would not block the consensus. All the Asia indigenous peoples' organizations from 11 countries which I emailed replied positively that they would accept the amendments. The Steering Committee met in September 5 to get the regional reports.

The next day, 6 September, we held a press conference at the UN Press room. Those who spoke were Les Malezer, the Chair of the Global Caucus and the Co-coordinator for the Pacific, Joseph Ole Simmel the Co-coordinator for Africa and I, as the Chair of the Permanent Forum and the Co-coordinator for Asia. Before the press conference I also consulted with my colleagues in the Permanent Forum whether they agreed with the changes in the text. Most of them emailed back saying they did; and so I stated in the press conference that it was not just the Asia Indigenous Peoples' Organizations who supported the amended text but also most of the members of the Permanent Forum.

We met with the co-sponsors on 7 September to inform them of the consolidated position. We also looked at the draft resolution that they were going to present. This was a simple resolution saying that it takes note of the HRC adoption of the Declaration and then calling on the General Assembly to adopt the Declaration (revised version) annexed to the resolution. They assured us that the Africans will not put any amendments nor will the Canadians. It will be put to a vote but they are confident that we will get the majority.

The Historic Day, September 13, 2007

Between the 7th to the 12th of September, we spent the time preparing our regional caucus statements. I prepared the Asia Indigenous Peoples' Regional Caucus Statement and my own statement as the Chair of the Permanent Forum. The co-sponsors suggested that I, as the Chair, and Les Malezer should speak before the General Assembly when the Declaration is adopted. I suggested this to Elsa Stamatopoulou, the Chief of

the Secretariat of the Forum. She said this was a difficult challenge because it was not the practice of the GA to allow non-state members to speak, especially if this was a UN body. Anyway, she said that she will do what she can. She wrote the General Assembly Secretariat who finally answered after a few days saying that we can speak, but only after all the governments have spoken. There will be a recess called for the formal session and the GA will go into informal session. Then I and Les can speak.

On this day there, were many indigenous representatives who came from Canada and the US to witness the event. The Secretariat of the Forum arranged with the GA secretariat that the regional coordinators and other indigenous representatives would have a seat at the main floor of the GA Hall. The others will be at the Public Gallery. Some of those involved in the drafting of the Declaration from the beginning were there. These were Professor James Anaya of the University of Arizona and Tim Coulter of the Indian Law Resource Center, among others. John Henriksen of the Saami Council was also present. He was the one who recommended at an early stage of the WGDD that a reference on territorial integrity be included as the States will never accept a Declaration without this. He was vilified by other indigenous organizations for this proposal but it turned out he was right after all. Many Chiefs from Canada were present which included Phil Fontaine, the Grand Chief of the Assembly of First Nations. .

From the side of the Philippine government, I communicated with Mr. Eugenio Insigne , the Chair of the National Commission on Indigenous Peoples in the Philippines, to ensure he will be able to come. We spoke before I left for New York and I encouraged him to come to New York to attend the session when the Declaration will be adopted. He agreed and he worked on this. He arrived exactly on the 13 morning and he was able to enter the GA Hall just as the session was starting.

The agenda item on the Declaration was the 6th and last item for that day. However, by 11:00am, the rest of the agenda items were done, so the President opened Agenda Item 6. The Resolution was presented by Luis Enrique Chavez, the Chairman-Rapporteur of the WGDD, who is now based in the Permanent Mission of Peru in New York. He mentioned the additional

co-sponsors for the resolution (A/61/L.67) . The original co-sponsors were Belgium, Bolivia, Costa Rica, Cuba, Denmark, Dominican Republic, Ecuador, Estonia, Finland, Germany, Greece, Guatemala, Hungary, Latvia, Nicaragua, Peru, Portugal, Slovenia and Spain. He added the following; Andorra, Armenia, Austria, Croatia, Cyprus, Fiji Republic, Lituania, Luxembourg, Malta, Nauru, Italy, Panama, Serbia, South Africa, Switzerland, TFYR-Macedonia.

After this, the President said that the statements in explanation of vote will be made before the vote is cast. Australia, through Robert Hill, spoke first and said that Australia was not able to participate in the negotiations of the text and is deeply disappointed that no such meeting was convened. He said Australia will vote no. John Mcnee of the Government of Canada followed and stated that "By voting against the text, Canada put on record its disappointment with both the substance and the process." Rosemary Banks, the Permanent Representative of New Zealand said that "the provision on lands and resources could not be implemented in New Zealand..it was unable to support a text that included provisions that were so incompatible with its democratic processes, legislation and constitutional arrangements." It had to vote against it. The next speaker was Robert Hagen of the United States who also said it will vote no, followed by Russia who surprisingly abstained from voting. Benin came next and said they will vote yes. Colombia, whom were expecting to vote no, abstained.

When the President announced that the vote will be taken at around 12 noon, Guatemala raised its flag and asked who was calling the vote. She said it was the US, Australia and New Zealand. Surprisingly Canada did not join the group.

The Assembly then proceeded to vote and the recorded vote was 143¹⁵ in favor, 4 (Australia, Canada, New Zealand and USA) against and 11¹⁶ abstained. There were 34¹⁷ who were absent. Thirtyeight (38) member states took the floor afterwards to explain their vote after the vote and this included the Philippines. Mr. Insigne spoke on behalf of the Philippines and said that his "[D]elegation's expression of support was premised on the understanding that the right to self-determination shall not be construed as encouraging any action that would dismember

or impair territorial integrity or political unity of a sovereign or independent State. It was also based on the understanding that land ownership and natural resources was vested in the State.”

Then I was asked by the President to read my statement as the Chair of the Forum and Les Malezer to read his statement as the Chair of the Global Indigenous Peoples’ Caucus. These statements are part of this publication.

For those of us who were there, this historic day will never be forgotten. What needs to be done next is to discuss how this UN Declaration on the Rights of Indigenous Peoples will be implemented to make the lives of indigenous peoples of the world a life of dignity and pride.

13 October 2007

Endnotes:

¹ U.N. Sub-Commission on Prevention of Discrimination and Protection of Minorities, Study of the Problem of Discrimination against Indigenous Populations, U.N. Doc. E/CN.4/Sub.2/1986/7 & Add. 1-4 (1986).

² This was established on the basis the Economic and Social Council (ECOSOC) resolution 1982/34.

³ By resolution 1995/32 of 3 March 1995, the Commission on Human Rights decided to establish an open-ended intersessional working group of the Commission on Human Rights with the sole purpose of elaborating a draft declaration, considering the draft contained in the annex to resolution 1994/45 of 26 August 1994 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (now the Sub-Commission on the Promotion and Protection of Human Rights) entitled “Draft United Nations declaration on the rights of indigenous peoples” for consideration and adoption by the General Assembly within the International Decade of the World’s Indigenous People. This decision was endorsed by the Economic and Social Council in its resolution 1995/32 of 25 July 1995.’

⁴ IITC Et. Al., Letter to the U.N. Commission on Human Rights, March 15, 2005.

⁵ 30 yes votes by regions were as follows: Asia (9)

– China, Indonesia, India, Japan, Malaysia, Pakistan, Sri Lanka and South Korea: Africa (4)

– Cameroon, Mauritius, South Africa and Zambia: European Union (7)

– Finland, France, Germany, Netherlands, Poland, Romania,

United Kingdom: Latin America and the Caribbean (7)

– Brazil, Cuba, Ecuador, Guatemala, Mexico, Peru, Uruguay) : Eastern Europe (2) Azerbaijan and Czech Republic; and Switzerland also voted yes.

Abstained:

Algeria, Argentina, Bahrain, Bangladesh, Ghana, Jordan, Morocco, Nigeria, the Philippines, Senegal, Tunisia, Ukraine⁶

This was co-sponsored by Armenia, Bolivia, Congo, Croatia, Cuba, Democratic Republic of the Congo, Denmark, Ecuador, Estonia, Fiji, France, Greece, Guatemala, Haiti, Hungary, Latvia, Liechtenstein, Lithuania, Mexico, Panama, Paraguay, Peru, Poland, Portugal, Slovenia, Spain and the former Yugoslav Republic of Macedonia: When this was introduced in 2 November, Bosnia-Herzegovina, Cyprus and Finland joined as co-sponsors.

⁷ The ones who voted yes on this were 47 countries from Africa, 21 from Asia, 2 from Eastern Europe, 8 from Latin America and the Caribbean and 4 from the Western Europe and other Groups.

⁸ Paragraph 10 of the Advisory Opinion of the African Commission on Human and Peoples' Rights on the United Nations Declaration on the Rights of Indigenous Populations.

⁹ This group was composed of the following; Dr. Albert Barume, DRC as facilitator of the group, Dr. Naomi Kipuri, Kenya, Joseph Ole Simel, Kenya, Adele Wildschut, South Africa, Liberate Nikayenzi, Burundi, Hassan id Balkassm, Morocco.

¹⁰ Some of the Functional Commissions of the ECOSOC include the Commission on the Status of Women, the Commission on Sustainable Development, the Commission on Statistics, Commission on Population and Development, UN Forum on Forests, Commission on Social Development.

¹¹ The members of this Steering Committee were the same ones in the HRC process. Africa

– Adele Wildschut (South Africa) and Joseph Ole Simmel (Kenya); Asia

– Vicky Tauli-Corpuz (Philippines) and Devasish Roy (Bangladesh), Joan Carling is an alternate if Devasish is not around; Arctic

– Mattias Ahren (Sweden) and Dalee Sambo (Alaska) with Hjalmar Dahl (Greenland); Latin America

– Hector Huertas (Panama), Jose Carlos Morales (Costa Rica), Azalene Kaingang (Brazil) and Adelfo Regino (Mexico); North America

– Andrea Carmen (USA) and Chief Ed John (Canada), alternate Celeste MacKay (Canada); Pacific

– Les Malezer (Australia) and Mililani Trask (Hawaii) ; Russia

– Mikail Todishev. The support NGOs who sat in the meetings

of the Committee were Lola Alix Garcia (IWGIA), Jennifer Preston (AFSC), Miriam Anne Frank (NCIV), Marie Leger (Rights and Democracy), Paul Joffe

¹² These were Articles 3, 4, 10, 11, 19, 26, 27, 28, 29, 30, 31, 32(2), 46.

¹³ These NGOs included the International Forum on Globalization (IFG), International Service for Human Rights, Amnesty International, Amazon Watch, Rainforest Action Network, Center for International Environmental Law (CIEL), etc.

¹⁴ The regional caucuses of the indigenous world is divided into 7. This is the division made by the Permanent Forum. So these are: Africa, Arctic, Asia, Eastern Europe, Latin America, North America, Pacific.

¹⁵ **Yes:** Argentina, Armenia, Austria, Bahamas, Bahrain, Barbados, Belarus, Belgium, Belize, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Cambodia, Cameroon, Cape Verde, Central African Republic, Chile, China, Comoros, Congo, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Democratic Republic of the Congo, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Estonia, Finland, France, Gabon, Germany, Ghana, Greece, Guatemala, Guinea, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kuwait, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Liberia, Libya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritius, Mexico, Micronesia (Federated States of), Moldova, Monaco, Mongolia, Mozambique, Myanmar, Namibia, Nepal, Netherlands, Nicaragua, Niger, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland,

Portugal, Qatar, Republic of Korea, Saint Lucia, Saint Vincent and the Grenadines, San Marino, Saudi Arabia, Senegal, Serbia, Sierra Leone, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syria, Thailand, The former Yugoslav Republic of Macedonia, Timor-Leste, Trinidad and Tobago, Tunisia, Turkey, United Arab

¹⁶ **Abstain:** Azerbaijan, Bangladesh, Bhutan, Burundi, Colombia, Georgia, Kenya, Nigeria, Russian Federation, Samoa, Ukraine.

¹⁷ **Absent:** Chad, Côte d'Ivoire, Equatorial Guinea, Eritrea, Ethiopia, Fiji, Gambia, Grenada, Guinea-Bissau, Israel, Kiribati, Kyrgyzstan, Marshall Islands, Mauritania, Montenegro, Morocco, Nauru, Palau, Papua New Guinea, Romania, Rwanda, Saint Kitts and Nevis, Sao Tome and Principe, Seychelles, Solomon Islands, Somalia, Tajikistan, Togo, Tonga, Turkmenistan, Tuvalu, Uganda, Uzbekistan, Vanuatu.



INDIGENOUS PEOPLES INDIGENOUS VOICES

Statement of the Chairperson of the UNPFII on the Adoption of the UN Declaration on the Rights of Indigenous Peoples

Madame President of the General Assembly, H.E. Ambassador Haya Rashed Al Khalifa, Excellencies, Indigenous Chiefs, Elders, Sisters and Brothers, Ladies and Gentlemen, I open my statement by acknowledging the First Peoples of this territory of which some of the Chiefs are here with us today. *Gawis ay agew ken datako am-in. Palalo ng gasing ko ay mang-ila ken dakayo.*

I am Victoria Tauli-Corpuz, a Kankana-ey Igorot from the Cordillera Region in the Philippines. I speak as the Chair of the Permanent Forum on Indigenous Issues. Three of my co-members Aqaluuk Lyngø, Willy Littlechild and Merike Kokajev are also here with us. I also speak as an indigenous person who has been actively engaged in the work around this Declaration.

It is a great honor and privilege to address you all in this historic day. Through the adoption of the Declaration on the Rights of Indigenous Peoples, the United Nations marks a historical milestone in its long history of developing and establishing international human rights standards.

It marks a major victory for Indigenous Peoples who actively took part in crafting this Declaration. This day will be forever be etched in our history and memories as a significant gain in our long struggle for our rights as distinct peoples and cultures.

The 13th of September 2007 will be remembered as a day when the United Nations and its Member States, together with Indigenous Peoples, reconciled with past painful histories and



United Nations

decided to march into the future on the path of human rights. I thank very warmly all the States who voted for the adoption of the Declaration today. All of you will be remembered by us.

Madame President,

Let me express my warmest gratitude to you for your leadership and for keeping your word that you will do all you can to make sure this Declaration will be adopted before the end of your Presidency. Among many of your achievements, the adoption of the Declaration is the one which we, indigenous peoples and we as members of the Forum, will remember as your most important legacy.

I hail representatives of Indigenous Peoples who patiently exerted extraordinary efforts for more than two decades to draft and negotiate the Declaration. Indigenous Peoples attempts to get the ears of the international community started much earlier with the trip of Cayuga Chief Deskaheh to the League of Nations in 1923 and of Maori leader W. T. Ratana in 1925. We can now say that this historical trip, even if he was turned away, has not been in vain.

This Declaration has the distinction of being the only Declaration in the UN which was drafted with the rights-holders, themselves, the Indigenous Peoples. We see this is as a strong Declaration which embodies the most important rights we and our ancestors have long fought for; our right of self-determination, our right to own and control our lands, territories and resources, our right to free, prior and informed consent, among others. Each and every article of this Declaration is a response to the cries and complaints brought by indigenous peoples before the UN- Working Group on Indigenous Populations (WGIP). This is a Declaration which makes the opening phrase of the UN Charter, "We the Peoples..." meaningful for the more than 370 million indigenous persons all over the world.

Madame President,

While we respect the interpretative statements presented by States, today, we believe that the significance and legal implications of this Declaration should not be minimized in any

way because this will amount to discrimination against indigenous peoples. For us, the correct way to interpret the Declaration is to read it in its entirety or in a wholistic manner and to relate it with existing international law. Article 46 paragraph 1, for instance cannot be interpreted in a way which discriminates indigenous peoples. The first preambular paragraph, a new addition, which says "Guided by the purposes and principles of the Charter of the United Nations..." immediately establishes that indigenous peoples' rights in the Declaration are within the context of international law.

Preambular Paragraph 16 confirms that the right of self-determination of "all peoples" is the right referred to in the Charter of the UN, the International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights and Vienna Declaration and Programme of Action. The right of self-determination of Indigenous Peoples contained in Article 3 of the Declaration is the same right contained in international law. The reference to the Vienna Declaration and Programme of Action also affirms that the principle of territorial integrity found in Article 46 of the UN Declaration on the Rights of Indigenous Peoples only applies to the right of self-determination and not other rights.

Furthermore, the Vienna Declaration and the 1970 Declaration on Principles of International Law concerning Friendly Relations and Cooperation Among States in Accordance with the Charter of the United Nations say that for States to invoke territorial integrity, they must be "conducting themselves in compliance with the principle of equal rights and self-determination of peoples."

I salute the independent experts, especially Madame Erica-Irene Daes who, as the Chair of the UN Working Group, worked closely with indigenous representatives to craft the original version of this Declaration. I hail the representatives of States and NGO who actively contributed to reach where we are today. This magnificent endeavour which brought you to sit together with us, Indigenous Peoples, to listen to our cries and struggles and to hammer out words which will respond to these is unprecedented.

The long time devoted to the drafting of the Declaration by the United Nations stemmed from the conviction that Indig-

enous Peoples have rights as distinct peoples and that a constructive dialogue among all would eventually lead to a better understanding of diverse worldviews and cultures, a realignment of positions and, finally, to the building of partnerships between states and Indigenous Peoples for a more just and sustainable world.

The Declaration and the Permanent Forum

For the UN Permanent Forum on Indigenous Issues, the Declaration will become the major foundation and framework in implementing its mandate to advise members of the Economic and Social Council and the UN agencies, programmes and funds on indigenous peoples human rights and development. It is a key instrument and tool for raising awareness on and monitoring progress of indigenous peoples' situations and the protection, respect and fulfillment of indigenous peoples' rights. It will further enmesh and facilitate the operationalization of the human rights-based approach to development as it applies to Indigenous Peoples. It will be the guide for States, the UN System, Indigenous Peoples and civil society in making the theme of the Second Decade of the World's Indigenous Peoples "Partnership for Action and Dignity" a reality.

The United Nations Permanent Forum on Indigenous Issues is explicitly asked in Article 42 of the Declaration to promote respect for and full application of the provisions of the Declaration and follow-up the effectiveness of this Declaration. On behalf of the Permanent Forum on Indigenous Issues, I commit the Forum's devotion to this duty.

This is a Declaration which sets the minimum international standards for the protection and promotion of the rights of Indigenous Peoples. Therefore, existing and future laws, policies, and programs on indigenous peoples will have to be redesigned and shaped to be consistent with this standard.

Madame President,

Before I end my statement let me briefly thank the others whom I have not mentioned yet. I thank H.E. Ambassador Luis de Alba who chaired the Human Rights Council which adopted

the Declaration in 2006. I thank Luis Enrique Chavez, the Chair of the Working Group on the Draft Declaration who did his best to balance the interests of Indigenous Peoples and States in Working Group and in the text he submitted to the Human Rights Council. Let me also thank H.E. Ambassador Hilario Davide whom you appointed as a facilitator. He has contributed to this end result. And I thank the delegates of Mexico, Peru and Guatemala and the African Group of States who managed to come together and make the final version of this Declaration.

I also thank all my co-members of the Permanent Forum who gave their full support for the adoption of the Declaration and reiterated in our recommendation No. 68 in our 5th Session in 2006 and No. 73 in the 6th Session that this Declaration will be an “instrument of great value to advance the rights and aspirations of indigenous peoples.” We all feel proud that this Declaration has been adopted within the period that we sit as members of the Permanent Forum. I thank the Secretariat who were always there to support us.

The UN Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples, Rodolfo Stavenhagen, has to be thanked also for his contributions to raising the issues of indigenous peoples before the United Nations. I thank the NGOs especially IWGIA, NCIV, DOCIP, Quakers, Amnesty International, IFG, Rights and Democracy and many others, who helped us in various ways.

I also express my gratitude to Les Malezer, the chair of the Global Indigenous Peoples’ Caucus who successfully brought the indigenous peoples’ regional caucuses to agree on the most important decisions which had to be made.

Finally, let me reiterate my thanks again to all indigenous leaders, activists and experts and the NGO experts who all contributed to this historic achievement. Some of them are with us today also. Some indigenous elders and NGO experts have already passed away and I would like to specifically mention, Tony Blackfeather, Ed Burnstick, among other elders, and Andrew Gray, Howard Berman and Bob Epstein, the NGO experts who accompanied us in this work. Let us pay tribute to them and thank them in our hearts.

While I express my thanks to all the actors involved in the various stages of the process, I also call on everybody to take on

the responsibility to ensure the effective implementation of this Declaration.

The challenge to ensure the respect, protection and fulfillment of Indigenous Peoples Rights has just begun. We foresee that there will be great difficulties in implementing this Declaration because of lack of political will on the part of the governments, lack of resources and because of the vested interests of rich and powerful. However, we will be counting on the continuing good faith shown by States today who voted for the adoption of the Declaration. We will be counting on the United Nations System to help implement the Declaration.

Effective implementation of the Declaration will be the test of commitment of States and the whole international community to protect, respect and fulfill indigenous peoples collective and individual human rights.

I call on governments, the UN system, Indigenous Peoples and civil society at large to rise to the historic task before us and make the UN Declaration on the Rights of Indigenous Peoples a living document for the common future of humanity.

Thank you Madame President.

*61st Session of the UN General Assembly
13 September 2007
New York*

STATEMENT BY THE CHAIRMAN, GLOBAL INDIGENOUS PEOPLES CAUCUS

The adoption of the Declaration on the Rights of Indigenous Peoples by the United marks a momentous and historic occasion for both Indigenous Peoples and the United Nations.

One quarter of a century ago the United Nations agreed that the situation of Indigenous Peoples around the world was so desperate and consistently exploited, that it warranted international attention.

Within a few years of brief examination and assessment, the United Nations decided that a human rights standard on the rights of indigenous peoples was required.

Simultaneously, the indigenous peoples of the world were uniting, because of our increasing capacity to communicate to each other, but also out of necessity to achieve an international voice.

Together we found out that Indigenous Peoples around the world shared a common situation of loss of control of our lands, territories and resources and a history of colonisation.

The Declaration, as a deposition, represents a meeting of authorities, i.e. the United Nations and the Indigenous Peoples.

Today's adoption of the Declaration occurs because the United Nations and the Indigenous Peoples have found the common will to achieve this outcome.

The Declaration does not represent solely the viewpoint of the United Nations, nor does it represent solely the viewpoint of the Indigenous Peoples.

It is a Declaration which combines our views and interest and which sets the framework for the future.

It is a tool for peace and justice, based upon mutual recognition and mutual respect.

We emphasize once again that the Declaration on the Rights of Indigenous Peoples contains no new provisions of human rights. It affirms many rights already contained in international human rights treaties, but rights which have been denied to the Indigenous Peoples.

As Indigenous Peoples we now see a guarantee that our rights to self determination, to our lands and territories, to our cultural identities, to our own representation and to our values and beliefs will be respected at the international level.

The Declaration is a framework for States to link and integrate with the Indigenous Peoples, to initiate new and positive relations but this time without exclusion, without discrimination and without exploitation.

These rights in the Declaration are already recognized in international law, but they are rights which have been denied to Indigenous Peoples everywhere.

They are rights which are seen by Indigenous Peoples as essential to our successful survival, dignity and well-being, and to maintain our strong cultural and spiritual relationship with mother earth and nature.

It has, after all, been our determination to defend our identity and our lands, territories and resources which has helped to protect and preserve the biological diversity of the world, the cultural diversity of the world, and the environmental stability of the world.

These are the very issues that governments are now so desperate trying to address, as matters requiring of emergency, recovery actions.

The Declaration carries a message for all States that have links and association with Indigenous Peoples.

That message is not about secession, as some States may fear, but about co-operation and partnership to ensure that all individuals, regardless of race or beliefs, are truly equal and that all peoples are respected and allowed to develop.

Indigenous Peoples' right to self-determination is about our right to freely determine our political status and freely pursue our economic, social and cultural development.

It also includes our right to freely manage our natural

wealth and resources for mutual benefit, and out right to maintain and protect our own means of subsistence.

“Free, prior and informed consent” is what we demand as part of self-determination and non discrimination from governments, multinationals and private sector.

We realize that a number of States have insisted that the Declaration affirm “territorial integrity” (which by the way is not a human right) as defined in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States and in the Vienna Declaration.

We confirm that “territorial integrity” in fact obligates every State to promote realization of the principle of equal rights and self-determination of peoples, and to bring a speedy end to colonialism, with due regard to the freely expressed will of the peoples concerned.

“Territorial integrity” also requires that a State represent the whole people without distinction, and reaffirms that subjection of peoples to alien subjugation, domination and exploitation constitutes a violation of the principle, as well as a denial of fundamental human rights, and is contrary to the Charter.

The Declaration ensures treaties signed between Indigenous Peoples and States are respected and honored. This provision in the Declaration is extremely important for Indigenous Peoples who have always placed much importance upon the integrity and truthfulness of historical treaties, for these treaties may contain special rights and economic and political agreements with States.

However it is important that we keep focus on the integrity of the Declaration, noting how each article is meant to be interpreted in conjunction with the entire Declaration, its principles and its purposes.

We are also assured by Article 46(3) that states: “The provisions of the Declaration in this Declaration shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith.”

Now that the Declaration has been adopted by the General Assembly, Indigenous Peoples can reasonably expect that the States will, if they do not already have such a relationship, form a collaborative and cooperative relationship with the rep-

representatives of the indigenous peoples to ensure that the rights contained in the Declaration are protected and promoted.

In 2004 the General Assembly resolution 59/174 upon Governments to ensure that activities and objectives for the Second Decade are planned and implemented on the basis of full consultation and collaboration with indigenous people.

The programme of action, approved by consensus by the General Assembly in December 2005, urged governments to launch a review of national legislations to eliminated possible discriminatory provisions with the full and effective participation of indigenous experts.

The Programme of Action recommends that national constitutions should recognize the existence of indigenous peoples and make explicit reference to them, where relevant, and that governments should consider integrating traditional systems of justice into national legislations in conformity with international human rights law and international standards of justice.

This is the challenge for the future. With a Declaration now in place, affirming the rights of Indigenous Peoples, it will be important that States respond positively.

The Declaration give us the platform for addressing the continuing abuses of human rights against Indigenous Peoples and for shaping a future where it can be realised that all peoples are truly equal.

*By Les Malezer
13 September 2007*

The UN Declaration on the Rights of Indigenous Peoples: Towards Re-empowerment*

JURIST Guest Columnists S. James Anaya of the Rogers College of Law, University of Arizona, and Siegfried Wiessner of St. Thomas University School of Law say that the UN General Assembly's recent landslide adoption of the UN Declaration on the Rights of Indigenous Peoples is a milestone in the re-empowerment of the world's aboriginal groups, and that, in important parts, it reaffirms customary international law in the field ...

The UN General Assembly's adoption of the UN Declaration on the Rights of Indigenous Peoples on September 13, 2007 marked the end of a long journey, a milestone in the long and arduous march of what have come to be known as "indigenous peoples" through the major institution of organized intergovernmental society: the United Nations. It was a day of celebration for indigenous leaders and their rank and file scattered around the globe, united in a common fate of conquest, dispossession, marginalization and neglect, but also in the joy of rising again.

When the United Nations Working Group on Indigenous Populations was established in 1982, one of its key missions was the establishment of a declaration of rights of indigenous peoples. Indigenous peoples from around the world trekked to the Palais des Nations in Geneva each summer afterwards to articulate their claims to the members of the Working Group and state delegations. In 1993, under the inspirational leadership of long-time Chairperson Mrs. Erica-Irene Daes, agreement was reached by the Working Group on a "Draft Declaration on

the Rights of Indigenous Peoples.” This draft became the basis for discussion within the UN Commission on Human Rights, which was replaced in 2006 by the Human Rights Council. In its first substantive decision, the Council on June 29, 2006, by a vote of 30 in favor, 2 against and 12 abstentions, adopted a revised text of the Declaration, and passed it on to the General Assembly for its final approval.

Beyond recognition of the right to self-determination, the Council’s text formulated an array of tailor-made collective rights, such as the right to maintain and develop their distinct political, economic, social and cultural identities and characteristics as well as their legal systems and to participate fully, “if they so choose,” in the political, economic, social and cultural life of the State. They were guaranteed the right not to be subjected to genocide or ethnocide, i.e., action aimed at or affecting their integrity as distinct peoples, their cultural values and identities, including the dispossession of land, forced relocation, assimilation or integration, the imposition of foreign lifestyles and propaganda.

The stated rights guaranteed to indigenous peoples as groups, not only as individual persons, include the right to observe, teach and practice tribal spiritual and religious traditions; the right to maintain and protect manifestations of their cultures, archaeological-historical sites and artifacts; the right to restitution of spiritual property taken without their free and informed consent, including the right to repatriate Indian human remains; and the right to protection of sacred places and burial sites. Further listed are the rights to maintain and use tribal languages, to transmit their oral histories and traditions, to education in their language and to control over their own educational systems.

They are afforded the right to maintain and develop their political, economic and social systems, and to determine and develop priorities and strategies for exercising their right to development. Their treaties with States should be recognized, observed and enforced. Last, but not least, the Declaration supports the right of indigenous people to own, develop, control, and use the lands and territories which they have traditionally owned or otherwise occupied and used, including the right to restitution of lands confiscated, occupied or otherwise taken

without their free and informed consent, with the option of providing just and fair compensation wherever such return is not possible. The document, in particular, goes beyond ILO Convention No. 169 in its statements on self-determination, land and resource rights, as well as political autonomy.

With very few changes to this content – amendments that essentially emphasized already existing constraints on the right to self-determination and recognized the diversity of contexts – the Declaration was adopted last month by a landslide affirmative vote of 144 states in the United Nations General Assembly. Only four countries – the United States, Canada, Australia and New Zealand – voted against it, while Azerbaijan, Bangladesh, Bhutan, Burundi, Colombia, Georgia, Kenya, Nigeria, Russia, Samoa and Ukraine abstained.

The political significance of this remarkable success of the indigenous peoples' movement cannot be understated. The United Nations can be justly proud of this day. What, however, is the legal effect of this instrument?

For one, a formal analysis of the Declaration dictates that it does not have legally binding effect *per se*. That is true for any, non-budget related resolution of the General Assembly. Yet, the name “Declaration” appears to give it a more solemn ring, takes it closer to most important policy statements of the organized world community – into the vicinity of instruments such as the 1948 Universal Declaration of Human Rights. While these documents are clearly not binding as treaties, individual component prescriptions of them might have become binding if they can be categorized as reflective or generative of customary international law.

States voting against this document, including the U.S., have rejected “any possibility that this document is or can become customary international law.” They stated that it does not constitute “evidence of customary international law,” as lacking support in state practice, and that it cannot provide “a proper basis for legal actions, complaints, or other claims in any international, domestic, or other proceedings.”

This statement is true as it pertains to the non-binding nature of the Declaration itself. As far as it proclaims the absence of state practice in support of the content of the Declaration, the individual rights pronounced, it needs to be indepen-

dently assessed — just like any other claim to the customary international law character *vel non* of any new rule. In the case of the UN Declaration on the Rights of Indigenous Peoples, the negative vote by four governments, even though they have a significant number of indigenous peoples living in their midst, does not necessarily invalidate the claims to the customary international law character of individual key parts of the instrument or of principles embedded in it. This distinct body of customary international law concerning indigenous peoples, not necessarily coextensive with the full reach of the present Declaration, had formed long before this vote occurred. The starting-point for any such analysis is the ICJ's definition of the requirements needed to establish new customary international law, as stated in the North Sea Continental Shelf Case, i.e. there needs to be a very widespread and representative state practice in support of the purported new rule, including the specially affected states, as well as a feeling to be obligated (*opinio juris*).

In analyzing the individual parts of the Declaration, we see that all new rules of customary international law, as found in our respective surveys of state and international practice of 1999, 2001, and 2004, still remain part of the global consensus. As stated in 1999, "indigenous peoples are entitled to maintain and develop their distinct cultural identity, their spirituality, their language, and their traditional ways of life." Most of the provisions of the Declaration go to the preservation of culture, language, religion, and identity; and state practice in the states with indigenous peoples largely conforms to these legal tenets. Due to the strength of the indigenous renaissance throughout the world, the original goal of assimilation of indigenous cultures into the maelstrom of the modern world has largely been abandoned in favor of preservation and reinvigoration of indigenous cultures, languages and religions. The legal guarantees of these claims are, however, not the real bones of contention.

One of the issues in contention remains the definition and extent of the right to self-determination. Due to the insistence of the African governments, this right was expressly conditioned by the principles favoring the territorial integrity and political unity of states, principles that are not absolute and that already conditioned the right of self-determination under international law. Now, very few, if any, indigenous peoples actually had

asked for anything approaching a threat to the territorial integrity or political unity of existing states. The goal of "indigenous sovereignty," in particular, was mostly defined in the sense of cultural and spiritual reaffirmation much more than in the Western sense of independent political power. Looking at state practice, very widespread agreement persists, as stated in 1999, that indigenous peoples "hold the right to political, economic and social self-determination, including a wide range of autonomy and the maintenance and strengthening of their own system of justice."

Even the U.S. Mission to the United Nations, in the explanation of its negative vote, pointed out that the "U.S. government recognizes Indian tribes as political entities with inherent powers of self-government as first peoples. In our legal system, the federal government has a government-to-government relationship with Indian tribes. In this domestic context, this means promoting tribal self-government over a broad range of internal and local affairs, including determination of membership, culture, language, religion, education, information, social welfare, maintenance of community safety, family relations, Economic [sic] activities, land and resources management, environment and entry by non-members, as well as ways and means for financing these autonomous functions."

This means at least the recognition of indigenous peoples' control over their people within their lands. Canada, now an opponent, but under its previous government a longtime and fervent proponent of the Declaration, has guaranteed widespread autonomy via the concept of aboriginal and treaty rights in its 1982 Canadian Charter of Rights and Freedoms. In the 1840 Treaty of Waitangi, in exchange for the Crown's sovereignty over New Zealand, the Maori retained what they called *rangatiratanga*, i.e. their chiefs' authority, which included their power to own, use and manage Maori lands and other resources according to Maori ways. Colombia, a state abstaining from the Declaration, has accorded indigenous peoples in their various *resguardos* far-reaching rights of internal autonomy. Its 1991 Constitution guarantees respect for their institutions of self-government, including indigenous courts applying traditional customary standards.

The same is true for our finding according to which indigenous peoples have a right under customary international law to “demarcation, ownership, development, control and use of the lands they have traditionally owned or otherwise occupied and used.” This customary norm, found partly as the result of our global surveys of state practice, was cited by the Inter-American Commission in its referral of the Awas Tingni community’s complaint against Nicaragua to the Inter-American Court of Human Rights. The norm underlies the Inter-American Court’s interpretation of the right to property under Article 21 of the American Convention on Human Rights in its landmark decision in the *Awas Tingni Case* of August 31, 2001. Once a rule has attained the status of customary international law, it can only be abrogated by a new norm of customary law. This year, the African states dropped their initial lack of comfort with the land rights provisions of the Declaration.

The domestic practice of the four states opposing the Declaration likewise is not opposed to the principle of recognizing indigenous peoples’ right to lands. Australia’s courts had invigorated the international indigenous peoples’ movement with their decisions in *Mabo* and *Wik*, which preceded the Native Title Act and land settlements with Aboriginal peoples. The Canadian government had proceeded with land settlement claims and treaties; and the U.S., in its Observations on the Declaration, only objected to what it perceived to be the “overly broad and inconsistent” language of the provisions on land and resources. It maintained that the “intent of the States in the Working Group was to encourage the establishment of mechanisms at the national level for the full legal recognition and protection of the lands, territories and resources indigenous peoples possess by reason of traditional ownership, occupation, or use, as well [as] those which they have otherwise acquired. Furthermore, it was intended that such recognition should take into account the customs, traditions, and land tenure systems of the indigenous peoples concerned.” Thus, any potential disagreement with the Declaration is a matter of a possibly limiting interpretation, not a denial of the right itself.

Furthermore, no state opposed the provision of the Declaration that mandates the observance of treaties between States and indigenous peoples. That is in line with our finding ac-

ording to which “governments are to honor and faithfully observe their treaty commitments to indigenous nations.”

The U.S. has also stated that the declaration’s “failure to define the phrase “indigenous peoples” is “debilitating to the effective application and implementation of the declaration.” “This obvious shortcoming will subject application of the declaration to endless debate, especially if entities not properly entitled to such status seek to enjoy the special benefits and rights contained in the declaration.” One of us had made this argument years ago and suggested an appropriate definition, while the other favors the flexibility retained in the Declaration as passed. The most interesting aspect of the U.S. argument is, however, the at least implicit recognition that indigenous peoples do have a “status,” that they enjoy “special benefits and rights contained in the declaration.” Somehow, that does not sit well with the other U.S. argument that it be solely an “aspirational declaration with political and moral, rather than legal, force.” The language of “rights” and “status” is the language of law. By participating in this process and the concern shown over the years for special rights and status of indigenous peoples on the international plane, the four opposing states have demonstrated an *opinio juris*, a willingness to be bound if the provisions as finally formulated were in line with their detailed policy preferences.

In any event, only a *jus cogens* norm requires virtual unanimity of all members of the world community. The internal practice of the four opposing states, as well as their consent to accord a special status and rights to indigenous peoples in principle, makes them part of the world consensus on customary international law as formulated above. At most, they can be considered persistent objectors to certain contents of the Declaration. This status appears to be very much in doubt, however, at least for Canada, as it counted itself through many years amongst the staunchest supporters of the Declaration and indigenous peoples’ rights – until its government changed in February 2006.

The Declaration on the Rights of Indigenous Peoples and the customary law character *vel non* of the various rights it proclaims will be analyzed in further detail by a new International Law Association Committee on the Rights of Indigenous

Peoples. As Chair and Member of this body, we look forward to your comments and suggestions.

S. James Anaya is James J. Lenoir Professor of Human Rights Law and Policy at the James E. Rogers College of Law, University of Arizona. Siegfried Wiessner is Professor of Law and Director of the Graduate Program in Intercultural Human Rights at St. Thomas University School of Law in Miami, Florida.

October 03, 2007

*Reprinted from The Jurist Legal News and Research of the University of Pittsburgh College of Law, October 2007.

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UN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES



The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, and good faith in the fulfilment of the obligations assumed by States in accordance with the Charter,

Affirming that indigenous peoples are equal to all other peoples, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such,

Affirming also that all peoples contribute to the diversity and richness of civilizations and cultures, which constitute the common heritage of humankind,

Affirming further that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust,

Reaffirming that indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind,

Concerned that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests,

Recognizing the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources,

Recognizing also the urgent need to respect and promote the rights of indigenous peoples affirmed in treaties, agreements and other constructive arrangements with States,

Welcoming the fact that indigenous peoples are organizing themselves for political, economic, social and cultural enhancement and in order to bring to an end all forms of discrimination and oppression wherever they occur,

Convinced that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs,

Recognizing that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment,

Emphasizing the contribution of the demilitarization of the lands and territories of indigenous peoples to peace, economic and social progress and development, understanding and friendly relations among nations and peoples of the world,

Recognizing in particular the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child,

Considering that the rights affirmed in treaties, agreements and other constructive arrangements between States and indigenous peoples are, in some situations, matters of international concern, interest, responsibility and character,

Considering also that treaties, agreements and other constructive arrangements, and the relationship they represent, are the basis for a strengthened partnership between indigenous peoples and States,

Acknowledging that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights¹ and the International Covenant on Civil and Political Rights as well as the Vienna Declaration and Programme of Action,² affirm the fundamental importance of the right to self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development,

Bearing in mind that nothing in this Declaration may be used to deny any peoples their right to self-determination, exercised in conformity with international law,

Convinced that the recognition of the rights of indigenous peoples in this Declaration will enhance harmonious and cooperative relations between the State and indigenous peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith,

Encouraging States to comply with and effectively implement all their obligations as they apply to indigenous peoples under international instruments, in particular those related to human rights, in consultation and cooperation with the peoples concerned,

Emphasizing that the United Nations has an important and continuing role to play in promoting and protecting the rights of indigenous peoples,

Believing that this Declaration is a further important step forward for the recognition, promotion and protection of the rights and freedoms of indigenous peoples and in the development of relevant activities of the United Nations system in this field,

Recognizing and reaffirming that indigenous individuals are entitled without discrimination to all human rights recognized in international law, and that indigenous peoples possess collective rights which are indispensable for their existence, well-being and integral development as peoples,

Recognizing also that the situation of indigenous peoples varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration,

Solemnly proclaims the following United Nations Declaration on the Rights of Indigenous Peoples as a standard of achievement to be pursued in a spirit of partnership and mutual respect:

Article 1

Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights³³ and international human rights law.

Article 2

Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.

Article 3

Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Article 4

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

Article 5

Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

Article 6

Every indigenous individual has the right to a nationality.

Article 7

1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.

2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

Article 8

1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.

2. States shall provide effective mechanisms for prevention of, and redress for:

(a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;

- (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
- (c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;
- (d) Any form of forced assimilation or integration;
- (e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

Article 9

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

Article 10

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

Article 11

1. Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.

2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

Article 12

1. Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.

2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.

Article 13

1. Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.

2. States shall take effective measures to ensure that this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary

through the provision of interpretation or by other appropriate means.

Article 14

1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.

2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.

3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

Article 15

1. Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.

2. States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.

Article 16

1. Indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination.

2. States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. States, without prejudice to ensuring full freedom of expression, should encourage privately owned media to adequately reflect indigenous cultural diversity.

Article 17

1. Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law.

2. States shall in consultation and cooperation with indigenous peoples take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.

3. Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary.

Article 18

Indigenous peoples have the right to participate in

decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

Article 19

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Article 20

1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.

2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.

Article 21

1. Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and re-training, housing, sanitation, health and social security.

2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

Article 22

1. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.

2. States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

Article 23

Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

Article 24

1. Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have

the right to access, without any discrimination, to all social and health services.

2. Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.

Article 25

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

Article 26

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

Article 27

States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

Article 28

1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.

2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

Article 29

1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance

programmes for indigenous peoples for such conservation and protection, without discrimination.

2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.

3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

Article 30

1. Military activities shall not take place in the lands or territories of indigenous peoples, unless justified by a relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned.

2. States shall undertake effective consultations with the indigenous peoples concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands or territories for military activities.

Article 31

1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs,

sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

2. In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.

Article 32

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.

2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

Article 33

1. Indigenous peoples have the right to determine their own identity or membership in accordance with

their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live.

2. Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

Article 34

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.

Article 35

Indigenous peoples have the right to determine the responsibilities of individuals to their communities.

Article 36

1. Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders.

2. States, in consultation and cooperation with indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right.

Article 37

1. Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.

2. Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements.

Article 38

States in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

Article 39

Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.

Article 40

Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the cus-

toms, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.

Article 41

The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilization, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established.

Article 42

The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.

Article 43

The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.

Article 44

All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals.

Article 45

Nothing in this Declaration may be construed as diminishing or extinguishing the rights indigenous peoples have now or may acquire in the future.

Article 46

1. Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States.

2. In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law, and in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society.

3. The provisions set forth in this Declaration shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith.

¹ See resolution 2200 A (XXI), annex.

² A/CONF.157/24 (Part I), chap. III.

³ Resolution 217 A (III).

ANG DEKLARASYON NG UN SA MGA KARAPATAN NG MGA KATUTUBO



Ang Pangkalahatang Kapulungan,

Pinapatnubayan ng hangarin at prinsipyo ng Charter ng United Nations, at mabuting paagtitiwala sa pagpapatupad ng mga obligasyong inako ng mga Estado kaalinsunod sa Charter,

Naninindigan na ang mga katutubo ay kapantay ng lahat ng tao, bagaman kinikilala ang karapatan na pagkakaiba ng lahat ng tao, pagsasaalang-alang sa pagkakaiba, at paggalang sa kakanyahan,

Naninindigan din na ang lahat ng tao ay nakapag-aambag sa pagkakaiba-iba at kayaman ng sibilisasyon at kultura, kung saan ay nakakaambag sa kabuuan ng pamana ng sangkatauhan,

Naninindigan din na ang lahat ng mga paniniwala, panununtunan at kagawian o itinataguyod na kahusayan ng tao o indibidwal batay sa pinagmulang bansa, lahi, relihiyon, katutubo o pagkakaiba ng kultura ay rasismo, walang siyentipikong batayan, walang ligal na pinagbabatayan, kasuklamsuklam at hindi makatarungan,

Masidhing pinaninindigan na ang mga katutubo, sa pagsasagawa ng kanilang karapatan, ay karapat-

dapat na maging malaya sa anumang diskriminasyon,

Nababahala na ang mga katutubo ay nagdurusa ng walang katarungan sa mahabang panahon sanhi ng kolonisasyon at pag-agaw sa kanilang mga lupain, nasasakupan at likas na yaman, na nagiging hadlang upang maisagawa, sa partikular, ang kanilang karapatang umunlad ayon sa kanilang mga pangangailangan at kapakanan,

Kinikilala ang kagyat na pangangailangan na galangin at itaguyod ang likas na karapatan ng mga katutubo na nagmula sa kanilang pulitika, ekonomiya at panlipunang estruktura at kultura, espiritwal na tradisyon, kasaysayan at pilosopiya, lalo na ang karapatan sa kanilang mga lupain, nasasakupan at likas-yaman.

Katulad rin na pagkilala sa kagyat na pangangailangan na galangin at itaguyod ang karapatan ng mga katutubo na pinagtibay ng mga tratado, mga kasunduan at iba pang makatutulong na balakin ng mga Estado,

Malugod na tinatanggap ang katotohanan na ang mga katutubo ay nagoorganisa ng kanilang mga sarili para sa kanilang pulitikal, ekonomiya, sosyal at kultural na pagpapaunlad upang tapusin ang anumang uri ng diskriminasyon at panggigipit sa alinmang pagkakataon,

Sinasang-ayunan na ang pamamahala ng mga katutubo hinggil sa pag-unlad na makakaapekto sa kanila at kanilang mga lupain, nasasakupan at likas-yaman ay makakatulong sa pagpapanatili at pagpapatatag ng kanilang mga institusyon, kultura at tradisyon, at upang maitaguyod ang kanilang pag-unlad

na naaayon sa kanilang mga adhikain at pangangailangan,

Kinikilala rin na ang paggalang sa katutubong kaalaman, kultura at tradisyonal na gawain ay nakatutulong sa tuloy-tuloy at makatarungang pagpapaunlad at angkop na pangangasiwa ng kalikasan,

Binibigyan-diin ang kontribusyon ng walang militarisasyon sa mga lupain at nasasakupan ng mga katutubo sa kapayapaan, ekonomiya at panlipunang pagsulong at pag-unlad, pag-unawa at maayos na ugnayan sa pagitang ng mga bansa at lahat ng mga tao sa mundo,

Partikular na kinikilala ang karapatan ng mga katutubong pamilya at komunidad sa pagpapanatili ng pinagsamang tungkulin sa paggabay, pagsasanay, edukasyon at kagalingan ng kanilang mga anak, alinsunod sa karapatan ng mga bata,

Pagsasaalang-alang na ang mga karapatang pinagtitibay ng mga tratado, mga kasunduan at iba pang makatutulong na balakin sa pagitan ng mga bansa at mga katutubo ay, sa ibang pagkakataon, mga bagay na may pananagutan, interest, tungkulin at karakter na panginternasyonal,

Isinasaalang-alang din na ang mga tratado, mga kasunduan at iba pang makatutulong na balakin, at ang ugnayan na kinakatawan nito, ay mga batayan ng matibay na pakikipagtulungan sa pagitan ng mga katutubo at mga Estado,

Kinikilala na ang Charter ng United Nations, ang International Convention on Economic, Social and Cul-

tural Rights, at International Covenant on Civil and Political Rights¹ at ang International Covenant on Civil and Political Rights at pati na rin ang Vienna Declaration at Programme of Action,² ay nagpapatibay sa pangunahing kahalagahan ng karapatan ng sariling pagpapasya ng lahat ng mga tao, at sa pamamagitan nito, ay malaya nilang matutukoy ang kanilang pampulitikang katayuan at malayang maisasagawa ang kanilang pang-ekonomiya, panlipunan at kultural na pag-unlad,

Isinasadiwa na walang nakasaad sa Deklarasyong ito na maaaring gamitin upang ipagkaila sa mga tao, and kanilang karapatan sa sariling pagpapasya, isinagawa ng naaayon sa batas-internasyonal,

Sinasang-ayunan na ang pagkilala sa karapatan ng mga katutubo na napapaloob sa Deklarasyong ito ay magpapatingkad sa maayos na pakikipagtulungan sa pagitan ng Estado at ng mga katutubo, batay sa prinsipyo ng katarungan, demokrasya, paggalang sa karapatang pantao, walang diskriminasyon at mabuting pagtitiwala,

Hinihikayat ang mga Estado na tupdin at epektibong ipatupad ang lahat ng kanilang mga tungkulin kaugnay sa mga katutubo na nakabatay sa mga internasyonal na instrumento, lalo na ang may kinalaman sa karapatang pantao, na may pagsangguni at pakikipagtulungan sa mga taong kinauukulan,

Binibigyan-diin na ang United Nations ay may mahalaga at tuloy-tuloy na tungkulin na dapat gampanan sa pagsusulong at pangangalaga sa mga karapatan ng mga katutubo,

Naniniwala na ang Deklarasyong ito ay isang mahalaga hakbang pasulong tungo sa pagkilala, pagpapalaganap at pangangalaga sa mga karapatan at kalayaan ng mga katutubo at sa pagsasagawa ng mga mahahalagang gawain ng sistemang United Nations sa larangang ito,

Kinikilala at pinagtitibay na ang mga katutubong indibidwal ay may karapatan ng walang diskriminasyon sa lahat ng karapatang pantao na kinikilala ng batas internasyonal, at ang mga katutubo ay may angking kolektibong karapatan na mahalaga para sa kanilang pamumuhay, kagalingan at kinakailangang pag-unlad bilang mga tao,

Kinikilala din na ang kalagayan ng mga katutubo ay nagkakaiba-iba sa bawat rehiyon at bansa at ang kahalagahan ng pambansa at rehiyonal na partikularidad at ibat-ibang istoryal at pangkultural na karanasan ay dapat kilalanin,

Pormal na ipinahahayag ang sumusunod na Deklarasyon ng United Nations sa mga Karapatan ng mga Katutubo bilang isang pamantayan ng tagumpay na kailangang matamo upang maisulong ang tunay na pakikipagtulungan at pantay na paggalang.

Artikulo 1

Ang mga katutubo ay may karapatang matamasa, bilang kolektibo o indibidwal, ang lahat ng mga karapatang pantao at mga pangunahing kalayaan na kinikilala sa Charter ng United Nations, Universal Declaration of Human Rights³ at mga batas-interasyonal na karapatang pantao.

Artikulo 2

Ang mga katutubo at mga indibidwal ay malaya at pantay sa lahat ng ibang mga tao at mga indibidwal at may karapatan na maging malaya sa anumang uri ng diskriminasyon, sa pagsasagawa ng kanilang mga karapatan, lalo na yaong mga nakabatay sa kanilang katutubong pinagmula at pagkakakilanlan.

Artikulo 3

Ang mga katutubo ay may karapatan ng sariling pagpapasya. Sa pamamagitan ng karapatang ito sila ay malayang nagtatakda ng kanilang estadong pampulitika at malayang naisusulong ang pang-ekonomiya, panlipunan at kultural na pang-unlad.

Artikulo 4

Ang mga katutubo, sa pagsasagawa ng kanilang karapatang ng sariling pagpapasya, ay may karapatan sa otonomiya o sariling pamamahala sa mga bagay hinggil sa kanilang panloob at lokal na usapin, kabilang dito ang pamamaraan at hakbang kung papaano mapipinansyahan ang kanilang mga pangangailangang pang-otonomiya.

Artikulo 5

Ang mga katutubo ang may karapatan na panatilihin at palakasin ang kanilang natatanging pulitikal, ligal, ekonomiya, panlipunan at kultural na mga institusyon, kasabay ng karapatang maging bahagi, kung kanilang nanaisin, sa pampulitika, ekonomiya, panlipunan at kultural na buhay ng Estado.

Artikulo 6

Ang bawat isang katutubo ay may karapatan sa nasyonalidad.

Artikulo 7

1. Ang bawat isang katutubo ay may mga karapatan na mabuhay, pisikal at mental na integridad, kalayaan at katiyakang pansarili.

2. Ang mga katutubo ay may karapatan na kolektibong mamuhay ng malaya, tahimik at ligtas bilang mga natatanging tao at hindi dapat isailalim sa anumang paglipol o anumang marahas na hakbang, kabilang na ang sapilitang paghihiwalay sa mga anak ng isang grupo papunta sa ibang grupo.

Artikulo 8

1. Ang mga katutubo at mga indibidwal ay may karapatan na hindi maisailalim sa sapilitang asimilasyon o pagkasira ng kanilang kultura.

2. Ang mga Estado ay kailangang magbigay ng mabisang pamamaraan upang mapigilan o maiwasto ang mga sumusunod:

(a) Anumang aksyon na may layunin o epektong pagbawi sa kanilang integridad bilang natatanging tao, o sa kanilang kultural na pahalaga o katutubong pagkakakilanlan;

(b) Anumang aksyon na may layunin o epekto na agawin ang kanilang lupain, nasasakupan o yaman;

(c) Anumang anyo ng sapilitang paglipat ng

populasyon na may hangarin o bisa na labagin o pahinain ang kanilang ano mang karapatan;
(d) Anumang uri ng sapolitang asimilasyon o integrasyon;
(e) Anumang uri ng propaganda na may hangarin na palaganapin o udyukan ang panlahi o etnikong diskriminasyon na nakapatungo laban sa kanila.

Artikulo 9

Ang mga katutubo at indibidwal ay may karapatan na mapabilang sa isang katutubong komunidad o bansa, na naaayon sa kanilang mga tradisyon at mga kaugalian ng komunidad o bansang kinuukulan. Walang anumang uri ng diskriminasyon na maaring maganap sa pagsasagawa ng ganitong karapatan.

Artikulo 10

Ang mga katutubo ay hindi maaari na sapolitang paaalisin sa kanilang mga lupain o nasasakupan. Walang paglikas na maaaring isagawa kung walang malaya, nauuna at napaalamang pagsang-ayon ng mga katutubong kinauukulan at matapos ang kasunduan sa pagbibigay ng naaayon at makatarungang kabayaran, at kung ito ay nauukol, may karapatang makababalik.

Artikulo 11

1. Ang mga katutubo ay may karapatan na isagawa o patingkarin ang kanilang mga pangkultural na tradisyon at kaugalian. Kabilang dito ang mga karapatan na mapanatili, mapangalagaan at mapaunlad ang mga nagdaan, kasalukuyan at

hinaharap na mga manipestasyon ng kanilang mga kultura, katulad ng mga arkyolohikal, makasaysayang pook, artefacts, disenyo, seremonya, teknolohiya, at biswal at performing arts at literatura.

2. Ang mga Estado ay dapat magtakda ng pagwawasto sa pamamagitan ng mga epektibong pamamaraan, na binuo katuwang ang mga katutubo, kabilang na ang pagpapabalik kaugnay sa kanilang kultural, kaalaman, relihiyon at espiritwal na pag-aari na kinuha ng walang malaya, nauuna at napaalamang pagsang-ayon o paglabag sa kanilang batas, tradisyon at kaugalian.

Artikulo 12

1. Ang mga katutubo ay may karapatan na ipakita, isagawa, paunlarin at ituro ang kanilang espiritwal at katutubong relihiyon, mga kaugalian at mga seremonya; may karapatang panatilihin, pangalagaan at pribadong makapapasok sa kanilang mga banal at pangkultural na mga pook; may karapatan na gamitin at pamahalaan ang kanilang mga bagay-pangseremonya; at karapatan na maibalik ang mga labi ng kanilang mga yumao.

2. Ang mga Estado ay maghahanap ng paraan upang makuha at/o maibalik ang mga bagay-pangseremonya at labi ng yumao na nasa kanilang pag-aari sa pamamagitan ng isang patas, maayos at mabisang pamamaraan, na binuo katuwang ang mga kinauukulang katutubo.

Artikulo 13

1. Ang mga katutubo ay may karapatan na pasiglahin, gamitin, paunlarin at ipasa sa susunod na

henerasyon ang kanilang mga kasaysayan, wika, oral na tradisyon, pilosopiya, sistema ng pagsulat at literatura, at itakda at panatalilihin ang kanilang mga sariling pangalan ng mga komunidad, lugar at tao.

2. Ang mga Estado ay magsasagawa ng mabisang hakbang upang matiyak na mapangalagaan ang karapatang ito at masiguro na mauunawaan ng mga katutubo at mauunawaan din sila sa mga pulitikal, legal at administratibong hakbang, at kung kinakailangan sa pamamagitan ng pagtatalaga ng tagapaliwanag o iba pang naaangkop na pamamaraan.

Artikulo 14

1. Ang mga katutubo ay may karapatan na magtatag at mamahala ng kanilang sistema ng edukasyon at institusyong nagbibigay ng edukasyon sa sariling wika, sa pamamaraang naaangkop sa kanilang kultural na pamamaraan ng pagtuturo at pagkatuto.

2. Ang mga indibidwal na katutubo, lalo na ang mga bata, ay may karapatan sa lahat ng antas at porma ng edukasyong ipinagkakaloob ng Estado ng walang diskriminasyon.

3. Ang mga Estado ay magsasagawa ng isang mabisang hakbang, katuwang ang mga katutubo, upang ang bawat indibidwal na katutubo, lalo na ang mga bata, kabilang ang mga naninirahan sa labas ng komunidad, ay makakuha, kung kinakailangan, ng edukasyon batay sa kanilang sariling kultura at sa kanilang sariling wika.

Artikulo 15

1. Ang mga katutubo ay may karapatan na ikarangal ang pagkakaiba-iba ng kanilang mga kultura, tradisyon, kasaysayan at adhikain na angkop na isinasalarawan sa edukasyon at pampublikong impormasyon.

2. Ang mga Estado ay magsasagawa ng mga mabisang pamamaraan, na may konsultasyon at kooperasyon ng mga kinauukulang katutubo, upang bakahin ang mapinsalang palagay at maalis ang diskriminasyon at mapatingkad ang pagpaparaya, pang-unawa at maayos na ugnayan ng mga katutubo at iba pang bahagi ng lipunan.

Artikulo 16

1. Ang mga katutubo ay may karapatan na magtayo ng sariling media sa sariling wika at magkaroon ng pagkakataon na makapasok sa lahat ng media na di pagaari ng mga katutubo ng walang diskriminasyon.

2. Ang mga Estado ay magsasagawa ng mabisang hakbang upang matiyak na ang media na pag-aari ng Estado ay dapat magsalarawan ng pagkakaiba-iba ng katutubong kultura. Titiyakin ng mga Estado, na may pagsasaalangalang sa buong kalagayan sa pagpapahayag, na hikayatin ang mga mediang pampribado na hustong isalarawan ang pagkakaiba-iba ng katutubong kultura

Artikulo 17

1. Ang bawat indibidwal na katutubo at tao ay may karapatan na matamasa ang lahat ng karapatang

itinatadhana sa ilalim ng naangkop na batas-internasyonal at lokal na batas sa paggawa.

2. Sa pakikipagsangguni at kooperasyon ng mga katutubo, ang mga Estado ay magsasagawa ng partikular na hakbang upang pangalagaan ng mga batang katutubo sa eksploytasyong pang-ekonomiya at paggawa ng anumang mapanganib na gawain o makakagambala sa pag-aaral ng bata, o anumang mapanganib sa kalusugan o pisikal, mental, espiritwal, moral o panlipunang pag-unlad, isinasaalang-alang ang kanilang espesyal na pangangailangan at ang kahalagahan ng edukasyon sa pag-unlad/empowerment.

3. Ang mga katutubong indibidwal ay may karapatan na maging ligtas sa anumang mga itinatanging kondisyon ng paggawa, at iba pang kaugnay nito, sa trabaho o pasahod.

Artikulo 18

Ang mga katutubo ay may karapatan na makilahok sa pagsasagawa ng desisyon sa mga bagay na makakaapekto sa kanilang mga karapatan, sa pamamagitan ng kinatawang pinili nila ayon sa kanilang pamamaraan, kabilang na ang pananatili at pagpapaunlad sa kanilang katutubong institusyon na pamamaraan ng paggawa ng desisyon.

Artikulo 19

Ang mga Estado ay makikipagsangguni at makikipagtulungan sa mga kinauukulang katutubo sa pamamagitan ng kanilang kumakatawan na institusyon upang makuha ang kanilang malaya, nauuna at napaalamang pagsang-ayon bago tanggapin at

ipatupad ang lehislatibo o administrabong panuntunan na makakaapekto sa kanila.

Artikulo 20

1. Ang mga katutubo ay may karapatan na panatilihin at paunlarin ang kanilang mga pampulitika, ekonomiya at sistemang panlipunan o institusyon, upang matiyak nilang matatamasa ang sariling pamamaraan ng ikinabubuhay at pagpapaunlad at malayang maisagawa ang lahat ng kanilang tradisyonal at iba pang pang-ekonomiyang gawain.

2. Ang mga katutubon na binawian ng kanilang sariling pamamaraan ng ikinabubuhay at pagpapaunlad ay may karapatan sa patas at angkop na pagwawasto.

Artikulo 21

1. Ang mga katutubo ay may karapatan, ng walang diskriminasyon, sa pagpapaunlad ng kanilang pang-ekonomiya at kalagayang sosyal, kabilang ang iba pang kaugnay nito, sa larangan ng edukasyon, trabaho, bokasyonal na pagsasanay at muling pagsasanay, pabahay, sanitasyon, kalusugan at panlipunang katiyakan.

2. Ang mga Estado ay magsasagawa ng mabisang hakbang, at kung naaangkop, ng mga espesyal na hakbang upang matiyak ang patuloy na pagpapaunlad ng kanilang mga ekonomiya at kalagayang panlipunan. Partikular na bibigyan ng pansin ang karapatan at espesyal na pangangailangan ng mga matatandang katutubo, kababaihan, kabataan, bata at may mga kapansanan.

Artikulo 22

1. Partikular na bibigyan ng pansin ang mga karapatan at espesyal na pangangailangan ng mga matatandang katutubo, kababaihan, kabataan, bata at may mga kapansanan sa pagpapatupad ng Deklarasyong ito.

2. Ang mga Estado ay magsasagawa ng mga hakbang, katuwang ng mga katutubo, upang matiyak na makakamit ng mga katutubong kababaihan at bata ang buong pangangalaga at katiyakan laban sa anumang uri ng dahas at diskriminasyon.

Artikulo 23

Ang mga katutubo ay may karapatan na magpasya at bumuo ng mga prayoridad at estratehiya sa pagsasagawa ng kanilang karapatan sa pagpapaunlad. Sa partikular, ang mga katutubo ay may karapatan na aktibong makibahagi sa paglikha at pagpapasya sa pangkalusugan, pabahay at iba pang pang-ekonomiya at panlipunang programa na may kinalaman sa kanila, at kung maaari, ay pangasiwaan ang mga programa sa pamamagitan ng kanilang sariling institusyon.

Artikulo 24

1. Ang mga katutubo ay may karapatan sa kanilang tradisyonal na gamot at mapanatili ang tradisyonal na pamamaraan ng paggamot, kabilang na ang pangangalaga sa kanilang mahahalagang halamang gamot, hayop at mga mineral. Ang bawat katutubo ay mayroon ding karapatan na makakuha, ng walang diskriminasyon, sa lahat ng serbisyong panlipunan at kalusugan.

2. Ang bawat isang katutubo ay may pantay na

karapatan na makamit ang pinakamataas na maaaring maabot na antas ng pisikal at mental na kalusugan. Ang mga Estado ay magsasagawa ng nararapat na hakbang sa hangaring papaunlad na makamit ang kaganapan ng karapatang ito.

Artikulo 25

Ang mga katutubo ay may karapatan na mapanatili at mapalakas ang kanilang natatanging ugnayang espiritwal sa kanilang tradisyonal na pag-aari o inuukupahan at ginagamit na mga lupain, nasasakupan, tubig at baybaying dagat at iba pang likas na yaman upang mapatibay ang kanilang tungkulin sa susunod na salin-lahi na nauukol rito.

Artikulo 26

1. Ang mga katutubo ay may karapatan sa kanilang mga lupain, nasasakupan at likas na yaman na tradisyonal nilang pag-aari, inuukupahan, ginagamit o naangkin.

2. Ang mga katutubo ay may karapatang magmay-ari, gumamit, mapaunlad at mapamahalaan ang kanilang mga lupain, nasasakupan at likas na yaman na inaangkin sa pamamagitan ng tradisyonal na sistema ng pag-aari o iba pang tradisyonal na pag-uukupa o paggamit, kabilang na ang kanilang mga naangkin o nabili.

3. Ang mga Estado ay magkakaloob ng legal na pagkilala at pangangalaga sa mga lupaing ito, nasasakupan at likas-yaman. Ang pagkilalang ito ay dapat isagawa na may paggalang sa kaugalian, tradisyon at sistema ng pagmamay-ari ng mga kinauukulang katutubo.

Artikulo 27

Ang mga Estado ay dapat na magsagawa at ipatupad, katuwang ng mga katutubong kasangkot, ang patas, malaya, walang kinikilingan, bukas at maliwanag na proseso, na nagbibigay ng angkop na pagkilala sa batas ng mga katutubo, tradisyon, kaugalian at sistema ng pagmamay-ari sa lupain, upang kilalanin at pagpasyahan ang karapatan ng mga katutubo na nauukol sa kanilang lupain, nasasakupan at likas na yaman, kabilang ang mga tradisyonal na pag-aari o inuukupahan o ginagamit. Ang mga katutubo ay may karapatan na makilahok sa prosesong ito.

Artikulo 28

1. Ang mga katutubo ay may karapatan sa pagwawasto, sa pamamagitan na kasama ang pagpapanumbalik, o kung ito ay hindi na maaring isagawa, sa makatarungan, patas at angkop na kabayaran, sa kanilang mga lupain, nasasakupan at lakas na yaman na tradisyonal nilang pagmamay-ari o inuukupahan o ginagamit, na kung saan ay sapilitang inagaw, kinuha, inukupahan, ginamit o sinira ng walang malaya, nauuna at napaalamang pagsang-ayon.

2. Maliban lamang kung ito ay malayang napagkasunduan ng mga taong kasangkot, ang kabayaran ay dapat isagawa sa porma ng mga lupain, nasasakupan at likas-yaman na katulad ng uri, laki at legal na katayuan o salapi o iba pang naaangkop na kabayaran.

Artikulo 29

1. Ang mga katutubo ay may karapatan na pangalagaan at proteksyonan ang kanilang kapaligiran at kapasidad sa produksyon ng kanilang mga lupain o nasasakupan at likas-yaman. Ang mga Estado ay magsasagawa at magpapatupad ng mga programang tutulong sa mga katutubo sa ganitong pangangalaga at proteksyon, ng walang diskriminasyon.

2. Ang mga Estado ay magsasagawa ng mabisang hakbang upang matiyak na walang magaganap na pag-iimbak o pagtatapon ng mga mapanganib na bagay sa mga lupain o nasasakupan ng mga katutubo ng walang malaya, nauuna at napaalamang pagsang-ayon.

3. Ang mga Estado ay magsasagawa ng mga mabisang hakbang upang matiyak, kung kinakailangan, na ang mga programang magmomonitor, magpapanatili, at magpapanumbalik sa kalusugan ng mga katutubo, na bubuuin at ipatutupad ng mga taong naapektuhan ng nabanggit na materyal, ay karampatang napapatupad.

Artikulo 30

1. Walang gawaing militar na maaaring ipatupad sa mga lupain o nasasakupan ng mga katutubo, maliban lamang kung ito ay may batayang kinauukulang pampublikong interes o kung ito ay malayang napagkasunduan o hiniling ng mga kinauukulang katutubo.

2. Ang mga Estado ay magsasagawa ng mabisang konsultasyon sa mga kinauukulang katutubo, sa pamamagitan ng angkop na pamamaraan at sa partikular sa kanilang mga institusyong kumakatawan,

bago gamitin ang kanilang lupain o nasasakupan sa gawaing militar.

Artikulo 31

1. Ang mga katutubo ay may karapatang panatilihin, pamahalaan, pangalagaan at paunlarin ang pamana ng kanilang lahi, tradisyonal na kaalaman at tradisyonal na kultural na pagpapahayag, kabilang ang mga manipestasyon ng kanilang mga agham, teknolohiya at kultura, kabilang rito ang pantao at henetikong kayamanan, binhi, gamot, kaalaman sa mga katangian ng mga hayop at halaman, oral na tradisyon, literatura, disenyo, palakasan at tradisyonal na laro, biswal at performing arts. Mayroon din silang karapatan na panatilihin, pamahalaan, pangalagaan, at paunlarin ang kanilang pag-aaring kaalaman sa mga pamana ng lahi na kultural, tradisyonal na kaalaman, at mga tradisyonal na pangkultural na pagpapahayag.

2. Katuwang ang mga katutubo, ang mga Estado ay magsasagawa ng mabisang hakbang sa pagkilala at pangangalaga sa katuparan ng nabanggit na karapatan.

Artikulo 32

1. Ang mga katutubo ay may karapatan na magtakda at bumuo ng mga prayoridad at estratehiya sa pagpapaunlad o paggamit ng kanilang mga lupain o nasasakupan at iba pang likas-yaman.

2. Isasangguni ng mga Estado at maayos na makikipagtulungan sa mga kinauukulang katutubo sa pamamagitan ng kanilang sariling mga institusyon na kumakatawan upang makuha ang kanilang malaya, nauuna at napaalamang pagsang-ayon bago mabigyan

ng pahintulot ang anumang proyekto na makakaapekto sa kanilang mga lupain o nasasakupan at iba pang likas-yaman, lalo na ang mga may kinalaman sa pagpapaunlad, paggamit o eksploytasyon ng mineral, tubig at iba pang likas-yaman.

3. Ang mga Estado ay magtatakda ng mga mabisang pamamaraan para sa makatarungan at naaangkop na kabayaran sa anumang katulad na gawain, at magsasagawa ng naaangkop na pamamaraan upang maibsan ang bigat ng pinsalang naidulot sa kapaligiran, ekonomiya, sosyal, kultural o espiritwal.

Artikulo 33

1. Ang mga katutubo ay may karapatan na magtakda ng pagkakakilanlan o kasapian na naaayon sa kanilang kaugalian at tradisyon. Ito ay hindi makakapahina sa karapatan ng bawat indibidwal na katutubo na makakuha ng pagkamamamayan ng Estado na kanilang kinabibilangan.

2. Ang mga katutubo ay may karapatan na itakda ang estruktura at pumili ng kasapian ng kanilang mga institusyon na naaayon sa kanilang sariling pamamaraan.

Artikulo 34

Ang mga katutubo ay may karapatan na isulong, paunlarin at panatilihin ang mga estruktura ng kanilang institusyon at natatanging kaugalian, espiritwalidad, tradisyon, pamamaraan, kagawian at, kung mayroon, sistemang hukom o kaugalian, na naaayon sa internasyonal na pamantayan ng karapatang pantao.

Artikulo 35

Ang mga katutubo ay may karapatan na itakda ang tungkulin ng bawat indibidwal sa kanilang komunidad.

Artikulo 36

1. Ang mga katutubo, lalo na ang mga nahahati ng mga internasyonal na hangganan, ay may karapatan na panatilihin at paunlarin ang mga pakikitungo, relasyon at pakikipagtulungan, kabilang ang mga gawain pang-espiritwal, kultural, pulitikal, ekonomiya at panlipunang layunin, sa kanilang mga kasapi kabilang ang mga tao na nasa kabilang hangganan.

2. Ang mga Estado, sa pamamagitan ng pakikipagsanguni at pakikipagtulunga sa mga katutubo, ay magsasagawa ng mabisang paraan upang maayos na maisagawa at matiyak ang pagpapatupad ng karapatang ito.

Artikulo 37

1. Ang mga katutubo ay may karapatan sa pagkilala, pagtalima at pagpapatupad ng mga tratado, mga kasunduan at iba pang makabubuting balakin na napagkasunduan ng mga Estado o kanilang kahalili at magkaroon ng Estadong dangal at paggalang sa mga naturang tratado, mga kasunduan at iba pang makabubuting balakin.

2. Wala sa deklarasyong ito na may kahulugan na pagmamaliit o pag-alis sa karapatan ng mga katutubo na nakapaloob sa mga tratado, mga kasunduan at iba pang makabubuting balakin.

Artikulo 38

Ang mga Estado, sa pamamagitan ng pakikipagsangguni at pakikipagtulunga sa mga katutubo, ay magsasagawa ng nararapat na hakbang kabilang ang mga lehislatibong pamamaraan, upang makamtan ang layunin ng Deklarasyong ito.

Artikulo 39

Ang mga katutubo ay may karapatan na makakuha ng tulong pinansyal at teknikal mula sa mga Estado at sa pamamagitan ng internasyonal na pakikipagtulungan, upang makamtan ang mga karapatang napapaloob sa Deklarasyon ito.

Artikulo 40

Ang mga katutubo ay may karapatan na makakuha ng impormasyon at maagap na desisyon sa pamamagitan ng makatarungan at patas na pamamaraan sa pagpapasya ng mga hidwaan at pagtatalo sa mga Estado o ng iba panig, kabilang na ang mga mabisang panlunas sa lahat ng paglabag sa kanilang mga indibidwal at kolektibong karapatan. Ang desisyong ito ay dapat na mabigyan ng nararapat na pagsasaalang-alang sa kaugalian, tradisyon, batas at ligal na sistema ng mga kinauukulang katutubo at internasyonal na karapatang pantao.

Artikulo 41

Ang mga sangay at natatanging ahensya ng sistema ng United Nations at iba pang organisasyong intergobernal ay tutulong upang lubos na

maipatupad ang mga itinatadhana ng Deklarasyong ito sa pamamagitan ng pagpapakilos, kabilang na, ng pinansyal na kooperasyon at teknikal ng tulong. Magsasagawa ng iba't ibang pamamaraan upang matiyak ang pakikilahok ng mga katutubo sa mga isyung makakaapekto sa kanilang buhay.

Artikulo 42

Isusulong ng United Nations, ng mga sangay nito, kabilang ang Permanent Forum on Indigenous Issues, at mga natatanging ahensiya, kabilang ang mga nasa pambansang antas, at mga Estado, ang paggalang at lubos na pagpapatupad sa mga itinatadhana ng Deklarasyong ito at susubaybayan ang pagkamabisa ng Deklarasyong ito.

Artikulo 43

Binubo ng mga karapatan na kinikilala rito ang batayang pamantayan para sa kaligtasan, dangal at kagalingang pantao ng mga katutubo sa buong mundo.

Artikulo 44

Ang lahat ng karapatan at kalayaan na kinikilala rito ay tinitiyak na pantay sa lalaki at babae na katutubong indibidwal.

Artikulo 45

Wala sa Deklarasyong ito na maaaring pakahulugan na pagbawas o pagpatay sa mga kasalukuyang karapatan ng mga katutubo, o mga karapatang maaari nilang makuha sa panghinaharap.

Artikulo 46

1. Wala sa Deklarasyong ito na maaaring ipakahulugan na nagpapahiwatig sa alinmang Estado, mga tao, grupo o tao ng anumang karapatan na magsagawa ng anumang gawain o hakbang na sumasalungat sa Charter ng United Nations o may kahulugang nagbibigay kapangyarihan o nanghihimok ng ano mang kilos na maghihiwalay o makakapinsala, sa kabuuan o bahagi, ng integridad ng teritoryo o pampulitikang pagkakaisa ng mga malaya at nagsasariling mga Estado.

2. Igagalang ang karapatang pantao at pangunahing kalayaan sa paggamit ng mga nabanggit na karapatan sa Deklarasyong ito. Ang mga karapatang itinatakda ng Deklarasyong ito ay sasailalim lamang sa limitasyong itinatakda ng batas, at naaayon sa obligasyon ng internasyonal na karapatang pantao. Ano mang limitasyon ay nararapat na walang pagkiling at kailangan lamang sa layuning titiyaking naaangkop ang pagkilala at paggalang sa mga karapatan at kalayaan ng iba at sa pagkamit ng makatarungan at masidhing pangangailangan ng isang demokratikong lipunan.

¹Tingnan ang Resolusyon 2200 A (XXI), annex.

²A/CONF.157/24 (Part I), chap. III.

³Resolusyon 217 A (III).



DEKLARASYON TI UN (NAGKAYKAYSA A NASYON) PARA ITI KARBENGAN TI NAINSIGUDAN NGA

Ti Pangkabuklan nga Asembleya,

Natarabayán kadagiti panggep ken prinsipyo ti Kasuratan dagiti Nagkaykaysa a Nasyon, ken pudno a pammati iti panakagun-od dagiti obligasyon nga inakem dagiti Estado maibatay iti Kasuratan,

Paspasengkedan a dagiti nainsigudan nga umili ket kapada dagiti dadduma pay nga umili, bayat a mabigbig dagiti karbengan ti amin nga umili kas nagduduma, maibilang dagiti bukodda a bagi kas naidumduma, ken tapno marespetoda a kasta,

Paspasengkedan met nga amin nga umili ket addaan kontribusyon iti panagduduma ken kinabaknang ti sibilisasyon ken kultura, a mangbukel iti sangsangkamaysa a tawid ti amin a tao,

Paspasengkedan met manen nga amin a doktrina, polisiya ken aramid a maibatay wenno mangitantandudo iti kapanunotan nga adda nangatngato nga umili wenno indibidwal gapu iti naggapuan a nasyon wenno puli, relihiyon, etniko wenno nagdudumaan iti kultura ket panang-uyaw iti

puli, awanan siyentipiko a batayan, saan a maibilang a ligal, maibilang nga immoral ken saan a nainkalintegan iti gimong,

Paspasengkedan manen nga iti panangipakat ti karbenganda, dagiti nainsigudan nga umili ket nawaya manipud iti aniaman a klase ti diskriminasyon.

Mabigbig a dagiti nainsigudan nga umili ket naglak-am kadagiti in hustisiya iti nabayag a panawen kas resulta iti pannakasakop ken pannakaagaw kadagiti daga, teritoryo ken kinabaknang da. Gapu kadagitoy, malaplappedan da, iti partikular, iti karbengan a dumur-as batay kadagiti bukodda a kasapulan ken interes

Maseknan ti nasken unay a kasapulan a panangrespeto ken panangitandudo kadagiti naituding a karbengan dagiti nainsigudan nga umili a naadaw manipud iti politikal, ekonomiko ken sosyal nga istruktura ken manipud kadagiti kultura, ispiritwal a tradisyon, pakasaritaan ken pilosopiyada, nangruna iti kabenganda kadagiti daga, teritoryo ken kinabaknang,

Mabigbigbig met ti kasapulan a marespeto ken maitandudo dagiti karbengan ti nainsigudan nga umili a napasingkedan kadagiti tratado, panagkikinnaawatan ken napagkaykaysaan dagiti Estado,

Mabigbig ti kinapudno a dagiti nainsigudan nga umili ket bukbulenda dagiti bagbagida para iti politikal ekonomiko, sosyal ken kultural a panagdur-as ken tapno mapasardeng ti amin a langa ti diskriminasyon ken pannakaidadanes iti sadinuman a pakapasamakan daytoy,

Naallukoy a ti kontrol dagiti nainsigudan nga umili kadagiti panagbalbaliw a makapekto kadakuada agraman ti daga, teritoryo ken kinabaknang ket mangted bileg kadakuada a mangmentenar ken mangpapigsa kadagiti institusyon, kultura ken tradisyon da, ken tapno maital-o ti panagdur-asda kas maiyannatop iti arapaap ken kasapulanda,

Mabigbigbig a ti respeto iti nainsigudan a kaammoan, kultura ken tradisyunal nga ar-aramid ket agpaay iti mataginayon ken patas a panagdur-as ken husto a panangtaripato iti aglawlaw,

Maipaganetget ti kontribusyon ti pannakaikkat ti kontrol ti militar kadagiti dagdaga ken teritoryo dagiti nainsigudan nga umili iti kappia, ekonomiko ken sosyal a progreso ken panagdur-as, panagkikinnaawatan ken nasinged panaggagayem iti baet dagiti nasyon ken umili ti lubong,

Mabigbigbig iti partikular ti karbengan dagiti nainsigudan a pamilya ken komunidad iti panangpatalinaed iti naitipon a responsibilidad iti panangpadakkel, panangsanay, edukasyon ken pagsayaatan dagiti ubbingda, kas maiyannatop iti karbengan dagiti ubbing,

Maibilbilang a dagiti karbengan nga inanamungan dagiti tratado, tulagan ken dadduma pay a napagkaykaysaan iti nagbabaetan dagiti Estado ken nainsigudan nga umili ket, iti sumagmamano a sitwasyon, banbanag iti sangalubongan a pakaseknan, interes, responsibilidad ken karakter ti sangalubongan,

Maibilbilang met a dagiti tratado, tulagan ken dadduma pay a nagpagkaykaysaan, ken dagiti relasyon

nga inda ibagbagi, ket isu ti pagbasaran iti napapigsa a panagdanggay iti baet dagiti nainsigudan nga umili ken dagiti Estado,

Mabigbigbig a ti Kasuratan Dagiti Nagkaykaysa a Nasyon, ti International Covenant of Economic, Social and Cultural Rights ken ti International Covenant on Civil and Political Rights agraman iti Vienna Declaration and Programme of Action pasingkedan da ti kangrunaan a bileg ti karbengan iti bukod a pangngeddeng dagiti amin nga umili, nga iti babaen daytoy ket siwaya-waya da a mangpili iti saad ti pulitika ken siwaya-waya da a mang-gun-od iti ekonomiko, sosyal ken kultural a panagdur-as,

Laglagipen nga awan iti uray anya ditoy a Deklarasyon ti mausar tapno saan a maited iti asinuman nga umili ti karbengan iti bukod a pangngeddeng a maar-aramid kas mayannatop iti sangalubongan a linteg,

Naallukoy a ti pannakabigbig ti karbengan dagiti nainsigudan nga umili iti daytoy a Deklarasyon ket papintasenna ti naurnos ken natunos a relasyon iti nagbaetan dagiti Estado ken nainsigudan nga umili, naibasar iti prinsipyo ti hustisya, demokrasya, respeto iti karbengan ti tao, kinaawan ti diskriminasyon ken naimbag a pammati,

Mapatured dagiti Estado nga suruten ken epektibo nga iyemplementar dagiti amin nga obligasyonda nga agpaay kadagiti nainsigudan nga umili babaen dagiti internasyunal nga instrumento, partikular dagiti maipapan iti karbengan ti tao, nga addaan konsultasyon ken kooperasyon dagiti umili a maseknan,

Maipagpaganetget nga dagiti Nagkaykaysa a Nasyon ken addaan importante ken agtultuloy a paset iti pannakaital-o ken proteksyon ti karbengan dagiti nainsigudan nga umili,

Mamati a daytoy a Deklarasyon ket importante nga addang nga agturong para iti pannakabigbig, pannakaital-o ken proteksyon ti karebengan ken waya-wayaya dagiti nainsigudan nga umili ken iti panagdur-as dagiti umannatop nga aktibidades ti Sistema dagiti Nagkaykaysa a Nasyon iti daytoy a ganwat,

Mabigbigbig ken mapaspasingkedaan a dagiti nainsigudan nga umili ket addaan karbengan ken saan a mailaksid iti amin a mabigbig a sangalubungan a linteg ken addaanda met ti kolektibo a karbengan a saan a naisina iti nakaipasua-an, pagimbagan ken integral a panagdur-as da a kas tao,

Mabigbigbig pay a ti sitwasyon dagiti nainsigudan nga umili ket agduma iti maysa a rehiyon kumpara iti sabali pay a rehiyon ken nasyon kumpara iti sabali pay a nasyon isu't gapuna a ti nasyunal ken rehiyunal a nagdudumaan ken sumagmamano a historical ken kultural a pakasaritaan ket rumbeng a maikkan iti konsidersyon,

Sipupudno a maiproklama dagiti sumaganad a Deklarasyon Ti Nagkaykaysa a Nasyon iti Karbengan Dagiti Nainsigudan Nga Umili kas pangrukudan iti nagapuanan a gun-oden babaen iti ispiritu ti panagakakadua ken pada-pada a respetu:

Artikulo 1

Dagiti nainsigudan nga umili ket addaan karbengan a sibubukel a manglak-am, kas kolektibo man wenno kas indibidwal, amin a karbengan ti tao ken waya-waya a binigbig ti Kasuratan Dagiti Nagkaykaysa a Nasyon, Ti Sangalubungan a Deklarasyon ti Karbengan ti Tao ken ti sangalubungan a linteg ti karbengan ti tao.

Artikulo 2

Dagiti nainsigudan nga umili ken indibidwal ket nawaya ken pada-pada kas iti kadagiti dadduma pay nga umili ken indibidwal ken addaanda ti karbengan bayat iti pang-usarda iti panangipatungpal ti karbengan da, ken iti partikular ti pannakaibasar iti nainsigudan a naggappuan ken kinatao da.

Artikulo 3

Dagiti nainsigudan nga umili ket addaan karbengan iti bukod a pangngeddeng. Babaen iti dayta a karbengan siwayawayada a mangpili iti kasasaadda iti pulitika ken nawayada a gun-oden dagiti ekonomiko, sosyal ken kultural a panagdur-as.

Artikulo 4

Dagiti nainsigudan nga umili, iti pannangusarda iti karbengan iti bukod a pangngeddeng, ket adda karbenganda iti otonomiya wenno bukod a panag-gobierno iti banbanag a mainaig iti internal ken local a paspasamak, kasta met iti pamay-an ken pangalaan iti pinansya para iti panangtaming iti bukod a pangrebbengan.

Artkulo 5

Dagiti nainsigudan nga umili ket addaan karbengan a mangpatanor ken mangpapigsa iti nainsangsangayan a political, legal, ekonomiko, sosyal ken kultural nga institusyon, kabayatan a mataginayon ti karbengan iti kumpleto a partisipasyon, no daytoy ti pilienda, iti politikal, ekonomiko, sosyal ken kultural a biag ti Estado.

Artikulo 6

Tunggal nainsigudan nga indibidwal ket addaan karbengan iti nasyunalidad.

Artikulo 7

1. Dagiti nainsigudan nga indibidwal ket addan karbengan iti biag, pisikal ken mental a kinatakneng, waya-waya ken seguridad kas maysa a tao.

2. Dagiti nainsigudan nga umili ket addaan iti kolektibo a karbengan nga agbiag a siwaya-waya, natalna ken addaan seguridad kas naisalumina nga umili ken saan koma a makapadas iti panakaibus iti puli wenno ania pay a kinaulpit ken kinaranggas, agraman inkapilitan a pannakaiyakar dagiti ubbing iti maysa a grupo iti sabali pay a grupo.

Artikulo 8

1. Dagiti nainsigudan nga umili ken indibidwal ket addan karbengan a saan a makapadas iti inkapilitan nga asimilasyon wenno pannakarippuog ti kultura da.

2. Dagiti Estado ket rumbeng a mangted iti epektibo

a mekanismo tapno mailiklik iti, ken denggen ti reklamo a maigapu iti:

- (a) Anya man nga aksyon nga addaan gandat wenno epekto a maipaidam kadakuada ti integridad kas naiduma nga umili, wenno iti kultural a pammati wenno etniko a kinataoda;
- (b) Anya man nga aksyon nga addaan gandat wenno epekto a mang-agaw ti panagtagikuada iti daga, teritoryo ken kinabaknang;
- (c) Anya man a langa ti inkapilitan a pannakaiyakar ti populasyon nga addaan gandat wenno epekto a malabsing wenno matagibassit iti aniaman kadagiti karbenganda;
- (d) Anya man a langa ti inkapilitan nga asimilasyon wenno integrasyon iti kultura ti mayorya;
- (e) Anya man a langa iti propaganda a nairanta a mangital-o wenno mangrubrub iti "racial" wenno "ethnic" a mangtagibassit a maibusor kadakuada.

Artikulo 9

Dagiti nainsigudan nga umili ken indibidwal ket addaan karbengan a maibilang iti maysa a nainsigudan a komunidad wenno nasyon, kas maiyannatop iti tradisyon ken ugali ti komunidad wenno nasyon a maseknan. Awan koma ti anyaman a panangtagibassit ti rumsua manipud iti pannakausar iti kasta a karbengan.

Artikulo 10

Dagiti nainsigudan nga umili ket saan a mabalin a pwersado a mapapanaw iti daga wenno teritoryoda. Awan ti relokasyon a mapasamak no awan ti nawaya, nasakbay ken naipakaammo nga iya-anamong dagiti

nainsigudan nga umili a maseknan ken kalpasan a napagkaykaysaan iti nainkalinteg kan umno a kompensasyon ken, nu possible, maaddaan ti gundaway nga agsublidan to met laeng.

Artikulo 11

1. Dagiti nainsigudan nga umili ket addaan karbengan a mang-usar ken mangpapigsa iti kultural a tradisyon ken ugali. Nairaman ditoy ti karbengan a mangtaginayon, mangsalaknib ken mangpadur-as iti napalabas, agdama ken masakbayan a pakakitaan iti kultura, kas koma iti arkeolohikal ken historical a lugar, dagiti ram-ramit a nagkauna, dagiti desenyoy, seremonya, teknolohiya, ken dagiti mabuya, palabas ken literature.

2. Dagiti Estado ket mangted iti epektibo a mekanismo tapno marisut dagiti reklamo nga mabalin a karaman daytoy ti pannakabayad dagiti napirdi, a napartuat babaen met laeng kadagiti nainsigudan nga umili, mainaig daytoy iti kultural, intelektwal, relihiyon ken ispiritwal a sanikua a naala nga awan siwaya-waya, nasakbay ken naipakammo nga iyaanamong, wenno maikaniwas iti linteg, tradisyon ken ugali da.

Artikulo 12

1. Dagiti nainsigudan nga umili ket addaan karbengan a mangipakita, mangaramid, mangpadur-as ken mangisuro iti tradisyonda nga ispiritual ken relihiyoso, dagiti ug-ugali ken seremonya; kasta met iti karbengan nga mangtaginayon, mangsalaknib ken maaddaan iti gundaway a sumrek a nawaya kadagiti lugar a pagaramidan kadagiti ritwal; iti karbengan nga mangusar ken mangkontrol kadagiti gamit a

pangseromonya; ket iti karbengan a mangiyawid kadagiti minatay iti lugar a nakayanakanda;

2. Dagiti Estado ket mangbiruk iti wagas tapno maikkan ti gundaway a mausar ken mabawi dagiti gamit a pangseromonya ken dagiti nabati a paset ti bagbagi dagiti minatay nga adda iti ikotda babaen iti patas, nalawag ket epektibo a mekanismo a napartuat iti pannakitinnulong dagiti nainsigidan nga umili a maseknan.

Artikulo 13

1. Dagiti nainsigidan nga umili ket addaan karbengan a mangiriing, mangusar, mangpadur-as ken mangisuro iti masangwanan a henerasyon kadagiti pakasaritaan, pagsasao, tradisyunal nga is-istorya, pilosopya, sistema iti panagsurat ken literatura, ken mangpanagan wenno mangituloy ang mangusar iti bukodda a pangawag kadagiti komunidad, lugar ken tattao.

2. Dagiti Estado ket mangaramid iti epektibo a pamay-an tapno maisiguro a dagitoy a karbengan ket protektado ken kasta pay a maisiguro nga dagiti nainsigidan nga umili maawatanda ken maawatanda ida dagiti dadduma iti political, legal ken administratibo a proseso, nga nu sadino a masapul iti pannakaipaay ti interpretasyon iti bukodda a pagsasao wenno iti dadduma pay a mayannatop a pamay-an.

Artikulo 14

1. Dagiti nainsigidan nga umili ket addaan karbengan a mangipasdek ken mangkontrol idi bukodda a sistema ti edukasyon ket institusyon a

mangipaay iti edukasyon babaen iti bukodda a pagsasao, iti wagas ti panangisuro ken panagadal a maiyannatop iti kultura da.

2. Dagiti nainsigudan nga indibidwal, nangruna dagiti ubbing, ket addaan karbengan iti amin a tukad ken porma ti edukasyon nga ipaay ti Estado nga awan iti diskriminasyon.

3. Dagiti Estado, iti pannakitinnulong nainsigudan nga umili, ket mangaramid ti epektibo a pamay-an, tapno dagiti nainsigudan nga indibidwal aglalo dagiti ubbing, kasta met dagiti agnanaed iti ruar dagiti komunidad a nainsigudan tapno, nu adda pannakabalinna, adda gundaway da a magun-od ti edukasyon iti bukodda a kultura ken maipaay iti bukodda a pagsasao.

Artikulo 15

1. Dagiti nainsigudan nga umili kat addaan karbengan iti dignidad ken panagduduma dagiti kultura, tradisyon, pakasaritaan ken arapaap nga rumbeng a maipakita iti edukasyon ken impormasyon nga agpaay iti publiko.

2. Dagiti Estado ket mangiwayat ti epektibo a pamay-an, babaen iti konsultasyon ken kooperasyon dagiti nainsigudan nga umili a maseknan, tapno labanan ti panangilaksid, pukawen ti diskriminasyon ken maital-o ti panagrespeto iti maysa ken maysa, panangkikinnaawatan ken naimbag a relasyon iti nagbabaetan dagiti nainsigudan nga umili ken iti amin a paset ti gimong.

Artikulo 16

1. Dagiti nainsigudan nga umili ket addaan karbengan a mangipasdek iti bukodda a midya nga mausar ti bukodda a pagsasao ken maaddaan iti gundaway a mausar dagiti amin a porma ti saan a nainsigudan a midya nga awan ti diskriminasyon.

2. Dagiti Estado ket mangiwayat ti pamay-an tapno maisiguro a dagiti midya a kukua ti Estado iparangda ti nainsigudan a nagdudumaan ti kultura. Dagiti Estado, nga awan ti panangilaksid ti pannakaisigurado ti waya-waya mangiyebkas iti kapanunutan, ket rumbeng a papigsaenna dagiti pribado a midya tapno umdas a maiparang ti panagduduma iti kultura.

Artikulo 17

1. Dagiti nainsigudan nga indibidwal ken umili kat addaan karbengan a manggun-od nga awan limistayon na iti amin a karbengan a naipasdek babaen iti internasyunal a linteg ken linteg ti nasyon mainaig kadagiti mangmangged.

2. Dagiti Estado ket, babaen iti konsultasyon kadagiti nainsigudan nga umili, mangiruswat iti apag-iso a pamay-an tapno protektaran dagiti nainsigudan nga ubbing manipud iti pannakagundaway iti panagbiagda ken tapno mailisida iti panagtrabaho iti napeggad wenno makatubeng iti panagadal dagiti ubbing, wenno makapadakes iti salun-at a pisikal, mental, ispiritwal, moral ken panagdur-as iti gimong, mabigbig iti kasasaad da bulnerable ken ti importansya ti edukasyon para iti pannakapabileg da.

3. Dagiti nainsigudan nga indibidwal ket addaan karbengan a saan nga makapadas iti aniaman a diskriminasyon iti kondisyon iti panagtrabaho, pannakaempleo wenno sweldo

Artikulo 18

Dagiti nainsigudan nga umili ket addaan karbengan a makipaset iti panagdesisyon kadagiti banbanag a makaapekto iti karbenganda, babaen dagiti napilida a mangibagi kadakuada kas sagudayen dagiti bukodda a proseso, kasta met a mataginayon ken mapadur-as dagiti nainsigudan nga institusyon a dinutukanda nga agaramid kadagiti desisyon.

Artikulo 19

Dagiti Estado ket rumbeng a kumunsulta ken makidanggay nga addaan naimbag a nakem kadagiti nainsigudan nga umili a maseknan babaen kadagiti institusyon mangibagbagi kadakuada tapno magun-od ti nawaya, nasakbay ken napakaammoan nga iyaanamongda iti maadaptar ken maimplementar a linlinteg ken administratibo a pamay-an nga makaapekto kadakuada.

Artikulo 20

1. Dagiti nainsigudan nga umili ket addaan karbengan a mangtaginayon ken mangpadur-as iti politikal, pagbiagan ken pangkagimongan a sistema wenno institusyon, maaddaan iti seguridad iti panangapit iti bukodda a paggappuan iti pagbiagan ken panagrang-ay, ken siwaya-way a makibiang iti amin a tradisyunal nga aramid ken panggedan.

2. Dagiti nainsigudan nga umili a napaidaman iti paggapuan ti pagbiagan ken panagrang-ay ket addaan karbengan iti nainkalintegan ken patas a pannakadengngeg kadagiti reklamo.

Artikulo 21

1. Dagiti nainsigudan nga umili ket addaan karbengan, nga awan ti diskriminasyon, iti pannakapapintas iti pagbiagan ken pangkagimongan a kondisyonda, agraman iti benneg ti edukasyon, pangngedan, panagsanay ken maulit a panagsanay a bokasyunal, pagtaengan, sanistasyon, salun-at ken seguridad a pangkagimongan (social security).

2. Dagiti Estado ket rumbeng a mangisayangkat iti pamay-an ken, nu sadino a maibagay, ispesyal a pamay-an tapno maisigurado ti agnanayon a pannakapapintas ti pagbiagan ken pangkagimongan a kundisyonda. Partikular nga atensyon ti maited koma iti karbengan ket ispesyal a pakasapulan dagiti nainsigudan a panglakayen, babbai, agtutubo, ubbing ken indibidwal nga addaan pagkapsutan wenno kapansanan.

Artikulo 22

1. Partikular nga atensyon ti maited koma kadagiti karbengan ken espesyal a pakasapulan dagiti nainsigudan a panglakayen, babbai, agtutubo, ubbing ken indibidwal nga addaan pagkapsutan wenno kapansanan iti implementasyon daytoy a Deklarasyon.

2. Dagit Estado ken rumbeng a mangisayangkat iti pamay-an, iti pannakitinnulong dagiti nainsigudan nga umili, tapno maisiguro a dagiti nainsigudan a

babbai ken ubbing masagrapda ti buo a proteksyon ken garantiya maibusor iti aniaman a porma ti kinaulpit ken diskriminasyon.

Artikulo 23

Dagiti nainsigudan nga umili ket addaan karbengan a mangbigbig ken mangpartuat kadagiti prioridad ken istrategiya iti pannakagun-od dagiti karbenganda iti panagrang-ay. Iti partikular, dagiti nainsigudan nga umili ket addaan karbengan nga aktibo a makibiang iti panagbukel ken panangbigbig iti programa iti salun-at, pabalay ken dadduma pay a programa iti pagbiagan ken pangkagimongan a makaapekto kadakuada, aginggana iti mabalin, maimplementar dagiti kasta a programa babaen kadagiti bukodda nga institusyon.

Artikulo 24

1. Dagiti nainsigudan nga umili ket addaan karbengan iti tradisyunal a panangagas ken mangtaginayon iti bukodda nga ar-aramid mainaig iti salun-at, agraman ti pannakapreserba dagiti importante a mulmula, dingwen ken mineral a makaagas. Dagiti nainsigudan nga indibidwal kat adda met karbenganda a makagun-od, nga awan diskriminasyon, kadagiti amin a serbisyo a pangkagimongan ken salun-at.

2. Dagiti nainsigudan nga indibidwal ket addaan patas a karbengan iti pananggun-od iti kangatoan a mabalin a madanun nga pangrukudan iti pisikal ken mental a salun-at. Dagiti Estado ket masapul a mangaramid iti kasapulan nga addang tapno sibubukel a magun-od iti masakbayan dagitoy a karbengan.

Artikulo 25

Dagiti nainsigudan nga umili ket addaan karbengan a mangtaginayon ken mangpapigsa iti naisangsangayan nga ispiritwal a relasyonda iti tradisyunal a tinagikua wenno inokupar ken inusar a dagdaga, teritoryo, karayan ken baybay ken dadduma pay a kinabaknang, ken tapno mapasingkeda dagiti responsibilidad da kadagiti masangwanan a henerasyon iti daytoy a banag.

Artikulo 26

1. Dagiti nainsigudan nga umili ket addaan karbengan iti dagdaga, teritoryo ken kinabaknang a tradisyunal nga tinagikua, inokupar, inusar wenno nagatang da.

2. Dagiti nainsigudan nga umili ket addaan karbengan a mangtagikua, mangusar, mangpadur-as ken mangkontrol iti dagdaga, teritoryo ken kinabaknang nga ik-ikutanda babaen iti tradisyunal a panagtagikua wenno sabali pay a tradisyunal nga okupasyon wenno panagusar, agraman dagiti dadduma pay a sanikua nga inda nagatang.

3. Dagiti Estado ket mangted iti legal a panangbigbig ken proteksyon kadagitoy a dagdaga, teritoryo ken kinabaknang. Dayta a panangbigbig ket maaramid a maikkan iti umno a respeto dagiti ugali, tradisyon ken sistema ti panagtagikua iti daga dagiti nainsigudan nga umili a maseknan.

Artikulo 27

Dagiti Estado ket rumbeng a mangipasdek ken mang-implementar, iti pannakitinnulong dagiti nainsigudan nga umili a maseknan, iti patas, independiente, awan ti paniganna, nakalukat ken nalawag a proseso, nga mangted iti umno a panangbigbig iti nainsigudan a lin-linteg, tradisyon, ugali ken sistema iti panagtagikua iti daga, tapno mabigbig ken madesisyunan dagiti karbengan dagiti nainsigudan nga umili maipapan iri daga, teritoryo ken kinabaknang, agraman dagiti tradisyunal a natagikua wenno naokuparan wenno nausar. Dagiti nainsigudan nga umili ket addaan karbengan a makibiang iti daytoy a proseso.

Artikulo 28

1. Dagiti nainsigudan nga umili ket addaan karbengan a masungbatan dagiti reklamo, babaen iti wagas a pakairamanan ti pannakaisubli dagiti napukaw wenno, no saanen a possible, mabayadanda iti husto, patas ken parehas a gatad para iti dag-daga, teritoryo ken kinabaknang nga inda tradisyunal a tinagikua wenno inokuparan wenno inusar, ken kasta met dagiti nakumpiskar, naagaw, naokuparan, nausar wenno napirdi nga awan ti nawaya, nasakbay ken napakaammoan nga iya-anamong.

2. Malaksid no siwaya-waya nga inanamongan dagiti maseknan a tattao, ti maisukat a kumpensasyon ket mabalín iti porma a daga, teritoryo ken kinakbakang a kaasping ken pareho iti kalidad, sukat ken estado a legal wenno iti katukad na a gatad ti kuarta wenno dadduma pay a mayannatop a supapak dagiti napukaw.

Artikulo 29

1. Dagiti nainsigudan nga umili ket addaan karbengan iti pannakapatalinaed ken pannakasalaknib ti aglawlaw ken ti kapasidad dagiti daga, teritoryo wenno kinabaknang iti panagpartuat iti produkto. Dagiti Estado ket rumbeng a mangipatakder ken mangimplementar iti tulong a programa para kadagiti nainsigudan nga umili para iti dayta a pannakapatalinaed ken proteksyon, nga awan iti diskriminasyon.

2. Dagiti Estado ket rumbeng a mangaramid iti epektibo a pamay-an tapno maisigurado nga awan maidulin wenno maibelleng a makasabidong ken delikado a materyales iti daga ken teritoryo dagiti nainsigudan nga umili nga awan ti nawaya, naksakbay ken naipakaammoan nga iyaanamongda.

3. Dagiti Estado ket rumbeng a mangaramid iti epektibo a pamay-an tapno maisiguro, kas masapul, nga dagiti programa para iti panangsubaybay, panangmentenar ken pannakaisubli iti salun-at dagiti nainsigudan nga umili, kas napartuat ken naimplementar dagiti umili nga apektado iti kakastoy a materyales, ken maimplementar a sipupudno.

Artikulo 30

1. Dagiti aktibidades a pangmilitar ket saan a rumbeng nga maaramid iti uneg ti daga wenno teritoryo dagiti nainsigudan nga umili, malaksid no maikalintegang iti interes ti publiko wenno siwaya-wayang inanamongan wenno dinawat dagiti nainsigudan nga umili a maseknan.

2. Dagiti Estado ket rumbeng a mangaramid iti epektibo a kunsultasyon kadagiti maseknan a nainsigudan nga umili, babaen iti maiyannatop a proseso ken iti partikular babaen kadagiti mangibagi kadakuada nga institusyon, sakbay a mausar dagiti daga ken teritoryo da iti aktibidad a pang-militar.

Artikulo 31

1. Dagiti nainsigudan nga umili ket addaan karbengan a mangmentenar, mangkontrol, mangsalaknib ken mangparang-ay iti tawid a kultural, tradisyunal nga kaammoan ken tradisyunal a pannakaiparang ti kultura, kasta met iti pagilasinan ti bukodda a siyensya, teknolohiya ken kultura, mairamanan ti kinabaknang ti tao ken “genetic resources,” bukbukel, medisina, kaammoan kadagiti galad dagiti animal ken mulmula, tradisyunal nga istorya, literatura, desenyoy, dagiti ay-ayam a tradisyunal, dagiti mabuya ken maipabuya (performing arts). Adda met karbenganda a mangtaginayon, mangkontrol, mangsalaknib ken mangpadur-as iti intelektwal a panagtagikuada kadagiti kastoy a kutural a tawid, tradisyunal a kaammoan, ken tradisyunal a pannakaiparang ti kultura.

2. Iti pannakitinnulong dagiti nainsigudan nga umili, dagiti Estado ket rumbeng a mangaramid iti epektibo a pamay-an tapno mabigbig ken masalakniban ti pannaaramat dagitoy a karbengan.

Artikulo 32

1. Dagiti nainsigudan nga umili ket addaan karbengan nga mangkita ken mangpartuat iti prayoridad ken istratohiya para iti panagrang-ay wenno

pannakausar dagiti daga ken teritoryo ken dadduma pay a kinabaknang.

2. Dagiti Estado ket rumbeng a mangkunsulta ken makidanggay kadagiti nainsigudan nga umili iti ispiritu ti naimbag a nakem babaen kadagiti mangibagbagi kadakuada nga institusyon tapno magun-od ti siwaya-waya ken napakaammoan nga iyaanamong sakbay a maaprubaran ti aniaman a proyekto nga makaapekto iti daga, teritoryo ken kinabaknangda, partikular ti mainaig iti panagrang-ay, panangusar ken pannakaala dagiti mineral, danum ken dadduma [ay a kinabaknang.

3. Dagiti Estado ken rumbeng a mangted iti epektibo a mekanismo para iti husto ken patas a pannakasungbat dagiti reklamo iti kakastoy nga aktibidades, ken umno a pamay-an a rumbeng a maaramid tapno maliklikan ti saan a nasayaat nga ibungana iti aglawlaw, pagbiagan, gimong, kultura ket ispiritwal ng aspeto.

Artikulo 33

1. Dagiti nainsigudan nga umili ket addaan karbengan nga mangbigbig iti bukodda nga kinasiasino wenno pakaibilangan kas sagudayen dagiti ugali ken tradisyon. Daytoy ket saan nga perdien ti karbengan dagiti nainsigudan nga indibidwal nga mangala iti "citizenship" da iti Estado nga pagnanaedanda.

2. Dagiti nainsigudan nga umili ket addaan karbengan nga magbigbig iti istruktura ken mangpili iti kamkameng dagiti institusyonda kas sagudayen dagiti bukodda a proseso.

Artikulo 34

Dagiti nainsigudan nga umili ket addaan karbengan nga mangital-o, mangpadur-as ken mangtaginayon iti istruktura dagiti institusyon ken dagiti naisangsangayan nga ugali, ispiritwalidad, tradisyon, proseso, aramid ken, nu adda pay dagitoy, sistema iti hustisya a nakaugalian, kas sagudayen ti internasyunal a pangrukudan ti karebengan ti tao.

Artikulo 35

Dagiti nainsigudan nga umili ket addaan karbengan nga magbigbig iti responsibilidad dagiti indibidwal iti uneg ti komunidadda.

Artikulo 36

1. Dagiti nainsigudan nga umili, partikular kadagiti nabingay gapu kadagiti beddeng ti nasnasyon, ket addaan iti karbengan a mangtaginayon ken mangparang-ay iti kontak, relasyon ken kooperasyon, agraman aktibidad a pang-ispiritwal, kultural, politikal, pagbiagan ken pangkagimongan a gandat, kadagiti bukodda a kameng ken dagiti dadduma nga kailian da iti kabangibang a beddeng.

2. Dagiti Estado, iti konsultasyon ken kooperasyon dagiti nainsigudan nga umili, ket rumbeng a mangaramid iti epektibo a pamay-an tapno maipagna ti pannakausar ken maisiguro ti implementasyon daytoy a karbengan.

Artikulo 37

1. Dagiti nainsigudan nga umili ket addaan

karbengan iti pannakabigbig, pannakaobserba ken pannakaipwersa dagiti tratado, nagkikinnaawatan ken dadduma pay a konstruktibo nga nagtutulagan a pinasingkedan dagiti Estado wenno dagiti simmukat kadakuada ket tapno dagiti Estado padayawan ken respetwen da dagita a tratado, nagkikinnaawatan ken dadduma pay a konstruktibo nga nagtutulagan.

2. Awan ti linaon daytoy a Deklarasyon a mabalin nga maipataros kas mangwaswas wenno mangpukaw iti karbengan dagiti nainsigudan nga umili a linaon dagiti tratado, nagkikinnaawatan ken dadduma pay a konstruktibo nga nagtutulagan.

Artikulo 38

Dagiti Estado, iti konsultasyon ken kooperasyon kadagiti nainsigudan nga umili, ket rumbeng a mangaramid iti umno nga pamay-an, agraman pangpanday iti linteg, tapno magun-od dagiti panggep daytoy a Deklarasyon.

Artikulo 39

Dagiti nainsigudan nga umili ket addaan karbengan nga makaala iti pinansyal ken teknikal a tulong manipud kadagiti Estado ken babaen iti internasyunal nga kooperasyon, para iti panakausar dagitoy a karbengan nga linaon daytoy a Deklarasyon.

Artikulo 40

Dagiti nainsigudan nga umili ket addaan karbengan nga makaala iti napasas a desisyon babaen iti husto ken patas a proseso ti resolusyon dagiti risiris ken saan a panagkikinnaawatan kadagiti Estado ken

dadduma pay a partidos, kasta met iti epektibo a remedyo kadagiti amin a pannakalabsing dagiti indibidwal ken kolektibo a karbenganda. Dagitoy a desisyon ket rumbeng a mangted iti umno a konsiderasyon iti ugali, tradisyon, pagalagadan ken legal a sistema dagiti nainsigudan nga umili a maseknan ken ti internasyunal a karbengan ti tao.

Artikulo 41

Dagiti organo ken espesyal nga ahensya dagiti Nagkaykaysa a Nasyon ken dadduma pay nga organisasyon dagiti nasyon ken rumbeng a mangibingay para iti kumpleto a pannakaibanag dagiti probisyon daytoy a Deklarasyon babaen iti mobilisasyon ti pinansyal a kooperasyon ken tulong a teknikal. Dagiti wagas ken pamay-an tapno maisigurado ti partisipasyon dagiti nainsigudan nga umili kadagiti isyu nga makapektar kadakuada ket rumbeng a maipasdek.

Artikulo 42

Dagiti Nagkaykaysa a Nasyon, dagiti pannakabagina, agraman iti Permanent Forum on Indigenous Issues, ken espesyal nga ahensya, agraman dagiti adda kadagiti pagilian ken Estado ket rumbeng nga italo da ti pannakarespeto ken kumpleto nga aplikasyon dagiti probisyon daytoy a Deklarasyon ken masubaybayan ti kinaepektibo daytoy a Deklarasyon.

Artikulo 43

Dagiti karbengan a nabigbig iti ditoy ibagina ti minimum a pangrukudan iti panagbiag, dignidad ken naimbag a kasasaad dagiti nainsigudan nga umili ti lubong.

Artikulo 44

Amin dagiti karbengan ken waya-waya a nabigbig ditoy ket patas a garantiya para kadagiti naisigudan a lallaki ken babbai.

Artikulo 45

Awan iti mabirukan ditoy a Deklarasyon a maipataros kas mangwaswas wenno mangpukaw kadagiti karbengan iggem itan dagiti nainsigudan nga umili wenno magun-oddanto iti masakbayan.

Artikulo 46

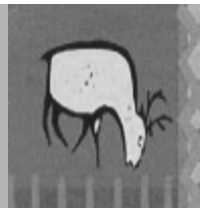
1. Awan ti mabirukan iti daytoy a Deklarasyon nga mabalin a maipataros nga ipaspasimudaagna a dagiti Estado, umili, grupo wenno persona ket adda karbenganda nga mangaramid iti aniaman nga aktibidad wenno agaramid iti maikaniwas ti Kasuratan Dagiti Nagkaykaysa a Nasyon, wenno maipaawat kas mangmangted iti awtoridad wenno mangsugsog iti aniaman nga aksyon tapno mapagsisina wenno maburak iti kabuklan wenno iti maysa a paset ti teritoryo wenno panagkaykaysa a politikal dagiti nawaya ken addaan soberenya nga Estado.

2. Iti pannakausar dagitoy a karbengan a nailanad iti agdama a Deklarasyon, dagiti karbengan ti tao ken pundamental a waya-waya ti amin ket rumbeng a marespeto. Ti pannakausar dagiti karbengan a nailanad ti daytoy a Deklarasyon ket sakupen dagiti limitasyon kas mabigbig iti linteg, ken kas sagudayen ti internasyunal nga obligasyon para iti karbengan ti tao. Aniaman a limitasyon ket rumbeng nga saan a mangipaay iti diskriminasyon and istrikto a masapul

laeng para iti panggep a maisiguro ti umno a pannakabigbig ken respeto dagiti karbengan ken waya-wayaya dagiti dadduma and tapno magun-od ti nainkalintegang ken kangrunaan a pakasapulan ti demokratiko a gimong.

3. Dagiti probisyon a nailanad ditoy a Deklarasyon ket rumbeng a maipataros kas sagudayen dagiti prinsipyo ti hustisya, demokrasya, respeto ti karbengan ti tao, panagpapada, kinaawan ti diskriminasyon, naimbag a panaggobierno ken naimbag a nakem.

ANG DEKLARASYON SA UN KABAHIN SA KATUNGOD SA KATAWHANG LUMAD



Ang Kinatibuk-ang Asembliya,

Pinasubay sa mga katuyoan ug prinsipyo sa Batakang Balaod sa Estados Unidos, ug ang maayong laraw sa katagbawan sa mga obligasyon nga gidawat sa mga Nasud (States) subay sa Balaodnon,

Gipamatud-an nga ang katawhang lumad patas sa ubang katawhan, samtang ginaila ang katungod sa tanang tawo nga managlahi, gidawat ang ilang kaugalingon nga lahi ug irespeto kung unsa sila,

Gipamatud-an usab nga tanang katawhan nagatampo sa kalainan ug kaadunahan sa sibilisasyon ug kultura, nga makita sa kasagarang kabilin sa tawhanong kaliwatan,

Dugang nga gipamatud-an nga tanang pagtulonan, polisiya ug kinaiya nga nagabasi sa kahawod sa katawhan o usa ka tawo pinaagi sa iyang nasudnong nga kagikan, relihiyon, tribu ug ang pagkalahi sa kultura, kini pagpihig sa kaliwat, dili syentipiko, dili balido sa legal nga hisgutanan, salawayon nga moralidad nga bahin ug dili makatarunganon,

Gipamatud-an nga ang katawhang lumad, sa ilang paggamit sa ilang katungod, kini sa wala gayud pagpihig sa bisan unsang paagi,

Kabalaka tungod ang katawhang lumad nahiangom sa makasaysayanong in hustisya isip resulta sa, “inter alia”, pagpanakop kanila ug pagpangilog sa ilang kayutaan, teritoryo ug tinubdan, nga naghikaw kanila sa paggamit sa ilang katungod nga molambo sumala sa ilang kaugalingong panginahanglan ug panglantaw,

Pag-ila sa hinanaling panginahanglan sa pagrespeto ug pagpalapnag sa mga sulundon nga katungod sa katawhang lumad gikan sa ilang pulitikanhon, ekonomikanhon, ug katilingbang estruktura ug gikan sa ilang kultura, tradisyon sa pagtoo, kasaysayan ug pilosopiya, ilabi na ang ilang katungod sa yuta, teritoryo ug mga tinubdan,

Pag-ila usab sa mga hinanaling panginahanglan sa pagrespeto ug pagsabwag sa katungod sa katawhang lumad nga gipamatud-an sa tratado, kasabutan ug uban pang makatabang nga gikauyonan uban sa mga Nasud (States),

Pagdawat sa kamatuoran nga ang katawhang lumad nagahiusa sa ilang kaugalingon alang sa politikanhon, ekonomikanhon, katilingbanon ug kulturanhon nga paglambo ug aron maundang na ang tanang porma sa pagpihig ug pagdaug-daug sa bisan asa nga kahimtang,

Panghimatuod nga ang pagkontrola sa katawhang lumad diha sa mga kalamboan nga nakaapekto kanila ug sa ilang yuta., teritoryo ug tinubdan nga makatabang

kanila sa pagmintinar ug pagpalig-on sa mga institusyon, kultura ug tradisyon ug sa pagsabwag sa ilang kalambuan subay sa ilang pangandoy ug panginahanglan,

Pag-ila nga ang pagrespeto sa lumadnong kahibalo, kultura ug tradisyon nakatubag sa mapadayunon ug angay nga kalambuan ug ensaktong pagdumala sa kinaiyahan,

Gipatigbabaw ang kalabutan sa pag-undang sa panagsangka (demilitarization) sa kayutaan ug mga teritoryo sa katawhang lumad alang sa kalinaw, ekonomikanhon ug katilingbanong pag-uswag ug kalamboan, pagsinabtanay ug maayong relasyon sa mga nasud ug katawhan sa tibuok kalibutan,

Partikular nga pag-ila sa katungod sa lumadnong pamilya ug mga katilingban sa pagpabilin sa hiniusang responsibilidad alang sa pagpadayon, pagtuon, edukasyon ug ang maayong kahimtang sa mga bata, pinasubay sa katungod sa mga bata,

Tungod ang katungod gipamatud-an sa mga tratado, kasabutan ug uban pang mapuslanon nga gikauyonan tali sa mga Nasud (States) ug ang katawhang lumad, nga kasagarang kahimtang, mga hisgutanang pangkalibutan, kaikag, tulubagon ug kinaiya,

Tungod usab ang tratado, kasabutan ug uban pang maayong panag-uyon ug ang relasyon nga gipakita, mao ang basehan alang sa lig-on nga panag-uban tali sa katawhang lumad ug mga Nasud (States),

Gina-ila nga ang Balaodnon sa Estados Unidos, ang Kalibutanong Kasabutan kabahin sa Ekonomiya, Katilingban ug ang Kulturanhong Katungod ug ang Kalibutanong Kasabutan Kabahin sa Sibil ug Pulitikanhong Katungod, apil na usab ang Deklarasyon sa Vienna ug ang Programa sa mga Kalihukan, gipamatud-an ang kamahinungdanon sa katungod alang sa kaugalingong paghukom sa tanang katawhan, tungod sa gawasnon nga pagdesisyon alang sa ilang pulitikanhong kahintang ug gawasnon nga pagpadayon sa ekonomiya, katilingban ug kulturanhong kalamboan,

Ibutang sa hunahuna nga wala sa maong Deklarasyon nga mamahimong gamiton sa paghiklin sa katungod alang sa kaugalingong paghukom sa katawhan, gigamit kini subay sa pangkalibutanong balaod,

Panghimatuud nga giila ang katungod sa katawhang lumad niining Deklarasyon makapalambo sa maayo ug nagtinabangay nga relasyon tali sa mga Nasud (States) ug mga katawhang lumad, base sa mga prinsipyo sa hustisya, kagawasan, pagrespeto sa tawhanong katungod, walay-pagpihig ug sa maayong laraw,

Giawhag ang mga Nasud sa pagtuman ug epektibo nga pag-implementar sa tanang obligasyon samtang ilang gigamit ngadto sa katawhang lumad subay sa pangkalibutanong himan, ilabi na kabahin sa tawhanong katungod, uban sa pagpakigsusi ug kooperasyon sa mga tawong nalambigit,

Gipatigbabaw nga ang Estados Unidos adunay importante ug mapadayunong tahas alang sa

pagpakaylap ug pagpanalipod sa katungod sa katawhang lumad,

Nagatuo nga ang maong Deklarasyon labawng mahinungdanon nga lakang padulong sa pag-ila, pagpakaylap ug pagpanalipod sa katungod ug kagawasan sa katawhang lumad ug diha sa pagpalambo sa mga haum nga kalihukan sa Estados Unidos ug pamaagi nini nga bahin,

Pag-ila ug pagpamatuod nga ang matag lumad gihatagan og katungod nga walay pagpihig sa tanang tawhanong katungod nga giila sa pangkalibutanong balaod, ug nga ang katawhang lumad adunay hiniusang katungod nga kinahanglanon kaayo sa ilang pagpakabuhi, kauswagan ug kinatibuk-ang paglambo isip katawhan,

Pag-ila usab nga ang kahimtang sa katawhang lumad dunay kalahian sa matag rehiyon ug matag nasud ngadto sa laing nasud ug nga ang kamahinungdanon sa nasudnon ug rehiyon nga kalainan ug matang sa kasaysayan ug kulturanhon nga kasinatian kinahanglan nga mahisukip,

Pormal nga gipahibalo nga ang musunod nga Deklarasyon sa Estados Unidos kabahin sa Katungod sa Katawhang Lumad isip sukaranan sa katumanan sa pagpadayon uban sa diwa sa pagtinabangay ug pagrespeto sa matag usa:

Artikulo I

Ang katawhang lumad adunay katungod sa hingpit nga kasadya, isip kinatibuk-an o ang matag usa, sa tanang tawhanong katungod ug kagawasan nga giila

sa Balaodnon sa Estados Unidos, ang Pangkalibutanong Deklarasyon kabahin sa Tawhanong Katungod ug ang Pangkalibutanong Balaod sa Tawhanong Katungod,

Artikulo 2

Ang katawhang lumad ug matag usa gawasnon ug patas sa tanang tawo ug matag usa ug adunay katungod nga mahimong gawasnon sa tanang matang sa pagpihig, sa paggamit sa ilang katungod, ilabi na sumala sa ilang lumadnong kagikan o pagkatao,

Artikulo 3

Ang katawhang lumad adunay katungod sa kaugalingong paghukom. Tungod sa gahum sa maong balaod, sila gawasnon nga makadesisyon alang sa ilang pulitikanhong kahimtang ug gawasnon nga pagpadayon sa ekonomkanhon, katilingbanon ug kulturanhong kalamboan,

Artikulo 4

Ang katawhang lumad, sa paggamit sa ilang katungod sa kaugalingong paghukom, adunay katungod sa paglahi sa pagdumala sa kagamhanan o pag-awtonomiya sa mga butang dunay kalabutan sa pangsulod ug lokal nga buluhaton, ug ang mga pamaagi sa pagsuporta pinansiya sa ilang awtonomiya nga mga gimbuhaton,

Artikulo 5

Ang katawhang lumad adunay katungod sa pagpadayon ug pagpalig-on sa ilang pinasahi nga pulitika, legal, ekonomikanhon, katilingbanon ug kulturanhong nga mga institusyon, samtang ginapabilin

nila ang ilang katungod sa hiniusang pag-apil-apil, kung ilang kagustuhan nga moapil, sa pulitikanhon, ekonomikanhon, katilingbanon ug kulturanhon nga kinabuhi sa Nasud (State).

Artikulo 6

Matag usa ka lumad adunay katungod sa nasyonalidad.

Artikulo 7

1. Ang matag lumad adunay katungod sa kinabuhi, kamaayo sa lawas ug panghunahuna, kagawasan ug seguridad sa tawo,

2. Ang katawhang lumad adunay hiniusang katungod sa pagpuyo nga gawasnon, malinawon ug luwas isip lahi nga grupo sa katawhan ug dili mahiapil sa bisan unsang kalihukan sa pagpapas sa tribu (genocide),ug ubang pang matang sa kapintas, apil na ang pinugos nga pagpapahawa sa mga bata gikan sa maong grupo ngadto sa laing grupo,

Artikulo 8

1. Ang katawhang lumad ug matag usa adunay katungod nga dili mahiapil sa pinugos nga pagkasuyop o pagkadaut sa ilang kultura.

2. Ang mga Nasud (States) muhatag og epektibo nga pamaagi sa pagpugong ug paghatag og tugbang o bayad o pagpahi-uli;

a) Bisan unsang kalihukan nga dunay tumong o epekto sa paghikaw kanila sa ilang katarong isip

sahi sa uban nga katawhan, o sa ilang kulturanhong kinaiya ug mga lumadnong ilhanan,
b) Bisan unsang kalihukan nga dunay tumong o epekto sa pagpangilog sa ilang kayutaan, teritoryo ug mga tinubdan

c) Bisan unsang porma sa pinugos nga pagpabalhin sa mga lumulupyo nga dunay tumong o epekto sa pagsupak o dili pagrespeto sa bisan asa sa ilang mga katungod

d) Bisan unsang porma sa pinugos nga pag-usab kanila o paghi-usa,

e) Bisan unsang porma sa propaganda o butang pangdani nga gidesinyo sa pagsabwag o pag-agda sa kaliwatanon nga pagpihig direkta ngadto kanila,

Artikulo 9

Ang katawhang lumad ug matag lumad adunay katungod nga mahisakop sa usa ka lumadnong katilingban o nasud, subay sa tradisyon ug kinaiya sa katilingban o nasud nga nalambigit. Walay pagpihig sa unsa man nga matang nga motumaw sa paggamit sa maong katungod,

Artikulo 10

Ang katawhang lumad dili mamahimong pugson sa paghawa gikan sa ilang yuta o teritoryo. Walay pagbalhin sa pinuy-anan kung dili moagi sa gawasnon, ug dunay kasayuran daan nga pagtugot sa katawhang lumad nga hingtungdan ug human sa pag-uyon pinaagi sa makatarungan ug patas nga bayad o tugbang ug, asa posible, uban ang desisyon sa pag-uli,

Artikulo 11

1. Ang katawhang lumad adunay katungod sa paggamit ug pagpabalik sa ilang kulturanhong nga tradisyon ug mga kinaiya. Kini nahisukip ang katungod sa pagmintinar, pagpanalipod ug pagpalambo sa nangagi, kasamtangan ug ang umaabot nga mga timailhan sa ilang kultura, nga mao ang kinaadman kabahin sa katawhan, makasaysayan nga mga lugar, mga ginama, desinyo, mga seremonyas, teknolohiya ug mga talan-awon, mga pasundayag, ug mga sinulat,

2. Ang mga Nasud mopahigayon ug pagtabang pagpahiuli pinaagi sa epektibong mekanismo, apil na ang pag-uli ngadto kanila uban sa katawhang lumad, nga adunay pagrespeto sa ilang kulturanhon, kaalam, pagkarelihiyoso ug ispirituhanong kabtangan nga gikuha sa walay gawason ug dunay kasayuran daan nga pagtugot ug kini nakasupak sa ilang balaod, tradisyon ug kinaiya.

Artikulo 12

Ang katawhang lumad dunay katungod nga mailhan, mogamit, mopalambo ug motudlo sa ilang espirituhanon ug relihiyoso nga tradisyon, kinaiya ug seremonyas, ang katungod sa pagmintinar, pagpanalipod ug makapaduol sa ilang relihiyoso ug kulturanhong dapit, ang katungod sa paggamit, kontrola sa ilang butang sa seremonya; ug katungod sa pagpabalik sa patay'ng lawas ngadto sa kaugalingong lugar.

2. Ang mga Nasud mangita, aron adunay pamaagi ug pagpabalik sa mga butang sa seremonyas ug patay'ng lawas nga ilang gipanag-iya pinaagi sa patas,

tataw ug epektibo nga mekanismo nga gipalambo uban sa katawhang lumad nga dunay kalabutan.

Artikulo 13

1. Ang katawhang lumad adunay katungod sa pagpabalik, paggamit, pagpalambo ug pagbalhin alang sa umaabot nga henerasyon sa ilang kasaysayan, sinultian, tradisyon sa pagpanulti, pilosopiya, sistema sa pagsulat ug mga sugilanon ug paggahin ug pagpabilin sa kaugalingong pangalan sa katilingban, lugar ug mga tawo.

2. Ang mga Nasud magmugna og mga epektibong sukdanan aron sa pagseguro nga kining katungod mapanalipdan ug usab sa pagseguro nga ang katawhang lumad makasabot ug masabtan sa pulitikanhon, legal ug administratibong kahimoan, kung asa gikinahanglan pinaagi sa pag-andam sa paghubad o bisan unsang haum nga pamaagi.

Artikulo 14

1. Ang katawhang lumad adunay katungod sa pagtukod ug pagkontrola sa ilang sistema sa edukasyon ug sa mga institusyon nga nagapahigayon og edukasyon pinaagi sa ilang pinulungan, sa mga pamaagi nga haum sa ilang kulturanhong paagi sa pagtudlo ug pagkat-on,

2. Ang matag lumad, ilabi na sa mga kabataan, adunay katungod sa tanang ang-ang ug porma sa edukasyon sa Nasud nga walay pagpihig. Ang mga Nasud, uban sa katawhang lumad, maghimo og epektibong sukdanan, alang sa matag lumad, ilabi na ang mga bata, lakip na kadtong nanimuyo gawas sa ilang katilingban, aron mapaduol, kung mahimo, sa

edukasyon kabahin sa ilang kultura ug ginamit ang kaugalingong pinulungan.

Artikulo 15

1. Ang katawhang lumad adunay katungod sa dignidad ug ang kalainan sa ilang kultura, tradisyon, kasaysayan ug pangandoy nga kinahanglan makita sa edukasyon ug kasayuran sa tanan. Ang mga Nasud mohimo og epektibong sukdanan, sa mga pakisayod ug pagtinabangay uban sa katawhang lumad nga hintungdan, aron sa pagbatok sa kadaot ug wad-on ang pagpihig ug aron sa pag-aghat sa pagsabot ug maayong relasyon sa katawhang lumad ug uban pang grupo sa katilingban,

Artikulo 16

1. Ang katawhang lumad adunay katungod sa pagmugna sa ilang kaugalinong himan sa komunikasyon (media) ug aron mapaduol sa tanang porma sa dili lumadnong media o tigbalita nga walay pagpihig,

2. Ang mga Nasud mohimo og epektibong sukdanan aron sa pagseguro nga ang mga gipanag-iya sa nasud nga mga media o tigbalita nagpakita gayud sa kulturanhong kalahian. Ang mga Nasud, sa walay pagpihig aron sa pagseguro sa kinatibuk-ang kagawasan sa pagpadayag, gikinahanglan nga agnihon ang mga gipanag-iya sa mga pribado nga mga media, sa ensaktong pag-salamin sa kulturanhong kalahian sa mga lumad.

Artikulo 17

1. Ang matag lumad ug katawhang lumad adunay katungod nga makatagamtam sa tibuok ug tanang katungod nga gimugna ilalom sa pangkalibutanon ug nasudnong balaod sa kusog o kahago. Ang mga Nasud pinaagi sa mga pakisayod ug pagtinabangay uban sa katawhang lumad mohimo og mga tinong sukdanan sa pagpanalipud sa lumadnong kabataan gikan sa ekonomikanhong pagpihig ug gikan sa paghimo sa mga trabaho nga mura og maghatag og kadaot ug pagpakgang sa pagtuon sa bata, o makahatag sa peligro sa panglawas, espiritwal, pamatasan ug katilingbanong paglambo, ilabi na ang pagtan-aw sa ilang pagkatandogonon (vulnerability) ug ang kamahinungdanon sa edukasyon alang sa pagpagahum kanila. Ang matag lumad adunay katungod nga dili mahiapil sa bisan unsang mapihigon nga kahimtang sa pagpanarbaho o kahago ug “inter alia”, pangempleyo o ginadawat/sweldo,

Artikulo 18

Ang katawhang lumad adunay katungod sa pag-apil sa paghimo og mga desisyon sa mga hisgutanan nga makaapekto sa ilang katungod, pinaagi sa tinugyanan nga gipili subay sa ilang kaugalingong pamaagi, ingon man sa pagpadayon ug pagpalambo sa ilang kaugalingong grupo o institusyon sa paghimo og mga desisyon,

Artikulo 19

Ang mga Nasud magpakisayod ug magtinabangay sa maayong laraw uban sa katawhang lumad nga dunay kalabutan pinaagi sa ilang kaugalingong

representante nga institusyon alang sa pagkab-ot sa gawasnon ug dunay kasayuran daan nga pagtugot una dawaton ug ipatuman ang mga balaod ug adminsitartibo nga sukdanan nga makaapekto kanila,

Artikulo 20

1. Ang katawhang lumad adunay katungod nga mupadayon ug mopalambo sa ilang pulitikanhon, ekonomikanhon ug katilingbanong sistema o institusyon, aron maseguro ang pagtagamtam sa ilang kaugalingon pagpakabuhi ug kalamboan ug aron gawasnon nga muapil sa tanan nilang naandan ug uban pang ekonomikanhong kalihukan,

2. Ang katawhang lumad nga gihikawan sa ilang pamaagi sa pagpakabuhi ug kalamboan makaangkon sa makiangayon ug makatarungan nga tugbang,

Artikulo 21

1. Ang katawhang lumad adunay katungod, sa walay pagpihig, alang sa pag-uswag sa ilang ekonomikanhong ug katilingbanong kahimtang, apil na ang, "inter alia", sa natad sa edukasyon, pagnarabaho, pagtuon sa pagpalambo sa kahanas ug dugang pagkat-on, pagtukod og puy-anan, kalimpyo sa palibot, panglawas, ug seguridad sa katilingban,

2 Ang mga Nasud maghimo og epektibong sukdanan ug, asa haum, pinasahi nga sukdanan aron sa pagseguro sa pagpadayon sa pagpalambo sa ilang ekonomikanhon ug katilingbanon kahimtang. Lahi nga pagtagad ang ihatag isip tugbang sa katungod ug lahi nga panginahanglan sa mga lumadnong tigulang, kababayan-an, batan-on, bata ug mga tawo nga dunay kalisdanan sa panglawas,

Artikulo 22

1. Lahi nga pagtagad kinahanglan ihatag isip tugbang sa katungod ug lahi nga panginahanglan sa lumadnong tigulang, kababayan-an, batan-on, bata ug mga tawo nga dunay kalisdanan sa panglawas sa pagtuman niining Deklarasyon,

2. Ang mga Nasud mohimo og sukdanan uban sa katawhang lumad, aron mapaseguro nga ang lumad nga kababayan-an ug mga bata makatagamtam sa tibuok nga pagpanalipud ug pagpasalig sa tanang matang sa kapintas ug pagpihig,

Artikulo 23

Ang katawhang lumad adunay katungod sa paghukom ug pagpalambo sa mga labing importanteng butang ug pamaagi sa paggamit sa ilang katungod alang sa kalamboan. Sa pagtino, ang katawhang lumad adunay katungod sa aktibong pagsalmot sa pagpalambo ug paghukom kabahin sa panglawas, pagbalay, ug uban pang ekonomikanhon ug katilingbanong programa nga nakaapekto kanila ug, kung mahimo, ang pagdumala sa maong mga program pinaagi sa ilang kaugalingong institusyon,

Artikulo 24

1. Ang katawhang lumad adunay katungod sa ilang inato nga tambal ug aron sa pagpadayon sa ilang pamaagi sa panglawas, lakip na ang pag-amping sa mga mahinungdanong tanom, mga hayop ug mga minerals. Ang matag lumad aduna usab katungod sa pagdawat, sa walay pagpihig, sa tanang katilingbanon ug serbisyo sa panglawas,

2. Ang matag lumad adunay patas nga katungod sa pagbenepisyo sa hataas nga ang-ang sa maayong kahintang sa panglawas ug pangutok. Ang mga Nasud gikinahanglan mohimo og importanteng lakang uban sa pagtan-aw aron mauswagon nga makab-ot ang tibuok nga katumanan sa maong katungod,

Artikulo 25

Ang katawhang lumad adunay katungod sa pagpadayon ug pagpalig-on sa ilang pinasahi nga spirituhanon nga relasyon sa ilang naandan nang gipanag-iya o giokupar ug gigamit nga kayutaan, teritoryo, katubigan ug kadagatan ug uban pang tinubdan ug aron mapataas ang ilang responsibilidad alang sa umaabot nga kaliwatan niining bahina,

Artikulo 26

1. Ang katawhang lumad adunay katungod sa ilang kayutaan, teritoryo ug tinubdan nga ilang naandan nang gipanag-iya, giokupar, o sa laing bahin gigamit o giangkong,

2. Ang katawhang lumad adunay katungod sa pagpanag-iya, paggamit, pagpalambo ug pagkontrola sa kayutaan, teritoryo ug tinubdan nga ilang gipanag-iya sa rason sa naandan nang pagpanag-iya o ubang pang lumadnong okupasyon o paggamit, apil ang uban pa nilang giangkong,

3. Ang mga Nasud muhatag og legal nga pag-ila ug pagpanalipod sa maong kayutaan, teritoryo ug tinubdan. Ang maong pag-ila himoon uban sa pagrespeto sa kinaiya, tradisyon ug sistema sa gidugayon nga pagpuyo sa maong yuta sa katawhang lumad nga hingtungdan,

Artikulo 27

Ang mga Nasud gikinahanglan mohimo ug mopatuman, uban sa katawhang lumad nga dunay kalabutan, patas, independente, walay gidapigan, abli ug tataw nga proseso, paghatag og igong pag-ila sa katawhang lumad nga balaod, tradisyon, kinaiya ug sistema sa gidugayon nga pagpuyo sa yuta, pag-ila sa katungod sa katawhang lumad mahitungod sa kayutaan, teritoryo ug tinubdan, apil na ang naandan nang gi-angkon o uban pang giukopar o gigamit. Ang katawhang lumad adunay katungod sa pag-apil sa maong proseso.

Artikulo 28

1. Ang katawhang lumad adunay katungod sa pagpahimutang o pagbalik, pasabot mamahimong iapil ang pagpahiluna o kung dili mahimo, makatarunganon, patas ug ensakto nga tugbang o bayad, alang sa kayutaan, teritoryo ug tinubdan nga ilang naandan nang gipanag-iya o laing bahin gi-okupar o gigamit ug gibawi, gikuha, giokupar , gigamit o nadaot nga walay gawasnon ug dunay kasayuran na daan nga pagtugot,

2. Samtang sa laing bahin gawasnon nga miuyon sa katawhan nga nalambigit, ang tugbang o bayad gikinahanglan nga pinaagi sa yuta, teritoryo, ug tinubdan nga dunay susamang kalidad, gidak-on ug legal nga kahimtang o sa iyang balor sa salapi o ubang pang haum nga pag-uli o pagpahimutang balik,

Artikulo 29

1. Ang katawhang lumad dunay katungod sa pag-amping ug pagpanalipud sa kinaiyahan ug ang

kapasidad sa pagmugna og produkto gikan sa ilang kayutaan o teritoryo ug tinubdan. Ang mga Nasud mohimo ug mopatuman og mga programa alang sa pagtabang sa katawhang lumad diha sa pag-amping ug pagpanalipod, sa walay pagpihig,

2. Ang mga Nasud mohimo of epektibong sukdanan aron sa pagseguro nga walay hipuson o ilabay nga makadaot nga mga materyales ngadto sa kayutaan ug teritoryo sa katawhang lumad nga walay gawasnon, ug dunay kasayuran na daan nga pagtugot,

3. Ang mga Nasud gikinahanglan nga mohimo og mga sukdanan sa pagseguro, basi sa panginahanglan, mga programa sa pagsusi, pagmintinar ug pagpabalik sa maayong panglawas sa katawhang lumad, nga gipalambo ug gipatuman sa mga tawo nga apektado sa maong mga materyales, kini gipatuman gayud,

Artikulo 30

1. Ang mga kalihukan lambigit sa military dili mahimo sa kayutaan o teritoryo sa katawhang lumad, gawas kung gikinahanglan alang sa publiko nga panginahanglan o sa laing bahin gawasnon nga giuyonan uban sa pagpangayo sa katawhang lumad nga hingtungdan,

2. Ang mga Nasud mopahigayon og epektibo nga pakisayod o pagkonsulta sa katawhang lumad nga nalambigit, pinaagi sa haum nga paagi ug pinaagi sa ilang mga representante nga mga institusyon, sa dili pa gamiton ang ilang kayutaan o teritoryo alang sa kalihukan sa military.

Artikulo 31

1. Ang katawhang lumad adunay katungod sa pagpadayon, kontrola, pagpanalipod, ug pagpalambo sa ilang kulturahong kabilin, naandang kaalam, naandang kulturahong pagpadayag, apil na ang ilhanan sa syensiya, teknolohiya ug kultura, lakip na ang tawhanon ug “genetic” nga tinubdan, semilya/liso, tambal, kahibalo sa nga tanum ug mga kahayopan, tradisyon sa pagsaysay, literature ug mga sugilanon, desinyo, dula, ug mga naandang dula ug mga hulagway ug mga pasundayag. Sila usab dunay katungod sa pagpadayon, kontrola, pagpanalipod ug pagpalambo sa ilang pagpanag-iya sa kaalam sa ilang kulturahong kasaysayan, lumadnong kahibalo, naandan nga mga kulturahong pagpadayag,

2. Uban sa katawhang lumad, ang mga Nasud gikinahanglan mohimo og epektibong sukdanan sa pag-ila ug pagpanalipod sa paggamit niini nga mga katungod,

Artikulo 32

1. Ang katawhang lumad adunay katungod sa pagdesisyon ug pagpalambo sa mga labing importante ug pamaagi alang sa pagpalambo o paggamit sa ilang kayutaan, teritoryo ug uban pang tinubdan,

2. Ang mga Nasud gikinahanglan mangunsulta ug motabang sa maayong tinguha uban sa katawhang lumad nga nalambigit pinaagi sa ilang kaugalingong representante sa mga institusyon aron sa pagkab-ot sa gawasnon ug dunay kasayuran daan nga pagtugot sa dili pa ang pag-uyon sa bisan unsang proyekto nga makaapekto sa ilang kayutaan ug teritoryo ug uban

pang tinubdan, ilabi na dunay kalabutan sa pagpalambo, paggamit o pagpahimulos sa mineral, tubig ug uban pang tinubdan,

3. Ang mga Nasud mohimo og mga epektibo nga pamaagi alang sa makiangayon ug patas nga tugbang o bayad sa bisan unsang kalihukan ug haum nga sukdanan alang sa pagpakunhod sa dili maayong resulta ngadto sa kinaiyahan, ekonomiya, katilingban, kultura ug espiritwal,

Artikulo 33

1. Ang katawhang lumad adunay katungod sa pagdesisyon kabahin sa ilang kaugalingon timailhan ug pagkamembro o kabahin sumala sa ilang kinaiya ug tradisyon. Kini wala makadaot sa katungod sa matag lumad sa pagkuha og pagkalungsuranon (citizenship) sa Nasud nga diin sila nagpuyo,

2. Ang katawhang lumad adunay katungod sa pagdesisyon sa estruktura ug sa pagpili sa mga membro sa ilang insitasyon sumala sa ilang kaugalingong palisiya,

Artikulo 34

Ang katawhang lumad adunay katungod sa pagpakaylap, pagpalambo ug pagpadayon sa ilang gambalay sa institusyon ug ang kalainan sa ilang kultura, pagtuo, tradisyon, pamaagi, kinaiya ug sa mga kahimtang nga nagatunhay, sistema sa paghukom o kinaiya, sumala sa giya sa kalibutanong tawhanong katungod.

Artikulo 35

Ang katawhang lumad adunay katungod sa pagdesisyon sa mga tulubagon sa matag usa ngadto sa ilang katilingban,

Artikulo 36

Ang katawhang lumad, sa pagkatino kadtong nabahin sa kalibutanong utlanan, adunay katungod sa pagpadayon ug pagpalambo sa mga kaila, suod ug katambayayong, apil na ang kalihukan alang sa pagtuo/espiritwal, kulturahon, pulitikanhon, ekonomikanhon, ug katilingbanong katuyoan, uban sa ilang kaugalingong membro lakip na ang mga tawo tabok sa utlanan,

2. Sa pagpakisayod ug pagtinabangay sa mga nasud uban sa katawhang lumad, mohimo og epektibong sukdanan alang sa pagpahigayon sa paggamit ug pagseguro sa katumanan sa maong katungod.

Artikulo 37

1. Ang katawhang lumad adunay katungod sa pag-ila, pagsunod ug pagtuman sa mga tratado, kasabutan ug uban pang makatabang nga mga gikauyonan nga gihimo sa mga Nasud o sa ilang sumusunod ug aron ang mga Nasud motamod ug morespeto sa maong nga tratado, kasabutan ug uban pang makatabang nga gikauyonan,

2. Walay anaa niining Deklarasyon nga mamahimong sabton nga makapakunhod o makapawala sa katungod sa katawhang lumad nga

napasulod sa tratado, kasabutan ug uban pang makatabang nga gikauyonan,

Artikulo 38

Ang mga Nasud pinaagi sa pagpakisayod o pagkonsulta ug pagpakigtambayayong uban sa katawhang lumad, mohimo og haum nga sukdanan, apil na balaodnon nga sukdanan, aron sa pagkab-ot sa katumanan niining Deklarasyon,

Artikulo 39

Ang katawhang lumad adunay katungod sa pagdawat lambigit sa pinansiya ug teknikal nga tabang gikan sa mga Nasud ug pinaagi sa pangkalibutan nga hinabang, alang sa pagtagamtam sa katungod nga napasulod niining maong Deklarasyon,

Artikulo 40

Ang katawhang lumad adunay katungod sa paghimo sa ug hinanali nga desisyon pinaagi sa makatarungon ug patas nga pamaagi alang sa resolusyon sa mga panagbangi ug panagsumpaki sa mga Nasud ug uban pang partido, susama usab sa pagka epektibo sa mga lakang alang sa tanang naglangkob sa katungod sa matag usa ug sa katungod sa kinatibuk-an. Ang maong desisyon muhatag og igong pagtagad sa kinaiya, tradisyon, balaod ug mga legal nga sistema sa katawhang lumad nga hingtungdan ug ang pangkalibutanong tawhanong katungod.

Artikulo 41

Ang mga grupo ug pinasahi nga mga ahensiya sa sistema sa Estados Unidos ug uban pang panag-uban sa mga gobernong organisasyon makahatag alang sa tibuok nga katumanan sa mga bahin niining Deklarasyon pinaagi sa pag-awhag, iner-alia, sa pagtinabangay lambigit sa pinansya ug teknikal. Mga pamaagi ug katikaran sa pagseguro sa pag-apil-apil sa katawhang lumad lambigit sa mga hisgutanang nakaapekto kanila gikinahanglan mapahigayon.

Artikulo 42

Ang Estados Unidos, ang mga membro niini, apil na ang Permanent Forum on Indigenous Issues, ug ang pinasahi nga mga ahensiya sa ang-ang sa nasud, ug ang mga Nasud mopasibaw sa pagrespeto alang ug tibuok nga aplikasyon sa mga bahin niining Deklarasyon ug mosubay sa ka-epektibo sa maong Deklarasyon.

Artukulo 43

Ang mga katungod nga giila denhi naglangkub basi sa pinakaubos nga prinsipyo o rason nga mabuhi, dignidad ug kaayohan sa katawhang lumad sa tibuok kalibutan.

Artikulo 44

Ang tanang mga katungod ug mga kagawasan giila denhi nga patas nga pasalig ngadto sa mga lalaki ug babaye nga mga lumad.

Artikulo 45

Wala niining maong Deklarasyon ang mamahimong sabton nga makapakunhod o makapawala sa katungod sa katawhang lumad nga anaa karon o mamahimong maangkon sa umaabot.

Artikulo 46

1. Wala niining maong Deklarasyon ang mamahimong sabton nga dunay kalabutan sa bisan unsang Nasud, katawhan, grupo o tawo sa bisan unsang katungod sa pag-apil sa unsang mga kalihukan o alang sa pagpasundayag o unsang matang nga supak sa Balaod sa Estados Unidos o sabton nga gipiyalan o gi-agni sa unsang hinimoan nga makapatagak isip membro o pagwagtang, sa kinatibuk-an o kabahin lang, ang pagsalig sa teritoryo o pulitikanhong kahiusahan sa soberenya ug pagka-independenteng Nasud.

2. Sa paggamit sa maong katungod nga gipadayag sa kasamtangang Deklarasyon, tawhanong katungod ug batakang kagawasan sa tanan gikinahanglan irespeto. Ang paggamit sa mga katungod nagapasabot denhi sa maong Deklarasyon nga nahilakip sa mga kinutuban nga giila sa balaod, ug sumala sa pangkalibutanong tawhanong katungod nga mga tulubagon. Bisan unsang limitasyon gikinahanglan nga dili mapihigon ug alang lamang sa maong katuyoan sa pagseguro sa pagpaila gayud ug pagrespeto sa mga katungod ug kagawasan sa uban ug alang sa pagkabot sa makatarunganon ug labing mapugsanon nga mga kinahanglanon alang sa usa ka gawason nga katilingban.

3. Ang mga bahin nga gipadayag niining maong Deklarasyon gikinahanglan sabton sumala sa prinsipyo subay sa hustisya, kagawasan, respeto sa tawhanong katungod, kaangayan, walay-pagpihig, maayong pagdumala ug sa maayong katuyoan.