

Permanent Forum on Indigenous Issues  
Ninth Session  
United Nations, New York  
19-30 April 2010  
Agenda item 5 Half-day discussion on North America  
April 22, 2010

## **Canada Should Embrace UN Declaration without Conditions or Qualifications**

**Joint Statement by Assembly of First Nations; Inuit Circumpolar Council Canada; Inuit Tapiriit Kanatami; Native Women's Association of Canada; Assemblée des Premières Nations du Québec et du Labrador; First Nations Summit; Union of British Columbia Indian Chiefs; Chiefs of Ontario; Grand Council of the Crees (Eeyou Istchee); International Organization of Indigenous Resource Development (IOIRD); Quebec Native Women/Femmes Autochtones du Québec; Samson Cree Nation; Ermineskin Cree Nation; Montana Cree Nation; Louis Bull Cree Nation; Innu Council of Nitassinan; Indigenous World Association; First Peoples Human Rights Coalition; Amnesty International; Canadian Friends Service Committee (Quakers); KAIROS: Canadian Ecumenical Justice Initiatives.**

Indigenous Peoples and human rights and faith based organizations welcomed the announcement on March 3 that the Canadian government is taking steps to endorse the *United Nations Declaration on the Rights of Indigenous Peoples*. We urge the government to embrace this vital human rights instrument without qualifications.

The *Declaration* provides a principled and normative framework for partnership and reconciliation between states and Indigenous Peoples. Its adoption was heralded around the world by Indigenous Peoples, states, human rights organizations and the United Nations. Its provisions provide much needed guidance to governments, state institutions and society as a whole on how human rights laws and obligations can be best understood and applied to the distinct circumstances and the urgent needs of 370 million Indigenous People around the world.

We are concerned, however, as to what is intended by the government of Canada in stating that it will take steps to endorse the *Declaration* "in a manner fully consistent with Canada's Constitution and laws". In opposing the *Declaration*, the government had claimed that there were unspecified and unsubstantiated incompatibilities between the *Declaration* and the Canadian Constitution. As affirmed in an open letter from more than 100 experts on Constitutional and international law aspects relating to Aboriginal rights in Canada, there is no contradiction between the Canadian Constitution and the *Declaration*.

Furthermore, human rights standards cannot merely condone or sustain the current practices and preferences of states, whether or not those practices and preferences are expressed in domestic law. To limit UN declarations in this way would defeat the purpose of having international standards, which are meant to inspire and guide improved protection for human rights, not simply reinforce the status quo.

To require the provisions of the *Declaration* to be interpreted in accordance with the constitution and laws of each state could serve to legitimize any existing injustices and discrimination in domestic situations. It would also undermine the principle of “universality” that applies to all human rights.

Human rights are generally relative in nature so that the human rights of all are respected. The *Declaration* reflects and builds upon international human rights standards. It does not exist in a vacuum and allows for full consideration of relevant international and domestic law.

In interpreting human rights and related state obligations, domestic courts may choose to consider declarations and other international instruments. Such dynamic interaction between domestic and international law is well-established in Canada.

The *Declaration* is a living instrument that is broadly supported and has universal application. It provides a crucial context and framework towards ensuring justice, as well as the dignity, security and well-being of Indigenous Peoples worldwide.

Of the 4 States that voted against the *Declaration*, Australia and New Zealand have reversed their positions. The United States has not yet endorsed the *Declaration*. Yet it is a favourable step that, in announcing on April 20 its decision to formally review the U.S. position, the Obama government did not seek to impose qualifications on this human rights instrument. It set a high standard by which to judge its own actions and as to what must be achieved:

There can be no just and decent future for our nation that does not directly tackle the legacy of bitter discrimination and sorrow that the first Americans still live with. And America cannot be fully whole until its first inhabitants enjoy all the blessings of liberty, prosperity, and dignity. Let there be no doubt of our commitment. And we stand ready to be judged by the results.

At the opening of this session of the Permanent Forum, UN Secretary-General Ban Ki-moon emphasized the “great importance” of the *UN Declaration* and referred to it as a “landmark document”. The Secretary-General also encouraged all parties to do more, underlining that “we cannot even begin to be content with our progress”.

### **Recommendation:**

We recommend to Canada the following:

That the government of Canada work in genuine partnership with Indigenous Peoples for the unqualified endorsement and full implementation of the *Declaration*; and

That such endorsement and implementation honour the spirit and intent of the *Declaration* consistent with Indigenous Peoples’ human rights.