

Statement of the  
INDIAN LAW RESOURCE CENTER  
and the  
NATIONAL CONGRESS OF AMERICAN INDIANS

Thank you, Madame Chairperson, for the opportunity to address the Working Group on Indigenous Peoples on the agenda item of Standard Setting Activities. I am speaking on behalf of the Indian Law Resource Center, an international non-governmental organization with consultative status, which provides legal assistance to indigenous peoples in North, Central and South America; and on behalf of the National Congress of American Indians, a national organization, established in 1944, which currently represents over 170 member tribes, and endeavors to ensure that tribal sovereignty is respected in the United States.

The Indian Law Resource Center has participated for almost 20 years in the activities of the United Nations that have led up to the Draft Declaration. The National Congress of American Indians, during its 49th annual convention, committed itself to the realization of a Universal Declaration on the Rights of Indigenous Peoples by adopting a resolution to fully support and actively promote the adoption of the Draft Declaration (attached to this statement). The resolution also calls upon the United States government to support and promote the Draft Declaration.\*

*We take note of the recent Concluded Stmt of the US govt of the opportunity to explore the meaning of sovereignty in society at the int'l level.*

This Draft Declaration is based on years of research, study, public discussion, countless drafts and revisions, and direct participation and contributions from thousands of indigenous representatives, dozens of governments and governmental officials, and numerous human rights experts. We would like to commend all those who were involved in this unique and important standard-setting process and to congratulate you <sup>all</sup> for the excellent work that has been done.

Each of us must remember the original purpose for undertaking this exercise. The purpose of the Declaration is to avert the destruction and permanent loss of the many indigenous cultures and societies of the world and to re-affirm our right to self-determination and our other basic human rights and fundamental freedoms. The fundamental human rights of indigenous peoples, as set forth in the Draft Declaration, respond to this original purpose. The recognition and protection of the human rights elaborated upon by the Draft Declaration are vital to ensuring the continued survival of indigenous cultures and societies.

Though this document is not perfect, it is the best Declaration that we believe the United Nations could adopt within a reasonable number of years. From our own experience in this process, we know that there are provisions that do not fully accommodate the aspirations of indigenous peoples everywhere. We know that the diverse conditions of indigenous peoples have not been completely responded to by the Declaration.\* We recognize and respect the concerns that some indigenous representatives have expressed. However, the text of the Draft Declaration is no longer in the hands of the Working Group. We doubt whether stronger provisions could be adopted by the member nations of the United Nations.

*In this regard, we support the stmt made by Prof. Howard Berman concerning specific provisions of the Decl, and, in particular his interpretation of Art. 31 as an elaboration of the ILO S-govt.*

We have never agreed to a compromise. We have always sought the best language possible. We have always demanded the ultimate expression of our fundamental human rights. But the time has come for all those who have participated thus far to consider how this positive and useful document can be realized as a Declaration on the Rights of Indigenous Peoples. We now have a responsibility to our own peoples and to our own indigenous societies and our own indigenous governments to gain the strongest possible Declaration.

There is a limit to what we can win, especially in light of the political realities and the nature of the political arena that we now find ourselves within. The concerns that indigenous peoples have expressed about the right to self-determination are well-founded. Yet, we know that attempts to weaken the Draft Declaration are a probability, not merely a possibility. We want to gain the greatest amount possible for our peoples. In order to make the greatest gain, there should be broad acceptance of the fundamental principles. We should defend the Draft Declaration and encourage the members of the Sub-Commission to adopt it and recommend approval by the full Commission.

Indigenous peoples and their national organizations must also begin to influence and educate the states that they find themselves in about the Declaration. We must also promote our right to participate in all levels of decision-making concerning the Draft Declaration. We would like to acknowledge the governments of Australia and Denmark, who made a public commitment to ensuring our direct and meaningful participation in the future stages of consideration of the Draft Declaration.

In this regard, the Indian Law Resource Center and the National Congress of American Indians urge the inclusion of a recommendation in the Working Group report calling for the adoption of a resolution by the Economic and Social Council, for the establishment of special measures so that indigenous peoples are able to participate without regard to consultative status, in the consideration of the Draft Declaration by the Sub-Commission, Commission on Human Rights and other higher United Nations bodies.

We also respectfully request that a recommendation be contained in the Working Group report calling for a resolution to be adopted by the Economic and Social Council, to suspend the rules that govern access to the floor for interventions to the Sub-Commission and the Commission on Human Rights and higher U.N. bodies by indigenous representatives.

In regard to future standard-setting activities of the Working Group, we strongly feel that the Working Group should move ahead with the development of a Convention on the Rights of Indigenous Peoples, or at least they should begin to discuss what kinds of provisions should be included in a Convention. The Draft Declaration does contain provisions addressing implementation or operative provisions at present, however, some provisions will have to be re-drafted for an actual Convention. In addition, procedures or a mechanism for complaints will have to be addressed by such a Convention.

We would like to recognize that the rights and principles contained in the Draft Declaration will positively contribute to peace and security. It will also make it possible for millions to realize and enjoy basic human rights that have been denied in practice. We have raised human rights standards for everyone by declaring basic rights of peoples or communities. The Draft Declaration aims to correct the lingering manifestations of colonialism and the colonial era by proclaiming, in a strong and positive fashion, the rights of indigenous peoples. We welcome the day that we will be developing methods for the implementation of this Declaration. Though we work, on a daily basis, to promote and protect the rights of indigenous peoples, we look forward to the day that we can actually realize all of the rights embraced by the Declaration.

We remain committed to this standard-setting process. It is the hope of the Indian Law Resource Center and the National Congress of American Indians that we can bring ourselves together, that we can bring our minds together, and make peace amongst ourselves and to act together for the common good of the world that we all share.