

A Declaration on **The Rights of Indigenous Peoples**

On September 13, 2007, 144 countries voted on a Declaration to recognize indigenous people as having distinctive human rights.

Four countries voted against the Declaration. They were Canada, New Zealand, Australia and the United States of America.

In 2009, Australia's newly elected Labour government endorsed the Declaration. Early in 2010 New Zealand endorsed it.

The Declaration, an international human rights instrument, has been written by indigenous peoples working

together from around the world, in United Nations committees, over decades.

Indigenous participation in United Nations affairs has only begun recently. Up until the 1980's, Hopi people were simply turned away at the door.

Secwepemc leader George Manuel took steps to address this, calling meetings which culminated in the formation of the World Council of Indigenous Peoples, 1975. That

group worked together until 1996, and produced groundbreaking principles, declarations and studies, two of which are included here. The UN virtually ignored them.

In 1982 the Working Group on Indigenous Populations, part of the Sub-Commission on the Promotion and Protection of Human Rights, was established by the United Nations Economic and Social Council. In 1985, the

WGIP decided to produce a Draft Declaration on indigenous rights for adoption by the General Assembly.

The Permanent Forum on Indigenous Peoples was started in July of 2000. It is an advisory body to the Economic and Social Council of the United Nations.

The following are interviews with indigenous leaders, and the UN Special Rapporteur, with Kerry Coast, on the status of the four states who voted against the Declaration. The text of the Articles of the Declaration is printed here for your empowerment.



“Article 26 is the most problematic of the lands and resources provisions, especially the phrase:
“Indigenous peoples have the right to the lands, territories and resources which they have traditionally
owned, occupied or otherwise used or acquired.”

Also, the text does not recognize that rights to lands and resources need to be balanced
with the rights of others.”

- Canada's Position

***“we are the equal
partner to any development
that impacts our country”***

- Isaac Beshara,
Auteroa (New Zealand)
Page 2

***“It's about implementing
what's rightfully ours.”***

Chief Wayne Christian,
Secwepemc, (Canada)
Page 4

***“If Australia
was sincere,”***

Nala Mansell-McKenna,
Tasmania (Australia)
Page 6

“Article 1”

The Declaration
Pages 9-13

***“not being dictated to
all the time”***

Professor James Anaya,
United States of America
UN Special Rapporteur
Page 8

***“this actually contradicts
the Doctrine of Discovery”***

Arthur Manuel
Indigenous Network on Economies and
Trade, Canada Page 5

of Indigenous Peoples

New Zealand voted against the Declaration.

Isaac Beshara of Aotearoa (New Zealand), visited St'at'imc in May for the International Indigenous Leadership Gathering. He explained the following in an interview about the Declaration and how it would affect New Zealand.

New Zealand signed the United Nations Declaration on the Rights of Indigenous Peoples in April. They were among the only four countries that voted against it on September 13, 2007.

That Declaration has been in progress for over a decade and New Zealand has been instrumental in helping it to be born. Many profound Maori contributions have been part of its development, editing and birth.

Certain clauses were of a nature that were too challenging for the governments of the day of Canada, New Zealand, Australia and the United States, because those sections, depending on how you chose to perceive and define the words, were ambiguous enough to nurture some kinds of fear - that indigenous people would take all their land back; that indigenous people would demand rights above already existing citizens, and that those people would be disadvantaged in some way; that indigenous people would have all the political power, the economic power. They were fears born of ignorance.

So successive governments of those four countries have had an economic plan for decades, and an economic relationship between themselves for decades, that ensured open borders for the free market economy. The indigenous factor is a threat to those plans, in their minds. Because that economy is based on exploitation of resources.

If you were to add up the amount of indigenous lands and resources and basic natural resource value, you would discover that indigenous people in those four countries own all the wealth, and actually have a connection, a relationship, to that "wealth."

And treaties with

the indigenous pose a risk to economic development. In their minds.

In New Zealand, the Waitangi Treaty of 1840 obligates our government to honour an equitable partnership - so we are not stakeholders, we are not clients, we are not a community just to be consulted with; we are the equal partner to any development decision that impacts our country. But the UN Declaration doesn't change anything about the Treaty; it gives it international substance. And that substance is not to be laughed at: that's the entire world saying to New Zealand, we look at your country as something of a model and when we hear that you the government are misbehaving, we're worried.

Now, you have to understand the evolution of government and its purpose from the 18th, 19th, 20th and 21st centuries.

Originally the government was there, rhetorically, to represent the people, but ultimately to develop the economy. At that time the church held the power, but that was wrested off them by political and economic forces

So here we are in the 19th century. Captain Cook made it to New Zealand one hundred years after Abel Tasman, from Holland, but Cook never set foot on the island. Abel sent a boat on shore, to a place now called Murder Point. It was bad timing. The locals were in ceremony. They did a dance to say, go away - don't come onshore. Abel's sailors fundamentally misunderstood that and rowed up on the beach.

Captain Cook came in 1769. Between then and 1820, in our history those fifty years are looked on nostalgically as years of deeply successful integration of business and business success between



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European settlers and the Maori. Trading entrepreneurship occurred during this time, to the point where Maori was the economic force - we were trading with England, we had shipping companies.

But by that time, the English, French, Dutch and Americans had arrived on our shores with 500 years of experience in exploitation and colonization. And they came with one purpose: to stick a flag in the land and claim it for their monarchy, but really for themselves and for economic development.

The rush was on for England to make a treaty before anyone else did, and before Maori sealed the doors. They made two: one in English, and one in Maori. 300 Chiefs signed the Maori version, and only 30 English "Chiefs" of questionable authority signed the English version.

The fundamental differences between the two are this: the English version is cessation - under British law you cede your sovereign rights to the Queen, which is completely absurd. The Maori version recognized this fact: that the settlers were a bunch of booze drinking, whore mongering, disease infested good-for-nothings, but if they promised to get themselves together and be a nice community, they could live here.

At that time there was an international statute called *Contra Preferentum*. That meant that where the situation occurs that there are two treaties, one in English and one in the indigenous language, and in a situation where conflict occurs concerning anything promised, that the treaty to be used and considered and preferred is the treaty written in the native language.



In 1835, a document was developed between the Confederacy of Chiefs and it was a document of independence. It was predominantly between the Chiefs in the north of the country, and it was signed with the young governments of New Zealand. The north at that time was most impacted by, and most familiar with, the foreigners.

Everyone was sick of the Queen - the Americans; everyone. England was a cess pool of disease and poverty. So this was the seed of independence under the direction of the Chiefs, who by that time were quite entrepreneurial.

The government of England couldn't allow this - they would have lost all those resources; they were in the middle of the Industrial Revolution - they needed coal, timber, metals, trade routes. So, in five years, they wrote the new treaty, they took the Maori version around the nation, getting Chiefs to sign it, and they promptly threw it away and used the English version. Their progress with the treaty outstripped news of the Declaration of Independence, and that document was forgotten. The Treaty overtook everything.

England acted like they had sovereignty, that's how they do it, and so ensued thirty years of war. The last act of inde-

pendent protest against the British happened in the first decade of the 20th century. After that, there was no more open protest.

In 1840, the Treaty was signed and the British set up Parliament. At that time the government of New Zealand was broke. So what they did was to sell stupid people in Europe land that they, the government, did not own. It ensured a population of settlers would come, thus growing the economic labour force, but the trick was to get the land for those people.

So they told the Queen they were being attacked by natives. The British military came in to New South Wales, on the coast of New Zealand, where, in the 17th century, they had wiped out all the aboriginals. So the Queen ordered her army, the greatest military power in the world, to protect the settlers, who went about building their homes on our people's lands. So our people attacked. And the British army retaliated.

The entire 19th century was spent in Britain's acquiring sovereignty. The English broke all the rules of how to wage a war. They couldn't beat us hand-to-hand; we used our knowledge of the land, we invented trench warfare, guerilla warfare, wars of deception.

It was all about war for us. And the flu. That

wiped us out. The Brits fought a war of attrition - they could just keep fighting forever, using the Irish, Scottish, and landless peasants. We slaughtered them by the thousands, but they just kept coming.

By the 20th century we were basically tired of fighting. Our people didn't give in, they just realized we could die to the last person and never exist again, or we could say, just for now, let's put our weapons down and accept that life is never going to be the same for us again. Now that's a little different attitude than giving up.

The twentieth century was the century of economic and political assimilation. The twentieth century was Stage 2 of the economic program. No longer were the churches in any power, and so ensued the next fifty years and two World Wars and devastation to Maori.

In World War One, Maori sent a couple of divisions to support New Zealand's effort. They were excellent fighters. WWII comes around, and by this time the Maori are so completely disillusioned with the so-called "development," and that they hadn't honoured the Treaty, and that they had sent our kids to school; it was a complete lose-lose situation. So people didn't want to fight. But they thought if they sent the best of the best to the world stage, maybe the Queen or King would be grateful for them, and say, we should give them their rights, and that they would do the moral thing. That's what they thought.

But in WWII, the best of our best leaders went to war and never came back, and left our communities without their leaders. The ones that wouldn't fight were put in jail. And they left us with what? Poverty-stricken communities; soldiers who came home and got nothing.

By 1950, the Cold

War was upon us and we spent that time, until 2000, fighting for survival for our language, culture, way of life, that is now at risk to the dollar culture of commercialization.

The next wave is globalization - everything has a dollar value.

Despite all that, those 500 years, we are still here. And not only are we still here, but we have a purpose, and that is to guide the whole world in understanding that the way of life they have been following for so long is not good, not good for the Mother Earth.

So the UN Declaration on the Rights of Indigenous Peoples is the culmination of that entire century of struggle by indigenous peoples, to say we have a right to belong, to speak our language, to live the way we live and to have the relationships that we are used to having; to our world view, to a future, to gather in a circle and sing our songs.

Australia, New Zealand, Canada and the United States have been operating on the same economic program since the 1700's. But my message is, if our history is 100,000 years long, even longer, then this little bit of history is just a stitch in the entire story.

We know our old people had visions of our future that were wonderful and beautiful visions. It makes me in awe of our ancestors; they knew, thousands of years ago, that this pain was coming to the world. And they took it upon themselves to take on this suffering and pain because they knew no one else had the wherewithal to survive it.

My great, great grandparents were the generations of people to take on the suffering. My generation's responsibility is to take on the healing. We are not the healers, those healers are coming. You under-

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stand how a Tsunami works: you're at the beach, you see the water receding at an incredible rate - that's the last thing you're going to see. The water starts to bubble and boil and very shortly the tsunami arrives. And while human beings find tsunamis devastating and destructive, that's one of nature's ways of healing and washing away. What you're seeing her (at this Gathering) is the bubbles. That tsunami of healing and energy, of washing the pain and suffering away, is coming. The next generation are that tsunami. We are the bubbles.

Ultimately, that's the most sacred energy we can share with one another, and whenever the circle meets or comes together in the presence of love, that energy emanates from the center and washes the whole world. So I think if our old ones who knew that was going to happen, not only did they develop martial arts for our men to survive, they created our grandmothers as the repositories of all wisdom.

Indigenous Peoples

Canada voted against the Declaration.

Chief Wayne Christian of Splatsin, Secwepemc, feels people should go ahead and implement their rights, as recognized in the Declaration, on the ground in Canada.

The UN Declaration sets minimum standards for indigenous rights in the world. Our responsibility now is to implement the Declaration on the ground; to have every native person in Canada, whether Treaty or non-treaty, Status or non-Status, realize that they have Human rights to land, water, self governance, all resources and our people and the world recognizes them. This is critical.

Everything we do politically should reference the Declaration and keep documenting it and filing it with all interactions with Canada.

If Canada does implement it, it will be on the basis of extinguishment, fee simple title; on the Comprehensive Claims Policy, and we need to collectively replace the comprehensive Claims Policy as it is the instrument of denial and delay policy utilized by Canada not to recognize our constitutional rights.

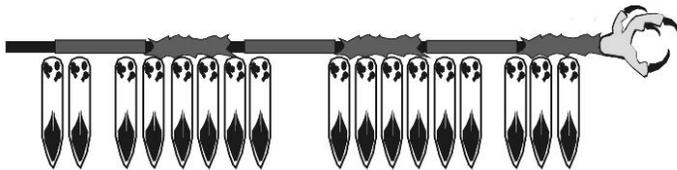
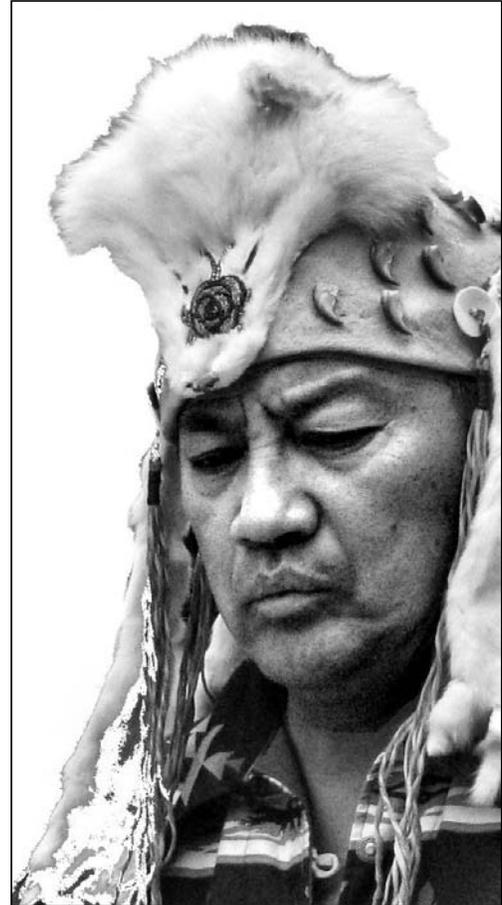
At Confederation, BC said the Indians were the federal government's responsibility and they claimed fee simple title to the whole province. BC said "we own it," and they argued Terra Nullius - that the land was empty - and they still believe that today, that's what we hear in the courts. But I don't believe it is in the public interest to deny us our Constitutional rights.

Article 8 of the Declaration stands out for me, that no aboriginal child should be taken away from

death camps; we had the Pass System up until 1951 so we couldn't travel, and we were kept away from the land, our medicines and our way of life. The young people today don't know about these acts thrust upon our ancestors, and they don't have the connection to the land.

The violation of the people continues today - "kill the Indian in the child" - was the official policy of Canada which spawned the residential school system" and that is hidden in provincial laws and what

We did a study in Secwepemc from 2001- 2004, and we found that \$1.1 billion was paid to the provincial government in stumpage fees. That's why they won't acknowledge our title and rights, that's why they keep on with Terra Nullius: "we don't exist."



If you look at what Canada has done, like in the title cases in BC where the courts recognize that aboriginal title exists here, the issue is denial - they try to deny us in the courts and delay us. Canada is looking at the UN Declaration that way, to delay it and minimize it and take away the Constitutional rights we do have. In BC we have unceded land., we have never surrendered or sold our title and all the rights flowing from our title. It has always been about economics.

their family. Today, we have more children in state care than we ever did at any time during the residential school era. So what does that tell you? That forced assimilation - cultural genocide - is still going on through the destruction of the family, culture and, ultimately, the connection to the land.

Everything the government has done since Confederation has been for the purpose of getting us off the land. We were put on these Reserves, these concentration camps or

BC says is their jurisdiction within the Ministry of Children and Families. I say we have to put these matters back under our own laws.

We have forced assimilation even today, even under the delegated agencies which enforce provincial laws. And that's all about money too.

What people don't realize is that we are an industry in Canada. Think about all those Canadian families that have made a living off the misery of our children; they've paid mort-

gages and made pensions administering our children's misery in state care. It makes me sick. And it's a big part of the BC government's income.

We can't wait for the government to implement the Declaration on the Rights of Indigenous Peoples. We have to do it. That can take many forms - going hunting, going fishing, people fencing off the land that was theirs and using it.

The Declaration by 144 countries recognizes indigenous peoples have these rights, recognizes that when we take these actions we do so not only for ourselves and our nations and those yet unborn. We are also acting in the eyes of the world. We need to show to the world that Canada

has systematically incarcerated us and continues to perpetuate genocide. The Declaration gives us a foundation to move away from assimilation towards self determination on our terms.

There are clauses in the Declaration about our full participation in the state economy. We did a study in Secwepemc from 2001- 2004, and we found that \$1.1 billion was paid to the provincial government in stumpage fees, in our area alone. That's why they won't acknowledge our title and rights, that's why they keep on with Terra Nullius: "we don't exist."

The Future is now. Our people cannot wait for the government to enact policies and laws to delay us into extinction.

“Canada is fooling itself. It was outvoted.”

Arthur Manuel, Neskonlith, Secwepemc, has been involved with United Nations processes through the Indigenous Network on Economies and Trade. From meetings in Geneva and New York, he brings a perspective on Canada's reputation internationally, and the time it takes for international relations to evolve.

It is a Declaration that recognizes indigenous rights as a form of human right. We're not sure what direction, at the international level, indigenous people want to take that in terms of what form of recognition they want as entities, especially in relation to states. The United Nations is a body of states, and countries like Canada, who are members of the UN, are claiming ownership of the entire territories of indigenous people like St'át'imc and Secwepemc, and claiming they have exclusive interests.

The Declaration says indigenous people have rights to self-determination and rights to land. So, in 46 Articles, they talk about how indigenous peoples have rights that are based on our identity as people who live here. This has created a serious qualification and a need for Free, Prior, Informed Consent if states are going to do certain things in our territories. So they've established a framework where Canada cannot just make use of our resources at will.

In all previous United Nations documents, the states had all the power and jurisdiction. Now we have the power, from this Declaration - in relation to Fish Lake or Sun Peaks, we relate our interests to this proprietary link to the land; we have a basis for self-determination and Free, Prior, Informed Consent to put conditions on any planning the state may be trying to implement here and we'll fight them on that.

I think that's the level the Declaration is happening on. If indigenous people wanted to move it to another level, they might be looking for a Convention, like the Convention on Biological Diversity or on Civil and Political Rights - that's a level higher.



You have to remember that sticking your flag in some place was a part of international law at the time. It was called the Doctrine of Discovery, and the church was involved. Europe had no resources left, they were traveling all over the world to find more, and that was one of the rules they made up for themselves about who got colonizing rights to places.

The Declaration is the first time those states have got together and signed something that actually contradicts the Doctrine of Discovery. It is the first international instrument that really challenges the usual concept that Europeans are superior and they make all the decisions.

Free, Prior, Informed Consent is in the Declaration because it recognizes that indigenous peoples have a land base that they rely on and that they want to have a say about before some corporation goes and wrecks it.

The reason Canada doesn't want to accept the Declaration is that there are substantive areas in British Columbia, Quebec and the Maritimes where they have

not perfected their ownership over our land. That's obvious, that's why you have the BC treaty process; that's why you have the Comprehensive Claims Policy.

There are large areas they don't control, and they don't want to send mixed messages to indigenous people here. Their position is, "my way or no way at all." You have to modify your aboriginal title to fee simple title with Canada or British Columbia owning underlying title - that's where negotiations are at right now.

This is a contradiction in their own thinking, aboriginal title has already been judicially recognized. We don't need to do more than apply that on the ground. That's where we differ - they don't want to acknowledge that our title covers every square inch of our territories and it always will.

Canada also says implementation of the Declaration has to be in the context of Canadian law - but it is in the context of the law. The courts have already written us into the Constitution; they have

already ruled that aboriginal is unextinguished. From the Declaration standpoint, the federal government can't request us to give up our land.

In *Delgamuukw* they said no provincially created interests could ever extinguish aboriginal interest in the land. That's why I think the government won't sign the Declaration, because of these issues.

Our aboriginal title is an underlying title. So despite the fact that they sold fee simple titles or private property off of it, and that still under that is a state interest - underneath that is where aboriginal title exists. My grandchildren should still own that hundreds and thousands of years from now.

This Declaration would basically strengthen our hand. But even if they don't want to sign it, that doesn't mean they aren't obligated to try to implement it. They can't pick and choose which human rights standards they can observe. They are part of the United Nations, and if 144 countries voted for it, you're stuck with it. They can pretend they don't sup-

“There are large areas they don't control, and they don't want to send mixed messages to indigenous people here. Their position is, 'my way - or no way at all.'”

But they can't pick and choose which human rights standards they observe.”

port it but it doesn't mean they're not obligated. Canada is just fooling itself.

Because Canada, as a state government, is being so stupid and stubborn about holding on to those old notions of extinguishment, it puts the onus on Canadians: do they want to stick with the Indian Agent strategies or start new?

All of the UN bodies that have studied Canada have been very critical of how slow-moving Canada is in human rights and how they don't make a lot of progress from decade to decade.

So what happens when a government drags its feet on human rights, economic and environmental rights? Canadians have to send a signal to the government - it's their responsibility to live up to this thing.

Canada and its reputation in human rights is being seriously reconsidered by other countries. Canadians are proud of the role they take as peace keepers, but other countries are no longer seeing it as a positive model.

Australia voted against the Declaration.

Nala Mansell-McKenna was State Secretary for the Tasmanian Aboriginal Center from 2008 - 2010. She speaks here about the contradictions between what Australia says in polite company, and what happens on the ground since Australia endorsed the Declaration a year after voting against it.

By the Australian government endorsing that Declaration, aboriginal people here are no better off than they were before.

If Australia was sincere, they would legislate the Declaration. If they were sincere in ensuring Aborigines are treated fairly, she would be supporting Aboriginal self determination and compensation for the stolen generation rather than continuing racist policies and practices such as the Northern Territory intervention.

I think it would be very hard to find examples in Australia that show Aborigines have benefited by Australia becoming a signator.

For example, in the Northern Intervention, aboriginal people living in aboriginal communities are targeted and deprived of social assistance and welfare payments. Instead of any money they are being given food stamps, and this has been going on for over

You can see health issues in communities all around the world, but for Australia to pick out these aboriginal communities and punish them like this is disgusting.

Some of the people are moving away from their homes and going to live in the cities. Others are moving out of the community areas, as they are targeted, and moving their camps out of the designated areas.

The Intervention only affects the people in the rural areas.

Australia had \$1million to spend on housing, because so many of them there live with too many people to a house. Now, the money has been spent and not a single house has been built - just this intervention and their administration of it seems to have used it all up.

Health services were taken away, none of this was carried out in consultation with the communities, and the only effect is



“In the Northern Intervention, people living in aboriginal communities are deprived of social assistance. They had to amend their Racial Discrimination Act so they could do it. They say they are improving the people's health this way. The only effect is to have aboriginal people moving away to the cities to be assimilated.”



two years. They say they are improving the people's health this way. They had to amend their Racial Discrimination Act so they could do it. Every Australian is entitled to those welfare payments, except aboriginal people living in their own communities in the Northern Territory.

to have aboriginal people moving away to the cities to be assimilated.

Aboriginal people are already treated as second class citizens in their own lands.

There are other things in the Declaration, such as self government, that we are interested in. We have the Aboriginal

Provisional Government that's widely spoken about here.

We have our own passports for Tasmanian people which we have used to travel overseas, but with the new anti-terrorism laws that has become more difficult. Perhaps by advancing our rights to that kind of self-determination, we could be working with Australia to get that recognition.

One huge issue for Tasmanian aboriginal people right now is the Brighton Bypass construction. Archaeologists date the heritage site they found there as being 42,000 years old. That is the oldest southernmost site in the world.

The Tasmanian government is refusing to recognize that area because they want to destroy it and

build that road. The Tasmanian government has already destroyed 21 of the 22 sites found there.

We have applied for a World Heritage listing two months ago but we haven't heard back from the federal government. However, since our application, the federal government have added six sites to the World Heritage list - they area all colonial buildings about a hundred years old.

The government doesn't even need to hide the fact that aboriginal heritage means nothing to them and their European heritage means everything. We would call those colonial buildings quite new areas.

Section 92 of our Heritage Act says that any aboriginal heritage site is totally excluded from pro-

tection under that legislation. I'm sure that would be implicated in the Declaration on the Rights of Indigenous People.

Down here we just see symbolic gestures. Last year Prime Minister Kevin Rudd came to Tasmania and many aborigines went to his meeting to protest the Northern Intervention. We were arrested for it, and as we were being thrown in paddy wagons outside, Kevin Rudd was inside acknowledging the original owners of this land!

It's obvious they don't understand the importance of aboriginal people, but they think that by standing up in meetings and saying they acknowledge us they get extra Brownie points.

There's probably not much knowledge of the Declaration among the

grass roots. Aboriginal people would probably be shocked to find out that indigenous people have a right to protect our heritage sites when the government openly destroys them.

Given the government's general tactics of denial, they seem to be saying, "if we can't get rid of them by killing them, we can destroy all evidence that they ever existed."

It's hard to believe that there's an anti-racism Convention that would prevent the government from targeting aboriginal people as they are doing in the north.

The Declaration states some great things for indigenous people, but while the government ignores all those it's not giving us any results or outcomes. Aboriginal people around the country don't get to determine our own agenda as to where we want to see our people going, and we're constantly reacting to the government's destruction agenda.

While we are con-

stantly reacting to racist policies, aboriginal people will never be able to determine our own future because we're constantly facing destruction by the Australian government.

Tasmania is a separate island to the south of the mainland, we tend to do things a little bit different. Some of the differences between ourselves and other Australian indigenous peoples are because our people were rounded up and moved to different areas, and we can't rely on the Native Title Act because we can't prove continuous occupation. We were just saying today that if people were forcibly removed from the land, it's not their fault, as victims.

In 1995, through some Aboriginal Land Rights legislation, we have had twenty small areas returned to us. It's equal to 0.06% of Tasmania - a tiny fraction of one percent. Only 200 years ago we had title to 100% of Tasmania.

As we have seen in the north, the government

can amend legislation like the Anti-Racism Act, so we feel they could repeal the legislation that returned the land to us whenever they feel like it.

The areas returned in 1995 were many different parcels, but since then there has been no more land returned. So it's a very slow process.

The 26th of January marks the day white people first came here and started slaughtering and raping and dispossessing aboriginal people. Australians get the day off work and go about waving their flag and celebrating Australia. And aboriginal people go and protest and say that the day we began to lose everything should be a day that we mourn the loss of people and culture rather than the victory of one people over another. But it's mainly the government ramming it down people's throats, rather than seeing it as Invasion Day, which is what we call it, and helping people become more respectful.

Implementing the Declaration on the ground will, in some cases, cost money.

In 2008, indigenous language programs applied for \$18 million. Less than half of that was allocated.

At the same time, Australia allocated \$15.6 million per year for 4 years to programs that teach Mandarin, Korean, Indonesian and Japanese in Australian high schools.

Many Aboriginal languages now have only a handful of speakers. There are no other groups of speakers elsewhere to keep the languages going.

A letter from Tasmania to Fiji:

Commodore Ratu Josaia Voreqe Bainimarama

4th August 2010

Dear Prime Minister,

We are an Aboriginal liberation group who reject the domination by successive Australian governments of our people. We have been dispossessed of our lands, dominated for 200 years to such a degree that our disadvantage is a product of that domination. Australian government policy is to reduce us to beggars in our own country and deny us the right to self determination. We oppose welfare responses by the Australian government and insist we have the right to our own government.

Your comments about Australia's paternalistic stance towards your nation struck an immediate chord with us. We agree that Australia has should not sit on the South Pacific

forum when its participation is based on its own notions of superiority, a stance that puts Australia at odds with the island nations of the Pacific.

Years ago the Aboriginal Provisional Government sought to gain entry as a member of the South Pacific Forum at the Vanuatu conference on the basis that Australian Prime Ministers represent the white people of Australia but do not represent Aborigines. While that request was unsuccessful we appreciated the informal support we received at the time from the Pacific nations for our situation and our plea.

We are not an operating government but represent the aspirations of Aboriginal people for future Aboriginal government operating on Aboriginal lands. We have our own Aboriginal passports, issue birth certificates for new born

Aboriginal children and operate completely independently of Australian governments.

We believe it would be to our mutual advantage to visit your country with the view to hold talks with you. The Australian government's labelling of your government as being undemocratic might expose Australian for being hypocritical. Our visit could highlight Australia's lack of representative democracy (there are no Aborigines in the Australian parliament).

Australia's condemnation of Fiji can be countered on a number of grounds, not the least of which is the suspension of the Racial Discrimination Act by the Australian Parliament so that racist NT Intervention laws could humiliate Aborigines in the Northern Territory by unilaterally taking away land and reducing people to needing food vouchers. All this in such a rich country.



Another position of embarrassment for Australia relates to Aboriginal travel in and out of Australia. We do not travel on Australian passports and would need your co-operation for us to use our Aboriginal passports to get to and from Fiji. On our return to Australia we will be refused entry by the authorities (as they always do), but we will deal with that. If Fiji accepts the arrival and departure of Aborigines on the Aboriginal passport but Australia does not, who

then is oppressing whom?

We support the Melanesian Spearhead Group and would like to talk further with you about our relationship to the group.

If you could find the time to engage with us a delegation would fly to Fiji at a suitably convenient time.

Michael Mansell
Secretary
Aboriginal Provisional
Government

The USA voted against the Declaration.

Professor James Anaya is the UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people since 2008. He lives in Arizona, USA, and teaches HUman Rights Law at the University of Arizona.

You are an American and UN Special Rapporteur. Your government is one of only two in the world to continue to reject and object to the Declaration, so what are indigenous peoples in the USA doing to have the state government endorse and implement the Declaration?

It's not right to say the USA rejects and objects to the Declaration. The US made a statement with its reasons against the Declaration, and they were very narrow reasons to do with some of the language and possible ambiguities in certain clauses.

They say they agree with consultation, self government and rights over land and resources, but expressed concern about certain language that was problematic and also the process was deficient, they said, and the timeframe not long enough for discussion and review.

Now the United States is undertaking a process of review of the Declaration. Secretary for State Condoleezza Rice announced this at the UN permanent Forum on Indigenous Issues in April. Hopefully the United States will come to endorse the Declaration.

Indigenous people are doing everything they can to push that along. To their credit, the US held consultation sessions here in Arizona, and in Albuquerque with the Navajo Human Rights Council. They have met with various organizations to discuss the Declaration, including the International Indian Treaty Council.

There's a lot to be done among indigenous people who are not aware of the existence or the significance of this document. So the effort to get the US government to endorse it really means getting indigenous people aware of and using it.

Depending on where you are in the world, the grassroots can be very informed on the Declaration. I would say most people in Latin America are very conversant in it. That may be because they don't have much protection within their own state laws, so they look to international law.

Here and in Canada people tend to be engaging within the systems, challenging this or that legislation or arguing this or that policy.

Some leaders are so focused on urgent and immediate issues that it's not a priority to promote the Declaration. It depends on the people who do have the awareness and the willingness to promote it.

Some Chiefs here are stating that it is simply their responsibility to implement the Declaration - that indigenous people must simply do those things the Declaration says they have a right to do.

They're absolutely right. The Declaration is premised on understanding that indigenous people are going to take those rights and make them their own. I daresay without that these rights can't be implemented. They have to make them their own and work to implement them.

Have you seen examples of that unfolding in your travels?

Absolutely - it's nothing out of the ordinary; self-government comes from within. A state government can say, "we give you that right," all they want, but only the indigenous people can do that. With control over land and resources, people have to work to assert that; with language, that can only be done by the people.

The Declaration is not exactly enforceable, are people aiming to take it to the level, where states have to report on implementation?



"A state government can say, 'we give you that right,' all they want, but only the indigenous people can implement that. "

It's not that it's unenforceable. The Declaration is a document that the governments have committed themselves to. You can have lawyers argue all day about the interpretation of this or that aspect, but if you read it there are specific recommendations and minimum requirements that have been agreed to.

The state governments have an over-arching obligation under the United Nations Charter to promote human rights. This may not be enforceable in an international court, but it's enforceable in other ways; in discussion between indigenous nations and states or between nations, and with people on the ground.

States do have to report back to Councils and Committees under things like the Universal Periodic Review. I engage with states by asking them what

they have been doing to implement the Declaration and they tell me, they don't say they don't have to do it. When the state governments report, like in the UPR, they have to report on human rights and the Declaration is becoming a backdrop for that. I report to the human rights councils and the states respond.

In the USA, what articles have been seen as the most important for indigenous peoples, what have they seen as priorities or aspects that include their high hopes?

That is a question for the leaders themselves, but I can tell you what I've observed. The basic thing is self-determination over indigenous peoples' communities and lives, not having things dictated to them all the time, having control over development processes - that's the core.

\$4b U.S. corporation urges USA to adopt UN DRIP

July 14, 2010

Dear Secretary Clinton,

We understand the U.S. Department of State is currently reviewing the United States' position on the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and offer this comment for consideration.

Calvert Investment has been a leader in the field of sustainable and responsible investing (SRI) for over 25 years. ...Calvert manages 51 mutual funds, including 24 funds that apply sustainability criteria. As of June 12, Calvert currently manages over \$14 billion in assets for over 400,000 shareholders.

We believe that the Indigenous Peoples in the U.S. and elsewhere around the globe deserve the affirmation and recognition of the broad array of rights set forth in the Declaration, including those related to self-determination, culture, land and natural resources, means of subsistence, treaty rights, non-discrimination, health and social services, protection of sacred sites, education and language. All these are rights which Indigenous Peoples themselves have identified as necessary to their survival, wellbeing and dignity—rights which the international community should fully embrace.

We believe that recognizing the Declaration is particularly important for the United States, especially since it was only one of four countries to vote against UNDRIP at the time of its original adoption by the United Nations. The creation of this United Nations' document marked the first time it had been drafted directly by, and with input from, the rights-holders themselves – the Indigenous Peoples. A compilation of over 30 years of work by Indigenous nations, many living within U.S. borders, UNDRIP recognizes the collective and individual rights of 370 million people worldwide.

The Declaration sets minimum standards for the individual and collective rights of Indigenous Peoples, calls for the maintenance and strengthening of their cultural identities, and emphasizes their right to pursue development in a manner that is aligned with their own needs and aspirations. It also prohibits discrimination against Indigenous Peoples and promotes their full participation in all matters that concern them.

We believe that the rights highlighted in UNDRIP are consistent with a range of international human rights instruments already ratified by the United States, including the International Covenant of Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and more than 400 nation-to-nation treaties with Indigenous Nations.

According to the 1948 Universal Declaration of Human Rights, human rights and dignity are inalienable and UNDRIP clarifies and builds on the rights of Indigenous Peoples.

We understand that the Declaration is non-binding, but believe it is an important marker in recognizing the rights that Indigenous Peoples have to live their own lives according to their traditional values and beliefs.

Affirming the Declaration would also be the first step toward the development of binding international legal protection for the rights of Indigenous Peoples. The Declaration could help provide much needed change in the areas of trust management, tribal property rights and treaty implementation. Many Indian nations are already facing extreme violations of their rights as are other Indigenous Peoples worldwide. Support and recognition by the U.S. of UNDRIP could help address these issues.

It's not enough to support the Declaration on the Rights of Indigenous Peoples, says UN expert.

Special Rapporteur James Anaya's statement on the
Day of Indigenous Peoples, August 9, 2010

The following statement has been issued by the UN Special Rapporteur on the situation of the human rights and fundamental freedoms of indigenous people, James Anaya, to mark the International Day of the World's Indigenous Peoples, 9 August 2010

GENEVA - "The poorest among the poor, indigenous peoples continue to be at the margins of power and, in many cases, disregard of their basic human rights escalates into violence against them," said the United Nations Special Rapporteur on the situation of the human rights and fundamental freedoms of indigenous people, James Anaya, in commemoration of the International Day of the World's Indigenous People.

"However, they have preserved, generation after generation, an extraordinary wealth of knowledge, culture, and spirituality in the common benefit of humankind, contributing significantly to the world's diversity and environmental sustainability," the UN independent expert noted.

"Still, it is painfully apparent that historical patterns of oppression continue to manifest themselves in ongoing barriers to the full enjoyment of human rights by indigenous peoples," Mr. Anaya said.

"Indigenous peoples continue to see their traditional lands invaded by powerful actors seeking wealth at their expense, thereby depriving them of life-sustaining resources."

These ongoing threats shed light on the need for a stronger commitment to the United Nations Declaration on the Rights of Indigenous

Peoples*, which was adopted by the UN General Assembly in 2007. It affirms the right of indigenous peoples to self-determination and equality, and to maintain their distinctive cultures within traditional territories. Since its adoption, the very few States that voted against it have changed or are in the process of reassessing their positions. Nevertheless, the human rights expert warned that a great deal remains to be done to see the objectives of the Declaration become a reality in the everyday lives of indigenous peoples.

"Today the Declaration remains more of a reminder of how far there is to go in bringing justice and dignity to the lives of indigenous peoples than a reflection of what has actually been achieved on the ground." The Special Rapporteur expressed his fear that the wide gap between the Declaration and its effective implementation will persist, leading to a certain complacency and acceptance of that condition: "This cannot be allowed to happen; the faithful implementation of the Declaration must be the focus of concerted attention by governments worldwide, the UN system, and other actors."

As part of this action, States should engage in comprehensive reviews of their existing legislation and administrative programs to identify where they may be incompatible with the Declaration. On the basis of such review, necessary legal and programmatic reforms should be developed and implemented, in consultation with indigenous peoples.

Similarly, States should be committed to devoting significant human and financial resources to the measure required to implement the Declaration. These resources will typically be required for the demarcation and protection of indigenous lands, the development of culturally appropriate educational programs, support for indigenous self-governance institutions, and the many other measures contemplated by the Declaration.

The Special Rapporteur notes that many important measures have already been taken by States and other actors to implement the Declaration, and expresses his sincere hope is that such initiatives will take root much more broadly than they have to date, and that experiences will be shared to strengthen these initiatives.

"Implementing indigenous peoples' rights under the Declaration will bring historical justice to this too often ignored segment of humanity and help advance principles of equality, self-determination and respect for diversity, which that are basic tenets of the modern human rights system," Mr. Anaya said.

On 26 March 2008, the Human Rights Council appointed Professor S. James Anaya as Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, for an initial period of three years. Professor Anaya is the James J. Lenoir Professor of Human Rights Law and Policy at the University of Arizona (USA).

Indigenous Peoples

UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

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 Rights 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 of 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 rights 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.

Photos these pages by R. Diabo, 9th session of PFII, New York, 2010



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 dispossession of 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 by other cultures or ways of life imposed on them by legislative, administrative or other measures;

(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 practice 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 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

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.



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

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 retraining, 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, of a 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 significant threat to 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 their 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 to diminish or eliminate the rights of Indigenous Peoples contained in Treaties, Agreements and 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 have 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 customs, 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.

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, 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.

WORLD COUNCIL OF INDIGENOUS PEOPLES SECOND GENERAL ASSEMBLY

KIRUNA, SWEDEN, SEPTEMBER 24 - 27, 1977

DECLARATION ON HUMAN RIGHTS

The Indigenous Delegates present at the Second General Assembly of the World Council of Indigenous Peoples, assembling at Kiruna, Samiland, Sweden, have studied the universal declaration of the United Nations on Human Rights and other international agreements, and, having analysed our present situation as aboriginals, we submit to the opinion of the world the following

DECLARATION :

We have surveyed those areas which were invaded by the Europeans. To make their intrusion they used various means: direct or indirect violence, fraud and manipulation. These were the methods they used to occupy the land of the indigenous populations and acquire titles to such property which was rightfully owned by the aboriginals. These infamous conditions still prevail as of today, without any consideration to the fundamental declarations of the United Nations on Human Rights.

The most important ones are the Declaration of the General Assembly of 1948 and United Nations Convention on the abolishment of all forms of racial discrimination.

Here is not the question of ordinary political persecution, but of the white man's use of medieval methods to encroach upon and exterminate the indigenous peoples and take over their lands. This is possible thanks to the complicity between the land owners, the multinational companies, and the governments.

Through our own members and individuals as well as international organizations, the World Council of Indigenous Peoples has received documented reports, at the first as well as at the Second General Assembly, of daily violations against indigenous groups and individuals. These are violations against the most elementary needs which are denied and the human rights such as we understand them and as they have been explained by the official agencies of the United Nations.

This applies in particular to the greater part of South America, where the conditions have been described as especially severe. Outright massacres have taken place, in the style of those enacted by the conquerors in the 15th and

16th centuries. People have been imprisoned WITHOUT LEGAL CAUSE, they have been tortured and murdered. In this way almost all the articles in the Convention of 1948 have been violated.

Even participation in the World Council of Indigenous Peoples has constituted grounds for imprisonment, torture, loss of civil rights, and expulsion.

No less serious is the inclination of certain states to deny the indigenous population, in groups or as individuals, the right to land and water. These are fundamental resources for human life and prerequisites to an indigenous development of their own institutions, culture and language. All this also constitutes principles which have been manifested in international conventions:

1. International Convention on Economic, Social and Cultural Rights
2. The International Labour Organization's Convention No. 107
3. International Convention on Civil and Political Rights.

The World Council of Indigenous Peoples upholds, as a fundamental principle, that the Indigenous Peoples are the rightful owners of the land, whether they hold formal title deeds, issued by the colonists, or not. It is, anyway, up to the colonists and the intruders to submit evidence to their title, and this should be required on the part of the aboriginals. This principle should be considered as a fundamental element of legal justice.

I. All those Conventions and Declarations on the Human Rights which have been approved in the United Nations or in other international bodies by representatives of the National Governments, are not adhered to because the United Nations has no mandatory power nor are the member states particularly keen on realising them in practice.

These conventions, furthermore, do not take account of the true situation and rights of the Indigenous Peoples.

II. We, therefore, wish to make clear those irrevocable and inborn rights which are due to us in our capacity as Aboriginals:

1. Right to Autonomy;
2. Right to maintain our culture, language and traditions in freedom;

3. Right to have the World Council of Indigenous Peoples as a United Nations member representing our people;

4. Right to recover the land which rightfully and according to millenary tradition belongs to us, but has been robbed from us by the foreign intruders;

5. Right to occupy land collectively with sole rights as something irrevocable and non-transferable;

6. Right to organize ourselves and administer our land and natural resources;

7. Right to demand from the governments of the countries sufficient land to improve the conditions of the Indian communities and promote their development under their own tutorship;

8. Right to make use of the natural resources existent in the areas of the indigenous peoples, such as forests, rivers, ore deposits and the riches of the sea, and a right for the indigenous people to take part in the project and construction work and the use of it;

9. Right to demand the states that such laws are passed, that will be of benefit to the Indigenous People, particularly for the protection of their right to land ownership recognizing representative aboriginal organizations and their full involvement in the process of making laws;

10. Right to secure requisite funds for the Indigenous Peoples from the individual countries to be used for agrarian and natural resources development;

11. Right to acquire a share in the funds accruing from the member states to the United Nations, either through a project or directly, and right to exchange technical and scientific information between the Indigenous Populations of different countries;

12. Right to subsidies from governmental or international economic institutions through the granting of long term credit at low interest;

13. Right to respect our Indigenous culture in all its modes of expression, for the protection of



which appropriate by-laws should be passed;

14. Right to an appropriate education in accordance with our culture and our traditions, without any foreign elements and within the framework of an educational system which recognizes the values of our culture and acknowledges an official status to our language at all educational levels.

The Second General Assembly of the World Council of Indigenous Peoples addresses itself to all the peoples of the world, to individuals and to nations, to the United Nations and all its agencies, and to other international organizations, with an urgent appeal that all the violent actions and measure against indigenous peoples, as related above, be immediately brought to an end.

The World Council of Indigenous Peoples requests all its members to exert strong pressure wherever possible on the agencies in their respective countries to make those agencies co-operate with international organizations to ensure that the inhuman conditions of Aboriginals is abolished.

The World Council of Indigenous Peoples urges the United Nations to establish a special fund for the support of groups or individual Aboriginals so that they may be able to bring their cases to national or international courts and that they may be able to develop their areas economically and culturally.

The World Council of Indigenous Peoples should also work for the establishment of an international university for Indigenous Peoples having its seat in, for instance, the capital of Bolivia.

IV GENERAL ASSEMBLY OF THE WORLD COUNCIL OF INDIGENOUS PEOPLES, PANAMA, SEPTEMBER 23-30, 1984

WORLD COUNCIL OF INDIGENOUS PEOPLES

DECLARATION OF PRINCIPLES

1. All human rights of indigenous people must be respected. No form of discrimination against indigenous people shall be allowed.

2. All indigenous peoples have the right to self-determination. By virtue of this right they can freely determine their political, economic, social, religious and cultural development, in agreement with the principles stated in this declaration.

3. Every nation-state within which indigenous peoples live shall recognize the population, territory and institutions belonging to said peoples.

4. The culture of indigenous peoples are part of mankind's cultural patrimony.

5. The customs and usages of the indigenous peoples must be respected by the nation-states and recognized as a legitimate source of rights.

6. Indigenous peoples have the right to determine which person(s) or group(s) is (are) included in its population.

7. All indigenous peoples have the right to determine the form, structure and jurisdiction of their own institutions.

8. The institutions of indigenous peoples, like those of a nation-state, must conform to internationally recognized human rights, both individual and collective.

9. Indigenous peoples, and their individual members, have the right to participate in the political life of the nation-state in which they are located.

10. Indigenous peoples have inalienable rights over their traditional lands and resources. All lands and resources which have been usurped, or taken away without the free and knowledgeable consent of Indian peoples, shall be restored to them.

11. The rights of the indigenous peoples to their lands includes: the soil, the subsoil, coastal economic zones all within the limits specified by international legislation.

12. All indigenous peoples have the

right to freely use their natural wealth and resources in order to satisfy their needs, and, in agreement with principles 10 and 11 above.

13. No action or process shall be implemented which directly and/or indirectly would result in the destruction of land, air, water, glaciers, animal life, environment or natural resources, without the free and well informed consent of the affected indigenous peoples.

14. Indigenous peoples will re-assume original rights over their material culture, including archeological zones, artifacts, designs and other artistic expressions.

15. All indigenous peoples have the right to be educated in their own language and to establish their own education institutions. Indian people's languages shall be respected by nation-states in all dealings between them on the basis of equality and non-discrimination.

16. All treaties reached through agreement between indigenous peoples and representatives of the nation-states will have total validity before national and international law.

17. Indigenous peoples have the right, by virtue of their traditions, to freely travel across international boundaries, to conduct traditional activities and maintain family links.

18. Indigenous peoples and their designated authorities have the right to be consulted and to authorize the implementation of technological and scientific research conducted within their territories and the right to be informed about the results of such activities.

19. The aforementioned principles constitute the minimal rights to which indigenous peoples are entitled and must be complemented by all nation-states.



Joe De la Cruz, Quinault (Washington, USA) was one of the Chairmen of the World Council of Indigenous Peoples. During his life, he was also President of Quinault Indian Nation and the National Congress of American Indians. Evergreen State College in Washington established the Joe De la Cruz Center for Advanced Studies in Tribal Government, focusing its research and educational programs on tribal governance on the ideas and work of The Honorable Joe De la Cruz.

“All lands and resources which have been usurped, or taken away without the free and knowledgeable consent of Indian peoples, shall be restored to them.”

I Can.



protect my
heritage sites.



use my own
laws and
customs to
keep my
family
together.

make sure
my children
will always
be able to
practice our
way of life.



protect my
cultural and
intellectual
property.

**The United Nations Declaration on the Rights of
Indigenous Peoples recognizes my right.**