

DRAFT DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLE

Affirming that all indigenous peoples are free and equal in dignity and rights to all peoples in accordance with international standards, while recognizing the right of all individuals and peoples to be different, to consider themselves different, and to be respected as such,

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

Convinced that all doctrines, policies and practices of racial, religious, ethnic or cultural superiority are scientifically false, legally invalid, morally condemnable and socially unjust,

Concerned that indigenous peoples have often been deprived of their human rights and fundamental freedoms, resulting in the dispossession of their lands, territories and resources, as well as in their poverty and marginalization.

Considering that treaties, agreements and other constructive arrangements between States and indigenous peoples continue to be matters of international concern and responsibility,

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

Recognizing the urgent need to respect and promote the rights and characteristics of indigenous peoples, especially their rights to their lands, territories and resources, which stem from their history, philosophy, cultures and spiritual and other traditions, as well as from their political, economic and social structures,

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

Endorsing efforts to revitalize and strengthen the societies, cultures and traditions of indigenous peoples, through their control over development affecting them or their lands, territories and resources, as well as to promote their future development in accordance with aspirations and needs,

Recognizing that the lands and territories of indigenous peoples should not be used for military purposes without their consent and reaffirming the importance of the

demilitarization of their lands and territories which will contribute to peace, understanding, economic development and friendly relations among all peoples of the world,

Emphasizing the importance of giving special attention to the rights and needs of indigenous women, youth and children, and in particular to their right to equality of educational opportunities and access to all levels and forms of education,

Recognizing in particular that it is usually in the best interest of indigenous children for their family and community to retain shared responsibility for their upbringing and education,

Believing that indigenous peoples have the right freely to determine their relationship with the States in which they live, in a spirit of coexistence with other citizens.

Noting that the International Covenants on Human Rights affirm, fundamental importance of the right of self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development,

Bearing in mind that nothing in this Declaration may be used as an excuse for denying to any people its right of self-determination,

Encouraging States to comply with and effectively implement all international instruments as they apply to indigenous peoples, in consultation with the peoples concerned,

Solemnly proclaims the following Declaration on the Rights of Indigenous Peoples:

PART I

1. Indigenous peoples have the right of self-determination, in accordance with international law by virtue of which they may freely determine their political status and institutions and freely pursue their economic, social and cultural development. An integral part of this is the right to autonomy and self-government;

2. Indigenous peoples have the right to the full and effective enjoyment of all human rights and fundamental freedoms which are recognized in the Charter of the United Nations and in international human rights law;

3. Indigenous peoples have the right to be free and equal to all other human beings and peoples in dignity and rights, and to be free from adverse distinction or discrimination of any kind based on their indigenous identity;

PART II

4. Nothing in this Declaration may be interpreted as implying for any State, group or individual any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or to the Declaration of Principles of International Law on Friendly Relations and Cooperation among States in Accordance with the Charter of the United Nations;

5. Indigenous peoples have the collective right to exist in peace and security as distinct peoples and to be protected against genocide, as well as the individual rights to life, physical and mental integrity, liberty and security of person;

6. Indigenous peoples have the collective and individual right to maintain and develop their distinct ethnic and cultural characteristics and identities, including the right to self-identification;

7. Indigenous peoples have the collective and individual right to be protected from cultural genocide, including the prevention of and redress for:

(a) Any act which has the aim or effect of depriving them of their integrity as distinct societies, or of their cultural or ethnic characteristics or identities;

(b) Any form of forced assimilation or integration by imposition of other cultures or ways of life;

(c) Dispossession of their lands, territories or resources;

(d) Any propaganda directed against them;

8. Indigenous peoples have the right to revive and practice their cultural identity and traditions, including the right to maintain, develop and protect the past, present and future manifestations of their cultures, such as archeological and historical, technology and works of art, as well as the right to the restitution of cultural, religious and spiritual property taken from them without their free and informed consent or in violation of their own laws;

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

10. Indigenous peoples have the right to revive, use, develop, promote and transmit to future generations their own languages, writing systems and literature and to designate and maintain their own names of communities, places and persons. States shall take effective measures 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 effective means;

11. Indigenous peoples have the right to all levels and forms of education, including access to education in their own languages, and the right to establish and control their own educational systems and institutions. Resources shall be provided by the State for these purposes;

12. Indigenous peoples have the right to have the dignity and diversity of their cultures, histories, traditions and aspirations reflected in all forms of education and public information. States shall take effective measures to eliminate prejudices and to foster tolerance, understanding and good relations;

13. Indigenous peoples have the right to the use of and access to all forms of mass media in their own languages. States shall take effective to this end;

14. Indigenous peoples have the right to adequate financial and technical assistance, from States and through international cooperation, to pursue freely their own political, economic, social, cultural and spiritual development, and for the enjoyment of the rights contained in this Declaration;

PART III

15. Indigenous peoples have the right to recognition of their distinctive and profound relationship with the total environment of the lands, territories and resources which they have traditionally occupied or otherwise used;

16. Indigenous peoples have the collective and individual right to own, control and use the lands and territories they have traditionally occupied or otherwise used. This includes the right to the full recognition of their own laws and customs, land-tenure systems and institutions for the management of resources, and the right to effective measures by States to prevent any interference with or encroachment upon these rights. Nothing in the foregoing shall be interpreted as restricting the development of self-government and self-management arrangements not tied to indigenous territories and resources;

17. Indigenous peoples have the right to the restitution or, where this is not possible, to just and fair compensation for lands and territories which have been confiscated, occupied, used or damaged without their free and informed consent. Unless otherwise freely agreed upon by the peoples concerned, compensation shall preferably take the form of lands and territories of quality, quantity and legal status at least equal to those which were lost;

18. Indigenous peoples have the right to the protection and, where appropriate, the rehabilitation of the total environment and productive capacity of their lands and territories, and the right to adequate assistance including international cooperation to this end. Unless otherwise freely agreed upon by the peoples concerned, military activities and the storage or disposal of hazardous materials shall not take place in their lands and territories;

19. Indigenous peoples have the right to special measures for protection, as intellectual property, of their traditional cultural manifestations, such as literature, designs, visual and performing arts, seeds genetic resources, medicine and knowledge of the useful properties of fauna and flora.

PART IV

20. The right to maintain and develop within their areas of lands and other territories their traditional economic structures, institutions and ways of life, to be secure in the traditional economic structures and ways of life, to be

secure in the enjoyment of their own traditional means of subsistence, and to engage freely in their traditional and other economic activities, including hunting, fresh -and salt-water fishing, herding, gathering, lumbering and cultivation , without adverse discrimination, In no case may an indigenous people be deprived of its means of subsistence. The right to just fair compensation if they have been so deprived;

21. The right to special State measures for the immediate, effective and continuing improvement of their social and economic conditions, their consent, that reflect their own priorities;

22. The right to determine, plan and implement all health, housing and other social and economic programmes affecting them, and as far as possible to develop, plan and implement such programmes through their own institutions;

PART V

23. The right to participate on an equal footing with all other citizens and without adverse discrimination in the political, economic, social and cultural life of the State and to have their specific character duly reflected in the legal system and in political and socio-economic and cultural institutions, including in particular proper regard to and recognition of indigenous laws and customs;

24. The right to participate fully at the State level, decision-making about and implementation of all national and international matters which may affect their rights, life and destiny, including the right of indigenous peoples to be involved , through appropriate procedures, determined in conjunction with them, in devising any laws or administrative measures that may affect them directly, and to obtain their free and informed consent through implementing such measures. States have the duty to guarantee the full exercise of these rights;

25. The collective to autonomy in matters relating to their own internal and local affairs, including education, information, mass media, culture, religion, health, housing, social welfare, traditional and other economic and management activities, land and resources administration and the environment, as well as internal taxation for financing these autonomous functions;

26. The right to decide upon the structures of their autonomous institutions, to select the membership of such institutions according to their own procedures, and to determine the membership of the indigenous people concerned for these purposes; States have the duty, where the peoples concerned so desire, to recognize such institutions and their memberships through the legal systems and political installations of the State;

27. The right to determine and develop traditional contacts, relations and cooperation, including cultural and social exchanges and trade, with their own kith and kin across State boundaries and the obligation of the State to adopt measures to facilitate such contacts;

29. The right to claim that States honour treaties and other agreements concluded with indigenous peoples, and to submit any disputes that may arise in this matter to competent national or international bodies;

PART VI

30. The individual and collective right to access to and prompt decision by mutually acceptable and fair procedures for resolving conflicts or disputes and any infringement, public or private, between States and indigenous peoples, groups or individuals. These procedures should include, as appropriate, negotiations, mediation, arbitration, national courts and international and regional human rights review and complaints mechanisms;

PART VII

31 These rights constitute the minimum standards for the survival and the well-being of the indigenous peoples of the world;

32. Nothing in this Declaration may be interpreted as implying for any State, group or individual any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

The preceding paragraphs from the Draft Declaration on the Rights of Indigenous Peoples were taken from U.N. Doc. E/CN.4/Sub.2/1992/28 of 23 June 1992. The draft declaration is in the process of continuing evolution, discussion and change. These paragraphs represent the version as of the beginning of the tenth session of the U.N. Working Group on Indigenous Populations, 1992.

The Working Group is organized within the Subcommittee on Prevention of Discrimination and Protection of Minorities of the Commission on Human Rights of the United Nations. It consists of five state members with participation by some twelve indigenous NGO's as class II observers and many indigenous and non-indigenous organizations with interest in indigenous affairs. Its agenda is to produce a working document for delivery to the U.N. General Assembly.

This draft copy of the Declaration was reprinted by the Fourth World Center for the Study of Indigenous Law and Politics. The Fourth World Center, situated in the Political Science Department of the University of Colorado at Denver, is an educational organization organized to provide a perspective on law and politics which is sensitive to indigenous peoples. The Center seeks to promote peaceful change through dissemination of information and ideas. The Executive Director of the Fourth World CENTER, Associate Professor Glenn T. Morris (Shawnee) holds a Juris Doctor degree from Harvard Law School (1983) and has served as a delegate to the United Nations Working Group on Indigenous Populations since 1982.

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