

INDIGENOUS PEOPLES' CAUCUS
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COMMUNIQUE

The Indigenous Peoples' Caucus held an emergency meeting this morning due to a report that a few States will take procedural actions to derail the adoption of the Declaration on the Rights of Indigenous Peoples. This report is evidenced by the Government of Botswana's statement delivered to the Third Committee on 10 November, which contained a highly inaccurate and prejudicial interpretation of the Declaration provisions. Upon review of this written statement, we note that Botswana has adopted the words and views of the governments of Canada, Australia, New Zealand, and the United States. Their intent appears to threaten the adoption of the Declaration. In contrast, the Indigenous Peoples' Caucus acknowledges the overwhelming state support for the Declaration. Though these many allies and co-sponsors of the Peruvian resolution recommending UNGA adoption of the Declaration (A/C.3/61/L.18) have made repeated, unsuccessful efforts for dialogue with all States, Botswana seems entrenched to do major violence to the text of the Declaration or to defeat its adoption by UNGA. In response to this development, we issue this statement.

The Indigenous Peoples' Caucus hereby affirms their global and unanimous support for the Declaration on the Rights of Indigenous Peoples as adopted by the UN Human Rights Council on June 29, 2006.

The Indigenous Peoples' Caucus hereby repeats its request that the UN General Assembly immediately adopt the Declaration on the Rights of Indigenous Peoples, which constitutes the minimum standards for the survival, well-being and dignity of Indigenous Peoples worldwide. Such action should take place before the end of 2006.

The Indigenous Peoples' Caucus does not support any proposal for extensions of time, establishment of committees, working groups or any other forum for consideration of the illegitimate "concerns" of the governments of Botswana, Canada, Australia, New Zealand and the United States, under any conditions.

The Indigenous Peoples' Caucus hereby demands that the proponents (Botswana, Canada, Australia, New Zealand and the United States) of any such proposals cease their self-serving politicization of the United Nations as well as their abuse of the rules of procedures and persistence of double standards in the context of the human rights of Indigenous Peoples.

The Indigenous Peoples' Caucus supports the United Nations objective to usher in a new era for human rights within the UN system, to strengthen human rights as one of the pillars of global order, and the Human Rights Council's role to establish a non-political approach to human rights for all peoples and individuals. In light of the appalling human rights records of Botswana, Canada, Australia, New Zealand and the United States in the context of Indigenous Peoples, it is unconscionable that they have chosen to reject one of

the first HRC recommendations for the approval of a UN human rights instrument specifically addressing the unique status and rights of Indigenous Peoples.

The world community must acknowledge that Indigenous Peoples worldwide have expended over 21 years and immeasurable resources to engage in good faith, transparent, intellectually honest debate and negotiation with States in order to achieve consensus on the Declaration provisions. The result has been a fair and balanced text, which takes into account the concerns of States as well as the rights of others and is consistent with international law, including the Charter of the United Nations.

This current State opposition to one of the first recommendations of the new Human Rights Council is immoral and without legitimate or substantive cause. If successful, such action will seriously undermine and potentially deem irrelevant the whole of the UN human rights regime for not only Indigenous Peoples but for all humanity.

Finally, the Indigenous Peoples' Caucus notes the irony of State consensus and support for a legally binding Convention [for the Protection of All Persons from Enforced Disappearance] while at the same time in the context of the world's most vulnerable, poverty stricken, human rights victims, that Botswana, Canada, Australia, New Zealand and the United States cannot support a non-binding, aspirational Declaration on the Rights of Indigenous Peoples.

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U.N. Declaration on the Rights of Indigenous Peoples

Human Rights Response:

Why a proposal to delay adoption should not be supported

1. **Declaration based on core international principles and values.** The Declaration is based on core international principles and values that embrace tolerance, peace and respect for the dignity of all cultures and peoples. In particular, the Declaration is described as a "standard of achievement to be pursued in a spirit of partnership and mutual respect".
2. **Human rights of all must be respected.** Human rights are generally relative in nature and not absolute. Consistent with the U.N. Charter, the Declaration specifically requires that the "human rights and freedoms of all shall be respected".
3. **Provisions must be read in overall context.** Each provision of the Declaration cannot be read in isolation, but rather interpreted in the context of the instrument as a whole. To do otherwise, would lead to extremist and absolute interpretations that could not be justified under the Declaration or international human rights law as a whole. Regretfully, the CANZUS group – Canada, Australia, New Zealand and United States – continues to interpret the Declaration in this fragmented and erroneous manner.

4. **No new rights created.** The Declaration does not create new rights. It elaborates upon existing international human rights standards as they apply to Indigenous peoples.
5. **Rule of law and other core international principles always considered.** Every provision of the Declaration must be “interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith.” This allows for both flexibility and balance. The reference to “good governance” ensures that the rule of law within States is fully considered in every instance without exception. As an aspirational instrument, the Declaration does not upend the rule of law domestically or internationally.
6. **Broader agreement not possible.** As the Chair of the intersessional Working Group on the Declaration has concluded, along with many States, additional time will not lead to any broader agreement. This is in large part because of the obstructionist role repeatedly played by United States, Australia and New Zealand during the Working Group.
7. **Re-opening negotiations likely to kill the Declaration.** Re-opening negotiations on the Declaration is certain to create serious new divisions and prevent its adoption by the General Assembly. Such an extreme step would be unconscionable.
8. Harmonious and cooperative relations encouraged. The Declaration explicitly encourages “harmonious and cooperative relations” between States and Indigenous peoples. Nine preambular paragraphs and 15 operative articles specify consultations, cooperation or partnership between Indigenous peoples and States.
9. **Over 20 years of discussion.** There have already been more than 20 years of discussions on the Declaration among States and Indigenous peoples in U.N. Working groups. This makes the Declaration one of the most discussed and studied declarations in U.N. history. All revisions by the Chair were based on prior discussions.
10. **Any “procedural” resolution for delay would be highly detrimental.** It is shocking and disturbing that there could be an amendment or resolution to re-open negotiations on the Declaration. Such a proposal is not procedural since it could destroy the Declaration.
11. **Misleading strategy already attempted at Human Rights Council.** Last June, Canada tried and failed with a similar strategy at the first meeting of the Council. In its Statement on June 27, 2006, Canada quoted its Minister of Indian Affairs as saying issues could be resolved by all parties “in a few more months”. This claim was knowingly false and misleading. Just the day before, Canada’s Prime Minister Stephen Harper indicated in writing the need for a “two-year negotiation mandate”.
12. **CANZUS group of States politicizing rights in the Declaration.** Based on their own domestic agendas, a few Western States are actively encouraging other States to delay the adoption of the Declaration under the guise of seeking “improvements”. In so doing, the CANZUS group is continuing to politicize

Indigenous peoples' human rights. Such actions severely undermine the Council and current U.N. reforms.

13. **For the past 8 months CANZUS group has avoided all consultations with Indigenous peoples.** The CANZUS group already had the past eight months to consult with Indigenous peoples within their own respective countries on any State concerns with the Declaration. Yet none of these States engaged in any consultations with Indigenous peoples. None of these States genuinely seek to "improve" the Declaration.
14. **Canada violating its constitutional and international obligations.** Despite its constitutional obligations to consult Indigenous peoples, Canada has opted to vigorously and unilaterally oppose the Declaration through procedural and other strategies during the past eight months. As a Human Rights Council member, Canada is failing to "uphold the highest standards in the promotion and protection of human rights ... [and] fully cooperate with the Council", as required by the General Assembly.
15. **Essential for survival, dignity and well-being of Indigenous peoples.** The Declaration promotes equality and non-discrimination for all. The Declaration is essential for the survival, dignity and well-being of the Indigenous peoples of the world.
16. **Strengthens international human rights system.** Adoption of the Declaration by the General Assembly supports the vital work of the Human Rights Council and strengthens the international human rights system as a whole.

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