

September 13, 2010

## **Implementation of UN Declaration on the Rights of Indigenous Peoples urgently needed**

Indigenous peoples and civil society organizations are urging the Government of Canada to move ahead with the overdue implementation of the *United Nations Declaration on the Rights of Indigenous Peoples*.

It's been three years since the *Declaration* was adopted by the UN General Assembly on September 13, 2007 and six months since the federal government promised in the Speech from the Throne to "take steps" toward endorsing the *Declaration*.

"The *Declaration* was adopted by the United Nations as 'minimum standards for the survival, dignity and well-being' of Indigenous peoples," Grand Chief Edward John, incoming North American Indigenous representative to the UN Permanent Forum on Indigenous Issues, said today. "A commitment to live up to the minimum standards established by the international community is vital for the reconciliation of Indigenous and non-Indigenous peoples in Canada and for the promotion of human rights world-wide."

International human rights declarations are intended to guide governments, courts and other institutions in ensuring that human rights are recognized, protected and fulfilled. UN declarations are considered applicable to all states from the time of their adoption.

To be meaningful, Canada's promised endorsement needs to be accompanied by a clear commitment to work with Indigenous peoples to ensure that the *Declaration* is actually implemented. Such an approach would respect the House of Commons' Motion on April 8, 2008, calling for the full implementation of the *Declaration*.

When the *Declaration* was adopted by the UN General Assembly, Canada was one of only four states to vote against it. Australia and New Zealand have since reversed their opposition to the *Declaration* while the US has been working with Indigenous peoples to review its position.

In the Speech from the Throne, the Canadian government said it would give only "qualified" support to the *Declaration* "consistent" with Canadian laws.

Ellen Gabriel, President of Quebec Native Women said "It's shocking that Canada would even suggest limiting its commitment to the rights of Indigenous peoples to the terms of outdated and colonialist laws like the Indian Act."

International human rights standards are intended to guide state laws and policies and cannot be constrained to reflect each state's domestic context, regardless of injustices. Such a position is contrary to principles of international law. Canada has never before attempted to diminish any international human rights instrument in this way.

“Canada’s approach to the *UN Declaration* needs to reflect the urgency of closing the human rights gap between Indigenous and non-Indigenous people in Canada,” says Alex Neve, Secretary General of Amnesty International Canada. “UN human rights bodies have repeatedly expressed concern over issues such as the widespread impoverishment of Indigenous communities, unequal access to government services like clean drinking water, the excessive numbers of Indigenous youth being put into state care and the shockingly high rates of violence faced by Indigenous women and girls. The *Declaration* is a unique and much needed tool for addressing the root causes of these human rights violations.”

Critical actions needed to live up to the standards affirmed by the *UN Declaration* include:

- Making the recognition and protection of Indigenous peoples’ collective rights to lands and resources an explicit objective of federal policies.
- Institutionalizing decision-making processes consistent with the Constitutional duty of Aboriginal consultation, accommodation, and consent, as affirmed by the Supreme Court of Canada.
- Eliminating discrimination in the provision of government services to Indigenous people and communities.
- Establishing a comprehensive national plan of action to address the disappearance and murder of Indigenous women and girls in Canada and ensure that they enjoy the full protection of the law.

“The *UN Declaration* is especially useful in interpreting the historic and contemporary Treaties,” says Grand Chief Matthew Coon Come, Grand Council of the Crees (Eeyou Istchee). “Indigenous peoples’ Treaties, including land claims agreements, embrace a diverse range of human rights. The *Declaration* can help ensure that these rights are fully implemented for present and future generations.”

“Indigenous peoples’ organizations have made it very clear that the *Declaration* requires nothing less than the full and unqualified support of all states,” said Merrill Stewart, Canadian Friends Service Committee (Quakers) Clerk. “It would be better that Canada remain silent than make a statement that is misleading or attempts to downplay or diminish the rights recognized in international law.”

The UN system, states and Indigenous peoples have worked in partnership in all regions of the world to advance the *Declaration*. The *Declaration* is being used by UN treaty bodies to interpret Indigenous peoples’ rights and related state obligations under international treaties. Similar use of the *Declaration* is being made by UN specialized agencies and the Human Rights Council’s special rapporteurs and independent experts. The *Declaration* is also being relied upon by domestic and regional courts, as well as other bodies within regional human rights systems.

The *Declaration* is “a standard of achievement to be pursued in a spirit of partnership and mutual respect”. An unqualified statement of support for the *UN Declaration* is a

necessary first step toward such a partnership. “The *UN Declaration* provides an historical opportunity to forge a new relationship between Indigenous and non-Indigenous peoples based on unequivocal commitment to human rights and justice,” said Mary Simon, Inuit Tapiriit Kanatami President. “As a society we can’t afford to miss this opportunity.”

## Background

The UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya has said that the *Declaration*

*represents an authoritative common understanding, at the global level, of the minimum content of the rights of indigenous peoples, upon a foundation of various sources of international human rights law....*

*[T]he Declaration reflects and builds upon human rights norms of general applicability, as interpreted and applied by United Nations and regional treaty bodies....*

*The standards affirmed in the Declaration share an essentially remedial character, seeking to redress the systemic obstacles and discrimination that indigenous peoples have faced in their enjoyment of basic human rights. From this perspective, the standards of the Declaration connect to existing State obligations under other human rights instruments.*

**Amnesty International Canada**

**Amnistie internationale Canada francophone**

**Canadian Friends Service Committee (Quakers)**

**Chiefs of Ontario**

**Ermineskin Cree Nation**

**First Nations Summit**

**Grand Council of the Crees (Eeyou Istchee)**

**Indigenous World Association**

**Innu Council of Nitassinan**

**International Organization of Indigenous Resource Development**

**Inuit Circumpolar Council (Canada)**

**Inuit Tapiriit Kanatami**

**KAIROS: Canadian Ecumenical Justice Initiatives**

**Louis Bull Cree Nation**

**Montana Cree Nation**

**Samson Cree Nation**

**Quebec Native Women / Femmes autochtones du Québec**

**Union of B.C. Indian Chiefs**