

UNPFII

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also the site of the proposal for a permanent forum to act as an advisory body to the UN's Economic and Social Council on matters concerning economic, social development, culture, environment, education, health and human rights of indigenous peoples.

Draft Declaration on Rights

Following the Vienna conference held in June, the working group completed a Draft Declaration on the Rights of Indigenous Peoples in July 1993. Authors of the document note that the rights mentioned within it must be considered a minimum standard for the survival and well-being of the world's indigenous peoples who represent 5,000 languages and cultures, inhabiting more than 70 countries in the world.

The draft declaration contains 45 articles that outline a wide range of rights, including self-determination in political, religious, linguistic, educational and other cultural matters; collective and inalienable rights to resources, including land and the natural resources found within indigenous territories; ownership and legal protection of cultural and intellectual property; just compensation for violating indigenous rights or property; as well as prior, informed consultation and participatory consent in any activity that impacts on indigenous peoples or their property. The declaration stipulates the necessity of fair and mutually acceptable procedures for conflict resolution between indigenous peoples and states, proposing mechanisms for arbitration, including national and international courts and other mechanisms for addressing abuses in human rights. The draft declaration also puts in place guarantees against ethnocide and genocide.

It was hoped that the draft declaration would be reviewed and approved by the Commission on Human Rights of the UN within the framework of the International Decade of the World's Indigenous People.

Although the working group within the Commission on Human Rights held annual meetings with participation from government representatives and indigenous organizations each year between 1995 and

2004 to discuss the draft declaration, no consensus has been reached. To date, only two articles of the 45, those recognizing individual rights of indigenous peoples, have been provisionally adopted by member states. In other areas, particularly those involving sovereignty issues—such as self-determination, territorial and collective rights—significant polarization persists among states. Article 3 of the draft declaration, which reads, “indigenous people 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,” is of particular concern and the source of much heated discussion.

As the year 2004 came to a close, several alternative draft declarations for the rights of indigenous peoples were proposed but none agreed upon. For example, Canada supported rights to self-determination, but was reluctant to approve land rights, while France supported full recognition of indigenous land rights but raised questions of national unity with regard to wording on self-determination. A faction of the indigenous peoples' delegates, reluctant to compromise hard-won gains through weakening negotiation, called a Spiritual Fast (or hunger strike) accompanied by an appeal of indigenous peoples at the UN Palais des Nations in Geneva. These peaceful protests came to an end when the Office of the Commission on Human Rights agreed to recommend to the General Assembly a second International Decade of the World's Indigenous Peoples.

In December 2004 the General Assembly adopted a resolution proclaiming another decade to begin in January 2005 under the coordination of the UN under-secretary for economic and social affairs. As part of the closing deliberations at this year's permanent forum, members reiterated a strong commitment to a Declaration on the Rights of Indigenous Peoples, to promote and legitimize these rights at the level of international law. ☐

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UN Policy: Protecting the Rights of Indigenous Peoples

By Janet Chernela (U Maryland)

- 1919** International Labour Organization (ILO) created by the Versailles Treaty and affiliated with the League of Nations. In 1946 the ILO became a special agency of the UN with headquarters in Geneva.
- 1923** Representatives of Six Nations of the Iroquois appealed to speak before the League of Nations in Geneva and were denied. Chief Deskaheh addressed the Swiss public.
- 1924** Delegation of Maori representatives in London denied access to King George. The following year the same delegation is denied approval to speak before the League of Nations.
- 1945** UN established, in part “to achieve international co-operation ... in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language and religion. ...”
- 1948** Universal Declaration of Human Rights adopted by the UN General Assembly, guaranteeing equal rights “without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” and stating that “no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.”
- 1952** ILO initiated Andean Indian Program.
- 1953** ILO published the first international report on indigenous peoples, “Indigenous Peoples: Living and Working Conditions of Aboriginal Populations in Independent Countries.”
- 1957** ILO adopted Indigenous and Tribal Populations Convention #107, the first international juridical instrument to address indigenous peoples and their rights.
- 1962** The Committee on the Elimination of Racial Discrimination created by the UN to monitor the compliance of signatories to international human rights treaties.
- 1965** International Convention on the Elimination of All Forms of Racial Discrimination adopted to hold signatory states binding to its principles of commitment toward the elimination of all forms of racial discrimination.
- 1966** International Covenant on Civil and Political Rights empowered to monitor and review actions by states to fulfill their obligations as stipulated in human rights agreements.
- 1966** International Covenant on Economic, Social and Cultural Rights developed the economic, social and cultural rights enumerated earlier in the Universal Declaration on Human Rights.
- 1977** Approximately 200 indigenous delegates attended a conference of NGOs against the discrimination of indigenous people.
- 1980** ILO Convention 107 criticized as encouraging assimilation and integration.
- 1982** UN Working Group on Indigenous Populations established to promote and protect indigenous peoples' human rights by developing international standards, measures and review mechanisms.
- 1985** UN Voluntary Fund for Indigenous Populations established to assist representatives of indigenous communities and organizations to participate in the deliberations of the working group.
- 1987** The Committee on Economic, Social and Cultural Rights established to monitor the progress of countries towards fully implementing the International Covenant on Economic, Social and Cultural Rights and its compliance.
- 1989** ILO Indigenous and Tribal Peoples Convention #169 declared the right of indigenous peoples, as self-identified, to be consulted “whenever any measure may have a direct effect on indigenous ... peoples. ...”
- 1993** Draft Declaration on the Rights of Indigenous Peoples presented for debate by the Working Group on Indigenous Peoples.
- 1993** UN proclaimed 1993 the Year of Indigenous Populations.
- 1993** World Conference on Human Rights in Vienna recommended that a permanent forum on indigenous issues be established within the framework of the UN International Decade of the World's Indigenous Peoples.
- 1994** The UN General Assembly proclaimed 1995–2004 the International Decade of the World's Indigenous Peoples to strengthen international cooperation to resolve problems faced by indigenous peoples in areas including human rights, environment, development, education and health.
- 2000** The Permanent Forum on Indigenous Issues established to provide input and awareness of indigenous issues and disseminate information about these.
- 2001** Special Rapporteur of Human Rights and Indigenous Issues appointed to promote and encourage respect for human rights for all by compiling relevant information to formulate proposals to prevent, monitor and remedy violations.
- 2004** UN declared a Second Decade of Indigenous Peoples.