



General Assembly

Distr.: Limited 7 September 2007

Original: English

Sixty-first session

Agenda item 68

WITH SOME MINOR REVISIONS^a**Report of the Human Rights Council**

Belgium, Bolivia, Costa Rica, Cuba, Denmark, Dominican Republic, Ecuador, Estonia, Finland, Germany, Greece, Guatemala, Hungary, Latvia, Nicaragua, Peru, Portugal, Slovenia and Spain: draft resolution^b

United Nations Declaration on the Rights of Indigenous Peoples^c

The General Assembly,

Taking note of the recommendation of the Human Rights Council contained in its resolution 1/2 of 29 June 2006, by which the Council adopted the text of the United Nations Declaration on the Rights of Indigenous Peoples,

Recalling its resolution 61/178 of 20 December 2006, by which it decided to defer consideration of and action on the Declaration to allow time for further consultations thereon, and also decided to conclude its consideration before the end of the sixty-first session of the General Assembly,

Adopts the United Nations Declaration on the Rights of Indigenous Peoples as contained in the annex to the present resolution.

^a Throughout the Annex to this resolution (which is the text of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the term “Indigenous Peoples” has been changed to “Indian Tribes, Bands, and Nations,” and the term “Indigenous” as related to individuals has been replaced with the term “Indian” or “Native American Indian.” This is done for the purpose of rendering the text more particular in the context of Indian Tribes, Bands, and Nations in the United States and throughout North America. Of course, Alaska Natives and Native Hawaiians would also fall under the conceptualization of “Indigenous Peoples” within the United States and would have the same rights as Indigenous Peoples under the UNDRIP, but I have not attempted to specify them throughout the document in the interests of readability. Professor G. William Rice, ed.

^b It should be noted and understood that the term “state” when used in this document and other international instruments refers to the national government of the country, and not to its political subdivisions.

^c When UNDRIP was adopted, Canada, the United States, Australia, and New Zealand were the only countries which voted “no.” All four of these countries have since changed their position and officially endorsed the UNDRIP.

Annex

United Nations Declaration on the Rights of Indian Tribes, Bands and Nations

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, and good faith in the fulfilment of the obligations assumed by States in accordance with the Charter,

Affirming that Indian Tribes, Bands and Nations are equal to all other peoples, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such,

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

Affirming further that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust,

Reaffirming that Indian Tribes, Bands and Nations, in the exercise of their rights, should be free from discrimination of any kind,

Concerned that Indian Tribes, Bands and Nations have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests,

Recognizing the urgent need to respect and promote the inherent rights of Indian Tribes, Bands and Nations which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources,

Recognizing also the urgent need to respect and promote the rights of Indian Tribes, Bands and Nations affirmed in treaties, agreements and other constructive arrangements with States,

Welcoming the fact that Indian Tribes, Bands and Nations are organizing themselves for political, economic, social and cultural enhancement and in order to bring to an end all forms of discrimination and oppression wherever they occur,

Convinced that control by Indian Tribes, Bands and Nations over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their

institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs,

Recognizing that respect for Indian knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment,

Emphasizing the contribution of the demilitarization of the lands and territories of Indian Tribes, Bands and Nations to peace, economic and social progress and development, understanding and friendly relations among nations and peoples of the world,

Recognizing in particular the right of Indian families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child,

Considering that the rights affirmed in treaties, agreements and other constructive arrangements between States and Indian Tribes, Bands and Nations are, in some situations, matters of international concern, interest, responsibility and character,

Considering also that treaties, agreements and other constructive arrangements, and the relationship they represent, are the basis for a strengthened partnership between Indian Tribes, Bands and Nations and States,

Acknowledging that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights¹ as well as the Vienna Declaration and Programme of Action,² affirm the fundamental importance of the right to 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 to deny any peoples their right to self-determination, exercised in conformity with international law,

Convinced that the recognition of the rights of Indian Tribes, Bands and Nations in this Declaration will enhance harmonious and cooperative relations between the State and Indian Tribes, Bands and Nations, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith,

Encouraging States to comply with and effectively implement all their obligations as they apply to Indian Tribes, Bands and Nations under international instruments, in particular those related to human rights, in consultation and cooperation with the peoples concerned,

¹ See resolution 2200 A (XXI), annex.

² A/CONF.157/24 (Part I), chap. III.

Emphasizing that the United Nations has an important and continuing role to play in promoting and protecting the rights of Indian Tribes, Bands and Nations,

Believing that this Declaration is a further important step forward for the recognition, promotion and protection of the rights and freedoms of Indian Tribes, Bands and Nations and in the development of relevant activities of the United Nations system in this field,

Recognizing and reaffirming that Indian individuals are entitled without discrimination to all human rights recognized in international law, and that Indian Tribes, Bands and Nations possess collective rights which are indispensable for their existence, well-being and integral development as peoples,

Recognizing also that the situation of Indian Tribes, Bands and Nations varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration,

Solemnly proclaims the following United Nations Declaration on the Rights of Indian Tribes, Bands and Nations as a standard of achievement to be pursued in a spirit of partnership and mutual respect:

Article 1

Indian Tribes, Bands and Nations 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 Rights³ and international human rights law.

Article 2

Indian Tribes, Bands and Nations 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 Native American Indian origin or identity.

Article 3

Indian Tribes, Bands and Nations have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Article 4

Indian Tribes, Bands and Nations, 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.

³ Resolution 217 A (III).

Article 5

Indian Tribes, Bands and Nations have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

Article 6

Every Indian individual has the right to a nationality.

Article 7

1. Indian individuals have the rights to life, physical and mental integrity, liberty and security of person.

2. Indian Tribes, Bands and Nations 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. Indian Tribes, Bands and Nations 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 dispossessing 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;

(e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

\

Article 9

Indian persons and individuals have the right to belong to an Indian Tribe, community, or nation, in accordance with the traditions and customs of the Indian Tribe, community, or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

Article 10

Indian Tribes, Bands and Nations shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the Indian Tribes, Bands and Nations concerned and after agreement on just and fair compensation and, where possible, with the option of return.

Article 11

1. Indian Tribes, Bands and Nations have the right to practise 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 Indian Tribes, Bands and Nations, 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. Indian Tribes, Bands and Nations 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 Indian Tribes, Bands and Nations concerned.

Article 13

1. Indian Tribes, Bands and Nations 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 that this right is protected and also to ensure that Indian Tribes, Bands and Nations 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. Indian Tribes, Bands and Nations 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. Indian individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.

3. States shall, in conjunction with Indian Tribes, Bands and Nations, take effective measures, in order for Indian 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. Indian Tribes, Bands and Nations 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 Indian Tribes, Bands and Nations concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among Indian Tribes, Bands and Nations and all other segments of society.

Article 16

1. Indian Tribes, Bands and Nations have the right to establish their own media in their own languages and to have access to all forms of non-Indian media without discrimination.

2. States shall take effective measures to ensure that State-owned media duly reflect Indian cultural diversity. States, without prejudice to ensuring full freedom of expression, should encourage privately owned media to adequately reflect Indian cultural diversity.

Article 17

1. Indian individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law.

2. States shall in consultation and cooperation with Indian Tribes, Bands and Nations take specific measures to protect Indian 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 and the importance of education for their empowerment.

3. Indian individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary.

Article 18

Indian Tribes, Bands and Nations 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 Indian decision-making institutions.

Article 19

States shall consult and cooperate in good faith with the Indian Tribes, Bands and Nations 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. Indian Tribes, Bands and Nations 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. Indian Tribes, Bands and Nations deprived of their means of subsistence and development are entitled to just and fair redress.

Article 21

1. Indian Tribes, Bands and Nations 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 Indian elders, women, youth, children and persons with disabilities.

Article 22

1. Particular attention shall be paid to the rights and special needs of Indian elders, women, youth, children and persons with disabilities in the implementation of this Declaration.

2. States shall take measures, in conjunction with Indian Tribes, Bands and Nations, to ensure that Indian women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

Article 23

Indian Tribes, Bands and Nations have the right to determine and develop priorities and strategies for exercising their right to development. In particular, Indian Tribes, Bands and Nations 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. Indian Tribes, Bands and Nations have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indian individuals also have the right to access, without any discrimination, to all social and health services.

2. Indian 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

Indian Tribes, Bands and Nations 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. Indian Tribes, Bands and Nations have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

2. Indian Tribes, Bands and Nations 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 Indian Tribes, Bands and Nations concerned.

Article 27

States shall establish and implement, in conjunction with Indian Tribes, Bands and Nations concerned, a fair, independent, impartial, open and transparent process, giving due recognition to Indian Tribes, Bands and Nations' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of Indian Tribes, Bands and Nations pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indian Tribes, Bands and Nations shall have the right to participate in this process.

Article 28

1. Indian Tribes, Bands and Nations have the right to redress, by means that can include restitution or, when this is not possible, 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. Indian Tribes, Bands and Nations 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 Indian Tribes, Bands and Nations 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 Indian Tribes, Bands and Nations 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 Indian Tribes, Bands and Nations, 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 Indian Tribes, Bands and Nations, unless justified by a significant threat to relevant public interest or otherwise freely agreed with or requested by the Indian Tribes, Bands and Nations concerned.

2. States shall undertake effective consultations with the Indian Tribes, Bands and Nations concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands or territories for military activities.

Article 31

1. Indian Tribes, Bands and Nations 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 Indian Tribes, Bands and Nations, States shall take effective measures to recognize and protect the exercise of these rights.

Article 32

1. Indian Tribes, Bands and Nations 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 Indian Tribes, Bands and Nations 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 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. Indian Tribes, Bands and Nations have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of Indian individuals to obtain citizenship of the States in which they live.

2. Indian Tribes, Bands and Nations have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

Article 34

Indian Tribes, Bands and Nations 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

Indian Tribes, Bands and Nations have the right to determine the responsibilities of individuals to their communities.

Article 36

1. Indian Tribes, Bands and Nations, 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 Indian Tribes, Bands and Nations, shall take effective measures to facilitate the exercise and ensure the implementation of this right.

Article 37

1. Indian Tribes, Bands and Nations 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 diminishing or eliminating the rights of Indian Tribes, Bands and Nations contained in treaties, agreements and other constructive arrangements.

Article 38

States in consultation and cooperation with Indian Tribes, Bands and Nations, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

Article 39

Indian Tribes, Bands and Nations 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

Indian Tribes, Bands and Nations have the right to 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 Indian Tribes, Bands and Nations 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 Indian Tribes, Bands and Nations 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 Indian Tribes, Bands and Nations of the world.

Article 44

All the rights and freedoms recognized herein are equally guaranteed to male and female Indian individuals.

Article 45

Nothing in this Declaration may be construed as diminishing or extinguishing the rights Indian Tribes, Bands and Nations 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 or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States.

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, and 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.
