

Human Rights Council  
First Session  
United Nations, Geneva  
25 June 2006

## *U.N. Declaration on the Rights of Indigenous Peoples*

### **Why Canada's proposal to delay adoption should not be supported**

Canada is opposed to adoption of the *U.N. Declaration on the Rights of Indigenous Peoples* at this historic first session of the Human Rights Council. The *Declaration* has already been discussed for over 20 years. Yet the very new Conservative government of Prime Minister Stephen Harper is determined to re-open negotiations on the *Declaration* text regardless of the consequences.

Canada is requesting a delay that it claims is a reasonable action that would lead to an improved *Declaration*. However, under the current circumstances, such a delay could have the extreme effect of a "non-action" motion. This concern is reinforced by Canada's highly questionable conduct as outlined below.

Peru and over 20 co-sponsoring States have tabled a resolution to adopt the *Declaration* at this Council's first session. Canada's proposal, if adopted, would serve to nullify this crucial resolution and could well lead to the demise of the *Declaration*. All States and Indigenous peoples should reject Canada's proposal for the following reasons, among others:

- **Existing consensus at risk.** Canada claims that more time will lead to a greater consensus. This is not the view of most participants in the standard-setting process. Re-opening negotiations on the *Declaration* entails huge risks. The consensus already reached on many provisions could be unraveled. The gains achieved to date could be erased.
- **Canada aligning with U.S., Australia and New Zealand.** In radically altering Canada's previously supportive positions, the Harper government is now adopting extreme and absolutist interpretations. This destructive strategy and approach are the hallmark of the United States, Australia and New Zealand. These three States will not contribute to a reasonable consensus. All three States have been subjects of "early warning and urgent action" procedures by the Committee on the Elimination of Racial Discrimination for their appalling treatment of Indigenous peoples. All three States have repeatedly obstructed progress in previous working group sessions.
- **Canada's proposal is undemocratic.** Canada is suggesting that any new standard-setting process be determined solely by States. This would violate the long-standing practice of reaching consensus among both States and Indigenous peoples. This would be undemocratic and regressive. The principles of mutual respect and trust would be seriously eroded. This is not the "spirit of partnership" explicitly contemplated in the *Declaration*.
- **Lack of transparency and consultation.** The alternative now being proposed by Canada was crafted without any consultation with Indigenous representatives in Canada or elsewhere. Such regressive action lacks fairness and undermines mutual cooperation, respect and trust.

As demonstrated in the past, full and effective participation of Indigenous peoples is essential for achieving a common approach and greater consensus.

- **Interminable delays and unclear intentions.** Canada has suggested to States that its proposed alternative would not take a great deal of time. However, there is no assurance as to how long this process would take or whether there would be any successful outcome. Also, a very different story is being portrayed in Canada's Parliament and to the media. The Harper Government has insisted that the *Declaration* is "profoundly imperfect" and must go "back to the drawing board". To date, Canadian officials in Geneva have been unwilling or unable to crystallize Canada's concerns and provide justification.
- **Outright reversal of position.** Up to a few months ago, Canada was a major proponent of Article 45 of the *Declaration*, in order to ensure fair and balanced interpretation without exception. Art. 45 requires that every provision "shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance, and good faith".
- **Conflicting domestic and international strategies.** Since the latest text of the *Declaration* was made available in February, the Harper government has refused to engage in substantive discussions with Indigenous peoples in Canada. It indicated to Parliament that more study was needed before any decisions could be taken. Yet, at the same time, Canadian officials were already actively lobbying other States at the international level to oppose approval of the *Declaration* by the Human Rights Council.
- **Request for delay highly questionable.** This proposal for a delay is one that is commonly used by States to block or diminish momentum for positive human rights action. In the former Commission on Human Rights, Canada and other Western States strongly criticized the use of "non-action" motions. However, at the first session of the Human Rights Council, Canada is now relying upon a similar strategy to advance its domestic interests in the context of the *Declaration*.
- **Failure to meet Council obligations.** As a Council member, Canada agreed and is required to "uphold the highest standards in the promotion and protection of human rights". Yet, as described above, the Harper government's actions against the approval of the *UN Declaration* are not consistent with this essential commitment.

The Human Rights Council was created to be a stronger and more effective body than its predecessor, the Commission on Human Rights. No State member should be politicizing its role as a Council member. No State should seek to lower human rights standards for over 370 million Indigenous people worldwide.