



The United Nations Declaration on the Rights of Indigenous Peoples

With an Introduction for Indigenous
Leaders in the United States



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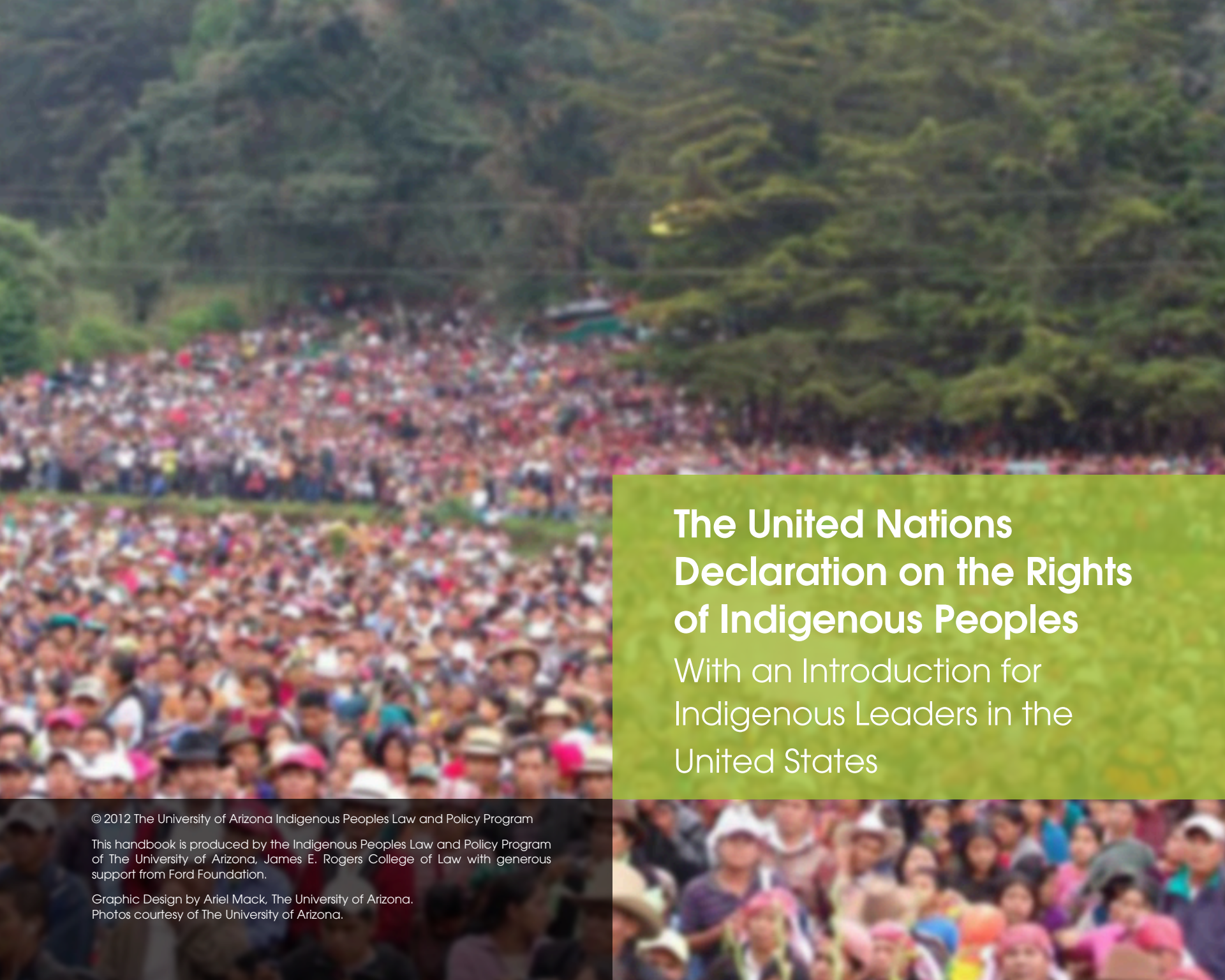


INDIGENOUS
PEOPLES
LAW & POLICY
PROGRAM



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A large crowd of people is gathered outdoors, filling a grassy area. In the background, there is a dense, green forest. The crowd is diverse in age and appearance, with many people wearing hats and casual clothing. The scene appears to be a public gathering or event.

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What is the United Nations Declaration on the Rights of Indigenous Peoples?

The Adoption of the Declaration by the United Nations

On September 13, 2007, the United Nations General Assembly adopted the Declaration on the Rights of Indigenous Peoples, affirming that indigenous peoples are equal to all other peoples and have the right to self-determination, along with an array of related rights, including rights to traditional lands and territories.

The United Nations is the world's major international organization. It is made up of 193 Member States, including the United States, and all of the other countries of the globe that are widely recognized as independent states, with little exception. All of the Member States are represented in the General Assembly, and the overwhelming majority of them — 143 — voted in favor of the Declaration. Only four — the United States, Canada, Australia and New Zealand — voted against it, while eleven abstained. (Several UN Member States were not present at the vote.)

Notably, the four countries that initially opposed the Declaration have all reversed their positions. Australia announced its support for the Declaration in April 2009, New Zealand in April 2010, and Canada in November 2010. Finally, on December 16, 2010, the United States endorsed the Declaration.

The United States' Endorsement of the Declaration

After President Obama took office in 2009, his administration conducted a review of the Declaration and the United States' position on it. Following a consultation with indigenous leaders, the Obama administration concluded that the United States should reverse its opposition to the Declaration. According to the Department of State's announcement, the United States now supports the Declaration because the Declaration

reflects the U.S. commitment to work with (indigenous) tribes, individuals, and communities to address the many challenges they face. The United States aspires to improve relations with indigenous peoples by looking to the principles embodied in the Declaration in its dealings with federally recognized tribes, while also working, as appropriate, with all indigenous individuals and communities in the United States.

Moreover, the United States is committed to serving as a model in the international community in promoting and protecting the collective rights of indigenous peoples as well as the human rights of all individuals.

With this statement of support, the United States committed itself to being guided by the rights and principles affirmed in the Declaration. This commitment bears on all governmental actors both at the federal and state levels.

Indigenous Peoples in the United States

The vast territory that is now the United States is home to numerous indigenous peoples that have their own manners of self-identification. In the United States, indigenous peoples are often collectively categorized by terms like American Indians, Native Americans, Tribes, First or Indian Nations, Alaska Natives, and Native or Indigenous Hawaiians. In principle, the "indigenous peoples" referred to in the Declaration include all culturally distinct communities or peoples with ancestral roots in the country that predate European arrival, even if they are not formally recognized by federal or state governments.

The Origins of the Declaration

The United Nations was founded in 1945, in the aftermath of World War II, to encourage international peace, security and goodwill among the peoples of the world, and to promote and protect human rights.

As part of its multifaceted program to promote human rights, the United Nations took a special interest in indigenous peoples and in 1982 established the Working Group on Indigenous Populations. In the years just after its formation, the Working Group began developing a text for a declaration on indigenous peoples. The document was drafted and debated for over two decades, first within the Working Group, then within the UN Commission on Human Rights and its successor the Human Rights Council, and lastly within the UN General

Assembly where the final version was adopted as the Declaration on the Rights of Indigenous Peoples. Indigenous peoples from around the world participated in the numerous discussions about the Declaration, in order to advocate for a text that would adequately reflect their interests and aspirations.

Is the Declaration on the Rights of Indigenous Peoples Legally Binding?

Unlike treaties, declarations of the UN General Assembly are not themselves direct sources of law. Therefore, it cannot be expected that any international organization or tribunal, or any domestic court, will treat the Declaration on the Rights of Indigenous Peoples as legally binding or make a legally binding decision based solely upon the Declaration. However, the Declaration is still a human rights instrument of significant moral authority and political weight, and it functions as an important benchmark by which to evaluate the treatment of indigenous peoples and promote needed reforms. Further, being an expression of commitment by the UN and its Member States to the standards it embodies, the Declaration does have important legal implications.

The UN General Assembly has a long history of adopting declarations on various human rights issues, including the UN's first international human rights instrument, the Universal Declaration of Human Rights, which was adopted in 1948. These human rights declarations are adopted under the

authority of the General Assembly, provided by the UN Charter, "to make recommendations for the purpose of ...assisting with the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion."

Although being a recommendation in a technical sense, the Declaration on the Rights of Indigenous Peoples has legal significance in the following ways:

- Supported by an overwhelming majority of UN Member States, as well as by indigenous peoples worldwide, the Declaration reflects a global consensus about the content of the human rights of indigenous peoples. This consensus informs the general obligation that governments have to protect human rights under the United Nations Charter, a binding international treaty of the highest order.
- Some aspects of the Declaration may constitute binding norms of customary international law, to the extent they reflect patterns of consistent international and government practice; or they may reflect general principles of international law.
- The Declaration can be used to guide courts in their interpretation of domestic laws relevant to the rights of indigenous peoples, and those interpretations can produce binding and enforceable legal decisions.
- The Declaration relates to and elaborates upon the human rights standards found in various international

treaties, several of which have been ratified and are legally binding on the United States. International human rights treaties ratified by the United States with rights related to indigenous peoples include the International Covenant on Civil and Political Rights (ICCPR) and the International Convention on the Elimination of All Forms of Racial Discrimination (CERD). The United Nations institutions that interpret and apply these treaties — institutions known as “treaty-monitoring bodies” — now routinely apply the provisions of these treaties in ways that reflect the standards articulated in the Declaration and sometimes explicitly refer to the Declaration in doing so. (Each of these human rights treaties may be found at: <http://www2.ohchr.org/english/law>)



Using the Declaration

The Declaration on the Rights of Indigenous Peoples, to put it simply, represents a political and moral commitment made by the United States to the standards of indigenous rights embodied in this instrument, a commitment that is linked to the United States’ obligation internationally to promote and respect human rights. By announcing its support for the Declaration, the United States is saying that it essentially agrees to these minimum human rights standards and that it will work to uphold them. There are various ways in which indigenous peoples and their advocates can work to hold the United States to this commitment and to realize the rights recognized in the Declaration.

Using the Declaration within the United States and at Home

Indigenous peoples and their advocates can promote respect for the rights that are affirmed in the Declaration on the Rights of Indigenous Peoples through:

- Training indigenous leaders and community members on the Declaration and its significance;
- Using the Declaration in efforts to lobby Congress or state legislatures, and in dealings with local, state, and federal agencies;
- Citing the Declaration in judicial proceedings and urging federal, state, and indigenous courts to interpret laws and policies consistently with the Declaration;

- Incorporating the Declaration directly into indigenous (tribal) law, policies and resolutions; and
- Publishing information on the Declaration in indigenous languages.

Using the Declaration Internationally

The Declaration can also be used in international proceedings to bring attention to the situations of indigenous peoples in the United States. In instances where indigenous peoples' human rights are not being adequately fulfilled or respected by state or federal authorities, and attempts to resolve the situation through domestic proceedings have not been successful, it may be appropriate to seek the help of an international human rights body.

A number of international bodies monitor human rights conditions through various mechanisms. While none of these institutions has the power to force the United States to comply with its human rights commitments, they can bring attention to situations and put pressure on federal or state governments to change or reform their conduct, laws, or policies. International human rights bodies have different requirements for receiving information and employ different tools for responding to human rights problems. Before embarking on an effort to use any of these mechanisms, indigenous peoples and their advocates should carefully research their specific characteristics, in order to ensure that necessary requirements for submission of information are satisfied and to develop an effective, unified strategy.

The following list identifies several human rights monitoring bodies and mechanisms relevant to the indigenous peoples in the United States.

United Nations

Human Rights Council: Universal Periodic Review

<http://www.ohchr.org/en/hrbodies/upr/pages/uprmain.aspx>

Human Rights Council: Mandate of the Special Rapporteur on the rights of indigenous peoples

<http://unsr.jamesanaya.org> or

<http://www.ohchr.org/EN/Issues/IPeoples/SRIndigenousPeoples/Pages/SRIPeoplesIndex.aspx>

Human Rights Committee:

<http://www2.ohchr.org/english/bodies/hrc/>

Committee on the Elimination of Racial Discrimination:

<http://www2.ohchr.org/english/bodies/cerd/index.htm>

See Generally:

<http://www2.ohchr.org/english/bodies/petitions/index.htm>

Organization of American States

Inter-American Commission on Human Rights:

https://www.cidh.oas.org/cidh_apps/instructions.asp?gc_language=E

Rapporteurship on the Rights of Indigenous Peoples:

<http://www.oas.org/en/iachr/indigenous/default.asp>

The Content of the Declaration*

The Declaration on the Rights of Indigenous Peoples has 46 articles, preceded by a preamble with 24 paragraphs, all anchored in the complementary human rights of equality and self-determination. On this grounding, the Declaration affirms the collective rights of indigenous peoples in relation to culture, development, education, social services, and traditional territories; and it mandates respect for historical treaties and modern compacts with indigenous peoples. Furthermore, the Declaration calls for affirmative measures by the governments of countries and the United Nations as a whole to secure these rights.

The Human Rights Foundations of the Declaration

While the Declaration specifically applies to indigenous peoples, its provisions are derived from human rights principles that are of universal application. These include, especially, principles of equality and self-determination as already noted. Other universal human rights also are foundational, including the right to enjoy culture, the right to health, the right to life, and the right to property, all of which have been affirmed in various human rights instruments as applicable to all segments of humanity. Such universal human rights are incorporated

into the important human rights treaties, mentioned above, to which the United States is a party.

The Declaration builds upon these rights in the context of the particular historical, cultural, social, and economic circumstances that are characteristic of indigenous peoples. By doing so, the Declaration places particular emphasis on bonds of community and the collective dimension of the exercise of these rights, and hence it affirms the collective rights of indigenous peoples upon a foundation of human rights, and not just the individual rights of indigenous persons.

The Remedial Nature of the Declaration

The Declaration owes its existence to concern about the histories of colonization and deprivation of basic human rights suffered by indigenous peoples and about the ongoing disadvantages and impediments to self-determination they face. The Declaration explicitly refers to this history in its preamble, while throughout its text signifying the need to remedy the denial of self-determination and related human rights. The various articles of the Declaration elaborate upon the elements of self-determination for indigenous peoples in light of their common characteristics and mark the parameters for measures to implement a future in which self-determination for them is secure. The Declaration thus promotes change that begins with recognition of rights of indigenous survival that are “inherent,” such recognition being a matter of “urgent need.”

* This section is adapted with permission from a keynote address by Professor James Anaya to the 52nd Congress of Americanists, Seville, Spain, June 2006.

The Call for Affirmative Measures to Secure Self-determination and Related Rights

With its remedial thrust, the Declaration generally mandates that “States, in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration” (Article 38), and it further requires special measures in connection with most of the rights affirmed. Such special measures are to be taken with the end of building healthy relationships between indigenous peoples and the larger societies of the countries in which they live. In this regard, “treaties, agreements and other constructive arrangements” with indigenous peoples are valued as useful tools, and the rights affirmed in such instruments are to be safeguarded (Article 37).

Among the special measures required are those to secure “autonomy or self-government” for indigenous peoples over their “internal and local affairs” in accordance with their own political institutions and cultural patterns (Articles 4, 5), as well as measures to ensure indigenous peoples’ “right to participate fully, if they so choose, in the political, economic, social and cultural life of the State” and to have a say in all decisions affecting them (Articles 5, 18, 19).

Significantly, special measures are required to safeguard the right of indigenous peoples “to the lands, territories and resources which they have traditionally owned, occupied or

otherwise used or acquired” (Article 26). Since indigenous peoples have been deprived of vast tracts of their traditional lands and territories, the Declaration requires “redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation,” for the taking of the lands (Article 28).

Special measures are also required to restore and secure indigenous peoples’ rights in relation to culture, religion, traditional knowledge, the environment, physical security, health, education, the welfare of women and children, the media, and maintaining traditional relations across international borders.



United Nations Declaration on the Rights of Indigenous Peoples

The following is the full text of the Declaration, as adopted by the UN General Assembly by its Resolution 61/295 of 13 September 2007

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 indigenous peoples 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 indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind,

Concerned that indigenous peoples 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 indigenous peoples 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 indigenous peoples affirmed in treaties, agreements and other constructive arrangements with States,

Welcoming the fact that indigenous peoples 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 indigenous peoples 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 indigenous 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 indigenous peoples 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 indigenous 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 indigenous peoples 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 indigenous peoples and States,

Acknowledging that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights² and the International Covenant on Civil and Political Rights,² as well as the Vienna Declaration and Programme of Action,³ 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 indigenous peoples in this Declaration will enhance harmonious and cooperative relations between the State and indigenous peoples, 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 indigenous peoples under international instruments, in particular those related to human rights, in consultation and cooperation with the peoples concerned,

Emphasizing that the United Nations has an important and continuing role to play in promoting and protecting the rights of indigenous peoples,

Believing that this Declaration is a further important step forward for the recognition, promotion and protection of the rights and freedoms of indigenous peoples and in the development of

relevant activities of the United Nations system in this field,

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

Recognizing that the situation of indigenous peoples 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 Indigenous Peoples as a standard of achievement to be pursued in a spirit of partnership and mutual respect:

ARTICLE 1

Indigenous peoples 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 Rights⁴ and international human rights law.

ARTICLE 2

Indigenous peoples 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 indigenous origin or identity.

ARTICLE 3

Indigenous peoples 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

Indigenous peoples, 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.

ARTICLE 5

Indigenous peoples 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 indigenous individual has the right to a nationality.

ARTICLE 7

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

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the

traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

ARTICLE 10

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

ARTICLE 11

1. Indigenous peoples 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 indigenous peoples, 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. Indigenous peoples have the right to manifest, practise, 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 indigenous peoples concerned.

ARTICLE 13

1. Indigenous peoples 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 indigenous peoples 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. Indigenous peoples 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. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.

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

ARTICLE 16

1. Indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination.

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

encourage privately owned media to adequately reflect indigenous cultural diversity.

ARTICLE 17

1. Indigenous 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 indigenous peoples take specific measures to protect indigenous 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. Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary.

ARTICLE 18

Indigenous peoples 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 indigenous decision-making institutions.

ARTICLE 19

States shall consult and cooperate in good faith with the indigenous peoples 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. Indigenous peoples 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. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.

ARTICLE 21

1. Indigenous peoples 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 indigenous elders, women, youth, children and persons with disabilities.

ARTICLE 22

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

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

ARTICLE 23

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

2. Indigenous 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

Indigenous peoples 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. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
2. Indigenous peoples 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 indigenous peoples concerned.

ARTICLE 27

States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to

indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

ARTICLE 28

1. Indigenous peoples 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. Indigenous peoples 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 indigenous peoples 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 indigenous peoples 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 indigenous peoples, 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 indigenous peoples, unless justified by a relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned.

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

ARTICLE 31

1. Indigenous peoples 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 indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.

ARTICLE 32

1. Indigenous peoples 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 indigenous peoples 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. Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live.

2. Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

ARTICLE 34

Indigenous peoples 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

Indigenous peoples have the right to determine the responsibilities of individuals to their communities.

ARTICLE 36

1. Indigenous peoples, 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 indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right.

ARTICLE 37

1. Indigenous peoples 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 indigenous peoples contained in treaties, agreements and other constructive arrangements.

ARTICLE 38

States in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

ARTICLE 39

Indigenous peoples 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

Indigenous peoples 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 indigenous peoples 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 indigenous peoples 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 indigenous peoples of the world.

ARTICLE 44

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

ARTICLE 45

Nothing in this Declaration may be construed as diminishing or extinguishing the rights indigenous peoples 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.

² See resolution 2200 A (XXI), annex.

³ A/CONF.157/24 (Part I), chap. III.

⁴ Resolution 217 A (III).

