

UN Declaration - Joint letter to PM Stephen Harper

The Right Honourable Stephen Harper

House of Commons

Parliament Buildings

Ottawa, Ontario K1A 0A9

Fax: 1-613-941-6900

June 9, 2010

Dear Prime Minister:

We, the undersigned Indigenous and civil society organizations, are writing to urge the Government of Canada to endorse the *UN Declaration on the Rights of Indigenous Peoples* in a positive manner without qualifications, consistent with international human rights law. Such an approach would respect the House of Commons's Motion on April 8, 2008, calling for full implementation of the *Declaration*.

The government announced in the Speech from the Throne that it will take steps to endorse the *Declaration* in a manner that is fully consistent with Canada's Constitution and laws. Over 100 experts and scholars have concluded that the *Declaration* is fully consistent with the Canadian Constitution and Charter of Rights and Freedoms and it is a vital tool for their interpretation and implementation. Asserting that international human rights standards should be constrained by domestic law, contrary to the principles of international law, would detract from the value of the endorsement.

The *Declaration* includes provisions that explicitly state that any interpretation is to be balanced with other human rights protections and principles of justice and equality. Canadian officials, with Indigenous representatives, played a central role in drafting these provisions. There is no need to assert conditions or qualifications on support for the *Declaration*.

A central objective of any international human rights instrument is to encourage States to reform laws, policies and practices so that human rights are respected. International human rights standards cannot merely condone or sustain existing State practices. To limit UN declarations in this way would defeat the purpose of having international standards.

Canada has never before placed blanket qualifications on its support for international human rights instruments. To impose such limitation on the *UN Declaration on the Rights of Indigenous Peoples* would constitute a discriminatory double standard.

We respectfully remind the government that the *Declaration*, like all human rights declarations adopted by the General Assembly, is universally applicable to all States. For endorsement to be meaningful, it must be made in good faith with a commitment to work with Indigenous Peoples and civil society to ensure Canada lives up to the

Declaration’s standards.

Canadian courts are free to rely on the *UN Declaration* and other international instruments in interpreting Indigenous peoples’ human rights. The government’s endorsement of the *Declaration* is not necessary for it to be applicable in Canada.

In a recent brief to the Canadian Human Rights Tribunal, the Attorney General of Canada argued: “Canada’s position on the Declaration has not changed. Consequently the Declaration should be given no weight as an interpretive source of law.” This argument is not supportable or sustainable. If the federal government is not prepared to apply the *Declaration* as a source of interpretation of its obligations, any endorsement will be hollow and will achieve a negative response from inside and outside Canada.

Our organizations are also concerned that while the federal government has sought support for its endorsement strategy from provincial and territorial governments, no consultations with Indigenous Peoples have been carried out. Such actions unjustly treat Indigenous Peoples as adversaries and fail to uphold the honour of the Crown.

The *Declaration* is especially useful in interpreting Indigenous Peoples’ Treaties with States. It serves to fill in any gaps from a human rights perspective. Such Treaties, including land claims agreements, embrace a diverse range of human rights.

In its preamble, the *Declaration* is described as “a standard of achievement to be pursued in a spirit of partnership and mutual respect”. A clear and unequivocal statement of support for the *UN Declaration* is a necessary first step toward such a partnership.

cc Michael Ignatieff

Gilles Duceppe

Jack Layton

Chuck Strahl

Lawrence Cannon

Rob Nicholson

Todd Russell

Jean Crowder

Marc Lemay

Respectfully,

Amnesty International Canada

Amnistie internationale Canada francophone

Assembly of First Nations of Qu bec and Labrador / Assembl e des Premi res Nations du Qu bec et du Labrador

Canadian Friends Service Committee (Quakers)

Chiefs of Ontario

First Nations Child and Family Caring Society of Canada

First Nations Summit

First Peoples Human Rights Coalition

Front d'action populaire en r am nement urbain - FRAPRU

Grand Council of the Crees (Eeyou Istchee)

Indigenous World Association

Innu Council of Nitassinan

International Organization of Indigenous Resource Development

Inuit Circumpolar Council (Canada)

KAIROS: Canadian Ecumenical Justice Initiatives

La F d ration des femmes du Qu bec

La Ligue des droits et libert s

Native Women s Association of Canada

Quebec Native Women / Femmes autochtones du Qu bec

Union of BC Indian Chiefs

Attachment(s) from Don Bain

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Courtesy of UBCIC