



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2004/NGO/108
3 March 2004

ENGLISH ONLY

COMMISSION ON HUMAN RIGHTS
Sixtieth session
Item 7 of the provisional agenda

THE RIGHT TO DEVELOPMENT

**Written statement* submitted by the International Indian Treaty Council (IITC),
a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 January 2004]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Since the UN General Assembly adopted the Declaration on the Right to Development in 1986, Indigenous Peoples throughout the world have sought to achieve recognition that Article 1 of the Declaration applies to them as it would any peoples. Article 1 states that the full realization of the right of peoples to self-determination, and "full sovereignty over their wealth and natural resources," are fundamental to the right to development.

Article 1 of the International Covenant on Economic, Social and Cultural Rights also affirms that in no case a People may be deprived of its own means of Subsistence. Indigenous Peoples' cultural and spiritual relationships with their lands and resources are integral to their own development as Indigenous Peoples. Traditional and contemporary activities and uses of land, resources and water form the essential elements of Indigenous Peoples development. These resources and their ongoing alienation Indigenous Peoples access to them characterize some of the most fundamental human rights issues facing Indigenous peoples.

The International Indian Treaty Council urges the UN Commission on Human Rights to consider this matter seriously by referring to the recent report, *Indigenous peoples' permanent sovereignty over natural resources, Preliminary report of the Special Rapporteur*, Erica-Irene A. Daes, submitted in accordance with Sub-Commission resolution 2002/15 to the Sub-Commission on the Promotion and Protection of Human Rights, (E/CN.4/Sub.2/2003/, 21 July 2003).

The following excerpts from her report are especially relevant within the context of the Right to Development and Indigenous Peoples:

"The importance and usefulness of a study on indigenous peoples' permanent sovereignty over natural resources has been further emphasized by the ongoing debates about indigenous peoples' right to self-determination and the adverse impacts of natural resource exploitation in indigenous territories. Consequently, the reconciliation of the legitimate interests of States with the prior and paramount rights of indigenous peoples to their natural resources has been recognized by many as a critical and necessary step for the advancement of the rights of indigenous peoples.

"Discussions relating to indigenous peoples' permanent sovereignty over natural resources have continued in the context of the Working Group on Indigenous Populations, the Working Group on the draft declaration on the rights of indigenous peoples and, most recently, at the Permanent Forum on Indigenous Issues. In the past two decades, in the halls and meeting rooms of the United Nations, Member States, representatives of specialized agencies and departments of the Secretariat, independent experts, indigenous peoples and their representatives have been engaging regularly in an attempt to resolve long-standing land and resource disputes, to reach understandings regarding self-determination under international law, and to establish new mechanisms and methods for cooperating on matters relating to the sustainable development of indigenous lands and resources.

"As a result of these important discussions, it has become clear that meaningful political and economic self-determination of indigenous peoples will never be possible without indigenous peoples' having the legal authority to exercise control over their lands and

territories and thereby enjoy the full economic and other benefits deriving from their natural resources. Moreover, these exchanges have led to a growing recognition that an appropriate balance can be reached between the interests of States and the interests of indigenous peoples in the promotion and protection of their rights to self-determination and to their lands and resources. (E/CN.4/Sub.2/2003/20, page 2, paras. 4, 5 and 6)”

Article 1 of the Declaration on the Right to Development states that the right to development is an inalienable human right of all peoples "in which all human rights and fundamental freedoms can be fully realized". This clear relationship between the right to development and other human rights and fundamental freedoms for Indigenous Peoples, including the right to self-determination, right to land, rights to culture and means of subsistence was underscored in 1997 by General Recommendation XXIII of the Committee on the Elimination of Racial Discrimination, the treaty monitoring body of the CERD Convention:

“3. The Committee is conscious of the fact that in many regions of the world indigenous peoples have been, and are still being, discriminated against and deprived of their human rights and fundamental freedoms and in particular that they have lost their land and resources to colonists, commercial companies and State enterprises. Consequently, the preservation of their culture and their historical identity has been and still is jeopardized...

“4. The Committee calls in particular upon States parties to:
...(c) Provide indigenous peoples with conditions allowing for a sustainable economic and social development compatible with their cultural characteristics;
(d) Ensure that members of indigenous peoples have equal rights in respect of effective participation in public life and that no decisions directly relating to their rights and interests are taken without their informed consent;

“5. The Committee especially calls upon States parties to recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources and, where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return those lands and territories. Only when this is for factual reasons not possible, the right to restitution should be substituted by the right to just, fair and prompt compensation. Such compensation should as far as possible take the form of lands and territories.”

The IITC calls upon this Commission to promote equal and non-discriminatory application of these and other international laws, norms and standards, and to denounce the pervasive and ongoing violations of the Right to Development that negatively impact the lives of Indigenous Peoples.

Today, the globalized market economy prioritizes the exploitation, appropriation and extraction of natural resources, products and capital at the expense of environmental protection, global sustainability and the human rights and self determination of the Peoples of the world. As a result, Indigenous Peoples around the world are struggling, in many cases with little to no support, to defend their lives, community health, ecosystems, means of subsistence and sacred

cultural relationships in the face of imposed development and political decision making in which their input is systematically ignored.

Indigenous Peoples suffer disproportionately from a lack of corresponding mechanisms to safeguard our fundamental human rights in the face of imposed development. The absence of universally agreed standards on the rights of Indigenous Peoples is a major obstacle in fully empowering indigenous peoples to play their mandated role in sustainable development. Their full enjoyment of the Right to Development requires legal recognition of rights to ownership and control of their lands, territories and natural resources on national and international levels. Sadly, this recognition has still not been achieved here at the United Nations, at least in terms of its application and full enjoyment for Indigenous Peoples.

For all our relations.
