



INDIAN REPORT

CELEBRATING PASSAGE OF THE UN INDIGENOUS RIGHTS DECLARATION

A quarter century of worldwide effort by indigenous peoples—the longest period of negotiation for any international agreement in United Nations history—resulted in an historic victory when the United Nations adopted the Declaration on the Rights of Indigenous Peoples on September 13, 2007. The vote was 143 in favor with only Australia, Canada, New Zealand, and the United States voting against.

The Declaration reflects a growing international consensus concerning indigenous rights, and addresses both individual and collective human rights in such areas as self-determination, spirituality, and rights to intellectual property. It creates a minimum international standard for the promotion of the rights of some 400 million indigenous people worldwide.

“The rights in the Declaration are not new,” explained Craig Mokhiber of the UN High Commission on Human Rights. “They are rights that have been codified in countless treaties . . . But they are rights that have been violated—if we are to be frank, with impunity—vis-à-vis Indigenous Peoples.”

Tribal nations such as the Navajo, and native organizations such as the Indian Law Resource Center, worked for decades toward its passage. The Cascadian Friends Service Committee, which supported this work, stated: “There are few moments in time when one knows one truly made a difference. The abolition of slavery comes to mind. Now is also one of those times.” The coordination involved to achieve this goal played an integral role in building a global indigenous advocacy movement.

Current human rights law draws largely from European philosophical roots that emphasize the individual. Many governmental bodies still do not embrace the concept of community rights.

Nevertheless, the UN Declaration’s 46 articles recognize collective circumstances and affirm that ancestral territories constitute the basis of indigenous peoples’ existence, cultures and spiritualities. Professor G. William Rice of the University of Tulsa College of Law, summarized the Declaration like this: “The heart of the whole Declaration is the right to self-determination. No diminishment. No dissembling.”

Affirmative, international legal precedent is growing. Tenets such as the admission of oral history as evidence or the legitimacy of traditional law systems are beginning to be used legally. “In its draft form,” noted Professor Rice, “the Declaration was already being used as a rationale for decision-making in international forums. Even countries that don’t sign such international documents often act consistently with them.”

As clamor for land and its life-supporting resources grows, indigenous peoples face increasing threats to homelands, bodily safety and cultural integrity resulting from oil extraction, tourism, dam construction, population expansion, and forced displacement in the name of “conservation.” Without greater international attention, massacres, defilement of sacred areas, and other violations are likely to continue against indigenous peoples, who constitute one out of 15 people in the world.

The UN Declaration helps craft practical tools to do the work that lies ahead. For example, in a November 2007 ruling, the Supreme Court of Belize cited the Declaration in its ruling affirming Mayan peoples’ pre-existing rights to their land. Tim Coulter of the Indian Law Resource Center states, “As incredible as it may seem that such a statement would need to be made, for the first time in human history, indigenous peoples have been given the right to exist.”