

HUMAN RIGHTS COUNCIL DISCUSSES REPORT OF WORKING GROUP ON DECLARATION ON RIGHTS OF INDIGENOUS PEOPLES

Speakers Divided on Question of Adoption of Draft Declaration

27 June 2006

The Human Rights Council this afternoon discussed the report of the Working Group on a draft United Nations Declaration on the Rights of Indigenous Peoples, remaining divided over adopting the draft Declaration or continuing to negotiate it.

Luis-Enrique Chávez, Chairperson-Rapporteur of the open-ended intersessional Working Group on a draft United Nations Declaration on the Rights of Indigenous Peoples, said that some questions were still pending, although progress had been made by the Working Group. The specific meaning that the Declaration granted to the right to self-determination, focusing on the internal and external affairs of indigenous peoples, had been clarified. A reference to territorial integrity had not been included in the proposal as all peoples enjoyed the right to self-determination.

Mr. Chávez said the real threat to the territorial integrity of States was the threat of ongoing postponement of the draft Declaration. Indigenous peoples could not base themselves on the Declaration to carry out acts that threatened the integrity of States. The Council had an historical opportunity before it, and should not let it slip by.

In the debate, the Council remained divided over whether or not to adopt the present draft Declaration on the Rights of Indigenous Peoples or to continue working on the text until greater consensus was achieved. Many speakers said that it was time to send a positive signal to the international community and to bring to an end a situation that had been lasting for two decades already. There was a need for recognition of the historical legacy that indigenous peoples were suffering from, and to set up measures for their survival, existence and development. Although it was not possible to reach agreement on all articles of the draft Declaration, the final compromise text offered the best outcome they could achieve to the Working Group process, and the Declaration was therefore supported.

Other speakers, however, felt that the text did not enjoy consensus, that it could be improved, and that its adoption should be delayed. A speaker said that the Chair's text on a draft Declaration had not been discussed in the Working Group and that, moreover, as a new body, with new members, the Council should be allowed the opportunity to go over that text. Another speaker said to adopt it without such an opportunity would be extraordinary in multicultural negotiations and would set a poor precedent for the work of the Council. The current text was confusing, risking conflicting interpretations and debate in its application.

Taking part in the debate on the report of the Working Group on a Declaration on the Rights of Indigenous Peoples were the representatives of Mexico, Canada, Brazil – also speaking on behalf of the Group of Latin American and Caribbean States, China, the Russian Federation, Austria – on behalf of the European Union, Guatemala, South Africa, Japan, the Philippines, Algeria – on behalf of the African Group, Cameroon, France, Finland – speaking on behalf of the Nordic countries, Uruguay, Ecuador, Cuba, India, Bangladesh, Peru, Australia – speaking also on behalf of New Zealand and the United States, Spain, Congo, Panama, Iran, Bolivia, and Chile.

Also speaking were the representatives of the following non-governmental organizations: the *Asociacion kunas unidos por napguana*, the International Working Group on Indigenous Affairs, the Foundation for Aboriginal and Islander Research Action, the Tebtebba Foundation, the Association of Indigenous Peoples of the North, Siberia, Far East and the Russian Federation, the International Organization of Indigenous Resources Development, the Inuit Circumpolar Conference, Amnesty International, the Indian Law Resource Centre, the *Comision juridica para el autodesarrollo de los pueblos originarios andinos*, the Indian Movement Tupaj Amaru, the Indian Council of South America, the International Human Rights Association of American Minorities and the International Service for Human Rights.

Speaking in right of reply was the Philippines.

The next plenary meeting of the Council will be held on Wednesday, 28 June, at 10 a.m., when members will begin consideration of the universal periodic review mechanism.

Report of the Working Group on the Draft United Nations Declaration on the Rights of Indigenous Peoples

The report of the Working Group on the Draft United Nations Declaration on the Rights of Indigenous People (E/CN.4/2006/79), established in accordance with Commission on Human Rights Resolution

1995/32 of 3 March 1995, covers the activities of the Working Group at its meeting from 5 to 16 December 2005 and 30 January to 3 February 2006. The Chairperson-Rapporteur concludes that a revised version of the proposals presented is contained in the annex (the draft Declaration on the Rights of Indigenous Peoples) which he hopes will be considered as a final compromise text. One indigenous representative expressed some concern as there was no consensus on many articles in the text. Some governmental representatives expressed the view that a Declaration that did not enjoy consensus amongst States would not be of real and practical benefit to indigenous peoples.

Presentation of the Report of the Working Group on a Draft Declaration on the Rights of Indigenous Peoples

LUIS-ENRIQUE CHAVEZ, Chairperson-Rapporteur of the open-ended intersessional Working Group on a Draft United Nations Declaration on the Rights of Indigenous Peoples, said the report contained two clearly distinguishable parts, the first being a synthesis of the extensive debates during the meetings; the second being made up of Annexes, including Annex 1, which made it possible for anybody who had not followed the work of the Working Group to understand how the discussion had evolved, which questions were still pending, and what the framework was for solving these problems.

The entire preambular section and most of the articles in the draft Declaration were subject to agreement in principle, but some questions were still pending. However, progress had been made by the Working Group, and there were suggestions in the document with regards to options and possibilities for those areas where agreement had not been reached. On self-determination, the original text remained. The specific meaning that the Declaration granted to the right to self-determination, focusing on the internal and external affairs of indigenous peoples was clarified. A reference to territorial integrity was not included in the proposal, as it was not essential, as, pursuant to Covenants, all peoples enjoyed the right to self-determination. The real threat to the territorial integrity of States was the threat of ongoing postponement of the draft Declaration. Indigenous peoples could not base themselves on the Declaration to carry out acts which threatened the integrity of States.

With all of these precautions, it remained possible that conflicts could arise during the adoption of the Declaration, and it therefore contained solutions for such a controversy. In this connection, one aspect in which controversy could arise was the issue of redress, whereas for indigenous peoples, the Declaration should include the right to compensation for damage, and States preferred a form of mechanism for redress. Every person was entitled to redress, and therefore indigenous peoples should not have a lower level of protection. The proposal also contained other options. The right to self-identification was the only article that had not been considered over the time of the debate. The Council had a historical opportunity before it, and should not let this slip by.

Statements on the Report of the Working Group on a Draft Declaration on the Rights of Indigenous Peoples

XOCHITL GALVEZ (Mexico) said Mexico expressed full support for the report of the Chairperson-Rapporteur. There had been major consensus on the consideration of the draft Declaration on the Rights of Indigenous Peoples. Consensus had prevailed on its adoption by the Working Group. The supreme value that the Declaration held was more important. It was also a response to the legitimate rights of the indigenous peoples. A number of important articles of the Declaration had been agreed upon thanks to the flexibility and comprehension of Mexican delegation. The draft Declaration would fulfil the aspirations of the indigenous peoples.

The adoption of the Declaration would also affirm the claims of the indigenous people for self-determination through autonomy. Mexico recognized and respected the rights of the indigenous people. The Government of Mexico was aware that it had to fulfil its commitment towards the rights of indigenous people and the building of a multi-cultural society.

PAUL MAYER (Canada) said that since the mid 1980s successive United Nations administrations had been working to develop an international instrument on the rights of indigenous peoples. The draft United Nations Declaration on the Rights of Indigenous Peoples dealt with broad situations that had direct impact on national Governments. On some key issues, such as a section on lands and territories, there was too much room for interpretation. Further improvements were both possible and necessary. Canada would like some more time to work with both Member States and indigenous peoples to draft a more effective document. Canada would like the Human Rights Council to authorize further consultations based on the Chairperson-Rapporteur's text, to clarify substantive issues, as well as to achieve the broadest possible agreement. The effective participation of representatives of indigenous peoples should continue in that process. Canada wished to ensure that the draft declaration could be supported by as many delegations as possible, in the most constructive way possible. Canada was simply asking for more time.

CLODOALDO HUGUENEY (Brazil), speaking on behalf of the Group of Latin American and Caribbean Countries (GRULAC), said it was time to send a positive signal and bring to an end a situation that had

been lasting for two decades already. There was a need for recognition of the historical legacy that indigenous peoples were suffering from, and a set of measures should be set up for their survival, existence and development, with solutions found for their situation. The proposed declaration recognised their particularly vulnerable situation, and it was recognised that they had been victims of discrimination for centuries, and were free and equal in dignity and rights and should not suffer from any form of discrimination due to their identity. Poverty, marginalisation, social exclusion and economic inequalities were linked to racism, xenophobia, racial discrimination and other forms of discrimination, which in turn generated more poverty.

Governments had committed themselves at the World Conference against Racism to combat all forms of racial discrimination. In strengthening the common work against racism, this safeguarded the dignity of human beings, and the just aspirations of all. This was a struggle which strengthened the foundations of peaceful coexistence. This was the reason for the active work and the many proposals that had led the GRULAC countries to ensure that the declaration would be useful for all peoples.

CLODOALDO HUGUENEY ([Brazil](#)) said the negotiation for the drafting of the draft Declaration had been long and painstaking. Although the text was not an ideal one, it would acknowledge the rights of the indigenous people in many countries. In Brazil, as a country with a multi-ethnic society, it was the understanding of the Government that the rights acknowledged in the draft Declaration would add impetus to the already existing harmonious situation of the country. The draft Declaration had also recognized the territorial integrity of national States while indigenous peoples exercised their autonomy within the given State. For that reason, States should not fear the disintegration of their territories with the adoption of the Declaration.

DONG ZHIHUA ([China](#)) said that indigenous peoples were a unique segment of society. Many indigenous peoples had suffered discrimination, the confiscation of their lands and they remained marginalized today, even in societies that had reached a very high level. Indigenous peoples deserved to have their human rights, fundamental freedoms, traditional rights and customs protected. Eleven years after the Decade on the Rights of Indigenous Peoples they were still awaiting a Declaration on the Rights of Indigenous Peoples in the United Nations system.

The Chairman's text, although not perfect, nor completely satisfying the requirements of indigenous peoples, had found wide agreement. China suggested that the Human Rights Council move forward on the basis of the text submitted. Over past decades the Chinese delegation, as well as Chinese consultants and experts, had contributed to the work of the Working Group on the draft United Nations Declaration on the Rights of Indigenous Peoples, and China urged the Human Rights Council to adopt one.

ALEXEI AKGIGITOV ([Russian Federation](#)) said that the Russian Federation had participated actively in the meetings of the Working Group, and had given considerable importance to the rights of indigenous peoples in its own policies. It had worked within the Working Group to create a balanced document that would be of use both to States and to indigenous peoples, and would expand possibilities for their integrated development. Their integration should be an international standard. The meetings themselves had been an important form of dialogue.

However, the text was unacceptable, and Russian Federation was sincerely distressed that discussions had been broken off, and an unapproved, unacceptable text had been proposed to the Council. The text did not enjoy consensus, and could not be considered to be a final or consensus-based text. It ran counter to the procedures of the United Nations, and its adoption would create a negative precedent for future activities with regards to declarations in the Council. The full scope for compromise had not been reached. It was necessary to extend the mandate of the Working Group and continue to work to reach a text that was acceptable to all.

WOLFGANG PETRITSCH ([Austria](#)), speaking on behalf of the [European Union](#), said that the negotiation process of the Working Group on the draft Declaration was unique in the UN standard setting practice by involving representatives of the indigenous peoples on an equal footing with States. That made the negotiations challenging given the breadth of interests represented; but importantly, it also made the process as inclusive as possible. The European Union regretted that it was not possible to reach agreement on all articles of the draft Declaration, and particularly, that some States with indigenous peoples did not feel able to joint consensus on the text. Indeed, no party to the negotiations could claim that the result was perfect. However, the European Union was of the opinion that the final compromise text offered the best achievable outcome to the working group process. The Union therefore would support action being taken on the declaration by the Council

CARLOS ARROYAVE PRERA ([Guatemala](#)) said that Guatemala supported the statement made by Brazil on behalf of the Group of Latin American and Caribbean States. On 1 March 1995, as an outcome of the peace process and negotiations among indigenous representatives and the parties to the conflict, the

agreement on the identity and rights of indigenous peoples had been signed. That document attempted to overcome the racism and exclusion that these people had suffered from. It also recognized the inherent rights of the Maya, Garifuna and Xinka peoples.

Guatemala wanted to stress the work it had intensively undertaken to develop a Declaration on the Rights of Indigenous Peoples. Such a declaration found an echo in many of the actions that had already been undertaken by the Guatemalan Government at the national level. From 1995 to today, the Government had taken many actions to eliminate discrimination against indigenous peoples and to allow them to fully participate in civic life and to enjoy their rights. The United Nations had invested 21 years in formulating a draft Declaration on the Rights of Indigenous Peoples. The text submitted by the Working Group represented an agreed text, and it was Guatemala's belief that the Human Rights Council should not prolong the consideration of the text any longer.

GLAUDINE J. MTSALI ([South Africa](#)) said the draft Declaration, when adopted, would go a long way in restoring hope to those marginalized and vulnerable that their rights would now be recognised. It was important for the Council to consider the adoption of this instrument, as it was important for the Council to begin its work with issues that would have tangible outcomes.

It was true that sufficient time needed to be accorded to all stakeholders to express views and comments on the Chair's proposed text; however, South Africa did not envisage the reopening of the text following 11 years of negotiations.

YUKIKIO YAMADA ([Japan](#)) said the Government of Japan made every effort to respect, protect and promote the rights of indigenous peoples. In that regard, Japan attached great importance to the Working Group on the draft Declaration on the Rights of Indigenous Peoples. Although Japan thought that the proposal of the Chairperson-Rapporteur was well thought-out, fair and balanced, it expressed concern about the procedure. The proposal made by the Chair was made available after the last session of the group held from the end of January to February 2006, and the group had not discussed his proposal yet. Japan was concerned that if the new proposal was adopted without prior discussion in the group, that might be a procedural precedent for adopting legal documents in the future.

JESUS ENRIQUE G. GARCIA ([Philippines](#)) said that the Philippines wished to reiterate its desire for the early adoption of the draft United Nations Declaration on the Rights of Indigenous Peoples. Circulating was a paper containing proposed amendments to the draft resolution on the adoption of a draft Declaration that called for changes to the draft text before its submission to the General Assembly. The Philippines supported the proposal put forth in that paper. The Chair's text on a draft Declaration had not been discussed in the Working Group. Moreover, the report of the Working Group was being submitted to the Human Rights Council for consideration at its first session. As a new body, with new members, the Council should be allowed the opportunity to go over that text.

IDRISS JAZAIRY ([Algeria](#)), speaking on behalf of the [African Group](#), said the African Group was aware of the situation of indigenous peoples throughout the world, and welcomed that after 11 years, the Working Group had been able to come up with a text. The African Group expressed its concurrence with the text, and gave it support. Whilst some States had suggested improvements, they should withdraw their reservations so that the text could be adopted as it stood.

ODETTE MELONO ([Cameroon](#)) said that during the first Decade for the Rights of the Indigenous Peoples, many countries had made progress in the implementation of those rights. Cameroon, a country of a number of ethnic groups, including Pygmies, had taken legal measures to protect its ethnic and indigenous groups. Further actions were also taken by the Government to uphold the rights of its indigenous entities. The negotiation of the draft Declaration did not achieve consensus in its drafting process. However, all States should now join the consensus in its adoption by the Council.

JEAN-MAURICE RIPERT ([France](#)) said that France hoped that the Human Rights Council would adopt the Declaration on the Rights of Indigenous Peoples. That would represent the culmination of 20 years of efforts, and as had been underlined by the President of France, would contribute to implementation of a worldwide ethic that could found mankind's future, while keeping in mind his origins and links with nature.

The Declaration on the Rights of Indigenous Peoples complemented the framework of United Nations norms for the promotion and protection of human rights, without threatening the individual rights and fundamental freedoms already consecrated therein. Indeed, for France, owing to the indivisibility of the Republic and in conformity with its founding principle of equality and its corollary, the principle of non-discrimination, collective rights could not prevail over individual rights. Preferential treatment, however, could be given to indigenous people with regard to territorial rights. France reaffirmed its attachment to the international human rights standards and democratic values that the present Declaration sought to complement and reinforce, and to which France was a co-sponsor.

ANNE NUORGAM (Finland), speaking on behalf of the Nordic Countries, said the first international decade of the world's indigenous peoples, which was initiated in 1993, had two major goals; the first, to establish a Permanent Forum for Indigenous Issues, had been a major achievement. That a Declaration on the Rights of Indigenous Peoples would be an instrument of great value to advance the rights and aspirations of the world's indigenous peoples was fully supported, and the draft Declaration without amendments should be adopted. It was feared that any deferral of the process would risk jeopardising the achievements of the process, and the Declaration itself.

The rights of indigenous peoples were of utmost importance to the Nordic countries, and the issue affected the lives of not only the indigenous peoples in those countries, but the population as a whole. The adoption of the draft Declaration would strengthen the promotion and protection of the rights of indigenous peoples worldwide, and, once adopted, it could serve as a comprehensive framework for partnership between States and indigenous peoples. It was first and foremost a political document, setting a standard of achievement to be pursued in a spirit of partnership and mutual respect.

RICARDO GONZALEZ ARENAS (Uruguay) said it was high time to arrive to a conclusion by adopting the draft Declaration, which had taken quite a long time. It was a sign to correct the injustices of the past with regard to the indigenous peoples. The indigenous peoples should enjoy all their rights which they deserved and the adoption of the Declaration would recognize those rights.

CARLO LARENAS SERRANO (Ecuador) said that for States like Ecuador, that were lucky enough to have indigenous peoples as parts of their population, it was a moral imperative to recognize their rights. Ecuador had taken up this issue and worked hard to pursue the Declaration on the Rights of Indigenous Peoples from the very beginning in the Working Group. The question had sensitive points for many States, related to territorial integrity, the self-determination of peoples, and the disposition of natural resources. The draft Declaration had taken all of those issues into consideration.

The international community was awaiting a signal from the Human Rights Council to put an end to its discussions on the subject. For that reason, Ecuador had put forward a draft resolution on the adoption of the present draft Declaration on the Rights of Indigenous Peoples, and Ecuador called on all members to adopt it.

MIGUEL ALFONSO MARTINEZ (Cuba) said in view of the visible insufficiencies of the draft Declaration which had been submitted to the Council for evaluation and possible approval, Cuba, along with the representative of indigenous NGOs, had severe misgivings. The draft prepared by the Chairperson was "a compromise text" and had not been finally approved as should have been done either by the Working Group or the Commission. There were a number of alternatives in the text which were of great importance to indigenous peoples, including the principle to self-determination, collective rights, and rights to existing resources.

It should be stressed that it was necessary to have a fresh start with fresh perspectives in the Council, and the Working Group had not succeeded in arriving at a final text. Despite everything, Cuba had decided to support the idea of approving the draft as soon as possible, and to be co-sponsors when the text was sent to the General Assembly during the next session. There had been many weighty reasons for this stance. Cuba attached particular importance to common regional positions, and proposed to take practical measures to implement the process that was so vital for tapping the full negotiating potential.

AJAJ MALHORTA (India) said India was a fervent supporter of the rights of the indigenous peoples. The drafting of the Declaration had not been easy, however, it had gained the support of many States.

NAYEM U. AHMED (Bangladesh) said that Bangladesh had always taken the position that human rights should be addressed in their totality. Bangladesh therefore felt that the draft Declaration on the Rights of Indigenous Peoples should be kept under consideration until the Council was ready. There were other issues, such as the right to development, that deserved their greater attention.

EDUARDO RODRIGUEZ-CUADROS (Peru) said the words that had been said by other delegations as to the serious rigorous consensus-seeking work that had taken place during consultations were fully supported. It was clear that the text in front of the Council was the reflection of a wide-ranging series of consultations with the Chair attempting to find consensus on a very difficult matter. It was a difficult and delicate balance to strike, and there was commitment to respecting this process.

The overall objective of the lengthy consultations had gone back to the intentions of the victims, who required to be protected from the State, and the text enshrined this, including the rights of the indigenous peoples in a balanced manner. The rights of indigenous peoples to preserve and strengthen their own political, economic, religious and legal institutions should be recognised. The international community should say no to assimilation and forced displacement. The document should be adopted by consensus during the current session.

CAROLINE MILLAR ([Australia](#)), also speaking on behalf of [New Zealand and the United States](#), said they were deeply disappointed that it was not yet been possible to reach consensus on a text for the Declaration on the Rights of Indigenous Peoples. There had not yet been an opportunity to discuss it collectively. To adopt it without such an opportunity would be extraordinary in multicultural negotiations and would set a poor precedent for the work of the Council. The current text was confusing, risking conflicting interpretations and debate in its application. NGOs argued forcefully against language limiting the right of self-determination, to safeguard the political and territorial integrity of States. Could States wanting to adopt the text accept it in the absence of such safeguards? The Declaration should be based on genuine agreement, consistent with international law, non-discriminatory, capable of being implemented and able to stand the test of time.

JOAQUIN MARIA DE ARESTEGUI LABORDE ([Spain](#)) said that Spain thanked all parties involved for the flexibility that they had shown in negotiating the draft United Nations Declaration on the Rights of Indigenous Peoples. Spain supported that text for several reasons. It represented a consensus, a compromise that had been achieved after very lengthy negotiations. The proposed text reflected, in a balanced way, the great majority of the sensitivities expressed during the negotiations. Spain felt that further negotiations would not contribute to anything, and that the Human Rights Council should move forward and adopt the resolution, to which Spain was a co-sponsor, to present the current draft Declaration to the General Assembly for adoption at its next session.

ROGER JULIEN MENGA ([Congo](#)) said at the beginning of the Council, the Government had appealed to Member States to adopt the draft Declaration, which was a major part of the infrastructure for the promotion and protection of the rights of all human beings. For several decades, the situation of indigenous peoples had not always been sufficiently addressed, with their rights not being taken into account. The efforts to implement their rights had not yet been sufficient to meet their expectations. The international community should give further attention to this essential problem.

In the 21st century, there was still some form of discrimination against some parts of the population of the world. The problem of the Pygmies was of concern for all of Central Africa, and extended beyond that territory under other names.

UNA ALFU DE REYES ([Panama](#)) said Panama believed the protection and promotion of human rights of indigenous peoples constituted an important pillar for the promotion and protection of human rights in the country. The text of the Declaration would be a base for the international human rights system and Panama would support its adoption. The text was considered by Panama as an important instrument in the promotion and protection of the rights of indigenous peoples.

MOSTAFA ALAEI ([Iran](#)) said that the international community had longed acknowledged that the distinct cultures and languages of indigenous peoples deserved protection. Unfortunately, throughout the world indigenous peoples suffered disproportionately violations to their human rights, including the suppression of their languages, the denial of their customs, and the confiscation of their lands. States had to do more towards fulfilling their obligations to promotion and protection of human rights, including the rights of indigenous peoples.

Mr. MOSTAFA said that some countries were still not prepared to accept the fact that indigenous peoples had rights, including the right to own the land in the countries in which they lived. The draft United Nations declaration on the rights of indigenous peoples represented a positive development in the promotion and protection of the basic rights and fundamental freedoms of indigenous peoples. Its adoption would witness a new era in the area of human rights.

GUADALOUPE PALOMEQUE ([Bolivia](#)) said it was a true source of pride to refer to the subject of indigenous peoples in the framework of the Council, and Bolivia was pleased that in the international context there was a reflection of the struggle of the indigenous peoples in Bolivia, which had led to the Government being in the hands of indigenous peoples today. Bolivia was in the throes of change, and the legislation contained a majority of representatives of indigenous peoples and other groups. Bolivia intended to guarantee fundamental changes to be brought about through the Constituent Assembly, with the aim of building a more just society.

In the framework of these problems, indigenous persons were being treated more justly, and indigenous communities had received lands. All these groups were being integrated in the daily life of the Republic.

JUAN MARTABIT ([Chile](#)) said Chile was committed to the drafting and adoption of the Declaration on the Rights of Indigenous Peoples. With the consolidation of democracy in Chile, the rights of its indigenous peoples were being strengthened. The human rights of indigenous peoples were being guaranteed through Constitutional provisions and the indigenous peoples were fully participating in the strengthening of democracy in the country. Chile had now become a country of inclusion and non-discrimination. Chile

would support the adoption of the draft Declaration by the Council.

AZELENE, of *Asociacion kunas unidos por napguana*, said that the Association thanked all States that had called for the swift adoption of the draft United Nations Declaration on the Rights of Indigenous Peoples. The final text was a compromise document that dealt in a balanced, sensitive way with the issues important to indigenous peoples and those that were of concern to States. The Declaration sought to progressively eliminate the discrimination that was experienced by indigenous peoples and was consistent with the Millennium Development Goals, in particular, that of eliminating hunger and poverty. The new Human Rights Council had to send out a positive message to mankind by adopting at its first session the Declaration on the Rights of Indigenous Peoples.

HASSAN ID BALKASSM, of *International Working Group on Indigenous Affairs*, said that hope rested on the vision of the African diplomatic caucus on how Africa wished to see the restructuring of the United Nations. The hope was that the Council would, in its first session, adopt the Declaration on the Rights of Indigenous Peoples as a universal standard-setting, non-binding instrument which would demonstrate to the world a break from the discredited past. Several African countries had adopted important domestic legislation, protocols and policies to promote and protect the rights of indigenous peoples. The Council should adopt the Declaration, and support the resolution proposed by Peru and the co-sponsors, and should not vote in favour of any amendment that would delay the adoption, so that the Council could start its work with a tangible achievement.

LES MALEZER, of *Foundation for Aboriginal and Islanders Research Action*, speaking on behalf of the *Pacific Regional Caucus of Indigenous Peoples*, said the Pacific Caucus of Indigenous Peoples joined with all other regional caucuses to call for immediate adoption of the draft Declaration. The text was considered to be the best outcome that could be achieved. The few States expressing intransigent positions for the past few years had domestic situations, which had been found, under the race convention, to be discriminatory against indigenous peoples. There was no indication or reasons to believe those countries would change their viewpoints to support a consensus on any reasonable, non-discriminatory standard for indigenous peoples now or at any time in the future.

VICTORIA TAULI-CORPUZ, of *Tebtebba Foundation*, said that the Foundation supported the Chair's text on a Declaration on the Rights of Indigenous Peoples for submission to the General Assembly for adoption at its next session. The Foundation thanked the delegation of Peru for tabling a resolution to that effect. The Tebtebba Foundation was against any amendments proposed to change the content of the resolution tabled by the Government of Peru. It was not a perfect text, but it did capture the basic aspirations and rights that indigenous peoples in Asia would like their Governments to promote and respect.

MIKHAIL TODYSHEV, of *Association of Indigenous Peoples of the North, Siberia, and Far East of the Russian Federation*, said the recommendation of the Permanent Forum for Indigenous Peoples for the adoption of the draft Declaration without any amendments was supported, and the Council should rapidly adopt this Declaration. It had not been possible to reach full consensus, due to blocking action by a small group of States. The Chair's text represented a good balance between a number of different views. The initiative of the large group of States who had prepared the draft resolution was applauded, and there was disappointment that Russia was not one of these countries. The text should be adopted as soon as possible.

WILLIE LITTECHILD, of *International Organization of Indigenous Resource Development*, speaking on behalf of the *North American Regional Caucus of Indigenous Peoples*, said that during the historic session of the Council, a Member State and an observer State from their region had failed to honour the calls with their positions on the UN draft Declaration on the Rights of Indigenous Peoples. They continued to promote a double standard when it came to the rights of indigenous peoples, based on their narrow domestic, political and economic interests rather than the universality of human rights and freedoms for all peoples. It was ironic and sad that, while pointing their fingers at other States with accusations of human rights violations, those States continued to violate, extinguish and deny the rights of indigenous peoples.

DALEE SAMBO DOROUGH, of *Inuit Circumpolar Conference*, said that their central message to all members of the Council was the urgent need to support the resolution of the Government of Peru calling for the adoption of the draft United Nations Declaration on the Rights of Indigenous Peoples. The Conference requested that States soundly reject any proposal by Canada containing vague objectives regarding reopening discussion on both process and substance. Despite proposals to accommodate State concerns, which were contained in the present declaration, the United States, Australia and New Zealand, remained entrenched in their extremism and absolutist interpretation of the text. It was widely recognized that human rights were relative and not absolute in nature. Yet the United States, Australia and New Zealand had opted to convey an alarmist perspective.

PETER SPLINTER, of Amnesty International, said in every region of the world, indigenous peoples were suffering gross violations of their fundamental human rights as the consequence of systematic discrimination, historic injustices and ongoing marginalisation. The Council was responsible for promoting universal respect for the protection of all human rights and fundamental freedoms for all, without distinction, and in a fair and equal manner; and it was therefore most fitting that the first session had the opportunity to propose for adoption to the General Assembly one of the most urgently needed and long overdue standards for the recognition and protection of human rights.

ROBERT COULTER, of Indian Law Resource Centre, said that when the indigenous peoples came to the Commission in 1977, it was to win the recognition in international law of their right to exist, the right to self-determination, right to lands and resources, and to their other human rights. Sadly, that goal had not yet been achieved, and it could not be achieved by adopting the Declaration by majority vote. States reaching consensus on a strong and principled Declaration could achieve it. A Declaration adopted by consensus, as human rights declarations were normally adopted in the UN, would have the legal and moral force needed to guide States and to create customary international law. He urged that some new mechanisms or process be created for continuing that work.

TOMAS ALARCON, of Comision juridica para el autodesarrollo de los pueblos originarios andinos, said that over the past two decades they had participated in the debate on a draft United Nations Declaration on the Rights of Indigenous Peoples. The text, which was not the subject of full consensus as they would have liked, was nevertheless the fruit of negotiation and it did serve to promote and protect indigenous rights. The Commission had asked for more standards to be included in the Declaration, but it was willing to make concessions.

LAZARO PARY, of Indian Movement Tupaj Amaru, said a stubborn fact should be recognised - no progress and move towards general consensus had been made, due to the lack of political will by States. Today, the dilemma was to adopt an obsolete or abstract Declaration, or a strong Declaration that would guarantee the survival of indigenous peoples. Western countries were directly responsible for this failure to have the Declaration adopted in the framework of the Decade, and these powers and Governments had been inspired by geopolitical interests, and had undermined and restricted the minimum standards contained in the text.

NOLASCO MAMANI, of Indian Council of South America, said that with the Council, the conditions of the indigenous people in the Americas and Australia would be improved. The original text of the Declaration recognized the right to identify oneself and eliminated the rights of States on individual persons. The text also eliminated the right to protection of indigenous peoples in the event of armed conflict. With the ongoing process of globalization, the text should be able to preserve and protect the rights of indigenous peoples.

RONALD BARNES, of International Human Rights Association of American Minorities, said that it had exited the deliberations of the draft Declaration on the Rights of Indigenous Peoples. It was fully reserving its status communicated to the Human Rights Committee and it would not stand in the way of promoting and moving the strongest possible attainment of the recognition and protection for the rights of indigenous peoples in the Declaration that many indigenous peoples were asserting today.

CHRIS SIDOTI, of International Service for Human Rights, said the choice before the Council this week was clear. Many States had suggested that further consultation on the draft decision was necessary and desirable, while saying they supported the Declaration. Canada had proposed an amendment, which required a process for a few more years. The choice of the Council was not a choice between the Declaration now or in a few short months: it was a choice between a declaration now or never. There was no doubt in the minds of indigenous peoples, NGOs and international public opinion that those States which voted for the Canadian amendment were voting against the Declaration itself.

JUAN PABLO VEGAS (Peru) said many States had taken the text as a constructive one. It was an unprecedented fact that the process of the drafting was the most democratic one in the history of the United Nations. It did not attack any one, and did not take any unfavourable position. Action should be taken on the draft Declaration without any prolongation of the debate.

XOCHITL GALVEZ (Mexico) said that Mexico just wanted to recall that the text had been discussed in the Working Group. There should be no surprises. There had been support from indigenous peoples and there were no violations of human rights in the document. It was a draft Declaration for indigenous peoples, not for States; States would have to make concessions. When asked whether indigenous peoples should have access to their natural resources, the answer was of course they would, and States had to make that possible.

LUIS-ENRIQUE CHAVEZ, Chairperson-Rapporteur of the Working Group, said that the debate had born out points that he had made earlier: it was clear that there was no consensus on the text, but it was also

clear how much support there was for his proposal. It seemed also clear that there was no consensus to continue discussing the subject. It was a question of those who had asked for more time, and questions were posed on what form the discussion should take. He wondered whether it made any sense to talk about an extension of the work on the subject.

The Working Group was a unique Working Group in the United Nations system, in which there was participation on an equal footing by States and indigenous peoples, and a sui generis mechanism had been established to cover the subject. The solutions that were appropriate for the Working Group were not to be used as a precedent for others which had a more traditional structure.

Even though there was no consensus on the articles, this was, he said, as far as could reasonably be gone. Nothing of what appeared in the Chairman's proposal was something that he had created alone: it had all been proposed during discussions; and these were simply decisions with regards to different options and alternatives that had been raised. This was the situation today, and it was difficult for the Council to reach an agreement on any possible continuation, extension or postponement of the issue. A decision needed to be taken in order to continue to build to create a new relationship between indigenous peoples and States.

Right of Reply

A Representative of the Philippines, in a right of reply to a statement made by a Representative of the Families of Victims of Involuntary Disappearances, said that the Government had addressed the alleged issue of disappearances through police investigations in order to bring the perpetrators to justice.

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