

HUMAN RIGHTS LAW

1. UNITED NATIONS DRAFT DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

In 1995, the United Nations Commission on Human Rights established a Working Group (WG) of states to elaborate a draft declaration, using as the basis for its work the "Draft United Nations Declaration on the Rights of Indigenous Peoples" prepared over a period of many years by the five UN experts of the UN Working Group on Indigenous Populations. The WG is open to all member states, NGOs with UN consultative status, and organizations representing indigenous peoples whose accreditation has been approved by the UN.

The WG has held four annual sessions, beginning in November 1995. During this period, deliberations at the WG have been protracted in view of its mandate to negotiate a strong and effective Draft Declaration with the full and effective involvement of groups representing indigenous peoples. The WG meetings have been marked by inconclusive discussions and debates, which generally have refrained from addressing the issue of the need for states to engage in and sustain multilateral negotiations. To date, two draft articles have been adopted at first reading, on gender equality and the right to nationality.

The *Draft Declaration on the Rights of Indigenous Peoples* is composed of a preambular introduction of nineteen paragraphs and an operational part of forty-five articles, an exceptional length for this type of instrument. The issues are complex and inter-related. Key issues that need to be addressed are the draft provisions concerning the right to self-determination, lands and resources, education, recognition of treaties as international instruments, and the framing of policy objectives as rights.

At the second session of the WG in 1996, Canada stated that it accepts a right of self-determination for indigenous peoples which respects the political, constitutional and territorial integrity of democratic states. At the Commission on Human Rights, Canada serves as lead delegation for the annual resolution on the Draft Declaration. Canada has stated at the UN and other multilateral fora that it is committed to adoption of a clear and strong Declaration before the end of the International Decade of the World's Indigenous People (i.e., 2004).

Canada has worked hard at the WG, and also inter-sessionally, to engage states in a discussion on how to achieve progress on the Draft Declaration. Canadian Aboriginal organizations have been consulted throughout the process, including through meetings with the Minister of Foreign Affairs in October 1996 and subsequent occasions, and have attended the WG sessions as members of the Canadian Delegation and in their own right.

The fifth session of the Working Group will take place on October 18 to 29, 1999 at Geneva.