

**DECLARATION
OF THE
COMMISSION DES DROITS DE LA PERSONNE
ET DES DROITS DE LA JEUNESSE
ON THE
*DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES***

**FOR FULL RECOGNITION OF THE RIGHTS
OF THE
ABORIGINAL PEOPLES IN CANADA**

May 2010

The recognition by the international community of the inherent rights of Aboriginal Peoples took concrete form with the adoption of the *Declaration on the Rights of Indigenous Peoples* at the plenary meeting of the United Nations General Assembly on September 13, 2007. This act of great importance to Aboriginal peoples has contributed to the advancement of human rights worldwide.

Surprisingly, Canada, despite having participated actively together with Aboriginal peoples in the work of more than 20 years to develop the Declaration, voted against its adoption in 2007. Since then, numerous actions have been undertaken across Canada to bring the Government of Canada to reconsider its position.

The Commission des droits de la personne et des droits de la jeunesse cannot remain silent as still today, Aboriginal peoples are victims of discrimination, prejudice and violations of human rights in Canada. This reality is reflected in the major disparities that set them apart from the rest of Canadians. Examples are their precarious socioeconomic situation, difficult living conditions, and high rates of suicide, infant mortality, unemployment, school dropout, imprisonment and the number of children taken into care by the State.

The disparities are even more significant among Aboriginal women, children and elders, who clearly need particular attention.

This sad situation makes it all the more important for Canada to adhere to the Declaration, which affirms the equality of Aboriginal peoples with other peoples and crystallizes their inherent individual and collective rights.

Thus, the Commission encourages the Government of Canada to adopt this international instrument in order to lay a new foundation for strengthening its relations of cooperation with Canada's Aboriginal peoples, in keeping with their fundamental rights, their right to equality and their economic, social and cultural rights, such as those recognized by the *Canadian Charter of Rights and Freedoms* and Québec's *Charter of Human Rights and Freedoms*.

In this regard, the recent commitment by the Government of Canada to take "steps to endorse this aspirational document [the Declaration] in a manner fully consistent with Canada's Constitution and laws", announced in the Speech from the Throne on March 3, 2010, is a noteworthy promise.

Last April 20th, at a meeting of the Permanent Forum on Indigenous Issues of the United Nations Economic and Social Council, the government specified that it would be adopting this "reference document" in the next few months.

The Commission considers that this commitment confirms Canada's will to acknowledge the important value and scope of this international instrument, but reminds that this pledge should not lead to a partial recognition of the rights enshrined in the Declaration.

It is important to emphasize the true significance of the Declaration, which, in the opinion of the Commission, is more than an aspirational and reference document. The measure of its significance is apparent in Article 43, in particular: "The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world." In addition, the Declaration encourages States to act, inviting them, in article 38, to take, "in consultation and cooperation with indigenous peoples... the appropriate measures, including legislative measures, to achieve the ends of this Declaration."

The Commission also considers that it is warranted to specify that any State adhering to an international instrument must take the appropriate measures to harmonize its laws with the standards in that instrument. In this instance, the Government of Canada must, where necessary, take the means to harmonize Canadian laws with the prescriptions of the Declaration. The application of the Declaration cannot be limited by the internal law of each State having adhered to it. Such an interpretation would run counter to the principle of universality. In this regard, paragraph 2 of Article 46 provides that "[t]he

exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law and in accordance with international human rights obligations.”

For these reasons, by virtue of Article 3 of the Paris Principles, the Commission urges the Government of Canada to act, without further delay, on its commitment to adhere to the *Declaration on the Rights of Indigenous Peoples*, without restriction as to the rights recognized therein.

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