



The Working Group on the Draft Declaration
Report of the 11th Session December 5 – 16, 2006

WHERE WE ARE	2
HOW WE GOT HERE.....	3
THE ISSUES.....	4
THE CAUCUS	5
THE HOPES AND EXPECTATIONS	5
THE MEETINGS TO COME	6
THE END OF THE DECEMBER 2005 SESSION	6
PROVISIONAL ADOPTION	6
REMAINING HURDLES.....	7
TREATY PROVISIONS	8
COMING IN JANUARY	8
ANNEX I	9
TIMELINE FOR 2005-2006	9
ANNEX II	10
INTERVENTION OF DEBRA WHITE PLUME ON DECEMBER 8, 2005 AT THE WORKING GROUP ON THE DECLARATION ON THE RIGHTS OF THE WORLD'S INDIGENOUS PEOPLES	10
DEBRA WHITE PLUME'S STATEMENT ON ARTICLE 30 ON DECEMBER 9, 2005.....	10
ANNEX III	12
UNITED NATIONS FLOW CHART	12
ANNEX IV	13
CHART OF THE STATUS OF PARAGRAPHS & LANGUAGE	13

Please note that the narrative part of this report is contained in the first 8 pages. The chart beginning on page 13 contains all of the paragraphs of the Declaration with the current provisionally adopted language, the original Subcommittee text and notes on the status of discussion.

Respectfully submitted by

Kent Lebsock
American Indian Law Alliance
611 Broadway, Suite 632
New York, NY 10012
212-477-9100
aila@ailanyc.org
www.ailanyc.org

Debra White Plume
Owe Aku, Oglala Lakota Nation
P.O. Box 325
Manderson, SD 57756
605-455-2155
lakota1@gwtc.net
www.bringbacktheway.com



Where We Are

Indigenous peoples and governments of nations met at the United Nations in Geneva from December 5th through 16th, 2005 to discuss the Declaration on the Rights of the World's Indigenous Peoples. The Declaration is a human rights instrument that will set the standard of the relationship that should exist between Indigenous nations and peoples with countries. Its 59 paragraphs address the historical injustice and continuing discrimination of Indigenous peoples rights to language, education, self-government, cultural expression, lands, resources and treaty rights. The Declaration was drafted over a period of 10 years (from 1984 through 1994) with the direct and active input of Indigenous peoples from around the world, including Lakota people. Many consider it the most critical declaration on Indigenous rights in history and can provide an opportunity for Native nations to begin to undue some of the destructive effects of genocide and colonization that have occurred over the past 500 years.

Although the Declaration has been approved at lower levels of the United Nations (the Working Group on Indigenous Populations and the Subcommission on Discrimination and Minorities¹), it is now being debated by the Commission on Human Rights. This approval process is comparable to any type of legislation or international treaty which must be accepted by several levels of governance before it becomes a legal instrument. Eventually, if successful, it will be passed by the United Nations General Assembly as a standard to be followed by all countries in the United Nations when dealing with Indigenous nations and communities. In this way, it has the potential of holding countries² accountable for numerous historical and ongoing violations of Indigenous peoples' human rights. For example, the violation of treaties, the abuse of sacred sites, and the unjust disposal of hazardous materials on Indian Territory are all addressed by the Declaration. When passed, it provides Indigenous peoples with a new and powerful weapon in combating oppression and colonization, namely redress through the United Nations.

We are now, as they say, down to the wire on the negotiations on the exact text of the Declaration for approval. Because it is such a wide ranging document, covering all kinds of human rights of Indigenous peoples, these negotiations with governments are slow and hard. Many governments (especially the United States, Australia and New Zealand) want to dramatically limit Indigenous peoples' rights so that the Declaration will help give the countries control over Indigenous peoples. They seek international support of colonial policies like plenary power and dependent domestic nations. However, many others (including Norway, Sweden, Denmark, South Africa, Mexico, Guatemala, Venezuela, Cuba, Switzerland and even Canada) are siding with Indigenous peoples and acknowledging our rights to self-determination, the international status of treaties, and the critical right to Indigenous control over our own lands and territories.

¹ Indigenous peoples do not of course consider themselves minorities and many United Nations studies have supported this opinion. However the original **Working Group on Indigenous Populations** was responsible to the **Subcommission on Prevention of Discrimination and Protection of Minorities** and it was therefore required to approve the Declaration. This occurred in 1994.

² In the international context the terms "countries" and "states" are interchangeable. It does not mean "states" like California or South Dakota. The term refers to "states" in the sense of nations like France, China, and the United States.



Support from these countries was demonstrated during two week 11th Session held in Geneva in December 2005. Although the United States, along with New Zealand and Australia, introduced language that basically maintains Indigenous peoples as wards of the government or dependent domestic nations, the more enlightened countries have supported Indigenous peoples unwavering position on the right to self-determination, the international status of treaties, and the right to collective protection of lands and territories.

The Chairman of this meeting, Senor Luis Chavez from Peru, has often sided with countries like the United States making the process more difficult for Indigenous peoples. However, years of education on the issues by the Indigenous peoples at the United Nations seems to be having its effect even on him. When the United States, Australia and New Zealand introduced their very discriminatory language on self-determination earlier this week, even he questioned their motives. Many other countries (especially Guatemala and Mexico) went so far as to challenge the American/New Zealand/Australian position on the floor of the United Nations, calling it “inappropriate” and damaging to the efforts to build consensus³ on Indigenous peoples rights. Even more encouraging, of the dozen or so countries who took the floor on this issue, not one of them supported the American changes in the Declaration’s text. In the discussions that followed, Debra White Plume of the Owe Aku and Kent Lebsack of the American Indian Law Alliance⁴ made it clear how the US, New Zealand and Australian position would have a devastating effect on the international human rights of Indigenous peoples. Debra White Plume specifically related the Declaration’s application to the Owe Aku’s efforts to be self-sustaining, protect the sacred Bear Butte mountain, and the active support of treaty rights.

The struggle for the international human rights of Indigenous peoples is nothing more than organizing for social, political and environmental change on a global level. The result of this organizing work, the Declaration itself, has high potential to positively impact the daily lives of Indians and Indigenous peoples worldwide. Organizing on a global level is not an easy fight, but the lasting impact of the Declaration is something we can leave as a legacy for our children and grandchildren to continue the fight against oppression, environmental abuse and treaty right violations.

How We Got Here

Like any struggle by Indigenous peoples and Native Americans, this one has moved forward slowly but surely over the years. In 1977, Lakota people, along with Haudenosauanee (Iroquois), Hopi and several delegations of Indians from South America, came to the United Nations in Geneva

³ Within the context of passage of the Declaration, the term consensus has been explained by the Chairman, Senor Chavez, as meaning that none of the parties to the discussion openly oppose the text. They do not have to necessarily support it; they just have to be willing to accept it. This apparently applies to both Indigenous and state delegations.

⁴ See the attached texts of the interventions.



demanding a seat at the table.⁵ As a result the United Nations established the Working Group on Indigenous Populations, which prepared the original text of the Declaration. This was done with the direct input of literally thousands of Indigenous peoples from around the world.⁶

Since the first day, Lakota people have assumed a position of leadership and guidance in this work, always emphasizing the spiritual responsibility of Indigenous peoples to the lands and territories from which we come and demanding that our treaties be respected. As a result of this leadership and pressure, a special study on treaties was undertaken by the United Nations. It supported the international character of our treaties and states that a means for redress must be established for Indigenous treaty nations.⁷ The United Nations expert who wrote the Treaty Study stated that the Lakota treaties not only demonstrate the most obvious abuses of international treaty making by governments but their clear international character and the 1980 US Supreme Court decision (see U.S. Supreme Court, *UNITED STATES v. SIOUX NATION OF INDIANS*, 448 U.S. 371 1980) make an excellent test case for an international resolution of treaty violations when domestic redress is inadequate. The Declaration addresses these issues on treaties and would provide for an international mechanism to introduce treaty resolution outside the domestic control of the United States (and other countries violating Indigenous treaties). The eventual passage of the Declaration would obviously be another tool in the treaty rights struggle.

The Issues

The paragraphs of the Declaration conform with many ideas expressed by Indigenous peoples with respect to the principles of the Natural Law. These include the right to traditional expressions of self-government, the collective right to use of lands, territories and resources in a way that is consistent with interdependence and responsibility, restitution of lands and territories taken in violation of treaties or traditional use, and the right to all forms of cultural expression without outside interference including protection of and access to sacred sites.

⁵ In September of 1977, the **Conference on Discrimination against Indigenous Peoples of the Americas** took place in Geneva, Switzerland. 165 Indigenous Peoples participated. It was the first international gathering of Indigenous Peoples before the United Nations, an activity of the Special Committee on Non Governmental Organizations' Sub-Committee on Racism, Racial Discrimination and Apartheid. There, Indigenous Peoples from the Western Hemisphere gave testimony on the situation of Human Rights of our Peoples and the continuation of colonialism and genocide against us.

⁶ The Working Group on Indigenous Populations was established in 1982 under the Commission of Human Rights' Sub Commission on Prevention of Discrimination and Protection of Minorities. Authorized by ECOSOC resolution 1982/34, its terms of reference are contained in Subcommission resolution 2 (XXIV) of September 8, 1981. The Working Group meets for one week and has met every year since 1982, except in 1986. The Working Group has been open to all Indigenous peoples including grass-roots communities and organizations, treaty councils, traditional leadership, Indigenous human rights organizations and Indigenous peoples with special interests in environment, culture, government or language. The Working Group's mandate includes two things: 1) drafting the Declaration on the Rights of Indigenous Peoples and 2) hearing about developments and issues relative to Indigenous peoples. It continues to meet every year. For the most recent report on this Working Group, please refer to www.ohchr.org/english/issues/indigenous/groups/groups-01.htm. Additional information is also available on the American Indian Law Alliance website at www.ailanyc.org.

⁷ For more information on the Treaty Study, its full text and a report on an expert seminar at the United Nations on Indigenous Peoples treaties, please visit the American Indian Law Alliance website at www.ailany.org and click on the link to "documents."



As stated, the language of the Declaration was drafted by the Working Group on Indigenous Populations with input of Indigenous peoples. This is the text that is now being discussed at the level of the Commission on Human Rights for, hopefully, eventual passage. In the early days of these discussions, most Indigenous peoples took the position that we should not change the original text. However, as with any organizing strategy, the need for flexibility and conciliation has evolved with the process. It is this flexibility which has resulted in so many governments taking the side of Indigenous peoples over the past few years of the process. However, it must be emphasized, that while most Indigenous peoples are ready to discuss some of the precise text, **we are not willing to sacrifice the overriding principles of the Declaration** that our leaders, elders and international experts fought so hard to establish. In fact, *the goal in participating in this process is to develop the best possible language that protects the human rights of Indigenous peoples while allowing for the thousands of different Indigenous circumstances and situations around the world.*

The Caucus

To more effectively present the Indigenous world view, Indigenous peoples always gather in caucus meetings at the United Nations. Although we cannot expect diverse Indigenous nations to always have the same perspective (no more than we would expect South Africa and France to have the same perspective), it is our goal to build consensus whenever possible. Although members of the Indigenous caucus have differing positions on specific language, we have been successful in generally agreeing to the principles. When some Indigenous groups are unable to consent to specific language, they have, by-in-large, not been willing to block consensus. Again, this is organizing on an international level and 100% agreement cannot be expected. However, the united front of Indigenous peoples is a powerful weapon against the countries most anxious to limit our human rights and we are committed to continuing the work to build agreement amongst ourselves.

The Hopes and Expectations

The immediate goal is to have the Declaration passed by the Commission on Human Rights. The next step will then be its passage by the General Assembly of the United Nations. When this occurs, the Declaration will become a part of the body of international law known as “standards” to which the governments can be held accountable.

It will then be up to our local communities, tribal governments, traditional leadership and international coalitions of Indigenous communities to breathe life into the Declaration and use it in our daily struggles for everything from adequate shelter to the adherence to treaty rights. With passage of the Declaration, the United Nations becomes a more powerful partner in this process.

The establishment of the Permanent Forum on Indigenous Issues at a high level of the United Nations in New York is one development that already establishes the UN as a partner in this process. The Permanent Forum is charged with ensuring that every UN agency and body responds to the needs and issues of Indigenous peoples. Passage of the Declaration will provide yet another weapon in our arsenal in bringing our issues to the doorstep of countries through the United Nations. Already, even though it has not been officially passed, the Declaration has been used around the



world to enhance the rights of Indigenous peoples. The Supreme Court of Canada has cited it in decisions favorable to Indians up north. New Zealand has felt the pressure in a recent critical study by the United Nations of the Maori people. They have been forced to defend their treatment of Maoris in an international setting.

Passage of the Declaration will not be the end of the struggle, but rather a significant step in our international organizing efforts. A piece of paper is nothing more than words, but when it is used by our communities and nations it will be given the living spirit it needs to protect our future generations and our lands, territories and resources.

The Meetings to Come

It is important to again acknowledge that this is not an easy fight or one that will be over soon. But we believe it is an important one and we are committed to continuing the struggle and especially continuing to support the participation of traditional leaders and young people enthusiastic about protecting the Lakota Nation.

The December 2005 meeting will be followed by a second meeting from January 30 through February 3, 2006. The goal of this two-part meeting is to have adopted the language for a substantial portion of the Declaration, including the critical language in the paragraphs on self-determination.

The End of the December 2005 Session

By the end of the two week December 2005 session, signs could be found of some forward movement in the process at the United Nations to find consensus on a useful and meaningful Declaration for Indigenous peoples rights. In spite of efforts by some states to hinder the effective content of the document as already reported, the last day of the session saw increased understanding between the Indigenous caucus and a number of states including Mexico, Norway, Canada, and Denmark, among others.

Provisional Adoption

In addressing the Indigenous caucus close to the end of the session, Canadian and Danish representatives went so far as to say that they look forward to passage of a strong and effective Declaration by the General Assembly in 2006⁸. This, they noted, is consistent with the 2nd Decade of the World's Indigenous Peoples and with the General Assembly affirmation earlier this year in which it committed "*to continue making progress in the advancement of the human rights of the world's indigenous peoples at the local, national, regional and international levels*" including adoption

⁸ This would mean that the January-February 2006 session would see provisional adoption of the entire text, with submittal of the Declaration to the Commission in the Spring and on to the General Assembly in its 2006 session. A rumor is circulating that because provisional adoption is so close, several days or a second week may be added to the January-February 2006 session to ensure adequate time to reach consensus.



of a final draft United Nations declaration on the rights of indigenous peoples..." (General Assembly Resolution A/RES/60/1 24 October 2005, p. 127).

During the Working Group, Norway chaired numerous meetings with Indigenous peoples' representatives and states in order to find common ground and effective final language for the text of the Declaration. These meetings occurred both in and out of the formal plenary sessions with all delegations present. June Lorenzo of the American Indian Law Alliance and Devashish Roy, Chakma people, are to be particularly commended for much of the leg work involved in bringing these discussions to fruition.

On the final morning of the Working Group in December, Ms. Guri Hestflatt of the Norwegian delegation presented the outcomes to the chairperson of the Working Group. In her statement she said that progress was *"encouraging in both form and substance"* and that all delegations *"demonstrated considerable effort to reach consensus."* As a result, ten preambular and ten operative paragraphs were presented as ready for provisional adoption. (Provisional adoption simply refers to agreement on the text while noting that none of the articles of the Declaration are considered adopted until the entire Declaration is accepted.) In addition to the 20 paragraphs now considered ready for provisional adoption, an additional 15 are "very close.". This would represent acceptance of more than half of the total 64 paragraphs that constitute the text of the Declaration.

Remaining Hurdles

However, major obstacles still remain. The difficult issue of the total package of paragraphs on self-determination have not been resolved. The United States, New Zealand and Australia continue to put forth substantial objections. In a complicated twist of legalese the United States has actually used circumstances surrounding national disasters as a reason to limit this critical right of Indigenous peoples. (One might ask if the Declaration's passage would have further reduced the inadequate response to Katrina – it seems like a hallow argument at best.) These states (US, NZ and Australia) are still insisting on language that would protect their "territorial integrity" and plenary power over Indigenous peoples⁹.

Compelling arguments against the position of these few states have been presented and supported by Indigenous peoples and other states. A group of non-Indigenous human rights organizations made an excellent intervention yesterday in an attempt to hold states accountable for their positions:

"With the obvious imbalance of power between states and Indigenous peoples, it is not clear to us why this discussion is preoccupied with perceived threats to states, rather than the very grave and pervasive threats to Indigenous peoples.

⁹ As a result of several press releases sent out by Indigenous peoples from the floor of the United Nations relating to the position of Australia, the United States and New Zealand, many Maori people reacted and several articles appeared in New Zealand on the government's position. A petition was also started to urge the New Zealand government to review their position. This can be accessed at: <http://www.thepetitionsite.com/takeaction/489895927>



“Indigenous representatives have expressed concern that the concepts of political unity and territorial integrity are already being used by some states to justify denial of Indigenous peoples’ rights and repression of the defenders of those rights.

“As human rights organizations, we are concerned that the inclusion of a specific reference to the principles of political unity and territorial integrity in a Declaration on the Rights of Indigenous Peoples would at best, reinforce an unacceptable status quo and at worst may encourage even greater human rights violations against Indigenous peoples.

“Furthermore, the proposal of New Zealand, Australia and the United States for article 45bis is particularly concerning as it would allow states to invoke the concepts of political unity and territorial integrity to justify the denial of any and all rights in the Declaration, no matter how fundamental to the welfare and survival of Indigenous peoples.” [Intervention of Amnesty International, International Federation of Human Rights Leagues, IWGIA, KAIROS: Canadian Ecumenical Justice Initiatives, Rights and Democracy, NCIV, Friends World Committee for Consultation (Quakers)]

The text of this intervention accurately reflects the principles supported by a majority of states and Indigenous representatives. Together we are working to agree on language that would preserve the original text on the right of self-determination. States that cannot support the total expression of human rights will hopefully find themselves increasingly isolated.

Treaty Provisions

Additionally, Willie Little Child presented revised articles on treaties (preambular paragraphs 6, 13, and Article 36) that had also been the subject of intensive negotiations. However, when presented to the Working Group, the United States again took the floor to state that they did not concur and would be introducing their own language on these paragraphs. Unfortunately, representatives of many North American Indigenous nations whose territories lie within the borders of the United States (especially large treaty nations like the Lakota and Haudenosaunee) did not participate in this aspect of the work.

Coming in January

Although these essential elements remain to be tackled in the next session of the Working Group (January 30 – February 3, 2006), there are clear indications that progress is being made. The more text that is agreed to between states and Indigenous peoples’ representatives, the less room there is for the Chairperson to introduce his own interpretation of a compromise. Returning to the February session with 20 paragraphs provisionally adopted and a positive starting point for the discussion on self-determination, we believe that we will be in an excellent position to begin fine tuning the actual language. In this way, the strongest possible Declaration will be presented to the Commission on Human Rights, which represents the minimum standard for Indigenous peoples.



Annex I
Timeline for 2005-2006

Dates	Meeting	Purpose and Goals
December 5-16, 2005	Working Group on the Draft Declaration, Geneva	Finalize the language of half the Declaration and define a strong position on self-determination
January 30 – February 3, 2006	Working Group on the Draft Declaration, Geneva	Fine tune the language on the right to self-determination, lands territories and resources and treaties.
April 2006	Commission on Human Rights, Geneva	Lobby the Commission for the 2006 session of the Working Group on the Declaration. The Commission on Human Rights must request that the UN hold a subsequent session for it to occur in the winter of 2006.
May 2006	Permanent Forum on Indigenous Issues	Participate in enhancing the United Nation's ability to develop programs supporting the community efforts of Indigenous peoples
July 2006	Bear Butte Camp	Participate in community outreach and education efforts of Unite to Fight on utilizing the Declaration in local organizing efforts
Winter 2006	Working Group on the Draft Declaration, Geneva	Finalize and pass the Declaration on the Rights of Indigenous Peoples



Annex II

Intervention of Debra White Plume on December 8, 2005 at the Working Group on the Declaration on the Rights of the World's Indigenous Peoples

“President Chavez, thank you for acknowledging me to speak here at the United Nations where I come to work for a good way for our people. Congratulations on becoming Chairman again for this process. I am Debra White Plume and this is my first time speaking here.

“I come from the Owe Aku Tiospaye along the banks of Wounded Knee Creek in 1868 Fort Laramie Treaty Territory, what is now treaty lands occupied by the United States of America. I come with the blessing of Chief Oliver Red Cloud of the Oglala Lakota Council Fire known historically as the Great Sioux Nation.

“I support the original text of Article 26 because it has been said these are our traditional lands and it has been said it is our duty to protect it for our future generations.

“The wording of the original text of Article 26 as well as 25 is more appropriate because we Lakota People of the Great Sioux Nation, an ancient people with an ancient way of life, fought for and retained a land base through the 1868 and 1851 Fort Laramie treaties with America. Our treaties include sacred places but because of treaty violations our Lakota people have to struggle daily for the treaty right and the human right to have access to our place of prayer, namely Bear Butte in our sacred Black Hills. Bear Butte is being desecrated and encroached upon daily.

“The original text is good text. The Declaration on the Rights of Indigenous Peoples needs to be for our rights, all our rights, to our sacred way of life, our lands and our water. Our grass roots people have to fight for our human right to clean water, a resource, at home our drinking water is full of arsenic and alpha emitters. We need our traditional rights as recognized in the original text of Article 25 and 26. Otherwise tourism and recreation is more profitable and corporate access to our water is more important than our spiritual and traditional rights and our access to our sacred sites – to our identity as Lakota people of the Great Sioux Nation.

Lila wopila iciciyapi. Hecetuye.”

Debra White Plume's Statement on Article 30 on December 9, 2005

“Mitakuyepi na Oyate kin (My relatives, and the people)

“As Lakota Oyate of the Great Sioux Nation we are a people of the Earth. As I said yesterday there are sacred places on Earth that we need to live a spiritual lifeway. With this realization, I want everyone in this room to understand this document, the Declaration of the Rights of Indigenous Peoples, in such a way so that it is seen that our sacred places and thus our Human Rights to practice our spiritual way are definitely connected and must be protected.

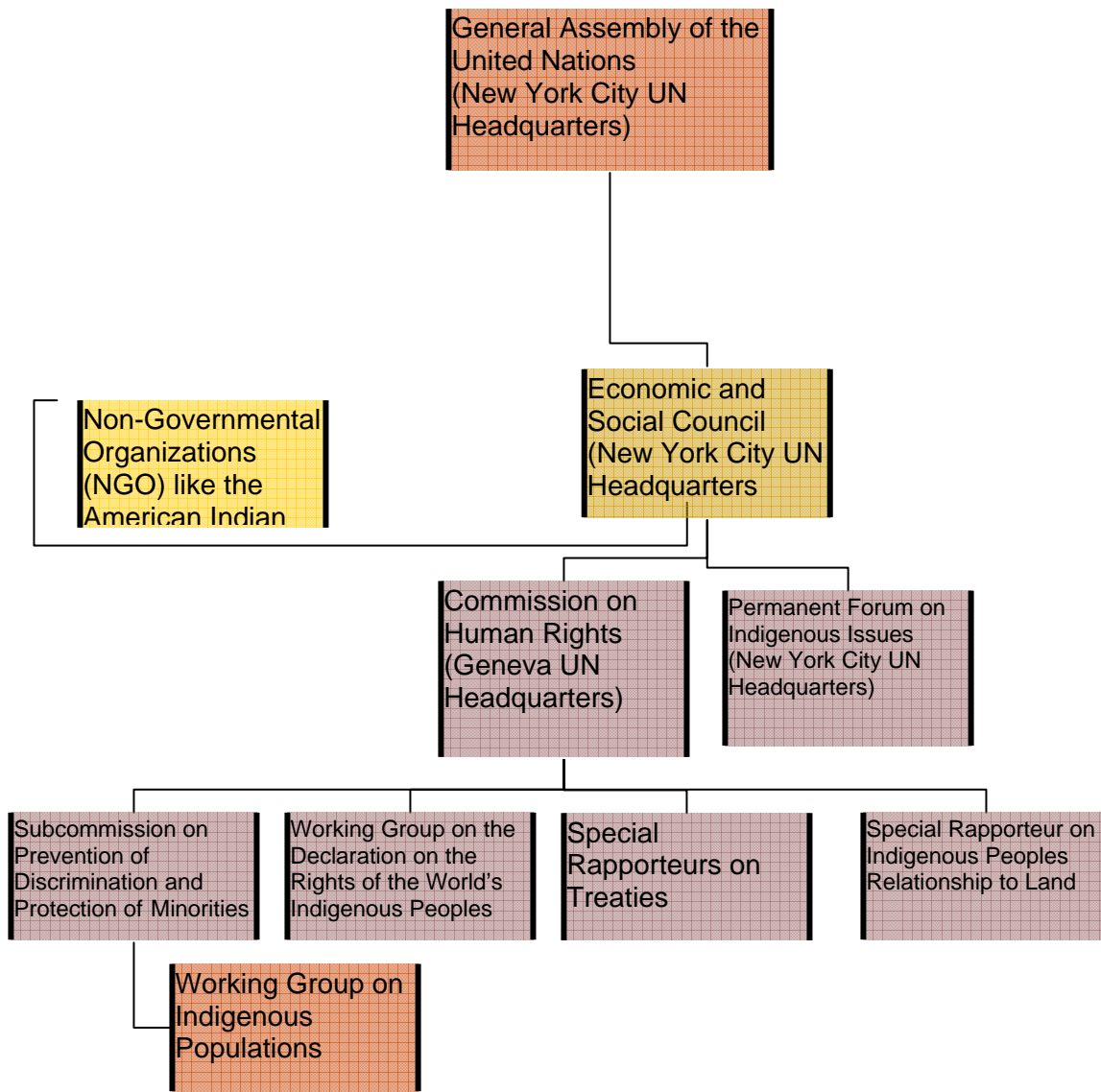
Our sacred places cannot be part way, or half way, protected or exploited or desecrated, and then reclaimed. When a sacred place is destroyed it is gone forever, and this means the end of the Lakota Oyate, and the Great Sioux Nation.



“Among our people, we believe a good leader stands in the way of something bad coming toward the people. In this way, both text suggestions of the United States to paragraph two of Article 30 weakens the rights of Indigenous Peoples and are inappropriate to a document that is about the rights of Indigenous Peoples. The third paragraph of Article 30 is unacceptable. The text puts a price a sacred places. It has no place in this document. This text cannot be placed on any list of “provisionally approved” or any list of those Articles that are “close to consensus”. We must do more work on Article 30. Lila wopila iciciyapi. Hecetuye. (I give a big thank you to you. It is so.)”



Annex III United Nations Flow Chart Indigenous Peoples Levels of Influence





Annex IV Chart of the Status of Paragraphs & Language

Paragraph ¹⁰	Paragraph Group ¹¹	Provisional Adoption Language (in bold) or Revisions as of the December 2005 Session to Chairman's Text (not in bold)	Notes and comments
PP1 IP ¹² Caucus Prov. Adoption List			Original Subcommittee Text and the Chairman's text ¹³ are identical: "Affirming that indigenous peoples are equal in dignity and rights to all other people, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such," There has been no discussion on this one yet.
PP2 Norway Prov. <u>Adoption</u> List IP Caucus Prov. Adoption List		<i>Affirming</i> also that all peoples contribute to the diversity and richness of civilizations and cultures, which constitute the common heritage of humankind,	Subcommittee Language is Identical to Provisional Adoption Language
PP3 Norway Prov. <u>Adoption</u> List IP Caucus Prov.		<i>Affirming</i> further that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin, racial, religious, ethnic or cultural differences are racist, scientifically false, legally	Subcommittee Language is Identical to Provisional Adoption Language

¹⁰ Reference to Norway's Prov. Adoption List means States and IPs have agreed to the language presented.

IPs Prov. Adoption List refers to the paragraphs in the Chair's Text that IPs feel are ready for provisional adoption.

¹¹ The three groups referred to in this chart are "SD" for self-determination, "LTR" for Lands, Territories and Resources, and "Treaties" for treaties.

¹² "IP" refers to Indigenous Peoples.

¹³ The "Chairman's Text" is authored by the Working Group's Chairman after listening to the discussion on a particular paragraph of the Declaration. It is his own personal interpretation of potential language for provisional adoption.



Paragraph ¹⁰	Paragraph Group ¹¹	Provisional Adoption Language (in bold) or Revisions as of the December 2005 Session to Chairman's Text (not in bold)	Notes and comments
Adoption List		invalid, morally condemnable and socially unjust,	
PP4 Norway Prov. Adoption List IP Caucus Prov. Adoption List		Reaffirming also that indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind,	Subcommission Language is Identical to Provisional Adoption Language
PP5 IP Caucus Prov Adoption List		<i>Concerned</i> that indigenous peoples have been deprived of their human rights and fundamental freedoms, resulting, inter alia, in their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising in particular, their right to development in accordance with their own needs and interests	Chair's Text and Original are identical; some states object and want to say something like "Concerned that Indigenous peoples have suffered as a result of..." – they don't want to say we have been deprived of our human rights and fundamental freedoms is, I think, the issue
PP6	LTR Treaties	<i>Recognizing</i> the urgent need to respect and promote the inherent rights of indigenous peoples, especially their rights to their lands, territories and resources, which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources <i>Further recognizing</i> the urgent need to respect and promote the rights of indigenous peoples affirmed in treaties, and other agreements and other constructive arrangements with States	States are having trouble with "inherent" which the IP Caucus is insisting on. The second paragraph was an addition to the Subcommission Text and actually improves it, recognizing treaties. However some states (Aust, NZ, US) did not know what "constructive arrangements" meant even though it is a subject of an entire Special Rapporteur Study. Indigenous peoples distributed the definition pursuant to Professor Miguel's report. The only other change presented by the Chairman was to move the phrase "especially their rights to their lands, territories and resources" to the end of the first paragraph.
PP7 Norway Prov.		Welcoming the fact that indigenous peoples are organizing themselves for political, economic, social and	Subcommission Language is Identical to Provisional Adoption Language



Paragraph ¹⁰	Paragraph Group ¹¹	Provisional Adoption Language (in bold) or Revisions as of the December 2005 Session to Chairman's Text (not in bold)	Notes and comments
Adoption List IP Caucus Prov. Adoption List		cultural enhancement and in order to bring an end to all forms of discrimination and oppression wherever they occur,	
PP8 Norway Prov. Adoption List	LTR	<p>Agreed with the following amendment to Chairman's proposal</p> <p><i>Convinced</i> that control by indigenous peoples over developments affecting them and their lands, territories and other resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs,</p>	<p>"other" was added by the Chairman to precede "resources" – therefore there is a slight difference between the Norway provisional adoption language and the Chair's report language but it shouldn't be a problem - Indigenous peoples were able to successfully advocate for "lands, territories and resources" or "other resources"</p>
PP9 Norway Prov. Adoption List IP Caucus Prov. Adoption List		<i>Recognizing</i> also that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment,	Subcommission Language is Identical to Provisional Adoption Language
PP10	LTR	<i>Emphasizing that</i> the contribution of the demilitarization of the lands and territories of indigenous peoples, can contribute to peace, economic and social progress and development, understanding and friendly relations among nations and peoples of the world,	<p>Subcommission language: Emphasizing the need for demilitarization of the lands and territories of indigenous peoples, which will contribute to peace, economic and social progress and development, understanding and friendly relations among nations and peoples of the world,</p> <p>The issue here is, believe it or not, whether demilitarization "will" contribute to peace (as in the Subcommission language) or "can"</p>



Paragraph ¹⁰	Paragraph Group ¹¹	Provisional Adoption Language (in bold) or Revisions as of the December 2005 Session to Chairman's Text (not in bold)	Notes and comments
			contribute to peace as in the current text. Some states (guess which ones) argued that demilitarization doesn't always lead to peace because sometimes bringing the military onto our territories adds to the peace, for example when we are invaded by a foreign force or there is a natural disaster. I'm not kidding, this is their argument.
PP11 Norway Prov. Adoption List		Recognizing in particular the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child,	The phrase "consistent with the rights of the child", which is an international convention (law), was added.
PP12	SD	<i>Recognizing also</i> that indigenous peoples have the right freely to determine their relationships with States in a spirit of coexistence, mutual benefit and full respect,	Subcommission Text and the Chairman's Proposal are the same. However, PP12 is a part of the self-determination package and therefore subject to acceptance of the overall package. Nonetheless, there seems to be no divergence on this particular paragraph's language.
PP13	Treaties	<p>Considering that [the rights affirmed in] treaties, agreements and other constructive arrangements between States and Indigenous Peoples are matters of international concern, interest, [responsibility] and character,</p> <p>Also considering that treaties, agreements and other constructive arrangements, and the relationship they represent, are the basis for a strengthened partnership between Indigenous peoples and states;</p>	<p>This is a part of the Willie Little Child/Treaty Working Group package.</p> <p>The Subcommission text simply says: "Considering that treaties, agreements and other arrangements between States and indigenous peoples are properly matters of international concern and responsibility,"</p> <p>Willie's text improves the original by making treaties not simply matters of international interest, but also "character."</p> <p>The second new paragraph just strengthens the idea that treaties should be used as the basis for</p>



Paragraph ¹⁰	Paragraph Group ¹¹	Provisional Adoption Language (in bold) or Revisions as of the December 2005 Session to Chairman's Text (not in bold)	Notes and comments
			international cooperation between states and Indigenous peoples.
PP14	SD	<i>Acknowledging</i> that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights affirm the fundamental importance of the right of self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development,	The language of this paragraph does not seem to be at issue. The Chair's Text, the Subcommission Text and even the Aust, NZ, US proposal all agree to this language. However, since it is part of the overall SD package, it is not to be adopted without approval of whichever package on SD.
PP15	SD	<i>Bearing in mind</i> that nothing in this Declaration may be used to deny any peoples their right of self-determination, exercised in conformity with principles of/applicable international law and the principles contained in this Declaration , {the bold text is from some states and the Aust/NZ/US proposal on SD}	<p>This paragraph is also a part of the SD package and the text changes constantly.</p> <p>The Subcommission text merely states (and is the best text because of its simplicity): Bearing in mind that nothing in this Declaration may be used to deny any peoples their right of self-determination,</p> <p>The objection to the simplicity of the original text from some states goes back to the constant discussion on the Declaration conforming to other existing international law, territorial integrity, etc.</p> <p>We constantly argue, on this and other paragraphs, that this is a Declaration on the Rights of Indigenous Peoples, not states.</p>
PP15bis	SD	<i>Convinced</i> that the recognition of the rights of indigenous peoples in this declaration will enhance harmonious and cooperative relations between the State and indigenous peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good	This paragraph, also known as part of the AILA/Guatemala proposal, was added as a stop-gap for some states' insistence on the inclusion of language relative to territorial integrity. This language has been accepted by IPs and most states. The NZ/Aust/US proposal on SD



Paragraph ¹⁰	Paragraph Group ¹¹	Provisional Adoption Language (in bold) or Revisions as of the December 2005 Session to Chairman's Text (not in bold)	Notes and comments
		faith,	even accepts it. However, since it is a part of the SD package, it cannot be approved until the others are also accepted.
PP16 Norway Prov. <u>Adoption List</u> IP Caucus Prov. <u>Adoption List</u> Ron Barnes only dissent		<i>Encouraging</i> States to comply with and effectively implement all their obligations as they apply to indigenous peoples under international instrument, in particular those related to human rights, in consultation and cooperation with the peoples concerned,	<p>Oh this is a good one! The original Subcommittee text is the same except the placement of "as they apply to indigenous peoples" was moved in an AILA/France compromise. The phrase "All their obligations under" was also added. The Subcommittee text states:</p> <p><i>Encouraging</i> States to comply with and effectively implement all international instrument, in particular those related to human rights, as they apply to indigenous peoples, in consultation and cooperation with the peoples concerned,</p> <p>Now try to stay with us on this one: "all their obligations under" international instruments was added to clarify what they had to "effectively implement."</p> <p>Some states were also concerned that leaving the original order of the text would obligate them to implement things that had nothing to do with Indigenous peoples. So our suggestion was to simply move the phrase so that the sentence read, "comply with and effectively implement all their obligations as they apply to indigenous peoples under international law." I know, you're saying, what's the difference? It's very subtle but in the AILA/France change it obligates the states to implement and comply with their obligations related to indigenous peoples. Everyone agreed. We had consensus in the caucus and with all the states.</p>



Paragraph ¹⁰	Paragraph Group ¹¹	Provisional Adoption Language (in bold) or Revisions as of the December 2005 Session to Chairman's Text (not in bold)	Notes and comments
			However, Rob Barnes objected. Therefore, since there was one dissenting voice, this paragraph was not added to the provisional adoption list.
PP17 Norway Prov. <u>Adoption List</u> IP Caucus Prov. <u>Adoption List</u>		<i>Emphasizing</i> that the United Nations has an important and continuing role to play in promoting and protecting the rights of indigenous peoples,	Subcommission Language is Identical to Provisional Adoption Language
PP18 Norway Prov. <u>Adoption List</u> IP Caucus Prov. <u>Adoption List</u>		<i>Believing</i> that this Declaration is a further important step forward for the recognition, promotion and protection of the rights and freedoms of indigenous peoples and in the development of relevant activities of the United Nations system in this field,	Subcommission Language is Identical to Provisional Adoption Language
PP18bis	SD	<i>Recognizing</i> and reaffirming that indigenous individuals are entitled without discrimination to all human rights recognized in international law, and that indigenous peoples possess collective rights which are indispensable for their existence, well being and integral development as peoples,	This is highly controversial. It was proposed by Guatemala and England as a compromise deal in order to stem the objections of some European powers like France and Great Britain to all language stating, "indigenous peoples have the right to" (yes, they were objecting to this). They said with the addition of this paragraph there were literally dozens of other paragraphs they would accept without contest. However, many IPs including the Inuit Circumpolar Conference and the Grand Council of the Cree, had serious problems with it, basically stating that it creates a hierarchy of rights between individual and



Paragraph ¹⁰	Paragraph Group ¹¹	Provisional Adoption Language (in bold) or Revisions as of the December 2005 Session to Chairman's Text (not in bold)	Notes and comments
			collective, putting individual ahead of collective.
PP19		Solemnly proclaims the following United Nations Declaration on the Rights of Indigenous Peoples as a standard of achievement to be pursued in a spirit of partnership and mutual respect.	<p>The provisionally adopted text is different than the original Subcommission text which stated:</p> <p>Solemnly proclaims the following Untied Nations Declaration on the Rights of Indigenous Peoples.</p> <p>The added language is repetitious. A “declaration” is, by nature in international law, “a standard of achievement to be pursued” and its pretty unlikely that it could be done without a “spirit of partnership and mutual respect.”</p>
Art 1			<p>This is a biggie and there are several divergent versions floating about. The original Subcommission text is:</p> <p>“Indigenous peoples have the right to full and effective enjoyment of all human rights and fundamental freedoms recognized in the Charter of the Untied Nations, the Universal Declaration of Human Rights and international human rights.”</p> <p>Seems logical and obvious right? Well, again, some IPs are concerned that states' efforts to change the language will again create a hierarchy of rights between individual and collective. The current language on the table by the Chair is:</p> <p>“Indigenous peoples have the right, collectively and individually, to the full and effective enjoyment of all human rights and fundamental freedoms recognized in the Charter of the United Nations, the Universal</p>



Paragraph ¹⁰	Paragraph Group ¹¹	Provisional Adoption Language (in bold) or Revisions as of the December 2005 Session to Chairman's Text (not in bold)	Notes and comments
			<p>Declaration of Human Rights and international human rights law.”</p> <p>The problem is the addition of that one little phrase, “collectively and individually.”</p>
Art 2 IP Prov. Adoption List			<p>The Subcommittee Text and the Chairman's text are identical:</p> <p>“Indigenous individuals and peoples are free and equal to all other individuals and peoples in dignity and rights, and have the right to be free from any kind of adverse discrimination, in particular that based on their indigenous origin or identity.”</p>
Art 3	SD	<p>Indigenous peoples have the right of self-determination. By virtue of that right they freely determine, their political status and freely pursue their economic, social and cultural development.</p>	<p>The Subcommittee Text, the Chairman's Text, the IP Caucus Provisional Adoption List, and 99% of the states have agreed to this formulation. 15 bis was added in order to keep this paragraph in its original formulation (the AILA/Guatemala proposal). This is the heart and core of the Declaration.</p> <p>However, three states (NZ, Aust, US) have proposed the following to the annoyance of just about everyone:</p> <p>“Indigenous peoples have the right of self-determination as enunciated in this Article.”</p> <p>Comment: IN OTHER WORDS, INDIGNEOUS PEOPLES RIGHTS ARE DIFFERENT THAN OTHER PEOPLES RIGHTS, OUR RIGHT TO SELF-DETERMINATION IS NOT EQUAL TO OTHER PEOPLES RIGHTS OR EVEN THE STANDARDS OF INTERNATIONAL LAW. THIS IS AN</p>



Paragraph ¹⁰	Paragraph Group ¹¹	Provisional Adoption Language (in bold) or Revisions as of the December 2005 Session to Chairman's Text (not in bold)	Notes and comments
			<p>UNCONSCIOUS POSITION.</p> <p>“(a) By virtue of this right they freely participate in determining their political status and freely pursue their economic, social and cultural development; (b) In exercising this right of self-determination, they have the right to autonomy and self-management in matters relating directly to their internal and local affairs;</p> <p>Comment: IN PARAGRAPH B, NOTE THAT AUTONOMY AND SELF-MANAGEMENT HAVE NOTHING TO DO WITH SELF-DETERMINATION. THESE ARE TERMS THAT PERMIT THE CONTINUANCE OF THE STATUS QUO IN COUNTRIES LIKE THE US, AUSTRALIA AND NEW ZEALAND, PERMIT THE CONTINUANCE OF RESERVATION SYSTEMS, AND DENY INDIGENOUS PEOPLES THEIR RIGHT TO SELF-DETERMINATION. IT IS A FORMULA DESIGNED TO PROMOTE, NOT LIMIT, CONTINUED COLONIZATION.</p> <p>(c) This right shall be exercised in accordance with the rule of law with due respect to legal procedures and arrangements in good faith.</p> <p>Comment: IN OTHER WORDS, SELF-DETERMINATION ONLY APPLIES TO THE EXTENT THAT IT CONFORMS WITH THE DOMESTIC LAW OF THE COLONIZING COUNTRY.</p>
<p>Art 4 Norway Prov Adoption</p>		<p>Agreed with the following amendment to Chairman's proposal</p>	<p>Original Subcommission text:</p> <p>Indigenous peoples have the right</p>



Paragraph ¹⁰	Paragraph Group ¹¹	Provisional Adoption Language (in bold) or Revisions as of the December 2005 Session to Chairman's Text (not in bold)	Notes and comments
List		Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their rights to participate fully, if they so choose, in the political, economic, social and cultural life of the State.	<p>to maintain and strengthen their distinct political, economic, social and cultural characteristics, as well as their legal systems, while retaining their rights to participate fully, if they so choose, in the political, economic, social and cultural life of the State.</p> <p>In the Provisional Adoption text “characteristics” was substituted for “institutions” and the phrase “as well as their legal institutions” was removed.</p>
Art 5			<p>Every indigenous individual has the right to a nationality.</p> <p>No discussion. Subcommission Text and Chairman's Text are identical</p>
Art 6 Norway Prov. Adoption List		<p>Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.</p> <p>Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.</p>	<p>Subcommission Text:</p> <p>“Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and to full guarantees against genocide or any other act of violence, including the removal of indigenous children from their families and communities under any pretext.</p> <p>In addition, they have the individual rights to life, physical and mental integrity, liberty and security of person.”</p> <p>The difference lies in the order of the two paragraphs as well as some rewording in the second paragraph. Some states wanted “genocide” removed but IPs prevailed.</p>
Art. 7		Chair's Proposed Text:	Subcommission Text:



Paragraph ¹⁰	Paragraph Group ¹¹	Provisional Adoption Language (in bold) or Revisions as of the December 2005 Session to Chairman's Text (not in bold)	Notes and comments
		<p>Indigenous peoples have the collective and Individual right not to be subjected to forced assimilation or destruction of their culture.</p> <p>States shall provide effective mechanisms for redress with respect to:</p> <p>a. Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;</p> <p>b. Any action which has the aim or effect of dispossessing them of their lands, territories or resources;</p> <p>c. Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;</p> <p>d. Any form of forced assimilation or integration by other cultures or ways of life imposed on them by legislative, administrative or other measures;</p> <p>e. Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.</p>	<p>Indigenous peoples have the collective and individual right not to be subjected to ethnocide and cultural genocide, including prevention of and redress for:</p> <p>a. Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;</p> <p>b. Any action which has the aim or effect of dispossessing them of their lands, territories or resources;</p> <p>c. Any form of population transfer which has the aim or effect of violating or undermining any of their rights;</p> <p>d. Any form of assimilation or integration by other cultures or ways of life imposed on them by legislative, administrative or other measures;</p> <p>e. Any form of propaganda directed against them.</p> <p>No discussion: The first paragraph in the Chairman's text changes "ethnocide and cultural genocide" to "forced assimilation or destruction of their culture." It also removes the "prevention" of these acts, and merely requires redress for them. I think this actually might include prevention, depending on the legal interpretation. Slight differences can also be found in subparagraphs (d) with the inclusion of "forced" before</p>



Paragraph ¹⁰	Paragraph Group ¹¹	Provisional Adoption Language (in bold) or Revisions as of the December 2005 Session to Chairman's Text (not in bold)	Notes and comments
			assimilation (the thought being some IPs might want to be assimilated) and (e) which just spells out the type of propaganda which cannot be used.
Art. 8		<p>“Indigenous peoples have the collective and individual right to maintain and develop their distinct identities and characteristics, including the right to identify themselves as indigenous and to be recognized as such.”</p>	<p>“Indigenous peoples have the collective and individual right to maintain and develop their distinct identities and characteristics, including the right to identify themselves as indigenous and to be recognized as such.”</p> <p>Subcommission Text and Chair's Text are identical.</p> <p>The problem here and why it may not be on the provisional adoption list is that some states <u>and</u> IPs have a problem with people identifying themselves individually as Indigenous and there being a recognition of that identity. Recognition by whom? Our position is that the Subcommission text is adequate. Part of the collective right to identity is recognition of the individual and if the collective doesn't recognize them then they can identify as indigenous all they want. It doesn't make it valid especially when read in conjunction with Art 9 (which acknowledges the collective right to recognition).</p>
Art. 9 Norway Prov. Adoption List IPs Prov. Adoption List		<p>Agreed with the following amendment to Chairman's proposal</p> <p>“Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No</p>	<p>Subcommission Text:</p> <p>“Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No</p>



Paragraph ¹⁰	Paragraph Group ¹¹	Provisional Adoption Language (in bold) or Revisions as of the December 2005 Session to Chairman's Text (not in bold)	Notes and comments
		discrimination of any kind may arise from the exercise of such a right."	disadvantage of any kind may arise from the exercise of such a right." Only difference is the replacement of "disadvantage" with "discrimination" in the last sentence.
Art. 10 IP Prov Adoption List	LTR	Chairman's Text: "Indigenous peoples shall not be forcibly removed or arbitrarily displaced from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return."	Subcommission Text: "Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return." This is one where the Chair's text actually improves that of the Subcommission in that it adds the further condition of "arbitrarily displaced" and the word "prior" to free and informed consent (free, prior and informed consent" is a developing term in international standards).
Art. 11		Chair's Proposed Text: Indigenous peoples have the right to protection and security in times of armed conflict. States recognize that there may be circumstances in which special protection and security may be necessary for indigenous peoples in times of armed conflict. States shall observe applicable international human rights standards and international humanitarian law, for the protection of civilian populations in circumstances of	Subcommission Text: Indigenous peoples have the right to special protection and security in periods of armed conflict. States shall observe international standards, in particular the Fourth Geneva Convention of 1949, for the protection of civilian populations in circumstances of emergency and armed conflict, and shall not:



Paragraph ¹⁰	Paragraph Group ¹¹	Provisional Adoption Language (in bold) or Revisions as of the December 2005 Session to Chairman's Text (not in bold)	Notes and comments
		<p>emergency and armed conflict, and shall not:</p> <p>a Recruit indigenous individuals against their will into the armed forces for direct use against other indigenous peoples or against other members of the same indigenous people;</p> <p>b Recruit indigenous children into the armed forces;</p> <p>c Force indigenous individuals to abandon their lands, territories or means of subsistence, or relocate them in special centres for military purposes;</p> <p>d Force indigenous individuals to work for military purposes under any discriminatory conditions.</p>	<p>a. Recruit indigenous individuals against their will into the armed forces and, in particular, for use against other indigenous peoples;</p> <p>b. Recruit indigenous children into the armed forces under any circumstances;</p> <p>c. Force indigenous individuals to abandon their lands, territories or means of subsistence, or relocate them in special centres for military purposes;</p> <p>d. Force indigenous individuals to work for military purposes under any discriminatory conditions.</p>
Art. 12		<p>Chairman's Proposed Text:</p> <p>"Indigenous peoples have the right to practice and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artifacts, designs, ceremonies, technologies and visual and performing arts and literature.</p> <p>"States shall provide effective mechanisms for redress with respect to their cultural, intellectual, religious and spiritual property taken without their free and informed consent or in violation of their laws, traditions and customs."</p>	<p>Subcommission Text:</p> <p>"Indigenous peoples have the right to practice and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artifacts, designs, ceremonies, technologies and visual and performing arts and literature, as well as the right to the restitution of cultural, intellectual, religious and spiritual property taken without their free and informed consent or in violation of their laws, traditions and customs."</p> <p>In our humble opinion, this is another improvement by the Chair over the</p>



Paragraph ¹⁰	Paragraph Group ¹¹	Provisional Adoption Language (in bold) or Revisions as of the December 2005 Session to Chairman's Text (not in bold)	Notes and comments
			original text. It provides the States with specific direction on redress (see the description below of redress, restitution and compensation provided by IPs).
Art. 13		<p>Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.</p> <p>States shall take effective measures, in conjunction with the indigenous peoples concerned, to ensure that indigenous sacred places, including burial sites ,be preserved, respected and protected.</p>	<p>Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of ceremonial objects; and the right to the repatriation of human remains.</p> <p>States shall take effective measures, in conjunction with the indigenous peoples concerned, to ensure that indigenous sacred places, including burial sites, be preserved, respected and protected.</p> <p>The addition here by the Chair is the word "their" before "religious and cultural sites", etc. IPs argue that by adding this it becomes a controversy as to who defines what our religious and cultural sites and human remains are, giving the state too much control to say, 'well, that's not really your sacred sit, where's the archeological evidence.'</p>
Art. 14		<p>Agreed with the following amendment to Chairman's proposal</p> <p>"Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places</p>	<p>Subcommission Text:</p> <p>"Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places</p>



Paragraph ¹⁰	Paragraph Group ¹¹	Provisional Adoption Language (in bold) or Revisions as of the December 2005 Session to Chairman's Text (not in bold)	Notes and comments
		<p>and persons.</p> <p>“States shall take effective measures to ensure this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.”</p>	<p>and persons.”</p> <p>“States shall take effective measures, whenever any right of indigenous peoples may be threatened, to ensure this right is protected and also to ensure that they can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.”</p>
Art. 15		<p>Chairman's Proposed Text:</p> <p>Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State on the same basis as other members of the society.</p> <p>Indigenous individuals, particularly children, living outside their communities have the right to be provided access to education in their own culture and language.</p> <p>States shall take effective measures to provide appropriate resources for these purposes [without discrimination].</p>	<p>Subcommission Text</p> <p>Indigenous children have the right to all levels and forms of education of the State. All indigenous peoples also have this right and the right to establish and control their educational systems and institutions providing education in their own languages , in a manner appropriate to their cultural methods of teaching and learning.</p> <p>Indigenous children living outside their communities have the right to be provided access to education in their own culture and language.</p> <p>States shall take effective measures to provide appropriate resources for these purposes.</p>
Art. 16 Norway Prov.		<p>Agreed with the following amendment to Chairman's proposal</p>	<p>Subcommission Text:</p> <p>“Indigenous peoples have the</p>



Paragraph ¹⁰	Paragraph Group ¹¹	Provisional Adoption Language (in bold) or Revisions as of the December 2005 Session to Chairman's Text (not in bold)	Notes and comments
Adoption List		<p>“Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.</p> <p>“States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.”</p>	<p>right to have the dignity and diversity of their cultures, traditions, histories and aspirations appropriately reflected in all forms of education and public information.</p> <p>“States shall take effective measures, in consultation with the indigenous peoples concerned, to eliminate prejudice and discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all segments of society.”</p>
Art. 17 Norway Prov. Adoption List		<p>Agreed with the following amendment to Chairman's proposal</p> <p>“Indigenous peoples have the right to establish their own media in their own languages and to access to all forms of non-indigenous media without discrimination.</p> <p>“States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. States, without prejudice to ensuring full freedom of expression, should encourage privately-owned media to adequately reflect indigenous cultural diversity.”</p>	<p>Subcommission Text:</p> <p>“Indigenous peoples have the right to establish their own media in their own languages. They also have the right to equal access to all forms of nonindigenous media.</p> <p>“States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity.”</p>
Art. 18		<p>Chairman's Proposed Text:</p> <p>“Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labor law.</p>	<p>Subcommission Text:</p> <p>“Indigenous peoples have the right to enjoy fully all rights established under international labour law and national labour legislation.</p>



Paragraph ¹⁰	Paragraph Group ¹¹	Provisional Adoption Language (in bold) or Revisions as of the December 2005 Session to Chairman's Text (not in bold)	Notes and comments
		<p>“States shall take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health o physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.</p> <p>“Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary.”</p>	<p>Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour, employment or salary.”</p> <p>There are a number of problems here with the Chairman’s text. First amongst them is the fact that domestic law is elevated to the level of international law and that is contrary to the purpose of this Declaration.</p>
<p>Art. 19 Norway Prov. Adoption List IPs Prov. Adoption List</p>		<p>Agreed with the following amendment to Chairman’s proposal</p> <p>“Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.”</p>	<p>Subcommission Text:</p> <p>“Indigenous peoples have the right to participate fully, if they so choose, at all levels of decision-making in matters which may affect their rights, lives and destinies through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.”</p>
<p>Art. 20</p>		<p>Chairman’s Proposed Text:</p> <p>“States shall seek the free and informed consent of the indigenous peoples concerned before adopting and implementing legislative or administrative measures that may affect them.”</p>	<p>Subcommission Text:</p> <p>“Indigenous peoples have the right to participate fully, if they so choose, through procedures determined by them, in devising legislative or administrative measures that may affect them. States shall obtain the</p>



Paragraph ¹⁰	Paragraph Group ¹¹	Provisional Adoption Language (in bold) or Revisions as of the December 2005 Session to Chairman's Text (not in bold)	Notes and comments
			<p>free and informed consent of the peoples concerned before adopting and implementing such measures.”</p> <p>We don't really see a problem with the Chairman's text here. It merely seems to make the language a little tighter.</p>
Art. 21	LTR	<p>Chairman's Proposed Text:</p> <p>“Indigenous peoples have the right to maintain and develop their political, economic and social systems/ institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.</p> <p>“Indigenous peoples who have been and are deprived of their means of subsistence and development are entitled to just and fair / effective mechanisms for redress.”</p>	<p>Subcommission Text:</p> <p>“Indigenous peoples have the right to maintain and develop their political, economic and social systems, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.</p> <p>“Indigenous peoples who have been deprived of their means of subsistence and development are entitled to just and fair compensation.”</p> <p>We believe “redress” as set forth in the Chairman's text is actually an improvement in that “redress” is a broader concept than simple “compensation” which is money.</p>
Art. 22 Norway Prov. Adoption List		<p>Agreed with the following amendment to Chairman's proposal</p> <p>“Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.</p> <p>“States shall take effective measures and, where appropriate,</p>	<p>Subcommission Text:</p> <p>“Indigenous peoples have the right to special measures for the immediate, effective and continuing improvement of their economic and social conditions, including in the areas of employment, vocational training and retraining, housing, sanitation, health and social security. Particular attention shall be paid to the rights and special needs of indigenous elders,</p>



Paragraph ¹⁰	Paragraph Group ¹¹	Provisional Adoption Language (in bold) or Revisions as of the December 2005 Session to Chairman's Text (not in bold)	Notes and comments
		<p>special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.”</p>	<p>women, youth, children and disabled persons.”</p>
<p>Art. 23 Norway Prov. Adoption List</p>		<p>Agreed as in Chairman’s proposal</p> <p>“Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programs affecting them and, as far as possible, to administer such programs through their own institutions.”</p>	<p>Subcommission Text:</p> <p>“Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to determine and develop all health, housing and other economic and social programs affecting them and, as far as possible, to administer such programs through their own institutions.”</p>
<p>Art. 24 Norway Prov. Adoption List</p>		<p>Agreed with the following amendment to Chairman’s proposal</p> <p>“Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services.</p> <p>“Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary</p>	<p>Subcommission Text:</p> <p>“Indigenous peoples have the right to their traditional medicines and health practices, including the right to the protection of vital medicinal plants, animals and minerals.</p> <p>“They also have the right to access, without any discrimination, to all medical institutions, health services and medical care.”</p>



Paragraph ¹⁰	Paragraph Group ¹¹	Provisional Adoption Language (in bold) or Revisions as of the December 2005 Session to Chairman's Text (not in bold)	Notes and comments
		steps with a view to achieving progressively the full realization of this right."	
Art. 25	LTR	1. Chairman's Proposed Text 2. 3. "Indigenous peoples have the right to maintain and strengthen their distinctive spiritual and material relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard."	Subcommittee Text: "Indigenous peoples have the right to maintain and strengthen their distinctive spiritual and material relationship with the lands, territories, waters and coastal seas and other resources which they have traditionally owned or otherwise occupied or used, and to uphold their responsibilities to future generations in this regard. Here, the problem with the Chairman's Text is that by removing the word "material" from the spiritual relationship with the land, it takes away from the fact that the spiritual relationship involves the actual material aspect of sacred sites, etc.
Art. 26	LTR	Chairman's Proposed Text "Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess/ hold by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired. "States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to/ in accordance with the customs, traditions and land tenure systems of the indigenous peoples concerned." 4.	Subcommittee Text: "Indigenous peoples have the right to own, develop, control and use the lands and territories, including the total environment of the lands, air, waters, coastal seas, sea-ice, flora and fauna and other resources which they have traditionally owned or otherwise occupied or used. This includes the right to the full recognition of their laws, traditions and customs, land-tenure systems and institutions for the development and management of resources, and the right to effective measures by States to prevent any interference with, alienation of or encroachment upon these rights." The issue here is "traditionally owned or otherwise occupied."



Paragraph ¹⁰	Paragraph Group ¹¹	Provisional Adoption Language (in bold) or Revisions as of the December 2005 Session to Chairman's Text (not in bold)	Notes and comments
			Some States and IPs, including the Navajo Nation, prefer the Chairman's text, limiting the use and occupation to those territories currently "possessed" or "held" by IPs. Of course, this is problematic in the situations where IPs have been removed or otherwise lost their lands.
Art. 26 bis	LTR	Chairman's Proposed Text: "States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, impartial, open and transparent process to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process."	Obviously there is no Subcommission Art. 26 bis. This paragraph has been added by the Chair in hopes of creating a mechanism for dealing with the issue of "traditionally owned or used" lands (I think). It is also designed to address the last part of Art. 26 in the Subcommission Text which states: <i>"the right to effective measures by States to prevent any interference with, alienation of or encroachment upon these rights."</i>
Art. 27	LTR	Chairman's Proposed Text: "Indigenous peoples have the right to pursue claims for redress, by means that can include of restitution or, when this is not possible, of a fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent. "Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of	Subcommission Text: "Indigenous peoples have the right to the restitution of the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, occupied, used or damaged without their free and informed consent. Where this is not possible, they have the right to just and fair compensation. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status".



Paragraph ¹⁰	Paragraph Group ¹¹	Provisional Adoption Language (in bold) or Revisions as of the December 2005 Session to Chairman's Text (not in bold)	Notes and comments
		lands, territories and resources equal in quality, size and legal status or, when this is not possible, of monetary compensation or other appropriate relief.”	In our humble opinion the Chair's reformulation of the “right to redress” (which was his original rewording and actually improved the text) to “the right to pursue claims for redress” (which was suggested by the US government) is problematic. Anyone has a right to pursue anything. That is not the same as a right to redress, which states categorically, that something must be done. By adding “to pursue claims for”, the meaning of the article is greatly diminished.
Art. 28	LTR	<p>Chairman's Revised Text:</p> <p>Indigenous peoples have the rights pertaining to the conservation, restoration and protection of the environment and the productive capacity of their lands or territories and resources. States shall/should establish and implement assistance programs for indigenous peoples for such protection, without discrimination.</p> <p>States shall take effective measures to ensure that no storage, transit or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.</p> <p>States shall also take effective measures to ensure, as needed, that programs for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are dully implemented.</p>	<p>Subcommission Text:</p> <p>Indigenous peoples have the right to the conservation, restoration and protection of the total environment and the productive capacity of their lands, territories and resources, as well as to assistance for this purpose from States and through international cooperation. Military activities shall not take place in the lands and territories of indigenous peoples, unless otherwise freely agreed upon by the peoples concerned. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands and territories of indigenous peoples.</p> <p>States shall also take effective measures to ensure, as needed, that programs for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented</p>



Paragraph ¹⁰	Paragraph Group ¹¹	Provisional Adoption Language (in bold) or Revisions as of the December 2005 Session to Chairman's Text (not in bold)	Notes and comments
			Many, many issues. ☺.
Art. 28 bis	LTR	<p>Chairman's Revised Text:</p> <p>“Military activities shall not take place in the lands or territories of indigenous peoples, unless justified by a significant threat to relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned.</p> <p>“Where possible, States shall undertake effective consultations with the indigenous peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to use of / prior to using their lands or territories for military activities”.</p>	<p>There is no Subcommission Text for Art. 28 bis.</p> <p>This Art. 28 bis is designed to take the place of the sentence in the original Subcommission Text of Article 28 which states that “Military activities shall not take place in the lands and territories of indigenous peoples, unless otherwise freely agreed upon by the peoples concerned.” This sentence has been removed from the Chair’s text for Art 28 and this Art 28 bis is a gross limitation of the original language.</p>
Art. 29	LTR	<p>Chairman's Revised Text:</p> <p>“Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge, traditional cultural expressions / cultural and intellectual property and the tangible and intangible manifestations of their cultural and intellectual property in their sciences, technologies and cultural manifestations, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to own their intellectual property.</p> <p>In conjunction with indigenous</p>	<p>Subcommission Text:</p> <p>“Indigenous peoples are entitled to the recognition of the full ownership, control and protection of their cultural and intellectual property. They have the right to special measures to control, develop and protect their sciences, technologies and cultural manifestations, including human and other genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral tradition, literatures, designs and visual and performing arts.</p> <p>We believe that the elimination of the last paragraph of the Chairman's text is a problem.</p>



Paragraph ¹⁰	Paragraph Group ¹¹	Provisional Adoption Language (in bold) or Revisions as of the December 2005 Session to Chairman's Text (not in bold)	Notes and comments
		<p>peoples, States shall take effective measures, including special measures, to recognize and protect the exercise of this right.</p>	
Art. 30	LTR	<p>Chairman's Revised Text:</p> <p>"Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.</p> <p>"States shall obtain / seek their free and informed consent prior to the approval of any project significantly affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of their mineral, water or other resources.</p> <p>"States shall / should provide effective mechanisms for just and fair redress where appropriate for any such activities, and measures shall be taken / including appropriate measures to mitigate adverse environmental, economic, social, cultural or spiritual impact."</p>	<p>Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands, territories and other resources, including the right to require that States obtain their free and informed consent prior to the approval of any project affecting their lands, territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources. Pursuant to agreement with the indigenous peoples concerned, just and fair compensation shall be provided for any such activities and measures taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.</p> <p>The Chair's text, in our humble opinion, without inclusion of the bolded text, is acceptable.</p>
Art. 31	SD	<p>Chair's Revised Text:</p> <p>"Indigenous peoples, as a specific form of/ in exercising their right to self-determination, have the right to autonomy or self-government in all matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.</p> <p>"This right shall be exercised in accordance with the rule of law, with due respect to legal procedures and arrangements and in good faith."</p>	<p>Subcommission Text:</p> <p>"Indigenous peoples, as a specific form of exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs."</p> <p>The addition of the bolded text to the left in the Chairman's revision is problematic. It makes the paragraph vague and, in all probability is designed to make the exercise of</p>



Paragraph ¹⁰	Paragraph Group ¹¹	Provisional Adoption Language (in bold) or Revisions as of the December 2005 Session to Chairman's Text (not in bold)	Notes and comments
			<p>this right subject to domestic law.</p> <p>Another problem that has been presented with respect to this Article is that some States want to move it to the position of Article 3 bis, thereby putting it right after the unqualified right of self-determination, which could have the effect again of making the right of self-determination subject to domestic "rule of law."</p>
Art. 32	SD	<p>Chairman's Revised Text:</p> <p>"Indigenous peoples have the collective right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live.</p> <p>"Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures."</p>	<p>Subcommission Text:</p> <p>"Indigenous peoples have the collective right to determine their own citizenship in accordance with their customs and traditions. Indigenous citizenship does not impair the right of indigenous individuals to obtain citizenship of the States in which they live.</p> <p>"Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures."</p> <p>The word "citizenship" has presented the biggest problem with respect to this article. Some IPs absolutely insist upon its inclusion while others absolutely insist it not be included. It's a cultural issue. Many of us argue that identity can encompass "citizenship" if so desired while being a more flexible term for those who don't want it included.</p>
Art. 33	SD	<p>Chairman's Revised Text:</p> <p>Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality,</p>	<p>Subcommission Text:</p> <p>Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive juridical customs,</p>



Paragraph ¹⁰	Paragraph Group ¹¹	Provisional Adoption Language (in bold) or Revisions as of the December 2005 Session to Chairman's Text (not in bold)	Notes and comments
		<p>traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.</p>	<p>traditions procedures and practices, in accordance with internationally recognized human rights standards.</p> <p>We are not pleased with the Chair's addition of the text "and, in the cases where they exist." Some IPs, including the Navajo nation however like this formulation. We object, because it could deny the existence of traditional juridical/justice systems.</p>
Art.34 IPs Prov. Adoption List	SD	<p>Chairman's Revised Text:</p> <p>Indigenous peoples have the collective right to determine the responsibilities of individuals to their communities.</p>	<p>Subcommission Text:</p> <p>Indigenous peoples have the collective right to determine the responsibilities of individuals to their communities.</p>
Art. 35	SD	<p>Chairman's Revised Text:</p> <p>Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders.</p> <p>States, in consultation and cooperation with indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right in accordance with border control laws.</p>	<p>Subcommission Text:</p> <p>Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation ,including activities for spiritual, cultural, political, economic and social purposes, with other peoples across borders.</p> <p>States shall take effective measures to ensure the exercise and implementation of this right.</p> <p>The Chairman's revised text shown to the left is actually an improvement over his original text and removes references to "in accordance with border control laws" as requested by the US government.</p>
Art. 36	Treaties	<p>Chair's Proposed Text:</p> <p>Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their</p>	<p>Subcommission Text:</p> <p>Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their</p>



Paragraph ¹⁰	Paragraph Group ¹¹	Provisional Adoption Language (in bold) or Revisions as of the December 2005 Session to Chairman's Text (not in bold)	Notes and comments
		<p>successors, taking into account, among other things, the original spirit and intent of the parties concerned, and to have States honour and respect such treaties, agreements and other constructive arrangements.</p> <p>Disputes should be submitted to competent domestic bodies or processes for timely resolution. Where such resolution is not possible and the concerned parties agree, disputes may be submitted to competent international bodies.</p> <p>Willie Littlechild Treaty Group Proposed Language:</p> <p>“Indigenous Peoples have the right to the recognition, observance and enforcement of Treaties, Agreements and Other Constructive Arrangements Concluded with States or their successors and to have States honor and respect such Treaties, agreements and Other Constructive Arrangements.</p> <p>“Nothing in the Declaration may be interpreted as to diminish or eliminate the rights of Indigenous Peoples contained in Treaties, Agreements and Constructive Arrangements.”</p>	<p>successors, according to their original spirit and intent, and to have States honour and respect such treaties, agreements and other constructive arrangements.</p> <p>Conflicts and disputes which cannot otherwise be settled should be submitted to competent international bodies agreed to by all parties concerned.</p> <p>We do not have any particular issue with the revised language as presented by Willie Littlechild and the Treaty Group.</p>
<p>Art. 37 Norway Prov. Adoption List</p>		<p>Agreed with the following amendment to Chairman's proposal:</p> <p>“States in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.”</p>	<p>Subcommission Text:</p> <p>“States shall take effective and appropriate measures, in consultation with the indigenous peoples concerned, to give full effect to the provisions of this Declaration. The rights recognized herein shall be adopted and</p>



Paragraph ¹⁰	Paragraph Group ¹¹	Provisional Adoption Language (in bold) or Revisions as of the December 2005 Session to Chairman's Text (not in bold)	Notes and comments
			included in national legislation in such a manner that indigenous peoples can avail themselves of such rights in practice."
Art. 38		<p>Chairman's Proposed Text:</p> <p>"Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration and in other international human rights instruments."</p>	<p>Subcommission Text:</p> <p>"Indigenous peoples have the right to have access to adequate financial and technical assistance, from States and through international cooperation, to pursue freely their political, economic, social, cultural and spiritual development and for the enjoyment of the rights and freedoms recognized in this Declaration."</p> <p>France is requesting the removal of "and in other international human rights instruments" included at the end of the Chair's proposed text.</p>
Art. 39		<p>Chairman's Proposed Text:</p> <p>"Indigenous peoples have the right to have access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.</p>	<p>Subcommission Text:</p> <p>"Indigenous peoples have the right to have access to and prompt decision through mutually acceptable and fair procedures for the resolution of conflicts and disputes with States, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall take into consideration the customs, traditions, rules and legal systems of the indigenous peoples concerned."</p> <p>The Chairman's Proposed Text adds "and international human rights" at the end of the paragraph which seems like a good thing to us. He also changes "shall take into consideration" in the Subcommission text to "shall give due consideration</p>



Paragraph ¹⁰	Paragraph Group ¹¹	Provisional Adoption Language (in bold) or Revisions as of the December 2005 Session to Chairman's Text (not in bold)	Notes and comments
			to.”
Art. 40 IP Prov. Adoption List		<p>Chairman's Proposed Text:</p> <p>“The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilization, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established.”</p>	<p>Subcommission Text:</p> <p>“The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilization, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established.”</p> <p>The Subcommission Text and the Chairman's Proposed Text are identical.</p>
Art 41 Norway Prov. Adoption List		<p>Agreed with the following amendment to Chairman's proposal</p> <p>“The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States, shall promote respect for and full application of the provisions of this Declaration and follow-up the effectiveness of this Declaration.”</p>	<p>Subcommission Text:</p> <p>“The United Nations shall take the necessary steps to ensure the implementation of this Declaration including the creation of a body at the highest level with special competence in this field and with the direct participation of indigenous peoples. All United Nations bodies shall promote respect for and full application of the provisions of this Declaration.”</p> <p>The change in this article primarily reflects the fact that since this language was adopted by the Subcommission, the Permanent Forum was created thereby meaning that this aspect of the Declaration has already been accomplished.</p>
Art. 42		Chairman's Proposed Text:	Subcommission Text:



Paragraph ¹⁰	Paragraph Group ¹¹	Provisional Adoption Language (in bold) or Revisions as of the December 2005 Session to Chairman's Text (not in bold)	Notes and comments
IP Prov. Adoption List		"The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world."	"The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world."
Art. 43		Chairman's Proposed Text: "All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals."	Subcommission Text: "All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals." This one, we believe, has already been provisionally adopted.
Art. 44 Norway Prov. Adoption List		Chairman's Proposed Text "Nothing in this Declaration may be construed as diminishing or extinguishing the rights indigenous peoples have now or may acquire in the future."	Subcommission Text: "Nothing in this Declaration may be construed as diminishing or extinguishing existing or future rights indigenous peoples may have or acquire."
Art. 45	SD	Chair's Proposed Text: "Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations. "The exercise of the rights set forth in this Declaration shall not prejudice impair the enjoyment by all persons of all universally recognized human rights and fundamental freedoms in the exercise of the rights and freedoms set forth herein, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and	Subcommission Text: "Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations." Nothing could be more strait-forward, right? Wrong. This is the most controversial article of the Declaration at this point. Some states are throwing an entire laundry list of provisions into this article in an attempt to diminish the rights of the entire Declaration (especially since this is the last article). Many States have, however, spoken against making this a junkyard of provisions (Canada, for example) insisting that



Paragraph ¹⁰	Paragraph Group ¹¹	Provisional Adoption Language (in bold) or Revisions as of the December 2005 Session to Chairman's Text (not in bold)	Notes and comments
		of meeting shall meet the just requirements of morality, public interest order and the general welfare in a democratic society, as determined by law / in accordance with the rule of law. "	the Declaration should end on a positive, uplifting note. For most IPs, the Chairman's entire proposed second paragraph is unnecessary.
45 bis	SD	Chairman's Proposed Text: Nothing in this Declaration shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples and thus possessed of a government representing the whole people belonging to the territory without distinction of any kind. Without prejudice to the rights envisaged in this Declaration, no provisions contained herein shall be invoked for the purposes of impairing the sovereignty of a State, its national and political unity or territorial integrity.	This is the addition to the self-determination paragraphs submitted by the NZ/Aus/US group. It completely guts the Declaration and is unacceptable. It attempts to say that Indigenous peoples are ALWAYS subservient to the interests of the state.



***Special Thanks to the Following Supporters of our Efforts to Preserve,
Protect and Enhance the International
Human Rights of Indigenous Peoples:***

***Honor the Earth
Public Welfare Foundation
Seventh Generation Fund
Solidago Foundation
Unitarian Universalist Program Veatch at Shelter Rock
doCip***

***Pierre and le Phare, the unofficial café of the delegation in Geneva for providing us with
complimentary coffee to get us through the long days and short nights of work***

***American Indian Law Alliance
611 Broadway, Suite 632
New York, NY 10012
212-477-9100
aila@ailanyc.org
www.ailanyc.org***

***Owe Aku, Oglala Lakota Nation
P.O. Box 325
Manderson, SD 57756
605-455-2155
lakota1@gwtc.net
www.bringbacktheway.com***