



FEMMES AUTOCHTONES DU QUÉBEC INC.
QUEBEC NATIVE WOMEN INC.

November 22, 2006

The Honourable Jim Prentice
Minister of Indian Affairs and Northern Development
and Federal Interlocutor for Métis and Non-Status Indians
House of Commons
Ottawa, ON K1A 0A6

Dear Minister Prentice:

Quebec Native Women would like to express its apprehension and dismay regarding Canada's position against the adoption the *United Nations Declaration on the Rights of Indigenous Peoples*. Presently, there are no human rights instruments specifically designed to protect Indigenous rights. International standards are urgently needed, as Indigenous peoples face continual discrimination and are the most marginalized in the world. Thus, this issue is a matter that should be a top priority for Canada, especially when considering the pressing issues facing Aboriginal communities today. Regrettably, Canada has decided to take a position against the passage of this remarkable human rights instrument.

The *Declaration*, which is the culmination of more than 20 years of work involving nation states as well as Indigenous participants, is not a treaty or a legal document. Moreover, the document is meant to serve as a guide for nation states in their conduct regarding Indigenous peoples who share their territories. The purpose behind this aspirational text is not to divide or cause tensions between Indigenous groups and states. Rather, as affirmed in the *Declaration* itself,

[T]he 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 faith.

Canada claims that legal conflicts are the reason why it opposes the *Declaration*. Given that the document has no legal effect, Canada's belief that it conflicts with the Constitution and prior Supreme Court decisions is unsupported. First, no international instrument is legally binding on Canada until it is adopted into domestic legislation. Secondly, it is difficult to see how a non-binding, non-legal instrument could possibly trump the Constitution, which is the supreme law of Canada, and decisions of the Supreme Court, which are binding on subsequent decisions. Thus, Canada can rest assured that its legal and policy framework will remain intact.

However, we would also like to point out that it is vital that the Canadian legal system be somewhat flexible, as Canadian laws must be capable of keeping in step with societal values. One of the most important roles the judiciary has is to balance our jurisprudence, our legal framework and our Constitution with evolving standards while preserving the integrity and stability of Canadian legal system.

Hence, the adoption of a non-binding *Declaration* would only serve to enhance Canadian human rights law. Representing more than two decades of negotiations and cooperation, the *Declaration* is the result of a long process and represents the best compromise its drafters were able to come up with. It is time that Canada also approaches this process realistically. The fact that it was one of only two countries to vote against the *Declaration* last June demonstrates how isolated Canada is in its contrary position. Rather than stand in the way of human rights, Canada needs to support Indigenous peoples in order to protect and promote the survival of their cultures, as well as their dignity.

We therefore respectfully ask Canada to reconsider its position and support the adoption of the *Declaration* immediately.

Sincerely,



Ellen Gabriel
President, Quebec Native Women

c.c. Ghislain Picard, Regional Chief AFNQL
Rudolfo Stavenhagen, Special Rapporteur on the situation of human rights and the
fundamental freedom of indigenous peoples
Indigenous Peoples' Caucus