



**“Strengthening Partnership between States and indigenous peoples:
treaties, agreements and other constructive arrangements”**

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**Declaration and Recommendations to the United Nations Expert Seminar on Treaties
Agreements and Other Constructive Arrangements**

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The views expressed in this paper do not necessarily reflect those of the OHCHR.



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On Behalf Of:
The Traditional Indigenous Peoples of Poundmaker Cree Nation,
Treaties 1 – 11 Secretariat.

DECLARATION:

We the Indigenous Nations as a critical component of the Indigenous Peoples of Turtle Island of North America belong to and are an integral component of the Universal Family of Peoples, and

We possess sacred duties and responsibilities to secure for the future generation's Rights and Treaty, hereby declare:

That we as Indigenous Peoples/Nations are equal to all other peoples and are to be respected as such, and

Certain that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of racial, religious, or cultural differences are scientifically false, legally invalid, morally condemnable and socially unjust, and

Confirming as Indigenous Peoples and Indigenous Nations we possess Natural, Inherent, Collective and Treaty Rights that have been granted by the Creator, that cannot be altered, changed, revised or disregarded by man-made law and policy, and

Knowing that we as the original inhabitants and original owners of the land and resources in all Treaty Territories are bound by Sacred duty to; observe, uphold, honour and respect the natural order, laws and environments in which we exist, and stating that as Indigenous Peoples we have and have had since time immemorial – unique spiritual and physical relationships with the Universe, Mother Earth and the natural world, including with our traditional lands, waters, air and minerals, and

Restating also, that we as Indigenous Peoples, in the exercise of our rights, should be free from discrimination of any kind, and

Aware that as Indigenous Peoples we have suffered from historic injustices as a result of colonization, assimilation policies, including the dispossession of our lands, territories and resources and denial of our true identities, thus preventing us from exercising, in particular, our right to development in accordance with our own needs and interests, and

Proclaiming the urgent need to respect and uphold our inherent rights as Indigenous Peoples which derive from our political, economic and social structures, cultures, spiritual traditions, histories and philosophies, especially our rights and connectedness to our lands, territories and resources, and

Further proclaiming the urgent need to respect and uphold our rights as Indigenous Peoples affirmed in our Treaties with the Crown of Great Britain, Scotland and Ireland and in Right of the Crown with the Successor Nation¹ - Canada, and the United Nations Declaration on the Rights of Indigenous Peoples, and

Aware that the rights affirmed in our Treaties with the Crown of Great Britain and in Right of the Crown with the Successor Nation - Canada are matters of international concern, interest, responsibility and character, thus International Law on Treaties and international standards regarding Treaties apply, and are intended to guide the development and application of Canadian Law, in accordance with the original true spirit and intent, and

Further Aware that the sacred Treaties and the Nation-to-Nation relationship they represent, are the basis for a strengthened partnership between us the Indigenous Peoples and the successor Nation - Canada, and where disputes arise, we have the right to appeal to and gain solutions from competent International bodies, and

¹ As indicated by the UN Study on Treaties that Canada possesses 'Successor' status to the Treaties on behalf of the Crown of Great Britain, as a result Canada cannot alter, diminish, nor apply their court processes to interpret the Treaties (Author's emphasis)

Knowing that as Indigenous Peoples and Nations we have organized ourselves for political, economic, social and cultural solution in order to reduce the impacts of genocide, colonisation, assimilation, termination, discrimination, and oppression, and that further international measures must be taken, and

Convinced that control by us the Indigenous Peoples over developments affecting our rights, livelihoods and existences, protection of our lands, territories and resources will enable us to maintain and strengthen our institutions, cultures and traditions, and to promote development in accordance with our sovereignty, autonomy and needs, and

Recognizing that respect for our indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment is required by all, and

Recognizing also the right of our Indigenous families and Indigenous Nations to retain shared responsibility for the upbringing, training, education and well-being of our children, consistent with the rights of the child, the United Nations Declaration on the Rights of Indigenous Peoples, and other International Standards and Instruments, and

Recognizing in particular that as Indigenous Peoples we have the right to freely determine our relationships with States in a spirit of coexistence, mutual benefit and full respect, and that as Indigenous Peoples we are committed to peace, economic and social progress and development, through understanding and friendly relations in the nation-to-nation relationship that our Treaties represent, and

Acknowledging 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 we freely determine our political status and freely pursue our economic, social and cultural development, exercised in conformity with international law, and

Convinced that the recognition, acceptance and full application of the rights of Indigenous Peoples will enhance harmonious and cooperative relations between Canada and us the Indigenous Peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith, and

Strongly Insists that Canada comply with and effectively implement all their obligations as they apply to us the Indigenous Peoples under international instruments, in particular those related to human rights, in conformity with international standards of free prior and informed consent and with the full inclusion and cooperation with us the Indigenous Peoples, and

Believing that international bodies have an important and continuing role to play in promoting and protecting the rights of us the Indigenous Peoples; our Treaties, Treaty making abilities, the right to freely cross borders and the portability of our rights, including the provisions of dispute resolution mechanisms concerning violations and breaches of our rights, and

Also Believing that this “Declaration and Recommendations to the United Nations Expert Seminar on Treaties Agreements and Other Constructive Arrangements”, is essential for the recognition, promotion and protection of the rights and freedoms of Indigenous Peoples and in the development of mutually beneficial and harmonious relationships, and

Recognizing and reaffirming that Indigenous individuals we are entitled without discrimination to all human rights recognized in international law, and as Indigenous Peoples we possess collective rights which are indispensable for our existence, well-being and integral development, and

Formally proclaims that we possess un-extinguished inherent rights, and maintain decision-making authority and powers that enables the following set of recommendation as standards to achieve and pursue in a spirit of partnership and mutual respect.

PREFACE TO RECOMMENDATIONS

We as Indigenous Nations:

- Retain our Sovereignty;
- Exercise our Nationhood;
- Maintain a direct connection with the Crown of Great Britain;
- Condemn any and all acts of genocide against our peoples;
- Denounce all acts of termination, assimilation and marginalization of our existences, rights and Treaties;
- Demand that proper justice and redress occur;
- Declare that Treaties are enforceable as legal relationships bestowing responsibilities and duties on the parties and that the Treaties are International legal instruments covered by International Treaty Law;
- Accept and promote the Development and Implementation of a Decolonisation programme;
- Maintain Assertion, Compliance and Enforcement Principles of Treaty

RECOMMENDATIONS

Governments

1. That International Treaty Law as referenced by the *UN Study on Treaties, agreements and other constructive arrangements between states and indigenous populations* - and the *1969 Vienna Convention on the Law of Treaties* be adhered to at all times.
2. That Governments adopt and implement the *UN Study on Treaties, agreements and other constructive arrangements between states and indigenous populations* in its entirety, especially, the final report completed by the Special Rapporteur Miguel Alfonso Martinez.
3. That Governments adopt and enforce the *United Nations Declaration on the Rights of Indigenous Peoples* and cease all actions that have the effect of devaluing and undermining those universally recognized and accepted standards, in the international and domestic forums and processes.
4. That Governments cease its violations and breaches of Treaty through their development and exercising of legislation, law and policy. ie. Interpretation or decisions regarding our Treaties and Indigenous Peoples Rights within their court systems and processes.
5. No precedent through Canadian law decisions shall apply without our express consent being obtained.

6. That Governments cease its application of terminology and characterization; that our Indigenous Peoples Rights and these recommendations as aspirational and unrealistic.
7. *“In the decision-making process on issues of interest to Indigenous Peoples, they should apply and construct (or continue to do so) the provisions of national legislation and international standards and instruments in the most favorable way for indigenous peoples, particularly, in cases relating to treaty rights. In all cases of treaty/agreement/constructive arrangement relationships, the interpretation of the indigenous party of the provisions of those instruments should be accorded equal value with non-indigenous interpretation of the same provisions.”*²
8. *“The fullest possible implementation in good faith of the provisions of treaties/agreements between indigenous peoples and states, where they exist, from the perspective of seeking both justice and reconciliation.”*³
9. That current reconciliation doctrine and principle that are state defined and sponsored are a breach of Treaty Law and Indigenous Peoples Rights and are to be abandoned as incompatible and in conflict with International Law and Standards.
10. Abolishment of the newly named Department of Aboriginal Affairs and Northern Development Canada.
11. Establishment of a relationship based on Treaties in the strictest sense and according to the International Status of Treaties, International Law and International Standards.
12. That all policies developed by Governments that places Indigenous Nations in an inferior position are outdated and must be repealed.
13. The foundation of any relationship(s) with Governments must be based in principles of trust, mutual benefit and equality recognizing the Indigenous Peoples legitimate existences, rights and treaty.
14. That Principles inherent in Treaty-making of Free Prior and Informed Consent shall at all times govern the relationships between Nations.
15. That Principles of Indigenous Peoples Permanent Sovereignty Over Natural Resources shall at all times govern all developments, discussions, negotiations and end results.
16. Governments will through their own processes enable any and all decisions that enforces; treaty, treaty duty, treaty responsibility, treaty rights and treaty based on Nation-to-Nation and International Treaty Law.
17. Redress in all its forms shall take immediate priority, action and application especially in areas of lands, resources and acts of genocide committed against the Indigenous Peoples.
18. That ongoing Treaty Summits with the Crown occur annually to review, discuss and resolve outstanding and ongoing breaches and violations of Treaties.
19. The Provincial governments who are not Treaty partners but equal beneficiaries of Treaty and thus cannot rely nor petition nor use their courts and laws to interpret or override Indigenous and Treaty Rights.
20. That Canada and its Provinces must repeal the 1930 Natural Resource Transfer Agreement with Canada as being incompatible and in conflict with International Law and Standards.
21. That revenues derived from the illegal extraction, transportation and sale of our natural resources be returned to us the Indigenous Peoples in the principles of redress and compensation.
22. That a decolonization effort and process be established immediately to enable the full enjoyment of Treaty, Treaty rights, lands, resources and development as Indigenous Peoples.
23. That Canada in claiming champion status for human rights internationally and to maintain such status approve and adopt for full and lasting effect into its national laws, policies and processes International Standards and International Laws.
24. That Governments immediately establish processes in conjunction with, including the full effective involvement, and the right to participate in decision-making by Indigenous Peoples to ensure the effective implementation of International Standards domestically and internationally.

² Study on treaties, agreements and other constructive arrangements between States and indigenous populations. Final report by Miguel Alfonso Martinez, Special Rapporteur E/CN.4/Sub.2/1999/20 22 June 1999, Para 318, pg. 52

³ Para 319, Ibid.

Indigenous Governments

1. That where it has not occurred the adoption, application and enforcement of International Standards into governance processes, functions and laws development including the right to decision-making in all aspects, be implemented immediately.
2. That the principle of Treaty Making of Free Prior Informed Consent (FPIC) be adopted, implemented and adhered to at all times.
3. That rejection of state sponsored and defined doctrines of reconciliation, duty to consult and other assimilationist and genocidal policies are detrimental to Treaty and incompatible and in conflict with the *United Nations Declaration on the Rights of Indigenous Peoples, the United Nations Study on Treaties, agreements and other constructive arrangements* and other international standards.
4. That the full realization that colonisation has occurred and has led to our current state of affairs and must be recognized and understood as detrimental to our indigenity, existence and rights.
5. That a decolonisation programme be developed and implemented to ensure that proper Treaty and Treaty relations are fully developed, empowered and engaged.

United Nations

1. That the United Nations organization entities and system continue to include in a comprehensive manner the inclusion of Indigenous Peoples into their programming and where this does not occur that every effort be utilized to achieve this imperative.
2. That the Permanent Forum on Indigenous Issues body be fully recognized as a decision-making body of the United Nations.
3. That all United Nations Studies completed, past and present, be fully implemented and enforced.
4. That all recommendations arising from the Permanent forum, the Expert Mechanism on the Rights of Indigenous Peoples, the Special Rapporteur on the Rights of Indigenous Peoples and other UN defined and recognized bodies decisions concerning Treaties and matters directly related to Treaties be implemented immediately.
5. That the remainder recommendations found in the United Nations Study on Treaties, agreements and other constructive arrangements be addressed and implemented.
6. That all recommendations of the previous and current Expert Treaty Seminars be accepted, honoured and implemented accordingly.
7. That `Covenant Status` of the United Nations Declaration on the Rights of Indigenous Peoples be sought immediately.
8. That all United Nations Treaty Bodies where Canada is obligated to report shall accurately reflect its non-compliance and non-adherence concerning Treaties with Indigenous Nations for the purpose of redressing and addressing in the most favourable way outstanding Treaty matters and business.
9. That the 2014 World Conference on Indigenous Peoples include "International Status of Treaties and their Enforcement" as a theme and topic to support the recognition, observance, and enforcement of Treaties.
10. That all world pre-events and conferences leading up to the 2014 World Conference include Treaties into all discussions and developments taking into full consideration these recommendations.
11. That full adoption and application of these recommendations take priority, and that best practices and methodologies be utilized in conformity and conjunction with Indigenous Peoples participation, their international rights, international law and international standards.
12. That the continuance and enhancement of training programmes in all specialized bodies of the United Nations be developed and implemented for internal and external purposes.
13. That a decolonisation process be developed and implemented on all colonised countries including the Americas.
14. That a United Nations Study on Border Crossing and Indigenous Peoples be approved and commissioned at the most immediate instance.

15. That a Study on Genocide and Indigenous Peoples be approved and commissioned at the earliest moment.

In the Spirit of our ancestors and those yet unborn; this Declaration and Recommendations for Treaty Assertion, Compliance and Enforcement document is forwarded and presented to the Expert Seminar on Treaties agreements and other constructive arrangements.

Treaty 6 Elders Prophecy 1876: "In the future there will be two types of Indigenous Peoples; the first group, which will be well educated in the white man's way of life, will lose their foundation in their language, culture, tradition, custom and indigenous way. They will be the most dangerous to be in leadership. The second group will be well educated with their foundation intact, they will understand and honour our Treaty and practice their Indigenous way of life, yet be able to speak and debate with the white man. These will be ideal to be our leaders."