Indian Council of America
Indigenous Peoples and Nations Coalition
International Council For Human Rights

Human Rights Council Panel “The way forward in the realization of the right to development: between policy and practice”
September 14, 2011
Ambassador Ronald Barnes

Madame President, Distinguished Members of the Human Rights Council and all

The Indian Council of South America and several NGOs have submitted oral and written interventions highlighting the right to self-determination as the underpinning basis for realizing all other rights in the Declaration on the Right to Development. Indigenous Peoples have been recognized as sovereign and independent States, have been placed on the List of Non-Self-Governing Territories with the aim of addressing the violations of the international legal and political status of Indigenous Peoples and have historically celebrated international treaties with States. International jurists have stated that the “equal right and self-determination of peoples” in Article 1.2 applies equally to nations, states and peoples. Professor Miguel Alfonso Martínez, in the Study on Treaties, Agreements and Other Constructive Arrangements has stated that Indigenous Peoples have celebrated international treaties and that Indigenous Peoples have been recognized as subjects of international law. Indigenous Peoples have been denied the exercise of their rights at various levels and have the right to harness every aspect of the right to development, including in Article 1 and Article 5 of the Declaration on the Right to Development.

The Declaration on the Right to Development acknowledges the Charter of the United Nations, the friendly relations among nations and peoples and acknowledges the instruments regarding decolonization. There are attempts by States to reduce all cases and situation of Indigenous Peoples to the Declaration on the Rights of Indigenous Peoples, despite that Indigenous Peoples have international treaties or have the right to harness international decolonization.

I would like to ask the panelists: Why would you exclude the important principles that support not only the relevant study of Professor Miguel Alfonso Martínez that Indigenous Peoples are subjects of international law but have unresolved international treaties? The fully informed consent principle that applied must also apply for Indigenous Peoples that have the right to harness their international status. The free, prior and informed consent principle must not be limited in its application to Indigenous Peoples.

The international treaties between States and Indigenous Peoples in the United States, Canada, and other parts of the world must not be excluded pursuant to the Right to Development including in, inter alia, Article 1 and Article 5. There are cases and situations that include flagrant violations of the right to self-determination under the Charter and international law.

I would also like to remember the late Chair Dr. Arjun K. Sengupta as the Chair as a friend to many who participated over the years in the work on the right to development.