

## Justice as Healing

A Newsletter on Aboriginal Concepts of Justice

### International Day of the World's Indigenous People

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It is a special privilege for me to speak to you, as we mark the *first* celebration of the International Day of the World's Indigenous People.

As you may know, this *date* was chosen, by the Indigenous Peoples themselves, because it commemorates the first meeting of the Working Group on Indigenous Populations, on 9 August 1982. As chairperson of the Working Group for eleven of its annual sessions since then, I must express the great sense of honour and humility I feel in knowing that the Working Group is esteemed so highly by Indigenous Peoples.

In saying this, I would like to recognize Professor Asbjorn Eide, who served as the first chairman of the Working Group, as well all of our other colleagues who have served as members of the Working Group. By choosing this date, Indigenous' Peoples have said to us, "well done; carry on". We must accept this as a mandate to redouble our efforts.

There is much to be proud of in the work we have done together. We have led the way in terms of popular participation in the making of international policy. A full decade before the "Earth Summit" at Rio de Janeiro, our Working Group opened its doors wide to the Indigenous Peoples of the world, and invited them to participate as full partners in a dialogue with legal experts and Governments. The sessions of the Working Group expand each year, and it is fair to say that the Working Group has made Geneva the global hub for information and communication among Indigenous Peoples themselves.

It is of particular satisfaction to me that the draft *Declaration on the Rights of Indigenous Peoples* truly reflects the values, beliefs and aspirations of the peoples concerned. More than that, it has come to be regarded, by Indigenous Peoples themselves, as their own.

Some Governments reject the draft *Declaration* as unrealistic, or too visionary. It is true that it goes beyond the current practice of most countries, and that it would call for fundamental changes in the legal structure of many States. But let us recall that the *Universal Declaration of Human Rights* was also unrealistic and visionary, in the context of 1948. It was adopted at a time when European empires still spanned the globe, the Cold War was just beginning, and most nations on earth were not free.

The drafters of the *Universal Declaration* were not discouraged by the actual state of affairs in their time. They were not deterred by arguments that they should be more realistic. Nor were they so naive, on the other hand, as to believe that a United Nations declaration can transform the real state of the world by mere fiat. They were neither interested in codifying existing practices, nor in limiting their work to what could readily be achieved. They were concerned with *justice* – and with fixing a proper goal for the work of generations to come. We all know – we, who have worked so many years in this building – that the program of justice set forth in the *Universal Declaration* is still far from being achieved for all people, in all countries.

Surely that fact does not mean that it was a mistake to adopt the *Universal Declaration of Human Rights*, 47 years ago. What a different and unhappy world it would be, today, had Member States of the United Nations *rejected* the *Universal Declaration* as unrealistic, and dimmed this one, pure, clear light of justice for the hundreds of millions of people who languished under dictatorship and oppression in the decades following the Second World War!

Permit me to state the argument another way. Have the tragedies in the former Yugoslavia, the

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unimaginable losses of life in Rwanda, or the resurgence of racism and xenophobia in Western Europe, rendered the principles contained in the *Universal Declaration of Human Rights* any less relevant to humanity today? If we measured the relevance or value of human-rights instruments by the standard of *current practice*, rather than the hopes and dreams of humanity, we should have no choice but to consign them all to the rubbish-heap.

Justice will *always* be an ideal that stands just beyond the reach of humankind. We are imperfect; we forget the lessons of history. A single century brings the emancipation of some nations, and the demise of others. But it is the essence of our humanity that we continue to struggle against despair, and towards our vision of justice.

The draft *Declaration of the Rights of Indigenous Peoples* was not intended to be a synthesis of *current practice*, but a beacon of hope – a *beacon of hope* for the justice Indigenous Peoples seek, as they shed the fears, humiliation, and despair of centuries of oppression. Shall the United Nations offer them a declaration of rights to *inspire* them, or one that deepens their sense of rejection by the rest of humanity?

Learned scholars in the fields of psychology and psychiatry agree that abuse and oppression leave deep scars in the minds and hearts of the oppressed. The victims of terrible discrimination and oppression fear, or suspect, that the mistreatment they have suffered was somehow justified. They may blame themselves, sub-consciously, or doubt their own capacity to rebuild their lives and recover their full dignity. A necessary first step towards emancipation and the full exercise of all human rights, then, is *healing* the scars of oppression, and recovering complete self-confidence as individuals and nations. I think this is as much true of an entire society that has suffered war and ethnocide, as an individual victim of torture or discrimination.

For healing to begin, there must be some clear recognition of the legitimacy of the victim's claims to justice. We must acknowledge the wrong that has been done. We must place responsibility where it truly belongs, on the oppressor and not the victim. And we must accept the victim's anger. Facts and feelings must be faced, squarely, before we can move beyond them. Denying the pain and anger does not make these emotions go away; they grow deeper, and more bitter.

What I am saying is a simple matter of human nature. Recognizing an oppressed peoples' claims to justice, enables them to begin to heal and rebuild. It helps them to recover their dignity, and to set aside their pain and anger so that they can devote all of their energies to emancipation and development. It strengthens the moral conviction and courage of the oppressed, and so, in the long run, transforms society.

The United Nations strengthened the struggle of colonized peoples by recognizing their right to be free, long before they were free. It bolstered the struggle of people in authoritarian states for democracy by recognizing the legitimacy of their dreams, decades before the Cold War came to an end. It sustained the long struggle against apartheid, by recognizing the justice of that causes many years before it finally succeeded.

We must remain true to this tradition of giving hope for justice. We must insist that the draft *Declaration on the Rights of Indigenous Peoples* be adopted *in substantially its present* form, without deleting the principles which are central to indigenous peoples' hopes for true justice. I refer, in particular, to the *equal right of all peoples, including indigenous peoples, to self-determination*.

When we meet again to celebrate this important day next year, our parent body, the Commission on Human Rights, will have given the draft *Declaration* an intensive and substantive review. The text may remain intact, it may be revised, or it may even be set aside. We will know, from this exercise, whether Member States still have the courage they demonstrated in 1948, in adopting the *Universal Declaration of Human Rights*. It will be a significant test of the vision of the Commission on Human Rights, of the credibility of the technical work done by the Sub-Commission, and of the ability of the United Nations as a whole to shed the last vestiges of racism and colonialism in international law.

The members of the Working Group have been inspired by indigenous peoples; they have dared to be visionary, in the true original spirit of the United Nations; and I hope, with all my heart, that we are not disappointed. This Day has been dedicated to Indigenous Peoples, but it is also about the courage and vision to continue to hold the beacon of justice for *all* peoples.