



UNITED NATIONS DECLARATION
ON THE
RIGHTS OF INDIGENOUS PEOPLES



INDIAN LAW RESOURCE CENTER
CENTRO DE RECURSOS JURÍDICOS PARA LOS PUEBLOS INDÍGENAS

JUSTICE FOR INDIGENOUS PEOPLES

The Indian Law Resource Center is a non-profit organization established and directed by American Indians. We provide legal assistance without charge to Indian and Alaska Native nations that are working to protect their lands, resources, human rights, environment, and cultural heritage. Our principal goal is the preservation and well-being of indigenous nations and tribes in North, Central, and South America. For more information, please visit us online at www.indianlaw.org or www.facebook.com/indianlawresourcecenter.

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“We, as indigenous nations, now have a
PERMANENT PLACE
WITHIN THE UNITED NATIONS.

We are no longer the curiosity
we were when we first
arrived in Geneva in 1977.

We are
PARTICIPANTS.

And
WE HAVE RIGHTS
UNDER INTERNATIONAL LAW.

Now we have legal arguments
based on the UN Declaration that
support our quest for justice. ”

—Darwin Hill,

Chief of the Tonawanda Band of Seneca Indians and
Member of the Board of Directors of the Indian Law Resource Center

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A POWERFUL AFFIRMATION OF OUR RIGHTS

The UN Declaration on the Rights of Indigenous Peoples is one of the most significant developments in international human rights law in decades. It recognizes that indigenous peoples throughout the world have a permanent right to exist as peoples, nations, cultures, and societies.

The UN Declaration was adopted by the UN General Assembly on September 13, 2007. Only four countries opposed the Declaration—the United States, Canada, Australia, and New Zealand. Since then, each of these countries has reversed its position and endorsed the Declaration, including the United States, the last to do so, on December 16, 2010.

The endorsement by the United States marked the culmination of decades of work by indigenous peoples and other members of the international human rights community. When the Haudenosaunee (Six Nations Confederacy) and I began drafting and proposing a declaration to the UN more than thirty years ago, we did so on the premise that domestic law was terribly inadequate to protect indigenous peoples' rights. We turned to the international arena primarily because of the need to overcome and improve national laws and practices and because of the desire to regain a place for indigenous peoples in the international community.

Our work to ensure justice for indigenous peoples in the U.S. begins in earnest with the United States' endorsement of the UN Declaration. To see the promise of the Declaration become a reality, we must continue to fight for laws, policies, and relationships that take into account the permanent presence of indigenous nations in the U.S. and throughout the world.

Native nations are already implementing the Declaration in many ways—using it to creatively protect their lands and resources. They are seeking fundamental changes in federal laws, regulations, policies, and practices to improve the lives of their citizens. The Declaration is a very useful guide in framing what better laws and policies should look like. It contains 46 articles covering rights to lands, territories, resources, enhanced tribal jurisdiction, consultation, economic development, culture, and language, among others.

It is an exciting time for the advancement of the rights of indigenous peoples. Indigenous peoples have always known these rights to be theirs, but now the countries of the world also recognize this. Indigenous peoples can and should use the Declaration as a powerful affirmation of our rights. Only through continued use will its provisions become reality.

Chi Megwetch,
Robert “Tim” Coulter

Tim Coulter (Potawatomi) is the founder and executive director of the Indian Law Resource Center in Helena, MT and Washington, D.C. and has practiced federal Indian law and human rights law for more than thirty-five years.

POWERFUL AFFIRMATION 2

A CRITICAL MOMENT IN INDIGENOUS HUMAN RIGHTS HISTORY

In December, 2010, the United States at last gave its support to the UN Declaration on the Rights of Indigenous Peoples. This, on the heels of endorsements by New Zealand and Canada earlier in the year, means there is now worldwide acceptance of indigenous peoples and our governments as a permanent part of the world community and the countries where we live. We worked on the Declaration for more than 30 years, and we are eager to see the promise of the Declaration become a reality.

Many perceive the human rights era as a new phenomenon, a modern movement, of indigenous peoples petitioning the United Nations for justice that states failed to provide us. However, this type of international advocacy is recorded as early as 1923, when Deskaheh (Levi General), of the Cayuga Nation of the Haudenosaunee Confederacy, traveled to the League of Nations in Geneva to request international action against Canada, which was violating the inherent right of self-government of the Haudenosaunee. And it was in 1977 that indigenous leaders from throughout the Americas and the world traveled to Geneva and began to demand that the international community hold countries accountable for taking our lands, resources, children, and languages, and for violating rights of self-government and self-determination. It was during this period that the UN Declaration was born. I, as a Miskito Indian leader, was among the many indigenous leaders who met in Geneva in 1977; my people were facing serious human rights violations and Nicaragua was hiding this from the international community.

Our extensive collaboration with indigenous leaders, advocates, and others to win acceptance of the Declaration leads us to believe the time is right to tackle some of the big legal and political issues that have hindered indigenous nations for generations. With worldwide acceptance of the rights in the Declaration, indigenous peoples have been provided a tremendous opportunity to push for recognition of our rights and demand that colonial governments respect our existence.

Let me close by thanking the many indigenous leaders and our colleagues in the Americas and throughout the world for all of your work and sacrifices to achieve acceptance of the Declaration. Your efforts on the Declaration have advanced indigenous rights in a historic way, and will enable future generations to survive and thrive well into the future. This is a critical moment in human rights history for the world's indigenous peoples. The next step is to implement the Declaration everywhere.

Yamni sut ra,
Armstrong A. Wiggins

Armstrong A. Wiggins (Miskito) is the Director of the Washington, D.C. Office of the Indian Law Resource Center. He was a political prisoner in Nicaragua during the Somoza and Sandinista regimes, and was later exiled because of his leadership in promoting human rights in Nicaragua. Armstrong has more than thirty-five years experience working in the field of human rights.

REFLECTIONS FROM NATIVE LEADERS

“The UN Declaration on the Rights of Indigenous Peoples has elevated the vision we as Native peoples have for ourselves and how others see us.”

—*LaDonna Harris (Comanche), President of Americans for Indian Opportunity*

“The Declaration is proving to be vitally important in securing the rights of indigenous peoples in the United States. For example, the Navajo Nation Human Rights Commission is urging the Navajo Nation Water Rights Commission to adopt the Declaration as its standard in seeking approval of a water rights settlement with Congress. Other tribes should also begin using the Declaration as the international standard for the protection and advancement of indigenous rights.”

—*Martin Avery (Navajo), Member of the Board of Directors of the Indian Law Resource Center and Managing Attorney for the State of New Mexico Public Defenders Office in Gallup*

“Our Tribe, along with our sister Patwin tribe, was able to use many of the principles embodied in the Declaration to find a peaceful solution to a problem that threatened the integrity of sacred burials on our ancestral lands. We negotiated with the City that owned these lands a cultural easement that enabled the City’s planned development to proceed, while ensuring that our sacred sites in our aboriginal territory would forever be protected from discovery and desecration by others. This easement gives the tribes the legal, judicially-enforceable right to protect these sites for all time.”

—*Marshall McKay, Chairman of the Yocha Dehe Wintun Nation*

“The legal standards succinctly recognized by UNDRIP have always been exercised by indigenous peoples like Navajos. The challenge the Navajo Nation Human Rights Commission faces today is re-asserting pre-colonial Navajo standards in a post-colonial Navajo world.”

—*Leonard Gorman, Executive Director for the Navajo Nation Human Rights Commission*

“...[W]e call on the President to fully implement the United Nations Declaration on the Rights of Indigenous Peoples. We specifically call for a review of all existing federal law to ensure they are in alignment with the Declaration.”

—*Jefferson Keel (Chickasaw), President of the National Congress of American Indians*

“The UN Declaration on the Rights of Indigenous Peoples sets the agenda for changing the future relationship between indigenous people and the United States; where our values, our teachings, our culture, our concept of the sacred, shall have more validity in negotiations.”

—*Jewell James, Policy Analyst for the Lummi Indian Business Council*

“The Declaration is recognition of our unique language, heritage and culture, and that we have a place in this world.”

—*Ed Alexander, Second Chief of the Gwichyaa Zhee Gwich'in Tribal Government and Gwich'in Language Coordinator of the Yukon Flats School District*

“The UN Declaration on the Rights of Indigenous Peoples represents a definite change in the direction of history. As incredible as it may seem, the Declaration is the first time in human history that indigenous peoples’ right to exist has been legally recognized. Indigenous peoples are now accepted as a permanent part of the world community.”

—*Robert T. Coulter (Potawatomi), President and Executive Director of the Indian Law Resource Center*

REFLECTING

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UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

Adopted by General Assembly Resolution 61/295 on 13 September 2007

THE GENERAL ASSEMBLY,

GUIDED by the purposes and principles of the Charter of the United Nations, and good faith in the fulfilment of the obligations assumed by States in accordance with the Charter,

AFFIRMING that indigenous peoples are equal to all other peoples, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such,

AFFIRMING also that all peoples contribute to the diversity and richness of civilizations and cultures, which constitute the common heritage of humankind,

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

REAFFIRMING that indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind,

CONCERNED that indigenous peoples have suffered from historic injustices as a result of, inter alia, 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,

“The aspirations the Declaration affirms—including the respect for the institutions and rich cultures of Native peoples—are one we must always seek to fulfill. But I want to be clear:

WHAT MATTERS FAR MORE THAN WORDS

—what matters far more than any resolution or declaration—

ARE ACTIONS TO MATCH THOSE WORDS.

...That’s the standard I expect my administration to be held to.”

—Barack Obama,
President of the United States of America

RECOGNIZING the urgent need to respect and promote the inherent rights of indigenous peoples 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,

RECOGNIZING also the urgent need to respect and promote the rights of indigenous peoples affirmed in treaties, agreements and other constructive arrangements with States,

WELCOMING the fact that indigenous peoples are organizing themselves for political, economic, social and cultural enhancement and in order to bring to an end all forms of discrimination and oppression wherever they occur,

CONVINCED that control by indigenous peoples over developments affecting them and their lands, territories and 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,

RECOGNIZING that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment,

EMPHASIZING the contribution of the demilitarization of the lands and territories of indigenous peoples to peace, economic and social progress and development, understanding and friendly relations among nations and peoples of the world,

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,

CONSIDERING that the rights affirmed in treaties, agreements and other constructive arrangements between States and indigenous peoples are, in some situations, matters of international concern, interest, responsibility and character,

CONSIDERING also that treaties, agreements and other constructive arrangements, and the relationship they represent, are the basis for a strengthened partnership between indigenous peoples and States,

ACKNOWLEDGING that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights¹ and the International Covenant on Civil and Political Rights,² as well as the Vienna Declaration and Programme of Action,³ affirm the fundamental importance of the right to self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development,

BEARING in mind that nothing in this Declaration may be used to deny any peoples their right to self-determination, exercised in conformity with international law,

CONVINCED 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 faith,

ENCOURAGING States to comply with and effectively implement all their obligations as they apply to indigenous peoples under international instruments, in particular those related to human rights, in consultation and cooperation with the peoples concerned,

EMPHASIZING that the United Nations has an important and continuing role to play in promoting and protecting the rights of indigenous peoples,

BELIEVING 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,

RECOGNIZING 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,

RECOGNIZING that the situation of indigenous peoples varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration,

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:

ARTICLE 1

Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights⁴ and international human rights law.

ARTICLE 2

Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.

ARTICLE 3

Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

ARTICLE 4

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

ARTICLE 5

Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

ARTICLE 6

Every indigenous individual has the right to a nationality.

ARTICLE 7

1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.
2. 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.

ARTICLE 8

1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.
2. States shall provide effective mechanisms for prevention of, and redress for:
 - (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;
 - (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
 - (c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;
 - (d) Any form of forced assimilation or integration;
 - (e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

ARTICLE 9

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 discrimination of any kind may arise from the exercise of such a right.

ARTICLE 10

Indigenous peoples shall not be forcibly removed 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.

ARTICLE 11

1. Indigenous peoples have the right to practise 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, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.
2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

ARTICLE 12

1. Indigenous peoples have the right to manifest, practise, 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.
2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.

ARTICLE 13

1. 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 and persons.
2. States shall take effective measures to ensure that 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.

ARTICLE 14

1. 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.
2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.
3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

ARTICLE 15

1. 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.
2. 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.

ARTICLE 16

1. Indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination.
2. 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.

ARTICLE 17

1. Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law.
2. States shall in consultation and cooperation with indigenous peoples 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 or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.
3. Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary.

ARTICLE 18

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.

ARTICLE 19

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

ARTICLE 20

1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or 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.
2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.

ARTICLE 21

1. 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.
2. States shall take effective measures and, where appropriate, 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.

ARTICLE 22

1. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.
2. States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

ARTICLE 23

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 programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

ARTICLE 24

1. 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.
2. Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.

ARTICLE 25

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual 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.

ARTICLE 26

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.
3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

ARTICLE 27

States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, 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.

ARTICLE 28

1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, 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.
2. 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 or of monetary compensation or other appropriate redress.

ARTICLE 29

1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.
2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.
3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

ARTICLE 30

1. Military activities shall not take place in the lands or territories of indigenous peoples, unless justified by a relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned.
2. States shall undertake effective consultations with the indigenous peoples concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands or territories for military activities.

ARTICLE 31

1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, 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 maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.
2. In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.

ARTICLE 32

1. 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.
2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.
3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

ARTICLE 33

1. Indigenous peoples have the 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.
2. Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

ARTICLE 34

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.

ARTICLE 35

Indigenous peoples have the right to determine the responsibilities of individuals to their communities.

ARTICLE 36

1. 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.
2. States, in consultation and cooperation with indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right.

ARTICLE 37

1. 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 honour and respect such treaties, agreements and other constructive arrangements.
2. Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements.

ARTICLE 38

States, in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

ARTICLE 39

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.

ARTICLE 40

Indigenous peoples have the right to 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.

ARTICLE 41

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.

ARTICLE 42

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.

ARTICLE 43

The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.

ARTICLE 44

All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals.

ARTICLE 45

Nothing in this Declaration may be construed as diminishing or extinguishing the rights indigenous peoples have now or may acquire in the future.

ARTICLE 46

1. 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 or 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.
2. In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law and in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society.
3. The provisions set forth in this Declaration shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith.

¹ See Resolution 2200 A (XXI), annex.

² *Id.*

³ A/CONF.157/24 (Part I), chap. III.

⁴ Resolution 217 A (III).

REFERENCE GUIDE

This Reference Guide is intended to assist readers in finding the provisions of the Declaration that are relevant to specific topics or subjects of interest. Under each topic, the main relevant provisions are listed, but the listings are not necessarily exhaustive. Only the operative provisions are listed in this guide. Useful references to many topics can also be found in the preambular paragraphs of the Declaration.

Access

- Article 5—political, economic, social and cultural life of the State
- Article 12(1)—religious and cultural sites
- Article 12(2)—ceremonial objects, human remains
- Article 13(2)—political, legal and administrative proceedings
- Article 14(2)—education of the State
- Article 14(3)—education in own culture, own language
- Article 16(1)—non-indigenous media
- Article 24(1)—medicinal plants, animals, and minerals; social and health services
- Article 39—financial and technical assistance
- Article 40—conflict resolution procedures; effective remedies

Autonomy—*See* Self-Determination

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Child Welfare

- Article 7(2)—forcible removal
- Article 14(2)—State education
- Article 14(3)—education in own culture, own language
- Article 17(2)—labor context
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- Article 22(1)—rights, special needs
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Citizenship and Civic Participation

- Article 5—political, economic, social and cultural life
- Article 6—nationality
- Article 13(2)—political, legal, and administrative proceedings
- Article 14(2)—education
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Compensation—*See* Redress and Restitution; Compensation

Consultation & Free, Prior, and Informed Consent (FPIC)

- Article 10—forcible removal, relocation; compensation, option of return (FPIC)
- Article 11(2)—taking of cultural, intellectual, religious, or spiritual property (FPIC)
- Article 14(3)—education in own culture, own language

- Article 15(2)—discrimination, tolerance
- Article 17(2)—child labor rights of indigenous children
- Article 18—decision-making in matters which would affect indigenous peoples' rights
- Article 19—legislative or administrative measures affecting indigenous peoples (FPIC)
- Article 22(2)—protection and guarantees for women and children against violence and discrimination
- Article 23—economic and social programs
- Article 28(1)—redress for land, territory, and resource rights altered (FPIC)
- Article 28(2)—compensation for lands, territories, and resources (FPIC)
- Article 29(2)—hazardous materials storage or disposal (FPIC)
- Article 29(3)—hazardous materials remediation
- Article 30(1)—military activities on lands or territories generally
- Article 30(2)—use of land or territories for military activities
- Article 31(2)—exercise of rights to cultural heritage, traditional knowledge and traditional cultural expressions
- Article 32(1)—development or use of lands or territories and other resources
- Article 32(2)—development affecting indigenous lands, territories, or other resources (FPIC)
- Article 36(2)—exercise of cross-border rights
- Article 38—implementation of the Declaration

Culture and Language

- Article 3—cultural development
- Article 5—cultural institutions
- Article 8(1)—forced assimilation, destruction of culture
- Article 8(2)(a)—deprivation of cultural values
- Article 8(2)(d)—forced assimilation or integration
- Article 11(1)—cultural traditions and customs
- Article 11(2)—redress for cultural property taken (FPIC)
- Article 12(1)—practice of traditions, customs, and ceremonies; religious and cultural site access; use and control of ceremonial objects; repatriation of human remains
- Article 12(2)—ceremonial objects, human remains
- Article 13(1)—cultural transmission
- Article 13(2)—protection of cultural transmission
- Article 14(1)—indigenous educational systems and institutions; education in own language, according to own cultural methods
- Article 14(3)—education in own culture, own language
- Article 15(1)—cultural representation in education, public information
- Article 16(1)—media in own language
- Article 16(2)—reflection of cultural diversity in media
- Article 25—spiritual relationship with lands, territories, waters, coastal seas, and other resources

Article 31(1)—cultural heritage, traditional knowledge, traditional cultural expressions, manifestations of culture; intellectual property
Article 31(2)—recognition and protection of cultural heritage, traditional knowledge, traditional cultural expressions, manifestations of culture, and intellectual property
Article 32(3)—mitigation of adverse cultural impacts
Article 34—institutional structures; distinctive customs, spirituality, traditions, procedures, practices, and juridical systems or customs
Article 36(1)—cross-border cultural relations
Article 36(2)—facilitation of cross-border cultural relations
Article 40—conflict resolution procedures; effective remedies

Disabled Persons—See Special Situations

Economic Development

Article 3—generally
Article 4—financing autonomous functions
Article 5—economic institutions; participation in economic life of State
Article 20(1)—economic systems or institutions; subsistence and development; traditional and other economic activities
Article 20(2)—redress for deprivation of means of subsistence and development
Article 21(1)—improvement of economic conditions
Article 21(2)—measures to improve economic conditions
Article 23—development priorities and strategies; economic programs
Article 26(2)—development of lands, territories, and resources
Article 29(1)—conservation and protection of productive capacity of lands, territories and resources; assistance programs for conservation and protection
Article 32(1)—development or use of lands or territories and other resources
Article 32(2)—development affecting indigenous lands, territories, or other resources (FPIC)
Article 32(3)—adverse economic impact of development activities
Article 36(1)—cross-border economic relations
Article 36(2)—facilitation of cross-border economic relations

Education

Article 13(1)—cultural transmission
Article 13(2)—protection of cultural transmission
Article 14(1)—indigenous educational institutions; education in own language and according to own cultural methods
Article 14(2)—education of the State
Article 14(3)—education in own culture, own language
Article 15(1)—cultural representation in education, public information
Article 17(2)—work that interferes with the education of the child

Article 21(1)—improvement of education and vocational training and retraining
Article 21(2)—measures to improve education and vocational training and retraining

Elders—See Special Situations

Environment

Article 29(1)—environmental conservation, environmental protection; assistance programs for conservation and protection
Article 29(2)—hazardous material storage or disposal (FPIC)
Article 29(3)—hazardous materials remediation
Article 32(2)—development affecting indigenous lands, territories, or other resources (FPIC)
Article 32(3)—adverse environmental impact of development activities

Equality—See Non-Discrimination

Forced Assimilation

Article 8(1)—forced assimilation, destruction of culture
Article 8(2)(d)—forced assimilation or integration

Free, Prior, and Informed Consent—See Consultation and Free, Prior, and Informed Consent

Fundamental Freedoms—See Human Rights and Fundamental Freedoms

Genocide

Article 7(2)—security as distinct peoples; genocide, other acts of violence

Health

Article 7(1)—life, physical and mental integrity, liberty and security of person
Article 7(2)—security as distinct peoples; genocide, other acts of violence
Article 17(2)—health of indigenous children in labor context
Article 20(1)—means of subsistence and development
Article 20(2)—redress for deprivation of means of subsistence and development
Article 21(1)—improvement of social conditions, including sanitation, health, and social security
Article 21(2)—measures to improve social conditions
Article 23—development and administration of health programs
Article 24(1)—traditional medicines, health practices; access to health services
Article 24(2)—standard of physical and mental health; realization of right
Article 29(3)—hazardous materials remediation
Article 31(1)—traditional knowledge; manifestations of sciences and technologies, including human and genetic resources, seeds, medicines, and knowledge of fauna and flora
Article 31(2)—recognition and protection of traditional knowledge and manifestations of sciences and technologies

Housing

- Article 21(1)—improvement of social conditions, including housing, sanitation, and social security
- Article 21(2)—State obligation regarding improvement of social conditions, including housing, sanitation, and social security
- Article 23—development and administration of social program, including housing programs

Human Rights and Fundamental Freedoms

- Article 1—generally; collective rights
- Article 46(2)—exercise of rights enunciated in the Declaration; limitations

Indigenous Identity, Membership, Citizenship

- Article 33(1)—identity or membership in accordance with customs and traditions
- Article 33(2)—structures and institutions of membership
- Article 9—right to belong to indigenous community or nation in accordance with customs and traditions

Individuals

- Article 1—individual rights generally
- Article 2—freedom and equality; non-discrimination
- Article 6—nationality
- Article 7(1)—life, physical and mental integrity, liberty, security of person
- Article 8(1)—forced assimilation, destruction of culture
- Article 8(2)(a)—deprivation of integrity as distinct peoples or of cultural values or ethnic identities
- Article 8(2)(b)—dispossession of lands, territories, or resources
- Article 8(2)(c)—forced population transfer
- Article 8(2)(d)—forced assimilation or integration
- Article 8(2)(e)—discriminatory propaganda
- Article 9—right to belong to indigenous community or nation in accordance with customs and traditions
- Article 14(2)—education of the State
- Article 14(3)—education in own culture, own language
- Article 17(1)—international and domestic labor law rights
- Article 17(2)—health of indigenous children in labor context
- Article 17(3)—discriminatory labor conditions
- Article 21(2)—improvement of economic and social conditions of indigenous elders, women, youth, children, and persons with disabilities
- Article 22(1)—special attention for the rights of elders, women, youth, children, and persons with disabilities
- Article 22(2)—protection and guarantees for women and children against violence and discrimination
- Article 24(1)—access to social and health services

Article 24(2)—standard of physical and mental health; realization of standard of physical and mental health

Article 33(1)—citizenship

Article 35—responsibilities of individuals to communities of indigenous peoples

Article 36(1)—contacts, relations, and cooperation with members and other peoples across borders; activities for spiritual, cultural, political, economic, and social purposes

Article 36(2)—facilitation of contacts, relations, and cooperation with members and other peoples across borders; facilitation of activities for spiritual, cultural, political, economic, and social purposes

Article 40—conflict resolution procedures, effective remedies for all infringements of rights; decision that gives due consideration to customs, traditions, rules, and legal systems of the indigenous peoples concerned

Article 44—rights and freedoms equally guaranteed to indigenous men and women

Intellectual Property

Article 11(1)—manifestations of culture

Article 11(2)—cultural, intellectual, religious or spiritual property taken (FPIC)

Article 20(1)—institutions; means of subsistence and development; traditional and other economic activities

Article 20(2)—deprivation of means of subsistence and development

Article 24(1)—traditional medicines, health practices; conservation of medicinal plants, animals, and minerals

Article 31(1)—cultural heritage, traditional knowledge, traditional cultural expressions, manifestations of sciences, technologies, and cultures; intellectual property

Article 31(2)—recognition and protection of cultural heritage, traditional knowledge, traditional cultural expressions, and manifestations of sciences, technologies, and cultures; recognition and protection of intellectual property

International Relations and Foreign Affairs

Article 4—autonomy, self-government; financing autonomous functions

Article 36(1)—contacts, relations, and cooperation with members and other peoples across borders; activities for spiritual, cultural, political, economic, and social purposes

Article 36(2)—facilitation of contacts, relations, and cooperation with members and other peoples across borders; facilitation of activities for spiritual, cultural, political, economic, and social purposes

Article 37(1)—treaties, agreements, other constructive arrangements; honor and respect for treaties, agreements, other constructive arrangements

Article 37(2)—no diminishment or elimination of rights contained in treaties, agreements, other constructive arrangements

Article 39—financial and technical assistance from States and through international cooperation

Interpretation of the Declaration

Article 37(1)—treaties, agreements, other constructive arrangements; State obligation to honor and respect

Article 37(2)—no diminishment or elimination of treaty, agreement, or other constructive arrangement rights

Article 43—minimum standards for the survival, dignity, and well-being of indigenous peoples

Article 44—rights and freedoms equally guaranteed to indigenous men and women

Article 45—no diminishment or extinguishment of existing or future rights

Article 46(1)—activity or act contrary to the Charter of the United Nations; territorial integrity or political unity of States

Article 46(2)—exercise of rights enunciated in the Declaration; limitations

Article 46(3)—interpretation of rights enunciated in the Declaration

Labor and Employment

Article 17(1)—international and domestic labor law rights

Article 17(2)—health of indigenous children in labor context

Article 17(3)—discriminatory labor conditions

Article 21(1)—improvement of education and vocational training and retraining

Article 21(2)—measures to improve education and vocational training and retraining

Lands, Territories, and Resources

Article 8(2)(b)—dispossession of land, territories, or resources

Article 8(2)(c)—forced population transfer

Article 10—forcible removal, relocation; compensation, option of return (FPIC)

Article 25—spiritual relationship with lands, territories, waters, coastal seas, and other resources

Article 26(1)—ownership and other rights

Article 26(2)—ownership, use, development and control

Article 26(3)—State obligation to legally recognize and protect rights

Article 27—recognition and adjudication of rights pertaining to lands, territories, and resources

Article 28(1)—lands, territories, and resources confiscated, taken, occupied, used or damaged (FPIC)

Article 28(2)—compensation, appropriate redress for lands, territories, and resources confiscated, taken, occupied, used or damaged

Article 29(1)—conservation and protection of environment and productive capacity; assistance programs for conservation and protection

Article 29(2)—hazardous material storage or disposal (FPIC)

Article 29(3)—hazardous materials remediation

Article 30(1)—military activities on lands or territories generally

Article 30(2)—use of land or territories for military activities

Article 32(1)—control over development

Article 32(2)—development affecting indigenous lands, territories, or other resources (FPIC)

Article 32(3)—adverse environmental, economic, social, cultural, or spiritual impact of development activities

Legal Systems

Article 5—distinct indigenous legal institutions

Article 11(2)—cultural, intellectual, religious, and spiritual property taken in violation of laws, traditions, and customs of indigenous peoples (FPIC)

Article 27—land, territory, and resources recognition and demarcation process that gives due recognition to indigenous peoples' laws, traditions, customs, and land tenure systems

Article 34—indigenous institutional structures and juridical systems or customs

Article 40—conflict resolution procedures, effective remedies for all infringements of rights; decision that gives due consideration to customs, traditions, rules, and legal systems of the indigenous peoples concerned

Natural Resources—See Lands, Territories, and Resources

Non-Discrimination

Article 2—generally

Article 8(2)(e)—discriminatory propaganda

Article 9—status of belonging to an indigenous community or group

Article 14(2)—State education

Article 15(2)—discrimination and tolerance, understanding and good relations

Article 16(1)—non-indigenous media

Article 17(3)—labor conditions

Article 21(1)—improvement of economic and social conditions

Article 22(2)—violence and discrimination in context of indigenous women and children

Article 24(1)—social and health services

Article 24(2)—standard of physical and mental health; realization of standard of physical and mental health

Article 29(1)—assistance programs for conservation and protection

Article 44—rights and freedoms equally guaranteed to indigenous men and women

Article 46(2)—exercise of rights enunciated in the Declaration; limitations

Article 46(3)—interpretation of rights enunciated in the Declaration

Preservation of Rights

Article 37(1)—treaties, agreements, other constructive arrangements; State obligation to honor and respect

Article 37(2)—no diminishment or elimination of treaty, agreement, or constructive arrangement rights

Article 45—no diminishment or extinguishment of existing or future rights

Redress and Restitution; Compensation

Article 8(2)(a)—redress for deprivation of integrity as distinct peoples or of cultural values or ethnic identities

Article 8(2)(b)—redress for dispossession of lands, territories, or resources

Article 8(2)(c)—redress for forced population transfer

Article 8(2)(d)—redress for forced assimilation or integration

Article 8(2)(e)—redress for discriminatory propaganda

Article 10—relocation, compensation, option of return (FPIC)

Article 11(2)—redress for cultural, intellectual, religious, and spiritual property taken (FPIC)

Article 12(2)—repatriation of ceremonial objects and human remains

Article 20(2)—redress for deprivation of means of subsistence and development

Article 28(1)—redress, restitution, or compensation for lands, territories, and resources confiscated, taken, occupied, used, or damaged (FPIC)

Article 28(2)—form of compensation or other appropriate redress

Article 29(3)—hazardous materials remediation

Article 32(3)—redress for adverse environmental, economic, social, cultural or spiritual impact of development activities

Article 40—access to conflict resolution procedures and effective remedies

Religion—See Culture and Language

Repatriation—See Redress and Restitution; Compensation

Restitution—See Redress and Restitution; Compensation

Right to Exist

Article 7(2)—freedom, peace, and security as distinct peoples; genocide or other acts of violence, forcible removal of children

Right to Life

Article 7(1)—generally; physical and mental integrity, liberty, security of person

Self-Determination

Article 3—generally; political status; economic, social, and cultural development

Article 4—autonomy; self-government

Article 5—political, legal, economic, social, and cultural institutions (i.e., governments)

Article 13(1)—writing systems; naming of communities, places, persons

Article 13(2)—protection of writing systems, naming of communities, places, persons

Article 14(1)—establishment and control of educational systems and institutions

Article 16(1)—establishment of indigenous media, own language

Article 18—decision-making in matters that would affect rights; decision-making institutions

Article 19—legislative or administrative measures that may affect indigenous peoples (FPIC)

Article 20—political, economic, and social systems or institutions

Article 23—priorities and strategies for exercising right to development

Article 32(1)—development or use of lands or territories and other resources
Article 32(2)—FPIC prior to approval of non-indigenous development affecting indigenous lands, territories or other resources (FPIC)

Article 33(1)—identity or membership in accordance with customs and traditions

Article 34—distinct institutional structures and customs and practices

Article 35—responsibilities of individuals to their communities

Social Welfare

Article 3—social development

Article 5—distinct social institutions; participation in the social life of the State

Article 17(2)—social development of indigenous children in labor context

Article 20—social systems or institutions

Article 21(1)—improvement of social conditions

Article 21(2)—measures to improve social conditions; special attention to elders, women, youth, children, and persons with disabilities

Article 23—development priorities and strategies; social programs affecting indigenous peoples

Article 24(1)—access to social services

Article 32(3)—adverse social impact of projects affecting lands, territories, or resources of indigenous peoples

Article 36(1)—contacts, relations, and cooperation with members and other peoples across borders, including activities for social purposes

Article 36(2)—facilitation of contacts, relations, and cooperation with members and other peoples across borders

Special Situations

Article 21(2)—improvement of economic and social conditions of indigenous elders, women, youth, children, and persons with disabilities

Article 22(1)—special attention for the rights of elders, women, youth, children, and persons with disabilities

Article 22(2)—protection and guarantees for women and children against violence and discrimination

Article 44—rights and freedoms equally guaranteed to indigenous men and women

Spirituality—See Culture and Language

State Obligations

- Article 8(2)(a)—deprivation of integrity as distinct peoples or of cultural values or ethnic identities
- Article 8(2)(b)—dispossession of lands, territories, or resources
- Article 8(2)(c)—forced population transfer
- Article 8(2)(d)—forced assimilation or integration
- Article 8(2)(e)—discriminatory propaganda
- Article 10—relocation, compensation, option of return (FPIC)
- Article 11(2)—cultural, intellectual, religious, and spiritual property taken (FPIC)
- Article 12(2)—ceremonial objects and human remains
- Article 13(2)—cultural transmission; access to political, legal, and administrative proceedings
- Article 14(3)—education in own culture and provided in own language
- Article 15(2)—prejudice and discrimination
- Article 16(2)—reflection of indigenous cultural diversity in the media
- Article 17(2)—health of indigenous children in labor context
- Article 18—decision-making in matters that would affect rights of indigenous peoples
- Article 19—legislative or administrative measures that may affect indigenous peoples (FPIC)
- Article 20(2)—subsistence and development
- Article 21(2)—economic and social conditions
- Article 22(2)—violence and discrimination
- Article 23—development and economic and social programs affecting indigenous peoples
- Article 24(2)—physical and mental health
- Article 26(3)—rights to lands, territories, and resources
- Article 27—land, territory, and resource recognition and demarcation
- Article 28(1)—lands, territories, and resources confiscated, taken, occupied, used, or damaged (FPIC)
- Article 28(2)—compensation or other appropriate redress
- Article 29(1)—assistance programs for conservation and protection
- Article 29(2)—hazardous material storage or disposal (FPIC)
- Article 29(3)—hazardous materials remediation
- Article 30(2)—use of land or territories for military activities
- Article 31(2)—cultural heritage, traditional knowledge, traditional cultural expressions, and manifestations of sciences, technologies, and cultures; intellectual property
- Article 32(2)—non-indigenous development affecting indigenous lands, territories, or other resources (FPIC)

- Article 32(3)—adverse environmental, economic, social, cultural or spiritual impact of development activities
- Article 36(2)—cross-border rights
- Article 37(1)—treaties, agreements, and other constructive agreements
- Article 38—implementation of the Declaration
- Article 39—financial and technical assistance
- Article 40—conflict resolution procedures and effective remedies
- Article 42—respect for and application of provisions of the Declaration and follow up on effectiveness

Traditional Ecological Knowledge—See Intellectual Property

Traditional Medicine—See Intellectual Property

Treaties, Agreements & Other Constructive Arrangements with States—See Preservation of Rights

Tribal Law or Tribal Legal Systems—See Legal Systems

UN Obligations

- Article 41—financial cooperation and technical assistance; participation of indigenous peoples on issues affecting them
- Article 42—respect for and application of provisions of the Declaration; follow up on effectiveness

Women

- Article 21(2)—improvement of economic and social conditions of women
- Article 22(1)—particular attention to rights women in implementation of the Declaration
- Article 22(2)—protection and guarantees against violence and discrimination
- Article 44—rights and freedoms equally guaranteed to indigenous men and women

NOTES

“THIS IS JUST THE
BEGINNING.”

If we want the principles in the
Declaration to have any meaning,

WE MUST
BEGIN WORK TODAY
to ensure
POLICIES AND LAWS

that violate the principles of
the Declaration are addressed.

So the work is yet to be done.”

—Susan Masten (Yurok),

Chairperson of the Board of Directors of the Indian Law Resource
Center and Founder of Women Empowering Women for Indian Nations

Indigenous People, Jane Ash Poitras ©



For further information about the rights affirmed in the UN Declaration and how you can support its implementation, contact the Indian Law Resource Center.

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