

Permanent Forum on Indigenous Issues

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Agenda item 5 Half-day discussion on North America

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Statement by Grand Chief Edward John, First Nations Summit

I welcome the recent commitment by the Government of Canada to take steps to endorse the UN Declaration on the Rights of Indigenous Peoples. However, we have concerns about this being a “qualified” recognition “fully consistent with Canada’s Constitution and laws”. Ultimately, this is about standards – standards as set out in the UN Declaration on the Rights of Indigenous Peoples, and whether the existing standards of the Canadian government in its relationship with First Nations peoples conform to those in the Declaration.

Currently, Canada’s existing standard perpetuates the continued denial of the existence of Aboriginal peoples, rights and title until First Nations are able to prove these through expensive, time-consuming and virtually inaccessible legal systems and processes. The Committee on the Elimination of Racial Discrimination referred to this approach of forcing First Nations into the courts as a "strongly adversarial position". The onus of proof that Indigenous peoples are subjected to is itself a transgression of human rights – we exist and have rights inherited from our

ancestors – these are not rights granted to us by the state.

These standards underpin all of the state's litigation pleadings and legal arguments as well as their negotiations policies, mandates, positions and strategies. This pattern of denial even extends to when rights are proven in the courts. When this has occurred, the government has been reluctant to implement these decisions. It continues to minimize or distort the decisions of the courts.

We also note that this denial approach by Canada is reflective of actions criticized by the Special Rapporteur in his recent analysis on the "Doctrine of Discovery". We fully support and recommend continued study on this important topic, which should also include a focus on the policies and legal standards of Canada.

Canada also adopts a "take it or leave it" approach to negotiations. For example, Canada has made the unilateral decision in which cases compensation for lands, territories and resources taken from Indigenous peoples in BC is not on the table, and there is no effective legal recourse for First Nations to challenge this position. The Hul'qumi'num Treaty Group is currently pursuing this issue through the Inter-American Commission on Human Rights.

If Canada's position is to endorse the UN Declaration on the Rights of Indigenous Peoples consistent with these standards, we have tremendous concerns that these standards will be perpetuated in the future. This is not acceptable to First Nations in British Columbia. We support the unqualified adoption of the standards set out in the UN Declaration on the Rights of Indigenous Peoples in accordance with their true spirit and intent.

The Chiefs of British Columbia recently adopted a resolution to request the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people to examine Canada's denial-based policies, mandates, practices and strategies.

Recommendation: Chiefs in British Columbia recommend that the UNPFII set up an expert group seminar to examine this issue, namely the State's underlying policies and standards for litigation and negotiation with Indigenous peoples.