

**Globalised First Nation Politics:  
The United Nations Drafted Declaration on the Rights of Indigenous Peoples and  
the Canadian Experience**

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## ABSTRACT

### Globalised First Nation Politics: The United Nations Drafted Declaration on the Rights of Indigenous Peoples and the Canadian Experience

Shelagh King-Levangie

Since 1995, indigenous peoples from around the world and United Nations (UN) member states have been meeting once a year for two weeks to discuss the UN Drafted Declaration on the Rights of Indigenous Peoples (DDRIP). The DDRIP is a proposed document that defines the human rights of indigenous peoples including indigenous peoples' right to self-determination, and collective rights to land and natural resources. Since it was first tabled in 1995, the DDRIP has generated much debate. In the past nine years, only two of the forty-five articles in the DDRIP have been passed by the UN Working Group on the Drafted Declaration on the Rights of Indigenous Peoples.

This thesis explores the process of the DDRIP negotiations and the meaning it has for First Nation peoples (specifically Mohawks of Kahnawake), the Canadian government and Canadian/First Nation relations. My research was conducted over a two-year period and consisted of participant observation, archival and newspaper research, and formal and informal interviews. As my theoretical framework, I used Risse and Sikkink's (1999) "spiral model" on the socialisation of international human rights norms into domestic practice and Sherry Ortner's theory (1999) on power and resistance. I argue that the indigenous peoples' experience at the Working Group on the DDRIP has theoretical significance for the study of globalisation, state control and civil resistance. New political opportunities and relationships are being created and contested across national and international boundaries as indigenous peoples seek recognition of their human rights, and negotiate a place within the world's political process.

## **List of Abbreviations**

UN=United Nations

DDRIP=United Nations Drafted Declaration on the Rights of Indigenous Peoples

ECOSOC=United Nations Economic and Social Council

GRULAC=Group of Governments from Latin America and the Caribbean

ILO=International Labour Organisation

NGOs=Non-governmental Organisations

OAS=Organisation of American States

WGIP=Working Group on Indigenous Populations

WGDD=Working Group on the Drafted Declaration on the Rights of Indigenous Peoples

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## Chapter One

### Introduction

What is particularly important about globalization is not its novelty (the process can be identified at least as early as 500 years ago) but the nature of the evolving transnational relationships, at the different economic, political and social levels.  
(Dasgupta 1999: 80)

In a time of increased interconnectedness, change, and possibility, it is important to investigate how politics and political relationships are formed and contested in our present era. According to Kliot and Newman (2000), “the processes affecting territorial sovereignty and statehood in an era of global flows and technological advance, have resulted in new modes of political organisation-locally, regionally and globally” (1). For the First Nation peoples of Canada, their relationship with the Canadian government is at a pivotal point in history. Since 1982, First Nation delegates and Canadian state representatives have been involved in international discussions on indigenous issues at the United Nations in Geneva and in New York. While indigenous issues have always been international in the sense that “the signing of treaties included a tacit or explicit acknowledgement that the original inhabitants of a territory were a ‘nation’, to be dealt with through existing mechanisms of international negotiation, conquest, and secession of land and sovereignty through treaties”(Neizen 2003: 29), it has not been until recently that the United Nations has expressly recognized indigenous issues as an international matter and concern.

In 1982, the United Nations Working Group on Indigenous Issues (WGIP) was created in an effort to address the growing concerns of indigenous peoples worldwide. As part of the WGIP’s standard-setting mandate, UN experts, nation state representatives and indigenous delegates began drafting a Declaration on the Rights of Indigenous



Peoples. In 1994, a text was agreed upon and presented to the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities.

This thesis investigates the political, cultural, social, and economic consequences of having indigenous issues considered in a global context. Focusing my discussion on the United Nations Drafted Declaration on the Rights of Indigenous Peoples (DDRIP), I will examine how indigenous peoples' human rights are being negotiated at the United Nations. It is understood that indigenous peoples' human rights include collective rights, such as collective rights to land and natural resources. I am interested in the *process* and *meaning* of the DDRIP negotiations and how it has impacted the indigenous peoples of Canada (henceforth referred to as First Nation peoples), the Canadian government, and Canadian/First Nation relations. Using Risse and Sikkink's (1999) "spiral model" on the socialisation of international human rights norms into domestic practice, and Sherry Ortner's theory (1999) on power and resistance, my thesis seeks to answer four broad questions: How is the DDRIP being negotiated? Considering the Mohawks of Kahnawake, what implications do these negotiations have politically, culturally, socially, and economically for the First Nation peoples at the international, national, and local levels? How has the internationalisation of indigenous issues affected the Canadian government and Canadian/First Nation relations? Finally, what significance does this example have for theories of globalisation, state control, and civil resistance?

## **I. THE DDRIP**

The Draft Declaration on the Rights of Indigenous Peoples (DDRIP) outlines in forty-five articles the human rights of indigenous peoples. These rights are divided into eight thematic concerns: General Principles (Articles 1-5); Life, Integrity and Security

(Articles 6-11); Cultural, Spiritual, and Linguistic Identity (Articles 12-14); Educational, Information, and Labour Rights (Articles 15-18); Participatory, Development, and other Economic and Social Rights (Articles 19-24); Land and Resources (Articles 25-30); Exercise of Self-determination, Indigenous institutions (Articles 31-36); Implementation (Articles 37-41); and, miscellaneous provisions (Articles 42-45).

Created over a five-year period, the DDRIP was inspired by the *real life experiences* of indigenous peoples. The WGIP decided that:

A review of ‘real-life experiences’ of indigenous peoples could assist the clarification of relevant concepts and the formulation of standards. This understanding of the historical experiences and contemporary aspirations of indigenous peoples provided the framework for the elaboration in the WGIP of standards on the rights of Indigenous peoples. (Pritchard 2000: 2)

In collaboration with indigenous representatives, the WGIP looked at pre-existing standards in international law and adapted them to indigenous peoples. When the text of the DDRIP was agreed upon in 1993, it was felt to be “comprehensive and reflected the legitimate aspirations of indigenous peoples as a whole, as well as, a number of suggestions and concerns advanced by Observer Governments” (United Nations 1994: para133). In 1994, the text was submitted to the Sub Commission on Prevention of Discrimination and Protection of Minorities. In the following year, the Commission on Human Rights created an Open-ended Intersessional Working Group on the Draft Declaration (WGDD) with the task of elaborating a Declaration based on the text approved by the WGIP and the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

UN member states and indigenous delegates from around the world meet once a year for ten days at the Palais des Nations in Geneva, Switzerland to discuss and

negotiate the DDRIP. Since 1994, when the WGDD was established, only two of the forty-five articles have been approved. Though the DDRIP, once passed, would only be an aspirational document and would not be legally binding, many governments have several concerns with the current text. The nation states' main conceptual issues relate to the right of self-determination, collective rights, definition of indigenous peoples, and indigenous peoples' rights to land and resources. For the Declaration to be passed it must be approved by the WGDD, then the Commission on Human Rights and finally, the United Nations General Assembly.

## II. OVERVIEW

This thesis is divided into eight chapters, including the present chapter. In chapter two, I review the relevant literature and present my field research. In chapter three, the WGDD and the DDRIP are put into context. I review the work that is going on at the UN in terms of indigenous issues and how it relates to Risse and Sikkink's (1999) "spiral model". I conclude chapter three by giving an overview of the participants in the WGDD negotiations.

In chapters four and five, I elaborate on how the DDRIP is negotiated. In chapter four, I look at the *process* of the WGDD negotiations. I focus on *how* the indigenous delegates and the nation state representatives participate in the DDRIP negotiations and the various strategies employed by both groups to assert their influence. In chapter five, I analyze the *content* of the DDRIP. In both chapters, I use examples from the Canadian experience to illustrate how the Canadian government and the First Nation peoples at the WGDD try to control and influence the proceedings of the DDRIP negotiations.

Chapters six and seven explore the meaning and significance of the DDRIP

negotiations for the First Nation peoples, the Canadian government, and Canadian/First Nations relations. Chapter six looks at the political, cultural, social and economic impact the globalisation of indigenous issues has had on First Nation peoples at the international, national, and local levels. Using the experience of the Kahnawake Mohawks, as a basis for discussion, I examine how the political opportunities, forms of resistance, social and cultural identities have been influenced as a result of global efforts at the UN.

Chapter seven discusses the effects the internationalisation of indigenous issues has had on the Canadian government and Canadian/First Nation relations. I explore how the Canadian government has reacted to having indigenous issues considered at the UN and what significance this has had on Canadian/First Nation relations.

The thesis concludes by relating the First Nation and Canadian government experience with indigenous issues at the international forum, to theories on globalisation, state control, and political resistance. The internationalisation of indigenous issues is an important vehicle for gaining insights into the new forms of political relationships and opportunities that are being created and contested in today's society. The example of the WGDD suggests that increased civil power and resistance, growing importance of international relationships, identities and institutions, and the changing norms of our society, are challenging the authority and legitimacy of nation state governments. New forms of resistance have been created and power in the international forum is no longer defined by state economic and military control. Indigenous peoples are using international means to assert local identities and ways of life.

Chapter Two  
**Literature Review and Field Research**

**I. LITERATURE REVIEW**

The discipline of anthropology has been slow to study the internationalisation of indigenous issues. According to Neizen (2003), due to the “relative insignificance of its components” (12) the indigenous peoples’ social movement has “gained momentum over the last few decades largely out of the notice of observers, pundits and theorists of international events” (*ibid*: 3). Critics have failed to record the various effects of the process of negotiating international indigenous issues, and have largely neglected the content of those discussions. Howard (2003) argues that an understanding of the indigenous peoples’ use of their identity and aspirations, in association with the history and implementation of national and international laws is integral for our understanding of the issues they confront in today’s society.

Existing literature on the DDRIP and the indigenous movement is written by political scientists, international relations scholars, indigenous activists, and anthropologists. Lynge (1998) and Kaisiepo (1998) examine the political significance of global indigenous partnerships for the future of the indigenous culture. Trask (1998) looks at the events and developments that have allowed for indigenous peoples to enter into international dialogues. Several scholars have looked at the influence and impact the globalisation of indigenous issues has had on indigenous women (Oreskor 1998, Cruz and Hasager 1998, Sjorslev 1998). Very few books are actually dedicated to the issue of the DDRIP, however, but make reference to its development and progress in their analysis of the effects globalisation has had on indigenous communities (Burger 1987,

Bodley 1990, Battiste and Henderson 2000, Maybury-Lewis 2003, Henderson 2000, Howard 2003).

Franke Wilmer, an international relations scholar, has written a book on the political and theoretical significance of the indigenous movement. In his book, *The Indigenous Voice in World Politics* (1993), Wilmer argues that indigenous peoples at the international forum have tapped into a new form of power that cannot be explained or understood by traditional international relations theory:

International relations theory can not explain how the weakest group in society is getting the United Nations and state bodies to revoke some of their power and consider values and ideas, which limit and decrease their political control. (*ibid*: 25)

Wilmer argues that in the case of the indigenous movement, power in the international forum is not limited to conventional forms. The indigenous movement draws on the use of persuasive, rhetorical and symbolic power (*ibid*: 31). Though indigenous peoples have little or no economic or military clout, they are influencing nation states to absolve some of their power.

Ronald Neizen (2003) makes a similar argument in his book *Origins of Indigenism: Human Rights and the Politics of Identity*. Neizen argues that indigenous peoples have created an international social movement that unlike other resistance movements or ethnonationalism, is grounded in international networks and is both a product of social convergence and an agent of it (*ibid*: 4). The indigenous movement, while “smaller in scale, more fragile, and less turbulent than nationalist upheavals of the past two centuries...has the potential to influence the way states manage their affairs and even to reconfigure the usual alignments of nationalism and state sovereignty”( *ibid*: 4). The indigenous movement capitalizes on the proliferation and creation of global

identities outside of the borders of the nation states. These global forces are changing the way indigenous peoples identify themselves and the political opportunities that they possess. Neizen's understanding of the indigenous movement, contests James Scott's (1985) analysis of the agency possessed by marginalised communities. According to Scott (1985), resistance is in the form of uncoordinated, sporadic efforts. Marginalised communities use "foot dragging" techniques to stall economic production. As Neizen points out, the actions that Scott describes "have little in common with the presentation of indigenous delegates at conferences and closed sessions of international political forums" (Neizen 2003: 15).

Of those scholars who have looked at the internationalisation of indigenous issues, only a few have looked at the impact this has had on national and local communities. Most of the literature studies the effects the internationalisation of indigenous issues has had on Latin American countries (Speed 2002, Brysk 1993, 2000). Only a few books or articles have been dedicated to the significance the DDRIP has for the Canadian government and First Nation peoples. Neizen (2003) illustrates his points by using examples from the Canadian experience, but does not do a close analysis of the cultural, social, political and economic importance the DDRIP has for those involved. Perry (1996) only refers to how pan-Aboriginal political organisations have become a defining political force for First Nation peoples within Canada.

Marantz (1994) wrote a very detailed book analysing the Canadian experience. In *People or Peoples; Equality, Autonomy and Self-Determination: the Issues at Stake of the International Decade of the World's Indigenous People*, Marantz examines the changing relationship between the Canadian government and First Nation peoples as a result of the

inclusion of indigenous issues at the UN. He determines that though indigenous peoples have gained power at the international level, the nation states still play a key role in determining the future of their political relationship with indigenous peoples. Marantz holds a positive view of Canada's contributions at the WGDD and argues that First Nation representatives at the WGDD must encourage the Canadian government to take a leading role in determining the outcome of the DDRIP. His analysis of the impact globalisation of indigenous issues has had on Canada is dated, however, and in my opinion too positive. Marantz focuses only on the political implications of the DDRIP negotiations and does not look at the cultural, social, and economic importance the DDRIP has had for First Nation peoples, focusing more on what it means for the Canadian government.

Two key aspects of the international indigenous negotiations are missing from the literature on the globalisation of indigenous issues. One is a formal understanding of the process, the strategies and tactics employed by both the indigenous peoples and the national governments to inform, negotiate and enforce their views on the DDRIP. Two, an exploration of the meaning and significance negotiating indigenous issues at the international level has had on indigenous peoples at the international and local level, as well as, national governments and the relationship between indigenous peoples and nation states.

Khangram, Riker and Sikkink have written extensively on the growing importance of non-state actors in world politics. In *Restructuring World Politics: Transnational Social Movements, Networks and Norms*, Khangram, Riker and Sikkink (2002) explore the processes by which, historically weak coalitions and networks create,



strengthen, implement, and monitor international norms. They look at several different examples of transnational collective action, from the Women's Right Movement to the coalition of local, national and international non-state organisations to stall the construction of dams along the Naramada River, in India. The indigenous movement is not one of the examples used. Based on their case studies, however, they make several conclusions.

One, they argue that social movements are the most difficult and rare form of transnational collective action (*ibid*: 8). The conditions required for the development and success of a social movement is difficult, they argue, to find and sustain transnationally (*ibid*: 13). Social movements rely on shared understandings of the world and of the people involved to legitimate and motivate collective action. Social movements are therefore, mostly formed between homogenous populations, who share a collective identity. According to Khangram, Riker and Sikkink (2002), "few examples exist of truly transnational collective identities"(13). Further preventing the emergence of transnational social movement is the lack of international mobilising structures or interpersonal networks. Social movements rely on frequent contact between members to mobilise jointly. Forming these international relationships, and finding an international arena to meet, assemble, and negotiate is difficult transnationally.

Riker and Sikkink (1999) develop a theoretical model to explain how non-state actors can incite domestic and/or international norm change through the activation of international networks. In their book, *The Power of Human Rights: International Norms and Domestic Change*, Risse and Sikkink (1999) present a five phase "spiral model" of

norm socialisation which outlines the different stages leading up to the eventual implementation of human rights standards in norm-violating countries.

In the first stage, called “Repression and Activation of Network”, transnational networks become aware of allegations of human rights violations within a particular country. This initial activation of a transnational network usually results from a particularly awesome human rights violation like a massacre (*ibid*: 22).

In phase two, “Denial”, transnational networks lobby international human rights organisations and western states to uphold the rights of humans on a global scale by appealing to their sense of equality and freedom. According to Risse and Sikkink (1999), the initial response of the target-state to international attention is always one of denial;

The norm-violating government refuses to accept the validity of international human rights norms themselves and it opposes that its national practices in this area are subject to international jurisdiction. (*ibid*: 23)

Resistance never takes the form of outright denial of human rights, “but is mostly expressed in terms of reference to an allegedly more valid international norm, in this case national sovereignty” (*ibid*: 23-24). Norm-violating states argue that the sovereignty of the state is threatened by international intervention and furthermore could disrupt the stability and autonomy of the nation itself.

According to Risse and Sikkink (1999), this denial by the norm violating state is the first step in the socialisation process. By trying to defend its practices, the state is attempting to manage its international reputation and is being entrapped in their need to appeal to other powerful nations (*ibid*: 24).

The success of phase three, “Tactical Concessions” depends on the “strength and the mobilization of the transnational network, in conjunction with the vulnerability of the

norm-violating government to international pressure” (*ibid.*: 24). Pressure is put on the target state from ‘above’ by using the state’s vulnerability—be it their dependence on foreign aid or their desire to maintain good standing within valued international groupings—as a bargaining tool (*ibid.*: 24). As the target government continues to try and defend its position, they become entrapped in their own rhetorical logic and a “process which began for instrumental reasons, with arguments being used merely rhetorically, increasingly becomes a true dialogue over specific human rights allegations in the target state” (*ibid.*: 27). Eventually, the government makes some concessions to appeal to the international community. These changes, however, are mostly strategic, but can allow for the social mobilisation of the domestic opposition. As a result of merely cosmetic changes, the transnational networks become empowered and domestic opposition grows in strength.

Progress into phase four, “Prescriptive Status”, depends on the ability of domestic actors to form a strong opposition from ‘below’. At the end of stage three, the focus of the lobbying efforts needs to switch from the international level to the domestic level. Mobilising domestically, however, can be precarious and difficult. There is usually just a small group of activists at the domestic level and they are dependent on a few key leaders. Arresting or killing these leaders can decapitate the initiative. Domestic opposition, however, once linked to global human rights politics will gain in strength and can be activated at any time. Whenever the state commits another human rights violation, the domestic-transnational network is activated “from above” and “from below” (Brysk 1993). At the end of phase three, “norm-violating countries are no longer

in control of the domestic situation” (*ibid.*: 26) and the process of “controlled liberalization” is initiated.

Phase five, “Rule Consistent Behaviour”, is reached when “communicative behaviour between the national governments and their domestic and international critics closely resemble notions of dialogue, or augmentation and justification” (*ibid.*: 30). The last phase of the spiral model involves governments not only accepting the validity of human rights norms but also enforcing them. This phase requires domestic-transnational-international networks to maintain the pressure on governments to achieve sustainable improvements of human rights conditions.

According to Risse and Sikkink (1999) and Khangram, Risse and Sikkink (2002) transnational networks have become increasingly important in the last two decades and have played a significant role in changing international politics, processes and norms. They believe that the mobilisation of non-state actors represents a third sector in global politics. Non-governmental organisations are distinct from, but work in conjunction with, the government and business sector. The expansion and success of transnational networks is seen as a threat from “below” to the authority and practice of states and international institutions. The increase in new non-state actors, new arenas for action and the blurring of distinctions between domestic and global level of politics all herald the emergence of new forms of political relationships and a global civil society.

Other scholars support Risse and Sikkink (1999) and Khangram, Risse and Sikkink’s (2002) findings. While some scholars look at globalisation and the increase of transnational corporations as further oppressing and marginalising the poor, other scholars have noted that globalisation has allowed for more political participation than

ever before possible (Hall 1995, McGrew 1995, Neizen 2003). It has been argued that as nation states become more interlinked and international institutions like the UN gain in importance, new relationships with civil society are formed (McGrew 1995, Held 1995, Lynge 1998). Held (1995) argues that as the power structure of society shifts, “spaces ‘below’ the level of the nation-state have opened up for enhanced democratic participation (455). The United Nations and other intergovernmental organisations have been identified as becoming increasingly important as new loci of political debate (Neizen 2003). Globalisation has created new political opportunities for civil society and new spaces for resistance.

While much of the literature looks at how power in the post modern era is being negotiated, little research has been done on the significance and meaning of power in the context of the indigenous negotiations. Sherry Ortner (1999) argues for a theoretical approach to studies of power that combines both the power driven perspective advocated by Edward Said and Foucault and the meaning oriented approach proposed by Geertz. Ortner argues that Geertz and Foucault’s theories create binary oppositions in their analytical approaches that cause them to see only half the picture. A Geertzian interpretive approach that tries to understand human activities by looking at the underlying beliefs, values and intentions fails to give adequate recognition to other forces like power, domination and social asymmetry which are also involved in creating the reality he seeks to understand. A power driven approach proposed by Said and Foucault takes into recognition these factors but are “culturally thin and insufficiently grounded in local views of the meaning of morality, justice, subjecthood and agency (*ibid.*: 163). Ortner argues that the concept of agency is one way to combine these two approaches.

Agency captures both the power problematic and the meaning problematic. It is both a source and an effect of power and a source and effect of culture.

Meaning plays a significant role in transnational collective action. If the business sector has been characterised by the drive for profit and the government sector by the use of authority, the non-governmental sector can be defined by the search for meaning (Khagram, Riker and Sikkink 2002: 11). Non-state actors use their understanding of their position and role in the world, their relationship with the state, and their culture to “frame” their efforts and to mobilise consensus:

Movements help create and recreate meanings through ‘framing’, or ‘the strategic efforts by groups of people to fashion shared understandings of the world and of themselves that legitimate and motivate collective action.’ (*ibid*: 12)

Non-state actors shape the world according to their principled beliefs and use their ‘frames’ to persuade others to take their side. Meaning therefore not only unites and motivates collective action, but is also used as a tool for persuasion, argumentation and negotiation.

Anthropology has much to gain from a study of the process and meaning of the globalisation of indigenous issues. It builds on the growing realisation in anthropology that “[t]he landscape of [some] group identity—the ethnoscapescapes—around the world are no longer familiar anthropological objects, insofar as groups are no longer tightly territorialized, spatially bounded, historically unselfconscious, or culturally homogenous” (Appadurai 1996:191). The local is no longer local but greatly influenced by a variety of global forces that affect not only the lived realities of people but also their imaginations. This reality means that the new task of ethnographies and anthropological enquiry is to unravel the “nature of locality, as a lived experience, in a globalized, deterritorialized

world” (*ibid.*: 196). Indigenous peoples are creating new political opportunities, spaces of resistance, and identities.

## II. FIELD RESEARCH

Going to the United Nations and attending a meeting of the WGDD and the Permanent Forum was critical for my understanding of the process and significance of having indigenous issues considered in a global context. I needed to see how the indigenous delegates used the space at the international forum to further the recognition of their human rights. Furthermore, it was important that I witness the type of relationships that are formed and contested at the United Nations between the indigenous delegates and the nation state representatives.

Before I started my fieldwork, I had a very hopeless picture of Native politics. All the stories I had heard were negative. The images I had seen were of the protests, blockades, corruption and despair. The portrayal of the recent political unrest in Kanasatake is representative of the picture I had of indigenous political activity. Over the last two year, the *Montreal Gazette* has been filled with stories on the political unrest and turmoil in the nearby Native communities (*Gazette*, Jan.13, 2003, “Mohawk chief’s home torched in police leadership dispute;” *Gazette*, Jan.13, 2003, “ Protestors hurl bricks and wood at cops after two senior officers are reinstated;” *Gazette*, April 1, 2003, “Blockade: Chief warns he’ll order police to remove road barricades;” *Gazette*, April 15, 2003, “Kanesatake turmoil persists;” *Gazette*, April 15 2003, “Highway blocked at site of 1990 Oka crisis: Mohawk faction calls band chief dictatorial”; *Gazette*, January 16, 2004, “Kanesatake police commissioner contests claim she urged arson”; *Gazette*, March 27, 2004, “Showdown looms in Kanesatake as exiled chief names new top cop”). In the

spring of 2003, Kanesatake Chief James Gabriel was accused of making secret arrangements with the Quebec government and firing the communities police commissioners. What erupted was a dramatic confrontation. The Chief's house was burned down and the new policemen hired were confined within the police quarters for 36 hours until an arrangement was made to have the nearby Kahnawake peacekeepers oversee policing in the interim. Images of angry Kanesatake residents, tire fires, flags and the Chief's house burning filled, our newspapers and TV screens across Canada for weeks.

The image many non-Native Canadians have of First Nation peoples is that they are incapable of meaningful political negotiations. A comic in the *Montreal Gazette* on April 17, 2004 captures the feeling many non-Native Canadians share. The comic was of a car driving on the highway heading towards Kanesatake. From the driver's side of the car comes the query, "So? Self-rule for Native persons, huh?" Looking at the sign to Kanesatake, the passenger responds, "Oh, right. That'll work". First Nation political activism is seen as being confrontational, unruly and violent. Brute force and acts of intimidation are used to express political opinion.

The Canadian government appears just as incapable of solving the problems. In one recent episode, Indian Affairs Minister Robert Nault incited large-scale protests over a proposal to change the Indian Act (*Gazette*, April 28, 2003, "Protestors to rally in Ottawa against new Indian Act"). Nault's Governance Act proposed changes that would see Aboriginal communities across Canada draft election and hiring codes, expand fiscal reporting and assume bylaw-making powers. It was argued that these changes could illegally infringe on First Nation peoples' rights to self-government. First Nations



accused Nault of not consulting them on the changes. In protest they took to the streets. It was clear that many of the protestors felt that more may be needed to get the attention of the Canadian government: “‘We have to remain peaceful, as much as we can’, said Grand Chief Dennis White Bird of the Assembly of Manitoba Chiefs... ‘But fiery speeches aren’t enough to sway dismissive law-makers’, several leaders said. Road and bridge blockades may be the only way to make their point, they suggested” (*Gazette*, April 29, 2003, “1,500 rally against Indian Act changes”). In a never ending cycle, the efforts of First Nation peoples to try and gain political attention reinforces public opinion that they have a renegade mentality and are either too immature or not sophisticated enough to negotiate with Canadian government officials. Despite the billions of dollars and resources Canada has invested in First Nation issues and communities, the situation of many First Nation peoples remains dismal. First Nations have the highest unemployment rates, highest level of infant mortality and highest level of incarcerations. They are the third world living in a first world country (Dyck 1985).

It was with this mentality and view of First Nation politics that I began my research on the globalisation of indigenous issues. My research was conducted over the period of one year. I did participant observation, archival and newspaper research, and formal and informal interviews. I did not have one particular field site. Instead I worked in three different countries and several locations within Montreal and Ottawa.

My research began when my supervisor Dr. Dominique Legros introduced me to Kenneth Deer in November of 2002. Dr. Dominique Legros knew Kenneth Deer from an article he had written about him and his involvement at the UN for the *Recherches*

*Amerindiennes au Quebec* journal (2001). Kenneth Deer became the gatekeeper for my research.

Kenneth Deer is a Kahnawake Mohawk. He is the editor of *The Eastern Door* newspaper. *The Eastern Door* newspaper is widely read and is issued twice a month in Kahnawake. Deer is a respected religious leader involved in the community's Longhouse and an active indigenous representative at the UN.

When I met Kenneth Deer, I was interested in writing my thesis on his life and the work he does fighting for indigenous rights at the United Nations. When I presented my idea to him, he suggested I switch my topic to the indigenous peoples' struggle for self-determination. He invited me to attend the Inter-sessional Open-ended Working Group on the United Nations Drafted Declaration on the Rights of Indigenous Peoples (WGDD) at the UN in Geneva, Switzerland the following month.

The WGDD meeting was held from December 2-15, 2002. Kenneth Deer had done the work to register me for the Working Group under the NGO, Indigenous World Association, of which he is a member. I went a few days early to attend the Indigenous Peoples Caucus meeting at the World Council of Churches. This is a weekend preparatory meeting for all the indigenous delegates from around the world to meet, confirm the agenda, share information and build consensus.

I was very nervous about going to the UN and doing research on indigenous peoples and indigenous issues. I was acutely aware of the historical relationship indigenous peoples have had with anthropologists and desperately and apologetically wanted to separate myself from my anthropology predecessors. In my fieldwork, I wanted to be the intelligent, compassionate, and useful anthropologist, who was not like

the anthropologists of the past. I was going to be different. I was going to dedicate myself to making my efforts and time meaningful for my informants. On day two of being in Geneva, my good intentions came to haunt me. Kenneth Deer, at the Indigenous Peoples Caucus meeting at the World Council of Churches, asked me to join the editorial team for the *Indigenous Rights Bulletin* (2002). The mandate of the *Indigenous Rights Bulletin* (2002) was to document all the formal and informal statements made at the WGDD meetings and publish these reports twice a day, in English and in Spanish. Copies were to be made for all the WGDD nation states and indigenous representatives as a record of all the official and unofficial daily interventions, and a memoir of all the legal arguments and jurisprudence cited. I was to work with three other people, all Oxford graduate students, and a team of Spanish translators stationed in Argentina. The Swiss Foreign Ministry, the Saami Council, the International Working Group on Indigenous Affairs, Docip and the UN Secretariat all helped to fund the project.

Not wanting to look like I did not want to help and eager to be useful, I agreed. After accepting the position I was consumed with work. I ended up spending up to twelve hours a day in a little room working on a computer that was as old as I was, trying to piece together statements that were said at the WGDD meetings from scribbled notes or quickly typed documents half of which were written in Spanish—a language I do not speak. Despite several late nights and working long hours we were not able to fulfill our goal. Many of the days' summaries were never distributed and we have yet to publish the reports on the web.

This experience while frustrating at times, made me realise the truth of Kirin Narayan's (1997) statement on the role of the anthropologist in the field:

instead of the paradigm between outsider/insider or observer/observed, I propose that at this historical moment we might more profitably view each anthropologist in terms of shifting identifications amid a field of interpreting communities and power relations. (81)

At the WGDD, I wanted to be the compassionate and useful anthropologist, but what was useful was not an anthropologist sitting in on meetings, but someone who could type, was proficient with computers and dispensable, i.e. me.

From my time spent at the United Nations, I was able to get a sense of the behind the scene work that goes on as indigenous delegates try, through efforts like the *Indigenous Rights Bulletin*, to inform and involve themselves and the rest of the world in what is going on at the WGDD. I made contacts and conducted interviews with indigenous delegates from the United States and Australia. Though I was busy with work, during my breaks I attended the government caucus meetings, which occurred every morning for an hour, and the indigenous peoples caucus meetings that were at the end of every day. I spent an afternoon at the World Intellectual Property Organisation (WIPO) attending the fourth session of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore.

What I was not prepared for, when I went to the UN, was how the other indigenous delegates were going to respond to me and how I was going to stand out. Being Caucasian, blond, and in a predominantly male environment I stood out conspicuously. At the beginning of my fieldwork, it seemed like the only attention I could garner were from men who were interested in my female qualities. I was picked out by men of all ages, ethnic backgrounds and languages as a person to make sexual advances, marriage proposals, propositions, or jokes to. Yes, even at the United Nations the relationship between the sexes is still fraught. Whether to stand up for myself or use

their interest for my own benefit was something I had to continually negotiate. My anxiety about being a non-indigenous researcher at the WGDD got so bad that I even started to have dreams about the meetings. In one dream, I was mistakenly invited to a party for the indigenous delegates at the WGDD. I wanted to go to the party but because I was not indigenous I knew I would not be let in. In my dream, I ended up pretending I was Saami, because, well, some of the Saami have blond hair like me. When I told Kenneth Deer about my dream a few months later, he laughed and told me I was too skinny to be a Saami.

Neizen (2003) talks about the same feeling of being an outsider at the indigenous caucus meetings;

Entering an indigenous caucus meeting as an observer has some of the same feel to it as being a scarcely tolerated visitor in a remote village. There is little overt unfriendliness, but at the same time there is a palpable sense of bonds uniting others that mere observer can never fully share. (*ibid.*: 22-23)

What I found encouraging, however, was that when I went to my next UN meeting in New York, my relationship with people changed.

When I got back from the WGDD in Geneva, I kept in contact with Kenneth Deer. I ended up emailing him a desperate letter confessing my insecurity about the work I was trying to do. He wrote a very sympathetic and encouraging letter back. In May 2003, I decided to attend the Second Session of the Permanent Forum on Indigenous Issues. It was a two-week meeting from May 12-23, 2003 with a preparatory indigenous caucus meeting the weekend before. Again I went as an observer. I was interested in the Canadian government's involvement at the Permanent Forum and how First Nation delegates, along with other indigenous peoples use the space and opportunity. On this occasion, without other responsibilities I was able to attend the formal meetings, as well

as, the Indigenous Caucus meetings, Indigenous Youth Caucus meetings, and any extra sessions that occurred during the lunch hour break.

Attending the Permanent Forum was a different experience than the WGDD. Less indigenous delegates attended the Caucus meetings. Because the number of participants at the Permanent Forum were higher with 1500 participants registered, dialogue did not occur in the same way. People had to sign up to speak. International organisations like the World Bank, UNICEF were all involved and made speeches and presented reports on their efforts to address indigenous issues.

At the Permanent Forum, I realised that I had made connections when I was in Geneva. There were several people who recognized me and I was able to further my relationships with them and within the indigenous caucus. I no longer felt like such an outsider but felt like I had a place. My insecurities were further quelled by my familiarity with the UN process and the issues and terminology used at the meetings. I felt like I had people to talk to at the meetings and because the theme for the Permanent Forum was “Children and Youth”, unlike at the WGDD, there were other people my age. In fact, on the first day I was approached by one delegate, asking me if I was a part of the Indigenous Youth Caucus. Though I was not indigenous, I was invited to join their meetings, which occurred during lunch hours or after the last Permanent Forum session in the evening. Through the indigenous youth caucus meetings I met several indigenous youth and was able to get a more in-depth sense of the how indigenous youth thought about the problems their community face and what hopes they had for the future.

In total, I collected three notebooks full of data on the WGDD and the Permanent Forum meetings. I recorded the discussions, activities, and statements made by the

indigenous delegates and government representatives. I followed the agenda of the indigenous and government caucus meetings and included information on how each group worked to find consensus and develop strategies. I recorded interviews and took note of my personal relationships and conversations with the indigenous delegates and government representatives.

I left my time at the United Nations with an extensive collection of booklets, pamphlets and handouts. As a result of my work with the *Indigenous Rights Bulletin*, I have a record of all the interventions made over the two-week WGDD meeting. I also have copies of all the interventions and information packages that were circulated at the WGDD and PF meetings. I was also able to get a copy of the third edition of Sarah Pritchard's (2001) *Setting International Standards: An analysis of the United Nations Declaration on the Rights of Indigenous Peoples and the first six sessions of the Commission on Human Rights Working Group*. Her summary of the progress of the WGDD from 1995-2001 and analysis of each article in the DDRIP was critical for my understanding of the DDRIP and WGDD process. Written for the Aboriginal and Torres Strait Islander Commission, it was only luck that someone owed me a favour and gave me her book knowing it would be helpful for my thesis.

After having collected data from the international forum, I needed to get my national and local perspective. I engaged in archival research, studying the history of the League of Iroquois, and the Kahnawake community. This was important for being able to understand the significance and meaning of the international negotiations and how the Kahnawake Mohawks and other Iroquois (Haudonasee) delegates are using and adapting the UN forum and infrastructure to meet their needs, values and concepts of

justice, responsibility, community and identity. I collected newspaper articles from the *Globe and Mail*, the *Gazette* and the *Eastern Door* to look at how Native issues were being portrayed in the media and to follow how information about what was happening at the United Nations was being disseminated to the national and local levels.

I volunteered for three months at a Native Women's Shelter in Montreal. This was to ground me in the local lived experience of some First Nation women, many of whom are originally from Kahnawake. The Director of the Shelter was a past student of Dr. Dominique Legros. I met her for lunch one day to be screened and to evaluate where I could fit within the program. Like at the WGDD, they did not want or need an anthropologist, but someone with experience organising volunteers and initiating projects. I ended up becoming their volunteer coordinator. I ran meetings and interviewed potential volunteers. With their help I set up a clothing depot in the building. We painted the room, sorted and washed donations. I met with the head of Zellers downtown and got donations from him. While my contact was relatively minimal with the residents, over the three-month period I developed a relationship with the other, mostly Native, employees. On one occasion, I went with to the Director's house in Kahnawake and watched her serve as a judge for their community court. From my work at the Native Women's Shelter I was able to get a different perspective on Kahnawake and its relationship with Montreal and a new different perspective on the issues and needs of indigenous peoples.

As part of my fieldwork I also conducted interviews with the Canadian indigenous and government delegates.



The interview process was difficult. There is only a relatively small number of First Nation peoples involved in the WGDD negotiations. Of these people, they are scattered across Canada and are very busy, traveling extensively all over the world. I focused my efforts on trying to have interviews with First Nation delegates that had Ottawa or Montreal as their home base. It was with mixed success that I was able to secure interviews. I was often cancelled on at the last minute. In one case, I was stood up in Ottawa. The person I was there to interview was detained in Toronto talking with Paul Martin.

What also complicated the interview process is that of the people I interviewed very few of them wanted the information shared to be included in the thesis. As the political negotiations are ongoing, many of the indigenous delegates did not want to their positions exposed to those who may read my thesis, in particular those associated with the Canadian government. For the people who did not want their identities shared, I just used the information I gathered to guide my discussion. What was clear, however, is that most of them wanted to talk and by the end of the interview after they got to know me better, they were much more willing to share and became increasingly animated.

I similarly struggled when trying to get interviews with Canadian government officials. Of the three people I contacted, one never responded, the other was away doing a French training program, and the third, Wayne Lord, while willing to meet with me had a very tight schedule. We scheduled the two interviews between his trips to the UN, the OAS and the World Bank. The excerpts from the interviews with Wayne Lord are based on notes I took and are not a verbatim report.

What I realized while doing interviews was that the First Nation delegates and even Wayne Lord viewed me as a potential threat. As Levy and Hollan (1998) state, “[m]uch close observation of and contact with the anthropologist insofar as that observations and contact lead to trust is necessary before local people will consent to being relatively frank respondents” (338). For the First Nation delegates they were not sure of where I stood, or how much I knew and did not want to tarnish their reputation. Wayne Lord was adamant that I did not record the interview and was concerned with how I portrayed and understood the perspective of the Canadian government. In my first interview with him, he would never answer my questions directly and would often try and give me a history lesson rather than answer my questions or even give me a chance to ask them. On my second interview, with the history lesson over, I was able to get more directly to the purpose of my interview.

Doing fieldwork on Native politics was a challenging process for me. I was often unsure of how to position myself. I did not want to impose myself on the indigenous delegates and was acutely aware that I was a successor of the colonizers and could not share the indigenous delegates’ feelings of being marginalized for hundreds of years. What I found, however, is that I at times insulted the indigenous delegates I got to know in an attempt to protect them from being uncomfortable with my presence. In one blatant and vivid example, after having spent the last two weeks with the indigenous youth caucus, one person suggested taking a group photo. I balked. While everyone was getting into position, I told the group I was not going to be in the picture. Everyone knew why I was declining. I was not indigenous. It was an awkward five-second interchange. I felt like I insulted some of the people in the group whom I had gotten to know. If I had

the chance again, I would have shown my solidarity and support by joining in the group shot. Whether it was for their sake or mine, I continually made an effort to remain the outsider. In this sense, I was essentialising them, making their indigenusness and my non-indigenusness what was to define our relationship or lack thereof. What I thought people had been doing to me—seeing me for what they wanted—I did to them.

It is from this perspective, as a non-Native Canadian, that I write this thesis.

While I am an activist and believe in the work being done at the UN, I am acutely aware of the limitations of my relatively brief sojourn of fieldwork. What I intend to show in my thesis is the potential of Native politics and the relationship indigenous peoples can have with the state. I intend to show a different picture of Native politics from the one we often see in the media. I want to further dialogue by bringing together the First Nation and Canadian government's perspectives. Furthermore, I hope to inform both Native and non-Native Canadians of the unique and important work that is occurring at the international and local level. It is with knowledge that we have power and many are ignorant of the work that is being done.

## Chapter Three

### Globalised Native Politics

#### I. Indigenous issues and the UN

At the UN, three forums have been created to specifically address indigenous issues. The Working Group on Indigenous Populations (WGIP) was created in 1982; the Working Group on the Draft Declaration on the Rights of Indigenous Peoples (WGDD) in 1995, and the Permanent Forum on Indigenous Issues (PF) was established in 2002. The WGIP meets once a year for two weeks to discuss a range of issues that are pertinent both to indigenous peoples and nation states alike. At the WGDD, indigenous peoples work with member states to negotiate a Declaration on the Rights of Indigenous Peoples. At the Permanent Forum, indigenous peoples, national governments and UN agencies come together to discuss everything from the human rights of indigenous peoples, to their economic and social development, culture, environment, education, and health. As part of the Permanent Forum's mandate, groups like UNICEF, Oxfam, WIPO, the World Bank, and the ILO attend these meetings to make statements and answer questions from the Permanent Forum. The Permanent Forum uses these meetings to provide expert advice to the United Nations Economic and Social Council, as well as, to the programmes, funds, and agencies of the United Nations on how to better address the needs of indigenous peoples.

Though it is a state institution, the UN has allowed and even encouraged indigenous participation in the UN process. Fostering the theme of the UN International Decade of the World's Indigenous People (1995-2004), "Indigenous People, Partnership In Action", in 1995, ECOSOC resolution 1995/32 of 3 March 1995 was passed allowing indigenous organisations and nations to attend and make interventions at the WGDD.

With the creation of the Permanent Forum in 2002, for the first time in history, the UN allowed non-state representatives to hold a position at the UN. At the Permanent Forum, eight of the sixteen-member panel are indigenous representatives.

Indigenous peoples have now gained a higher level of access in the UN than any other group in civil society. Indigenous groups from all over the world are capitalizing on their recent inclusion in this global scenario. The WGIP is the largest UN forum dealing with human rights issues with the participation in annual meetings growing from some thirty people in its first session in 1982 to over eight hundred in 2001 (Neizen 2003: 46). In 2003, 1500 indigenous peoples from all corners of the world were registered to attend the Permanent Forum meeting in New York city.

While indigenous delegates have gained access to the UN, they are still far from where they want to be. The indigenous delegates seek *full and equal* participation at the UN. They want to have the same power and influence as nation states. In a joint statement made by the indigenous peoples' caucus in 1996, the indigenous delegates stated that "participation should be understood not merely as our ability to make statements or interventions, but must also include our full participation as partners in the decision-making process" (Pritchard 2000:10). Indigenous peoples want to be consulted on the working methods and the agenda of the meetings. They want a seat at the UN and to have an elected indigenous delegate co-chair the WGDD meetings.

After indigenous delegates walked out in protest of the working methods at the first two WGDD meetings in 1994 and 1995, the member states agreed to include in the final report to the Human Rights Commission a request to amend resolution 1995/32 to give indigenous peoples more influence in the WGDD process. While the UN never did

amend the resolution, they have verbally and financially supported the participation of indigenous peoples within the WGDD process. In 1997, the High Commissioner for Human Rights, Mrs. Mary Robinson came to the WGDD and addressed the group. The following is a summary of her speech.

She said that the working group represents an unusual standard-setting activity by which government delegations have an opportunity to discuss directly with the beneficiaries of the draft declaration. She noted that the presence of Indigenous delegations added legitimacy to the working group. She said that the draft declaration in many ways represents the acknowledgement of a new generation of rights. It confers the range of civil, cultural, economic, political and social rights; it draws on the right to development; it recognizes as its stands at present the individual and collective rights of Indigenous peoples. She encouraged all the interested parties to take their time, maintain an open dialogue and seek the mutual understanding, which is the basis of consensus. (United Nations 1998: para 38)

While not only verbally supporting the inclusion and participation of indigenous peoples, the UN has set up a voluntary fund to facilitate indigenous involvement. Nation states put money into this fund and indigenous peoples who would otherwise be unable to attend can apply for financial support. While in favour of indigenous participation at the WGDD, the UN has left it up to the discretion of the nation states to determine the extent of indigenous involvement, beyond making interventions. So far, efforts to have an indigenous co-chair have been rejected. When Enrique Chavez, the chair of the WGDD was asked about this possibility at an Indigenous Caucus meeting in 2002, he responded:

The UN is a state organisation. A non-member of the UN cannot have a position in the UN system. There is a proposal put forth by Mexico and delegates are reviewing it. Keep this clear; the WGDD has applied flexibility to UN rules to include indigenous peoples. The most important rule is consensus. If the consensus of the WGDD is to have two chairs then that is what will happen. In informal meetings we have had two chairs, one from governments and one from indigenous representatives. Let's keep that possibility open. Right now we have one chair. Last year we had state representative lead discussions. Tomorrow we will have an election for Chair-Rapporteur. Allow me as Chair to consult

discussions. If we do it tomorrow we will have a never-ending procedural discussion. (Book 1, December 1, 2002: 25-26)

The position of Chavez and many of the nation states is that, while they have applied some flexibility to the WGDD working methods by consulting indigenous peoples on the agenda prior to the WGDD meetings, they are not willing to give up more of their power to indigenous representatives.

## **II. The Internationalisation of Indigenous Issues and the Spiral Model**

It has been a challenging endeavor for indigenous peoples to have their issues addressed at the United Nations. Many groups have been struggling for international attention on indigenous issues since 1923. Deskaheh was the first indigenous person to seek international intervention. Protesting the loss of Cayuga sovereignty, as a result of the Canadian government's endorsement of the Indian Act, Deskaheh went to London, England and Geneva, Switzerland to seek the help of the Commonwealth and the League of Nations. Unfortunately for Deskaheh, both the League of Nations and the Commonwealth dismissed Deskaheh's pleas arguing that indigenous issues were a domestic concern outside of their mandate (Neizen 2004: 42). In the years following, Aboriginal Maoris also went to the League of Nations to seek international intervention, but were met with similar results. Eventually, during the 1970s, indigenous peoples from around the world began to form Native support groups and organisations that eventually coalesced into international lobbying efforts (*ibid.*: 42). One of the first international indigenous organisations was the World Council of Indigenous Peoples created in 1970 by indigenous leaders among the North American Indian communities, Scandinavian Saami, New Zealand Maoris and Australian Aboriginal Peoples (Wilmer 1993: 3).

It was not until the United Nations declared 1973 to 1982 the Decade for Action to Combat Racism and Racial Discrimination, however, that indigenous peoples had the first opportunity for international indigenous activism. As part of the Decade, the UN held a series of NGO conferences on Racism, Racial Discrimination, Apartheid and Decolonisation. In 1977, the UN held a conference on Discrimination Against Indigenous Populations in the Americas. For the first time in history, indigenous peoples representing fifty international NGOs and spokespeople for sixty indigenous nations from fifteen countries came together and gave first hand accounts of the conditions they faced in their home countries to UN agencies and member nations of the UN. According to Neizen (2003) this marked a significant change in history:

Indigenous peoples' organizations and NGOs representing the interests of indigenous constituencies had by this time entered the international scene, lobbying and consulting without organization intermediaries, and in most cases, without the intervention of states. (*ibid.*: 45)

Provoked by the statements made by the indigenous peoples, the UN did their own information gathering. The United Nations Economic and Social Council (ECOSOC) authorized the Sub-Commission on Prevention of Discrimination and Protection of Minorities to make a study of the problem of discrimination against indigenous populations and to suggest measures for eliminating such discrimination. It was not until close to twenty years later, however, in 1986 that Jose R. Martinez Cobo was appointed to carry out this study. His final report (1987) titled *The Study of the Problem of Discrimination Against Indigenous Populations*, told a bleak story on the condition of indigenous peoples worldwide. In his report, Martinez Cobo made 332 conclusions and recommendations to governments and international organisations for the promotion and protection of indigenous peoples' rights and the redress of their



grievances. Slowly the UN was realising and responding to the history of human rights violations experienced by indigenous peoples worldwide. It took a combination of international indigenous lobbying and UN fact-finding that eventually lead to the opening up of the UN to indigenous issues.

According to the “spiral theory” (Risse and Sikkink 1999), international attention is usually not gained until after a particularly awesome human rights violation occurs. Once aware of human rights violations, a transnational network will become interested in the domestic situation of that particular country and begin the process of lobbying western countries to get involved and to protect the human rights of the citizens within that target country.

In the case of the indigenous peoples, it was not one awesome human rights violation that gained the attention of the international community. Instead, it was the global and historical scale of indigenous peoples’ suffering that made up the awesomeness of their cause. It was not one state that was violating the human rights of indigenous peoples; it was modernism that was violating their dignity and life ways (Wilmer 1993:23). The indigenous movement is the outcome of, and challenge to, cultural degradation that has followed the wake of colonialism.

Contrary to the “spiral model”, transnational networks did not take up the indigenous peoples’ cause and lobby on their behalf. Rather it was the indigenous peoples themselves from around the world that began to collectivize, form their own NGOs and from personal accounts inform the world of their situations. It was the indigenous peoples themselves that went to the Commonwealth, the League of Nations and now the United Nations to have their voices heard and their issues addressed. The

indigenous peoples did not lobby western governments for support, as it is in many of these purportedly progressive and democratic countries that the indigenous human rights violations have occurred. Indigenous delegates are having the UN bring together the nation state governments so that they can collectively address them and on a global scale develop solutions for the injury indigenous peoples have faced and continue to face in the modern world.

### **INDIGENOUS REPRESENTATION AT THE WGDD**

Under the Commission of Human Rights Resolution 1995/32 of 3 March 1995, any indigenous NGOs and nations can attend and make interventions at a WGDD meeting. They must, however, apply and be approved by ECOSOC. As of 2002, fifty-two Indigenous organisations from Canada have ECOSOC status.

But, who is an indigenous person? There is no official UN definition of who is an indigenous person. One of the articles in the DDRIP that is still under discussion is Article 8 which deals with indigenous identity and who has the right to define who is and who is not an indigenous person. Currently, the DDRIP states that indigenous peoples should have the right to self identify, rather than giving that right to states. Many UN officials and state governments, however, informally refer to the description of an indigenous person found in Special Rapporteur Jose Martinez Cobo (2002) study. J. Martinez Cobo's report states:

Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the

basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions, and legal systems.

At the WGDD meetings, indigenous representatives use their own personal definitions of an indigenous person. Of course, not all agree. While attending a WGDD caucus meeting I heard one indigenous delegate accuse another indigenous delegate of being less “indigenous” than the state representative of his country. On another occasion at the Permanent Forum, a woman from Ireland spoke stating that her rights as an indigenous Celtic were not being protected by the state and should fall under the protection of indigenous rights. Her claims as an indigenous person seemed legitimate by some indigenous delegates though were questioned by others.

Of the indigenous peoples who attend the international meetings at the United Nations, the very committed indigenous activists, many of who have been involved in the international discussions for a long time attend the WGDD meetings. The indigenous delegates at the WGDD represent groups from all over the world: from North and South America, Australia, New Zealand, Hawaii, Papua New Guinea, Finland, Norway, Sweden, Japan, Africa, Russia, the former Soviet Union, Alaska and many more. The indigenous representatives range in their levels of education. Some are trained lawyers, while others are community leaders or elders with limited levels of formal education. Efforts are made to educate all new indigenous representatives on the UN process and proceedings. For years, Kenneth Deer has lead the information session for new indigenous delegates at the WGIP. The indigenous representatives at the WGDD are predominantly, however, the indigenous lawyers or indigenous representatives who have over the years learned or picked up the jargon and intricacies of international law. As Ron

Barnes, a Native from Alaska stated at an Indigenous Caucus meeting, “[w]e need to start learning the rules so we become experts” (Book 1, November 30, 2002: 13).

Although the male-female ratio at the Permanent Forum meetings is close to equal, the majority of indigenous representatives at the WGDD in 2002 were male. Of the 151 indigenous participants registered, 55 were women and 96 were men. Though fewer in numbers, the women involved are highly respected and very active. Women’s issues are a concern of the indigenous participants in general. This is reflected in the theme of the 2004 Permanent Forum, “Indigenous Women”, and the decision to have a women co-chair at the indigenous peoples’ caucus at the Permanent Forum in 2003. At the WGDD there were not enough women to make such a decision practical.

The average-age of the indigenous representatives’ lies somewhere between the early forties and late fifties. Numerous participants at the WGDD 2002 have been international activists for many years. Kenneth Deer first became involved in international indigenous issues in the 1980s. Les Malazer, an indigenous representative from Australia got involved in international indigenous issues in the 1970s. Luann, a Haudonosonee from New York, went to her first meeting at the United Nations when she was a teenager. She is now in her thirties and is returning to international politics. Tony Blackfeather, an elder from the Teton Sioux Nation Treaty Council, has been attending meetings at the United Nations for the past sixteen years.

## **FIRST NATION REPRESENTATION**

Indigenous representation from Canada has always been relatively high at the United Nation meetings. *The Brotherhood*, a Canadian based alliance, was the first indigenous NGO to get ECOSOC status. At the WGDD in 2002, six of the registered

indigenous NGOs were based in Canada. However, not all of the First Nation delegates who were at the WGDD meetings were registered with a Canadian based NGO. Many First Nation delegates are associated with international NGOs whose headquarters are situated elsewhere in the world. Altogether I would estimate, however, of the 150 indigenous delegates there were twelve to fifteen First Nation representatives present at the WGDD 2002.

The First Nation peoples involved at the WGDD 2002 represented several different Native communities and nations. There was representation from the Innu Council of Nitassinan, Inuit Circumpolar Conference, Grand Council of the Cree, the Metis National Council, American Indian Law Alliance, the Indigenous World Association, the Kahnawake Nation, the Assembly of First Nations, Ermineskin Cree Nation, and the Native Women's Association of Canada. Both status and non-status First Nations were represented. Those involved came predominantly from Quebec and Ontario, as representation from the western provinces has dwindled over the years.

The First Nation delegates at the WGDD have played key roles at the UN negotiations. Kenneth Deer is the co-coordinator of the indigenous caucus. Willie Littlechild of the Emerskin nation is a Permanent Forum member. The two past chiefs of the Assembly of First Nations, Ovide Mercredi and Phil Fontaine have been actively involved. Armand Mackenzie of the Innu Nation and Tony Belcourt, the President of the Metis Nation of Ontario, have also played and continue to play important roles as well.

## **LINKING INTERNATIONAL TO LOCAL**

As the "spiral model" suggests, it is important for a strong link to exist between the activists at the international level and those at the domestic level. What is unique in

the case of the indigenous peoples is that they themselves are this link. They are the people at both the international and local levels. Many of the indigenous delegates leave their Native community to represent their people, or nation when they attend the WGDD negotiations at the UN. Not all indigenous delegates have such a strong link to the local experience, however. Some First Nation delegates at the WGDD live in cities and work for indigenous NGOs. Though they are indigenous peoples their link to the local level is more removed.

Translating what happens at the international level to the local level is one of the greatest challenges facing the international social movement. As Luann, from the Seneca nation articulated:

That is something we are working on. Trying to bring these issues closer to home... We talk to who ever will listen...It is so hard because unless you are signed to the Declaration you have other responsibilities when you get back home. You have language and your spiritual part to tend to and learn about. And then you need income for your family. You have so much to balance. This is just another thing that needs to be done. We are looking at ways to get better at that. (Tape three, December 10, 2002: 292-330)

Education, travel advancements, and the Internet have been integral in creating and maintaining a link between the local and the international indigenous activism.

A major component of what has taken place over the past few decades, to allow for an indigenous transnational social movement, was the creation of schools educating indigenous peoples in the culture of their colonizers. This education is now being used as part of the indigenous peoples' resistance strategy against state control:

There is a tremendous irony in the fact that the assimilation efforts of boarding schools and the urban relocation programs of such countries as the United States, Canada, Australia, and even India led to the formation of native support groups and organizations that eventually coalesced in international lobbying efforts. (Neizen 2003: 41-42)

What began as an effort to assimilate the indigenous peoples is now being used as a strategy for resistance.

Not only do the indigenous peoples have the knowledge to communicate worldwide, but they also have the means. Technological and travel advancements have allowed indigenous peoples from many parts of the world to communicate rapidly and effectively. Increased efficiency in travel has also allowed indigenous delegates to congregate and meet at various locations across the world to collaborate collectively.

The indigenous delegates rely heavily on the Internet as a tool for informing and involving the wider indigenous and non-indigenous community. At the WGDD meetings, Internet services are provided for the indigenous delegates, and at any time during the day, delegates can likely be found emailing information and updates to their communities and organizations. Les Malazer emails daily reports to the various organisations that he represents in Australia. Due to the time difference between Australia and Geneva, he is able to send an email at the close of the day, which they will receive first thing in the morning. When Malazer begins the next day, he will already have a response from those to whom he sent the email. Not only does this allow him to inform people of what is going on, but also it provides means for him to garner advice and support for what he is doing. The night before delivering a statement, he will often email a draft to his organisation in order to gain either approval or feedback for his intended address.

Mililani Trask (1998), one of the indigenous delegates at the WGDD meetings wrote an article in *Indigenous Affairs* on the importance of the Internet as a tool for informing people at the regional and local level of what is transpiring at the international

level. In her article, she speaks about the success of the Net Warrior project, which put daily reports of the WGDD meetings on the web:

While indigenous peoples were discussing the draft declaration with the world's most powerful nations-member states of the UN family of nations- the access to the website allowed the global community to monitor the debates and respond to them...Our website was frequently visited by peoples who were unable to send representatives to the meeting, not to mention the close to two thousand 'hits' by military and other state government agencies. (Trask 1998: 8-9)

The Indigenous Rights Bulletin that I was involved in at the WGDD 2002 was a similar endeavor, though as mentioned previously, it was never published on the web.

Not all communities have access to telephones or the Internet, however. Many of the indigenous communities are in remote areas where access to the outer world is difficult and rare. Some indigenous peoples are illiterate and are unable to read newspapers or emails. While many indigenous peoples do not have the means to find out about what is happening at the UN, others are not interested. For many women at the Native women's Shelter I volunteered at, what goes on at the UN can seem distant, far removed and irrelevant to the daily lives and struggles they face everyday.

In Canada, the Internet is an accessible and effective tool for linking what goes on at the international level to those at the local level:

Improved communications and transportation have allowed First Nation Peoples to begin to talk to each other, to the rest of Canada, and to the rest of the world. (Assembly of First Nations, [http://www.afn.ca/Assembly\\_of\\_First\\_Nations.htm](http://www.afn.ca/Assembly_of_First_Nations.htm), accessed last October 23, 2004)

Many First Nation communities now have access to the Internet through a new government funded program called the Aboriginal Canada Portal. The Aboriginal Canada Portal brings Internet access to First Nation communities in an effort to increase



the flow of information vertically and horizontally. It is believed that connectivity can bring significant new social and economic development to Native communities.

Kenneth Deer uses his newspaper to inform his community of what is going at the United Nations. As editor of the *Eastern Door* newspaper, he writes articles and editorials on the meetings and events that are occurring. Many of the Kahnawake residents and nearby Mohawk communities read his newspaper. He posts it on the web for an even wider audience base that stretches across Canada. During the course of my fieldwork, I received an article from the *Eastern Door* that was forwarded to me by a professor of Anthropology at the University of British Columbia.

Creating a strong link between the local and the international continues to be a priority for the indigenous delegates. Many of the indigenous members of the Permanent Forum have taken on the role of visiting different countries to inform indigenous peoples of the work that is going on at the UN. The inclusion of youth in the Permanent Forum in 2003 was an effort to attract new participants to the meetings. Though many indigenous communities are not part of this transnational network, efforts are being made to try and overcome this.

## **NATION STATE PARTICIPATION**

At the WGDD, UN member states are expected to attend, however, not all governments send representatives. At the WGDD 36 governments had representatives registered. The most vocal and participatory states are, in general, Canada, Australia, Brazil, Denmark, Norway, Ecuador, Finland, France, Guatemala, Japan, Mexico, New Zealand, Norway, the Russian Federation, Spain, Sweden, Venezuela, the UK and the United States.

## **CANADIAN GOVERNMENT PARTICIPATION**

The Canadian government has played and continues to play a key role in the WGDD negotiations. At the WGDD 2002, the Canadian government had the highest number (seven) of government representatives in attendance. Governments with the next highest number of representatives were Australia and the Russian Federation, both with six registered. The governments of Chile, Finland, Mexico, Norway and the United States all had five representatives registered. The rests of the countries in attendance had either one or two government representatives registered.

The Canadian government plays an active role in the DDRIP debates (Marantz 1994:16). The Canadian government played a critical role in pushing for the creation of the DDRIP and is now very involved with finding consensus on the document.

At the WGDD, Wayne Lord heads the Canadian delegation. He is the Director of Aboriginal and Circumpolar Affairs for the Department of Foreign Affairs and International Trade. He is highly involved in all the international projects related to indigenous issues. Besides being head of the Canadian delegation at the WGDD meetings, he also co-ordinates the WGDD's government caucus, heads the delegation of the OAS, and is one of the government representatives at the Permanent Forum. His role in the DDRIP will be discussed in more detail later.

Also forming the Canadian delegation at the WGDD 2002, was Marilyn Whittaker, Director of TRIAGE and Allan Torbitt, a Senior Advisor for Human Rights Conferences for Indian and Northern Affairs Canada.

## **BEHIND THE SCENES PARTICIPATION**

There are several non-indigenous and non-government participants who also play key supportive roles in the WGDD discussions. Docip is an organization that was created by the UN to provide technical support for the indigenous delegates at the UN meetings. Docip recruits volunteers to assist during the ten-day meetings. Docip provides all texts, translates material, and photocopies documents, as well as, offering computers with Internet access. The Docip employees' acceptance into the indigenous community has been formed gradually over time. They are often highly committed and have proven their dedication through years of service.

## **CONCLUSION**

Indigenous peoples and nations have labored fervently to be heard and accepted at the UN. Unlike other examples of transnational resistance movements, the indigenous peoples do not depend on outside networks to lobby for their cause. The indigenous peoples rely on their own abilities to represent their communities and form pressure above and below the nation state to promote the self-determination and collective rights of indigenous peoples. First Nation activists have played a significant role in advancing the cause of indigenous peoples at the international forum, from Deskaheh in 1923 to today. It has been and continues to be an on-going battle to change perceptions and build a partnership with nation state governments.

The following chapter will investigate the WGDD process. I will look at how indigenous delegates and government representatives enhance their participation and influence in the UN process and outcome of the DDRIP through different means and

strategies. The very process of negotiating the DDRIP is, in many ways, of equal importance to agreeing to the actual content of the text. By developing working methods between indigenous peoples and nation states, the aspirations of the DDRIP can be lived out. Once a partnership is formed and indigenous peoples are able to negotiate with nation states on more equal footing, it will be harder for nation states to ignore their human rights, and for the pattern of marginalisation to continue. Many roadblocks stand in the way of this realization, however. I will herein consider the September Government Meeting and its implications for the position and role Canada has taken in building or not building a relationship with indigenous peoples, and the future of the WGDD process.

## Chapter Four

### **Process: Negotiating Place at the WGDD**

Kenneth Deer, a Kahnawake Mohawk, Editor of the *Eastern Door* newspaper and co-coordinator of the Indigenous Peoples Caucus at the United Nations Working Group on the Draft Declaration on the Rights of Indigenous Peoples (WGDD) speaks into the pyramid microphone on the table in front of him.

KD: What is the status of the September Government report? How is it going to be used and inserted in the final document? (Book 1, November 30, 2002: 23)

Kenneth Deer speaks for the approximately 40 other indigenous delegates from around the world that sit around the tables in the large meeting room at the World Council of Churches in Geneva, Switzerland. Enrique Chavez, the Chairperson for the WGDD and the government representative of the Peruvian delegation, attends the meeting. He has come to answer questions and to get the indigenous caucus' input on the proposed agenda for the upcoming WGDD that begins in two days on Monday, December 2, 2002.

Chavez replies to Deer's question in Spanish. The English, Japanese, Russian and French speakers press their translation pieces to their ear;

EC: The September Government document is to be taken into discussion and the final WGDD report to be submitted to the Human Rights Commission will reflect that. The September Government document has been officially submitted and does exist. It is a report that has been approved in form though all delegates may not agree upon content. (Book 1, November 30, 2002: 24)

Deer's question to Chavez pertains to a three-day meeting the UN member states of the WGDD had three months earlier in Geneva. Indigenous delegates were not invited to this meeting. It was organised and chaired by Wayne Lord, the head of the Canadian government delegation. The September Report is a summary of the proceedings and was circulated via the Internet to many of the indigenous delegates before they came to

Geneva. Anyone who had not received the document was given a copy at the Indigenous Caucus meeting. Kenneth Deer takes the floor again.

KD: These discussions should happen here. I like the government report but wish the governments would share their thoughts with the indigenous peoples so that dialogue could occur. Fundamental to the process of the WGDD is indigenous involvement. (Book 1, November 30, 2002: 24)

Building on Kenneth Deer's comment, Ron Barnes, from Alaska and representative of the International Indigenous Organization, raises his hand to speak. Waving his arm in the air for the translators to see him and pressing the button on the microphone he leans across the table:

RB: If governments are going to be transparent they should talk with us so we feel included. We should know which governments are saying what. We cannot have discussions if we do not know whom to talk to. (Book 1, November 30, 2002: 24)

Ron Barnes' comment is in response to how the September report was written. While it provided a summary of the various positions of the States, it did not attach the names of the states to each viewpoint. This anonymous method counteracts the principle of transparency and prevents indigenous peoples from petitioning individual states about their particular positions.

Mililani Trask, a long time indigenous activist from Hawaii and member of the United Nations Permanent Forum on Indigenous Issues speaks next. She looks at Chavez and the indigenous delegates around her:

MT: We have closed meetings that are not transparent. The reports, however, must include everyone's voice, violating that is tantamount to fraud. Canada and the KANSAS states [Canada, Australia, New Zealand and the United States] pushed to have this September meeting. We are prevented from entering into meaningful dialogue because the governments present proposals without putting their name to it. There is a conflict of interest when you put a report from one informal meeting and place it in the final report. This falsifies the report and the discussion and would be a violation of procedural requirement. It would be with great regret if the Permanent Forum had to raise concerns and have the

Chairperson removed on grounds of conflict of interest and put sanctions on Canada. (Book 1, November 30, 2002: 25)

Chavez looks to respond. Indigenous delegates appreciate his forthright approach, when so often what is said and what is done are two different things. Showing little emotion he tells the indigenous caucus what they do not want to hear. He replies in Spanish:

EC: This is the only Working Group in the United Nations where they are discussing the participation of non-governmental organizations and representation from civil society. This Working Group is special. Since its creation, the methods of discussion are not easily adapted to debates used by indigenous peoples. We have had meetings in caucus. What we have here is a document that reflects that the governments want to be transparent. Nothing will stop them from meeting. No one asks you to give the results of your discussions. All I have received is a draft. All I see is that the states want dialogue. I think we have made important improvements. (Book 1, November 30, 2002: 25)

## **I. INDIGENOUS PARTICIPATION AT THE UNITED NATIONS**

At the Working Group on the Draft Declaration (WGDD), indigenous representatives are working to achieve two goals. One, the indigenous delegates are trying to have their collective beliefs about their roles and relationships to the state, the world, and their culture accepted by nation states and adopted as international norms through the ratification of the DDRIP. Secondly, in the process of redefining how the nation states and international organisations understand and relate to indigenous peoples, the indigenous delegates are trying to create a working relationship with national governments that is representative of their collective beliefs. At the WGDD, beyond just passing a Declaration on the Rights of Indigenous Peoples, the indigenous delegates are attempting to build a partnership with nation states based on cooperation, collaboration, and transparency. These three principles are believed to be key to correcting the injustices of the past and giving indigenous peoples the voice and the recognition they seek in the international community and in their domestic situations. This is a difficult

process, however. Some of the most powerful nation states (Australia, UK, France, United States, Canada) are reluctant to not only recognize the self-determination of indigenous peoples, but are even more unwilling to give up their control of the UN process to collectively negotiate with indigenous representatives a Declaration on the Rights of Indigenous Peoples. Despite having had the doors of the UN be opened to them, indigenous peoples continue to struggle to gain the respect and recognition they seek from national government bodies.

To participate in and defend their position on the DDRIP, the indigenous peoples employ several techniques and strategies. Using symbolic, rhetorical, and persuasive, power (Wilmer 1993: 31), indigenous delegates assert their rights as distinct and equal peoples in this world and in the UN process. Indigenous delegates apply moral and political pressure on national governments to accept the terms of the DDRIP through consciousness raising, shaming, argumentation, and dialogue. These strategies are all part of an effort to legitimize the participation of indigenous delegates, show their political adeptness, and incite large-scale resistance.

## **SEATING**

The WGDD meetings are held at the Palais des Nations in Geneva, Switzerland. The meetings start at 10am and go until 6pm with a two-hour break for lunch in between. The WGDD 2002 was held in the main UN meeting hall, as the room that is usually used for the WGDD meetings, underwent repairs. The room is arranged so that government representatives sit in the first few rows alphabetically facing the raised floor for the Chairperson. Each nation state has a name bar indicating the country they represent. The



rest of the rows behind the states are open for the indigenous delegates. There is no formalized seating arrangement and the indigenous delegates are not given name bars. Some indigenous groups, however, create their own. By creating name bars for themselves, the indigenous delegates are symbolically asserting their presence at the WGDD meeting and protesting against the lack of formal recognition for their attendance.

## **POLITICS OF IDENTITY**

The use of cultural symbols play an important role in the WGDD process and debate. Showing a culture, a way of life, an identity that is separate and unique from the nation state is critical for validating the indigenous peoples' claim for special recognition by the UN and national governments;

In the absence of electoral clout, economic prowess, or military might, the 'symbolic capital' accompanying authentically performed cultural identities represents one of the most influential political resources available to indigenous peoples. (Dean and Levi 2003: 15)

Clothes, language, and cultural references are used to represent the distinct identities and lifeways of indigenous peoples from around the world.

Clothes are used to visually distinguish indigenous delegates from government representatives. Kenneth Deer beautifully describes the sight of walking into an indigenous meeting at the UN:

Stepping into the United Nations Meeting Room two, you come upon a sea of people from all corners of the world. Some are dressed in typical Western attire of suit and tie for men and trim business outfits for women. But also in this room, there is far more colourful traditional dress of Indigenous peoples from around the world.

There are Inuit from Greenland with their brightly colored sweaters and sealskin boots and leggings. The Same from northern Europe are wearing red and blue felt tunics decorated with silver clasps and medallions.

Mayan women from Guatemala are wearing vibrant blouses and skirts that reflect their regional hallmarks. People in ribbon dresses and ribbon shirts are scattered about the room, with a great accumulation in the area where the Haudenosaunee are sitting. (*Eastern Door*, "Tadodaho opens the Permanent Forum" volume 11, Number 17)

While not all indigenous peoples wear their traditional dress, it is one way many indigenous delegates choose to show their distinct identities and their resistance to western culture.

Prayer is another way the indigenous delegates bring their own identity to the WGDD meetings and try and assert their own cultural norms into the WGDD process. The Indigenous Caucus requests having an opening prayer at the beginning of each WGDD session. At the WGDD meeting in 2002, Tony Blackfeather, a Lakota elder opened the session. Chavez called on Tony Blackfeather to "please give a prayer on behalf of all" (*Indigenous Rights Bulletin*, Monday 2 am: 2). Blackfeather began by stating: "We all know a prayer protects our meetings. Prayers brought us together" (*ibid.*: 2). He then proceeded to share a prayer in the Lakota language for a successful meeting. This practice of opening each session with a prayer is repeated at the other UN forums. Each time it is a different elder.

Meetings on indigenous issues distinguish themselves from the other meetings at the UN by the music that can be heard throughout a session. At the Permanent Forum in 2002, the sound of a conch shell was used to open the session. Ole Henrik Magga, the Chairperson of the Permanent Forum, sang a song in Same to express his hope for the meeting. Throughout the two weeks, Astro Brim, an Aborigine youth could be heard playing his didgeridoo during the lunch hour break in the halls of the UN.

Music, like prayer, asserts the indigenous peoples' identity at the UN meetings. It also, however, serves to ground the indigenous participants. During one particularly heated and fraught indigenous caucus meeting at the WGDD 2002, Kenneth Deer asked a fellow indigenous delegate, who had with him his drum, to share his music. The meeting was stopped while this gentleman played his drum and sang. It was only a few minutes but it changed the whole mood of the rest of the meeting.

Language serves a similar purpose as prayer and music. Indigenous delegates use their Native language to open their interventions or call upon the wisdom of elders. It is a way to show the persistence of the indigenous culture despite years of assimilation policies. It is also a way for indigenous peoples to call upon the strength of their culture and the people who have gone before them. In their speeches at the UN, indigenous delegates use words to distinguish a relationship that, more often than not, does not include nation states and government representatives. The indigenous delegates at the UN often refer to each other as their "brothers" and "sisters". This is a subtle way that indigenous peoples symbolically show their opposition to the nation states and affirm the relationship that they have with each other. Though they are not related, the indigenous delegates see each other as one family, an indigenous family. The issue of a pan-indigenous identity will be discussed in more detail later.

## **CAUCUS MEETINGS**

Being an united front against the national governments, is one of the key strategies of the indigenous delegates at the WGDD (Neizen 2003, Wilmer 1994, Lyng 1998). Creating and maintaining consensus among the indigenous delegates is critical for

creating a strong opposition to the more oppressive states and for ensuring that it represents the aspirations of all indigenous peoples. The indigenous delegates take advantage of the time at the UN to meet regularly. The weekend before a new WGDD session, the indigenous delegates meet for two days to review the previous year's meeting and to discuss strategy. While the WGDD is in session, the indigenous delegates meet at the end of every day to debrief, gather support and maintain cohesion.

Sometimes getting consensus among the delegates is difficult and this can cause tension among people:

One of our challenges is to listen to our African brothers and sisters and our Asian brothers and sisters and our Latin American brothers and sisters, so that we can form a common understanding of those things that we can achieve at the United Nations- if we are unified, if we trust each other, and if we are together. And it is not a matter of one person speaking for another, but it is Indigenous Peoples all speaking with the same voice. (Saldamando 2002: 19)

Despite the differences in language, culture, tradition, and history, the indigenous delegates work hard to develop and remain a cohesive unit. It is understood that the DDRIP is not for just one indigenous group, but is a Declaration for all. It is therefore important that the DDRIP is negotiated collectively with all indigenous peoples agreeing to the changes. In these negotiations, it can occur that an indigenous delegate, who does not follow the consensus of the indigenous caucus, can be more threatening to the group than a government representative. There is always a fear that one of the indigenous delegates will unilaterally show support for government proposals without the consensus of the other indigenous delegates. Having just the support of one indigenous delegate may be enough for the governments to justify approving a proposal to change the DDRIP. As one indigenous delegate stated at a caucus meeting: "the WGDD is not for

governments to pick us off one by one” (Book One, December 4, 2002: 68). The issue of maintaining consensus will be discussed in more detail in chapter four

## **INTERVENTIONS**

On the first day of the WGDD meetings, the Chair is appointed and the agenda is agreed upon. Throughout the week all the articles of the DDRIP are discussed. At each session a cluster of articles are tabled and opened for discussion. During the meetings, both state and indigenous representatives raise their hands to be called upon. States are referred to by the name of their country, indigenous peoples by their last name. As Chair for the last few years, Chavez reiterates frequently that interventions should be brief and original. If an individual is sharing an opinion already stated several times before, and is going for a long time, he will cut them off. Compared to the Permanent Forum where cell phones would often be heard ringing, small groups would be talking and government delegates would be walking in and out of the meeting room and in one case reading the newspaper, the WGDD has a very business-like orientation. Although emotions run high, the meeting is conducted in an extremely orderly manner.

At the WGDD 2002, indigenous delegates made approximately 80 percent of the interventions. In their statements, the indigenous delegates use several different arguments to defend their position on the DDRIP. As Daniel Thomas (2002) articulated in his discussion on Helsinki norms, the deployment and engagement of competing justifications become a highly significant political process, as justifications themselves sometimes become a source of political power. Numerous indigenous delegations argue for the adoption of the DDRIP as a minimum standard for the survival of indigenous peoples (International Organization of Indigenous Resource Development, International

Indian Treaty Council). The Grand Council of the Crees often explain the practical significance of each article in particular contexts. They emphasize that the Declaration does not contain abstract concepts, but is based on concrete experiences, each article having been included as a result of specific problems and failures of national laws (Pritchard 2000: 13).

Other indigenous NGOs engage in what international relation scholars refer to as “frame bridging” or “frame amplification” (Wilmer 1994: 16). Indigenous delegates (Grand Council of the Crees, Australian delegations) try to expand the domain to which already existing human rights norms apply by demonstrating the current DDRIP articles’ consistency with existing international human rights law. The indigenous delegates argue that the Declaration does not create special rights, but articulates the basic human rights given to people by the United Nations Declaration on Human rights for Indigenous Peoples.

An effort is made to ensure that all interventions are constructive. In a presentation at the Indigenous Peoples’ Millennium Conference in 2002, Alberta Saldamando, the co-chairperson of the indigenous caucus at the 2002 WGDD and member of the International Indian Treaty Council, was critical of some of the less experienced indigenous peoples’ use of the UN process;

[m]any indigenous peoples show up to the Commission and the WGIP ready to denounce their government. They show up and they say: in Peru we are not even recognised. In Argentina Indigenous Peoples don’t exist... These public condemnations before these bodies, the Commission and the WGIP, make us feel good. But the Commission and Sub-Commission move on, the next speaker is called and little or nothing is done to correct the situation. (Saldamondo 2002: 17)

While the problems articulated by Saldamando do not usually occur at the WGDD, some indigenous representatives are critical of the number of interventions made by their peers.

When the topic of process came up at a WGDD indigenous caucus meeting, Kenneth Deer reflected on the behaviour of the indigenous peoples at the recent WGDD session:

Governments do not like to talk. They shut up because we jump down their throats. Maybe something needs to change. Do we make it miserable for them? Our own discipline breaks down and we talk. We won't like what we hear but we should have a civil discussion. There were more government representatives at the Inter-sessional meeting than at the Working Group of Indigenous Populations. We need to get them talk. (Book 1, November 30, 2002: 14)

Kenneth Deer is concerned that dialogue is prevented from occurring when indigenous peoples make most of the interventions. He believes that indigenous peoples need to allow and encourage nation states to share their views at the meetings. It is only through sharing ideas and opinions, even unpleasant ones, that consensus, mutual understanding and respect can develop.

### **LOBBYING: PERSONAL RELATIONSHIPS**

The rhetorical efforts of the indigenous delegates are not just confined to the floor of the WGDD meetings, but rather in the hallways, the bathrooms, elevators and cafeterias. At the WGDD, indigenous delegates work to build a personal relationship with the government representatives present and engage them in discussions outside of the meeting room. Mililani Trask, one of the indigenous delegates from Hawaii, reminded the members of the indigenous Permanent Forum caucus one morning, that state representatives leave meetings to go to the bathroom, suggesting that indigenous peoples seek out any opportunity to address state representatives individually outside of WGDD meetings (Book 2, May 11, 2003: 14). One of the complaints voiced about the way the September report was written, was that it did not indicate which government held which opinion. By not making the governments' opinions transparent, the indigenous

delegates were prevented from developing a personalised rhetoric and knowing which governments to lobby about certain statements shared in the September Report.

## **REPORTING AND DOCUMENTING**

As part of the indigenous peoples strategy to mobilise large scale resistance and to pressure national governments from ‘above’ and ‘below’, indigenous delegates work hard to inform the larger community about the WGDD proceedings and to ensure that the information provided is accurate and correct. At each WGDD, a group of indigenous delegates form a committee to review the final report that the Secretary and Chairperson of the WGDD develops as a summary of the progress of the past two weeks. This report goes to the Commission of Human Rights and is an official UN document. The indigenous committee reviews the proposed report before it is finalized to ensure that the final report given to the Commission of Human Rights fairly represents the indigenous peoples’ understanding and perspective of the WGDD meeting. Often the indigenous committee will request changes to be made, like having the phrase “some states agree” replaced with “most states agree”. These small changes are important for the indigenous delegates for two reasons. One, it is based on the portrayal of these reports that the Human Rights Commission evaluates the success and progress of the WGDD. Ensuring that the Human Rights Commission has an accurate understanding of the WGDD proceedings is especially critical with the Indigenous People’s Decade ending at the end of this year, 2004, and the continuation of the WGDD negotiations in a state of uncertainty.

Two, it is important that the voice of the indigenous peoples is properly represented. It was one of the concerns of the indigenous reporting team in 2002 that the



September Report would be included in the final WGDD report given to the Human Rights Commission. They felt that the inclusion of the September Government Report in the final WGDD Report would be legitimizing a meeting that did not include indigenous representatives. It would be suggesting that the statements and opinions shared in the September Report reflect those expressed at the WGDD. This would cause the report to be an inaccurate representation of the WGDD, and would be, in essence, completely silencing and excluding the indigenous peoples' voices and opposition to the statements made in the September Report.

## **INDIGENOUS REPORTING**

As part of their effort to ensure accurate reporting and the distribution of information on the WGDD, the indigenous delegates started their own reporting and recording system. From 1996 to 1998, a team called Netwarriors was established to write daily reports summarising the events of every meeting, noting changes in the positions of national governments. These reports were then published on the web to allow for other indigenous and non-indigenous groups to follow the events of the WGDD. The *Indigenous Rights Bulletin* (2002) that I was involved in 2002 was based on a similar premise. More ambitious in goal, the *Indigenous Rights Bulletin* set out to write verbatim accounts of all the statements and interventions made during the ten-day session. The *Indigenous Rights Bulletin* was to be used as a historical reference, as well as, a means to inform the rest of the world about the WGDD.

## **“THE POLITICS OF SHAME” and the Media**

The media similarly plays a critical role in the distribution of information and for mobilising large-scale resistance to the positions taken at the WGDD. Indigenous delegates use the media to disseminate information and to put external political and moral pressure on national governments. At the United Nations, indigenous delegates are able to get media attention on issues that would otherwise go unnoticed in their domestic situations (Neizen 2003: 183). They use this power to single out certain national governments and to draw attention to the discriminatory and prejudiced nature of many government’s policies and opinions on indigenous issues. It is hoped that by informing others, moral and political pressure from the domestic and international community will be put on certain governments to uphold higher standards and change their position on the DDRIP. It is hoped that national governments will change their position on the DDRIP in an attempt to avoid any criticism and disapproval from the international community or their national populace.

Indigenous delegates used this strategy of “morally shaming” national governments at the WGDD meeting in 2003. The Canadian and Australian government had made a joint proposal to change the wording of the DDRIP articles on Land and Natural Resources. The proposed changes weakened the DDRIP and gave indigenous peoples fewer rights than those the First Nation peoples have within Canada. In response, Kenneth Deer organised a press conference two days later and media from all over the world heard statements from several indigenous delegates concerning their disappointment in the actions of the Canadian and Australian government. On Friday, September 26, 2003, an article was posted in the *Globe and Mail*, Canada’s national

newspaper, describing the frustration and disappointment of the indigenous delegates in the Canadian government's position on the DDRIP. The article was titled "UN talks on indigenous rights declaration deadlocked". It is through articles like this that the Canadian public is informed of the government's actions in the international arena. It is hoped that by making the national populace aware of Canada's actions at the UN, the Canadian government will be forced to take a position on the DDRIP that is at least consistent if not more lofty than their domestic policies. According to Neizen (2003), the "politics of shame" can be more effective than ordinary resistance (28). As Risse and Sikkink (1999) point out, all nation states have international reputations, which to varying degrees, they want to maintain:

Even instrumental adoption of human rights norms, if it leads to domestic structural change... sets into motion a process of identity transformation, so that norms initially adopted for instrumental reasons are later maintained for reasons of belief and identity. (*ibid.*: 10)

#### **IV. CANADIAN GOVERNMENT'S PARTICIPATION**

It is clear that the indigenous and government representatives at the WGDD are in a power struggle. Indigenous participation in the WGDD process threatens the supremacy of national governments and questions their legitimacy as representative bodies. While the indigenous delegates are pushing for increased involvement in the decision-making process, national governments are working to maintain the status quos and secure their authority at the UN. Canada, the United States, and Australia, among others, want to ensure that the UN remains a state institution and that primary responsibility for the future of the DDRIP remains in the hands of government's, not of indigenous peoples. These national governments and others are resistant to working with indigenous peoples and would rather partner with other similarly minded states that share

the same political and economic interests. In the battle over place and process, the Canadian government representatives use several means to assert their control of the WGDD working methods.

## **THE SEPTEMBER GOVERNMENT MEETING**

Meetings like the one hosted by the Canadian government in September shows the reluctance of some nation states to allow meaningful indigenous participation in the WGDD process. While the Canadian government has been financially supportive of indigenous participation, sponsoring one representative from the five national Canadian Native organisations to attend the WGDD, it is clear through talking to the head of the government delegation, Wayne Lord, that Canada is committed to maintaining the UN as a state institution. Wayne Lord wants indigenous peoples to participate in the WGDD only at a remote level.

I met with the head of the Canadian delegation, Wayne Lord, twice in the cafeteria of the Lester B. Pearson Building in Ottawa, Ontario. In our second interview Mr. Lord explained the rationale for holding the September government meeting. The following is a representation of the interview based on notes taken. This is not a verbatim report.

*SK: If your intent is to build consensus, what was the reasoning behind holding the September meeting? Does that not work against your goal?*

WL: What is consensus? Consensus, according to whom? Right now at the end of the day it is states that will vote on the DDRIP. The ultimate responsibility for the DDRIP is on states. At the WGDD we saw that states were not talking to each other. Fifty-five states showed up to the informal meeting in September, while at the WGDD meeting only twenty-five states was present. These government meetings are therefore important for building consensus amongst governments. Some indigenous peoples want the right to veto any decisions made by the governments. I do not think that is appropriate.

*SK: How does this approach build a better relationship with indigenous peoples?*

WL: We feel that as representatives of the Canadian government we can represent the interests of the First Nation peoples. Not everyone will be happy with what Canada does, but that is the case for any decision. Talk to Chief Joe Gosnell of the Nishga'a and he would tell you that he does not care about what happens at the international forum and that he is very happy with the relationship he has with Canada.

*SK: Do you meet with First Nations to discuss their position on the DDRIP?*

WL: We used to have three meetings a year. It was Canada's position that these meetings did not work because nothing was being resolved. So instead we put our money towards helping First Nation national organizations attend the international meetings. We are, however, giving out signals that we want to talk. I am meeting next Wednesday with the five First Nation national organizations (Assembly of First Nations, Metis National Council, Inuit Tapiriit Kanatami, the Congress of Aboriginal Peoples, and the Native Women's Association). Not all of them agree with each other. The position we take at the WGDD meetings reflects what we do domestically. We may not be able to satisfy everybody but we are at least committed to getting a DDRIP passed. (Book 3, February 13, 2003: 1-3)

It is the perspective of the Canadian government that the UN is a state institution and therefore the responsibility of making a decision on the DDRIP rests on the shoulders of nation states. Wayne Lord interprets the principle of consensus as only including states. This perspective of the process posits indigenous peoples as a little better than observers. They are able to speak at the meetings, but they are not involved in the negotiations or consensus building. When I questioned him on the effects of having the September meeting, in terms of building a relationship with First Nation peoples, Wayne Lord seemed confident in his ability as the head of the government delegation to be able to represent the perspective of First Nation peoples, making their participation unnecessary and even redundant. While I know that many of the First Nation delegates would argue that Wayne Lord could not represent them, his position asserts the notion

that the Canadian government is capable of representing all Canadians, including all First Nation peoples that live within its borders. When probed as to why there is so much resistance by the First Nation delegates to the actions and position of Canada at the WGDD, Wayne Lord supported his stance by arguing that there are many First Nation peoples who are happy with their relationship with Canada and that there will always be people who will disagree.

### **GOVERNMENT CAUCUS MEETINGS**

The meeting in September was not the first time the Canadian government has tried to meet without the inclusion of indigenous peoples. In an earlier session of the WGDD, Canada put out a proposal to have government caucus meetings during WGDD scheduled assembly time. The Canadian government reasoned that this move would give government representatives more time to talk with each other. The indigenous delegates were outraged:

Indigenous participants did not consider it acceptable that valuable time of the CHRWG [WGDD] be taken up by informal inter-governmental meetings. The formalization of informal meetings excluding indigenous participation was objectionable, and would detract from the transparent and participatory process in which Indigenous representatives had agreed to participate. (Pritchard 2001: 28)

It was felt that “[t]his wrangling about process signified a clear attempt by States to assert their control of the process” (*ibid.*: 28). While the indigenous delegates do not resent governments from meeting separately, they do not want these meetings formalized through a report or held during times when both indigenous delegates and government representatives can meet. Indigenous delegates fear that these caucus meetings are an effort to avoid having to acknowledge or negotiate with indigenous peoples, thus eliminating them from the WGDD process.

## **POLITICS OF IDENTITY**

The Canadian government, like other national bodies are not only trying to secure their control over the UN decision making process but are having to defend their authority as legitimate representatives of civil society. Participation by indigenous peoples at the WGDD challenges the authority of national governments to represent their citizens. Furthermore, the need for a DDRIP calls into question the ability of national governments to protect and defend the interests of their citizens. Like the indigenous delegates, governments, like Canada's, are engaged in their own politics of identity using language and symbols to prove their competence and assert their authority.

At the international meetings, the Canadian government makes several efforts to present an image of Canada as a diverse, open and multicultural nation where many different identities exist in harmony. At the Permanent Forum, the Canadian government reads their interventions aloud switching from both French and English.

The Canadian government illustrates their dedication to indigenous issues by pointing out their various initiatives to improve the lives of the First Nation Peoples. At the Permanent Forum 2003, the Canadian government was the only system of administration to have a booth set up outside the meeting hall. For the two-week session the Canadian government had a display on the Aboriginal Canada Portal, a joint Canadian government/First Nation project to increase web access to Native communities. The Canadian government had three First Nation women man the display, for the two week session, answering questions about the initiative, giving out handouts and setting up a draw for an Aboriginal Canada Portal t-shirt. Later during the Permanent Forum, Canada hosted a session during the lunch hour explaining more in detail about the

Aboriginal Portal. Canadian government officials and First Nation representatives were brought in to lead the session. The image the Canadian government works hard to portray is one where many different nationalities co-exist and the government is sympathetic and committed to the First Nation cause.

The Canadian government's most effective mean, however, to illustrate the Canadian government's legitimacy and the redundancy of indigenous participation in the UN process, is through the identity of the head of the Canadian government delegation. Wayne Lord, head of the government delegation at the WGDD and Permanent Forum member is a Metis, from Alberta. When asked how his Metis status has influenced and affected his work at the international negotiations, Wayne Lord replied,

It depends. It doesn't help but it doesn't hurt either. I think being Native shows my understanding and commitment to the issues. It is somewhat easier to establish credibility outside of Canada. In Native politics when all else fails, it gets personal. I never lived on a reserve but I can share and understand the feeling of exclusion and marginalisation felt by other Natives. A few people criticize me for working in government. I wanted to work in government to affect change. I wanted to do something positive and I felt that I could do the most by working in government. Just because I am a government official does not mean I cannot represent indigenous interests. Indigenous interests are Canadian interests. I am not a radical. I never had a problem reconciling being aboriginal and being a government official. (Book 3, February 13, 2002: ii)

Wayne Lord's Native identity is significant for many reasons. One it makes Canada look like a country that celebrates their Native culture and does not marginalise its indigenous peoples. Two, it gives the Canadian government and Wayne Lord credibility in the international community. Having an indigenous person head the government delegation legitimizes the premise that the Canadian government is able to represent a diverse group of peoples, including Natives. It supports the history of having the UN remain a state institution.



## **ACTIVELY INVOLVED: STRONG PRESENCE, STRONG VOICE**

As part of the politics of identity, the Canadian government makes an effort to be actively involved in all aspects of the indigenous issue debates at the UN and the international forum. Canada was the only country to send a Minister to the official proclamation of the Year in December 1992 (Marantz 1994: 33). The Canadian government hosted and organised the September Government Meeting. Wayne Lord is the Coordinator for the Government Caucus at the WGDD. Wayne Lord is also head of the Canadian delegates at the WGIP, the OAS, WIPO, World Bank. On top of all this Wayne Lord is one of the 16 Permanent Forum members.

The benefits of this involvement are two-fold. One, it supports a positive image of the Canadian government as concerned and committed. And two, it ensures that Canada has a say in all issues that have to do with indigenous issues. Canada has become one of the leading national governments to influence indigenous international policy.

## **V. FIRST NATIONS' PERSPECTIVE on Canadian government participation**

While Wayne Lord seems to suggest that the Canadian government can represent state interests and the interests of the First Nation peoples at the UN, all of the First Nation delegates I spoke with would argue otherwise. They do not feel that Canada has their best interests in mind, but is instead working to protect the government's own invested interests. They feel that all the efforts of the Canadian government at these international functions are selfishly motivated. The First Nation delegates, with whom I spoke with, argued that Canada is trying to play both sides of the fence in an effort to protect their international image while ensuring control over the outcome of the WGDD:

Canada tries to play the advocate of the down trodden. They say nice things, but their statements don't reveal that... We wonder why Canada makes statements to weaken the DDRIP when some of the articles as they exist do not conflict with Canadian policy. Canada comes up with the excuse that we have no problem with the article but other governments do and we are just trying to make recommendation that will help the situation. We do not buy that, we suspect Canada itself would like to see those articles changed and just uses that as an excuse. We try to tell them that if other governments have a problem let them say so. Canada could be far, far more supportive of the existing Declaration. (Tape Three, March 21, 2003: 118-550)

According to Dalee Sambo Dorough, a member of the Inuit Circumpolar Conference, "the most alarming position expressed to date is that of the Government of Canada...the position of Canada may be even more troublesome than that of the U.S" (Dorough 2002: 43). Dorough argues that the Canadian government is at the "center of the debate, facilitating closed door meetings of governments and other inter-sessional consultations" (*ibid.*: 43) and their colonial attitude, though difficult to quickly identify, motivates the positions they take at the United Nations (*ibid.*: 43).

Whether or not the Canadian government has the best interest of First Nation peoples in mind, the actions of the Canadian delegation is not building trust between the Canadian government and the First Nation delegates. Many of the indigenous delegates believe a rumor that the Canadian government, worried about its international image, asked the United Kingdom to get more involved in the WGDD meetings. The Canadian government wanted the United Kingdom to take the hard-line position that Canada supports but is afraid to say in public out of fear of tarnishing their good-guy political image. Supposedly, an article has been written and published in the UK confirming this back door relationship between the Canadian government and the UK. All the indigenous delegates, I spoke with, believed this rumor to be true. When asked about it, Wayne Lord knew about the rumour but adamantly refused its validity.

### **WAYNE LORD, Head of the WGDD Canadian delegation**

Personally, Wayne Lord, as the representative of the Canadian government at the WGDD, has not gained the respect of the First Nation delegates I spoke with. The First Nation delegates felt that because of his Native status, the Canadian government is taking a very hands-off approach to overseeing his work and has given him full reign to decide the position he takes to the WGDD. This fear was supported recently at a consultation between the Department of Foreign Affairs and International Trade and non-governmental organisation on February 3, 2003. At this meeting, when questioned on the Canadian governments position on self-determination at the WGDD, “Bill Graham admitted that he does not know very much about Aboriginal affairs and he said he would try to be more informed” (Tuulia Law and Linda Cameron 2003: 28).

Though Native, many of the First Nation delegates did not feel that Wayne Lord was “looking to the best interests of the next seven generations” (Book 3, February 12, 2004: iv). One delegate referred to Mr. Lord as a “colonized Native” (*ibid.*: v). While Mr. Lord has Native status, he was accused of thinking and acting like a colonizer.

Another delegate I spoke with argued that Wayne Lord is driven by personal and professional gain: “Wayne Lord has been given a lot of power. We shall see where he goes” (*ibid.*: 5). She believed Mr. Lord has his sights on a political promotion and is using the work he does on indigenous issues as a stepping-stone to a higher position within the Foreign Affairs Department of Canada.

Wayne Lord has received criticism for his role as a member of the Permanent Forum. It is seen as a conflict of interest to be the head of the Canadian government delegation at the WGDD and an indigenous expert at the Permanent Forum. At the

WGDD he is representing the interests of the Canadian government, and at the Permanent Forum he is supposed to be an indigenous expert and represent the interests of indigenous peoples. At the Permanent Forum 2003, a group statement was made on behalf of the International Indian Treaty Council, the Indigenous Environmental Network and the 7<sup>th</sup> Generation Fund (2003) to remove Wayne Lord from discussions on human rights in light of his recent effort to exclude indigenous participation in the WGDD process through the September Meeting. It was stated:

It is of great importance for the credibility of this Permanent Forum that members avoid the appearance of impropriety or conflict of interest. We do not believe that inclusion in a State delegation necessarily disqualifies Permanent Forum Members from discussion and decision. We believe such inputs and advice of States is important. We do believe that a Member should not be a functionary of a State, a full time career employee of the diplomatic corps bound to carry out the instruction of his government, drafting resolutions and participating in States' position and, most importantly, decisions on matters before the Permanent Forum. (Indian Treaty Council, et al. 2003)

Despite the concerns being voiced, Wayne Lord did participate in the Permanent Forum discussions on human rights and for the rest of the two-week session.

## **CONCLUSION**

Developing a working relationship, a partnership, is critical not only for creating a DDRIP that reflects the desires of both groups, but is part of the larger process of respecting the self-determination of indigenous peoples and building a more open and accepting society for those who are marginalised. Unless both sides strive to amend the wrongs of the past and include indigenous peoples in the decision making process, indigenous peoples will continue to live on the margins of society. Feelings of mistrust, anger, and frustration that have developed over the hundreds of years will continue to

prevent the actualization of the human rights of indigenous peoples. As Ignatieff (2000) suggests when talking about treaty negotiations within Canada,

It is important to have a process of restitution where both parties are seen as equal partners in an intercultural negotiation. Achieving legitimacy in the decision should matter more than sovereignty. (*Ibid.*: 82)

Having a process is as important as having the a Declaration on the Rights of Indigenous Peoples passed, for it is the process, the working relationship, that will live out and elaborate the rights outlined in the text. Without a working relationship, the First Nation peoples of Canada and indigenous peoples, in general, will continue to live as second-class citizens within the state in which they reside. The wrongs of the past came from a perspective of indigenous peoples as less than who they are. The actions of the past were supported and justified by the prevailing assumption that indigenous peoples are unworthy and incompetent.

The next chapter will be looking at the content of the DDRIP and how it is negotiated. Again focusing on the Canadian experience, the Canadian/Australian proposal on Land and Resources tabled at the WGDD 2003, I will describe the various positions of the indigenous peoples and nation states.

## Chapter Five

### **Negotiating Content: The Canadian/Australian Proposal on Land and Natural Resources**

One of the key aspects of the negotiations at the Working Group on the Draft Declaration of the Rights of Indigenous (WGDD) is the content of the Draft Declaration (DDRIP) itself. The DDRIP in many ways represents the guidelines and boundaries of the relationship between indigenous peoples and national governments. It is a difficult process as nation states and indigenous peoples from all parts of the world with distinct cultures, beliefs, political systems, values and languages come together to try and build consensus on the DDRIP. To gain consensus on the text of the DDRIP three things must occur. Indigenous peoples and nation states must be able to agree on the type of relationship that currently exists, agree on the direction of their future relationship and be equally committed and motivated to reaching this shared goal. This is a difficult task. Proof of the complexity of this undertaking is that in ten years only two of the forty-five articles have been passed. Many ideological and value differences prevents more articles from being agreed upon. The drive of the nation states to secure national supremacy, for example, goes against the aspirations of the indigenous peoples to exercise their self-determination. Bridging these political, ideological and cultural differences is key, however, to defining a DDRIP that will be representative of and respected by all those involved.

In this chapter, I will be looking at how the content of the DDRIP is being negotiated at the WGDD. I will use the Canadian and Australian governments' recent proposal for changes to articles on Land and Natural Resources as a catalyst for discussing the various positions of the nation states and indigenous peoples, focusing

specifically on the viewpoints of the First Nation delegates and the Canadian government.

## **I. THE CANADIAN/AUSTRALIAN PROPOSAL on Land and Natural Resources**

The Canadian/Australian (2003) proposal on Land and Natural Resources was tabled at the WGDD in September of 2003. It proposed changes to the original format and language of DDRIP's Articles 25-28 and 30.

### **FORMAT**

The DDRIP is organised and written using the same structure and language of international covenants. It is divided into articles and uses the phrase "States shall" to outline the various agreements in the Declaration. The Canadian/Australian proposal on Land and Natural Resources deviates from this format. The Canadian/Australian proposal is written in paragraph form. Articles 15-28 and 30 of the DDRIP are changed into 11 different paragraphs in the Canadian/Australian proposal.

### **DISCOURSE ANALYSIS**

The Canadian/Australian proposal replaces the word "shall" as used in the DDRIP, with the word "should". The Canadian/Australian proposal (2003) affirms that:

2. States *should* take [the] distinctive relationship [indigenous peoples have with the land] into consideration in developing laws and policies...
3. States *should* provide fair and equitable processes to recognize, determine, adjudicate and agree upon the rights or interests of indigenous peoples in relation to lands and resources to which they have a traditional connection
- 6b. States *should* as appropriate:
  - (i) respect their customs, traditions, and practices relating to issues such as lands or resources

(ii) take measures to prevent interference with, involuntary alienation of, or encroachment upon their use of such lands or resources by other parties

7. ...Indigenous peoples concerned *should*:

(a) be consulted on the impact on the use and enjoyment of such lands of any proposed use or exploitation of these resources on their lands;

(b) have the opportunity to benefit from such use of exploitation

The Canadian/Australian (2003) proposal subverts the common phrase used in international law, “fair and just compensation” to “fair and reasonable compensation”. In paragraph 7c of the Canadian/ Australian (2003) proposal it states:

In situations where minerals or other resources existing on or under such lands are the property of the State, or the State otherwise controls their use or exploitation, the indigenous peoples concerned should: where appropriate, receive *fair and reasonable compensation* for any adverse impact on their use and enjoyment of lands arising from such use or exploitation.

The right to “maintain and strengthen” indigenous peoples relationship to the land, as stated in Article 25 of the DDRIP, is reduced to the right to the “recognition of” this distinct and special relationship in paragraph 1 of the Canadian/Australian proposal.

The Canadian/Australian proposal also inserts the phrase, “where appropriate” or “as appropriate”, at the beginning of certain sentences. For example,

4. States should, *as appropriate*, provide for the identification, recording or registration of such rights and interests

8. Such lands should not be used for military activities except on the same basis as other lands not owned by the State. *Where appropriate*, the prior informed consent of indigenous peoples concerned should be sought.

11. States should take measures, *as appropriate*, to increase indigenous peoples’ ownership of, or access to, land and resources, taking into account historical circumstances and their traditional use of land

The Canadian/Australian proposal makes changes to the content of the DDRIP.

For example, Article 25 of the DDRIP states that:



Indigenous peoples have the right to maintain and strengthen their distinctive spiritual and material relationship with the lands...

In the Canadian/Australian proposal, indigenous peoples' "material" relationship to the land is omitted. The Canadian/Australian proposal states that indigenous peoples have the right to the "recognition of their distinctive and spiritual relations with the lands" (Canadian/Australian 2003:1).

The Canadian/ Australian proposal does not grant indigenous peoples the right to "own" or "control" lands and other resources. In Article 26 of the DDRIP it states that indigenous peoples,

Have the right to own, develop, control and use the lands and territories, including the total environment of the lands, air, waters, coastal seas, sea-ice, flora and fauna and other resources which they have traditionally owned or otherwise occupied or used...

In the Canadian/Australian proposal,

6. Where indigenous peoples, through the processes provided under paragraph 3 and 4 or otherwise under domestic law, have ownership, exclusive use or possession of lands or resources as a result of their traditional connection:

(a) Indigenous peoples have the right to use, develop or exploit such lands and resources in a manner not inconsistent with domestic law.

Furthermore, the Canadian/ Australian proposal makes indigenous peoples right to land and resources and its subsequent use dependent upon domestic legislature. It does not specify in the Canadian/ Australian proposal what is being referred to under the terms "land and resources".

The Canadian Australian proposal includes the need to "recognize, determine and adjudicate" indigenous rights and interests to land and resources. It however does not recognize indigenous peoples right to the "restitution of lands, territories and resources...which have been confiscated, occupied, used or damaged without their free

and informed consent” (DDRIP, Article 27). Indigenous peoples are, however, given the “right to due process and fair compensation for any future acquisition or expropriation” in the Canadian Australian proposal.

The Canadian/Australian proposal does not ensure the right of indigenous peoples to help from state and the international community in “conservation, restoration and protection of the total environment and the productive capacity of their lands, territories and resources” (DDRIP, Article 28).

The proposal does not grant indigenous peoples any extra protection against military activity on their lands. It is stated that “where appropriate” prior informed consent “should” be sought when indigenous peoples’ lands are used for military activity. Nothing is stated in the Canadian/Australian proposal about taking measures to “ensure, as needed, that programs for monitoring, maintaining and restoring the health of indigenous peoples” (DDRIP, Article 28) when indigenous peoples are effected by hazardous waste that is dumped or stored on their land.

## **II. SIGNIFICANCE OF LAND AND NATURAL RESOURCES**

Rights to land and natural resources are a central concern to both indigenous peoples and nation states. For indigenous peoples, including the First Nations, there is a spiritual, social, cultural, economic and political connection to the land that is critical for their continued survival and vitality. Since their relationship to their land is deeply spiritual, the destruction of that link is often destructive to their identity. It has lead to increased social problems, such as extreme poverty, domestic violence and suicide (United Nations 1999). For the First Nation peoples of Canada, their lifeways, religions

and identity is tied to their relationship to the land, by giving that up, they are giving up who they are and how they define and express themselves;

Land is not only an economic resource for indigenous peoples. It is also the peoples' library, laboratory and university; land is the repository of all history and scientific knowledge. All that indigenous peoples have been, and all that they know about living well and humanity, is embedded in their land and the stories associated with every feature of the landscape. (Daes 2002: 13)

For the indigenous peoples this issue of land is a very personal and critical matter that cannot be simplified to simple economic equations. As Ignatieff (2000) points out, “[a]ll peoples will refuse to surrender what is precious to them—land, religion, and language—even when the compensation offered them is equality of citizenship as individuals” (61).

For nation states, who has the right to land and natural resources is of critical importance. Many national governments argue that accepting the right of indigenous peoples to land has legal and political implications that threatens the authority, security, control and economic base of countries.

### **III. OTHER INTERNATIONAL INSTRUMENTS**

The DDRIP is not the first international document to address indigenous peoples' rights to land. The International Labour Organization (ILO) was the first UN institution to recognise and draft laws to protect the rights of indigenous peoples. In 1957, the ILO adopted the Indigenous and Tribal peoples Convention (No. 107). This was later revised and updated in 1989 and replaced with the Indigenous and Tribal Peoples Convention (No. 169). ILO Convention 169 is the most comprehensive international instrument on the condition, life, and work of indigenous and tribal peoples. Article 13(1) emphasizes the special importance of land to indigenous cultures and spiritual lives. Article 14

recognizes the collective relationship indigenous peoples have to land and provides for their rights of ownership and possession over the lands, which they traditionally occupied. Article 16(4) of ILO Convention 169 provides that in cases where indigenous peoples can not return to their lands, they:

Shall be provided with lands of quality and legal status at least equal to that of the lands previously occupied by them, suitable to provide for their present needs and future development. Where the peoples concerned express a preference for compensation in money or in kind, they shall be so compensated under appropriate guarantees.

Article 16(4) also protects the rights of indigenous peoples to the natural resources of their land and requires that, in the cases where the State retains ownership of minerals or subsurface resources, Governments should have and maintain procedures whereby the peoples occupying those lands are consulted. Since 1999, 13 States have ratified the Convention. Canada is not one of them. Even though Canada has not ratified the ILO 169, it is used as a framework for many organisations such as the World Bank, the Regional Development Banks for their policies and programs in the area of the rights of Indigenous and tribal peoples.

The right to land and natural resources is addressed in other more widely recognised international documents. For example, Article 17 of the 1948 Universal Declaration of Human Rights states that:

1. Everyone has the right to own property alone as well as in association with others
2. No one shall be arbitrarily deprived of his property.

Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination provides that:

States Parties undertake to prohibit and to eliminate racial discrimination ... notably in the enjoyment of the following rights: ... (d)(v) the right to own property alone or in association with others.

Article 27 of the International Covenant on Civil and Political Rights provides that:

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.

In General Comments on article 27, the Human Rights Committee, the body established to supervise implementation of the International Covenant on Civil and Political Rights, observed that:

Culture manifests itself in many forms, including a particular way of life associated with the use of land and resources, especially in the case of indigenous peoples. That right may include such traditional activities as fishing and hunting and the right to live in reserves protected by the law.

#### **IV. INDIGENOUS PEOPLES' REACTION**

The Canadian/Australian proposal infuriated and disappointed many indigenous delegates. They objected to having the DDRIP grant indigenous peoples fewer rights than are already given to them through other international instruments. They found it insulting that Canada and Australia's proposal made the rights of indigenous peoples dependent upon national legal systems and jurisprudence. The indigenous delegates felt that it was a blatant attempt by the Canadian and Australian delegation to limit their rights and the scope of the DDRIP.

#### **MAKING NATIONAL SUBSERVIENT TO INTERNATIONAL**

The indigenous delegates believe that the DDRIP is made irrelevant if the rights of indigenous peoples are made subject to domestic laws. Furthermore, the use of phrases like "As appropriate" and "States should" leave room for political and legal interpretation. Who determines when it is *appropriate* to consult indigenous peoples on

project relating to them and their land? My guess, and the fear of the indigenous delegates at the UN, is that the national governments would ultimately have this authority. It would be up to the discretion of national government to determine when they *should* respect the rights of indigenous peoples as outlined in the DDRIP. According to Armand Mackenzie of the Innu Nation in Quebec:

The changes proposed [in the Canadian/ Australian proposal] will limit the right to land to domestic policies which are the source of our problems...It is the very insufficiency of domestic laws that brought indigenous peoples to the UN in the first place. (*Globe and Mail*, Friday, September 26, 2003, "UN talks on indigenous declaration deadlocked")

The Declaration should go beyond the compilation of existing rights and should provide a higher level of protection. Enrique Chavez, the chairperson of the WGDD supports this sentiment. At the WGDD 2002, the United States representative argued that the DDRIP should "acknowledge the land arrangements that exist in many countries" (*Indigenous Rights Bulletin* 2002, Day 4am). In response to the United States statement, Chavez stated:

As Chairman, I would like the debate to focus on protecting human rights. If at some stage we should choose between the state and the victim, human rights should truly protect the victim not the state. Basically, we have to make an effort where this contradiction arises. We should ensure that our instrument [the DDRIP] increases the protection of indigenous peoples. So with all due respect, what we adopt at the international level needs to be applied to the domestic level. (*Ibid.*: Day 4 am)

Chavez's response elicited applause from the indigenous delegates present in the room, showing their approval and support for his position.

## **MANIPULATING PROCESS**

For the indigenous delegates present at the WGDD meeting in 2003, it was not only the content of the Canadian/Australian proposal that was offensive and frightening,

but the way in which the proposal was presented. Indigenous delegates resented the fact that Canada and Australia waited until the Wednesday of the last week of the WGDD to share their proposal. This was seen as a way to stall the negotiations and prevent indigenous peoples from participating. In response to the Canadian/Australian proposal Mr. Littlechild of the Sampson Cree Nation and member of the UN Permanent Forum was quoted in an article saying:

It [the Canadian/Australian proposal] insults our intelligence. It tries to change the process in mid-stream...no states should be allowed to use this process to legitimize or to make legal their theft of the lands and natural resources of indigenous peoples. (*Globe and Mail*, Friday September 26, 2003, "UN talks on Indigenous Declaration Deadlocked")

By presenting their proposal near the end of the WGDD, indigenous peoples had little time to react. It was feared that states would go ahead unilaterally and make a decision on the Canadian/Australian proposal without having heard the indigenous peoples concerns.

## **SECURING STATE SUPREMACY**

Many of the indigenous delegates felt that the Canadian/Australia proposal was an unconcealed attempt by the Canadian and Australian government to secure its control over indigenous peoples and their land. Furthermore, by granting indigenous peoples fewer rights than they currently have in Canada it would allow the government to repeal some of the rights they have already given to First Nation peoples in the future:

What we are fighting in the DDRIP we already have in Canada. Canada always tries to back track and if the DDRIP is passed as is, it will make sure that they can not do that. That is why we are so annoyed or surprised with Canada, because they are trying to weaken the DDRIP so that it is even less than the rights that we have in Canada and will mean that they can back track in the future. (Tape 3, March 21, 2003: 531-550)

Many of the indigenous peoples have argued over the years that the DDRIP is an aspirational document and represents the minimum standards that should exist between indigenous peoples and nation states.

This Declaration is not international law but aspirations. It is something you want to achieve. The articles of the DDRIP should not be couched in such limiting legal terms. The governments that understand that it is aspirational are willing to accept it [the DDRIP] that way and do not interpret it as a convention. (Tape 3, March 21, 2003: 550-560)

Though many states fear the political and legal consequences of the DDRIP as currently worded, the Declaration is not intended to be international law. The Declaration on the Rights of Indigenous Peoples is to be a pledge for the future. It is to be a written document that outlines the direction the relationship between indigenous peoples and nation states should go. It is feared however, that some states are using this process to secure their present monopoly over indigenous peoples and their land and resources.

## **V. THE REASONING OF THE CANADIAN GOVERNMENT**

According to Wayne Lord, the Canadian/Australian proposal was an effort to negotiate, to dialogue. By presenting what the Canadian and Australian governments could live with, they were trying to work towards finding solutions. Some indigenous peoples argued that the Canadian/Australian proposal stalled the process, but according to Lord, the process was already stalled. Land and natural resources are important concerns for the Canadian government and many nation states are too intimidated to voice their true feeling on the matter. Wayne Lord argued that no one wants to talk about land and natural resources because it is a difficult topic:

The approach of the chairperson is to talk about the easy articles to try and get consensus on them. Then maybe it will be easier to get consensus on the harder articles. But Canada has always wanted to talk about land and resources. At the



meeting in 2002 it was agreed that land and resources would be on the agenda. It was not going to be swept under the table. We told the group, here is what we can accept. No one else wants to talk about land and resources.

The Canadian and Australian government felt that the issue of land and natural resources was too important to sweep under the carpet and therefore put their heads together to come up with their proposal. (Book 3, February 13, 2004: 4)

With the intention of furthering negotiations, the Canadian and Australian government presented the Canadian/Australian proposal to address their concerns on the political and legal implications of the DDRIP's articles on land and natural resources.

## **POLITICAL CONCERNS**

Having a DDRIP that is in conflict with existing domestic constitutional, legal, territorial arrangements is a concern for the Canadian government. The Canadian government does not believe that indigenous peoples have the rights to land and natural resources as they are articulated in the current DDRIP. The Canadian government does not recognise indigenous peoples' right to land and natural resources as an extension of their right to self-determination:

It is my belief that the right to self-determination and governance issues is not necessarily linked. The right to self-determination is a separate issue from the right to land and resources. Some indigenous peoples argue, however, that the right to self-determination does include rights to land and resources. They refer to the Declaration of Human Rights in which it states, "All 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 1 of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights). But what does "freely determine" mean? We think it needs to be negotiated. No rights exist on their own. Rights do not exist in a vacuum. In the case of indigenous peoples you need to take into consideration specific histories. The 1994 ruling recognized the inherent right to self-determination of the Nishga'a and Nunavut. But you can't give rights across the board. What about the Metis and the Inuit? When it comes to land and resources there is a fear that the government will shove a decision down the throats of indigenous peoples. When we are looking at a rights based

approach, First Nations probably have some rights but it depends on each group. (Book 3, February 13, 2003: 1)

The Canadian government does not currently support the view that all indigenous peoples are entitled to the same rights to land and natural resources. Wayne Lord argues that these rights need to be negotiated on a case-by-case basis. The current text is unrealistic. The aspirations outlined in the current DDRIP are impossible to achieve, as it does not take into account the reality of the domestic situations of many nation states. Though the September Report does not indicate which governments share these concerns, it does indicate governments want more flexibility in the DDRIP:

Some states had concerns about the requirement that free and informed consent would always be required before indigenous lands could be alienated. This requirement may not always be met in the case of a lawful taking of property for the public good. (September Report 2002: 6)

States expressed concern about the restitution of lands as a result of past wrongs, reaching back to colonial or pre-colonial times:

Several states were more comfortable with the forward looking aspects of Article 27 which would address any future acts that would deny indigenous peoples their current land holdings. (September Report 2002: 6)

As Wayne Lord stated in my interview with him:

We need to find a way to address the past. We need to figure out what is meant by “redress”. We can do a combination of things. We are not going to give all the land back. Canada is prepared to talk about the past but Canada does not see this as part of a decolonization process. With rights comes obligations and because Canada takes the DDRIP so seriously we want to ensure that we can implement whatever it states in the DDRIP. (Book 3, February 13, 2004: 2)

The Canadian government is concerned that the current text makes broad sweeping statements that are unilateral and unfettered. This concern is shared by other governments and was articulated in the September Government Report in 2002:

There was concern about the lack of definition of some terms, e.g. which lands/territories? What resources? What rights? ...Many states deplored a lack of flexibility in the language of the Declaration. The articles take a static approach, e.g. by not allowing for the voluntary alienation of indigenous property rights or by ignoring the need of governments to provide for the good of all (conservation, sustainable development, expropriation for public good, etc)...Some states noted that the current draft Article 26 was extremely broad and did not recognize the rights of other parties. It could subject their whole national territory to indigenous claims. ... [The DDRIP] would be extremely difficult to implement given other state obligations. (September Report 2002: 4)

The DDRIP as currently worded does not take into consideration the often-competing obligations of states. It challenges the authority of national governments:

Many states had serious difficulties with the notion that disputes should be submitted to international bodies. While many states conclude treaties with indigenous peoples, these treaties are of a domestic rather than international nature and therefore subject to domestic constitutional and legal regimes. Domestic courts as well as tribunals have competency and appropriate historical, political and cultural knowledge of the issues and there should be no need to burden international jurisprudence with these issues...Submissions of a dispute to an international body should take place only if in conformity with the national legal regime. (September Report 2002: 4)

The Draft Declaration, as currently worded, it is argued, has the potential for giving indigenous peoples “immunity from national laws” (September Report 2002: 2), therefore threatening the sovereignty and stability of nation states. Having the DDRIP in accordance with national legislature ensures that future conflicts between states and indigenous peoples are prevented and that the autonomy of the state is ensured;

Even in Canada, a state which complies more readily than most with the judgement of experts in international law, holds that the position it takes in the international forum must be consistent with Canadian policy and practice. (Marantz 1994: 16)

According to Wayne Lord:

There are some countries that are very supportive of the DDRIP as currently worded. But those are the government where the Declaration means nothing or where they are willing to agree to anything. (Book 3, February 13, 2003: 4)

The DDRIP, as it stands at present, only serves to create unrealistic expectations. If the Declaration is not feasible and realistic, “the Declaration would not be a useful tool but would become a source of conflict between states and indigenous peoples” (September Report 2002: 8). By setting up unrealistic expectations, resentment and tension will only grow between indigenous peoples and nation states.

## LEGAL CONCERNS

One of the fears Wayne Lord and other national government representatives have expressed is the potential legal implication of a Declaration on the Rights of Indigenous Peoples. Even though the Declaration is not law binding, the Canadian government is concerned about the possibility that it will become a Convention (a law-binding document) in years to come. When I asked Wayne Lord why in the Canadian/Australian proposal he used the word *should*, as oppose to, *shall*, he explained:

“Shall” is convention language. Canada at the beginning of the DDRIP discussions was really picky about not being able to accept “shall” language. Canada has gotten over itself and we are open to considering it. Sometimes we are not comfortable using “shall”. It is a very serious issue for Canada. Canada cannot accept the language of conventions... We have been clear from the beginning that there are certain things in the DDRIP that we cannot accept. (Book 3, February 13, 2004: 2-3)

The fear of the potential legal implications of the DDRIP is exacerbated by the possibility that the Sub-Commissions at the end of the UN Decade in 2004 will decide to close the WGDD and the DDRIP discussions due to lack of progress in the last ten years. This could mean for governments like Canada and others that even though the DDRIP has not been passed the current text could be used as customary law.

Some states expressed concern that the Declaration could be interpreted by some national or international commissions or tribunals as representing customary international law. (September Report 2002: 8)

While the use of the DDRIP by tribunals as statements of customary law is unacceptable without appropriate state practice, it could be used to interpret existing treaty obligations. Currently domestic courts make use of international declarations whether they are binding international law or not (Pritchard 2001: 45). Already the DDRIP has been used in this way once when the Inter-American Commission of Human Rights cited the Draft Declaration. This could mean that though Canada has adamantly refused to accept the wording of the DDRIP, it would hold sway in future legal decisions within Canada.

According to Wayne Lord, some of the indigenous delegates are intentionally trying to prevent consensus within the WGDD so that the DDRIP will not be passed and will be left as is to be used as customary law. For Wayne Lord, this is unacceptable. The DDRIP is very important to the Canadian government, and Wayne Lord is actively working at bridging the gaps between what the nation states are willing to accept and the indigenous peoples are willing to agree to. His work developing proposals and hosting the September government meeting are evidence of his dedication to finding consensus on the DDRIP.

## **VI. GAINING CONSENSUS ON THE DDRIP**

Gaining consensus on the content of the DDRIP is a difficult process. With the end of the decade in sight, there is increased tension within the indigenous and government caucuses as each group tries to negotiate without sacrificing too many of their rights or privileges. Within the indigenous caucus, disagreements arise over what this means. In the government caucus, national representatives are divided over how they understand the government's responsibility to indigenous peoples. To further complicate

matters, what consensus means and who has a say in the process is also a debated matter within the WGDD.

## **INDIGENOUS CAUCUS**

The Indigenous peoples' position on the DDRIP has always been that they support the DDRIP as is. Each article in the DDRIP is important and integral:

Every paragraph of the Draft Declaration is based upon known instances of the violations of the human rights of indigenous peoples. There is nothing theoretical, abstract, or speculative about the substantive content of the Draft Declaration. It is written as an antidote for a troubling reality.

It is essential that every government understand that the Draft Declaration is remedial both in its content and in its scope. The Draft Declaration does not spring from political origins or from diplomatic niceties. It began as a cry from the indigenous peoples for justice, and it is drafted to confirm that the international standards, which apply for all peoples of the world, apply to indigenous peoples. It is an inclusive instrument, meant to bring indigenous peoples into the purview of international law as subjects of international law. (Matthew Coon Come, past Grand Chief of the Grand Council of the Crees, cited in Pritchard 2001: 6)

While the indigenous caucus recognises that there are some redundancies and repetition in the text and does not meet the desires of all indigenous peoples, the DDRIP is the best and most reasonable text possible:

Though this document is not perfect, it is the best Declaration that we believe the United Nations could adopt within a reasonable number of years. From our own experience in this process, we know that there are provisions that do not fully accommodate the aspirations of indigenous peoples everywhere. We know that the diverse conditions of indigenous peoples have not been completely responded to by the Declaration. We recognize and respect the concerns that some indigenous representatives have expressed. However, the text of the Draft Declaration is no longer in the hands of the Working Group. We doubt whether stronger provisions could be adopted by the member nations of the United Nations. (Statement made by the Indian Law Resource Center and the National Congress of American Indians at the WGIP on 26 July 1994, cited in Pritchard 2001: 7)

While the indigenous caucus' position on the DDRIP remains uniform, members continue to debate which strategy to employ to pass the DDRIP and secure the most rights. For years the indigenous peoples were resolute that changes will only be supported if they are reasonable, necessary, and improve or strengthen the existing text. Modification must be consistent with the fundamental principles of equality, non-discrimination and the prohibition of racial discrimination (Pritchard 2001: 34). With the end of the Decade fast approaching, however, some of the indigenous delegates have become more willing to consider proposals that while not being necessary, would mean more national governments would become supportive. Not everyone within the indigenous caucus supports this view, however. Some indigenous delegates refuse to compromise on any of the articles and fear that if they do, it will become a slippery slope where the DDRIP will be weakened to oblivion.

At the WGDD 2002, the tension within the indigenous caucus was evident. A proposal by the Norwegian government to cluster certain articles and include a paragraph from the Covenant on Friendly Relations into the preambular section of the DDRIP challenged the consensus of the indigenous caucus. The following is an expert from a discussion that occurred at the indigenous peoples' caucus meeting at the World Council of Churches in regards to the Norwegian proposal. It illustrates the difficult and heated negotiations that occur among at the indigenous caucus meetings and the various points of view held within the group.

Marcelo Calfuquir (Indian Council of South America):

My indigenous brothers push me to accept the Norwegian proposal but I don't need to be convinced that the states are right. Instead we need to persuade states because they are radical. Mililani has told me about international law and I think society should change but we shouldn't change our stand on the proposal. Nine years is nothing compared to one hundred years of struggle. How can we accept a

fast and easy way out? In this entire long struggle we need to have patience. If you accept, me and my organization will not be in agreement.

Matthias Ahren (Same Council):

My organisation does not find the Norwegian text necessary. Including a paragraph into the preambular section is redundant. But I like it because it supplies more legal interpretation. It underlines equal rights between peoples but causes no harm in any way through international law. Article 44 of the DDRIP says that nothing in the document should be limiting. I am unhappy that some people do not share our position. I understand that many states could accept the articles on self-determination if the paragraphs, as outlined by the Norwegian proposal, are included in the preamble, making us closer to a decision. It would help to give some momentum to this difficult issue. (Book One, December 1, 2002: 35)

In general, the indigenous delegates from the Nordic and North American countries are more open to negotiating the content of the articles. The indigenous delegates from Latin America are more resistant. The sentiment of the Nordic and North American indigenous delegates is that negotiation requires both groups to compromise. The Latin American indigenous delegates see the WGDD discussions as part of a five hundred year long struggle. To compromise now is to give up.

From having been to the most recent WGDD in 2003, Kenneth Deer told me that the “non-compromise position is dead”. The indigenous caucus is realising that if they want a DDRIP they need to be open to changing the current text. Kenneth Deer sees this as a positive step forward; finally negotiations can occur.

There is a division, however, between the native lawyers and those indigenous delegates not trained in law in how much faith they put on legal interpretations. Marcelo Calfuquir, for example, though he hears the arguments made by the indigenous lawyers does not feel assured that his rights will not be jeopardised by conceding to the changes proposed by Norway. His skepticism probably derives from the fear that legal interpretation often favors governments’ not indigenous people.



Some of the delegates further resent the adversarial approach some of the indigenous lawyers take at the WGDD. According to one informant,

One of the fundamental problems with the process is that we have a whole lot of lawyers working on this and lawyers are very adversarial so our negotiations, or discussions I should call them, tend to be adversarial because lawyers take adversarial positions. To get them [states] to change their minds, to see it our way, is taking an adversarial position. I think that is part of it [the problem]. The whole discussions should be an exchange of point of views and a leap of faith. (Tape 3, March 21, 2003: 540-545)

According to this informant, an adversarial approach posits indigenous peoples and national governments against each other, with each group trying to out argue the other. This approach does not build mutual understanding and respect among the indigenous peoples and nation states. It goes against the goal of developing a working relationship, a partnership.

## **GOVERNMENT CAUCUS**

In the literature pertaining to the DDRIP, the positions of the states are divided into three regional groups. The three groups are the Nordic countries; Canada, Australia, New Zealand, and the United States (KANSUS); and the Latin American countries (GRULAC). In general, the Nordic countries and the Latin American countries are the most supportive of the current DDRIP. The KANSUS countries, though they support the principles contained in the DDRIP, insist on amendments. Within the KANSUS group, the United States is most resistant, especially to concepts like self-determination. New Zealand has become the most liberal of the group and has become more open to the articles as outlined in the DDRIP. France and the UK, though they are not associated with any one group, have strong opinions on the DDRIP. Both take issue with the concept of self-determination and collective rights.

Canada has played and continues to play an active role in trying to bridge the differences within the government caucus. Canada “often finds itself in the position of being sought out for the role of honest broker, able to find the nuanced compromise that oil the way of international negotiations and agreements” (Marantz 1994: 16). According to Marantz (1994), Canada plays a critical role in UN discussions for getting the support of other less willing and tolerant government states (73). Hosting and chairing the Government September Meeting was an example of such an endeavor.

Despite years of discussions and inter-governmental meetings, however, the nation states are unable to agree on the DDRIP. According to “[a] State” in the September Report 2002:

to reach consensus, those states that can accept the current draft Declaration need to make concessions to those states that cannot accept the Declaration without rendering the Declaration meaningless. The options are 1) qualifying contents of articles i.e. a minute description of self-determination; or 2) leaving articles as they are and then adding safeguards to specify what the articles do not mean; or, 3) if we assume that there is already a set of universally recognised principles (e.g. self-determination already recognised- Covenant), these rights could already be applied. Yet for other aspects not yet covered by international law, there may be a requirement for creating a legal framework. (*Ibid.*: 3-4)

This has yet to be achieved. Though the states may share similar invested interests, they are unable to agree on the terms of the DDRIP.

## **VII. FUTURE OF THE DDRIP NEGOTIATIONS**

If we apply the “spiral model” (Riker and Sikkink 1999) to the WGDD negotiations, it would appear that the indigenous peoples and the nation states are between phase two and phase three. A transnational network has been mobilised and indigenous issues are on the international agenda. Negotiations, however, are tenuous.

Canada, for example, is still in the stage of denial refusing to accept the need for international intervention and policy change within Canada. According to Wayne Lord, Canada's relationship with its indigenous peoples is an example for other countries to follow. Making indigenous issues an international matter has allowed the Canadian government to show other countries how to respect and work with indigenous populations:

At the international level we can share our best practices and our best practices of our worst practices. People can learn from the Canadian experience about how to get along and how to recognize problems. (Book 3, February 13, 2004: vi)

When I challenged Wayne Lord on his positive view of Canada's relationship with First Nation peoples, by referring to the dismal statistics on First Nation peoples' unemployment rates, illiteracy, infant mortality, suicide, he replied:

As you know statistics can tell you anything. The problem with these statistics is that the Native population has grown substantially over the years compared to the non-Native population. This growth in population has skewed the statistics. If the Native population had stayed the same, more positive results would be shown. (Book 3, February 13, 2004: 6)

Though the refusal of the Canadian government to acknowledge the need for domestic change is frustrating, the spiral model suggests that denial is evidence that socialisation is occurring. According to the "spiral model" it is through these denials that nation-states become entrapped in their own rhetoric and further entrench themselves in international negotiations. As long as indigenous peoples and nation states can continue these debates, socialisation can occur.

Despite Canada's refusal to acknowledge the need for change since the WGDD was created in 1994, Canada has granted several First Nation communities self-government. In the most extreme example, in 1999, the territory of Nunavut was created.

This settlement includes the gradual transfer of governmental responsibilities to the elect government of the eastern and central Arctic Inuit, which will administer an area of 350,000 square kilometers of land, approximately 20 percent of the land mass of Canada. While this may not be a direct result of the negotiations of the DDRIP it is a sign that over time Canada has become more open and willing to accept and to promote increased self-determination of First Nation peoples. Canada has also has invested money and resources to resolving land claim issues that are still outstanding. Most significantly, however, it appears that the Canadian government is willing to bring the international discussions back to the national level. Wayne Lord's proposal to meet with representatives of the five national First Nation organisations is critical for the integration of international norms into national and local practices. Though the Canadian government has received criticism from some of the First Nation delegates who have been involved in the international debates but who were not invited (*Windspeaker* 2004), it is a sign that the Canadian government is bringing the negotiations back to the local level.

In order for the momentum started at the international forum to continue, domestic opposition needs to be strengthened. According to the "spiral model" (Risse and Sikkink 1999), moving to the next level depends on the capacity of domestic and international networks to link together and mobilise resistance from 'above' and 'below'. Risse and Sikkink (1999) argue that building domestic opposition is difficult in countries where human violations occur; often it is dependent upon a few key leaders. In Canada, the link between the domestic and international networks is dependent on a small number of indigenous delegates. Just recently, First Nation opposition was marred with the firing

of Matthew Coon Come, the past Chief of the AFN. He had been very involved in the international discussions and was a key player in linking international opposition with domestic resistance. When speaking to a member of the AFN, they speculated that the Canadian delegation was hoping that with a new Chief, the AFN's position on the DDRIP would change (Book 3: February 12, 2004: 6). Kenneth Deer is concerned that there are not enough new First Nation peoples getting involved in the UN debates (Book 3, March 21, 2003: 24). It takes a long time to learn about the UN process and many of the current indigenous delegates are getting older.

Despite the small group of indigenous people involved, there is a strong link between the international and domestic level, as it is the people from the domestic level that attend and make up the international network. In Canada when violations occur the indigenous delegates are sure to bring it up at the next international meeting.

This is the last year of the Decade to discuss the DDRIP. It is unclear what is going to happen at the last WGDD meeting and if some of the recent proposals like Canada/Australia's proposal on Land and Natural Resources and the Norwegian proposal will be accepted. Furthermore, it is uncertain what the Sub-Commission will decide in terms of extending the life of the WGDD or closing the issue for the present time. Already the WGDD met in September of this year for two weeks and have another meeting scheduled in December of this year. It seems like both nation states and indigenous peoples are anxious to make a last push to find agreement on the DDRIP.

## **VIII. CONCLUSION**

The WGDD has been very ambitious in its goal. Gaining consensus within the indigenous peoples' caucus and the government caucus has not been an easy task. Putting

these two groups together and asking them to find agreement is even harder. It is no surprise then that despite the best efforts of both indigenous delegates and nation state representatives, more articles of the DDRIP have not been passed. Some indigenous peoples see this lack of progress as a failure:

As the Decade comes to a close this year, it is apparent that the Decade has been remarkable in the emptiness of the UN's rhetoric and in how so little has been done by states and international organizations to bring practical effect to their lofty rhetorical concern for Indigenous peoples. (Alfred and Corntassel 2004:1)

I shall conclude by saying that we have made very little progress, if any, in the process of the Declaration of the Rights of Indigenous Peoples in the UN. (Alarcon 2002: 8)

The UN's International Decade of the World's Indigenous Peoples has been 'a relative failure,' U.N. expert Marcos Matias Alonso said Friday, noting that Indians remain mired in poverty around the world. (Indian Treaty Council 2004)

I believe, however, that despite not finding more agreement on the terms of the DDRIP, the fact that indigenous peoples and nation states are at the same table discussing collective rights, rights to land and natural resources, and right to self-determination makes the WGDD a success. As I will explore, in the last few chapters, the WGDD is significant for many other reasons than just passing a DDRIP. For the indigenous delegates and nation states involved, the WGDD process has several political, cultural, social and economic meanings. What is happening at the WGDD is challenging a legacy of indigenous marginalisation, stereotyping and hopelessness. Nation states are having to question their roles and authority and are being made to be more accountable to the international community and the communities that they are to represent and protect.

## Chapter Six

### **Globalised Native Politics: Meaning and Significance of the DDRIP negotiations**

It is said being born Indian is being born into politics. I believe this to be true; because being born a Mohawk of Kahnawake, I do not remember a time free from the impact of political conflict.

(Alfred 1995: 1)

While many people have been critical of the lack of progress they see occurring at the WGDD, the significance of the work that is being done at the UN goes beyond the passing of a Declaration on the Rights of Indigenous Peoples. For many of the indigenous delegates, their communities, and organisations, the internationalisation of indigenous issues and their inclusion in the world scene has political, cultural, social and economic significance. While the spiral model provides a theoretical background for understanding how non-state actors can incite domestic change through the use of international networks, it fails to take into account how power in these situations is imbued with meaning. In this chapter, I intend to explore the meaning and significance of the DDRIP negotiations. On the basis of the Kahnawake Mohawks, I will look at what the UN negotiations mean politically, culturally, socially, and economically, and how the DDRIP negotiations fit with traditional Iroquois conceptions of place, power and politics.

#### **I. KAHNAWAKE HISTORY**

Kahnawake is a Mohawk settlement, located on the south shore of the St. Lawrence River, 15 km south of downtown Montreal. The Mohawks of Kahnawake are descendants of the Mohawk Nation. Traditionally, the Mohawk nation controlled a large portion of land stretching from present-day Trois-Riviere to the Oswegatchie River near Prescott, Ontario, to the Adirondacks west of the Hudson River-Lake Champlain-Lake George waterway, and present day Albany, NY (Morgan 1962, Wallace 1970, Alfred

1995). The turtle clan, originally named *Oshernenon*, now known as *Kahnawake*, was the largest village of the Mohawk nation (Alfred 1995: 28). It was located in, what is now known as, Auriesville, just south of the Mohawk River.

In an unknown point in history, hundreds of years before the colonialists arrived, the Mohawk nation was in constant battle with other neighbouring Iroquois nations. After years of warfare, a truce was called and the League of Iroquois was formed. The League of Iroquois is a political and familiar union between five nations: the Mohawk, Oneida, Onandoga, Senecas, Cayugas and later the Tuscaros. These six nations lived in harmony under the Great Law of Peace, *Kainerekowa*. The League would convene to make decisions pertinent to the entire group. All meetings were held in Onandoga, the place where the first council fire was kindled (Morgan 1962: 61). A runner would be sent with wampum beads from village to village to inform the people of an upcoming council. When the colonialists arrived, the Confederacy remained politically strong. Eventually, however, internal rifts divided the League as different nations made allegiances with the French, British, and the Dutch.

After years of neutrality, the Mohawks formed an alliance with the Dutch colonialists and Fort Orange was established. The Mohawks were at the height of their political and trading power as they negotiated between the Dutch, British, and fellow Iroquois nations. Eventually in the 1660s all this changed when the Onondagas made peace with the French, the Mohawks' enemy, thus eliminating the Mohawk trading monopoly. The French used their alliance with the Ononadagas to overtake the Mohawks and secure their colonial position over present day Montreal. Peace was eventually made between the Mohawks and the French in 1667. Some of the Mohawks became Catholic



through the missionary efforts of the Jesuits. Eventually, a contingent of Mohawks moved to Montreal where there was a Jesuit population, and the possibility to capitalise on the trade route between Montreal and Albany.

In 1718, Kahnawake was established. Devout Catholic Mohawks and Iroquois were drawn to the settlement, as were Mohawk traditionalists, making up a diverse population. Over time, Kahnawake became an important trade link between the English in Albany and the French in Montreal, as well as, a diplomatic center. The Jay Treaty of 1794 recognises the Iroquois' sovereignty and guarantees the right to travel freely between the United States and Canada.

Today, Kahnawake Mohawks continue to legally enjoy free movement across the Canadian/American border. At the Kahnawake reserve, both American and Canadian flags are flown, and American holidays are celebrated. Politically, the community is divided between supporters of the Mohawk Council of Kahnawake and Mohawk traditionalists who follow the *Kaienerekowa* philosophy and tradition. In recent years there has been a resurgence of interest in inter-Iroquois connection and many Kahnawake Mohawks have tried to revitalise their connections with the League of Iroquois (Alfred 1995).

## **II. POLITICAL RAMIFICATIONS**

The UN negotiations are significant politically for the First Nation delegates and their communities for a variety of reasons. For many it means new opportunities for resistance, political empowerment, government accountability, and global indigenous strength. But not all First Nation peoples share this positive view of indigenous politics at the international level. Within the Kahnawake community, there are those who resent

and question the importance of these meetings in light of the growing problems at the local level. These individuals feel that what is lost at the international meetings is a grass roots understanding and commitment to solving the problems. Solutions, they feel, are found at home and not within the airy halls of the UN. While both opinions are well-founded, some of the First Nation delegates have succeeded in bridging the gap between the local and international levels, bringing global awareness to their local problems and returning to their communities with the pride, strength, and experience that comes from involvement in a global indigenous movement.

## **NEW POLITICAL OPPORTUNITIES**

Politically, the opportunities for First Nation peoples have increased dramatically with the internationalisation of indigenous issues. For hundreds of years, the First Nation peoples have struggled to have their voices heard at the local and national levels. In Canada there is no forum for Natives to directly address the Canadian government on general matters important to them. In Kahnawake, the Mohawks are lucky if they are consulted on development plans for land that they have used for hundreds of years. Decisions are often made for the First Nation peoples with little or no discussion. Rallies, protests, national reports, and statistics have had little success in changing the way First Nation peoples live and interact within the Canadian system.

It is this desperation and frustration with the current situation in national politics, coupled with the indigenous peoples' inability to affect change within their own countries that is forcing the First Nation peoples and other indigenous groups to seek address from the UN. When I asked Les Malazer, an Aborigine from Australia whether bringing indigenous issues to the international forum was a means to an end, he agreed:

It is. One of the reasons why we are putting so much effort and resources into dealing with the international community is that we are finding that in the domestic community there is no real opportunity to advance these issues with the governments. In Australia they have basically stalled. In the last 15 years there has been no progress in indigenous rights or setting up recognition and responses to indigenous rights. This has driven us to international forums. (Tape Two, December 1, 2002: 020-035)

Neizen (2003) supports Malazer's position:

The exhaustion of domestic (intrastate) remedies for redressing grievances is a starting point for seeking justice elsewhere. And despite the slow pace of change within the UN system, there is a faint possibility that an international agency just might act with urgency and effectiveness. (*ibid.*: 24)

The UN has now become the focus for indigenous resistance. With the creation of the WGIP, the PF, and the WGDD, the lobbying efforts of First Nation peoples have expanded to the international level. There is now a new direction for political resistance efforts. The First Nation peoples are no longer confined to the domestic level for problem resolution, but can use the international forum to draw attention to the concerns they face nationally and locally.

The difference between the political opportunities available for First Nation peoples at the international level and those at the local and national is extreme. In many ways, the indigenous delegates at the UN live between two worlds. Politically, at the international level, First Nation representatives have a voice. They have the ability to call attention to issues that are important to them; take the floor and speak directly to the state bodies and international institutions; organise press conferences, negotiate international documents, and the agendas of UN meetings. At home in Canada within their communities, many of these First Nation delegates do not have this power. At the national and local level, there is no agenda to discuss issues. There is no forum for First Nations to voice their concerns to government bodies, and the press is not interested in

what they have to say. While Kenneth Deer struggles to get a meeting with a Canadian government representative in Canada, at the WGDD he meets regularly with UN officials and talks frequently with Wayne Lord and other nation state representatives.

## **POLITICAL EMPOWERMENT**

Not only does the UN provide new spaces for resistance, but also it allows for new opportunities for political involvement. What is unique about the situation at the UN is that any indigenous person has the potential to get involved. In Canada, many of the most important indigenous political negotiations occur between Canadian government officials and hired lawyers or band council members. This system excludes many First Nation peoples from having a role in the political processes that affect them. In situations where band council members are the primary negotiators with the federal government, local natives, and especially those First Nations who do not support the band council or do not live on reserves, are ostracized from the political process within Canada.

At the UN, the First Nation peoples are not reliant on hired lawyers or band council chiefs to represent their case. Any indigenous person can attend the United Nations meetings. Individuals do not need to be associated with the Canadian government in any way, nor do they have to be a band council member or chief. As long as the individual is associated with a Native organisation, they can apply to attend a WGIP, PF, or WGDD session.

Men and women and children and youth have been involved in these negotiations. At the 2002 Permanent Forum, the theme was children and youth, and a strong youth contingent participated, formed their own caucus, and made interventions. Even children came to the meetings. Though initially barred from entering the UN meeting hall due to

a UN rule stating that people under the age of sixteen cannot attend a UN session, after much protest a compromise was eventually arranged and the children were able to participate. In an unique arrangement, all generations are able to convene and participate in the creation of a better future for themselves at the UN.

Lack of information, interest, funds, and time prevent more First Nation peoples from getting involved. Many First Nation peoples are unaware of what is happening at the United Nations. While in British Columbia during the summers of 2003 and 2004, I met Rose, a woman in her early 50s who worked as a cook for a Catholic College. She was a Tlinglit from the Yukon. While hiking the Nootka Trail on the west coast of Vancouver Island I met a young man named Paul, a Mowachaht-Muchalaht Native from the Nootka Sound. I asked each of them if they had heard about the Working Group on Indigenous Issues or the Drafted Declaration on the Rights of Indigenous Peoples. Rose had never heard about what was going on at the United Nations, but was very interested. Paul knew a little bit, but preferred to leave the politics to the chiefs and the council.

While lack of information or interest prevents some First Nation peoples from taking on a more active role, personal struggles, time and money prevent others from getting involved. For many women at the Native Women's Shelter the daily commitments of life, and for some women, family prevents them from participating in resistance strategies at the United Nations. When the majority of your day is spent looking for food, shelter, a safe place to live, one does not have time or the energy to pursue loftier goals of promoting indigenous peoples' collective rights. Though a voluntary fund exists to help finance indigenous delegates and the Canadian government sponsors one member from each of the five national First Nation organisations, this

money is stretched thin. It often left to the indigenous delegates to find funding for themselves. Kenneth Deer is one of the lucky few who has a job that allows him to take time off to attend these meetings. Every time he goes, however, he has to fundraise for the money needed. Over the years he has received financial support from his Longhouse and his community, but despite these contributions, it continues to be an arduous process to fund his involvement.

Though many First Nation peoples are not involved in the UN negotiations, the effects of these international meetings still have an impact on them. More doors have opened for First Nation peoples and a new precedent for how Native politics should be negotiated is being created, challenging the stereotypes that have prevailed about Native peoples' political capabilities.

## **MONITORING DOMESTIC SITUATIONS**

One result of making First Nation peoples more politically empowered is that the Canadian government has had to become more accountable. First Nation peoples are using the international forum to monitor the domestic situations of indigenous peoples. By using themselves as links between the domestic and the international levels, the indigenous delegates at the UN inform and draw attention to the on-going struggles of First Nation peoples. This puts international pressure on national governments to change and address their domestic situations. The UN Human Rights Commission has heard cases involving the United States, Canada, Brazil, Nicaragua, and Chile (Davis 1988 cited in Wilmer 1993:3). Over the years, Kahnawake Natives along with other First Nation peoples have gone to the UN to address and draw attention to initiatives that Canada has enacted domestically. For example, the Kahnawake Band Council went to

the UN to petition for assistance in combating the proposed expansion of the St. Lawrence Seaway. The expansion would cut across the riverfront settlement granted to Kahnawake in 1680 through a seigniorial grant. This proposal meant cutting off Kahnawake access to the river that they had used for over 250 years and dispossessing many Kahnawake Mohawks of their homes. The band council argued that Canada was in violation of the agreement of due process and was depriving Mohawks of their inherent rights of possession to their land and property (Villeneuve 1984: 66, cited in Alfred 1995: 63). First Nation delegates have also gone to the UN over the James Bay Hydroelectric Dam, low flying airplanes over Innu land, the proposed Drug Utilization Program, the proposed Governance Act, and the missing Native women in Canada. In 2004, three women from Kahnasatake went to the Permanent Forum in New York to “request help from members of the forum to intervene and help settle the dispute in their community” (*Eastern Door*, “Mohawk Delegation sent to UN” Volume 13 November 18). The group prepared a statement, which they presented to the forum. Also, they were able to hold a brief meeting with one of the members from the Canadian government delegation where they reiterated the need for mediation to resolve the situation dividing Kahnasatake. In the article posted in the *Eastern Door* newspaper, one of the Mohawk delegates is quoted as saying:

We felt that we had a good visit to the UN and it was worth the time and effort to go there... We have to try all avenues to reach a peaceful resolution to the situation at home and if this helped a little, then it was worth it. (*ibid.*)

Though the WGDD, WGIP and PF are not meant to serve as complaint mechanisms, they are forums for the Kahnawake peoples to voice their issues and have their concerns heard by Canadian government representatives and the international community. As a result,

the Canadian government is being held more accountable and has to address the issues that First Nation peoples bring to the UN negotiating tables.

## **GLOBAL STRENGTH**

The globalisation of indigenous issues has not only allowed for more political participation and influence for First Nation peoples, but has resulted in new forms of political resistance. The indigenous peoples have formed an international social movement (Neizen 2003, Wilmer 1994). While scholars like Risse and Sikkink (1999) do not believe that social movements can exist on a global scale, the example of the indigenous peoples proves otherwise. The indigenous delegates at the United Nations share a common identity, have similar goals and with the use of travel, the Internet, and the telephone have created and maintained transnational networks. The First Nation peoples are not isolated to fight their struggle alone, but are working together with other indigenous communities to challenge nation state government supremacy.

By combining with other indigenous groups from around the world the First Nation peoples have become politically stronger. The transnational network of indigenous peoples provides “new sources of ideas, identities, legitimacy, and money for groups and communities that were once thoroughly marginalised” (Neizen 2003:9). Kaisiepo (1998) affirms that the partnerships that are forming between indigenous peoples are making them a “significance factor in national and international affairs” (14). According to Wilmer (1994), the indigenous peoples “have formed alliances to enhance their ability to influence both national and international arenas” (137).

Tecumseh, a Shawnee Chief circa 1795, prophesized about the coming together of indigenous peoples:



My heart is a stone. Heavy with sadness for my people; cold with the knowledge that no treaty will keep the whites out of our land; hard with determination to resist as long as I love and breathe. Now we are weak and many of our people are afraid. But Hear Me: a single twig breaks, but the bundle of twigs is strong. Someday I will embrace our brother tribes and draw them into a bundle and together we will win our country back from the whites (Assembly of First Nations, [www.afn.ca/Assembly\\_of\\_First\\_Nations.htm](http://www.afn.ca/Assembly_of_First_Nations.htm), last accessed October 23, 2004)

According to one informant, “more power is granted through collaboration and the sharing of visions like Tecumseh’s. Indigenous peoples always operated in one’s collective thinking” (Book 3, February 13, 2004: 5).

The indigenous delegates at the UN actively work to strengthen and further their social movement. As much as money allows, the indigenous Permanent Forum members travel around the world to inform other indigenous communities of the work that is occurring at the United Nations. Kenneth Deer is spearheading a project to create a Permanent Indigenous Delegation in Geneva. The purpose of this Delegation would be to have a coordinating body for indigenous peoples in Geneva to help facilitate, organise and inform indigenous peoples worldwide of the work that is going on at the international level. Already the Swiss Government has endorsed the project.

The indigenous international network was called upon recently to mobilise in support for another UN Decade for Indigenous Peoples. The International Indian Treaty Council had on their website a call to all indigenous communities and groups to come to Geneva to rally in support, or to form their own protest within their community (International Indian Treaty Council 2004b). Indigenous peoples have managed to make a link between local and international social action and are using it to fight their cause.

## **ADDRESSING A LEGACY OF ABUSES**

At the UN, in particular at the WGDD, the Haudonasonee peoples and many other indigenous delegates are completing the unfinished business of their past. In many ways, the Haudonosonee peoples are engaged in discussions with the colonial governments that resemble the negotiations that occurred hundreds of years ago when the colonialists first arrived. Once again, First Nation representatives and state officials are negotiating their relationships and obligations to each other. The focus of their discussion surrounds issues of land rights and resources, protection, political autonomy, and responsibility. Like before, these discussions are working on somewhat equal terms with a sense that two autonomous, separate cultures are trying to develop a working relationship.

What is unique about current negotiations, as opposed to those of centuries past, is that the Mohawk representatives and indigenous delegates are prepared. Of the agreements that were formulated so long ago, many were done without the full understanding of the indigenous peoples involved, and many of these agreements were not upheld over the years. While in the past the Iroquois were unfamiliar with the colonial languages, systems of law, and culture, they are now informed and ready to use their acquired knowledge to fight back. Indigenous peoples are now politically mobilised and strong and will ensure that whatever is negotiated is maintained and upheld.

## **III. CULTURAL MEANINGS**

The WGDD negotiations do not just have political significance for the First Nation peoples. Culturally, the WGDD means protecting the First Nation peoples' cultures, renewing and creating cultural unions, affirming indigenous ideals and ideas, and reviving pride in the First Nation peoples.

## PROTECTING CULTURE

Culturally, the WGDD negotiations have been an attempt to protect the distinct cultures of indigenous peoples around the world and to ensure their future in an increasingly hostile world. The WGDD process was developed out of a concern that the pressures of modernisation were causing more and more indigenous peoples to lose or abandon their traditional lifestyles and to join the mass of impoverished peoples. Already, with less and less territory available for First Nation peoples, they have had to change the ways they relate to the land since time immemorial. Lifestyles have been lost and Native languages and stories have become extinct. The DDRIP is an attempt to acknowledge the pressure that is put on indigenous peoples and to implement standards for ensuring that these encroachments on their culture are monitored and any harm is limited.

While there are many who see the development and implementation of human rights for indigenous peoples as a positive and necessary endeavor, others are much more skeptical:

Why do we have a DDRIP? There is no Declaration on the Rights of Italians, or Jews. It is discriminatory that the rights of indigenous peoples need to be qualified. I see the DDRIP as a way for the Canadian government to diminish the rights of indigenous peoples. After all, why are the human rights of indigenous peoples negotiable? (Book 3, February 12, 2003: 2)

During our interview, this First Nations woman shared how she saw the DDRIP as a racist endeavor used to further the marginalisation of indigenous peoples by nation state governments. It would be seen as completely inappropriate to have the human rights of any other ethnic population questioned and qualified.

Though I agree with this woman, the human rights that currently exist for all people through the Universal Declaration does not provide for the protection of indigenous peoples' collective rights. Without the recognition of collective rights indigenous peoples' political systems, and land and natural resources will continue to be vulnerable to government or corporate usurpation. Furthermore, the process of the WGDD discussions holds culturally positive meanings. Not only has the political process empowered indigenous peoples, it has affirmed some of the cultural ideals and ideas held by First Nation communities.

### **AFFIRMING POLITICAL IDEALS AND IDEAS**

The WGDD negotiations at the UN, while at once concerned with protecting the indigenous culture, have further implications for many indigenous nations claiming their place within world society. One of the many reasons indigenous peoples have sought international intervention is to gain recognition for the international status that some groups feel they possess. In Canada, many of the treaties that were signed were made between indigenous nations and the British government. Implicit in these agreements was an understanding that the First Nations were autonomous and separate nations. This understanding of the First Nation peoples as a separate entity is acknowledged in the Canadian constitution where the First Nations, along with the French and British, are identified as our founding nations. It is understandable and reasonable from this perspective for First Nation peoples to want to have their international status recognised. Like the Quebecois, the First Nation peoples are unhappy with minority protection rights granted to them through the Canadian Charter of Rights and Freedoms. First Nation peoples, like the Quebecois, "do not see themselves as minorities at all. Minority

protections fail to recognise that these groups are national, not collections of individuals with similar characteristics” (Ignatieff 2000: 66).

Having indigenous issues addressed at the UN not only increases the political opportunities for Kahnawake Natives but it fits with the traditional Mohawks sense of place and politics. The Kahnawake Mohawks have a strong sense of nationhood (Alfred 1995). They have always seen themselves as a nation separate from Canada. The Jay Treaty, for example, recognized this reality and allowed the Mohawks of Kahnawake to maintain their allegiances with their fellow Iroquois nations that straddle the US-Canada border. When Kenneth Deer travels to Switzerland he travels on a Haudonasonnee passport. His national status as a Haudonasonnee while not accepted everywhere is accepted at the UN and in Switzerland.

Not only is the UN one of the few places that accepts Haudonasonnee national status but it fosters the Haudonasonnee people’s sense of place in this world. Luann, a Haudonasonnee woman from the Seneca nation, explained in an interview how she understood her place at the UN:

From learning about who we are, I always felt that we had a place in the United Nations; not as anything else but a nation. We were the first prototype, maybe, of the United Nations because the Confederacy is a union of six nations—originally five nations—that came together from distinctly different communities, so to speak. We were having difficulty at one time and a message was brought to us of peace and so when our people accepted that, it made a union and from that union we gained strength, and so that is the history of our people. ...I never knew really the structure of the UN, but what I did know of it in terms of the union of nations, I thought, that is what we are. It always made sense to me that we would have a presence within the UN. (Tape One, December 10, 2002: 120-140)

There has been an effort to have indigenous nations granted seats at the UN. While a seat at the UN has yet to materialize, the creation of a Permanent Forum at the UN where

indigenous peoples have formal representation are all steps in fulfilling their dream of full and equal status.

For the Iroquois, the UN not only affirms their sense of place in this world, but embraces some of the political ideas and ideals that exist in the Iroquois culture. Though foreign in many ways, the UN resembles the structure and the philosophy of the League of Iroquois developed hundreds of years ago.

The League of Iroquois was based on the principles of democracy, consensus, and self-determination. Its purpose was and continues to be to maintain harmony between the various Iroquois nations and to maintain a peaceful co-existence. In the past the League of Iroquois held councils to discuss and deliberate on important matters. It was concerned with issues of war and peace; it received embassies; entered into treaties of alliance; regulated the affairs of subjugated nations; established members into the League, and dealt with any other matter significant to the Confederacy.

In the League of Iroquois, each nation participated as an autonomous, equal, and sovereign nation:

They believed each race, or 'nation', should determine its own separate existence in harmony with the different but equally valid existence of the other 'nations'. This Iroquois conception of human nature is one that accepts differences between men as natural and inescapable facts of life. Acceptance is the key word, for the Iroquois believed that peace was possible only if each nation governed itself by the rules, which the Creator gave each of them. (Alfred 1995: 79)

Each nation had a certain number of representatives, called sachems that represented their nation at the Confederacy meetings and was involved in the decision-making processes.

Lay members of any nation could attend these meetings and could bring forward issues they wished the League to discuss. Each meeting would open with a prayer and the agenda would be decided upon. A participatory and consensual decision-making process

defined Iroquois democracy (Alfred 1995: 78). When a problem was put forth to the League of Nations, each nation would get into small groups, or classes, to discuss and find consensus on the matter. Once consensus was reached in each class, a speaker was chosen from each group to voice the opinion of their members. The Mohawk nation, having nine sachems, divided into two or three classes, would have two or three different opinions (Morgan 1972:112). A meeting was then held with the speakers of each of the different classes within a nation to once again go through the process of finding consensus. From this meeting a national consensus was created. Finally, one speaker from each nation was chosen to meet with the other national speakers to form a decision for the League (Morgan 1972: 112). It was in this way that decisions were made and consensus was found.

The UN structure is based on a similar premise of equal, sovereign nations with the goal of maintaining international peace and harmony. The working methods of the WGDD based on consensus, collaboration, and transparency resonates to the Iroquois tradition of politics and political decision-making processes. Unlike political systems based on majority rule, the United Nations is a welcoming system to the Iroquois. Though Alfred (1995) does not talk about the Kahnawake Mohawks involvement with the UN system, his understanding that politically “traditional institutions have become most appropriate frameworks for Kahnawake assertion of nationhood”(21) affirms that a system which shares similar principles is an important factor for furthering the Kahnawake’s political revival. As Alfred (1995) notes,

Kahnawake political identity now reflects more the values and principles contained in Iroquois tradition, as opposed to Western or any other values and principles. This has led to a shift from a localized assertion of nationhood implicit in the band council framework, and a reorientation of goals to reflect the

political autonomy and assertion of broad state-like powers inherent in the Iroquois tradition. (*ibid.*: 21)

It seems that participation in the UN system that reflects the Iroquois peoples' sense of place and identity would be an easy transition.

Obviously not every First Nation community is represented at the WGDD meetings. Because of this, the cultural significance of these meetings can be very removed for certain groups. Conversely, however, the UN negotiations are quite culturally rooted for the Iroquois peoples. Though in the news it seems that the First Nations are only capable of using brute force to express political opinions, such is not, nor was the case. The Iroquois First Nation Peoples and other indigenous groups are able to use their negotiating and bargaining skills at the UN, dispelling beliefs against their political potential.

## **RENEWING AND CREATING CULTURAL UNIONS**

Through the globalisation of indigenous issues, indigenous groups and nations have renewed old and created new political and cultural unions. By joining together on a global scale, indigenous peoples are not only gaining a stronger political voice but are re-establishing unions and networks that were severed during colonialism and the creation of modern nation-states;

The Inuit started to realize that we needed not only to break down the border that had been drawn across our homelands and unite as Inuit, but that we also required the larger collective force created by joining hands with other indigenous peoples around the world. In fact, we began to understand the necessity to work collaboratively with all peoples struggling for the improvement of global human rights. (Lyngé 1998:18)

Like the Inuit, the Iroquois have been involved in their own rebuilding process. During the 1970s and 1980s the Kahnawake Mohawks began to reconnect with their past after



having been politically distinct from the League of Iroquois since 1676 (Alfred 1995: 4, 58). The values and principles of the Confederacy is now the “mainstream vehicle for the assertion of Mohawk power (*ibid.*: 5). When riots broke out in Kanesatake, “the purple-and-white flag of the Confederacy flew from the pole outside the police station, replacing the black Kanesatake Mohawk police flag that was there before” (*Gazette*, April 14, 2004, “No talks before peace: Grand Chief”).

While not only renewing old political and cultural unions, new relationships are being formed based on shared experience, geography and cultural values. The AFN has signed a Declaration of Kinship and Cooperation between the AFN and the National Congress of American Indians (NCAI) in 2004. According to one informant at the AFN, “Indigenous peoples have always been friends. Declarations like the one signed by the AFN and the NCAI is about renewing friendships” (Book 3, February 12, 2004). At the WGDD, regional caucuses are formed. For example, a strong Asian caucus has formed at the WGDD.

Beyond just regional unions, a strong pan-indigenous identity has been created. According to Neizen (2003), the indigenous identity comes from shared experiences of “state-sponsored genocide, forced settlement, relocation, political marginalisation, and carious formal attempts at cultural destruction” (5). This history of shared experience however, has resulted in many of the same social ills that several indigenous communities face worldwide. One of the games the indigenous delegates play at the UN is to match the country with the Native statistics for suicide, infant mortality, incarceration, etc. What many of the indigenous delegates find is that the statistics worldwide are almost

interchangeable. It does not depend whether an indigenous community comes from a first or third world country, they suffer they same.

The sentiments outlined in the DDRIP form the “collection action frames” (Khangram, Riker and Sikkink 2002:15) that unites the indigenous peoples in a singular goal. The existence of the indigenous caucus, Internet workshops and international Conferences are critical for maintaining unity and for defining the goals and aspirations of the indigenous peoples. Global communication can be and has been used to maintain and reinforce local identities while also exploring a broader sense of pan-identity (Smith and Ward 2000, Miller and Slater 2000).

The relationship between the indigenous delegates is affirmed at the UN meetings with references to each other as their “indigenous brothers and sisters”. The indigenous delegates at the UN make comments that generalise the values that each of their cultures share. For example, at a caucus meeting, one indigenous delegate justified having to leave the WGDD meeting early to go back home and attend to her sick daughter-in-law saying “As we all know family comes first” (Book 1, December 6, 2002: 36). As Neizen (2003) articulates the term indigenous is “not only a legal category and an analytical concept but also an expression of identity, a badge worn with pride, revealing something significance and personal about its wearer’s collective attachments” (3).

It appears that in the case of the indigenous peoples, as McGrew (1995) noted, globalisation has lead to contradictory pulls for universalism and locality (430). Globalisation has seen the resurgence of nationalism and the strengthening of local identities, while simultaneously stimulating the proliferation of new identities.

Indigenous peoples at the United Nations are forming global relationships while in the pursuit of defending and protecting their local identities and attachments.

### **INSTILLING PRIDE**

The renewed emphasis on the local experience and the “desire to preserve something meaningful and tangible in the existing local culture in the context of profound universalizing tendencies” (McGrew 1995: 430) has reinstilled pride within some local Native communities. It has been by asserting localized culture in a global context that communities like Kahnawake or people like Luann have grown in appreciation of their unique identities. For Luann participating in the WGDD negotiations has taken away the feelings of isolation and has renewed her respect for her traditions and peoples:

It made me have a deeper feeling for my own system of government, my own people, though I have always been very appreciative. It has also helped to educate me about indigenous peoples around the world. I did not know there were indigenous peoples in Japan or the Saami people. It takes away the feeling of isolation to know about the colonization in North, South and Central America. Even if it does not go through a document like the Declaration it has brought people together to share information, to share their stories. (Tape three, December 10, 2002: 180-197)

According to Aqquluk Lynge (1998):

There have been notable success stories in various indigenous communities during the ongoing battle for recognition of our human rights at the international level, within the nation-state and in the personal realm... In parts of the world where these positive effects have been felt, indigenous peoples tend to feel proud, worthy and confident about the future. (*ibid.*:16)

Besides being a place where indigenous nations can have their status recognised and their values and ideals shared, the WGDD has been a place to express and celebrate the unique traditional beliefs, languages, customs, and dress of the various indigenous groups from around the world. The UN has become not only a place to defend their cultures, but a

space to show and live them. In this environment, indigenous delegates from all over the world can unite to reaffirm their identity as members of distinct and unique cultural groups.

Not every indigenous community, however, benefits from the pride building that exists at the UN. The communities that are without access to these meetings are unable to profit from an environment wherein their indigenous culture is celebrated and valued. Even for the communities that are represented, unless the indigenous delegate returns with the enthusiasm and pride that is felt, the UN meetings have little cultural meaning. Even at the UN, the indigenous delegates are not always as supportive of each other, as they can be. At the Permanent Forum in 2003, three Aborigine youth from Australia came to participate in the Youth Caucus and presented their video on the work they are doing with disadvantaged youth in their country. Many other indigenous youth came to the hour-long presentation, no other indigenous delegate or government representative, even from Australian, attended. Despite this however, what is significant is the existence of a place where indigenous peoples can come to celebrate their culture. This is all part of a process of building pride back into many First Nation communities.

#### **IV. SOCIAL MEANINGS**

Socially, globalisation has resulted in a “stretching of social relations across national territorial boundaries” (Giddens 1990: 14, cited in McGrew 1995: 470). Having indigenous issues considered in a global context has allowed for the development of friendships and support networks that cross international borders. While the benefits of these transnational relationships are wide-ranging, it can and has created new social distinctions and resentments within local communities.

## **FRIENDSHIPS AND SUPPORT NETWORKS**

The WGDD meetings renew and create international and regional support networks. At the WGDD, friendships and networks are created over the two-week sessions. These relationships are fostered over time as many of the indigenous delegates attend several different international meetings over the course of a year. Many of the very committed indigenous delegates will see each other at the WGDD, the WGIP, and the Permanent Forum. If there is a meeting for the OAS, they will also see each other there, or at international conferences that are held throughout the world. For many of the delegates, attending the WGDD meetings is a political, but also a social event. Many have known each other for years and it is a chance to reunite. After spending the whole day in meetings at the UN, many of the indigenous delegates will eat together and share a drink in the evening, before returning to the same hotel. At the end of the WGDD 2002, several indigenous delegates met at a local bar in Geneva for a drink and a chance to say good bye at the end of the two-week session.

For the indigenous delegates, many of them spend significant amounts of time with each other over the year. The friendships that are formed are close and personal. On the first day of the indigenous caucus meeting at the World Council of Churches in Geneva, Switzerland, I mentioned my connection with Kenneth Deer to one of the delegates. He promptly pulled up his sweatshirt to reveal the Eastern Door T-shirt he was wearing underneath. I am not sure how this gentleman acquired this T-shirt, but it shows how connected many of the indigenous delegates are to each other's lives and work.

These social networks expand beyond the UN when the delegates return to their home communities or NGOs. When they are not at meetings together, several of the

indigenous delegates will continue to network, emailing back and forth. They invite each other to speak at conferences they are organising. Kenneth Deer will get several invitations a month to attend conferences and give talks.

The UN and the state governments encourage the convivial nature of the UN meetings. At the WGDD, Docip organised a party for the indigenous delegates. Everyone was given an invitation and Docip provided dinner.

State governments will also host social events. At the WGDD, Canada sent out invitations for an evening gathering for other state representatives and indigenous delegates. These informal social events are encouraged as part of the partnership building process.

The benefits of these social networks and friendships are not always translated back to the local communities. Depending on whether the community has representation at the UN meetings the effects may be limited. The possible impact of these cross cultural networks developed at the UN was demonstrated when an Ainu group paid a visit Kahnawake, revealing that the social networks developed at the international forum were brought back to the local level.

Even in other situations where there is no representation or such clear examples, the World Wide Web has allowed for indigenous peoples with access to the Internet to connect and develop their own social networks. An Internet site exists (Dialogue Between Nations, <http://www.dialoguebetweennations.com>, last accessed October 23, 2004) where people are able to post comments on topics related to international indigenous issues, and join in social and cultural discussions.

## NEW SOCIAL DISTINCTIONS

Maintaining a balance between the international and local obligations has been difficult for some indigenous delegates, however. Some are accused of being too focused on the international side of politics, with little connection to the people they are trying to represent. This in turn creates social distinctions between those indigenous peoples who are involved at the local level and those who are travelling around the world. This has been a reoccurring concern for some indigenous delegates. Some of them are accused by their peers for focussing too pointedly on the international, and having too little connection with the local experience.

Kenneth Deer has managed to stay grounded in the local perspective while doing his international work. His community and the people at the *Eastern Door* have been supportive of his endeavors and his co-workers have allowed him to take the time off needed to attend the international meetings. In Kahnawake, Kenneth Deer has received financial and moral support for the work he is doing at the UN. Over the years he has received funding from the Long House, Turtle Clan in Kahnawake, the Mohawk Nation Council of Chiefs in Akwesansé, as well as, the Six Nations.

While his community is generally supportive, Kenneth Deer has had at least one critic of his international work. Kenneth Deer was the target of one woman's press release. In the Mohawk Nation News Service (MNNS), Audrey Kahn-Tineta Horn, a Kahnawake community member, accused Kenneth Deer of "seeking political power and influence through his position on the United Nations Working Group on Indigenous Populations" (*Eastern Door*, "Editor Responds to Allegations"). The MNNS press release insinuated that Kenneth Deer had met "secretly" with UN Human Rights Center

employee Julian Berger at his residence in Kahnawake and was a member of a “right-wing religious cult”. An article was published in the Eastern Door newspaper responding to the MNNS’ accusations. The article explained that Kenneth Deer attends the UN meetings with community support; has never met with Julian Berger at his home, though he did do a joint presentation with him before the International Center for Human Rights and Democratic Development in Montreal; and had never been a member of a religious cult.

Despite the support Kenneth Deer has received, he has not been able to get more members of his community involved in the international efforts. Over the years he has had only his wife, another community member, and Gerald Alfred, a Kahnawake Mohawk and Anthropologist accompany him to any of the international meetings. This will be discussed further in Chapter seven.

## **V. ECONOMIC IMPLICATIONS**

For the indigenous delegates, negotiations at the UN can emphasize the economic differences that exist between indigenous peoples and national governments. At the WGDD meetings, the First Nation delegates spend two weeks in Geneva, Switzerland, one of the most affluent cities in the world. The First Nation delegates negotiate their way through the clean, metropolitan streets; many of them either stay at a hostel nearby or board with local families. During the day they eat at the cafeteria at the United Nations; in the evening they go out to eat at one of the local restaurants. At the UN they are important people, with their badges and meeting rooms. It is clean, beautiful, and impressive. Peacocks wander the UN grounds outside. During the December meeting in 2002, Geneva was aglow with Christmas lights, Christmas trees, and decorations.



Carolers sang in the UN halls. The realities back in Canada, however, contrasted dramatically for many of the First Nation delegates.

Kenneth Deer lives in a modest home with his wife and grown children who have their own families. They all live inside the one house. While his community is relatively affluent compared to other First Nation communities, it is much poorer with fewer facilities than nearby non-Native communities of similar size. When the Oka crisis broke out in 1990, he was at the UN attending a meeting. An article published in the *Eastern Door*, "Mohawk refugee in Switzerland," describes his fear for his community and the treatment that he would receive when he returned to Kahnawake. Kenneth Deer confesses that while in Geneva he even considered the possibility of claiming refugee status.

Adelard is another indigenous delegate. He comes from a small Native reserve in Northern Alberta. Throughout the meeting in December 2002 he was continually leaving the meetings to make phone calls home. He was worried about his daughter who had just recently had a new baby. Over coffee at the UN one afternoon he told me that he had given his last twenty dollars to her before leaving for Geneva. He hoped she used it to buy diapers. Every time he called he was scared that he would be met with bad news.

The differences between the WGDD experience and the regular lives the indigenous delegates' experience and represent is at times very alarming. In one recent example at the UN in New York a man took the floor at the UN Permanent Forum 2003. He was a Pygmy from the Democratic Republic of the Congo. He began by introducing himself, and slowly and painfully recounted the horrors he had just left to come to New York. Relayed through the aid of halting translations, his story of rape, murder, and

cannibalism was shared to all in the room. The realities of what he described were so removed from the safe, affluent, surroundings that was before him. In a disarming few minutes the peacefulness and pristiness of the Permanent Forum was shattered with the alarming reality of what was going on outside the UN doors.

## **VI. CONCLUSION**

For the First Nation delegates and their communities, the UN negotiations have political, cultural, social, and economic meaning and significance. The UN has been successful in bringing empowerment, hope, awareness, and support to those who are involved. Bringing these positive attributes back to the local level remains an ongoing difficulty. Only a few First Nation peoples are involved in the UN processes. While the Internet allows many at the local level to follow what is going on at the UN, many indigenous communities are still without Internet access. More information needs to be transmitted to the First Nation communities about what is going on so that they too can benefit from the inspirational work their brothers and sisters are involved in. Despite Michael Ignatieff's claim (2000) that having the rights and treaties of aboriginal peoples acknowledged does not make life better on Native lands or "cut into the suicide rate among teenagers on Northern Ontario reserves" (15), like him, I do believe that the process of discussing and negotiating the rights of indigenous peoples is important and is integral to affecting change in the lived experiences of indigenous peoples in Canada. It is this process that is important. While gaining the protection that human rights can grant people is critical, it is the process—the working methods that are developed along the way—that are key to not only creating but maintaining a relationship based on mutual respect and trust and will ensure that the past is not repeated.

The following chapter will look at the significance and meaning the WGDD has for the Canadian government and Canadian/First Nation relations. As Luann describes, the WGDD means very different things for the indigenous peoples and government representatives:

For indigenous peoples this is our life that we are talking about. This is our everyday life, our survival and stuff. The member states up there they go home to a family, they have an income; they have a place to live, to call their own. And we struggle to maintain our own beliefs and our own connections to just the occupation of land... But that is the difference. This is their job; this is their work. They are given policies and regulation and guidelines for what they are suppose to do here. We are not. This is a struggle, a fight everyday. (Tape three, December 10, 2002: 083-100)

## Chapter Seven

### **Meaning and Significance for the Canadian Government and Canadian/First Nation Relations**

Having looked at the effects of considering indigenous issues in a global context for First Nation peoples, specifically the Mohawks of Kahnawake, I now turn my discussion to the impact this has had on the Canadian government, and later, on Canadian/First Nation relations. I argue that the justifications the Canadian government uses for its lack of support for the current DDRIP are merely ruses. I maintain that what prevents the Canadian government from accepting the DDRIP is not a fear for the political sovereignty, cultural unity or economic stability of Canada, but a refusal to lose their exclusive control over indigenous affairs, lands, and natural resources. As a result of the Canadian government's unwillingness to relinquish some of its power, a more democratic relationship between the Canadian government and First Nation Peoples is prevented from developing. While the DDRIP will have political, social, cultural, and economic consequences, they will not be the one's voiced by the Canadian government and other nation states. In fact, the recognition of the indigenous peoples' self-determination and collective rights will serve to equalize the relationship between the Canadian government and First Nation peoples by redistributing wealth and power within Canada and the Canadian government system.

Though the future of the DDRIP is undecided, it is clear that already the seeds of change are in place. The First Nation peoples are engaged in discussions with the Canadian government and already power has been redistributed to allow First Nation peoples, at least at the international forum, a voice and place within the political process. As time passes, it is becoming increasingly more difficult for the Canadian government to

hold onto its supremacy. More and more pressure is being put on the Canadian government from above and below to lead the way in accepting the self-determination of indigenous peoples and living out the title of the UN Decade, “Partnerships in Action”.

## **I. POLITICAL MEANINGS**

The political impact of the WGDD is still yet to be determined. Already, however, the internationalisation of indigenous issues has limited the Canadian government’s authority over its internal affairs and threatens the government’s reputation as a democratic and representative government. As McGrew (1995) suggests, globalisation is compromising the competence, the form, the autonomy, and ultimately the authority and legitimacy of the nation state.

### **LIMITING THE CANADIAN GOVERNMENT’S EXCLUSIVE AUTHORITY**

Politically, the internationalisation of indigenous issues has challenged the Canadian government’s exclusive authority over Canada’s internal affairs. Indigenous issues have traditionally been addressed as domestic concerns. The Canadian government has had ultimate control over decisions on First Nation peoples, their education, land and natural resources, et cetera. Though First Nation peoples would occasionally be consulted, the Canadian government has been the one to make all final decision. One of the outcomes of making indigenous issues an international matter, however, is the loss of some of the Canadian government’s control over First Nation issues and resources. As a result of UN involvement, the Canadian government is now forced to negotiate with other countries on state policies and practices regarding its indigenous populaces. The competence of the Canadian government is being

compromised by its increasing inability to make decisions without international cooperation.

Due to the internationalisation of indigenous issues, the Canadian government's internal dealings with First Nation peoples have been put under the international microscope. The Canadian government is subject to UN investigations into their dealing with indigenous peoples. In 1991 the UN (1991) did a study on the hydroelectric development in Quebec. The UN study was very critical of the impacts this would have on Native culture arguing that "[s]ome of the most dramatic disruptions of indigenous societies have been associated with the development of hydroelectric dams" (*ibid.*: 13). While the UN cannot enforce change, criticism from the UN puts international pressure on the Canadian government to uphold higher standards and to provide a greater level of protection to their indigenous peoples. As a result of the tighter regulations that intergovernmental organisations have put on a range of policy domains, the autonomy of the Canadian government is limited.

The form of the Canadian government is having to be altered with increased emphasis on international coordination and the rise in the number of intergovernmental organisations and regimes. The United Nations' growing importance is affecting the way the Canadian government relates to other nation states and to its civil society:

The UN is well known as an unfathomable bureaucracy and, frighteningly, also as the arbitrator of the world's important and usually bloody contests, but it is less recognised as a local for village politics and for struggles between states and marginalised communities. In this new venture, in its regular meetings between indigenous and state representatives, it has created an original institutional space constituting a distinct social world. (Neizen 2003: 4)

The involvement of indigenous peoples in the UN negotiations is an affront to the Canadian government's ability to represent civil society and challenges the state's role as main decision-makers in the world's affairs.

### **THREATENING CANADA'S INTERNATIONAL IMAGE**

As a result of the work that is going on at the United Nations, the Canadian government has been put on the defensive as it tries to resist the onset of political change while ensuring that its international reputation is not damaged in the process. The Canadian government feels very threatened by the prospect of having its national policies dependent on international norms and legislatures. The Canadian government wants to ensure that its ability to make decisions for Canada is not limited by the jurisdiction of international bodies. In an effort to protect its interests, however, the Canadian government has to ensure that its positive standing within the world community is not damaged in the process.

At the WGDD the Canadian government has competing interests. The Canadian government wants to protect its authority and sovereignty over indigenous affairs, while still looking like the open and progressive country that Canada is lauded as being within the international community. This has proven to be a difficult balancing act. The Canadian government is actively involved in the WGDD debates and any other international negotiations on indigenous affairs. The Canadian government at the WGDD has worked hard to ensure that the final outcome of the DDRIP represents the way the Canadian government understands and believes the relationship between the state and indigenous peoples should be. As evident after Canada presented the Canadian/Australian proposal for Land and Natural Resources, this has however, given

the Canadian government considerable amounts of bad press within the UN and among some nation states, and indigenous peoples. It is clear, as I illustrated in Chapter four that Canada is actively working to off-set this bad press by showing their commitment to First Nation issues in other ways that do not threaten the Canadian government's authority. While trying not to loose power to the international bodies and civil society groups, the Canadian government has to actively work to ensure that pursuing its state-centered motives are not at the expense of its international reputation.

### **INCREASING ACCOUNTABILITY**

As a result of making indigenous issues an international matter, the Canadian government has had to become more accountable. The Canadian government has to now answer questions from the UN, international organisations, national governments, and indigenous peoples from within and outside of Canada. International attention has forced the Canadian government to account for its behaviour and its actions. While before the Canadian government could ignore the protests of First Nation peoples, at the UN, they have to hear the complaints of the First Nation peoples, and, in an effort to uphold its reputation, either justify its actions or change them to be more congruent with the image the Canadian government wishes to portray. It has become harder for the Canadian government not to negotiate with First Nation peoples and involve them in the decision-making processes of their own affairs.

Only recently, increased domestic and international pressure was put on the Canadian government to lead the way in defending the human rights of peoples within Canada and abroad. Honorable Bill Graham, the Canadian Minister for Foreign Affairs, affirmed his commitment to the protection of human rights worldwide:



In the interdependent world in which we live, we must contribute to the development of a vibrant framework on international norms if we are to guarantee the success of human rights at home. (Canadian Department of Foreign Affairs, <http://www.dfait-maeci.gc.ca.>, last accessed August 1, 2004)

In a recent statement at a news conference after the World Economic Forum in Davos, Switzerland, Paul Martin was quoted saying:

Fundamentally, our relationship with the rest of the world and how that world works is going to be the determining factor as to whether our children and their children after them enjoy the same quality of life that we do. (*Globe and Mail*, March 8, 2004 “Annan Eyes Canada’s Role in World Stage”)

Kofi Annan, the Secretary General of the United Nations, in his recent visit to Canada, urged the Canadian government to “take on a leading role in world affairs...and a greater engagement in the world” (*Globe and Mail*, March 8, 2004 “Annan eyes Canada's role in world stage”).

While the human rights that the Canadian government is being called upon to uphold currently does not include collective rights, the Canadian government is being looked to lead the way in addressing human rights violations in the world. In order to fulfill the commitment the Canadian government has made to itself and the world community, it will become increasingly difficult for the Canadian government to avoid its responsibility to protect the rights of the indigenous peoples, whom in Canada continue to live third world existences.

## **II. CHALLENGING NATIONAL UNITY**

Culturally, it is feared that the recognition of indigenous peoples’ self-determination and collective rights would threaten the Canadian government’s ability to maintain unity while recognising the distinct cultures and identities of its citizens.

Politically, for Canada, issues of culture and national unity have been very contentious.

Twice, a referendum has been held in Quebec to determine whether or not its citizens wanted to separate from Canada and form their own country. The Canadian government's fear of the political and cultural implications of granting indigenous peoples the right to self-determination was at its height during the time of the last Quebec referendum in 1995 (Neizen 2003: 150). At that time, the Canadian government feared aggravating hard-line Quebec sovereigntists and allowing for the proliferation of other secessionist claims by First Nation people within Canada; "Canada and Quebec might then become like a piece of gruyere cheese, full of holes, with pieces of legislation that are not necessarily consistent" (Canada 1996b: 9, cited in Neizen 2003:155). Culturally and politically, however, indigenous peoples pose a different threat than Quebec sovereigntists. The First Nation peoples do not wish to secede. Independent statehood would absolve former treaty arrangements and obligations with national governments (*ibid.*: 204). Indigenous peoples do not need to succeed to possess international status and have their group rights protected (*ibid.*: 205). Finally, indigenous peoples' resources are often too meager and their numbers too few to make it a viable option (*ibid.*: 205). Instead, indigenous peoples seek the recognition of their nationhood within Canada. While this may seem difficult and contentious, Canada has a long history of recognising other nations like the Quebecois within the Canadian system. The Canadian government constantly has to negotiate with the Quebec government over its desire to remain autonomous and distinct within the Canadian society.

Not only does the Canadian government have a multicultural mandate, the Canadian government culturally and financially benefits from the fostering of the distinct identity of its Native populations. Native art is used to attract tourists and symbolize

Canada in the Canadian currency, airports and promotional pictures. Ironically, the Canadian government will lose part of its identity and heritage unless it actively works to protect the uniqueness of the First Nation peoples that reside within its borders.

Thus, accepting the conditions of the DDRIP does not have the cultural ramifications feared by some of the Canadian government officials and citizens. It will however, force the Canadian government to deal with the First Nation peoples as separate nations along the same lines as the political arrangements between Quebec and the Canadian government. While this may make the political process more complicated and tenuous, it will serve to develop a more democratic relationship between the Canadian government and First Nation peoples.

### **III. TESTING THE STRENGTH OF CANADA'S SOCIAL FABRIC**

Already in Canada, many non-indigenous Canadians resent or at least only mildly tolerate the treatment they see is being unfairly given to First Nation peoples. In the *Gazette* a study was published by Environics Research Group and CROP that confirmed that within Canada, many non-indigenous Canadians do not approve of the special treatment given to First Nation peoples; "Half of all Canadians believe 'few or none' of the hundreds of land claims made by aboriginals are valid" (*Gazette*, November 27, 2003, "Only half of Canadian support land claims"). By granting First Nation peoples more rights within the Canadian system, it is feared that the resentment towards indigenous peoples would only grow, putting more stress on the social fabric of Canada.

I do not disagree that recognising the collective rights of indigenous peoples will put a strain on relations between First Nation peoples and some non-Native Canadian citizens. If, however, the First Nation peoples were granted more power and had more

respect within the Canadian system, I think the view of non-Native Canadians would change. Indigenous peoples are currently seen and treated by the Canadian government as politically weak and incompetent. If they were regarded, however, as equals and respected by the Canadian government I believe that it would change the way other citizens relate to them. It is clear from my own experience that the media portrayal of First Nation peoples does little to foster a respectful relationship between indigenous and non-indigenous Canadians. If more Canadians were able to hear about and witness the work that is going on at the United Nations, I am sure it would serve to challenge the stereotypes and beliefs that fuel much of the negative feelings towards First Nation peoples that currently exists within Canada.

#### **IV. THEATENING CANADA'S ECONOMIC FOUNDATION**

Economically, granting the First Nation peoples more rights over land and natural resources, it is argued, would not only anger many non-indigenous farmers, fisherman, business peoples, developers and land owners, but would threaten Canada's economy. Canada relies on the export and development of its natural resources. Granting First Nation peoples' rights to land and natural resources, which they have traditionally owned or used, would threaten Canada's economic foundation. The Canadian government would have fewer resources to control and sell. This would have huge implications on Canadian trade and industry.

A closer look at this argument shows, however, that giving the control of land and natural resources to the First Nation peoples would mean the Canadian government would loose control, but not necessarily suffer from drastic financial loss. Currently, the Canadian government spends 7.5 billion dollars a year on First Nation issues. Giving

First Nation communities control over their own land would mean that First Nation peoples would have control over their own wealth and would not be reliant on the Canadian government's yearly financial redistribution. In essence, the only significant loss the Canadian government would experience is loss of control over land and natural resources. The Canadian government would no longer be able to determine how the land and natural resources were used.

## **V. RELINQUISHING CONTROL AND POWER**

Fundamentally, it is a resistance to relinquishing the Canadian government's exclusive control over indigenous issues and national resources that prevents the Canadian government from being fully supportive of the DDRIP. Though nation states often argue that their main concern with the DDRIP is its allowance for indigenous claims to the right of secession, as one indigenous delegate articulated, "the fear of secession is merely a smoke screen for the government's fear of losing control over land and natural resources" (Book 1, December 5, 2002: 32). The Canadian and Australian governments proposed changes to the DDRIP articles on Land and Natural Resources illustrates their resistance. Many of their proposed changes were to allow for the rules of government's to frame the possible actions indigenous peoples could take in relation to land and natural resources. Furthermore, the rights of indigenous peoples were couched with vague terms like "states should" and "as appropriate" that allow for indigenous peoples rights to be dependent on the discretion of outside sources and factors. Already, however, the existence of indigenous peoples at the UN, the increased importance of international cooperation is stripping the Canadian government of some of the power that it once held. Culturally, socially and economically, the passing of the DDRIP, as

currently worded, would result in a power and wealth distribution that would favour the First Nation peoples. It is not a fear for the national unity, economic stability of the country, but a resistance to losing ultimate control. If passed, the Canadian government would be forced to negotiate with the First Nation peoples on a more equal level. They would have less control over their own decisions and the paternalistic relationship would be dissolved, as First Nation peoples gained power and access to wealth. In other words, the Canadian government would be forced to work cooperatively with the First Nation peoples, as oppose, to strong-arming them into decisions. These changes would ultimately mean that the relationship between the Canadian government and First Nation peoples would become more democratic.

## **VI. DEMOCRATISING CANADIAN/FIRST NATION RELATIONS**

Having indigenous issues considered in a global context has affected the relationship between the Canadian government and First Nation peoples. The Canadian government and the First Nation peoples' involvement in the WGDD negotiations is changing the location, players, content, scope, and frequency of their communications with each other. All these changes have had an impact on how the Canadian government and First Nation peoples understand each other and the role they have within their relationship. Past ways of relating to each other is being challenged and contested as they negotiate their future.

First Nation peoples and the Canadian government are going to the UN, to the OAS, to WIPO and the World Bank to work out their relationship with each other and the rest of the world. No longer are the First Nation peoples and the Canadian government

confined to only domestic solutions for their disagreements. The internationalisation of indigenous issues has opened up new means for conflict resolution and negotiations.

By bringing their concerns to the UN, the Canadian government and the First Nation peoples relate to each other on a different level. The First Nation peoples speak at the UN as members of an indigenous collective that expands beyond Canadian borders. When they address the Canadian government, they address it as one state among many that has ignored and suppressed the self-determination of indigenous peoples. Similarly, the Canadian government speaks as a national body that is, with other nation states, trying to maintain world order while protecting the individuality of every human citizen.

This opening up of the negotiations between the Canadian government and First Nation people has de-personalised their communication and has allowed for more global and aspirational discussions. The negotiations that are occurring are not about specific issues, but are general in scope. The First Nation peoples and the Canadian government are not discussing one First Nation community's land or fishing rights, but are stepping back and looking more generally at the ways indigenous peoples and nation states relate to each other in this world. While the Canadian government tries to limit the scope of the DDRIP to implementable changes that will cause the least amount of domestic modification, the scope of the UN negotiations are about wide-ranging and broad sweeping alterations. The Canadian government and the First Nation peoples are examining their history and their future and are trying to develop agreements that are forward thinking and liberating. They are not trying to solve one community's problems, but are attempting to alter the way indigenous peoples and nation states relate to and understand each other and their responsibilities in this world.

While in Canada negotiations would occur between the Canadian government and band council members, at the UN First Nation peoples are bypassing the federally imposed First Nation hierarchy. The Canadian government, at the UN, has to negotiate with First Nation peoples who may or may not have political power within the band council system. The negotiations that occur are free from the political controls of the Canadian government.

Though the impact of these negotiations may be only strongly felt by those involved, it is significant for the stereotypes it challenges, the working methods it develops, and the possibilities it inspires. The Canadian government is now witnessing the potential of indigenous politics and leadership. As Niezen (2003) articulates:

Underestimating the abilities of indigenous leaders and organisations to maneuver through complex international forums would result in a number of missed opportunities, the most significant which would be to reconsider the place of indigenous leadership internationally, nationally, and locally and to speculate on the potential effective international movement of indigenous peoples to reconfigure state power and alter, however slightly, the influence of state-sponsored nationalism. (*ibid.*:16)

At the UN, the Canadian government has to relate to the First Nation delegates as political partners, political partners with the ability to threaten the Canadian government's international image and challenge their authority in state matters. It is important for the Canadian government to work together with First Nation peoples so that its reputation is not tarnished in the process of these international negotiations.

Similarly, the First Nation peoples are having to see the Canadian government as their ally. The Canadian government is well respected within the international community. Many nation states and UN bodies look to the Canadian government to lead the UN indigenous negotiations. As a result, the First Nation peoples need to work to



find agreement with the Canadian government and collectively develop a plan which they feel would work for both nation states and indigenous peoples. It is up to the First Nation delegates to encourage the Canadian government to uphold the highest standard for indigenous peoples worldwide.

Though feelings of skepticism and mistrust still prevail between the Canadian government representatives and the First Nation delegates, a working relationship is forming at the international level. Nationally, however, many of the same patterns of exclusion persist. The Canadian government still tries to pass unilateral decisions after little or no consultation with indigenous peoples. No forums exist where First Nation peoples can bring their concerns and have face to face negotiations with a Canadian representative. First Nation peoples still have to protest to try and get their voice heard and the Band council system is still in place.

But this may be changing. It is harder and harder for the Canadian government to make decisions at the local and national level that does not get back to the international community. When Paul Martin came into power, addressing First Nation issues was one of his five main political objectives. While it is not clear what he has in mind, the recent proposal to include First Nation peoples at the Ministers conference is encouraging (*Gazette*, March 29, 2004, "Aboriginals to join MP's panel").

While changing the way First Nation peoples and the Canadian government relates to each other is a positive step, it does have its consequences. By discussing the rights of indigenous peoples, the Canadian government, along with the other national governments in this world, is acknowledging that there exist many competing claims for sovereignty and self-government within one nation state. For the First Nation peoples,

discussions about sharing sovereignty with the Canadian government has meant accepting the legitimacy of a government that has not always recognised nor protected their rights or life ways (Ignatiff 2000: 81). Both sides have to acknowledge and recognise the place and the claims of the other; “This double process of recognition has been exceedingly hard, and it is not yet concluded. It may take generations before it is completed and a genuine spirit of sharing becomes possible” (*ibid.*: 81). This process of negotiating rights, however, strengthens the relationships the First Nation peoples and the Canadian government has with each other. As Ignatieff points out, “[r]ights create reciprocities and these reciprocities are the very bedrock of community” (*ibid.*: 53).

Ultimately, the UN negotiations have forced the Canadian government to engage in a more democratic relationship with the First Nation peoples, at least at the international level. According to Hall (1995), democracy “is conceived as a way of containing the powers of the state and of mediating among competing individual and collective projects” (459). Held argues (1995) that for democracy to flourish, it needs to be understood as a process of “double democratization” (462). State power must be reformed to allow for the mobilisation and restructuring of civil society. A division between the state and civil society is central.

In Canada, there has not been a clear separation between the Canadian government and First Nation peoples. The Canadian government plays a paternalistic role over many Native communities and does not allow them to have a voice separate from the Canadian government. Negotiations at the UN, are the first real example of negotiations that have occurred where there is a distinct division between the voice of the Canadian government and the voice of the First Nation peoples. Political involvement is

not determined by the federally imposed band council system. Furthermore, the First Nation peoples are able to bring their own political beliefs and culture to the UN negotiations, shaping them to meet their own sense of place and politics.

Held (1995) further argues that power to participate in the political process should not be determined by one's access or command over resources (463). First Nation peoples have been prevented from participating in the political process of the Canadian government. Lack of interest, access, and the continuation of the colonial dependency-driven legislation dissuade many First Nation peoples from being more active. Again this is changing. At the United Nations, First Nation delegates have the opportunity to be actively involved in the development of policies that directly relate to their own lives. At the UN the First Nation delegates are not just being consulted, but are working collectively with national government representatives to develop a Declaration on the Rights of Indigenous Peoples.

At the United Nations, First Nation peoples are engaging in participatory democracy. They are challenging the legitimacy of the Canadian government's democratic system and its ability to represent Native interests. The First Nation delegates at the UN are arguing that increased participation in the Canadian political system is needed in order for the Canadian government to properly represent and protect the interests of its Native citizens.

## **VII. CONCLUSION**

The internationalisation of indigenous issues has forced the Canadian government to change the way it views and relates to the indigenous peoples within its borders. This has meant that the Canadian government has had to cede, however reluctantly, some of

its power to allow indigenous peoples to participate more fully in the negotiation processes of their future. While this has been a challenging task for the Canadian government, the end result will hopefully be a more democratic, peaceful, and empowering relationship between the Canadian government and the First Nation peoples.

## Chapter Eight

### The Larger Picture

In this thesis, I explored the process and meaning of having indigenous issues considered in a global context. I focused my discussion on the United Nations negotiations on the Drafted Declaration on the Rights of Indigenous peoples (DDRIP) and its significance for the Kahnawake Mohawks, Canadian government, and Canadian/First Nation relations. I found that the internationalisation of indigenous issues has political, cultural, social, and economic meaning for those involved. Participation in the WGDD process has empowered the First Nation delegates, while threatening the state supremacy of the Canadian government. As a result of the WGDD process, the relationship between the Canadian government and First Nation peoples is becoming more democratic. The indigenous peoples experience at the UN proves that globalisation has allowed for the proliferation of political opportunities and new forms of political and cultural resistance strategies and power.

The example of the international indigenous movement has theoretical significance for the study of globalisation, social resistance, and state control. As several scholars have already recognised (Hall 1995, McGrew 1995), inter-state dependence is growing as international forces, markets and institutions control and influence an increasing range of domestic matters. This emphasis on global relationships has caused a shift in the power balance between the nation state and civil society. As evident in the case of indigenous peoples, new openings for political resistance and mobilisation have occurred as international political institutions have gained in importance. Though the United Nations remains a state institution, indigenous peoples, as representatives of a

minority population within civil society, have been able to create a space for themselves and their issues. No longer confined to domestic resolutions, the First Nation peoples are able to access international forums, and address their concerns on a global scale.

Globalisation has not only affected the political opportunities for civil resistance, but the form in which this resistance can take place. Despite the skepticism of many scholars (Khangram, Riker and Sikkink: 2002) indigenous peoples have mobilised an international indigenous social movement. Using modern technology to facilitate the transferring of information across time and space, indigenous delegates have collectivized and are united by a pan-indigenous identity. Despite historical, cultural, and linguistic differences, the experience of many indigenous peoples is very similar. These similarities and the shared hope for the future are drawing indigenous peoples from all corners of the world to join together to fight for their human rights at the UN negotiating tables.

As a result of the success indigenous peoples are experiencing at the UN and other international forums, theorists have to redefine international power and the agency of marginalised communities. First Nation peoples have gained an unprecedented amount of influence and control at the international political level, despite the legacy of political, economic, and cultural oppression they have experienced at the hands of their colonizers. The success of the indigenous movement suggests that power in the international arena is no longer solely defined by one's access to economic and military production. Indigenous peoples have tapped into a different kind of international power: the power of persuasion, rhetoric, and symbols. Indigenous delegates at the United Nations are capitalizing on their newfound strength to empower and mobilise themselves on a global

scale. Contrary to the “spiral model” (Risse and Sikkink 1999), indigenous peoples are not dependent on outside networks to lobby for their cause. Indigenous peoples are representing themselves and their communities as they work alongside nation state governments to create global understandings and solutions.

Indigenous involvement in the international forum does not represent just a political strategy, but is a cultural manifestation and expression of, in our case, Mohawk understanding of self, place, and politics. The negotiations that are occurring at the United Nations are, in many ways, the unfinished business of the decolonising process. Having the UN address the unresolved issues between the First Nation peoples and the Canadian government is not only encouraging but affirming of the political ideals and ideas of the Iroquois peoples. For the Mohawks of Kahnawake, the structure, mandate, and values of the United Nations is similar to their League of Iroquois. The League of Iroquois is based on shared principles of democracy and autonomy, with a similar emphasis towards consensual decision-making processes. Being at the United Nations not only fits with the Iroquois peoples’ political ideas and ideals, but their sense of place in this world. The Mohawk people understand themselves as an equal nation among many.

For the Canadian government, their involvement in the WGDD is significant for different reasons. In the international community, the Canadian government has a reputation as being a world leader of human rights. At the WGDD, however, the Canadian government has received criticism from many of the indigenous delegates and other nations for supporting proposals that would weaken the human rights of the indigenous peoples and limit their involvement in the WGDD process. For the Canadian

government, the inclusion of indigenous peoples in the DDRIP negotiations threatens its autonomy and reputation as a legitimate representative government. While the Canadian government cites many reasons for not passing the DDRIP and encouraging more active participation of indigenous peoples in the UN process, once their rhetoric is stripped away, it becomes clear that the real deterrent for the Canadian government is the loss of their exclusive control. Passing the DDRIP, as written, would force the re-distribution of wealth and power from the hands of the Canadian government to the First Nation communities and nations. The actions of the Canadian government are indicative of a government resistant to giving up their power to democratize their relationship with the First Nation peoples.

With or without the support of the Canadian government, participation in the WGDD process is encouraging a new relationship to form between First Nation peoples and the Canadian government. At the WGDD, despite some resistance from the Canadian government, the First Nation delegates and Canadian government representatives have to build a working relationship. First Nation delegates are distinguishing themselves from the Canadian government and are voicing their opposition unshackled by federally imposed legislation or political oppression. Though resentment and distrust prevails, it is hoped that continued negotiations will foster a more equal and democratic relationship between the Canadian government and First Nation peoples and that the progress made at the international level will be integrated into national and local politics.

What I witnessed at the WGDD and then later on in New York at the Permanent Forum changed the way I viewed Canada and Native politics. Although the Canadian government is internationally lauded for being democratic, peaceful, and fair, I saw a



different Canada. At the international meetings on indigenous issues, I saw a Canada that was torn between maintaining its positive image, and protecting the interests of the powerful. Though the Canadian government has invested significant effort into First Nation issues at the local, national, and international levels, it still seems resistant to change.

Despite my disillusionment with the Canadian government, I left my time at the UN encouraged. What I saw gave me hope. I was inspired by the political savvy of the First Nation delegates and their ability to mobilise large-scale resistance. My research revealed that the solution to many of the problems the First Nation peoples and the Canadian government have with each other is simple. First Nations need to be treated with respect and dignity. A partnership needs to form between the Canadian government and the First Nation peoples. What my experience at the UN also proved to me, however, is that this is a difficult process. Healing the wounds of the past and building a trusting relationship between First Nations and the Canadian government is a complex process. Negotiating the rules and boundaries of the relationship between First Nation peoples and the Canadian government can be very fraught. The Canadian government is, in many ways, reliant upon First Nation peoples' dependence. The Canadian government's interests are in opposition to the interests of the First Nation peoples. Neither party is willing to compromise. One group has always been compromised; the other never had to: "Canada has not been a violent state compared to others. But it has nonetheless been a state, which means that it has balanced off the interests of the powerful at the expense of the weak" (Perry 1996: 160). Changing these relationships and patterns is difficult.

I firmly believe that it is not by simply passing any Declarations or even Conventions that significant human rights change occurs. The rights of indigenous peoples, or any other human groups, will truly be promoted only if they are recognised and treated as equals. The United Nations was right when it named the UN Decade, “Indigenous Peoples: Partnerships in Action”. It is by collectivising, working together, and negotiating that social change occurs.

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