

# Indigenous Peoples and Nations Coalition

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The Wet'suet'on Nation and the Hereditary Chiefs of British Columbia, Canada and the Secwempec (Shuswap) Peoples of Canada hereby support this UPR Report submitted through the Indigenous Peoples and Nations Coalition.

The UPR submission includes two news articles stemming from the 20th March 2023 Press Conference Canadian and other Indigenous, challenging the Doctrine of Discovery and its resulting apartheid law and policy that reduces the scope of status, recognition and title to our Nations Territories. **(Annex I)** The articles include references to law and policy in our press and interventions by the International Human Rights Association of American Minorities (IHRAAM) at the 52<sup>nd</sup> Human Rights Council **(Annex II)**. This apartheid law is elaborated in an apartheid article (Alaska is an Apartheid State, **Annex III**). The Vatican issued a repudiation of the Doctrine of Discovery **(Annex IV)**, referring to the 1493 Papal Bull – the Inter Caetera and its use by States to colonize and dispossess territories, resources and to deprive Indigenous Peoples of their rights. The Permanent Forum Preliminary study on the impact on indigenous peoples of the international legal construct known as the Doctrine of Discovery by Special Rapporteur Tanya Gonnella Frichner (Study on the Doctrine of Discovery) must be reviewed (E/C.19/2010/13) of 4 February 2010 **(Annex V)**.

The reservations and declarations of Canada of international human rights and humanitarian law makes it impossible apply to or to be addressed the obligations. This grants virtual impunity by acts of omissions that deprive Indigenous Peoples of their protection against abuses, by many Westphalian States. The refusal to sign and ratify conventions go along with reducing the scope to “good” or “best” practices, as proposed by Canada, to diminish implementation of obligations. The acts of aggression and the violations of common Article 2 of the Geneva also deny the ability to address humanitarian law rights. The reduced recognition erases any legal or political deterrent

to prevent the abuses.

IHRAAM, in consultation with, and responding to the Repudiation by the Vatican of the Doctrine of Discovery delivered an oral intervention during the 52<sup>nd</sup> Human Rights Council the International Human Rights Association of American Minorities (IHRAAM):

The Wet'suwet'en of Canada traditional territory was raided by the Coastal Gas Link (CGL) mercenary branch of the Royal Canadian Mounted Police (RCMP) on behalf of Canada. Canada manufactures consent through statutory or puppet government institutions despite that the 1997 Delgamuukw case recognizes Traditional Government Authority. The same antic is applied to the Willow Project in Alaska and on the Trans Mountain, Pipeline carrying bitumen crude in Canada. We call on the Human Rights Council to address these serious violations of encroachment and crimes against humanity.

The Vatican is complicit in manipulating political partnerships emanating from the Doctrine of Discovery, committing crimes against humanity and dispossession of Indigenous Territory and resources. Prove you will address this with concrete action.

### **Foundation of Apartheid Law and Policy**

The racial discrimination and apartheid are the foundation of law and policy in the Western Hemisphere, by the United States of America, Canada, in Alaska and Hawaii – all are colonial occupied territories by White settlers of European descent. The justification for encroachment is based on the 200-year-old Johnson v. McIntosh (21 U.S. 543 (8 Wheat.) 1823) case, the 1888 St. Catherine's Millings & Lumber Company v. *The Queen*, the Tee-Hit-Ton v. United States of America (348 U.S. 272, 1955) holds that by the Christian doctrine of discovery we must adhere to the ascendancy of the European civilization and the settlement of the white race. This is apartheid and is the basis of crimes against humanity and genocide in the Americas.

The Wet'suet'on Nation Hereditary Chief Na'Moks, and a representative of the Secwempec (Shuswap) gave violations of their rights in the press meeting with the Ambassador of Alaska (Angulluaq) of the Indigenous Peoples and Nations Coalition IPNC (accredited by IHRAAM, an ECOSOC Non-Governmental Organization) of the attack and removal of human rights defenders of their territory by the Royal Canadian Mounted

Police (RCMP) mercenary unit from their traditional lands (**Annex VI**).

Very recently, as writing this Report, Chief Na'Moks was granted proxies to enter the Annual General Assembly for the Royal Bank of Canada on 5 April 2023 in Saskatoon, Saskatchewan, Canada. Chief Na'Moks was refused entrance by the private security and local police. This is an example of the continuing racial discrimination and denial of justice to express the violations at the annual meeting to the Shareholders and the administration of the Royal Bank of Canada, who is a party funding the trespass on the traditional territory of the Wet'suwet'en Nation.

## **Way Forward**

For the Canadian Nations and Indigenous Peoples, the Human Rights Council adopted Human Rights Council resolution 48/7 *the negative impact of the legacies of colonialism on the enjoyment of human rights*. During the Implementation Report of the United States of America on its obligations of the International Convention on the Elimination of Racial Discrimination (ICERD), the Committee on the Elimination of Racial Discrimination (CERD) observes at the 107<sup>th</sup> meeting that there are two ways to implement Indigenous rights – 1) the United Nations Declaration on the Rights of Indigenous Peoples 2) the Human Rights Council resolution 48/7.

HRC 48/7 acknowledges the Fourth International Decade for the Eradication of Colonialism. Indigenous Peoples can be invited to participate in the plan of action for the Decade under the auspices of General Assembly resolution 1514, the Declaration on the Granting of Independence of Colonial Countries and Peoples.

To paraphrase Human Rights Council resolution 48/7, it stresses the utmost importance of eradicating colonialism and calls on all United Nations bodies, agencies and mechanisms and procedures, in fulfilling their mandate, to continue to pay attention to and to take concrete steps to address the negative impact of legacies of colonialism on the enjoyment of human rights.

The 2001 World Conference Against Racism (WCAR) calls for the full implementation of the International Convention on the Elimination of Racial Discrimination (ICERD). This along with Human Rights Council 48/7, CERD is requested to fulfill its mandate, including paragraph 54 of its 1970 rules and procedures it adopted at its 25<sup>th</sup> session and sent to the General Assembly.

To support the recommendation to address Indigenous rights, paragraph 69 (n) of A/64/284, the report on the right of self-determination recommends that the General Assembly may...refer to the Special Committee on Decolonization and/or other United Nations instances communications by indigenous, including from Canada.

To support these options, one can examine the Final Report of Professor Miguel Alfonso Martinez in the Study on treaties, agreements and other constructive arrangements between States and Indigenous populations of the 22 June 1999 (E/CN.4/Sub.2/1999/20) **Annex VII**.

**Miguel Alfonso Martinez** made it clear in his Final Report in paragraph 210 pursuant to the “equal right and self-determination of peoples” on Article 1.2 of the Charter that, “[T]he peoples of the United Nations who through their Governments declared themselves in 1945 determined to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained” emphasizing that this applied to all peoples “bar none”. Professor Martinez also stated that the rights of Indigenous Peoples belong to the realm of international law, and that there needs to be justification to determine whether or not this issue belonged solely to domestic legislation or to domestic courts, emphasizing in paragraph 194 that, **“States should produce unassailable proof that the indigenous peoples in question have expressly and of their own free will renounced their sovereign attributes”**. In light of this, paragraph 195 observes that, “[T]his process of gradual but incessant erosion of the indigenous peoples’ original sovereignty, without considering and, indeed, highlighting the role played by juridical tools, always arm in arm with the military component of the colonial enterprise” played a part in unjustly diminishing their rights. Concerning paragraph 265 on the colonization process, “[T]he Special Rapporteur has not found any sound legal argument to sustain the argument that they have lost their international juridical status as nations/peoples”. Where States assert in any Indigenous case or situation that the status of Indigenous Peoples as

subjects of international law had been relinquished through domestic legislation or through domestic court decisions as observed in paragraph 265 of the Final Report, he asserts in paragraph 268 and 269 that under Article 27 of the 1969 Vienna Convention on the Law of Treaties that a state cannot invoke provisions of its domestic law to settle international situations of indigenous peoples and points out that these principles existed prior to the adoption of the Convention. The Special Rapporteur argues that States cannot claim the non-applicability of international law principles in the 1969 Vienna Convention on the Law of Treaties by reason that the Convention itself is non-retroactive. It follows that retroactivity must apply since the principles already existed in, *inter alia*, existing principles of the law of nations and modern international law and in the United Nations decolonization process; similarly, you cannot invoke non-retroactivity principle in the International Convention on Civil and Political Rights (ICCPR), the International Convention on Economic, Social and Cultural Rights (ICESCR) or the International Convention on the Elimination of Racial Discrimination (ICERD) since the principles existed and/or were already applicable international law prior to the ratification by each State particular to any international instrument.

Being referred to the United Nations Decolonization Committee for review does not mean that paragraph 305 of the Final Report and its following recommendations must be left unattended. They must be explored with the political will to implement justice.

Indigenous Peoples call for restoration and not for delayed and band-aid sham Commissions or reparations that seek avenues to dispossess and to cloak justice or to simply denying it.

The creation of a mechanism proposed in paragraph 305 of the Final Report must be implemented immediately, with full funding and exploration by Indigenous and other Experts, emanating from recommendations and consent by Traditional Authorities.

International human rights and humanitarian law must apply to Indigenous Peoples with implementation mechanisms. The ways and means of enforcement must be explored with effective means for implementation.

A moratorium must be issued to grant relief to Indigenous Peoples on allocating territory and resources

The concept of puppet governments, institution and individual must be reviewed on the impact of denial of politicized, manufacture or rubber-stamped consent.

The door must be opened for the Indigenous Peoples Canada, to fully address the violation of their rights by proposals to implement paragraph 69 (n). The Indigenous Peoples of Canada must be invited to participate and to send communications to participate in the 4<sup>th</sup> International Decade to Eradicate Colonialism. The apartheid, crimes against humanity and genocide must be addressed by concrete action as proposed by HRC 48/7. States must address the historical denial of rights denied by the Doctrine of Discovery. Apartheid must be eradicated from discriminating law and policy that grants special treatment or authority, simply because one is white.

The recommendation to grant diplomatic powers and to participate more equally in all matters that effect Indigenous Peoples must be fully recognized and put into practice without delay.