

Human Rights Council: Submitting an NGO written statement

NGOs in consultative status with ECOSOC (General, Special or Roster status) may submit written statements to the Human Rights Council (HRC).

The written statement is formatted and issued, unedited, in the language(s) received from the submitting NGO. English, Spanish and French versions can be published at this time.

In order for your statement to be published before the session, the deadline for submission is exactly two weeks prior to the start of a session. See the deadline on the web site. All submissions are final.

Please fill out **this** FORM and CHECKLIST to submit your statement and send it to the address indicated below. Your information goes after each arrow.

1. Please indicate the contact information for the representative submitting this statement (i.e. name, mobile, email) here: ➡ **Ulrich Delius, 0049-16095671403, asien@gfbv.de**
2. Indicate the Agenda item number (1-10) of statement, including the segment *: (Interactive Dialogue, ID; General Debate, GD; or Panel): ➡ Item # 3 Segment: General Debate
- 3.a) If this is an individual statement, indicate your organization's name as in the ECOSOC NGO database and indicate its consultative status in brackets (i.e. General, Special, or Roster). ➡
Society for Threatened Peoples (Special Consultative Status)
- or,
- 3.b) If this is a joint statement, list the main sponsor first, and then the co-sponsoring ECOSOC NGOs as they appear in the ECOSOC database and status (in brackets): Group all General NGOs first, group the Special second and group the Roster third. ➡
4. Indicate here any non-ECOSOC NGO(s) supporting this statement (they will appear as a footnote to the statement title): ➡
5. Indicate the exact TITLE for this statement here: ➡ **Indigenous Peoples constitutional rights are at stake in Canada**

Please make sure that:

- This statement is in MS WORD document format (Font Times New Roman 10; no bold; no underline; no italics).
- Check word count: (Go to Tools, Word count, # of words) Indicate the length of text (excluding footnotes/endnotes) here: ➡ 939
 - NGOs in general consultative status are allowed 2,000 words
 - NGOs in special consultative status and on the roster are allowed 1,500 words
- Please use the Spell/grammar check on your text. (Go to Tools, Spelling & Grammar)
- If in doubt about Member States' names and correct UN terminology when referring to certain territories, use UNTERM database: <http://unterm.un.org/>
- Different language versions of one statement should be sent in the same email, but using **a separate form** for each.
- Email this document to: hrcngo@ohchr.org

* See the HRC Practical Guide for participants, page 9, which refers to segments in the session

PLEASE PASTE THE FINAL TEXT BELOW: 

Despite Canada's endorsement of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2010 the constitutional and treaty rights of the First Nations are severely threatened, because recently passed Omnibus Laws Bills C-38 and Bill C-45 are in violation of First Nations' right to Free Prior Informed Consent (FPIC) which is a centerpiece of UNDRIP. This caused opposition and protests among First Nations all over Canada, which spread over the border to the USA and even to Europe.

Society of Threatened Peoples is very concerned that the Government of Canada could prioritize economic growth over the protection of First Nations' constitutional and treaty rights. Laws like Bill C-38 and Bill C-45 are opening indigenous land which is protected by treaties to economic development and exploitation of resources. Trade Agreements are negotiated with governments in Asia, namely China, and the European Union but without the participation in decision-making of the First Nations even when they affect First Nations traditional territories and treaty lands.

Centerpiece of this legislation is the new Navigation Protection Act NPA, prior to this Navigable Waters Protection Act NWPA of 1882. While NWPA mandated an extensive approval and consultation process before construction of any kind could take place in or around water which could be navigated, NPA reduces the approval process required for development to a vastly circumscribed list of waterways. Only 97 of 32,000 major lakes, 62 of more than 2.25 million rivers and three oceans (atlantic ocean, pacific ocean and arctic ocean) will still be protected. This means: 99.9 % of all navigable waterways, many of them in traditional First Nations Land, are left without protection.

STP is pointing to the fact that this will facilitate pipeline projects (for example the Enbridge Northern Gateway Pipelines Project) or water consuming exploitation of resources like tar sands. Both projects are severely opposed by the First Nations whose territories are affected and who were not parts of the decision making process despite the FPIC-procedure included in the UN-DRIP.

Regarding the Indian Act the new legislation enables leasing of reserve lands, thus facilitating the opening of indigenous treaty lands and territories for industrial development and resource exploitation. Regarding the Environmental Assessment Act environmental assessment procedures have been severely reduced in their meaning and applicability.

First Nations' constitutional rights are based on the historic treaties between the indigenous nations and the Crown. They were confirmed in 1982, when Section 35 of the Constitution Act recognized and affirmed the existing treaty rights, nation to nation relations and land rights and later was approved by the Supreme Court as well. Since then aboriginal rights were reduced time and again.

In December 2007 the Senate Standing Committee on Legislative and Constitutional Affairs published a report "Taking Section 35 Rights Seriously: Non-derogation Clauses relating to Aboriginal and treaty rights". The Committee urgently asked that the federal Interpretation Act should be amended to include a general presumptive rule that new laws should be interpreted to uphold rather than erode aboriginal and treaty rights. But in contrast to this recommendation on 18 June 2012 Senate passed the Safe Drinking Water for First Nations Act, which for the first time includes a provision, that aboriginal and treaty rights if they should deem to be in conflict with the objectives of the new law will not be respected. This new law has been developed again without consulting the First Nations (FPIC) and therefore violates the UNDRIP.

Grave concerns exist as well regarding the proposed First Nations Property Ownership Act (FNPOA). Some representatives of First Nations feel reminded of the 1969 Statement of the Government on Indian Policy (White Paper), which according to the University of British Columbia can be summarized as a proposal to eliminate Indian status, dissolve the Department of Indian Affairs within five years, abolish the Indian Act, convert reserve land to private property that can be sold by the band or its members, transfer responsibility for Indian affairs from the federal government to the province and integrate these services into those provided to other Canadian citizens, provide funding for economic development, and appoint a commissioner to address outstanding land claims and gradually terminate existing treaties. FNOPA ties in with these principles and if realized will be suitable to lead to the loss of all treaty rights, to forced assimilation and to an end of the special historic relationship between the First Nations as the traditional owners of the land and the Canadian society.

Society for Threatened Peoples calls on the Human Rights Council to urge on the government of Canada to:

- Take the concerns of the First Nations and their representatives seriously.
- Review omnibus laws Bill C-38 and Bill C-45 which pose a serious threat to First Nations' constitutional rights. ISR on independence of judges and lawyers as requested for a visit on 1 June 2011.
- Enter into dialogue with the First Nations in respect of the standards upheld within the UN-Declaration on the Rights of Indigenous Peoples and of the FPIC-mechanism.
- Act along the declaration of 13 commitments made public by Attawapiskat Chief Theresa Spence at the end of her six week long hunger strike on 23 January 2013, among them a commitment to frameworks and mandates for implementation and enforcement of treaties on a nation-to-nation basis, a commitment towards resource revenue sharing, requiring the participation of provinces and territories; a commitment to ensure that all federal legislation has the consent of First Nations where inherent and Treaty rights are affected; an inquiry into violence against indigenous women and a commitment to full implementation of the United Nations declaration of the rights of indigenous peoples.