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***The Rights of Indigenous People***

**KENNETH DEER, The Eastern Door, Kahnawake, Québec, Canada**

Mr. Deer began with a profile and brief history of the Six Nations confederacy, who were the indigenous groups inhabiting much of eastern Canada and the northern US prior to the arrival of Europeans.

The confederacy exists to this day, and the six member nations are:

- Seneca, "Onondowahgah," meaning The People of the Great Hill, also referred to as the Large Dark Door.
- Cayuga, "Guyohkohnyoh," meaning The People of the Great Swamp.
- Onondaga, "Onundagaono," meaning The People of the Hills.
- Oneida, "Onayotekaono," meaning The People of the Upright Stone.
- Mohawk, "Kanienkahagen," meaning The People of the Flint (Mr. Deer is a member of the Mohawk nation. Within the Mohawk Nation, he is a member of the Bear clan).
- Tuscarora, "Ska-Ruh-Reh" meaning the Shirt Wearing People.

Prior to the arrival of Europeans in North America, these peoples had a constitution (Great Law), defined roles of men & women, a system of governance and a spiritual life. Among the Mohawks specifically, Mr. Deer mentioned that women have a particular role in governance, land management and socialising children. The Clan Mothers have a strong relationship with the chief.

Following the arrival of the Europeans, the history of aboriginal peoples includes resistance and eventual treaties with the British Crown and subsequent governments to this day.

There is a history of challenges within the relationship of indigenous peoples with Canada and its government. For example, illnesses unknown to aboriginal people (such as smallpox) killed their people, and the Canadian government's system of residential schools broke up indigenous families and forced children to replace their first language with English or French.

Mr Deer stated that indigenous people "cannot get justice" in the North American system.

Following a prolonged standoff between indigenous people in the US and US authorities in the mid-1970s, a delegation of indigenous people went to the UN in Geneva to lobby for the creation of a declaration on the rights of indigenous people

They convinced the UN that indigenous peoples' rights include the right to self-determination and the right to the land – based in large part on the fact that indigenous people have always occupied the land where they live.

There is an ongoing fight for rights – the UN has created a Working Group on Indigenous Populations in 1982, composed of 5 non-indigenous “experts”. They drafted a Declaration on Indigenous Populations (DIP) in 1993 (45 articles). This included the right to land.

The DIP also stated that indigenous rights are collective – e.g. land is owned collectively – and collective rights are entrenched in the DIP.

The DIP is aspirational – it is not binding – which means that governments are not obligated to implement a Declaration (as opposed to a Convention, which is a law).

1993 – several governments insisted on changes to the draft DIP and there was negotiation, but the indigenous people did not give up the right to self-determination.

In 2006, the draft DIP went to the HR Council. Canada and Russia voted against the DIP

The DIP is still not adopted. It remains in limbo. Canada lobbied other governments to resist adoption of the DIP. Botswana, Nigeria and Zambia backed Canada and lobbied other African governments to block the DIP. The USA, Australia and New Zealand also oppose the DIP.

The opponents want to eliminate the right to self-determination and the right to intellectual property, among others (a total of 23 changes are proposed by governments opposing the DIP in its current form)

The DIP is supported by the EU and most South American countries (Colombia is a notable exception)

Mexico is a strong backer of the DIP but the present UN is stuck – the African bloc is resistant and strong. Negotiations are ongoing in New York.

Mr Deer is upset with Canada, in particular for its efforts and influence on African governments. Canada allowed hostility to grow by blocking the DIP.

If the DIP is defeated in the UN, Mr Deer states that their fight is not over. “We will continue to struggle. It is our destiny – it makes us strong. Human rights will disappear without struggle.”

We must not allow states to get away with oppression.

Canada’s human rights record may look good but when one considers Canada’s treatment of native people, its record is eroded quickly.

Mohawks do not have NGO status at the UN – they do not want it, because Mohawks are a nation.

1993 was the Year of Indigenous People. Because of this, the world became more aware of indigenous rights and related issues. It has also become more common to see indigenous people appearing before UN bodies.

Mr Deer told the story of a land dispute between Mohawks and local townsfolk in Oka, Quebec, in 1990 and some of the consequences of the ensuing standoff.

Questions and Answers:

Q. What's the future of the proposed DIP?

A. There is a possibility of dilution of amendments to the DIP, making all statutes subject to national law. Indigenous people are opposing this amendment. The DIP is a tool to ensure that indigenous people are able to maintain a status and profile that is defined by them. This is even more important in the face of globalisation, which Mr Deer says is the new colonisation. "If people want to assimilate, it should be by choice, and not forced."

Q. How does Mohawk society function? What are some of its laws? How do you manage conflicts between Mohawk law and Canadian law?

A. There are 2 legal structures. The Indian Act was written by Canadian bureaucrats. The Government and this Act overthrew traditional systems and imposed an 'approved' leadership – i.e., an elected government vs. the traditional government. Many people in Mr Deer's community do not vote in local elections, preferring the traditional leadership structure. That said, the traditional is not always in conflict with approved structure.

Q. When did Canada's support for the DIP change?

A. Things changed when the current federal government came to office. Difficult to work with them at this point. "I don't think Canada has a functioning democracy so they cannot lecture indigenous communities on governance."

Q. What are the difficulties with development in indigenous communities? How do you see indigenous peoples' participation in political processes? Where are the links between collective rights as understood by indigenous peoples and individual rights?

- Difficulties with development: Development is a process and there is resistance to change. People have to "buy into" the process and they have to share in the process. Displaced people have nothing to gain if they are not part of the process.
- Indigenous participation in political processes: There are a lot of native people working in government (the Canadian civil service) but native people are not in top positions. There are good and bad native civil servants. There are times when some native civil servants are seen to work against native people.
- Links between collective rights and individual rights: Karl Marx studied the Mohawk system, specifically, how the collective system worked. Following their independence from Great Britain, American settlers studied Six Nations

governance structures. The collective system hasn't been used to the fullest in other countries, i.e. the Soviet Union. South America has some examples of collective ownership that work well. But individual rights have overtaken collective rights, and collective rights are being eroded with the (North American) Free Trade Agreement.

Q. In the Philippines, the Indigenous Peoples' Rights Act is now in place. How is lobbying effort in Canada helping to get the DIP adopted?

A. The current Canadian government is hostile and reluctant to have discussions with aboriginal people. The Government is only in active discussion with five Canadian aboriginal organisations that they fund (the Assembly of First Nations, the Native Women's Association, the Métis Network, a national group of non-status Indians, and one other group). There will be a national day of action on 29 June to raise awareness on issues related to aboriginal people in Canada.

Q. Is there a way for North American indigenous people to network with other indigenous people in the world to advance their causes?

A. Although Canadian aboriginal groups do not have the resources to have full time representation world wide, various delegations have met with other indigenous governments and carried out lobbying actions at various locations / times. They have gathered some support through these efforts but this has been at times neutralised by hostile governments. Why do African governments treat indigenous populations badly if they say that all Africans are indigenous? There is racial discrimination by the powerful majority in many cases.

Q. Could you comment on the ongoing demonstrations for land rights in Caledonia (a small community in eastern Canada)?

A. The land in question was given to the ancestors of the current demonstrators via a treaty with the Government of Canada that has since been broken. This situation is similar to patterns in other countries. The court cases drag on in efforts to settle these claims, evidence has been destroyed in some cases in Canada and in the US. There is an element of endemic, institutionalised racism that plays into the process of land claims settlement cases.

Thanks and good evening.