

Intervention on USA-Canadian Border Issues

Presented by the Haudenosaunee
to the 9th Session of
The United Nations Permanent Forum on Indigenous Issues

Special Theme: Indigenous peoples: development with culture and identity; articles 3 and 32 of the United Nations Declaration on the Rights of Indigenous Peoples

Recommendations:

- 1) We call for the UNPFII to recommend that Canada and the United States initiate a process to directly dialogue with the Mohawk Nation and Haudensaunee Confederacy to resolve the grave situation.**
- 2) We call for the UNPFII use its good offices to find a peaceful resolution to the Canadian-U.S. border issue involving the Mohawk Nation, and to send UN observers to monitor the situation for human rights abuses to prevent a further escalation of the crisis.**
- 3) We call upon the UNPFII to recommend that the United States and Canada invite the Special Rapporteur, James Anaya, to visit the Mohawk Nation on a fact finding mission to assess the border situation.**

The Haudenosaunee Confederacy has been in existence on Turtle Island (North America) since long before any European assertions of authority in North America. We are a confederacy of Six Indigenous Nations (Mohawk, Oneida, Cayuga, Onondaga, Seneca and Tuscarora) that experienced an original free existence for many thousands of years. Accordingly, our ancestors bequeathed to us our sacred birthright, comprised of our languages, cultures, spiritual traditions, and our lands, territories, and resources. Our Original Instructions, which serve as our fundamental organic laws, teach us to live in sacred relationship with all life forms with which we are inextricably, biologically, and ecologically inter-related and inter-connected. In keeping with those instructions, we have been charged with the responsibility to care for the land, air, water, and life forms within our traditional lands and territories. Our sacred teachings tell us that the world cannot be taken for granted, and that a spiritual communication and thankfulness and acknowledgment of all living things must be given to align the minds and hearts of the people with Nature. This is a guiding principle of our culture and identity.

We introduce ourselves in this manner in order to contextualize from the perspective of our own culture and identity our original right to sovereignty, and our fundamental human right to self-determination, as expressed in Article 1 of the Human Rights Covenants, and in Article 3 of the UN Declaration on the Rights of Indigenous Peoples (the Declaration), which reads: "All peoples have the right to self-determination. By virtue of that that right, they freely determine their political status and freely pursue their economic, social and cultural development."

The above preliminary remarks serve as a context within which to examine a current and increasingly worsening situation within the Mohawk Territory at the Akwesasne Port of Entry to Canada and the United States. The Mohawk Nation Council of Chiefs has requested that the Grand Council of the Haudenosaunee act on their behalf to assist in peacefully resolving a border conflict between the Mohawk community and the Canadian Border Service Agency (CBSA), a conflict that is not currently moving toward resolution. In agreement with the Mohawk leadership regarding the many points of wrongful conduct by the CBSA that created and subsequently has exacerbated the Akwesasne Port of Entry crisis, the Grand Council has agreed to assist the Mohawk community. Accordingly, a letter has been sent to the Prime Minister of Canada and other Canadian government officials to raise awareness about this situation and urge these parties to engage in dialogue internally and with the Mohawk leadership to achieve resolution.

On the basis of the Doctrine of Discovery and the framework of dominance documented in the Preliminary Study on the Doctrine of Discovery, the United States-Canada border bisects the Mohawk Nation Territory. This imposes upon and within the Mohawk Territory multiple jurisdictions for the Mohawk people who are the original people of these lands from time immemorial. Over the years the Mohawk People have adjusted themselves to this difficult and often confusing intrusion into their daily lives as they cross the imposed border many times a day. Recent events have transpired that have created a dire situation for the Mohawk people.

On 1 July 2009, the CBSA made the unilateral decision to arm the port at Akwesasne. This decision was made without forewarning or consultation, and certainly without the free, prior, and informed consent of the Mohawk people who live at Akwesasne. It came as a shock to the Mohawk people. Predictably, the Mohawk community and leadership responded angrily because the weapons threaten the peaceful co-existence enjoyed by the citizens of Canada, the United States, and the Mohawk Nation.

The strong reaction by the Mohawk community to the idea and reality of weapons on the Mohawk Territory caused the CBSA to move the Port of Entry to Cornwall, Ontario. This in turn exacerbated the turmoil already visited on the Mohawk community on both sides of the imposed border by, in keeping with the Framework of Dominance, forcing Mohawk community members to report to two separate ports of entry when traveling over the border. It is important to note that during this time, and in keeping with the Framework of Dominance, the CBSA made no attempts to communicate with the besieged Mohawk community of Akwesasne. The next and most provocative action taken by the CBSA, again in keeping with the Framework of Dominance, was to arbitrarily impound the cars of the Mohawk people within the Mohawk Territory, thereby impeding the Mohawk people from reaching their homelands before and after the everyday activities of attending school, traveling to their places of employment, going to medical appointments to pick up prescriptions and medications, obtaining food and water supplies, as well as preventing the movement of chronic care vehicles.

In keeping with the framework of dominance, the CBSA imposed a requirement on Mohawk families within the Mohawk Territory to notify the CBSA of funeral arrangements that necessitated a border crossing within the Mohawk Nation Territory. Further in keeping with the Framework of Dominance, the CBSA demanded One Thousand Canadian dollars of Mohawk community members in order to obtain the release of Mohawk automobiles. The CBSA has gone even further by seizing within the Mohawk Territory the national identity documents of Haudenosaunee, thereby demonstrating aggressive dominance against the Haudenosaunee and the Mohawk Nation and against the citizens and community members within the Mohawk Territory. These continuing patterns of provocation have distressed the Mohawk people for nearly a year.

This raises the obvious question: what is the intention of the Canadian government by committing these dominating and egregious violations of the Human Rights of the Mohawk People without dialogue, consultation, or their free, prior and informed consent?

The Jay Treaty, also known as the Treaty of Amity, Commerce and Navigation of 1794, remains in effect today and memorializes and recognizes the rights of the Haudenosaunee, Six Nations Confederacy to cross and re-cross the United States-Canadian border without restriction as stated in Article III of the Treaty.

These and additional rights were reiterated and ratified by the 1814 Treaty of Ghent thus enabling and establishing the peace and tranquility after more than three centuries of war. In Article IX of this Treaty the parties promised to restore all the possessions, rights and privileges enjoyed or entitled by Native peoples prior to 1811, before the outbreak of the War of 1812.

The cannons of international law established that treaties are to be recognized within the context of the time that they were sanctioned and signed. Further, the United Nations Conference on the Law of Treaties, Second Session Vienna 9 April-22 May 1969 revisits and reiterates the obligation of states to uphold these treaties in good faith and with honor. Some of the articles pertinent to the situation under the discussion that we recommend for your review are Article 23 Pacta Sunt Servanda, Article 23 bis International Law and Observance of Treaties and Article 43 Provisions of the International Law Regarding Competence to Conclude Treaties. These provisions provide that(1) parties to binding treaties are required to perform their obligations in good faith(11)conflicts between treaty obligations and a nation's internal laws do not excuse a nation from performance of treaty duties.

We bring these several references of treaties to remind one and all that the Haudenosaunee was historically a sought after ally in the formative years of the Canadian and United States governments. And

we were third parties to these treaties. Once again we remind all that much of our blood was spilled on both sides of the border. Today we the Haudenosaunee maintain our numbers. Although our territories have been greatly diminished, our constitution The Great Law of Peace based upon the principles of peace, equity, and the power of unity continues to direct us in the situation that faces us today.

During the last day of the Ninth Session of the United Nations Permanent Forum on Indigenous Issues, 29 May 2009, at UN headquarters in New York, the Mohawk Nation delegation brought this border issue before the Permanent Forum plenary, thereby eliciting a response from a member of the Permanent Forum, the North American Regional Representative, who encouraged all parties to this dispute to sit in peaceful talks to help avoid any escalation of tensions. Representatives of Canada and the United States were present as well as the Haudenosaunee delegation.

The Mohawk Nation along the border between the United States and Canada are engaged in a critical confrontation resulting in grave threats to their human rights as a result of implementation of current border policies and all parties must meet in good faith so that agreement can be reached.

Bring up the incident of the high speed boat chase