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I would like to thank the organizers of for including us in this special event. And welcome Mr. Olivier De Schutter to the traditional territory of the Kanien'kehá:ka – People of the Flint or Mohawk.

I am from the community of Kanehsatà:ke which is the oldest existing Mohawk community in North America. It was the first to accept Kaianera'kó:wa or the Great Law of Peace and is thus mentioned in the centuries old condolence ceremonies of the people of the Longhouse.

(we are part of a joint submission of Indigenous groups and organizations to the SR regarding FAO voluntary guidelines on Governance of Tenure of Land, Fisheries and Forest in the context of National Food Security: Discrimination and subjugation of Indigenous Peoples rights.)

Traditional activities of the Iroquois peoples were hunting, fishing and agriculture. Rotinonhseshá:ka tradition of corn, beans, and squash are known as the Three Sister – it is considered not only a complete protein when eaten together, but has vital spiritual significance the health and well-being of Iroquoian peoples. according to the Iroquois Creation story are said to have grown from the body of Mother Earth after she died giving birth to her twins. "Thus the food of her bosom continued to nourish her children"

We have been told repeatedly, in various different ways, that we the Mohawks of Kanehsatà:ke have no legitimate rights to land in what is known as Canada and that we Mohawks are 17 Century immigrants from New York State.

Canada's sovereignty is based upon 3 legal fictions: the Doctrine of Discovery and Terra Nullius and the Doctrine of Conquer. These Doctrines have legitimized the Land Grabs which have been going on in North America since European contact. Canadian property law is based upon these legal fictions and have been further legitimized by the Indian Act and its policies.

The Indian Act consolidated in 1876 and its spirit of discrimination is the basis of Canada's relationship with Indigenous peoples. It allows Canada to undermine Indigenous Peoples' of their collective rights and dispossess them of their lands and resources.

An amendment of the Indian Act in 1880 gave the Federal Government the right to hold in trust funds that belong to the Indigenous peoples. The Government of Canada decides how to spend revenue from the surrender of reserve land – under duress, and the resources taken from traditional lands of Indigenous peoples. Any community must ask the government if they can use this revenue held in trust accounts and specify how they will use it.

All lands reserved for "Indians" is held in trust and title to land and its resources falls with the Crown not First Nations. The Indian Act does not protect the traditional territories of Indigenous peoples nor the lands reserved for them from third party interests.

Out dated land management provisions of the Indian Act also do not provide for environmental protection or address economic development. Thus allowing for third party interests and the appropriation or continue dispassion of Indigenous peoples land. **The *Indian Act* has shaped how First Nations have been able to develop and profit from their reserve lands.**

While Section 35 of the *Constitution Act, 1982*, recognizes and affirms Aboriginal and treaty rights that now exist or that may be acquired by way of land claim agreements.

Land claims negotiations emphasize a Non-assertion model and modified rights which are equivalent to extinguishment of title. Third party interests occur concurrently as land negotiations causing further dispassion of Indigenous lands and resources

The collective right of self-determination is inextricably linked to the right to food, food security and food sovereignty. As affirmed in the international Covenant on Economic, Social and Cultural Rights (art. 11) and the Convention on the Rights of the Child (art.24), it is also recognized in the Universal Declaration of Human Rights – which by the way is also "aspirational" in nature.

As the Office of the High Commissioner on Human Rights stated in their report "Right to Food", the right to food in linked to Indigenous languages and cultures, and inter alia to the right to life, health and adequate housing.

While the Government of Canada issues an apology for the Indian Residential School polices whereby thousands of Indigenous children were forcibly taken to residential schools. The status quo remains and relegates apology as hollow and without substance.

The current government of Canada claims that the UNDRIP is "aspirational" and therefore cannot be used in any kind of land negotiations or human rights advocacy. And yet the highest court in the land the Supreme Court of Canada has recently stated

that domestic courts are free to rely on the UNDRIP when interpreting Indigenous peoples' human rights. The Supreme Court of Canada states the following:

- ***The various sources of human rights law – declarations, covenants, conventions, judicial and quasi-judicial decisions of the international tribunals, customary norms – must in my opinion, be relevant and persuasive sources for interpretation of the Canadian Charter provisions.***

There is also another more insidious component of the Indian Act and that is the definition of who is an "Indian". Through The continual use of this definition, it is estimated that in either 40 to 50 years there will be no more status Indians hence no need for reserves and no need to protect the inherent rights of Indigenous peoples. This definition contradicts the UN DRIP's Article 6 which states that: "Every indigenous individual has the right to a nationality."

I would like to mention some of the challenges Indigenous peoples face in Canada that are manifested in laws and policies designed to undermine the collective rights of Indigenous peoples.

These include the following situations:

- The Nayogy Protocol which is based solely on the established rights of Indigenous peoples in spite of the fact that in its preamble it states "the importance of genetic resources to food security". The Protocol also includes "the inter-relationship between genetic resources and traditional knowledge [and] their inseparable nature for indigenous and local communities. Canada and other states refused to take a rights based approach in the final drafting of this protocol stating that the Protocol was not based in human rights.
- The strict use of the term "established rights" and not on customary rights have been held to be discretionary by the Committee on the Elimination of Racial Discrimination as underlined by the Permanent Forum on Indigenous Issues.
- The Use of Free Prior and Informed Consent – Canada has indicated that FPIC means a "process of meaningful consultation" and not consent – but will accommodate Aboriginal peoples concerns – where appropriate - this selective position is self-serving and politicizes human rights and is totally inconsistent with the rule of law domestically and internationally
- Canada has tabled a Bill S-8 in Parliament called "Safe Drinking Water for First Nations Act" which will set a legal precedent if passed as the government confers power to itself to abrogate or derogate from any existing Aboriginal or treaty right. No other group of people are challenged with the abrogation or derogation of their inherent rights in order to safely acquire safe drinking water.
- New proposed amendments to Canada's Fisheries Act will allow government to have discretionary powers, speed track development, bypass the government's

legal duty to consult and threaten fish habitats and the collective rights of Indigenous peoples

- WIPO – the issue of Indigenous peoples' collective intellectual property rights was not protected under the Nagoya Protocol nor is it protected domestically.

Conclusion and Recommendations

We respectfully urge the Special Rapporteur on the Right to Food to make strong and effective recommendations to Canada.
Through examination of Canada's Indian Act, Land Management and Land Claims policies, the Kanehsatake Land Management Act, and their actions in the international arenas to undermine Indigenous peoples rights through erroneous statements denying that the UNDRIP has any legal effect as they will base any future amendments to domestic legislation upon any new international law instruments.

UNDRIP – Since 2006, the Canadian government has claimed both internationally and domestically that the *UN Declaration on the Rights of Indigenous Peoples* "has no legal effect in Canada" Calling it an aspirational document For years, Indigenous peoples and civil society have continued to pressure the government to abandon such erroneous and misleading positions.

On 12 November 2010, her Government had issued a statement endorsing the United Nations Declaration on the Rights of Indigenous Peoples. The Declaration was a non-legally-binding document that did not reflect customary international law. While it had no direct legal effect in Canada, Canadian courts could consult international law sources when interpreting Canadian laws, including the Constitution. The Government was working in partnership with aboriginal peoples on many of the issues reflected in the Declaration. For instance, Canada had taken concrete action in important areas such as education, skills development and economic development. [emphasis added]

Although this still erroneously denies the elements of customary international law that are in the Declaration, it is a step in recognizing the Declaration's legal effects.

Mohawk and Iroquois perspectives place true wealth in the land, the culture, our ancestral language, the power of the ceremonies, and the spirit of the people.

- Lasting peace cannot be achieved only by military or political means, but through a higher level of consciousness and understanding
- There can be no lasting peace while fear or anger exist between people

(2) Aboriginal peoples and the right to food;
Like other segments in Canadian society, Indigenous peoples are concerned with the quality of good, the unknowing consumption of genetically modified food and what their impacts will be on future generations, accessibility to quality food, the rising

gasoline prices that cause remote communities to pay double or even triple the prices for groceries than those in urban areas

Impact of trade and the contributions of Indigenous peoples to the world.
Many vegetables have been under the careful care of Indigenous peoples for centuries such as corn, beans, squash, potatoes to name only a few of the hundreds of food staples indigenous to the Americas. However, the disturbing trend of allowing mult-nationals to obtain intellectual property rights to our traditional staples has undermined our ability to continue a diet based upon the original sustainers of life – corns, beans and squash

. It is very hard to get certification to grow organically as well as costly to get nutritious food to market.

- Farming Equipment
- Revenue Quebec INAC Economic Development

  . if Indigenous people appear to compete with non the Indigenous the government is on record to shut us down.

  . attempts to place a mining operation, Niocan Oka, right in the middle of fertile farm lands in the centre of Kanehsatake Mohawk Territory.

  . the Harper governments passing of Fee Simple legislation on Indigenous territories is nothing more that a " land grab " using banks as a disguise to obtain bank loans and lands placed as collateral.

  . the serious over development of prime farmlands by developers of housing units needs to be addressed immediately or there will be no prime food sourcing.

  . the poisoning of rivers, streams and fish habitats by energy developments such as shale gas and mining operations need serious investigation.

  . potable drinking water is in danger by developments of shale gas operations on private, public and Indigenous lands.

  . it is our cultural right to grow tobacco and use this as a means of subsistence.

The right to food and be free from hunger is deeper than the mere opportunity of having food on a daily basis. It means growing food in healthy soil that is not contaminated by environmental pollutants; it includes the right of Indigenous peoples and farmers to grow in freedom without does not support government policies that

allow corporations to have a monopoly on the IP of Indigenous peoples staples such as corn, beans and squash amongst many others.

There are currently numerous threats to the food security and sovereignty of Indigenous peoples in Canada, and in particular in this region. The lack of recognition and respect for the collective land rights of Indigenous peoples contributes to Canada and Quebec granting third parties the right to develop on traditional territories of the Kanien'kehá:ka.

Since 2006, the Canadian government has claimed both internationally and domestically that the *UN Declaration on the Rights of Indigenous Peoples* "has no legal effect in Canada" (see *e.g.*, Statement by Canadian Ambassador, UN Human Rights Council, 29 June 2006). For years, Indigenous peoples and civil society have continued to pressure the government to abandon such erroneous and misleading positions.

In February 2012 at the CERD session in Geneva, the Canadian government conceded that UNDRIP could be used to interpret domestic laws – including Canada's Constitution:

Committee on the Elimination of Racial Discrimination, "Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (continued): Nineteenth and twentieth periodic reports of Canada (continued)", Summary record of 1242nd meeting on 23 February 2012, UN Doc. CERD/C/SR.2142 (2 March 2012), para. 39:

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Although this still erroneously denies the elements of customary international law that are in the Declaration, it is a step in recognizing the Declaration's legal effects.

We are seeing the Declaration being positively used in litigation. In order to maximize the diverse legal effects of UNDRIP, it should not be used in isolation. Rather, it should prove more beneficial to invoke this human rights instrument as part of a broader strategy that includes other international human rights law and Canadian law. It is critical to continue to build positive case law examples using the Declaration.

Recently the Prime Minister of Canada at a G8 G20 meeting, invited international corporations to come to Canada as it is rich in resources and has lenient tax laws. In my humble opinion that was irresponsible as most of Canada remains – without the Free, Prior and Informed Consent of Indigenous Peoples

However, inherent right has not been defined causing a lack of respect of Indigenous peoples right to lands and resources. We have been relegated to tiny patches of land as wards of the state under a patrilineal and colonial system of government which continues to undermine our dignity and rights.

Land and tenure rights of Indigenous peoples are human rights and should not be separated from each other.