

A Circle of All Nations Project – March 5, 2014

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A collaborative initiative with FANCV

BRIEFING NOTE

ISSUE

The Office of the United Nations High Commissioner for Human Rights (OHCHR) calls for submissions from indigenous peoples to studies currently being carried out by the Human Rights Council's Expert Mechanism on the Rights of Indigenous Peoples, as requested through resolution 24/10.

This note addresses the broad topic of justice, with respect to the *Circle of All Nations* work of late Indigenous Elder, Dr. William Commanda, OC, Algonquin, Canada, and his legacy vision for the establishment of the multi-faceted international *Asinabka* Indigenous Center at the Chaudiere Falls within Canada's capital city, on the ancient unsundered, unceded, unconquered sacred lands of his ancestors.

BACKGROUND

William Commanda died on August 3, 2011 at the age of 98. For over forty years, he was Carrier of Wampum Belts, ancient sacred mnemonic relics of global significance, asserting their significance as instruments of Indigenous statements on inherent and unalienable values, principles, rights and justice (see note 1). In 1993, he presented the Wampum Belts at the first United Nations Conference of Indigenous Peoples, the *Cry of the Earth* Conference.

In addition, there were several other interventions at the UN level that he and other Indigenous colleagues engaged in – the first was to UN Secretary General, Trygve Lie (1946-1952), in 1946, when together with the Secretary of the North American Indigenous Nations Government, Jules Sioui, he was involved in actively seeking seats for Indigenous Peoples at this global forum. The quest for recognition finally manifested in the UN Declaration on the Rights of Indigenous Peoples in 2008.

Consistent with the messages and legacy of the Wampum Belts, William Commanda engaged countless people nationally and internationally, as he worked for four critical issues throughout his long life:

- respect for Mother Earth (he led the Indigenous prayer at President Mitterand's PreRio conference in France, precursor of the UN's COP environmental work),
- assertion of Indigenous spirituality, culture, values and rights (his *Circle of All Nations* work), and
- promotion of racial harmony and peace building (initiated with the UN Declaration of the 2000 Millennium Decade of Peace, later animated in the UN International Day of Peace events).

THE JUSTICE PROJECT AND LOCATION

William Commanda envisioned the concrete manifestation of this Indigenous work in the creation of a healing and peace building centre at the ancient sacred meeting place of his ancestors for over 6,000 years, (that is, the Chaudiere Falls within the heart of the Ottawa river watershed, between the provinces of Quebec and Ontario, which are dominated by Canada's founding cultures of the French and English, within Canada's National Capital Region).

Countless people, nationally and internationally, have endorsed this vision over the years, including at the UN level, and in 2010, the City of Ottawa, formally expressed its support of the work. In Fall 2013, the POGG (Aboriginal-Canada Think Tank Committee) presented a report indicative of its promotion of the Indigenous Centre proposal to the UN Special Rapporteur on Indigenous Issues, Dr. James Anaya.

DETAILS OF THE PROPOSAL

The salient details of this proposal include:

- Undamming the Sacred Chaudière Falls,
- Creating a city park and historical interpretive centre
- Building a conference and hotel complex, and
- Building an Indigenous centre

An illustrated bilingual brochure detailing the project is attached. Internationally renowned Indigenous Architect Douglas Cardinal has developed conceptual designs for the realization of this vision.

In view of the acceleration of global crises on environment and peace building, we assert the critical importance of the inclusion of the Indigenous voice. Thus, in this proposal, then, we address the notion of justice in the broadest of terms – the inclusion of Indigenous Peoples as equal partners in the global community.

Finally, we add that this place is under threat of development; in that event, its unique character and potential will be entirely and irrevocably extinguished.

Support at the United Nations level will advance the drive for true and profound justice for Indigenous peoples, constitute a concrete statement of reconciliation with nature and sacred heritage lands, and advance peace-building in a key globally important capital city in an inclusive and influential manner.

ACTION REQUESTED

Formal endorsement of the legacy vision of late Indigenous leader William Commanda for an International Indigenous Centre at the Sacred Chaudiere Site, Ottawa, Canada, as designed by Indigenous Architect Douglas Cardinal, by the Human Rights Council's Expert Mechanism



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Buenos Aires - Argentina, 10 March 2014

**Ref.: EMRIP - Dr. Graciela R. Yanovsky -
FANCV Contribution;
Dr. Sylvia McAdam - IDLE NO MORE, Ca.;
Gral. Coord. Ms. Romola Trebilcock on behalf of
Dr. William Commanda, Circle of all Nations, Ca.;
Cacique Lorenzo Cejas Pincén, Argentina.**

**EXPERT MECHANISM ON THE
RIGHTS OF INDIGENOUS PEOPLES
Human Rights Council**

S _____ / _____ D:

Of my highest Consideration

Who subscribes, **Dr. Graciela R. Yanovsky**, as **Founder and President of the Fundación Argentina a las Naciones Camino a la Verdad - FANCV**, have the pleasure to address to you, in order to share with you our following Reflection and Contribution and, by my intermediary, the Contributions of **Dr. Sylvia McAdam, Grand Chief of the Cree Nations; Founder and Leader of the IDLE NO MORE Movement - Canada;** **Ms. Romola Trebilcock, General Coordinator of the "Circle of all Nations"**, on behalf of its late **Founder and President Dr. William Commanda - Canada; Cacique Lorenzo Salvador Cejas Pincén, Ulmen (President) - Buta Lonko-Lonko and Buta Toki - Chief of Chiefs of the Pampas, Mapuche, Rankulches and Tehuelches Communities, from Patagonia - Cacique Pincén Community of Trenque Lauquen- Province of Buenos Aires, Argentina.** (all in attached files.)

FANCV REFLECTIONS:

*"What divide the World... what really separates to the Peoples... **are Not the Races, Ethnic Groups, the Religion, Political Parties, neither Languages Nor Ideas...** What Certainly divides us... are the **Priorities of the Heart...** because No Matter where we come from... but how far we are Willing to arrive in pursuit of Achieve the True Essence of the Goal that we Proclaim: **The Justice of Truth**". (Dr. Graciela R. Yanovsky)*

*"If we truly Prioritize the interest in living in a Better World... we will have to produce a **Change of Attitude, from root** and is, in this Change of Attitude that, since today, we will begin to develop Joint Projects of Peace, not under the analysis of past reasons, but in the Importance of the Role of the Priorities in the Future Peace Strategies that we yearn". (Dr. Graciela R. Yanovsky)*



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FANCV's CONTRIBUTION

“The **Right to Self-Determination** is a Central Right for Indigenous Peoples from which all other rights flow. In relation to access to justice, **self-determination** affirms their right to maintain and strengthen indigenous legal institutions, and to apply their own customs and laws.”

(Access to justice in the promotion and protection of the rights of indigenous peoples - Study by the Expert Mechanism on the Rights of Indigenous Peoples A/HRC/24/50)

FOR ALL THE ABOVE EXPOUSED, WE PROPOSE:

1- “SINE QUA NON” CONDITION: UNIVERSAL DECLARATION OF HUMAN RIGHTS/UN; SCOPE AND DELIMITATION OF THE SELF-DETERMINATION OF INDIGENOUS PEOPLES WITHIN THE UN MEMBER STATES & ITS DIMENSIONS OF ECONOMIC, SOCIAL, CULTURAL AND POLITICAL DEVELOPMENT AS THE BASIS FOR ALL HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS.

- Since, all UN Member Countries at Universal Level worked, voted and signed agreeing to be subject to the **Universal Declaration of Human Rights, REAFFIRMING the Principles, Purposes and Guarantees set out in the UN Charter**, it is an Irreplaceable Condition that this "**Recognition of Absolute Restraint to the Universal Declaration of Human Rights**" and therefore to the **UN Charter**, should be "*prima facie*", the "**SINE QUA NON**" CONDITION for the **Recognition of Indigenous Nations** as such, beyond the restrictions imposed by their cultures. "*Pacta sunt servanda*".
- **Indigenous Nations, in order to be Recognized at international level and be part of the United Nations as Nation**, should **Approve and Recognize** the primacy of the **Universal Declaration of Human Rights**, i.e. that, the practices of their traditions and customs should be aligned with the proper respect to the Fundamental Rights Recognized Universally, through said Declaration, and therefore the quality of the Human Being as such, "*intuitu personae*", regardless of gender, age and condition.
- This **RECOGNITION NEVER BE INTERPRETED AS AN SUBJUGATION TO THE RIGHTS SOVEREIGNS THAT ARE INHERENT TO ALL NATION/STATE AS SUCH**, but, on the contrary, as a **PRINCIPLE OF DISPOSITION OF GOODWILL TO BOTH PARTIES** and, to the only effect of be Member of the Grand Concert of Nations - "**FIRST TREATY OF THE GREAT CONSENSUS BY GOOD FAITH OF UNIVERSAL WILL BETWEEN INDIGENOUS NATIONS AND THE UN MEMBER STATES**".
- Considering the interpretation of the diversity of uses and customs of the diverse Cultures that compose the several Indigenous Nations, it becomes necessary to **Consensus** the status of the **Supremacy of the maximum and Supreme Law: Universal Declaration of Human Rights**, as a way to converge to one **GLOBAL**



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LEGAL INTERPRETATION ON THE HUMAN BEING'S RIGHTS
(...beyond the current failure in several aspects, by a large majority of
Member States of the UN...).

2- AMENDMENT OF NATIONAL CONSTITUTIONS TO A "CONSTITUTIONS OF PLURINATIONAL STATES", Example: Plurinational State of Bolivia.

- In order to Accept the condition of **Plurinational States**, it becomes irreversibly necessary the **Amendment of National Constitutions to a "Constitutions of Plurinational States"**, where Indigenous Nations have passed blocks of Representation in the National Congresses, in the same way that occurs in the UN General Assembly where each Nation has its Representative.

3- NATIONAL AND INTERNATIONAL REPRESENTATION:

Before the Senate and the Chamber of Deputies of the PLURINATIONAL STATE CONGRESS, they will have Right to be Represented by Delegates from Indigenous Nation of the Plurinational State in question.

- REPRESENTATION AT THE UN:

The Representative Ambassador of the Member State, within its General Delegation, Shall be accompanied by a representative of the diverse Indigenous Nations and/or Coalition to represent them that compose that Plurinational State.

At the same time, Ambassador Representative of Indigenous Nations should be accompanied by the Representatives of the different Indigenous Nations and/or Coalition that compose that Plurinational State.

4. NATIONS INSIDE THE GREAT STATE THAT HOSTS:

Different aspects to consider

- By the acceptance of these conditions, Indigenous Peoples should be Recognized as **A NATION INSIDE THE GREAT STATE THAT HOSTS**. Example: the **Vatican**, with its own law, Canon Law.

Among other considerations of Comparative Law to consider:

- Consideration of diverse experiences between different Constitutions from several States from the United States of America and its harmonization with the National Constitution of the Great State;
- IDEM with the United States of Brazil;
- IDEM, Harmonization between Provincial Constitutions with the National States.
- Military: own Laws and Codes (saving the distances, as a mere example of assimilation ...).

5. TERRITORIES OF INDIGENOUS NATIONS AND PERMANENT SOVEREIGNTY OVER NATURAL RESOURCES:



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- Filled out this recognition in its capacity as **CONDITION "SINE QUA NON,"** all Nations, UN Member States, that have in its territory Indigenous Populations, should **RECOGNIZE THEM AND JOINTLY TO DO DELIVERY OF FISCAL TERRITORIES AND/OR MUTUALLY CONSENSUS TERRITORIES between the State and its diverse Indigenous Nations.**
 - By reason of the complications of Rights that, in most of the cases generate the delivery of the claimed territories and its economic implications up today, for example. move cities, etc., **it would be advisable to agree on its replacement of Territories, the Recognition on other TERRITORIES also MUTUALLY CONSENSED AND AS PART OF RIGHTEOUS RESTORATION OF THE VIOLATED RIGHTS TO THE DIFFERENT INDIGENOUS NATIONS, WITHIN THE BOUNDS OF CURRENT TERRITORIES, WITH THE RESPECTIVE AND IRREVOCABLE RIGHT OF ITS SOVEREIGNTY OVER ITS NATURAL RESOURCES.**
 - **THE DELIVERY OF SUCH TERRITORIES SHOULD BE WITH PROPER LEGALIZED DOCUMENTS THAT SHOULD BE RATIFIED BY OFFICIALS OF THE UN AND/OR HUMAN RIGHTS COUNCIL WHO, AT THE SAME TIME, CERTIFY THE LEGALITY OF THE TRANSACTION AND WHOSE COPY MUST BE NOTARIZED AND CONSERVED BY THE UN.**
- 6. SCOPE AND DELIMITATIONS OF THE TAX MATTER IN THE ORDER ESTADUAL included as part of the payment of INDEMNIFICATION:**
- These Indigenous Nations **must agree the tax implications** of the services provided by the Federal State, with the respective Governments due that, these territories are delivered in mode of **INDEMNIFICATION** in order to **RESTORE**, in some way, the violated rights throughout the centuries. Reason why Indigenous Nations, **in any case and, as part of the RIGHTEOUS RESTORATION that integrates this INDEMNIFICATION, SHOULD NOT** be obligated to pay federal taxes. Such territories, as that produced of its fruits accrued from the usufruct of the same, **IN NO EVENT SHALL BE SUSCEPTIBLE of LIEN OR EMBARGOS**, in virtue of its compensatory function and, as a way to help the economic and comprehensive development of these communities, also will be part, in all cases, of the amount of Indemnification.
 - They should pay the taxes from the commercialization of their products, which should be agreed timely after a considerable period of grace, of not less than 100 years, **as part of the RIGHTEOUS RESTORATION, that integrates this Indemnification and in the interests of Healthy Peaceful Coexistence and the Right to Development.**
After 100 years, the Indigenous Nations must agree with the State Governments the tax method, taking into account the States, the possibility of extending through a Renovation of this grace, according to the economic and technological evolution of these communities.



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7. TRIBUNALS, COURTS OR COUNCILS OF WISE ELDERS composed of all the Nations hosted within a same Plurinational State, UN Member:

1) CREATION OF "SUB JOINT COMMISSIONS" OF RESTORATIVE JUSTICE, DEPENDENT OF THE SUPREME COURT OF JUSTICE of the Plurinational State, composed by Members of the COUNCIL OF WISE ELDERS and of the SUPREME COURT OF JUSTICE, already mentioned.

- For the purpose to **Provide to the Healthy Peaceful Coexistence of the Great Plurinational State** and, in view of the **Equitability of the Justice**, the diverse **Indigenous Peoples** should be subject in matters of justice in everything that this implies, when there are issues among indigenous people, to the **Judgement of the Great Council of Wise Elders and Thinkers**.
- **AT NATIONAL LEVEL:** On matters which are involved **Indigenous Citizens and Non-Indigenous**, shall be subject to a "**Sub Joint Commission**" on **Restorative Justice**, composed by **Council Members of Wise Elders and Members of the Supreme Court of Justice of the Plurinational State**, integrants specially designated by the same, that will solve all the issues where are involved both legal systems, in order to proceed to its **Harmonization and Equitative Judgement**.
- **AT INTERNATIONAL LEVEL:** In the same way, should be created a "**Sub Joint Commission**" composed by selected **Members**, chosen by the **Council of Wise Elders of the several Plurinational States** and by selected **Members**, chosen by the **Supreme Courts of Justice of the Plurinational States**, in order to integrate the respective **Sub Joint Commissions** that shall work, one under the **International Court of Justice** and the other, under the **International Criminal Court**.

In virtue of that, all **Cultures** will be **Represented** in terms of: **GLOBAL LEGAL HARMONIZATION AND INTERPRETATION OF THE HUMAN BEING' RIGHTS**, as a way to **ENSURE THE ACCESS TO THE JUSTICE IN ALL LEVELS AND ORDERS IN ALL THEIR JURISDICTIONS**.

8. PROTECTION OF THE RIGHTS OF INDIGENOUS PEOPLES IN THE REDUCTION AND PREVENTION INITIATIVES OF THE RISKS OF NATURAL DISASTER AND THE PREPAREDNESS TO THOSE RISKS:

WHEREAS that, as a result of the **Problematic of Climate Change** is affected the **Environment**, is restricted the free disposal of **Natural Resources**, thereby causing the **displacement of many Human Contingent - DISPLACED / MIGRANTS AND REFUGEES - and Biodiversity** in general, causing therefore the **Imbalance of Economic Balance of the areas and/or host countries** and, consequently, generating **Xenophobic Reactions, Discrimination, Racism, Persecution and Slavery**.

We really believe that it is **Urgent** for our **Countries** to be able to be "**Resilient**". As we all know,



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it's cheaper for the People to invest in **Prevention for save lives** than for the Reconstruction of large Communities after the catastrophes. Thus the importance to give Special Hierarchy to all those technologies that can be used for **Early Alerts, Civil Defense**, as well as, to take care of the importance of the **Scope of Vision related with Climate Change's surprises**, as to **Raise Awareness Prevention**, in front of diverse Catastrophes as to build Capacity of Resilience of Large Groups of Citizens.

For that reason, we suggest:

- 1- As Very Relevant, to **PAY ATTENTION AT THE TIME TO DEVELOP DIFFERENT TECHNOLOGIES**: It's very important to **Create Mechanisms of new Technology** for example: of Services, in an **INTERACTIVE BUT NOT INTERDEPENDENT** way, as to avoid the "Domino's Effects", in order to maintain the indispensable services for all the Communities as to face the catastrophes and continue working...
- 2- In the same way, **we suggest** the build of **SMALL (NANO) SELF-SUSTAINABLE CITIES that must be done in a very Creative Design** as to avoid the "Chain Effects" of the Communities when the unexpected consequences of catastrophes aggravate their results.

None of us ignore that the "CHAIN EFFECTS OR DOMINO" break the **maintenance of the Indispensable Services for all the Communities**, to be able to **survive** as to face the catastrophes in diverse zones of the same regions. (*International Decade for Action 'Water for Life' 2005-2015, World Water Day 2014: "Water and Energy"; LUXOR Call to Action - ICT as an enabler for Smart Water Management - Luxor, Egypt, 14-15 April 2013; UNISDR Campaign "Making Cities Resilient"*).

- 3- While the Intelligent Cities are building or thinking **WITHOUT** applying this concept: **INTERACTIVE BUT NOT INTERDEPENDENT**, these Cities will always fall in the trap of the "JAIL of the CHAIN EFFECTS OR DOMINO"... that aggravates the Consequences of the catastrophes... and... is because of this kind of Alert, that we must be **Aware of this Prevention**: we **MUST APPLY** now this concept, **INTERACTIVE BUT NOT INTERDEPENDENT**, and it must be **CONSIDERED** in **All the Strategies of Planification**, because of its application depends that it will make them to be or Not really useful.

We Believe that:

- 1- **The True Challenge that we face as Society of all the Communities of the World**, at this historic inflection point of our Time, is to take the Challenge of Plan our Communities in a "NEW ATOMIC VISION" and draw the Strategies considering the Resilient Skill of this challenge: as to **Build little Self-Sustainable Cities**, as to be ready to **Help each other** in case of Catastrophes.



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- 2- Nevertheless, the Challenge is to draw designs that allow a new kind of **RESILIENT INTERACTIVE TRADE**, that will transform the weakness into an “**INTERACTIVE RESILIENT WISE STRENGTH**”, a New Style of Paradigm of Life that means, Be Able to Survive against the struggle of the Climate Change catastrophes and continue ascending as to be a **GROWING "NET OF ATOMIC CITIES OF DEVELOPMENT POLES, INTERACTIVE BUT NOT INTERDEPENDENT, IN EVERY AND EACH ONE OF THE SERVICES** that each one of them offer in favor of the Future Generations.
- 3- **THE FREE ACCESS TO THE CLEAN WATER, WITHOUT POLLUTION, AND POTABLE TO EVERY LIVING BEING**, must be considered **NOT ONLY** a **STRATEGIC AND IRREPLACEABLE HUMAN RIGHT**, but also of the "**RIGHT TO THE LIFE**" OF EVERY LIVING BEING because is **IRREPLACEABLE TO MAINTAIN THE BALANCE OF THE ECOSYSTEM TO WHICH WE BELONG**. (Human Right to Water and Sanitation A/RES/64/292; Human Right Council Res. 16/2)

For all the above mentioned, we understand that, for example:

1. Could be set at Continental, Regional, Sub-regional, National, Provincial, Municipal, Local level...a **High Level Commission: Integrative Mixed/Joint, Multidisciplinary, Multicultural, Pluri-ethnic and Multisectoral (Intergovernmental/ Civil Society/ NGOs)**, with the aim to Provide the Strategic Design of Coordinated and Ordered Priorities, in response to the Structural Needs of the Zone for the purposes of the **Integral Management's Maximization of Human and Natural Resources**, directly related to the Creation of **New Development Poles**.
2. **Focused in a "NEW ATOMIC VISION"** considering the **Resilient Skill** of this challenge: as to **Build little Self-Sustainable Cities, INTERACTIVE BUT NOT INTERDEPENDENT**, as to be ready to **Help each other** in case of **Catastrophes**.
3. This network should be created based on national, regional, local needs and from the capacities coming from **Human and Natural Resources**, etc., "**Prima facie**" available in the area or, that respond to designs previously agreed that exalt **NATIONAL SOVEREIGNTY WITHIN THE FRAMEWORK OF STRENGTHENING OF REGIONAL INTEGRATION** and Encourage the **Productive Multilateral Cooperation**, glimpsing **Innovative Challenges of Sustainable Sustainably Vision and Global Prospective Analysis**.

For the purpose of tending to a higher **Evolutionary Development of the Zone**, within this spectrum of analysis, this Commission should also be interpreted as an **Ally Executing Arm** in the matter of the **Defense of Integral Peacekeeping at Continental Level**.

Problematic of Migrants, Refugees and Displaced Persons:



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Of purely binding operative in relation to Ethics and Moral obligation of the Social / Moral Responsibility of States to protect their citizens and biodiversity in general.

1. These commissions, at the different levels already exposed, shall be composed by the interaction of the Authorities, Civil Society Organizations and NGOs that aims to **analyze the reception, location and/or relocation of displaced/migrants, refugees, that apply for admission to a particular location and that respond to local design, Municipal, Provincial, National, Sub-regional, Regional and Continental.**
2. The zonal NGOs convened, shall be inexorably consulted for the purpose of the acceptance the income of applicants, in order to revert the effect of the implications that would bring linked to the economic, commercial, social imbalance, etc., of the host areas, while avoiding the reactions of Xenophobia, Discrimination, Racism and related Intolerance.
3. Also will manage the **Maximization of the Management of Acceptance, Location and Relocation of Migrants Contingent**, etc., according to the Priorities predefined and to the mandatory **Prevention Education in the Light of Continental Guiding Principle "the Defense of the Right to Life"** as a way of guarantee it, regulating and harmonizing the respective legislations within the **Framework of the Healthy Peaceful Coexistence.**

Thank you for your Time and Consideration.

Working together for a World in Peace...

in the Justice of the Truth...

For a Better World... Path to the Truth.

Dr. Graciela R. Yanovsky
FANCV President

ATTACHMENTS

Biography of William Commanda

Brochures describing the proposed project

Conceptual design by Douglas Cardinal

www.asinabka.com; www.circleofallnations.ca; www.djarchitect.com

NOTE: Re: Wampum Belts: From 1987, (on the occasion of the Aboriginal Constitutional Debates called by the then Prime Minister, Brian Mulroney, as required by the then newly repatriated, Canadian Charter of Rights), William Commanda presented these artifacts on the public stage, asserting their significance as Indigenous statements on inherent and unalienable values, principles, rights and justice. Presently these are being studied at the community level with respect to their relevance for presentation for consideration for UNECSO *Memories of the World* designation.)

Additional information is available upon request

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