

FRANCE

International Network for Diplomacy Indigenous Governance Engaging in Nonviolence Organizing for Understanding & Self-Determination (INDIGENOUS) Submission to State of France

International Network for Diplomacy Indigenous Governance Engaging in Nonviolence Organizing for Understanding & Self-Determination (INDIGENOUS) is a monumental movement aspiring to change the centuries of making indigenous peoples invisible through colonization and to create a climate of inclusion in the family of nations in the 21st century. INDIGENOUS mobilizes for the realization of human rights of indigenous peoples in the seven recognized indigenous regions in the world through community driven campaigns of direct-action and diplomacy.

INDIGENOUS is committed to nonviolence with eternal vigilance for a planet of peace. INDIGENOUS embraces the responsibility of kindred stewardship for our earth nurtured for centuries in indigenous nations cosmologies. INDIGENOUS understands the interdependence of humanity and ecology to live in harmony.

INDIGENOUS struggles for the full recognition of the right of self-determination inherent in traditional governance models existing since time immemorial. INDIGENOUS continues the coordinated campaigns for realization of individual and collective human right of indigenous peoples in every state through national, regional and international initiatives.

INDIGENOUS reflects diversity, dignity and diplomacy providing positive models of mobilization for the full recognition of indigenous rights. INDIGENOUS documents genuine histories of indigenous peoples shared through traditional storytelling and gross violations of indigenous peoples through human rights methodologies. INDIGENOUS determines the best strategies to secure self-determination in all its manifestations for indigenous nations through concerted campaigns with ally advocates. INDIGENOUS directs the accurate information into human rights regional mechanisms and United Nations charter and treaty bodies including specialized agencies, programs and funds to hold states accountable to state obligations under public international law.

INDIGENOUS guarantees the recognition of the inherent dignity in all peoples on the planet enshrined in the international law instruments from the Universal Declaration of Human Rights to the United Nations Declaration on the Rights of Indigenous Peoples.

We believe indigenous rights abuses anywhere impacts all indigenous peoples. The common history of deep connection with nature and the similar situation forced upon indigenous peoples in their homelands creates a shared sense of cultural survival that is the impetus for our international movement. We seek solutions rooted in the indigenous values reflected in the voices of our elders and believe our vision for the future will guarantee human rights, freedom and justice for everyone on planet earth.

Ratification and Implementation of International Law Instruments

Issue:

The United Nations Declaration on the Rights of Indigenous Peoples was adopted by the General Assembly on the 13th of September 2007. France voted in favour of this historic recognition of human rights of indigenous peoples but most of the issues relating to indigenous peoples remain unsolved.

Question: What is the timeline for the implementation of the rights recognized in the UN Declaration on the Rights of Indigenous Peoples? What steps have been taken so far by France to initiate an implementation of the Declaration?

Recommendation: France to formulate a national action plan for the implementation of the UN Declaration on the Rights of Indigenous Peoples in Kanaky and Tahiti.

Issue: The International Labour Organization Convention N°169 on Indigenous and Tribal Peoples in independent Countries adopted on the 27th of June 1989 is an important instrument as the only legal binding convention relating to indigenous peoples. France uses a restrictive interpretation of the idea of national union¹ to justify her refusal to ratify the Convention N°169. By this mean France refuses to recognize collective rights to indigenous peoples living overseas. France recognizes a specific right in accordance with articles 72, 73 and 75 of the Constitution. Most of the issues relating to indigenous communities' life are dealt with the use of the legislative specificity². However this principle doesn't allow protecting indigenous peoples in an efficient way.

Question: Will France, during the current government's term of office of President Hollande, consider ratifying the International Labour Organization Convention N°169 on Indigenous and Tribal Peoples in independent Countries?

Recommendation: France should ratify the ILO Convention 169 to be able to guarantee the human rights of indigenous peoples in lands of Kanaky New Caledonia and Tahiti.

Recognition of Collective Rights and Right to Self-Determination

Issue: France doesn't recognize indigenous peoples as entitled with collective rights and, a fortiori, right to self – determination; except in the particular case of New - Caledonia. France recognizes only specificity in accordance with articles 72, 73 and 75 of the Constitution of 1958. According to France such general recognition will be in contradiction with article 1 of the 4th of October 1958 French Constitution.

Question: Will France, during the current government's term of office, recognize collective rights and right to self-determination to indigenous peoples?

Recommendation: France to comply with article 1, 3 and 4 of the United Nations Declaration on the Rights of Indigenous Peoples.

Nouméa Agreement³ and the UN Declaration on the rights of indigenous peoples

Issue: The Nouméa Agreement signed on the 5th of May 1998 organizes Kanaky New Caledonia's decolonisation. Many dispositions contained in the Agreement goes further than the UN Declaration on the Rights of indigenous peoples. This later should lead the interpretation, the application of the Nouméa Agreement, and the elaboration of all law and policy affecting kanaks.

Question: Will France take in account the UN Declaration on the rights of indigenous peoples for the application of the Nouméa Agreement?

Recommendation: The Nouméa Agreement shall be used in the light of the UN Declaration on indigenous peoples.

Conditions of Detention in Kanaky New Caledonia

Issue: The prison centre “ Camp Est” of New Caledonia counts 480 prisoners for 194 spaces. Most of them are kanaks. The area for short sentences and for suspicion arrest is the worth. There are around 6 or 7 prisoners in 12 meters square. They are locked in 22 hours out of 24 hours, the showers don't work

¹ Unité nationale

² Spécialité législative

³ Accord de Nouméa

and at night the prisoners are bitten by some rats. In October 2011 a 24 year-old prisoners have been beaten to death by one of his co detained. Few days later one prisoner committed suicide. The previous president Nicolas Sarkozy promised France will open a new prison centre but since then nothing has been done.⁴

Question: Will France really consider building a new prison centre in order to change the detention conditions in Camp Est? Will France take necessary measures to

Recommendation: France to comply with articles 1 and 17 of the UN Declaration on the rights of indigenous peoples and the Universal Declaration of Human Rights.

Child Prostitution in Tahiti

Issue: In Papeete child's prostitution is more and more widespread. Most of them start to work as prostitute at the age of 12 or 13 years old. Large quantities are actually boys who are called "raerea". Those boys, younger than 18 years old, also have access to bars and nightclubs even if those places are supposed to be forbidden to them.⁵

Question: Will France take the measures necessary to condemn kids prostitution and to ensure the respect of the rights of the child in Tahiti?

Recommendation: France to comply with articles 1 and 17 of the UN Declaration on the rights of indigenous peoples, articles 32 and 34 of the Convention on the Rights of the Child entry into force on the 2nd of September 1990, and the Universal Declaration on Human Rights.

Contacts and Co-operation across Borders and French Guyana

Issue: The situation due to the borders established toward French Guyana, Surinam and Venezuela invades indigenous peoples' privacy in French Guyana. Indeed quite a few families are spread from one bank to another and it doesn't appear possible to them to ask for a visa in order to move throughout those borders. Convention n°169 and its article 32 allow to solve the problem by the recognition of the right to have contact and to co-operate across borders.⁶

Question: Will France consider to ratify Convention n°169. If not, will France consider to take some measures and agreements with the neighbourhood countries such as Surinam and Venezuela in order to allow the movements of indigenous peoples on each side of the border; or at least enhance the condition of the acquisition of a permit to transit?

Recommendation: France to ratify Convention n°169. France shall take measures allowing indigenous peoples to have contacts and to co-operate across borders.

Gold Washing in French Guyana

Issue: Wayana, Apalaï, Teko are indigenous communities living on the shores of the river on the border zone of Surinam and French Guyana (high Marani and Camapi). Since 2008 they have to face invasion of illegal gold panners on the territories surrounding their villages. This activity leads to the pollution of the environment because of the rejection of mercury and muddy water. Moreover gold panners hunt

⁴ Site : <http://www.tahiti-infos.com/>

⁵ La prostitution en pleine expansion, femmes et mineurs en première ligne, 27th of January 2012, Site : <http://www.ladepeche.pf/article/a-la-une/la-prostitution-en-pleine-expansion-femmes-et-mineurs-en-premiere-ligne>

⁶ Survival, Des droits pour des peuples indigènes – Site : www.survivalfrance.org

and fish in the zones reserved to the Indians, which deprives them to their mean of subsistence. Those indigenous communities are also subject to a strong insecurity, thefts and attacks.⁷

Questions: Will France consider giving just and fair redress to indigenous communities for the violations suffered? Will France take effective and special measures together with Brazilian and Surinamese authorities in order to control and avoid illegal gold washing?

Recommendation: France shall take measures together with Brazil and Surinam aiming at protecting indigenous peoples' lands, territories and natural resources. France to comply with articles 20, 21 and 26 of the United Nations Declaration on the Rights of Indigenous Peoples.

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⁷ Survival, Les amérindiens de Guyane – Site : www.survivalfrance.org

⁸ Accord de Nouméa

⁹ Site : <http://www.tahiti-infos.com/>