It will take more than principles and legal rules to make states respect the lands and resources of indigenous peoples. The Charter of the United Nations, the Universal Declaration of Human Rights, the Covenants, the Convention on the Elimination of All Forms of Racism, and many other instruments of international law already establish the principle of non-discrimination and respect for the fundamental rights of all peoples. And yet nearly all countries continue to treat indigenous lands and resources in a manner that expressly and deliberately discriminates against indigenous peoples and denies them land and resource rights that practically all others enjoy. We must of course continue the task of declaring the rights of indigenous peoples. But it is now very clear that concrete measures and new international mechanisms will be needed to review actual state practices concerning indigenous lands and resources and to promote genuine respect for the rights of indigenous peoples to their lands and resources. It is not too soon to begin consideration of what international measures might be truly constructive for promoting respect for indigenous lands and resources and indigenous sovereignty over these lands and resources.

Lands and resources are the very center of the historic conflict between indigenous peoples and the colonizing peoples that have now become states. These resources were and still are the supreme objects of desire, greed, politics and warfare. Lands and resources are literally the reason why there is such a thing as "indigenous peoples," peoples surrounded by a dominant settler population. For this reason, it is on this issue of lands and resources that we see the most intense injustice, the most stark racism, and the harshest assertions of state power. The stakes are very high: substantial resources of great value, the preservation of the environments where indigenous peoples live, and the future survival of indigenous peoples. It should be no surprise, that special measures will be necessary to encourage and promote respect for indigenous resources – literally, to promote the decolonization of indigenous peoples.

Madam Chair, your Working Paper on Indigenous Peoples’ Relationships to Land discusses many of the most important issues. I want to thank you for that Working Paper and to call attention to some of the cases mentioned in that paper that the Indian Law Resource Center is working on. The situation in Nicaragua is especially important. The state has refused to institute effective processes to demarcate Indian lands. Just as in many other countries, this means that the indigenous peoples have no legal means to protect their lands and resources from exploitation by others. The Indian people of the village of Awas Tingni have asked the Inter-American Court of Human Rights to render a judgment declaring that Nicaragua has an obligation under international law to demarcate indigenous lands. We are hoping for a favorable decision in that
case, but I am aware that most indigenous peoples have no such international court or other body to turn to for assistance and enforcement.

The Western Shoshone people in the United States, for example, are continuing to battle for their land rights against the United States government. They have no court to turn to at this time. The United States actually boasts that it has the legal power to take away Indian land and resources without due process of law and without compensation. The United States is unashamed of this rank discrimination, and they are using this terrible power everyday. Just this week, the government sent a formal notice to some of the Western Shoshone people (the Dann family) saying they will soon begin impounding the Danns' cattle if the Danns do not remove the cattle immediately. The government is literally trying to drive the Western Shoshones off the land where they have lived for centuries.

In the case of the Yurok Tribe, the United States is taking a similar position: that it can take the property of an Indian tribe at will, without paying fair compensation as would be required if non-Indian property were taken. This is what the United States did to the Yurok people just a few years ago. It is particularly discouraging that the United States would take this position openly in the Supreme Court of the United States, even though it constitutes absolute racial discrimination. It is especially discouraging that this situation occurs in a country where the rule of law is well-established and where the law prohibiting race discrimination is otherwise well-established. The situation is far worse in other countries.

I point out these cases to illustrate my point: Certain abusive state practices will not yield to principles and law alone, no matter how well-established the principles are. That is why I believe we must begin to discuss what other practical measures could be taken to achieve real respect for indigenous land and resource rights. In my earlier statement I referred to the UN Commission on Permanent Sovereignty over Natural Resources. That agency played an important role in the process of decolonization. There were other bodies of the UN as well that were created to oversee and promote the process of decolonization. These bodies provided various forms of oversight, and in some senses they provided a means for encouraging countries to give up their colonial powers and claims to resources. The present record of the conduct of countries is powerful evidence that special international measures will be needed to bring countries to respect indigenous lands and resources as a practical matter.

There are many sound reasons why countries should as a matter of urgent policy move to repudiate their discriminatory practices and give true respect to indigenous lands and resources. It would promote economic and political stability in many areas that are now rife with conflict over indigenous resources. It would create a sound business environment that would promote development. It would contribute greatly to peace and security in many regions of the world. And it would promote environmental protection and conservation of natural ecosystems where so many indigenous peoples now live.

I recommend and urge that this Working Group and indigenous peoples themselves consider what additional measures could be taken to promote respect for indigenous lands and resources and for indigenous sovereignty over these resources.