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WORKING GROUP ON INDIGENOUS POPULATIONS, August 9-13, 1982
SUB-COMMISSION ON PREVENTION OF DISCRIMINATION
AND PROTECTION OF MINORITIES
UNITED NATIONS HUMAN RIGHTS COMMISSION
Geneva

The INTERNATIONAL INDIAN TREATY COUNCIL is a Non-Governmental Organization with Consultative (II) Status in ECOSOC since 1977, made up of 98 Indian Nations of the Western Hemisphere.

Having supported the proposal for establishment of the Working Group on Indigenous Populations since it was initiated by Mr. Martinez Cobo, we cannot proceed without recognizing the decision of the United Nations to constitute the Working Group which will focus on the situation of Indigenous Peoples.

1.) United Nations References to "Minorities"

The spirit of the Charter of the United Nations has been reflected in the fifty instruments concerning Human Rights that have been elaborated by the United Nations. In these general instruments, general problems are touched upon, and some articles have specifically mentioned the situation of ethnic, linguistic, and religious "minorities," and these may be invoked in defense of the rights of Indigenous Populations.

We will not repeat an exhaustive analysis of those instruments, but will only cite some that appear to be the most important as a basis for proceeding in terms of developing standards in relation to the rights of Indigenous Populations:

- The "International Bill of Human Rights," which includes the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights.
- Convention on the Prevention and Punishment of the Crime of Genocide.
- The International Convention on Elimination of all Forms of Racial Discrimination.

The specialized organs of the United Nations have also been concerned with the problem of Human Rights and have elaborated some instruments, for example, that of the International Labor Organization in Conventions No. 50, 64, 65, 86, 104, 107 and 111, with some recommendations. ILO Convention No. 107 and Recommendation No. 104 are important for observing the practice of ratifying states in relation to Indigenous Populations.

UNESCO has also elaborated instruments which directly refer to the elimination of discrimination and pose as an objective the inclusion of all cultures which make up the heritage of humankind. However, the only document which refers specifically to Indigenous Populations from UNESCO is the Declaration of San Jose of December, 1981, concerning Indigenous Peoples of the Western Hemisphere. We believe this document should be studied and analyzed by the Working Group on Indigenous Populations to provide a framework and overview of the dimensions of the problems in the American continents.

We recommend that the following elements be taken into account in developing standards which refer specifically to Indigenous Populations:

- All instruments (treaties and agreements) should be considered subject to arbitration.

WGIP 82/AME/7

-All instruments of the United Nations which refer to the protection of Human Rights should be considered.

-The Resolutions by the General Assembly, by ECOSOC, and by the Commissions and Subcommissions that directly or indirectly refer to ethnic, religious, or linguistic minorities, and to migrant workers should be reviewed and employed.

-The instruments elaborated by the specialized organs of the United Nations should be included in the development of standards.

-The opinions, suggestions and recommendations of Indigenous organizations and groups should be an integral part of all deliberations.

-The ideas and suggestions contained in the Study by Mr. Martinez Cobo should provide a reference for developing standards.

We believe that the elaboration of standards should include the direct participation of Indigenous peoples in the discussions and drawing up of instruments, and should take into account the right of peoples to self-determination.

2. Fundamental Problems of the Indigenous Populations of the Americas

In our opinion, the fundamental problem for the Indigenous Populations in the Americas at this time is the problem of the LAND. We come to this conclusion based on the various meetings and conferences that have been held and organized by our organization, and particularly from the documents and conclusions that emerged from the Non-Governmental Organizations Conference on "Indigenous Peoples and the Land," which was held in Geneva in September, 1981, in which more than 100 Indigenous delegates participated and submitted documentation. The list of those documents is included in the present submission from our organization.

Land, for the Indigenous, is not a commercial matter. We consider the land to be geographically, economically and culturally a collective, sacred space in which a people or nation live, not only for themselves in their own time, but for the future generations. The land is sacred because it is the MOTHER EARTH, created for life. The cultures and religions of the Indigenous are linked integrally with the Land, and because of this, when a group, people, or nation loses a part of their ancestral territory, it is a part of life itself that is lost. When a group, people or nation loses all their territory, this is a loss to all humanity and life on this planet because a culture has disappeared, and a particular expression of a part of humanity is gone.

The second problem that appears to us to be of fundamental importance is the recognition of the rights contained in various agreements, declarations, conventions, and other instruments made by international organs and some that have been made, particularly laws and treaties, within certain states that apply to indigenous populations.

3.) Operational Definition of Indigenous Populations for the Working Group

We consider it necessary to develop a general definition of Indigenous with the consideration for the particularities of each group, people, or nation that would be included in such a definition, but this is a long and difficult task, and any definition will always be subject to the acceptance or rejection of particular Indigenous groups.

In confronting this problem, and recognizing the need for a working, global definition, we believe that the work of the Working Group would best be guided by an operational definition, that is, the definition found in Document No.

Indigenous Populations are composed of the existing descendents of the peoples who inhabited the present territory of a country wholly or partially at the time when persons of a different culture or ethnic origin arrived there from other parts of the world, overcame them, and, by conquest, settlement or other means, reduced them to a non-dominant or colonial condition: who today live more in conformity with their particular social, economic and cultural customs and traditions than with the institutions of the country of which they now form part, under a State structure which incorporates mainly the national, social, and cultural characteristics of other segments of the population which are predominant.

In addition to the above definition, the Study elaborates an additional protected group to be included in the category, that of isolated or marginal populations:

Although they have not suffered conquest or colonization, isolated or marginal population groups existing in the country should also be regarded as covered by the notion of "indigenous populations" for the following reasons: (a) they are descendants of groups which were in the territory of the country at the time when other groups of different cultures or ethnic origins arrived there; (b) precisely because of the isolation from other segments of the country's population they have preserved almost intact the customs and traditions of their ancestors which are similar to those characterized as indigenous; (c) they are, even if only formally, placed under a State structure which incorporates national, social and cultural characteristics alien to theirs.

What is advantageous about this definition, in our opinion, is that it does not attempt to define particular and specific characteristics of Indigenous groups, peoples or nations of the Western Hemisphere. For us, it is much easier to define by negation than by affirmation based on the history that began with the conquests by European powers which is a history of negation of our cultures, languages, land holding, and of our specific and particular identities as groups, peoples, and nations of the American continents.

We are conscious that there are two problems to consider: a) that we are looking for a general definition for the Indigenous populations of the world, and b) that we think that the definition should coincide with the definitions adhered to by Indigenous peoples themselves as expressed in their organizations.

In spite of the problems to which we have alluded, we believe the definition elaborated by Mr. Martinez Cobo is useful for the first part of the work of the Working Group on Indigenous Populations.

4. Suggestions for the Future Tasks of the Working Group

Taking into account that we have supported the Working Group since it was proposed by Mr. Martinez Cobo, we propose the following suggestions:

- Attempt to focus on "urgent" situations where the very future physical or cultural existence of a group, people, or nation is threatened.
- Attempt to find ways to bring about the fullest participation possible from the Indigenous groups, peoples and nations.
- Transmit information from the Working Group to all competent organs of