



Centre de Documentation, de Recherche et d'Information des Peuples Autochtones
Indigenous Peoples' Center for Documentation, Research and Information
Centro de Documentación, Investigación e Información de los Pueblos Indígenas

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EDITORIAL

Five years after the beginning of the International Decade of Indigenous Peoples, ratification of the Draft Declaration is stagnating and establishment of the Permanent Forum is progressing in very small steps. Now that the time for decision has arrived, one is confronted with a clear slow-down in the work of the bodies attached to the Commission on Human Rights.

Happily, the situation is not the same with respect to evolution concerning the subject of Indigenous Peoples within the specialized agencies of the United Nations system. In effect, one after another, these agencies are introducing programmes and directives relative to Indigenous Peoples (IPs).

Thus, following the 1996 session of the Working Group on Indigenous Peoples (WGIP) - of which one of the items on the agenda concerned the theme of health - the WHO created a new unit which no longer limits indigenous affairs strictly to the medical area; but, on the contrary, places it within the much larger perspective of sustainable development.

On the environment and development front - theme of the WGIP's 1998 session - important progress has been made. The Conference of the Parties to the Convention on Biodiversity decided to establish a working group on local and indigenous communities which will probably meet in January 2000; the Conference of the Parties to the Ramsar Convention on Wetlands adopted guidelines explicitly recognizing the role of IPs at the level of decision-making, land-use planning, administration and safeguard of protected zones when these are situated on ancestral grounds. This decision sets a precedent which will certainly serve as a model for other Conventions. Within the framework of the process of change concerning forests, the indigenous delegates played an important role in taking into account - with increasing reality - the forest peoples.

In addition, UNESCO is preparing a World Conference for the end of 1999 concerning what is at stake from a cultural point of view following the International Decade of IPs, a theme that will treat culture in the broadest sense of the term.

Finally, in parallel to progress made with respect to the TRIP discussions concerning intellectual property - discussions to which the Indigenous Peoples were not invited at all - the WIPO last year organized a round-table discussion on this question and carried out a series of



fact-finding missions on the intellectual property of holders of traditional knowledge. A second round-table is foreseen in early August.

These developments show that the indigenous theme cannot be restrained within a straitjacket of international law. This question concerns all aspects of the lives of these peoples who, concretely, are tracing their own path within the international system. In the absence of formal recognition of their right to self-determination, they nevertheless exercise this right, while demonstrating the irrationality of governmental reticence to ratify the Draft Declaration.

Commission on Human Rights

55th session, 22 March - 30 April 1999

Resolutions and decisions concerning indigenous peoples

Working Group of the CHR to elaborate a draft declaration in accordance with GA resolution 49/214 of 23 December 1994

Resolution 1999/50

The Commission: 1) takes note of the report of the WG (E/CN.4/1999/82); 2) recommends that the WG meet for a period of ten working days prior to the 56th session of the CHR ; 3) requests the WG to submit a progress report for consideration by the CHR at its 56th session; 4) recommends that the ECOSOC adopt a resolution authorizing the WG to meet for a period of ten working days prior to the 56th session of the CHR and requesting the Secretary-General to extend all necessary facilities.

Working Group on Indigenous Populations and International Decade of the World's IPs

Resolution 1999/51

The Commission:

I. Report of the WGIP:

1) Urges the WGIP to continue its comprehensive review of developments and of the situations and aspirations of IPs, and welcomes its proposal to highlight specific themes of the International Decade, including giving priority at its 17th session to the theme of IPs and their relationship to land; 2) Invites the WGIP to take into account the work of all special rapporteurs, special representatives, independent experts, working groups and expert seminars; 3) Recommends that ECOSOC authorize the WGIP to meet for five working days

prior to the 51st session of the Sub-Commission; 4) Invites the WGIP to continue its consideration of ways in which the expertise of IPs can contribute to its work, and encourages initiatives by governments, IPs organizations and NGOs to ensure the full participation of IPs in its activities; 5) Requests the Secretary-General to provide adequate resources and assistance to the WGIP and transmit the reports of the WGIP; 6) Appeals to all governments, organizations and individuals to contribute to the Voluntary Fund for IPs.

II. International Decade:

7) Takes note of the report of the HCHR (E/CN.4/1999/81); 8) Invites the WGIP to continue its review of activities undertaken during the International Decade; 9) Welcomes the invitation from the government of Costa Rica to host a workshop for research and higher education institutions focusing on indigenous issues in education, taking into account the UN Decade for Human Rights Education and the priority given to education and language at the 16th session of the WGIP, and recognizing the importance of strengthening the capacity of IPs to develop their own solutions to their problems; 10) Requests the HCHR, in her capacity as coordinator of the Decade, to submit an updated annual report reviewing the activities within the UN system under the programme of activities for the Decade to the CHR at its 56th session, as well as a mid-term report reviewing the implementation of the programme of activities for the Decade to the GA at its 54th session, and to submit a preliminary report on this matter to the ECOSOC at its 1999 substantive session; 11) Invites the WGIP to submit its views on the activities of the Decade to the HCHR; 12) Appeals to intergovernmental and non-governmental organizations to support the Decade by identifying resources for activities designed to implement the goals of the Decade, in cooperation with IPs; 13) Requests the HCHR to ensure that the IPs' unit in the Office of the HCHR is adequately staffed and resourced to enable the effective implementation of the activities of the Decade.

A permanent forum for indigenous people in the UN system

Resolution 1999/52

The Commission: 1) Welcomes the report of the ad hoc working group (E/CN.4/1999/83); 2) Takes note of the constructive debate and dialogue which took place during the session of the ad hoc working group, indicating a trend towards possible consensus with regard to the various aspects of the subject matter; 3) Decides to re-establish the open-ended inter-sessional ad hoc working group established in accordance with resolution 1998/20 to meet for eight working days prior to the 56th session of the CHR, and requests the working group to submit, with a view to completing its task, one or more concrete proposals on the establishment of a permanent forum for consideration by the CHR at that session; 4) Invites the Chairman-Rapporteur of the ad hoc working group to submit a working paper to Member States and other participants containing suggestions and possible alternatives on all aspects of this matter, based on the results of the debate of the previous session and further informal consultations; 5) Urges governments, UN organizations and bodies, specialized agencies, indigenous organizations, and the WGIP to consider this issue further and to express their views in preparation for the next meeting, and requests the Secretary-General to transmit the report; 6) Requests the ad hoc working group to take into account in its work any comments received, as well as such ideas as the High Commissioner may wish to present to the ad hoc working group; 7) Decides to continue its consideration of this matter at the 56th session.

Study of indigenous land rights



Decision 1999/106

The Commission decided to approve the Sub-Commission's requests to the Secretary-General to transmit as soon as possible the progress report on the relevant working paper, together with the preliminary working paper, to governments, indigenous peoples and intergovernmental and non-governmental organizations for their comments and data.

Indigenous issues (Item 15)

Documents: Report on the fourth session of the Working Group on the Draft Declaration (E/CN.4/1999/82); Report on the first session of the ad hoc Working Group on the Permanent Forum (E/CN.4/1999/83); Updated annual report reviewing activities within the UN system under the programme of activities for the Decade (E/CN.4/1999/81).

Draft Declaration

Mr Urrutia, Chairman-Rapporteur of the Working Group of the Commission on the Draft Declaration (WGCD) presented his report on the fourth session (E/CN.4/1999/82): Even though no article was adopted, dialogue has improved both in terms of participation and quality. Indeed, government delegations increased their participation and discussions took place on a regional basis. Consensus was reached on the principles contained in the articles debated, but not on the final drafting. The report contains indications of the nature of the difficulties to be overcome in the future. The next session will focus on articles 15-18 and 1, 2, 12, 13, 14 and 44. The broadest possible representation must be guaranteed. Indigenous representatives expressed concern about UN mechanisms which are not adapted to guarantee their full participation. Flexibility and a spirit of compromise are necessary in order to achieve concrete progress.

Denmark (on behalf of the **Nordic Countries**) stated that the drafting had been going on for too long. The existing Draft Declaration (DD) should be reviewed with the aim of improving and strengthening the text and accommodating reasonable concerns while maintaining its spirit. For **New Zealand** the Declaration requires the full engagement of member states and indigenous groups. Negotiating efforts must be intensified. **Argentina** referred to the Inter-American Declaration on the Rights of IPs as a good example to follow in the negotiations of the DD. **Peru** was of the opinion that the adoption at first reading of the articles under consideration could not be delayed as there is consensus on the principles they contain. **Ecuador** said that the work was stagnating. It is necessary to find understanding on basic themes and definitions of the DD and to continue searching consensus on less controversial themes. Progress does not depend on the mere presentation of unilateral arguments.

Switzerland deplored the fruitless debate on the definition of IPs and noted that consensus already exists on the states' side, even including the controversial issue of self-determination.

The Programme of Action of the Vienna Conference is interpreted as requesting the implementation of the principle of subsidiarity, i.e. decisions can be made at the local level so that IPs can be integrated without being assimilated and maintain links even if they are divided by an international border.

Canada introduced a resolution authorizing the WGCD to meet for another session. They are convinced that consensus can be reached on articles 15-18 and that progress can be made on other articles. They will continue their consultative dialogue with Aboriginal leaders and officials in Canada and are willing to participate in inter-sessional discussion with other states.

Ukraine expressed concern about the lack of cooperation and dialogue and the fact that the current draft does not differentiate between assimilation and integration. Societies and nations cannot exist without integration of various ethnic groups. The document is not universal and is oriented towards tribal people. A universally accepted definition and scope of application is needed. The use of the term "peoples" has no implication regarding the right of self-determination. A distinction should be made between those IPs waging a tribal way of life in isolated reservations and those integrated into the rest of a society. Self-identification is not a fundamental criterion. Rights of IPs in non-colonial situations should be considered within the concept of internal self-determination. For the sake of inter-ethnic peace and understanding, IPs should not benefit from a preferential treatment. The return of Ukrainian people deported to Siberia was mentioned as an example. They support the proposal of the HCHR that regional consultations be held between governments and IPs.

IWGIA/IPC called for the immediate adoption of the DD without any changes or amendments (also **IOIRD, SC, ICC**). **IOIRD**, on behalf of the Four Cree Nations of Hobbema, dedicated their intervention to their sister and colleague, Ingrid Washinawatok of the Menominee Nation, and Lahe'ana'e Gay and Terence Frietas, who were brutally assassinated. They recommended that the DD be moved to ECOSOC and that the OAS Declaration continue to consider direct, full and effective participation by indigenous representatives. They expressed concern about the regressive step by OAS government experts in their refusal to use the term "peoples". **IITC** urged states to pursue the work of the WGDC. They were dismayed that a handful of states had succeeded in stalling the adoption of more articles. **SC** urged the CHR to adopt the DD without any further delays, as it contains the minimum international standards for the rights and freedoms of IPs.

For **IMTA** the DD has become a political and diplomatic imbroglio with a view to delaying its consideration, diluting its legal and political force and postponing the rights and fundamental freedoms of indigenous nations. If the economic and military powers of the North, who divide up the world among themselves through their transnational corporations well established in indigenous lands, do not set aside their rhetoric and seek consensus, the DD is condemned to die. **OIDEL/COPMAGUA** pointed out the clear intention of governments to delay the process in the WGCD (also **AN**). They requested a rotating chairmanship in the WGCD in order to stimulate the process. As for the American Draft Declaration, governments are trying to neutralize its spirit without the participation of IPs. For **AN** a definition is not indispensable. Meanwhile, there are government abuses of indigenous rights in Mexico, Chile, Colombia and Burma. **ASI/CTT** was also of the opinion that the process should speed up. **ICC** pointed out the unwillingness of some governments to protect the rights of IPs. The concept of self-determination is fundamental and is the foundation of the document, as it guarantees civil, political and ESC rights of IPs. They urged the CHR to



adopt it before the end of the Decade. **ACFOD/APHR** also expressed concern about the lack of progress made in the WGCD. States must recognize the coexistence of collective and individual rights and must not domesticate an international law.

Permanent Forum

Mr Van Rijssen, Chairman-Rapporteur of the Working Group on the Permanent Forum (WGPF), presented his report of the first session of the ad hoc working group (E/CN.4/1999/83): Important progress was achieved thanks to governments and IPs who participated actively. His conclusions are: 1) Establishment of a PF broadly accepted; 2) Mandate should include a wide range of issues: human rights, social and sustainable development, health, the environment, education, culture, children and gender issues; 3) Should be an advisory body. Should have a policy-making role as well (IPs). Could make decisions with regards to its own mandate and rules of procedure; 4) No duplication of work; 5) Organized as an open assembly; 6) Core group consisting of an equal number of government and indigenous representatives, on an equal basis. Work on the basis of consensus; 7) IP members chosen on the basis of equitable distribution, in accordance with their own practices ; 8) Attached, either directly or indirectly, to the ECOSOC, depending on the mandate.

Denmark (on behalf of the **Nordic Countries**) stated that the PF could be established in the framework of the Decade (also **Spain**) as an important tool to ensure coordination and regular exchange of information. The level of participation of IPs is a key issue. They asked for a second ad hoc working group to finalize the work (also **Peru, Argentina, Estonia**).

Spain said that the PF should have a high level, report to ECOSOC, and (also **Peru**) be financed by the UN regular budget. Its main function would be the definition of development strategies. It could also focus on the implementation of the Decade activities, coordinate activities, advise governments and specialized agencies, disseminate information and draw up recommendations to the ECOSOC. It should establish its own legal and political framework. IPs should be able to fully participate in decision-making processes. They proposed the ILO model with regards to the composition of the PF (also **Ecuador**), or the model of the Fund for the Development of the IPs of Latin America and the Caribbean (also **Argentina**), with an equal number of government and IPs representatives. The PF would be composed of an assembly and an executive committee as a unique decision-making body (with 13 to 18 members).

Canada said that they would continue to consult domestically with representatives of Aboriginal people of Canada and that they were willing to cooperate with other states and indigenous organizations. **New Zealand** supported further inter-sessional work and noted that there were converging views in key aspects. A workshop is planned with Maori to discuss progress on the DD and the PF.

Mexico identified three pillars in indigenous issues: the establishment of the PF, the formulation of a new integral policy towards IPs and the legitimate representation of IPs in international instances. The PF should be located in New York, report to ECOSOC, and have a larger scope than that of a sub-commission. It should receive requests and initiatives, design studies and investigations, encourage priority programmes and projects, find new funding

sources and mechanisms and monitor legal frameworks. **Peru** identified the mandate as an priority aspect. Duplication of the work of other UN instances should be avoided. International instruments would constitute the legal framework of the PF action. Once the Declaration is approved, the terms of reference should be reviewed. As for composition, dialogue between governments and IPs should take place on an equal footing.

Ecuador stated that the PF should be a mechanism of democratic participation through UN channels. The participation of states and IPs should be on a regional basis. **Argentina** was in favour of a broad mandate and participation. The PF should report to the CHR and replace the WGIP after a transitional period.

Switzerland suggested that the PF be a new Commission, similar to the CHR, which would focus on themes such as sustainable development, environmental protection, struggle against poverty and discrimination, conflict prevention, IPs' rights (ESC, civil and political rights). Another proposal consisted in attaching the PF to the CHR integrating the mandate of the WGIP.

IWGIA/IPC and **IOIRD** supported the proposal to reestablish the ad hoc working group to meet for 8 to 10 days prior to CHR 56th session to finalize work and submit a concrete proposal (also **IITC, SC, AN, ASI/CTT, ICC**). They will resubmit the consideration of an indigenous co-chair before the next meeting according to the principle of full and equal participation. **IOIRD** pointed out that the PF must not replace the WGIP. **IITC** said that the PF was urgently needed to monitor human rights violations and other critical situations. **SC** called for the broadest possible composition and mandate. The PF should be placed directly under the ECOSOC (also **ICC, ALRC**). Governments and IPs should be given an equal status (also **ASI/CTT**) and participation should not depend on the consultative status with the ECOSOC. **OIDEL/COPMAGUA** welcomed the positive progress and said that the work should be finalized as soon as possible. **AN** stated that governments were delaying the process in the WGPF.

ASI/CTT stated that the mandate of the PF should include international standard-setting in order to complement human rights instruments and international humanitarian law. **ICC** considered the WGPF as an example of cooperation in partnership with governments. A broad mandate including all human rights issues should be defined. A core group, composed of an equal number of government and IPs representatives representing all regions of the world should be established.

According to **ACFOD/APHR**, the PF should address all problems faced by IPs at the level of ECOSOC and consist of IPs' and government representatives. They were concerned that the Indian delegation blocked the adoption of the conclusions and recommendations of the WGPF by repeatedly asking procedural clarifications. It was indeed unfortunate that it used consensus as a veto power. They were also concerned about the position expressed by UK, i.e. that a working group must be sacrificed if another meeting on the PF is authorized by the CHR.

LIDLIP considered that the PF was a matter of urgency and a true and concrete opportunity for IPs to speak up, as centuries of discrimination had created a paternalistic state of mind in the western world which pretends to offer positive protective measures but denies the right to freedom of speech.



Decade / UN general

Mr Morales Morales, Special Expert of the Fund for the Decade, said that detailed information on the Fund's activities was contained in the Secretary-General report (A/53/310) and the report of the High Commissioner for Human Rights (HCHR) (E/CN.4/1999/81). In 1997, 12 projects were funded and 13 in 1998. Funds were also allocated to: travel grants for indigenous representatives to participate in the first workshop of indigenous journalists held in Madrid and in two sub-regional workshops in Africa; drafting of a guide for indigenous representatives on the UN. The Advisory Group recommended that a second workshop be organized. US\$ 300,000 are needed to fulfil the costs of projects for 1999. Further contributions were invited.

Ms Tauli-Corpuz, Chairperson of the Board of Trustees of VFIP, reported that in 1998 50 travel grants were allocated to indigenous representatives to attend the WGIP, 12 for the WGCD and 13 for the WGPf. In April, the Board of Trustees recommended that the Secretary-General allocate 106 travel grants. Another US\$ 500,000 are needed for the year 2000 to meet increasing requests from IPs to take part in the programmes of the Decade.

Canada proposed a technical meeting on the Decade for next year, based on the report by the HCHR. They will co-sponsor the annual resolution on the WGIP, which continues to have a crucial and central role to play in facilitating a dialogue among states, IPs and UN bodies, in reviewing developments and in addressing specific issues such as the Decade. They strongly support the work of both Voluntary Funds. **Denmark** (on behalf of the **Nordic Countries**) stated that the activities undertaken so far had served to increase the awareness of the specific problems encountered by IPs. They congratulated Canada and Nunavut for the creation of a new political framework for cooperation.

Spain's strategy of cooperation consists of: 1) indigenous participation in international and national fora, drafting of their own strategies and development projects; sponsoring of several international events in the framework of the Decade; joint initiative with Denmark on a strategy of cooperation with IPs in the EU Council of Ministers. 2) Capacity-building, training and educational programmes and projects, i.e. in Bolivia and Guatemala.

Mexico supports the drawing up of the Universal and American Declarations and adheres to specialized regional instances. They stated that IPs were burdened by poverty, marginalization, discrimination and uprooting. The PF is an opportunity to advance new policies and generate specific structures for the fulfilment of the objectives of the Decade.

Paraguay supports the creation of a Permanent Forum and called on the international community to support both Voluntary Funds. **Bolivia** reiterated its support to the Permanent Forum, the Declaration and the work of the HCHR.

New Zealand said that the Ministry of Maori Development was responsible for the implementation of their domestic programme of action. A Decade Fund was established in 1996 for projects focusing on the development and promotion of the Maori language. Other projects include the translation of major international human rights instruments. A process to consult with Maori has been initiated to consider the ratification of ILO Convention 169.

Estonia stated that the first half of the Decade focused on awareness-raising and partnership building; the second half should bear tangible fruits.

Switzerland informed about the publication of an information document by the Swiss Ministry of Foreign Affairs on its position and action in the area of cooperation and development. They are committed to the preservation of the diversity of human civilizations, among them indigenous ones which need a special protection, as well as to the recognition of indigenous rights.

IWGIA/IPC supports a mid-term review of the activities with the full and equal participation of IPs. They proposed that a two-day meeting be held before the 17th session of the WGIP (also **ASI/CTT, WILPF/ANIPA, IITC, SC**). They encouraged governments to contribute to the Voluntary Fund for the Decade and recommended the appointment of a Special Rapporteur on IPs (as well as **IOIRD, IITC, SC, OIDEL/COPMAGUA, AN, LIDLIP, IHR LG, FIAN, TRP, UMC**).

IOIRD reiterated their call for the World Indigenous Nations Games to be officially recognized as a UN Decade activity. They recommended that the CHR announce as part of its mid-term review both the establishment of the Permanent Forum and the adoption of the Declaration as currently worded.

IMTA was of the opinion that what already existed should be consolidated, i.e. the WGIP, pointing out that the consideration of the establishment of a Permanent Forum could take years and that the rationalization of the work of the CHR plans the elimination of the WGIP. The CHR should recommend that the ECOSOC give other attributions to the WGIP, such as draw up other international standards (for instance a framework convention on IPs' cultural and intellectual property), enlarge its composition with indigenous independent experts, receive complaints on violations of indigenous rights, and make recommendations to the CHR. They pointed out that IPs' socio-economic conditions had worsened during the Decade. To request a Special Rapporteur on IPs would distract the attention of the states and disperse indigenous nations' efforts.

IITC stated that IPs deserved to be accorded the same rights under international law as all peoples. Treaties are an essential component in the development of international relations among peoples. Thus, they requested the CHR to begin to consider how it will respond to Alfonso Martinez' study at its 56th session. They also asked States to take full responsibility for their failure to demonstrate the political will and commitment to support the implementation of the plan of action (i.e. lack of funds for VF and workshop on draft principles for the protection of the heritage of IPs). **OIDEL/COPMAGUA** said that the objectives of the Decade had not been met because of the intolerance of some racist governments.

SC said that higher priority should be given to indigenous issues in the Office of the HCHR. The mandate of the Special Rapporteur on IPs would be to look into socio-economic conditions of IPs, the measures taken by the states, the implementation of the objectives of the Decade, the initiatives taken to facilitate dialogue between IPs and governments, and the activities carried out by the UN, specialized agencies and other international and regional organizations.



LIDLIP looked forward to the Seminar on draft principles and guidelines on the protection of the heritage of IPs and urged Ms Daes to present to the next session of the WGIP her progress report on the study on the IPs and their relationship to the land. The Special Rapporteur's mandate should include an immediate and urgent response to IPs and violations of their human rights.

WWC announced that indigenous issues were now part of the WCC itself, as the indigenous consultant position had become permanent, which means that indigenous programmes have a permanent place in the WCC programmes as part of the engagement against racism itself. They recalled that there was a contradiction between the UN and the local level where IPs do not participate, are under siege, and die because they are not recognized as full participants in their state society. Efforts must be made to keep in touch with that reality.

Situations and developments

Mexico

Mexico reported on the legislative reform process and the establishment of specialized instances for IPs in the Human Rights National Commission and in the General Attorney's Office of the Republic. There are more than 70 institutions to deal with themes such as development, education and the administration of justice. The National Indigenous Institute's projects include legal advice and implementation of projects in agrarian, penal, civil and labour areas, with the full participation of community authorities and indigenous organizations, as well as programmes aimed at children on feeding and education, capacity-building, economic development, and cultural projects. Mexico has engaged into a new alliance with IPs and has therefore substantially changed its policy with regards to political and ESC rights.

This year eight NGOs reported on the alarming situation in Mexico, and particularly in Chiapas, Guerrero and Oaxaca (**AAJ, OMAEC, IED/HLP, WILPF/ANIPA, LAFARDD/NPMF, FI, MRAP/CIPO, CETIM**). Almost all of them (as well as **IWGIA/IPC, IOIRD, OIDEL/COPMAGUA, LIDLIP**) recommended the appointment of a Special Rapporteur to investigate the situation of human rights in Mexico, with special emphasis on the rights of IPs.

Through **MRAP/CIPO**, an indigenous Mixtec presented his own testimony. He was unwarrantedly jailed for four months, suffered physical and psychological torture, and was deprived of his human rights following a peaceful demonstration in Tuxtepec, Oaxaca, on 18 April 1998. 106 persons were also arrested and released after a month. He was threatened with death and remained without medical attention for a month. He asked the CHR to request concrete actions to the Mexican authorities in order to guarantee all human rights, release indigenous political prisoners, and stop the wave of aggression, violence and harassment carried out by the present Governor against the members of the Indigenous Popular Council of Oaxaca.

Another personal testimony was presented by **LAFARDD/NPM**, on the detention of a legal assessor, who was defending an indigenous community. She was constantly beaten and threatened by policemen for 45 days along with other indigenous leaders of the Ocomicho

community, Michoacan, all held incommunicado, for trying to recover their land. A community was evicted, 70 persons were arrested and 140 houses destroyed. Indigenous leaders from Chiapas were also arrested and jailed following a pacific march to Mexico City.

WILPF/ANIPA stated that the physical and cultural survival of IPs was seriously threatened. Women are particularly affected by the militarization of indigenous communities. Violations include land theft, gross and systematic violations such as torture, forced disappearances, summary and extra-judicial executions, arbitrary arrests and detentions.

OMAEC made an appeal on behalf of the Indian population of Chiapas, stressing the discrepancy between the view of land as a commodity and the Indian's fundamental approach to sacred earth. The land given in 1971 by presidential decree to 66 Lacandonian families opened up for privatization in 1992. Uprising and repression, militarization and sexual abuse are the lot of the various groups in confrontation.

IED/HLP stated that a dirty war was carried out against IPs (Tojolabal, Tzotzil, Tzeltal, Chole and Zoque communities) in Chiapas since the end of the main military actions by the EZLN in 1994. There are 70,000 military (also **AAJ, CETIM**) with 239 bases (police and armed forces) in Chiapas alone to intimidate and disperse IPs from their traditional areas: 20,000 IPs have been forced to leave (also **CETIM**). The armed forces and the paramilitary are responsible for the massacres. Despite oppression, IPs have organized themselves into 32 Autonomous Municipalities, basing their authority on ILO Convention 169 and the San Andrés Accords. Military actions against these municipalities were carried out as soon as they were formed and major offensives have taken place since 1998, resulting in killings, displacement, detention, expulsion of 200 international observers, in violation of the 1996 San Andrés Accords (also **AAJ, CETIM**).

AAJ stated that the indigenous struggle taking place in Chiapas was an expression of resistance against the deteriorating of human rights in the region. The paramilitary commit violations with impunity. There is no freedom of movement and social problems, such as alcoholism, prostitution, drug addiction, AIDS, destruction of the family unit, serious abuses against women, have emerged. The compliance with the San Andrés Accords, integrated in the framework of ILO Convention 169 ratified by Mexico, is the only way out. However, the dialogue process was blocked by a unilateral initiative put forth to the House of Senators (also **CETIM, FI**). **AAJ** recommended that the Special Rapporteur on Summary and Extra-judicial Executions and the HCHR visit Mexico as planned (also **CETIM**).

CETIM said that Zapatistas in Chiapas were struggling against the eviction of IPs from their lands, the negation of autonomy and the privatization of strategic resources. They claim respect for their collective rights, which are necessary to the realization of their civil, political and ESC rights. The low intensity warfare aimed at annihilating populations' resistance continues (also **FI**), as the political power encourages violations against civil populations by maintaining impunity. The strategy also aims at starving peasants. The government denies any implication in the 1997 Acteal massacre despite the results of the investigation by civil society.

FI stated that misery and exclusion of IPs were one of the most serious and unresolved human rights issues in Latin America. Some governments, like Mexico, still consider IPs as an obstacle to national development. Political systems have traditionally excluded IPs' participation and representation in the power structure. The government of Mexico has

committed itself to five fundamental principles: pluralism, sustainability, integrity, participation and self-determination. However, it has no intention to implement the San Andrés accords.

Central and South America

Bolivia said that a reform had incorporated the rights of IPs into the Constitution. A development policy guarantees them the right to land ownership and to the sustainable development of their natural resources. The right to customary indigenous law is protected. Their policy includes four areas: development of infrastructure and economic opportunities, political development, development of social services, as well as cultural development.

Argentina's policy includes five areas concerning the Constitution, indigenous representation, land, development, and national census. They continue to develop a new legislation related to the rights incorporated in the 1994 Constitution, promoted the creation of the Council of Indigenous Peoples of Argentina and are implementing land reforms.

Paraguay said that an article guaranteeing the rights of IPs to keep and develop their identities and to participate freely in the country's political, social, economic, cultural and religious systems had been introduced into the Constitution. The State also respects their language and common land property. It has recently restored about 20,000 hectares of land to indigenous communities in Laguna Pato, Santa Juanita and Riachito.

According to **LIDLIP**, Latin American States with a dense indigenous population have developed a legal apparatus which allows and encourages with impunity marginalization, exploitation, and discrimination of IPs, as well as serious violations of their rights. The sectors which hold power justify their violent repression and attend international fora with impunity, as in Guatemala in a recent past and in Mexico today, where the government has delegated internal security to the military.

LAHRA/CTU said that the increasing degradation of the socio-economic conditions of the majority of the population in **Guatemala**, in particular the Mayan people, was the direct responsibility of national and international interests. Corruption and mockery characterize the administration of justice. The Constitutional Reform process, which is the synthesis of the peace process, has been manipulated by economic and political interests. They requested the CHR to support the peace process.

IHRLG spoke on behalf of the indigenous women of the Atlantic coast of **Nicaragua**, where social violence due to the economic and political crisis has increased. Domestic violence against women, i.e. physical and sexual abuse, has increased and the maternal mortality rate is one of the highest in Latin America. The social cost of structural adjustment measures and the penetration of transnational corporations violate economic and social rights on a permanent basis. Indigenous women are most affected. The situation results in the social disintegration of indigenous communities, as IPs do not have access to justice, land, education and health. They urged the Special Rapporteur on Violence against Women to visit their region.

FIAN reported on the human rights violations of the Akawaio, Arawako, Kari'ña and Pemon peoples, who are the ancestral inhabitants of the Imataca Forest Reserve, Canama National Park and the Rio La Paragua Basin in **Venezuela**. These peoples are threatened with extinction as a result of the neoliberal policy carried out by the government (1995-1999),

which committed racist acts. Presidential Decree 1850 authorizes high-scale mining by transnational corporations in these areas containing a rich biodiversity. The area is also threatened with the building of an electric transmission line to Brazil. IPs are suffering continuous harassment by the National Guard and are no longer free to move as they wish. They are affected by deforestation and the destruction of water sources. IPs have introduced legal claims without obtaining satisfactory answers.

Using its right of reply, **Venezuela** said that the economic activities developed in the Imataca Forest Reserve were restricted and highly regulated. They stated that complaints against Decree 1850 and the building of an electric line to Brazil were duly dealt with by the executive and judicial powers. They rejected the accusation of racism and stated that the armed forces in communities had a protection role.

CODEHUCA reported on the Mapuche people, who are dispossessed of their land by multinational logging corporations in the VIII and IX region of **Chile** (also **ASI/CTT**). Communities are subject to the repression of armed guards hired by companies, such as Arauca, with total impunity (also **AEDH**). Allied to these powerful sectors, the State violates their human rights in the name of the inhuman neoliberal economic system. The Coordinating Body of Communities in Conflict denounce the incapacity and lack of political will of governmental institutions, the situation of marginalization and poverty resulting from transnational corporations, the systematic violation of individuals' fundamental rights, as well as the lack of access to media. **ASI/CTT** reported on the building of five hydroelectric dams by the Chilean government on the Mapuche Pehuenche territory.

AEDH said that the Mapuche's main claim was the recognition of their land rights. Legal decisions in favour of the Mapuche have not been implemented. Demonstrations have been unwarrantedly repressed by armed guards and the police. The Mapuche are subject to daily harassment, degrading treatment and racist remarks, violent acts towards elders, women and children, arbitrary arrests, and torture. The Mapuche Arauco-Malleco Coordination called for a prompt and pacific resolution of the conflict.

OIDEL/COPMAGUA expressed their solidarity to their brothers in **Mexico**, as well as in **Colombia**, where IPs suffer from the effects of the internal war.

Asia and the Pacific

Philippines reported that the Indigenous Peoples Rights Act provided for the creation of a National Commission on IPs, composed of seven indigenous representatives, which is responsible for the formulation and implementation of policies and programmes to promote and protect the rights of IPs. The Commission is now ready to undertake its tasks, which consist of the recognition of ancestral lands, including resource rights, and promotion and protection of the rights to self-governance, cultural integrity, intellectual and religious rights, customary law and practices, as well as indigenous education. It has quasi-judicial powers with jurisdiction over all claims and disputes involving the rights of IPs.

New Zealand recalled that the Treaty of Waitangi was the founding guiding document of the nation and reported that progress had been made in settling claims arising from historical breaches by negotiation.

Australia is committed to achieving reconciliation with its IPs, to addressing the disadvantage suffered by IPs through programmes to improve health, housing, education and employment, family violence, and racism. They are currently spending \$1.9 billion on these programmes, and more than half goes to ATSIC, whose structure includes 35 Regional Councils. They also fund the Council for Aboriginal Reconciliation which was established in 1991.

ACFOD/APHR drew the attention of the CHR on disappearing IPs across Asia: the Veddas of Sri Lanka, who are 28,500 years old, with only 2,500 members left, dispossessed of their traditional habitat; the near extinction of the Jarawas, Sentinelese and Grest Andamanese, and the complete extinction of the Onges in Andaman and Nicobar Island due to the Indian government's policies. UN mechanisms are therefore necessary to protect IPs. They also expressed concern about the Treaty Study, which identifies the presence of IPs in Asia and Africa as "problematic", recalling that IPs are recognized in the Philippines, Malaysia and India.

ALRC was concerned that globalization had increased the intensity of violations against the rights of IPs through the use of statutory means, militarization, and conversion of land to industrial zones, tourist spots and mining areas. IPs are deprived of their self-determination and means of subsistence. For instance, in Malaysia, the Kenyah, Pean and Kadazan peoples are deprived of their livelihood and resettled far from their traditional hunting grounds due to the building of the Bakun Hydroelectric Dam. In the Philippines, the Mining Act of 1995 was adopted for mining purposes by multinational corporations, such as in the Zamboanga Peninsula, the ancestral domain of the Subanen. In Burma, the Chin, Mon, Karen, Shan, and Tavoyan people are also deprived of their sustenance by the military and are forced to become refugees in neighbouring countries or hide in the jungle.

AAPSO said that in India, many IPs faced problems and that in the process of development, many IPs were being left behind, causing regression and frustration.

TRP reported on the situation in **West Papua**, where the systematic genocide of the ethnic Melanesian people is being carried out (500,000 killed; 600,000 migrants from other provinces). The UN and the US supported the annexation of West Irian by Indonesia in the 1960s. Last February, delegates from West Papua peacefully made a political statement before President Habibie in Jakarta demanding that Indonesia recognize the independence of West Papua which was declared in 1961.

SI/IAPWP said that the government worked for its own interests and those of the companies. Negotiations between the government and the companies take place without the consultation of IPs, who are treated like animals. Millions of hectares of land and natural resources have been plundered and handed over to foreign companies and transmigrants. IPs fight amongst themselves because they do not have land anymore. The Papuan culture is more and more marginalized.

WIF/CNF said that the military regime of **Burma** had drawn up cease-fire agreements with several IPs after several decades of civil war. Destructive 'development' projects cause hardship to IPs, resulting in forced labour, extortion and displacement. For instance the Mon, Karen and Tavoyan peoples in southern Myanmar have been affected by a railway construction project. In Mon State 100,000 people fled and another 300,000 were internally

displaced during a cease-fire. Schools were closed down, land was confiscated without compensation.

RRN/CHRO reported on the cultural genocide against the Chin people ever since the Army took power in 1962. The use of the Chin language in schools was banned in 1995. In court and government offices, only Burmese may be spoken. The traditional costume was banned in 1983. Christians are persecuted for their religious beliefs. Continuous human rights violations, i.e. forced labour, forced relocation, collection of taxes by force, rape, executions, arbitrary arrests, are committed. The military deployment in Chinland has increased and inhabitants have been threatened with land mines in the border area since 1997. Tens of thousands have fled to neighbouring countries or to the jungle.

ATSIC stated that the **Australian** government's actions were inconsistent with several international conventions and that Aboriginal people suffer continuing discrimination. For instance, the government dismissed the objections of the Mirrar Aboriginal people and UNESCO recommendation with regards to the development of a uranium mine next to a World Heritage area. In August 1998, The CERD Committee requested information about the recent changes in the indigenous affairs policy, expressing concern about the compatibility of the amendments to the Native Title Act with the Convention on the Elimination of all Forms of Racial Discrimination (Art. 2 and 5). It urged the government to suspend the implementation of these amendments. ATSIC has prepared a detailed assessment of the government's failure to meet its international obligations. **ACFOD** urged the Australian government to implement the recommendations of the CERD Committee.

Other

Canada informed about the recent creation of a new territory called Nunavut, which encompasses the traditional lands of the Inuit, i.e. 2 million sq. km, with a Inuit population of 85 per cent. Nunavut will have an elected legislative assembly, a cabinet and a territorial court, as well as a new government in charge of education, health and social services.

SC said that the creation of the Nunavut territory (one fifth of Canada) which will be fully governed and partly owned by the Inuit majority gives inspiration to many IPs. They further stated that the Swedish government was considering the adoption of ILO Convention 169, which requires the identification of Sami land and the scope of Sami hunting and fishing rights.

IOIRD mentioned the Human Rights Committee's report on Canada's treatment of Aboriginal peoples as a violation of international law and expressed concern about the inadequacy of legal remedies.

RAIPON introduced itself as an association aimed at protecting the human rights and legal interests of the IPs of the North, Siberia and Russian Far East. They participate in the development and implementation of the Federal State Programme on Economic and Cultural Development of IPs. They have 190,000 individual members organized into 29 regional associations and participate in the Arctic Council working on biodiversity conservation and protection from ecological disasters.

UMC reported on the situation of the Dineh, who live in Black Mesa, Arizona, USA, and whose religiosity is inseparably bound to the land. Dineh sacred sites intermingle with their



homes, livestock and farms. However, more than 12,000 Dineh have been relocated because of mining extraction. Coal mining violates the integrity of land and tears apart their religious identity. Unsustainable environmental practices inflict environmental racism. The Navajo relocation programme deprives them of ancestral lands and inherent property rights. The US government must not subordinate their survival as a people to economic interests.

STP/ASC said that ASP had worked for over ten years to bring to the world's attention the desecration of their most sacred mountain, Mt. Graham, by the Mt. Graham International Observatory, hosted by the University of Arizona, which affect their religious rights. They asked the UN to investigate this matter on behalf of the preservation of a Native American Sacred Site.

WFMH said that the UN system should give as much weight to sacred spaces as they do to man-made sacred places. They referred to the emotionally and psychologically devastating effects of mining on the Dineh and oil drill on the U'wa in Colombia, who will commit suicide to halt oil removal from their ancestral lands. They felt horror and sorrow for the brutal killing of three young human rights activists visiting the U'wa people. They asked the CHR to support the World Indigenous Nations Games as a contribution to peace and brotherhood through athletics.

FIMARC said that, according to the Rigoberta Menchu Foundation, the Decade Programme was threatened with the indifference of governments and international instances and by the increasing demobilization of indigenous organizations. In Ecuador, the major concern of indigenous communities is the recuperation and the reappropriation of their cultures. In Karnataka, India, there is resistance to an ecological and development project supported by the World Bank. In South America, indigenous leaders denounce the plundering of vegetal species and their knowledge by researchers and pharmaceutical societies. In Guatemala, cooperation for rural development contributes to the integral development of the whole population in order to preserve cultural values. In the Philippines, IPs of Mindanao struggle for the protection of their ancestral lands and right to self-determination. In Colombia, IPs have demanded the end of human rights violations and marginalization, as well as access to land titles. FIMARC supports all these struggles.

II said that IPs' main problems were lack of self-determination, encroachment of others on their traditional land, and urbanization. Industries affect hunting, fishing, food growing and gathering capacities of IPs, who depend on these resources for their existence. They referred to mineral exploration, pollution of land, health problems in the Bering Strait, Africa and in the Pacific, and to timber stripping in South America. People become second class citizens in their own land. Education is a problem as children are sent to boarding schools where they are taught in a different language, religion and way of life. Self-determination and encouragement of IPs' legal participation is the solution.

Other items

Right to self-determination (Item 5)

Fifty years after the adoption of the Universal Declaration on Human Rights, from which derived the right to self-determination, **IMTA** urged the international community to put an end to the colonial and neo-colonial powers and to recognize the right to self-determination.

Guatemala: IITC welcomed the efforts - supported by the international community and undertaken by the Guatemalan Congress, the civilian society, the Maya, Garifuna and Xinka peoples - to find mechanisms addressing the problems of most of Guatemala's inhabitants, despite the obstruction of some elements within the government and the business sector. Through the ultra-conservative Centre for the Defence of the Constitution, they had opposed the constitutional changes which would give for the first time an official recognition to the Guatemalan IPs, and had convinced the Court of Constitutionality to sanction the constitution modification. Last February, the report from the Commission for Historical Clarification (CEH) was presented to the government, the Guatemalan National Revolutionary Unity, the civilian society and the UN. It classified the crimes committed as genocide, with the destruction of a major part of the Mayan Communities, and clearly underlined the responsibility of the State. IITC asked the Commission to adopt the CEH report as an official UN document and to continue to support the reconciliation and reform process, and urged the Guatemalan government to fulfil immediately the CEH recommendations.

United States: IITC (E/CN.4/1999/NGO/73) complained about the systematic obstruction which some States, and particularly the USA, made to justify the exclusion of IPs from the right to self-determination. For instance, the USA proposed to use in the Draft Declaration another word than "peoples", or to add an asterisk to "peoples", so that the term would have no legal meaning with respect to international law, as in the current draft of the Organization of American States (OAS) Declaration on the Rights of IPs, elaborated without even the knowledge of most IP organizations of the region. Questioning the purpose of the OAS draft, IITC urged the Commission to immediately adopt the current article 3 of the Draft Declaration in order to ensure full equality and recognition of the human rights for IPs.

India: STP denounced the human right violations - killings, kidnappings, burning of houses - committed by the Indian Army and Paramilitary Forces in Nagaland, violating the cease-fire which has been lasting for over a year and compromising the current peace negotiations between the two parties. They appealed to the Indian government to stop any violence against Naga people.

Racism (Item 6)

IMTA asked the upcoming World Conference against Racism to examine the economic roots of racism and the responsibility of the new economic order. They requested the Commission to adopt concrete measures for the creation of a Special Fund aimed at ensuring the effective participation of IPs, minorities, black people and immigrants in UN forums.

United States: IITC stressed the need for new standards in order to have the rights already recognized to all human beings also applied to IPs. Although they noted progress at the international level, they deplored the persistent racist rationales affecting the quality of life of American IPs (E/CN.4/1999/NGO/74). They denounced the US government and

multinational company strategies - 80 per cent of the world biodiversity is now found on IP lands - as environmental racism, citing the proposed Crandon Metallic Sulfide mine which will contaminate the local water system (Mole Lake Band of Sokaogan Chippewa); the proposal to bury radioactive waste at Ward Valley, California, a sacred land for the Colorado River Tribes; the proposed geothermal plant in the Medecine Lake highlands, North California, a sacred ceremonial site to the Pit River, Shasta, Modoc and Wintu Peoples. They opposed the practice of using indigenous names and symbols for public institutions, sports teams, mascots, commercial products, as institutional racism promoting stereotypical thinking about Native Americans. IITC asked the Special Rapporteur on Contemporary Racism to add in his report (E/CN.4/1999/1) that "IPs should be allowed to retain their dignity and not have their identity exploited for commercial and entertainment purposes".

Right to development (Item 7)

IITC focused on water issues, citing the Yaqui of Mexico, who rely on small subsistence farms and have been asked to pay the equivalent of US\$ 46 to irrigate an hectare of land, a prohibitive cost to most of them. This denial of their right to development violates the 1939 Presidential Decree guaranteeing them their traditional access to water when two dams were built on their lands.

IPs are also deprived of water through massive pollution: petro-chemical, refining and radioactive pollution from Canada around Walpole Island, territory of the Anishinabe Nation in the Great Lakes region; contamination by gold mining of the Fort Belknap Indian Community of Montana, USA, water supply; cleaning of the Yukon River requested by the Yukon River Watershed Council. The list is far from being exhaustive. IITC urged the Commission to appoint a Special Rapporteur to investigate such abuses.

IMTA denounced the economic globalization process and asked the Commission to define rules to protect the right to development.



Indonesia: STP denounced the Indonesian transmigration programme which, in the name of "national development", has caused violent clashes between IPs and re-settlers for 25 years, as well as violations of the IPs' rights: lands, forests and resources have been forcibly appropriated and wasted by unsustainable development. They appealed to the Commission to urge the Indonesian government to stop immediately this programme.

Violations of human rights and fundamental freedoms (Item 9)

Colombia: The High Commissioner for HR, Mary Robinson, reported on the deterioration of the human rights situation in Colombia. The level of impunity encouraged further violations, such as attacks and threats against indigenous communities perpetrated both by the State and paramilitary groups (**WOT, PR, STP/ADPA**).

The assassination of legal human right defenders, Eduardo Umana Mendoza and Javier Barriga y Jesus del Valle (**PR**), and of the indigenous leaders, Alonso and Alejandro Domico, from the Embera Katio Nation, whose means of subsistence were being destroyed by the



building of a dam (**ADPA**), were reported. In many places, conflicts between guerrillas, paramilitary and military forces are responsible for the killing and loss of IPs' resources. The Commission was requested to examine the appointment of a Special Rapporteur for Colombia (**PR, ADPA**). Report of the UN High Commissioner for Human Rights on the Office in Colombia (E/CN.4/1999/8).

Mexico: IITC and SJPLA warned against the regular and systematic human right violations carried out by the police, military and paramilitary, especially in areas inhabited by IPs. Torture, rape, arbitrary detentions under inhuman and humiliating conditions, and reprisals against plaintiffs are common. Deploring the lack of an independent body to investigate these violations - serious irregularities in trial methods of investigation have been denounced by the Inter-American HR Commission - and the impunity given by the Mexican government to their well-known perpetrators, they requested the appointment of a Special Rapporteur on the human rights situation, particularly that of IPs, in Mexico (**IED** too).

East Timor: Denouncing the violation of international law by the Indonesian government, **FADPDH** reported arbitrary arrests and detentions, no freedom of expression and military offences against the population. On the contrary, **IED** was encouraged by the efforts of the new government.

United States: IHRLG highlighted the institutionalization of human right violations in the country, affecting IPs among other groups. They asked the Commission to examine the already issued reports, showing the gap between promises and practices in human rights protection.

Economic, social and cultural rights (Item 10)

TRP stated that a fundamental condition for the existence and enjoyment of ESC rights was a free-market economy based on the rule of law and not the rule of the market. And all around the world where transnational corporations are active, the groups most affected are IPs. They asked the Commission to pay attention to transnational activities and their impacts on IPs.

United States: On behalf of the Gwich'in Nation, **IITC** (E/CN.4/1999/NGO/75) warned against the possible devastating effects which could arise if the American Congress opened to oil development 1.5 million acres of the coastal plain of the Arctic National Wildlife Refuge, Alaska, an area where the Porcupine Caribou Herd give birth and nurse their young ones. The life and beliefs of the Gwich'in, numbering now 7,000, is closely linked to the caribou, which provides them with meat, tools such as needles and hooks, clothing, shoes, skin for shelters, etc. The caribou also plays a central role in their spiritual life and the area to be developed is sacred to them. The cultural and human right impacts on the Gwich'in are not seriously addressed. IITC asked the Commission to recognize the threats of cultural genocide hanging over them and to implement effective mechanisms for international oversight and actions in situations where IPs are victims of multinational corporations and non-sustainable development. USA was asked to prohibit oil development in this area.

Civil and political rights (Item 11)

The **Special Rapporteur on Religious Intolerance**, Abdelfattah Amor, noted (E/CN.4/1999/58 Add.1) the importance of raising the awareness of society and the whole administrative and political apparatus of States about the indigenous religions and spiritual beliefs, in order to prevent discrimination.

United States: IITC blamed globalization, neo-liberalism, and the US government's forced assimilation policy, developing the case of the Makah Nation, north-west of Washington State, who are prevented from hunting whales due to over-exploitation by commercial whalers.

IITC evoked once again the case of political prisoner Leonard Peltier, supported the action of France-Liberté and urged the Working Group on Arbitrary Detentions to visit him in Leavenworth Prison, Kansas.

They thanked Mr Amor for his investigation on the denial of religious freedom for US IPs. Concerned with his comments (paragraph 5) on the official obstacles he encountered when visiting the USA, they requested an investigation by the Commission.

The representative of the Dineh of Cactus Valley/Red Willow Springs Sovereign communities at Big Mountain, Arizona, reported about the trial opposing them to the US, pending in the US court since 1988. It concerns their forced relocation under a law passed by the US Congress without their consent, resulting in the violation of the Dineh religion for the sake of big business interests. The Black Mesa coal mining continues to destroy sacred places and burial sites. Livestock animals are impounded, people arrested for trying to prevent the harassment of elders who want to practice their sacred way of life. Drawing the Commission's attention to Mr Amor's report and to comments (paragraph 83) asking "for the observance of international law on freedom of religion and its manifestations" by the USA at Big Mountain, he requested the appointment of a Special Rapporteur on Indigenous Human Rights in order to monitor the critical situations IPs are facing (IITC too).

Colombia: Recalling that many IPs cannot participate in international fora as their organizations are not recognized, IMTA reported on the complaint the Colombian government had made against them for having accredited two Colombian human right defenders as members and participants. As a result, they were asked to provide an exceptional report in addition to the ones accredited NGOs are asked to submit every four years. The Commission should urge States not to exercise political pressures and put obstacles to NGOs' freedom of expression and IPs' participation in UN forums.

China: STP stated there were mass disappearances and executions of people involved in "illegal" religious activities, protest marchers, demonstrators and human right advocates in China. Public discussion on the rights of IPs was practically impossible and their survival - cultural as well as physical- is heavily threatened. Arbitrary arrests and forced sterilization were frequent. They urged the Chinese government to allow freedom of expression and to release immediately all prisoners of conscience.

El Salvador: IITC denounced the arbitrary detentions of members of the National Indigenous Association of El Salvador (ANIS), including its leader Chief Lisco who was taken out of his local jurisdiction and charged in another department more sympathetic to the Government. Victor Manuel Diaz, a 19 year-old street merchant, supporter of ANIS, was kidnapped last January and his family has been asked to pay a ransom. They called upon the



Salvadorian authorities to fully investigate the case, secure his safe release and punish the perpetrators.

Mexico: IITC reported on the situation of the Chinanteco people and the 5,000 families relocated in Veracruz from their Oaxacan lands, flooded by the building of a dam. Twenty-seven years later, the Mexican government has failed to fulfil its promises and has now ordered their removal from Poblado No.1, their initial relocation. The Chinanteco and Zoque peoples have organized under the Uxpanapa Indigenous Council (CIUX) in 1994, and in May 1997 their Chairman, Juan Zamora Gonzalez, was arbitrarily arrested with his brother Marcos. IITC already submitted the case to the WG on Arbitrary Detention in 1997 and 1998. Juan Gonzalez is unjustly charged with four different criminal processes in four jurisdictions and his family cannot afford the enormous expense his defence requires. IITC called upon the WG to fulfil its mandate with regard to these detentions and upon the Commission to appoint a Special Rapporteur for Mexico.

Integration of the human rights of women and gender perspective (Item 12)

Indonesia: NOIDC stated that, besides the well-known human right violations committed in Irian Jaya/West Papua by the Indonesian government and military, the indigenous women have been subjected to coercive family planning, rape and other sexual violence. They urged the Commission to bring pressure on the Indonesian government to allow the Special Rapporteur on violence against women to visit the territory.

Rights of the child (Item 13)

United States: IITC (E/CN.4/1999/NGO/77) denounced the exceptions by the courts concerning Indian children, undermining the provisions of the 1978 Indian Child Welfare Act (ICWA) designed to protect Indian children and their family from separation - a policy commonly adopted by the US successive governments - through adoption or foster care placement, usually in non-Indian homes. For example, the court can decide that parents do not constitute an "existing Indian family" and therefore child removal does not violate the ICWA. As for the exploitation and abuse of children, an investigation asked by the US senate found that the BIA knew that hired teachers in schools for Indian children had histories of child molestation, and that negligent school administrators did not ask their employees to report and investigate child abuses. IITC encouraged the Commission to look at how the ICWA would be strengthened if the USA ratified the Convention on the Rights of the Child.

Specific groups and individuals (Item 14)

IMTA denounced the growing exclusion of ethnic minorities and indigenous communities from the national consensus, dramatically increased by the new international economic order based on the law of the strongest ones.



FI, who work with thousands of forced displaced people in Colombia - due to guerrillas, the Colombian army and to the largest landowners and drug dealers -, in Mexico - 15,000 IPs displaced in Chiapas -, and the Philippines - due to the opening of rural areas to the building of industrial complexes - recommended that the Commission inject concerns for the human rights of internally displaced persons into governmental departments such as finance and trade.

United States: **IITC** stated that the majority of migrant workers in the Western hemisphere were IPs. For example, over 5 million migrants and seasonal farm workers from Guatemala and Mexico work hard for very little money in the USA. That is why **IITC** was not surprised that the industrialized Nations refused to sign and ratify the International Convention on the Protection of the Rights of All Migrants and their Families.

Myanmar: **STP** denounced the increasing attacks, pillages, destruction of cattle, and burning of Karen villages by the army, in order to break the Karen freedom movement. In January and February 1999, more than 200 villages were destroyed and about 50,000 Karen fled to Pha Pun District. The Commission was asked to demand that the resolutions adopted during the last years on Burma be carried out immediately.

WIF reported on the religious persecutions and human right violations perpetrated by the Burma junta against the Christian Chin People: removal of Chin children, converted by force to Buddhism; destruction of churches and crosses; forced gatherings to listen to Buddhist preachers; forced labour to build pagodas. The Special Rapporteur on Burma was requested to investigate religious persecutions.

Report of the Sub-Commission (Item 16)

IOIRD expressed concern that the Permanent Forum would replace the WGIP and stated that they should co-exist. The final report on the treaties by Alfonso Martinez is eagerly expected. As for the study on the realisation of the right to education, a Canadian treaty right to education should be taken into account.

Mexico: In a joint statement, **PR**, **FI**, and **IED** deplored that the Mexican government, not only did not follow the recommendations of the Sub-Commission requesting to punish the perpetrators of serious human right violations, in particular towards IPs, but on the contrary ensured the impunity of the paramilitary groups responsible for the massacres of Acteal and El Bosque. They urged the Commission to appoint a Special Rapporteur on Mexico.

Science and environment (Item 17)

IITC (E/CN.4/1999/NGO/78) presented the involvement of IPs in discussions regarding the causes, impacts and solutions to the global climate change and the dispersion of persistent organic pollutants (POPs). Last November, a gathering of US scientists and indigenous and governmental delegates in Albuquerque adopted the Albuquerque Declaration on Climate Change, expressing that "life as we know it is in danger" and making proposals to reverse the

current stream. The Declaration was submitted to the Fourth Conference of the Parties (COP4) held in Buenos Aires in November 1998.



Advisory services and technical co-operation in the field of human rights (Item 19)

Latin America: CODEHUCA and IITC stressed the necessity to create specialized teams to help social groups and States to generate dialogue, negotiations, agreements and treaties to solve the structural problems affecting most countries and causing systematic human right violations in Colombia, Mexico, Peru, Brazil, Ecuador, Paraguay, etc., particularly against their IPs. Guatemala is urgently in need of UN experts to help the government and the Maya Community to implement the recommendations of the Commission on Truth and to replace the MINUGUA whose mandate will end in 2000. The Special Rapporteur on the independence of judges and lawyers should visit Guatemala, as requested by the government and despite the opposition by the Supreme Court. They called on the above-mentioned countries and Guatemala to demonstrate their cooperation with human rights Special Rapporteurs, and on the Commission to provide funds to disseminate information on all aspects of indigenous rights. In addition to the establishment of a Permanent Forum, a Special Rapporteur for IPs should be appointed.

List of abbreviations

AAJ:	American Association of Jurists
ACFOD:	Asian Cultural Forum on Development
AEDH:	Agir ensemble pour les droits de l'homme
AAPSO:	Afro-Asian Peoples Solidarity Organization
ALRC:	Asian Legal Resource Centre
AN:	Asociación Napguana
ASI/CTT:	Anti-Slavery International/Consejo de Todas las Tierras, Mapuche
ATSIC:	Aboriginal and Torres Strait Islander Commission
CETIM:	Centre Europe-Tiers Monde
CODEHUCA:	Commission for the Defence of Human Rights in Central America
FADPDH:	Federación de Asociaciones de Defensa y Promoción de los Derechos Humanos
FI:	Franciscans International
FIAN:	Foodfirst Information and Action Network
FIMARC:	International Federation of Rural Adult Catholic Movements
ICC:	Inuit Circumpolar Conference
IED/HLP:	International Educational Development/Humanitarian Law Project
IHRLG:	International Human Rights Law Group
II:	Interfaith International
IITC:	International Indian Treaty Council
IMTA:	Indian Movement Tupac Amaru

IOIRD: International Organization of Indigenous Resource
Development

IWGIA/IPC: International Work Group on Indigenous Affairs/Indigenous
Peoples' Caucus

LAFARDD/NPM: Latin American Federation of Associations of Relatives of
Disappeared Detainees/Nación Purhepecha, Michoacán

LAHRA/CTU: Latin American Human Rights Association/Consejo Tukum Umam

LIDLIP: International League for the Rights and Liberation of
Peoples

MRAP/CIPO: Movement against Racism and for Friendship Among
Peoples/Consejo Indígena Popular de Oaxaca "Ricardo Flores
Magon"

NOIDC: Netherlands Organisation for International Development Co-
operation

OIDEL/COPMAGUA: International Organization for the Development of Freedom
of Education/ Coordinación del Pueblo Maya de Guatemala

OMAEC: World Organization of Former Students of Catholic Education

PR: Pax Romana

RAIPON: Russian Association of Indigenous Peoples of the North

RRN/CHRO: Rural Reconstruction Nepal/Chin Human Rights Organization

SC: Saami Council

SI/IAPWP: Survival International/Indigenous Amungme People of West
Papua

SJPLA: Service, Justice and Peace in Latin America

STP/ADPA: Society for Threatened Peoples/Asociación para la Defensa
de los Pueblos Amenazados

STP/APS: Society for Threatened Peoples/Apache Survival Coalition

TRP: Transnational Radical Party

UMC: United Methodist Church

WFMH: World Federation for Mental Health

WIF/CNF: Worldview International Foundation/ Chin National
Front

WILPF/ANIPA: Women's International League for Peace and
Freedom/Asamblea Nacional Indígena Plural por la Autonomía

WWC: World Council of Churches

WOT: World Organization against Torture



Upcoming events and new publications

Working Group on Indigenous Populations

Seventeenth session, 26-30 July 1999

- [Provisional agenda](#)
- [Preparatory meeting](#)
- [Participation](#)

Other meetings and workshops

Indigenous people and their relationship to land

Preliminary working paper E/CN.4/Sub.2/1997/17 & Corr. 1: Since the beginning, IPs have emphasized the fundamental, vital issue of their relationship to their homelands and the need for non-indigenous societies to understand the spiritual, social, cultural, economic and political significance of land, territories and resources to their continued physical and cultural survival. Therein lies the spiritual and material foundation of their cultural identities. Further elements to be taken into consideration are the collective dimension and the inter-generation aspect of their relationship to land and resources. Essentially, IPs stressed the need for a different conceptual framework and the need for the recognition of cultural differences. It's critical to underscore the cultural biases that contributed to the conceptual framework constructed to legitimize colonization. The impact of the doctrines of dispossession, namely conquest discovery and *terra nullius*, and Eurocentrism prevailing in international legal theory, have trapped IPs in a legal discourse that does not embrace their distinct cultural values, beliefs, institutions or perspectives.

The main objective of the analytical framework presented in the preliminary working paper is to enhance the understanding of the problems related to indigenous land issues and to facilitate the further elaboration of the provisions relevant to land rights in the Draft Declaration. It identifies different reasons for dispossession and deprivation, such as failure of States to acknowledge indigenous rights to lands, failure to demarcate, expropriation, removal and relocation, as well as the efforts done to resolve indigenous land issues.

Progress report (E/CN.4/Sub.2/1998/15): This report includes comments and information by the governments of Canada, Australia, New Zealand, and Denmark. The Special Rapporteur is following cases filed before the Inter-American Commission on Human Rights (indigenous communities of Lamexay and Riachito in Paraguay, and two Western Shoshone Indian women in the United States), and before the Inter-American Court of Human Rights (Indian community of Awas Tingni in Nicaragua).

Progress report (E/CN.4/Sub.2/1999/15): This report includes, among other things, a 'preliminary analysis' of the issue from the point of view of States. Governments worry about how indigenous land rights and claims can be reconciled with the need for certainty and security in land titles. They are concerned over what are the best means for having a claim process that avoids overlapping and unending claims.

UNESCO conference on indigenous peoples and culture

In view of the Conference on indigenous peoples and culture to be held in 2000, UNESCO's Director-General is planning to organize a restricted consultation with a few indigenous delegates in Paris before the WGIP, that is on 22 and 23 July 1999. To be confirmed.

Dams, Indigenous Peoples and ethnic minorities workshop

July 31/August 1st 1999 at the World Council of Churches, 150 Route de Ferney, Geneva

The World Commission on Dams (WCD) is holding a Workshop in Geneva on July 31/August 1st 1999 immediately following the annual meeting of the UN Working Group on Indigenous Populations, to present a thematic review on 'Dams, Indigenous Peoples and Ethnic Minorities' as part of the WCD process on dams. The Forest Peoples Programme (FPP) has been commissioned by the WCD to co-ordinate this thematic review event, which includes the presentation of seven case studies prepared by indigenous organisations, submissions by international organisations and the private sector and a syntheses presentation by the FPP.

The meeting will provide a forum to discuss the underlying issues related to large dams and their impacts on indigenous people and ethnic minorities and the proposed and preferred policy options by the various parties involved.

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The Forest Peoples Programme is an affiliate of the World Rainforest Movement.

Workshop on Intellectual Property Rights and Indigenous Peoples

July 23, 1999 at Room IV, ILO Bldg., Geneva, Switzerland

To date, discussions on the implications of the intellectual property rights on indigenous peoples have intensified. At the international level, the World Trade Organization (WTO), the World Intellectual Property Organization (WIPO), and the Convention on Biological Diversity (CBD) have become major negotiating arenas for intellectual property rights (IPR). WIPO held consultations in Geneva in order to elicit indigenous peoples' perspectives on the issues. Article 27(3)(b) of the Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement is subject to review. WIPO is planning to hold another consultation with us on August 1-2, 1999. However, our experience in these fora and consultations show that there is indeed a need for us, indigenous peoples, to come together to have a better

understanding of the issues and come up with a systematic plan to put forward positions from our own perspectives. In this connection, we would like to invite you to participate in a workshop on "Intellectual Property Rights and Indigenous Peoples" to be held on July 23, 1999 at Room IV, ILO Bldg., Geneva, Switzerland.

The workshop has two major objectives:

Objectives

1. To understand the state of play on Intellectual Property Rights, specially in relation to the World Trade Organization (WTO), the Convention of Biological Diversity (CBD), and the World Intellectual Property Organization (WIPO) and how these relate to indigenous peoples.
2. To generate ideas on how we, indigenous peoples, can engage these institutions (WTO, CBD, WIPO) so that our rights will not be further undermined and our concerns and issues are effectively tackled.

Program

- 9:00 - 10:30 : Inputs: Developments in the IPR Debates within WTO, CBD, and WIPO and the Significance of these for Indigenous Peoples
- 10:30 - 12:00 : Workshop I (to clarify and deepen the key issues raised by the resource person, and to share on developments in the national arenas from participants)
- 13:30 - 15:00 : Workshop II- Action Plan (to identify lobby and advocacy activities vis-a-vis WIPO, WTO, and CBD)
- 15:00 - 17:00 : Plenary Session: Drafting and Approval of Resolution (if feasible)

Please note that there will be separate but simultaneous workshops for English and Spanish speaking delegates.

If we come up with a statement or resolution this will be presented at the indigenous peoples caucus to be held on July 24-25, 1999 at the World Council of Churches (WCC) and the during the 17th Session of the Working Group on Indigenous Peoples on July 26-30, 1999 also in Geneva. If we decide to hold subsequent consultations on this same issue during the UN-WGIP then we can talk about this more during the workshop.

Please confirm your participation as soon as possible to any of these addresses:
e-mail: tebtebba@skyinet.net or yco@skyinet.net
tel./fax: 63-74-443-9459

Indigenous peoples cultural day

Mandat International proposes to organise, on Saturday July 31st 1999, a cultural day during which delegates from indigenous communities may present their People through its culture,



traditions, crafts, history, the rights you claim, the situation you are confronted with and the problems you face today. This event will take place at the Welcome Centre for Non-Governmental Organisations and Delegations (Mandat International) and will be open to all Indigenous Peoples representatives participating in the Working Group on Indigenous Populations (July 26th to 30th).

Each People will be free to present itself as it wishes. All ideas and suggestions are welcome. The event will be open to the local population and Mandat International will invite journalists, NGOs and officials from international organisations.

Please send us your suggestions by July 20th and feel free to contact us for further information:

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IUCN/WWF

New international policy for protected areas and indigenous peoples

In October 1996, the IUCN-World Conservation Union's World Conservation Congress (WCC) requested the World Commission on Protected Areas (WCPA) to facilitate implementation of the Protected Area Management Categories on issues related to indigenous peoples' lands and territories falling within protected areas. The Congress identified also a number of principles for protected area policies, and requested IUCN members, programmes, and staff to promote their application.

In order to respond to this request, WCPA proposed the WWF Director General that this work be accomplished jointly with WWF, given the fact that WWF had already adopted a policy on indigenous peoples, and that it had already prepared some preliminary guidance on the matter. WWF Director General and Programme Committee - the top decision-making body of the organization on programmatic issues - responded positively and supported the preparation of this policy.

WWF and IUCN/WCPA then initiated a work that involved two years of extensive consultations within both organizations, with many indigenous and other traditional peoples' organizations from various parts of the world, as well as with other conservation organizations and protected area managers. The process also benefited from many discussions indigenous peoples' organizations had held themselves on the matter, as well as from various

on-the-ground experiences where concepts about partnerships with local people for protected area management had been tested.

In April 1999, the IUCN Council, in response to a request by WCPA, adopted the document as a Policy Statement, called Principles and Guidelines on Indigenous and Traditional Peoples and Protected Areas. This is now, therefore, the official IUCN/WCPA policy on protected areas overlapping with indigenous and other traditional peoples' lands, territories, waters, coastal seas, and other resources.



The document resulting from such a process is essentially a development and application of WWF and IUCN respective policies on indigenous peoples and conservation, in the context of the existing WCPA guidelines on protected areas, and in response to claims of indigenous and traditional peoples' organizations. The document aims at facilitating implementation of those policies, by proposing a framework and ways to forge useful and sustainable partnerships with indigenous and other traditional peoples inhabiting and using protected areas.

Given its global character, the document does not attempt to address the specific situation of particular countries or regions; thus, in some countries their proposed standards may appear low compared with existing policies. In other countries, the opposite may be true. IUCN/WCPA stress that the document should not be interpreted as a rigid blueprint, but as a framework suggesting a minimum set of principles that can help develop and improve national-level policies.

Despite limitations that could be found in the treatment of some issues concerning indigenous peoples' rights, the new policy represents considerable progress in understanding the needs and challenges that the very survival of protected areas imply in such cases where indigenous and traditional peoples' rights and interests conflict with them. Conversely, the policy stresses also the potential that protected areas, when accountable and sensitive to indigenous and traditional peoples' needs, have in terms of contributing to the defence of traditional lands against external threats - colonization, industrial development, or environmental impacts of any kind.

The Principles and Guidelines on Indigenous and Traditional Peoples and Protected Areas contain first a section of Background explaining the process that led to the preparation of the document. In the Introduction, it summarizes some concepts and the general policy approach of IUCN and WWF on protected areas and indigenous peoples; then, it proposes a set of principles and guidelines on key issues, such as rights, traditional knowledge, co-management, benefit sharing, and transfrontier areas. WCPA has signalled its intention to publish, at a later stage, also a collection of case studies from around the world, showing examples of how these principles and guidelines could be applied.

The new policy is available from [doCip](#) in English and Spanish, and will be soon available in French and Russian.

World Intellectual Property Organization

As previously reported, the work program of the World Intellectual Property Organization (WIPO) for the 1998/1999 biennium, makes provision for several activities related to the exploration of the intellectual property aspects of the protection of traditional knowledge, innovations and culture. The main focus of WIPO's activities in this regard is the identification of the intellectual property needs and expectations of the holders of traditional knowledge and innovations, including indigenous peoples, in order to promote the contribution of the intellectual property system to their social, cultural, and economic development.

WIPO has, amongst other things, conducted "fact-finding missions" to several regions. The main object of these missions has been to meet and consult with representatives of holders of traditional knowledge, local communities, indigenous peoples and other interested parties. In the last year, WIPO has conducted such missions in the South Pacific, Asia, Eastern and Southern Africa, West Africa, the Arab region, South America, Latin America, North America and the Caribbean. WIPO will publish a report by September, 1999 which will record and analyze the information gathered during these missions.

On **August 2 and 3, 1999**, WIPO will organize a **Roundtable on "Intellectual Property and Traditional Knowledge."** This Roundtable, which will take place at the Organization's headquarters in Geneva, follows the successful Roundtable on held in July, 1998.

Please note that WIPO has postponed the Roundtable on "Intellectual Property and Traditional Knowledge" originally scheduled for 2-3 August 1999 to the end of October or early November.

As requested by its Member States, in the first part of 1999, WIPO organized four regional inter-governmental consultations on the protection of expressions of folklore. The consultation for the African region was held in South Africa in March, 1999; for the Asian and Pacific region in Vietnam in April, 1999; for the Arab region in Tunis in May, 1999; and for the Latin American and Caribbean region in Ecuador in June, 1999.

WIPO has also recently initiated, jointly with the United Nations Environment Programme (UNEP), an on-site traditional knowledge documentation project, which will study the role of intellectual property in the sharing of benefits arising from the use of such knowledge and associated biological resources.



New publications

- Swiss Agency for Development and Cooperation (SDC), *Swiss Action for Indigenous Peoples*, Political section of the Federal Department of Foreign Affairs. 32 pages.

Available at SDC, fax: +41 31 324 16 92, Email: patricia.mendonça@deza.admin.ch
Will also be available at the doCip's technical secretariat during the WGIP.

- Alderete (Wara), Ethel, *The Health of Indigenous Peoples*, Department of Health and Sustainable Development, WHO. 98 pages + annexes.
Document:WHO/SDE/HSD/99.1.

Acknowledgments

Contributors to this issue

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