

# Center for World Indigenous Studies

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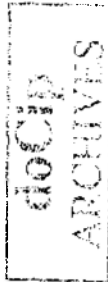
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UNITED NATIONS

WORKING GROUP ON INDIGENOUS POPULATIONS

SIXTH SESSION, AUGUST 1988

GENEVA

EVOLUTION OF STANDARDS CONCERNING  
THE RIGHTS OF INDIGENOUS POPULATIONS

### AGENDA ITEM 6

Statement in reference to the Study on  
the Status of Indigenous Treaties presented by  
Rudolph C. Ryser

W61P 88/UNI/2

MADAME CHAIRMAN,

I thank you and the members of the Working Group for this opportunity to comment on the proposal to undertake a study of the Status of Indigenous Treaties and Conventions and other constructive arrangements between States and Indigenous Nations. As Madame Chairman may recall, in previous sessions of this Working Group, we have attempted to bring before you growing evidence that relations between Indigenous Nations and States are rapidly deteriorating. We have noted in the past that the level of overt violence between nations and states continues to escalate with no clear possibilities of resolution yet apparent.

I am unhappy to report this year that the total number of sustained violent confrontations in the world is now 120. Of these conflicts, 82 involve Indigenous Nations as direct combatants.

As a result of our inquiries, we find that virtually all of the violent confrontations between Indigenous Nations and States concern territorial jurisdiction and the competing use of natural resources. We also find that nearly all of these conflicts could be peacefully resolved through negotiations between the combatting parties. Despite the fact that negotiated settlements could resolve the disputes between Indigenous Nations and States governments, the use of treaties as a means of resolving disputes peacefully is non-existent.

The failure of States governments and nations to seek negotiations as a means of dispute resolution is strongly indicated as the principal reason for sustained violence and war between Indigenous Nations and States.

Indigenous nations have a long and constructive history of negotiating treaties and agreements between themselves. States have also a history of negotiating treaties and agreements between themselves to resolve disputes. There is also considerable evidence that Indigenous Nations and States have a history of treaty-making. Despite the extensive building of international treaty relations involving both nations and states there appears to be a growing reluctance now to continue to build on treaty relations to resolve modern disputes.

The proposal to undertake a Study of the Status of Indigenous Treaties as a part of the broader process of Standard Setting should be strongly endorsed by all who seek to promote a more peaceful world.

Madame Chairman, it is no accident that we describe the codes which guide world relations international law. It is this body of rules between nations which contributes to the efforts toward a more peaceful and orderly world. Indigenous Nations have long been contributors to the formulation of international law.

It is due to a curious twist of history that the nations which created the rules for conducting world relations now sit as informal observers at meetings like this. Nations are not full participants in world bodies like the United Nations organization. It is a curious turn that nations are now called "indigenous populations" and States stand in judgement of their legitimacy. This is like the child judging the competency of parents. Indigenous Nations were the first to order relations on a global scale. States are only recent participants. Both Nations and States exist, but they do not now share equally in the responsibility for building new international law. Indigenous Nations and States must now come together and work as equal partners in the maintenance of global peace.

Despite opinions to the contrary, there is an unspoken question before the United Nations and this Working Group in connection with Indigenous Nations. It is the same question considered by the League of Nations in 1919. The question; What is the current and future political status of unconsenting nations which have come under the control of a State?

The League of Nations squarely addressed the question of subjugated nations and noted there were two types of colonized peoples. There are those peoples who are under the control of a foreign state distant from a colonizing power's borders. League of Nations conferees recognized there are also peoples who are colonized inside the boundaries of a state. Members said that just as peoples outside a state's boundaries were colonized, peoples inside state boundaries may be colonized.

League members eventually agreed that colonized nations outside state boundaries should freely exercise self-determination and govern themselves. Many states, however, objected to consideration of self-determination for nations inside state boundaries. These states feared what might happen to their state structures if nations were permitted the opportunity to choose freely their political future.

State fears of losing control over economic resources and political power prompted members to agree to a limited decolonization of distant nations. Members set aside the issue of decolonizing nations inside state boundaries. By this decision, the League of Nations contributed to the increased number of violent conflicts between Indigenous Nations and States. The League lit the fuse for protracted struggles between nations and states - struggles which continue today.

The work of the League of Nations and the outcome of two World Wars laid the basis for what the Working Group is considering now. The basic concepts which established the League of Nations, however, reflected a desire for balance relations between nations and states. In 1918, President of the United States of America] Woodrow Wilson delivered his Fourteen Points speech. He set the foundation for our current thinking on Self-Determination when he presented Point Five of his speech. He said there must be a:

free, open-minded, and absolutely impartial adjustment of all colonial claims, based upon a strict observance of the principle that in determining all such questions of sovereignty the interest of the population concerned must have equal weight with the equitable claims of the Government whose title is to be determined.

*The U.N.* With this idea the United Nations later considered and adopted the Declaration on the Granting of Independence to Colonial Countries and Territories. Unfortunately, also failed to apply President Wilson's sound and practical advice. The 1960 Declaration on de-colonization addressed external colonies only, but it did not deal with internally colonized nations. The United Nations did not provide for effective methods for dealing with internally colonized nations within the newly formed states. Despite de-colonization, the question of the future political status of nations inside existing states remains on the table and unresolved.

Events of the last forty years would seem to indicate, global peace and security depends on balanced relations between nations and states. Global stability depends on the free, open-minded and absolutely impartial adjustment of colonized nations' and state claims. Since 1947, more lives have been lost, wealth expended and more people have become refugees than during both World War I and World War II combined. Since the end of World War II, we have lived the illusion of peace. The reality is the most blood of world wars. Engaged in this war are nations seeking to be free, and many states seeking to deny their freedom.

Why has the carnage continued despite the many declarations on Human Rights? There are two principal reasons: First, nations which control states need permanence of the state system to be sure of their own constant dominance over other nations. Secondly, states formed by immigrant populations wish to maintain their control over nations and territories which they earlier colonized. The result is that many nations remain under the forced and colonial control of a small number of states.

States exhibit a fear of nations, and they fear the expression of nationalism when it is not in support of the state. States claim nations are the source of instability, conflict and division. States claim that it is they who bring stability and peace to the world. It doesn't take a wizard, Madame Chairman, to recognize that the current world conflicts, and both World Wars were produced by states. Indeed, the threat of global nuclear annihilation is the product of two centralized states.

States and Nations must now seek peaceful solutions to their differences. Indeed, some nations have urged the negotiations of peace treaties with States, but states have demonstrated a general unwillingness. Despite commitments under the UN Charter to seek peaceful solutions to disputes, many states still will not negotiate peaceful settlements with nations.

Some states fear that peace with nations means dismemberment of the state. They believe that when nations speak of self-determination, this means the break-up of the state. Note, if you will, the U.N. Declaration on Friendly Relations and Cooperation among States which came into force in 1970. Here, states appear to be circling the wagons against a perceived threat from colonized nations.

Nothing in the foregoing paragraphs shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part the territorial integrity or political unity of sovereign and independent States ....

Madame Chairman, this phrase has been invoked by observer state delegations with increasing urgency during the proceedings of the Working Group. By invoking this declaration, state observer delegations seem increasingly interested in closing off discussions on the self-determination of indigenous nations. Instead of free and open-minded dialogue, some delegations seem eager to hide behind a U.N. declaration contrived by states to deny nations their right to self-determination

Obstructionism and denials in these proceedings do not contribute to the resolution of what is a world-wide phenomenon of conflict between indigenous nations and states. If the proceedings of the U.N. Working Group on Indigenous Populations demonstrate anything, they show that indigenous nations will resist aggressions. Nations will resist colonization. Though they may suffer from terrifying war weapons, and they suffer from economic, political and social interference, nations will resist.

The most important issue between Indigenous Nations and States is the future political status of Indigenous Nations and the establishment of mutually acceptable methods for resolving disputes. While both Indigenous Nations and States seek to guarantee their sovereignty, there must be an acceptable process for bringing disputes to an end. The Working Group can help reduce tensions, and increase the prospect of political settlements by addressing the issue of nations' political status. The Working Group can further help reduce tensions by providing a systematic study into the status of existing treaties and agreements between indigenous nations and states and by promoting the further inquiry into methods for improving treaty settlements of conflicts between nations and states.