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**DISCRIMINATION AGAINST INDIGENOUS PEOPLES**

**Report of the Working Group on Indigenous Populations  
on its seventh session**

**Chairman/Rapporteur: Ms. Erica-Irene A. Daes**

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## INTRODUCTION

### Mandate

1. The creation of the Working Group on Indigenous Populations was proposed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in its resolution 2 (XXXIV) of 8 September 1981, endorsed by the Commission on Human Rights in its resolution 1982/19 of 10 March 1982, and authorized by the Economic and Social Council in its resolution 1982/34 of 7 May 1982. In that resolution the Council authorized the Sub-Commission to establish annually a working group to meet in order to:

(a) Review developments pertaining to the promotion and protection of human rights and fundamental freedoms of indigenous peoples, including information requested by the Secretary-General annually from Governments, specialized agencies, regional intergovernmental organizations and non-governmental organizations in consultative status, particularly those of indigenous peoples, to analyse such materials, and to submit its conclusions to the Sub-Commission, bearing in mind the report of the Special Rapporteur of the Sub-Commission, Mr. José R. Martínez Cobo (E/CN.4/Sub.2/1986/7 and Add.1-4);

(b) Give special attention to the evolution of standards concerning the rights of indigenous peoples, taking account of both the similarities and the differences in the situations and aspirations of indigenous peoples throughout the world.

### Participation in the session

2. By decision 1988/113 of 2 September 1988, the Sub-Commission decided on the following composition of the Working Group at its seventh session: Ms. Judith Sefi Attah; Mr. Tian Jin; Mr. Miguel Alfonso Martínez; Mr. Danilo Türk; and Ms. Erica-Irene A. Daes. In the absence of Ms. Attah, the outgoing Chairman of the Sub-Commission in consultation with the members of the Working Group appointed Ms. Christy Mbonu, the alternate of Ms. Attah on the Sub-Commission, to serve on the Group at its seventh session.

3. The session was attended by Mr. Alfonso Martínez, Ms. Daes, Ms. Mbonu, Mr. Tian Jin and Mr. Türk.

4. The following States Members of the United Nations were represented by observers: Argentina, Australia, Austria, Bangladesh, Bolivia, Brazil, Canada, China, Cuba, Denmark, France, Greece, Guatemala, Honduras, India, Indonesia, Japan, Libyan Arab Jamahiriya, Mexico, Myanmar, New Zealand, Nicaragua, Nigeria, Norway, Peru, the Philippines, Senegal, Sri Lanka, Sweden, the United Kingdom, the United States of America, and Venezuela. The Holy See was also represented by an observer.

5. The International Labour Office was represented by an observer.

6. The following non-governmental organizations (NGOs) in consultative status with the Economic and Social Council were represented by observers:

(a) Indigenous Peoples

Consejo Indio de Sud-America (CISA), Four Directions Council, Grand Council of the Crees (of Quebec), Indian Law Resource Center, Indigenous World Association, International Indian Treaty Council, International Organization of Indigenous Resources Development, Inuit Circumpolar Conference, National Aboriginal and Islander Legal Services Secretariat, National Indian Youth Council, and World Council of Indigenous Peoples.

(b) Other

Amnesty International, Baha'i International Community, Commission of the Churches on International Affairs, Friends World Committee for Consultation (Quakers), Human Rights Advocates International, International Association of Penal Law, International Bar Association, International Commission of Jurists International Federation of Human Rights, International Federation Terre des Hommes, International League for Rights and Liberation of Peoples, International Organization for the Elimination of all Forms of Racial Discrimination, International Human Rights Internship Programme, International Movement for Fraternal Union among Races and Peoples, International Peace Bureau, International Work Group for Indigenous Affairs, Minority Rights Group, Pax Romana, Procedural Aspects of International Law Institute, Survival International, Women's International League for Peace and Freedom, World Federation of Democratic Youth, and World University Service.

7. The following indigenous peoples' organizations, as well as other organizations and institutions, were represented at the session and furnished information to the Working Group with its consent.

(a) Indigenous peoples' organizations

Ainu Association of Hokkaido/The Shimin Jaikou Center, Alaska Native Brotherhood Camp No. 84, Aotearoa - Ngati Pikahy, Aotearoa - Ngati Te Ata Tribe, Asamblea de Antondades Mixes (ASAM), Asociacion Indigena de Costa Rica, Asociacion Integral de Ganaderos en Camelidos de los Andes Altos, Asociacion de Parcialidades Indigenas, Assembly of Manitoba Chiefs, Assembly of First Nations (Canada), Center for World Indigenous Studies, Centra de Pueblos y Comonidades Indigenas del Assiente (Bolivia), Centre for Tribal Conscientization (India), Centro Mazahua (Mexico), Comité Campesino del Altiplane (Guatemala), Comité Exterior Mapuche, Comité de Unidad Campesina CUC (Guatemala), Committee to Defend Black Rights (Australia), Comunidad Cultural Aynana - Pacha-Anu-Chile, Concejo Regional de Indígenas Marginados Oaxaco (Mexico), Consejo de Estudio Saber Origenario Confederacion Nacional Eduadores Populares (Bolivia), Confederación de Nacionalidades Amazonicas, Conap (Peru), Confederaicion Nacionalidades (Ecuador), Coordinadora De Las Organizaciones Indigenas de la Cuenca Amazonica (COICA), Cordilleros Peoples Alliance, East African Pastoralists, Equipo de Trabajo Indígena de Guatemala, Federacion De Centros Shuar-Achuar, Federation of Saskatchewan Indian Nations (Canada), Federacion Independiente de Pueblos Indies (FIPI), Gull Bay Indian Band, Hadsabe (Tanzania), Haudenosaunee - Mohawk Nation, Homeland Mission South Moluccas, Hopi Indian Tribe (Arizona), Indian Council of Indigenous Population (India), Indian Youth Council (USA), Indigenous Women's Network, Kwanyama Tribe (Namibia), Movimiento Indio Pore La Identidad Nacional (Venezuela), Movimiento de la Juventua Kuna (Panama), Movimiento Revolucionaro Tupak-katari de Liberación (Bolivia), National Coalition of Aboriginal

Organisations, National Federation of Indigenous Peoples of the Philippines (KAMP), Navajo Nation, Nordic Sami Council, Nordic Sami Institute, Núcleo de Direitas Indígenas (Brazil), Office of Hawaiian Affairs, Organizacion Indigena da Amazonia (Brazil), Organizacion Mapuche Ad-Mapu (Chile), Organizacion Miskito Misatan (Nicaragua), Organizacion Nacional Indigenas de Columbia (COICO), Organizació de la Selva de Férnebusleolan, Parlamento Indigena de America (Guatemala), Prairie Treaty Nations Alliance, Represerde del habla kakchiguel (Guatemala), Sampson Tribe of the Four Nations of Hobbema, STL'ATL'IMX Nation (Canada), Toledo Maya Council (Belize), Torres Strait Women (Australia), Treaty Six Chiefs (Canada), Tynasarapa of Suriname, Uniãd Das Naçoes Indigenas - UNI (Brazil), Union of British Columbian Indian Chiefs (Canada), Union of New Brunswick Indians (Canada), West Papua/OPM-West Papua Volksfront, World Council of Native Women (Saskatchewan, Canada), and Yupit Nation (Alaska).

(b) Other organizations and groups

Actie Comité Tibet, Ayuda al Pueblo Mapuche de Chile, Big Mountain Support Group, Centre de Documentation Des Peuples Indigènes (DOCIP), Centre Universitaire Protestant, Centro Amazonico De Antropologia y Aplicación Practica (Peru), Comité Belge-Amérique Indienne, Comité d'Appui - groupes jeunes droits de l'homme (CODAP), Co-ordination Working Group Indigenous Affairs (Belgium), Diffusion Inti (France), Equilibre (France), Gesellschaft für Bedrohte Völker (FRG), Gruppo Di Apoyo A Li Yanomami, Haus der Kulturen der Welt (FRG), Hopi Epicentre, Incomindios (Switzerland), Institut Henry-Dunant, International Scholars for Indigenous Americans (France), International Service for Human Rights, Koördinatie Werk Groepen Inhemse Volken (Belgium), Landetyke India Werkgroep (Holland), Minnesota Lawyers International Human Rights Committee, Mouvement Amérique Indienne du Sud, Monde Amerindian Information Association (France), Musiro (The Netherlands), Native American Information Center, Nitassinan (France), Traditions Pour Demain (Switzerland), 12 Oktober Manifest (The Netherlands), and Working Group on Indigenous Peoples/Human Rights Fund for Indigenous Peoples (The Netherlands).

8. In addition to the above-mentioned participants, several individual scholars, experts and observers attended the meetings.

Election of Officers

9. At its first meeting, on 31 July 1989, the Working Group by acclamation re-elected Ms. Erica-Irene A. Daes as Chairman/Rapporteur.

Organization of work

10. The Working Group held 10 public meetings from 31 July - 4 August 1989.

11. At its first meeting, the Working Group considered and adopted the provisional agenda contained in document E/CN.4/Sub.2/AC.4/1989/1.

12. The Working Group decided to devote four meetings to item 4 on review of developments, five meetings to item 5 on standard-setting activities and one meeting to item 6 on other matters.

Documentation

13. The following documents were made available to the Working Group:

Provisional Agenda (E/CN.4/Sub.2/AC.4/1989/1).

Materials received from the Governments of Argentina, Australia, Bangladesh, Canada and the Union of Soviet Socialist Republics (E/CN.4/Sub.2/AC.4/1989/2 and Add.1-2).

Materials received from the United Nations organs, specialized agencies and other intergovernmental organizations: Trusteeship Council, Centre on Transnational Corporations, Special Committee of 24, Food and Agriculture Organization of the United Nations, United Nations Educational, Scientific and Cultural Organization, International Labour Organisation and the European Parliament (E/CN.4/Sub.2/AC.4/1989/3 and Add.1-2).

Materials received from non-governmental organizations: Assembly of First Nations, Christian Peace Conference, Congreso de Organizaciones Indigenas de Centroamérica, México y Panamá, Four Directions Council, Fundación del Aborigen Argentino, Huakina Development Trust, International Working Group on Indigenous Affairs, Newcastle Aboriginal Support Group, Saskatchewan Indian Federated College and World Council of Indigenous Peoples (E/CN.4/Sub.2/AC.4/1989/4 and 5 and E/CN.4/1989/NGO/14).

First revised text of the Draft Universal Declaration on the Rights of Indigenous Peoples prepared by Ms. Erica-Irene A. Daes, and analytical compilation of observations and comments received pursuant to Sub-Commission resolution 1988/18 (E/CN.4/Sub.2/1989/33 and Add.1-2).

Report on the United Nations Seminar on the Effects of Racism and Racial Discrimination on the Social and Economic Relations between Indigenous Peoples and States (E/CN.4/1989/22).

Report of the Working Group on Indigenous Populations on its sixth session, together with an outline on the Study on Treaties, Agreements and Other Constructive Arrangements Between States and Indigenous Populations by the Special Rapporteur, Mr. Miguel Alfonso Martínez (E/CN.4/Sub.2/1988/24 and Add.1-2).

Adoption of report

14. The Working Group unanimously adopted the present report.

## I. GENERAL DEBATE

15. At the first meeting of the Working Group, the Deputy Director of the Centre for Human Rights, Mr. K. Nyamekye, made an opening statement in which he explained the Working Group's mandate and the many ongoing activities in the field of indigenous rights falling within the Group's agenda.

16. Following her re-election for the fifth time as Chairman/Rapporteur of the Working Group, Ms. Erica-Irene A. Daes in her introductory statement, when describing the tasks awaiting the Group's attention during the week-long session, requested the participants to bear in mind the Group's full and hectic schedule and to keep their interventions as brief and concise as possible with particular emphasis on the ongoing standard-setting exercise. In this context, she referred with appreciation to the Indigenous Peoples' Preparatory Meeting which took place in Geneva during the week immediately preceding this session.

17. The Working Group observed a minute of silence in memory of Mr. Yo Kubota, Human Rights Officer with the Centre for Human Rights, who died in an accident in Namibia on 27 June 1989. In her opening statement, the Chairman/Rapporteur paid tribute to Mr. Kubota's competence and commitment, not the least in his recent role as Secretary of the 1989 Seminar on the Effects of Racism and Racial Discrimination on the Economic and Social Relations between States and Indigenous Peoples.

18. In her opening statement, the Chairman/Rapporteur listed her inter-sessional activities on behalf of indigenous causes which included community visits in Australia, Canada, Greenland and the United States of America. She gave special attention to the biannual Inuit Circumpolar Conference which was held in Greenland in July 1989 and to a Global Consultation on Land Rights organized by the World Council of Churches in Australia in May 1989. She announced her desire to have the Darwin Declaration unanimously adopted by the latter conference attached to this report (see Annex III).

19. The Chairman/Rapporteur, in the course of the debate, gave special recognition to the Anti-Slavery Society for the Protection of Human Rights which this year celebrates its 150th anniversary. She noted the valuable contributions made by representatives of the Society to the protection of indigenous peoples, as evidenced by their participation in the Working Group, and she expressed the hope and expectation that this tradition would continue in the years ahead.

20. Prior to and during the Working Group's session, a considerable volume of reports, studies and other written materials of governmental, non-governmental and indigenous origin was received by the Secretariat. Members of the Group stated that this flow of information, with regard to the various items on the agenda, was of great value to their work.

21. The Secretary of the Department of Aboriginal Affairs of Australia, Mr. Bill Gray, addressed the Working Group during its seventh session.

22. In her closing statement, the Chairman/Rapporteur extended the Working Group's particular appreciation to the International Service for Human Rights and the Indigenous Peoples Center for Documentation, Research and Information (DOCIP) for the technical secretariat services they had provided to indigenous representatives throughout the session.

23. The Chairman/Rapporteur also expressed her approval and appreciation to the Information Service of the United Nations Office at Geneva and in particular to its Director, Ms. T. Gastaut, for their press releases, for a briefing organized for non-governmental organizations, and for a press conference held on 4 August 1989. Speaking on behalf of the Group, she reiterated the importance of publicity and public attention to the Group's activities and concerns; furthermore, she appealed to the mass media for continued support for the mobilization of public opinion for the survival of indigenous peoples, the maintenance of their cultural identity and the protection and promotion of indigenous rights. The Chairman/Rapporteur in this connection elaborated in detail on Commission on Human Rights resolution 1983/23 concerning the dissemination of information about activities of the Working Group.



## II. REVIEW OF DEVELOPMENTS PERTAINING TO THE PROMOTION AND PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS OF INDIGENOUS PEOPLES

24. In her introductory statement, the Chairman/Rapporteur stated that at the international level there had been a build-up and consolidation of indigenous rights in the various human rights fora of the United Nations and their specialized agencies. This she indicated was reflected in a number of recent developments. She referred to the Seminar held in January 1989, on the Effects of Racism and Racial Discrimination on the Social and Economic Relations between Indigenous Peoples and States, in which 10 of the 25 experts were indigenous people and the elected Rapporteur was an indigenous person. She also referred to General Assembly resolution 42/47 approving a Meeting of Experts on indigenous self-government to be held in the biennium 1990/1991 within the context of activities to implement the Second Decade for Action to Combat Racism and Racial Discrimination. Furthermore, she noted the adoption by the International Labour Conference in June 1989 of the revised ILO Convention on Indigenous and Tribal Peoples.

25. The Chairman/Rapporteur noted the work of the United Nations Voluntary Fund for Indigenous Populations and the fact that the Fund had offered financial assistance to 27 people in 1988, and 37 people in 1989, to attend the sessions of the Working Group. She reported to the Working Group on visits she had undertaken during the previous year to indigenous communities and reservations which had been undertaken with the dual purpose of informing indigenous people about activities on the international level in their regard and to seek to identify issues and seek ideas to be addressed in United Nations meetings on indigenous peoples. She also referred to the planned study by the Special Rapporteur of the Sub-Commission, Mr. Miguel Alfonso Martínez, on treaties, agreements and other constructive arrangements between indigenous peoples and States.

26. Following the Chairman/Rapporteur's introductory statement, some of the members of the Working Group suggested that it would be helpful to the Working Group to receive more detailed information regarding the Seminar on the Effects of Racism on Relations between States and Indigenous Peoples. They also made a similar request regarding the Convention on Indigenous and Tribal Peoples recently adopted by the International Labour Conference.

27. Pursuant to the foregoing request, the Rapporteur of the Seminar, Mr. Ted Moses of the Grand Council of the Crees (of Quebec), made a report to the Working Group. He indicated that the Seminar was an historic occasion in that it was the first human rights seminar on indigenous peoples sponsored by the United Nations and because it was the first forum within the context of the United Nations at which government representatives and representatives of indigenous peoples met on an equal footing. He stated that the Seminar was of particular importance in that it represented an attempt to identify issues fundamental to the consideration of abuses to indigenous people.

28. In this connection, the Rapporteur stated that the participants in the Seminar arrived in its report (E/CN.4/1989/22) at a number of conclusions and recommendations which he wished to inform the Working Group about. They had thus concluded that the dispossession of the land of indigenous peoples based on the concepts of terra nullius, conquest and discovery was no longer valid in international law; that the International Covenants were applicable to

indigenous peoples collectively; and that self-determination was of great importance to indigenous peoples because it was the denial of this right which had led to their present living conditions. The Seminar recommended that, in the light of the experiences of indigenous peoples in their dealings with States regarding treaties, an international process be developed to provide for overseeing and enforcing treaty obligations. In the view of the Rapporteur the conclusions and recommendations of the Seminar represented a strong endorsement of indigenous rights, and included specific calls on the international community to take concrete measures to remedy abuses to indigenous peoples. In conclusion, he suggested that the Working Group formulate recommendations to the Sub-Commission to implement the conclusions and recommendations of the Seminar.

29. In accordance with the request by some of the members of the Working Group, the representative of the International Labour Office made a statement to the Working Group regarding the adoption by the International Labour Conference of the Indigenous and Tribal Peoples Convention, 1989 (No. 169). He informed the Working Group of how the Convention would enter into force and of its relationship to ILO Convention No. 107. The representative drew a distinction between the adoption of the ILO Convention and the drafting of the Universal Declaration on Indigenous Rights being carried out in the Working Group. He pointed out that the former instrument was intended to create binding agreements between States and as such had to be a set of minimum principles in order to attract wide ratification, it being understood that such an exercise could not satisfy the needs and goals of all parties. A United Nations Declaration, on the other hand, might go much further in satisfying the aims of the relevant parties, not only by including the rights to which indigenous people were entitled, but also by including their goals and aspirations.

30. The representative of the ILO proceeded to give the Working Group a brief substantive analysis of the newly adopted Convention. He indicated that one of the main objectives of the drafting of the new Convention was to eliminate the paternalistic and integrationist approach of the former ILO Convention. He also highlighted certain significant issues in the new Convention, including the qualified use of the term "peoples", the principle of consultation, collective land rights, the rights of ownership and possession of lands, the right to natural resources, and rights regarding the removal and relocation of indigenous people from land they traditionally occupy. Furthermore, he informed the Working Group that the Director-General of the International Labour Office would communicate with the Secretary-General of the United Nations and the specialized agencies with a view to collaborating in the development of activities to achieve the objectives of Convention No. 169.

31. Observers of indigenous communities and organizations differed in their assessment of ILO Convention No. 169. Several of them expressed extreme dissatisfaction with the new Convention. They were of the view that the revision of Convention No. 107 had not been carried out as fully as it could have been done and that the standards agreed to in order to ensure the adoption of the new Convention were too low to effectively guarantee the rights of indigenous peoples. In addition, many indigenous representatives expressed a lack of confidence in the process which had led to the adoption of the revised ILO Convention on the basis that there had been much bargaining, many compromises reached and a lack of adequate consultation with indigenous

peoples in drawing up the text. Other representatives saw the new Convention as a welcome addition to international human rights law and expressed confidence in the ILO implementation machinery. One member of the Working Group questioned the clarity of the text of the Convention and suggested that the travaux préparatoires of the meetings in which the text was drawn up would have to be consulted in order to ascertain its true meaning. In particular, he highlighted the decision to use the term "indigenous peoples" in connection with an explanatory clause as one issue which would have to be examined and clarified. The International Labour Office provided each member of the Working Group with copies of the requested documentation.

32. In the general review of the situation and developments pertaining to the promotion and protection of the human rights and fundamental freedoms of indigenous peoples some governmental observers and a number of indigenous and non-governmental organizations made exhaustive reports highlighting some of the most important issues, many of which have already been extensively covered in the reports on previous sessions of the Working Group.

33. There was a universal call from non-governmental observers for full or increased self-determination for indigenous peoples and for them to be accorded the political identity to which they feel entitled. This would avoid the present situation in which indigenous peoples were being marginalized and protect them from political oppression. There were numerous statements indicating that there was not adequate consultation between Governments and peoples regarding policies which directly affected the lives of indigenous peoples. It was suggested that in one country the parties on the far right of the political spectrum sought the elimination of indigenous peoples, whilst in another the Government was using the federal structure of the country as an excuse for not ensuring the full enjoyment of indigenous rights. In the view of some non-governmental organizations the above call for increased self-determination for indigenous peoples meant no more than their demanding some degree of autonomy and some territory in which to exercise it. Some indigenous organizations were of the view that indigenous peoples had enjoyed greater local autonomy in the colonial era than in the post-independence period because under the colonial rule most local institutions and authority had been left intact within the context of the larger empire, whereas since independence many such countries had witnessed a centralization of power and organization. In this connection the forced integration of indigenous peoples was mentioned. It was stated that although this had been attempted or was desired in many countries in the interest of national unity, indigenous peoples often remained a distinct group and wished to continue as such.

34. Some of the governmental observers indicated that their Governments were seeking ways to maintain the integrity of indigenous peoples. In this regard, one had adopted several constitutional provisions, another had initiated consultations with indigenous peoples with a view to the adoption of a constitutional amendment providing for some degree of indigenous self-government or self-management, and still others had established national institutions or charged existing authorities with the task of examining and ensuring the smooth transfer of some aspects of government to indigenous people for their self-management. In one country local councils had been established and elections thereto held with a view to allowing some degree of local autonomy. However, some non-governmental observers questioned the validity of the process by stating that elections had been rigged and that the councils were not intended to enjoy a great deal of autonomy anyway.

A governmental observer replied that the elections were valid and had been conducted under the supervision of foreign diplomats and journalists. As evidence indicating their non-integrationist policies and their willingness to grant indigenous people some degree of autonomy, some Governments have set aside funds to ensure the continuation of indigenous religions and languages. Furthermore, the Supreme Court of one country has upheld the right of indigenous peoples to enjoy a level of self-determination.

35. There was almost universal agreement in the discussions before the Working Group that the possession and/or access to land held by indigenous peoples is of fundamental importance to them. It was pointed out that many indigenous peoples followed a land-based religion and therefore needed to remain on land traditionally held by them to be able to continue to practise their faith. Traditionally held land is also of particular significance to indigenous peoples because such land often contains their ancient burial grounds which, if acquired for development, would lead to the desecration of the remains of their ancestors. In addition, having their own land is of crucial importance to indigenous peoples because it allows them to lead their traditional subsistence way of life by hunting, fishing and raising crops. A number of non-governmental organizations stated that indigenous peoples had been deprived of much or all of their land and that it had been turned over to commercial use or for development projects. It was further reported that many of the people relocated were given much smaller parcels of land of an inferior quality in exchange. For those who were simply dispossessed of their land without compensation, many reported on the difficulties including cost and length of time which they had encountered in pursuing their land claims.

36. One governmental observer reported that in his country land claims of indigenous peoples were being recognized. He stated that indigenous peoples were being compensated for loss of land or that at least part of the land they were deprived of was being restored to them. Another governmental observer stated that his Government had acknowledged the prior occupation by indigenous people of much land and that some of it was being restored or, where of special significance to indigenous people, was being given legislative protection to protect it from desecration. With regard to access to the natural resources of land, the federal courts of one country had affirmed that indigenous peoples had valid rights thereto.

37. Some non-governmental organizations reported to the Working Group that due to a lack of respect for indigenous peoples as collective groups, a few such groups had been artificially divided by man-made national borders. It was stated that the territorial and cultural integrity of these groups is threatened by the restriction of the free flow of communication and goods essential to them. A request was made to Governments concerned by this phenomenon to facilitate the existence of groups affected in this way by taking measures to minimize the negative effects of national borders on them.

38. Non-governmental organizations reported that in being deprived of their land and traditional ways of life indigenous peoples had been forced to try to adapt to the way of life of the dominant civilization in order to survive. Unfortunately, however, it was reported that indigenous people are often not adequately prepared to do so. They suffer higher levels of illiteracy than other groups and in not being aware of their political or socio-economic rights are sometimes exploited, such as by unscrupulous employers, and can only accept the most menial of jobs. In this connection, some governmental

observers stated that their Governments had set aside funds specifically for the provision of education grants for indigenous peoples up to and including university level and had initiated programmes for the general accelerated advancement of indigenous people.

39. Indigenous peoples were also reported to enjoy poor social facilities. In particular, the problems of health and housing were repeatedly emphasized and one non-governmental organization alleged that budget allocations for the care of indigenous people were generally inadequate. In one country it was stated that there was only one doctor available for every 9,000 indigenous persons, a situation which has been further exacerbated by the contact of legal or illegal migrants with indigenous communities and the passing of diseases such as tuberculosis and venereal diseases. One indigenous people is reported to have been forced to move seven times since 1940 to make way for commercial interests, and has thus been unable to establish the infrastructure necessary to make their lives comfortable.

40. In an effort to improve the conditions of life of indigenous peoples governmental observers indicated that their Governments had embarked on a number of development projects. Regarding countries with a federal structure, some non-governmental organizations stated that indigenous peoples sometimes expressed greater confidence in federal governments than State governments because the former often proved to be more flexible and responsive to their needs than the latter. Some Governments have granted indigenous peoples special status in order to ensure that they receive all the development aid they need. They have also made an effort to encourage private investment in areas that would be of benefit to indigenous people in the hope that by boosting the local economy of indigenous peoples their standard of living may improve.

41. Some non-governmental organizations gave examples of the kind of self-development projects which were being practised by indigenous peoples. The examples cited covered the field of health services, self-education, agriculture, environment preservation and proper land surveys in order to ensure accurate demarcation of land. In addition it was pointed out that since the United Nations spends up to 50 times more on development than what it does on human rights, indigenous peoples may be able to derive increased assistance more immediately by approaching some of their problems as problems of development rather than as exclusively human rights issues.

42. Development projects designed to benefit, or which affect, indigenous peoples, however, have been the cause of much concern for them. Some projects, as was reported by a number of non-governmental organizations, have been carried out without full and sometimes any consultation with the relevant local groups. As an example, the Working Group was told that a lack of adequate consultation had led to the construction of a dam of doubtful necessity which had required flooding the land of one indigenous people and resulted in the termination of their normal fishing practices. It was also suggested that many projects of international assistance were irresponsibly carried out, *inter alia*, due to a lack of adequate consultation and planning at the proper time. One non-governmental organization suggested that part of the solution to this problem was for indigenous peoples to establish their own capabilities for sustainable development, if need be with the technical co-operation of the United Nations. In addition, the same non-governmental organization suggested that the external pressure on the land and resources of

indigenous peoples should be controlled, such as by the creation of an international process of ensuring discipline in the planning and implementation of international aid, trade and financial arrangements. It was felt by this non-governmental organization that if the suggestions outlined above were complied with, many developments and/or commercial projects inimical to the interests of indigenous peoples could be avoided.

43. The use of force against indigenous peoples was criticized by many indigenous and non-governmental organizations. It was suggested that this had occurred when indigenous people were taken into custody by the authorities or where indigenous people sought to demonstrate in pursuit of their rights. The occurrence of domestic political upheavals and the interference of a super-Power in regional strife have also been blamed for the use of force on indigenous peoples. Extrajudicial killings, frequent deaths in custody, torture and other acts amounting to genocide in some parts of the world, as well as other forms of intimidation, are reported to have taken place within the foregoing contexts. Apart from the damage to human beings and dignity of the peoples concerned, there has also been much damage caused to cultural and religious sites, crops and to the environment in general.

44. Some governmental observers reported on measures their Governments had taken to arrest this situation. One reported that it was co-operating fully with the relevant United Nations agencies in monitoring the human rights situation within its territory. Another reported that it had established a Commission to look into the violation of specific human rights and that the Commission had published an interim report and conclusions.

45. In spite of the foregoing, however, many indigenous people have expressed a continuing lack of confidence in the authorities to safeguard their personal security. This has led in many instances to a flow of refugees fleeing to neighbouring countries. Non-governmental organizations have requested countries that have suffered emigration of this nature to encourage the return of the refugees by offering them assistance to do so.

46. Some non-governmental organizations reported that international measures to combat the traffic of illicit drugs, as for example cocaine, have been misdirected in attempting to completely eradicate the production of coca leaves. They stated that the coca leaf was of religious and cultural significance to many indigenous peoples and that, rather than attempting to eliminate all production of the leaves, the international community should concentrate its efforts on the activities of the traffickers and consumers of illicit drugs.

47. A number of non-governmental organizations mentioned the activities of the recently active United Nations Voluntary Fund for Indigenous Populations and expressed gratitude to the contributors to, and to the Board of Trustees of the Fund, for allowing indigenous people to have the opportunity of attending the sessions of the Working Group and to make known their concerns personally.

48. During the course of the discussion under this item a number of specific proposals and recommendations were made which, it was hoped, would be endorsed by the Working Group. There were general calls for greater consultation between Governments and indigenous peoples, for the demilitarization of areas

occupied by indigenous peoples and for the resettlement of people brought in to indigenous areas to artificially change the ethnic consistency of the area. There were more specific calls as follows:

(a) A Special Rapporteur or member of the Working Group should be mandated to witness and investigate human rights abuses to indigenous people;

(b) An international recourse procedure be established for the use of indigenous people who had suffered human rights violations, e.g. a High Commissioner or an international ombudsman;

(c) A permanent institution be set up to monitor the deaths of indigenous people whilst in the custody of government authorities;

(d) The Special Committee of 24 should investigate the situation of indigenous peoples as far as their decolonization mandate allows;

(e) Elections carried out concerning indigenous peoples should be conducted under the aegis of the United Nations;

(f) Debt relief for economically disadvantaged countries when provided should be allocated to the assistance of indigenous peoples;

(g) The forthcoming United Nations Global Consultation on Development should take into account indigenous peoples and that an international conference be convened to examine the experience of indigenous peoples in their attempts at self-development;

(h) The United Nations should extend technical assistance to indigenous peoples and communities in their attempts at self-development;

(i) The United Nations Centre on Transnational Corporations should monitor the work of transnational corporations and international institutions on projects which may affect the life and conditions of indigenous peoples; and

(j) Proclamation by the United Nations of an International Year for Indigenous Rights with an explicit focus on the development process for indigenous peoples.

### III. EVOLUTION OF STANDARDS CONCERNING THE RIGHTS OF INDIGENOUS PEOPLES

49. At this seventh session, the Working Group had before it the first revised text of the draft Universal Declaration on the Rights of Indigenous Peoples prepared by the Chairman/Rapporteur, Ms. Erica-Irene A. Daes (see document E/CN.4/Sub.2/1989/33). In her opening statement she explained that the revision was based on the various written comments received from both Governments and indigenous peoples, but she also underlined that the text still represented a draft instrument in its early stages intended for facilitating the Working Group's task and still very much open to amendments and additions. In the ensuing debate delegations made general comments on the draft text as well as specific comments on the articles of the draft declaration.

50. Many indigenous and Government observers, as well as members of the Working Group, expressed their firm opinion that the draft represented an important step forward. Some of the observers stated that it nevertheless needed further improvements and refinement and that it should be formulated as a living document subject to changes in the text as circumstances require. Some indigenous speakers suggested that the Declaration be written in simple, straightforward language (not legalism). This was further supported by a State observer who cited General Assembly resolution 41/120 as "requiring international standards to be sufficiently precise to give rise to identifiable and practicable rights and obligations", in particular as lack of precision would make it very difficult to monitor subsequent compliance by Governments. All speakers supported the standard-setting activities and stated that the revised draft provides a good formulation for further endeavours in reaching agreement on a Universal Declaration on the Rights of Indigenous Peoples.

51. A Government observer stated he is able to support the intent of many of the draft articles as many are already reflected in the law and practice of his country. He stressed that, in accordance with General Assembly resolution 41/120, it is important to state clearly in the preamble that indigenous peoples are presently entitled to protection under existing international human rights instruments. He further referred to the requirement of resolution 41/120 that drafters of new instruments must ensure that their texts are capable of attracting broad international support. He and another Government observer suggested that a realistic and practical approach is necessary in order to reflect a broad international consensus, adding that expectations of obtaining 100 per cent of goals are bound to lead to impasse and disappointment. He recommended using a dual approach in the construction of the Declaration:

- (1) to start with the foundation of existing international human rights as a point of departure and then

- (2) to further elaborate on indigenous rights because of the particular circumstances of indigenous peoples in order to ensure their full enjoyment of human rights on an equal basis with other citizens.

From these, the Government observer felt that the Working Group could achieve a common objective of developing a set of reasonable, achievable principles which will be of use to, and provide real protection for, indigenous peoples.



52. Several indigenous speakers agreed with the elaboration of indigenous rights in the draft declaration. They stated clearly that it must not be limited by existing human rights instruments and that standards must be developed that will be acceptable to indigenous peoples and States alike. A member of the Working Group had a similar view and he commented that the Declaration will be a progressive one only if it is not a restatement or interpretation of other instruments.

53. One indigenous representative pointed out that each indigenous group will have to continue the battle to incorporate international norms within national constitutions and legislation. An indigenous representative stated it is more difficult for an international system increasingly based on concerns for the human condition to accept State structures and State actions that are oppressive to indigenous peoples because international law should operate to constrain government action even within the domestic sphere in order to protect individuals and groups. A State observer, on the other hand, added it must be made clear that indigenous rights reflected in the Declaration are not to be interpreted as implying separate statehood for indigenous peoples or extra-citizenship rights.

54. All indigenous speakers submitted that "peoples" is the fundamental term to be used for identifying them in the Declaration. Some of them pointed out that they have never been known as "populations". A State observer agreed to the use of "peoples" throughout the Declaration and put forth that it was not necessary to define "indigenous peoples". Members of the Working Group likewise supported the term "peoples" and one member suggested in this connection a reference to the provisional definition of Special Rapporteur José R. Martínez Cobo (E/CN.4/Sub.2/1986/7/Add.4, paras. 379-382). Some Government observers noted that a definition is necessary because it had not yet been defined in a general United Nations context. One Government observer further considered the definition would be consistent with General Assembly resolution 41/120 in terms of the scope and precision of the Declaration and would further exclude any State from denying the existence of indigenous peoples within its border.

55. A few Government observers preferred the more familiar concepts of "populations" or "communities" but stated they would support "peoples" if there is a qualifier such as the one in ILO Convention No. 169. It was noted the use of "peoples" had brought about much difficulty at the International Labour Conference because the term raised the sensitive issue of the right to self-determination under international law. In any case, they said, a distinction must be made between internal self-determination of indigenous peoples and the rights contained in General Assembly resolution 1514 (XV) of 14 December 1960. Many indigenous representatives and several members of the Working Group expressed the view that the ILO mandate was different from that of the Group which should in no way be restricted by Convention No. 169. A number of indigenous representatives noted that a qualified use of the term "peoples" in the Declaration would be unacceptable, adding that fear of indigenous self-determination leading to secession is unfounded because of the general approach and understanding of international legal instruments.

56. Several indigenous representatives stated there must be clear and explicit recognition of their right to self-determination in the Declaration. In this context, they referred to the conclusion drawn by the United Nations Seminar on the Effects of Racism and Racial Discrimination on the Economic and Social Relations between States and Indigenous Peoples (E/CN.4/1989/23):

"The principle of self-determination as set forth in the Charter of the United Nations and in Article I of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights is essential to the enjoyment of all human rights by indigenous peoples."

An indigenous speaker expressed in this connection her satisfaction with a preambular paragraph of the draft declaration which reads:

"Bearing in mind that nothing in this Declaration may be used as a justification for denying to any people, which otherwise satisfies the criteria generally established by human rights instruments and international law, its right to self-determination."

She noted that such a safeguard is both balanced and fair and would not prejudice the position of any reasonable Government. A number of indigenous speakers stated that self-determination as their inherent and inalienable right must be the corner-stone of the Universal Declaration. Furthermore, some indigenous observers found the right of self-determination essential for preventing continued human rights abuses.

57. Some of the indigenous observers insisted that the concept of collective rights is of paramount importance. They went on to describe the establishment of group rights for indigenous peoples, and not merely the recognition of individual rights, as the most important purpose of the Declaration. These indigenous representatives welcomed the emphasis of the draft declaration on collective rights. They felt that this approach serves as a positive building force which would hopefully overcome the inadequacy of existing human rights norms aimed at the individual in an indigenous context. Some of the indigenous representatives reassured Governments that they need not fear collective rights, any more than the terms "peoples", because other instruments and international law provide ample safeguards.

58. A Government observer underlined the need for an unambiguous, achievable protection of the rights of individuals, reflecting also a balance in regard to rights of third parties. Another State observer supported the view that the Declaration be cast in such a way as to reflect the greatest individual freedom of choice for indigenous peoples. He went on to state that the individual choice to identify or not to identify with the rights and responsibilities of indigenous group membership should be explicitly recognized in the Declaration and cited a treaty his State made with indigenous peoples as containing the same option. Yet another Government observer suggested that the emphasis on collective rights in the Declaration should not imply that individual rights be given any less attention.

59. Indigenous representatives stressed in their responses that indigenous rights are both collective and individual and the terminology used in the Declaration must clearly accommodate both aspects. They stated that the collective rights would not deprive individuals of any of their rights. Furthermore, it was pointed out, individual rights are addressed adequately in other declarations and conventions. It was also noted that fundamental indigenous rights can be proclaimed in the Declaration without having to distinguish them as collective or individual. A non-governmental observer pointed out that this debate places form over substance and that all

individual rights can only be fully exercised and guaranteed in a democratic participatory society. His comment further supported a Working Group members' view that individual rights exist within a collectivity.

60. Several indigenous speakers, including a representative of the Indigenous Peoples' Preparatory Meeting, criticized ILO Convention No. 169 for providing inadequate recognition of indigenous rights. Other indigenous representatives stated, however, that the Convention is only a first step and must be improved upon. One representative pointed out ILO's reference (E/CN.4/Sub.2/AC.4/1989/3/Add.2, at p. 2) to minimum standards which were drafted so as "not to impede the setting of higher standards by national laws or regions or in international instruments". Still other indigenous representatives praised the Convention as a positive development for millions of indigenous peoples. One observer said that it provides indigenous groups with considerable force for national improvements and will help to change gross demographic errors. An indigenous speaker also noted that the assimilationist thrust of the earlier ILO Convention of 1957 is now replaced by a theme of respect for the continued existence of indigenous societies; therefore indigenous peoples now have the right to exist as distinct communities which is the foundation of indigenous rights. He added, however, that Convention No. 169 perpetuates the premise of complete State authority over indigenous peoples in fundamental respects. For example, he cited that indigenous customs and institutions are subject to "the national legal system", thus making self-government not a right but only an option at the sufferance of national Governments. A member of the Working Group supported the foregoing comment by stating it goes without saying that there are cases where indigenous customary laws would be incompatible with the national legal system and she asserted that recognition should be given to these laws irrespective of whether they are found incompatible with national legislation.

61. Some Government observers expressed support for Convention No. 169. They argued that the development, recognition and protection of indigenous rights at the international level had been significantly advanced because of the ILO exercise. One observer noted that certain substantive issues raised in the revision will also have to be raised in the Working Group. These speakers commented that they were generally optimistic about the ILO experience which had been useful also because of the great efforts which had been necessary to reconcile diverse positions. An indigenous speaker explained that the Convention set out significant objectives to guide the administrative relationship between indigenous peoples and States and that the ILO and the Convention provide well defined guidance with enforcement mechanisms binding upon States which have ratified the Convention. One State observer pointed out there had been a general will, particularly on the part of the International Labour Office, to improve the conditions of indigenous peoples with full respect for their own identity. Some Government representatives concluded that concern remained regarding the unity and integrity of States which cannot be disregarded and must be resolved in the framework of fruitful and constructive dialogue.

62. Many of the indigenous observers suggested incorporating duties of States into the Declaration with a mechanism in place to enforce and monitor these duties. Some of these speakers acknowledged that their own responsibilities extended to the care of their territories and environment. They stated that

this incorporation would require States to take effective and lasting measures in order to ensure that indigenous peoples fully enjoy the human rights and fundamental freedoms referred to in the Declaration. A duty emphasized by many of the indigenous speakers relates to States obtaining the consent of indigenous peoples before embarking upon development of their lands, territories and natural resources. They felt that consultation in good faith is not sufficient to prevent abusive practices while consent requires recognition. It was stressed that negotiations to obtain full and informed consent must be completed with authentic, defined and chosen representatives of indigenous governments. A Government observer expressed concern that the scope of the term "consult" in the draft declaration may be too wide, but he added, when consultations refer to projects to be carried out on indigenous lands, that the requirement for States simply "to consult" is too weak. A member of the Working Group agreed with the observer's latter remark and stated the consent of the indigenous peoples must be strengthened in the Declaration. The member went further and recommended there be a clause whereby Governments and transnational companies are obliged to consult and to obtain the consent of indigenous peoples before any project is embarked upon which may have adverse consequences on indigenous peoples.

63. In terms of other duties, many indigenous persons put forth that the State must provide idemnity in the form of equivalent land, revenue sharing or in any form acceptable to indigenous peoples when lands or resources have been taken away with or without their consent. Some indigenous representatives suggested that States must rehabilitate and restore territories unlawfully exploited. An additional concern of the indigenous speakers was the fundamental right of non-interference by States in indigenous peoples' internal matters. One observer recommended there be a right to access to mutually acceptable and fair procedures for resolving conflicts or disputes with States concerning such issues. One of the examples cited by an indigenous representative is the right to determine their own citizenship.

64. Most speakers expressed the wish to see a greater focus being given to the standard-setting part of the Working Group's mandate at its future sessions while not neglecting the review of developments. As to methods of work, a member of the Working Group suggested that the Group be assisted by small drafting groups composed of Governments and indigenous peoples. He proposed that the Working Group hold a two-week session next year and that more time be devoted for standard-setting activities. A Government observer supported the idea of several small drafting groups consisting of both Government and indigenous representatives. Each group would be responsible for reviewing one thematic portion of the draft declaration and making its report back to the Working Group as a whole. An indigenous observer stressed the need for an appropriate procedure to involve Governments and indigenous organizations effectively in completing the draft declaration. The highest possible level of direct participation in an open and democratic drafting process was strongly favoured.

65. In accordance with the request of the Chairman/Rapporteur, many speakers made specific comments on the various articles of the draft declaration. These follow in an article-by-article compilation.

Draft article 1

66. One Government observer stated that draft article 1 should be redrafted in order to explicitly recognize that nothing in the draft declaration was intended to derogate from existing human rights instruments. In this connection, he stated that the formulation of draft principles should be in such a way as to reflect the greatest individual freedom of choice for indigenous peoples so that the options open to individuals were not limited.

67. An indigenous observer proposed to add the words "as peoples" between the words "the right" and "to the full and effective", and the words "including the right to self-determination" after the words "rights and freedoms".

Draft article 2

68. A member of the Working Group stated that this principle should be removed or reworded so as to avoid the paternalistic connotation in the qualification of indigenous peoples as being different from other human beings. Indigenous peoples might have different values and cultures, but so do other human beings in other parts of the world. This view was supported by an indigenous observer who in this context also referred to paternalistic overtones of draft articles 2, 27 and 29.

Draft article 3

69. An indigenous observer stated that the rights contained in this article had been denied and trampled by beliefs in and practices of racial superiority by colonizing States and corporations.

Draft article 5

70. One Government observer expressed support for the right to protection against ethnocide contained in this draft principle which addressed an important aspect of the right to the protection of cultural characteristics and identity. However, in view of the need for a precise identification of rights and obligations, this principle should either provide a definition of "ethnocide", or alternatively, the list of acts enumerating the concept should be an exhaustive one. The terms "propaganda" and "foreign lifestyles" were unsatisfactory in the absence of a more precise definition. It should be clearly established, for instance, that the requirement to prevent propaganda could not be interpreted as limiting the legitimate exercise of freedom of speech, a right which is guaranteed under other human rights instruments. One solution would be to restrict the scope of this principle to action by Governments. Another Government observer proposed deleting the reference to the prevention of the imposition of foreign lifestyles which he deemed was too vague and too general. Its inclusion could be interpreted as providing the possibility of avoiding compliance with national law.

Draft article 8

71. One indigenous observer proposed adding the following words to this article after the words "purposes": "and the right to obtain, use and preserve articles, implements and natural items needed for ritual and ceremonial practices".

Draft article 9

72. One Government observer indicated support for the objective of this article although it was far-reaching as regards the use of indigenous languages for administrative and judicial purposes. Another Government observer indicated that it was difficult to apply aboriginal languages in administrative or judicial procedures and stated his preference for wording similar to article 12 of ILO Convention No. 169. Still another Government representative indicated that, while his Government supported the general direction of the draft declaration, it had difficulty in supporting this draft principle. Indigenous speakers, on the other hand, expressed strong support for this article as being crucial for maintaining their identities and cultures.

Draft article 10

73. A Government observer stated that this article contained three separate rights: the right to all forms of education, the right to education in the indigenous language, and the right to control of their own educational systems and institutions. These issues should be addressed separately. With regard to the first issue, there was already in the International Covenant on Economic, Social and Cultural Rights a non-discriminatory right of access to education for all. With regard to the second issue, it was assumed that it was not envisaged that each and every educational institution within a country must offer education in the indigenous language or languages. Some clarification was called for. It would also be useful to expand the scope of this second aspect of draft article 10 to cover not simply access to education in the indigenous language but access to education in the cultural traditions and heritage. There was a further question which related to whether the right of access to such education should be limited to children. With regard to the final issue, an unqualified right to absolute control of education systems or institutions could not be what was intended. Greater precision was desirable. In this regard, reference was made to article 13, paragraph 4, of the same International Covenant which required separate educational institutions always to "conform to such minimum standards as may be laid down by the State".

Draft article 11

74. One indigenous observer expressed the hope that Governments would support this provision and implement educational programmes which encourage respect for the diverse cultures of the world, aim at eliminating prejudice and foster understanding and good relations.

Draft article 12

75. One Government observer expressed the view that, given the widely differing laws relating to land tenure in many parts of the world and also given that legal régimes applicable to land often differed from those applicable to resources, it would seem desirable to deal with land and resources in separate articles. As currently drafted, this principle referred to the possession of lands in the past tense. By contrast the ILO Convention

referred to the rights of indigenous peoples to ownership and possession of those lands which they traditionally occupy. Accordingly, the language of draft article 12 should be clarified. In this connection, he mentioned the terms of the principle of self-management recently adopted by his Government.

76. An indigenous observer expressed the feeling that the protection of lands traditionally occupied or used should be expanded to include lands presently held. Lands were being acquired to expand the land base and also for economic development. The increase in population of the tribe and the limited land base required that more lands be added to the reserve and these lands should also be protected.

Draft article 14

77. One indigenous observer proposed the following wording for this principle:

"The right to special measures to ensure their control over sub-surface resources and submerged lands and resources pertaining to the territories they have traditionally occupied, including geothermal and other, mineral rights, reef resources and the resources of the ocean crusts".

78. The term "territory" was stressed by many indigenous speakers as the fundamental term which implies a common history, language, way of life and boundaries within which lay lands and natural resources. They urged that the Declaration include clear language protecting indigenous ancestral and legal ownership and control of both surface and subsurface, renewable and non-renewable resources.

Draft article 15

79. In an indigenous observer's view, this principle ruled out various rationales put forward by colonial powers to deny indigenous peoples their prior claims, particularly to their lands and resources, based on theories such as those related to discovery, terra nullius, waste lands or idle lands. Those lands could not be taken or claimed by settlers until a process had been followed and entered into by both parties for the orderly and legal transfer of such lands. This process was treaty-making which required the consent of the indigenous peoples concerned. Another indigenous observer proposed adding the words "occupation, cession, abandonment", between the words "discovery" and "terra nullius".

Draft article 16

80. One Government observer stated that this principle was predicated on the reserve system, i.e. it envisaged a situation of indigenous peoples living on separate and distinct areas or territories within a country. A better balance would be required in the drafting of this principle.

81. An indigenous observer proposed adding the words "negotiate and conclude" between the words "the right" and "just and fair compensation". Another indigenous observer proposed adding the words "subsurface and submerged ocean resources" between the words "wild life" and "or other resources". Still another indigenous observer expressed the view that this principle needed clarification so as to include the right to take special measures to ensure the right to development.

Draft article 17

82. A Government observer questioned the scope of this provision which related to the right to be consulted before the commencement of large-scale mining activities. He assumed that it was intended to apply to projects or exploration to be carried out on lands owned by indigenous peoples. If this was not so, then the potential scope of the draft principles was unacceptably wide. If it did, then it would seem that the requirement for States simply "to consult" was too weak.

83. One member of the Working Group was of the view that a clause should be included in this article whereby Governments and transnational corporations should consult and get the consent of indigenous peoples before carrying out any projects which might have adverse consequences for indigenous peoples. Mention should be made of the code of conduct that transnational corporations should adopt to alleviate or reduce the adverse consequences of their projects, such as: (a) the undertaking of social and environmental impact studies to assess the eventual consequences of projects which might affect indigenous peoples; (b) the recognition of the importance of land to indigenous peoples and measures to restore land to its former condition; and (c) the respect for sites of religions, culture or economic importance to indigenous peoples.

84. An indigenous observer proposed to add the words "to obtain the free and informed consent of" between the words "that States" and "indigenous peoples"; "which affect indigenous territories or rights" between "any projects" and "particularly natural resource projects"; and the words "the right to negotiate and conclude" before "just and fair compensation". The suggestion was also made that consent should not be limited to large-scale projects.

85. Another indigenous observer proposed that this principle be reworded as follows:

"The duty of States to seek and obtain, through appropriate mechanisms, before undertaking or permitting any programmes for the exploration or exploitation of mineral and other subsoil resources pertaining to their traditional territories. Just and fair compensation should be provided for any such activities undertaken for the duration of such uses and for the fair market value of the mineral and other resources which are exploited, developed, or removed from traditional territories. The duty of State to restore and rehabilitate the territories which have been utilized by States for mineral resource exploitation and development."

Draft article 18

86. One Government observer expressed the view that this right related to the same land area referred to in draft article 12, i.e. that it should extend to "lands which they traditionally occupy". He suggested that the drafting be clarified and that this principle should take into account environmental protection and conservation requirements.



Draft article 21

87. A Government observer felt that this principle could not and should not mean the establishment of a separate legal system.

Draft article 23

88. One Government observer was of the view that this draft article pre-supposed a system of indigenous reserves or separate areas which in turn implies segregation. He indicated that his Government's policies were designed to promote decision-making in the machinery of Government in areas of importance to indigenous communities and to provide opportunities for them to actively participate on jointly agreed terms in policy formulation and service delivery. There could be no absolute right, however, to determine the nature and contents of policies to be implemented in autonomous areas. In this respect one indigenous observer stated that control and jurisdiction concerning fiscal matters should be more specifically outlined in the Declaration.

Draft article 24

89. One indigenous observer stated that this article in its present form did not adequately elaborate the right to determine citizenship which was the key to the perpetuation of indigenous peoples. He indicated in this connection that her tribe was facing two major court cases dealing with who had the right to determine citizenship and the rights of those citizens. In both cases, the tribe's legal system would be ignored or overridden by non-indigenous laws. She therefore proposed the following words: "the right to determine their own citizenship without external interference".

Draft article 25

90. One Government observer was of the view that the meaning of this phrase was unclear. He indicated that his Government could not support this principle if it could be seen as sanctioning legal pluralism, i.e. as referring a system of separate laws for indigenous peoples.

Draft article 27

91. One Government observer was of the view that this draft article was weak since it only stated that there was a "right to claim that States honour treaties and other agreements with indigenous peoples". This principle should also refer to the obligation to provide a mechanism to ensure that States honour their treaty commitments. Another Government observer was of the view that an unrestricted application of this principle would lead to undesirable social and political consequences.

92. An indigenous observer proposed that this principle be reworded as follows:

"The right to have claims pertaining to treaties between indigenous peoples and States heard before an impartial international tribunal."

#### IV. OTHER MATTERS

93. The Special Rapporteur of the Sub-Commission on the study of treaties, agreements and other constructive arrangements before States and indigenous peoples, Mr. Miguel Alfonso Martínez, made a statement to the Working Group explaining developments and progress relating to his mandate, including the final authorization of the study by the Commission on Human Rights and the Economic and Social Council. He referred to the outline of his study as contained in an annex of last year's Working Group report (E/CN.4/Sub.2/1988/24/Add.1) and to the first stage of his reporting to the Sub-Commission in the form of a preliminary report to be submitted to its forty-second session in 1990. Concerning the contents of the study, the Special Rapporteur pondered about the exact meaning and scope of the terms "agreements and other constructive arrangements" and he explained that, because of the broadening of the mandate, it might become difficult to complete his work on time.

94. With regard to the next few months, the Special Rapporteur stated that he is planning two study-visits in connection with his report. It is thus his intention to visit the Archivo de Indias in Sevilla, Spain, where he expects to find a great deal of useful material, notably treaties and agreements between the Spanish Crown and various indigenous peoples. Also, the Special Rapporteur is contemplating to consult bibliographical material on treaties and agreements signed by indigenous peoples, the British Crown and the United States Government as well as other valuable materials which are available in the Library of Congress in Washington, D.C. Finally, the Special Rapporteur expressed his gratitude to the indigenous communities of the Treaty Six Area of Canada for having received him as a guest last July in their ancestral treaty lands. He also thanked the Canadian Government for facilitating his entry visa for this visit. The Special Rapporteur expressed that his understanding of relevant treaty problems had been greatly enriched by his visit.

95. Several indigenous representatives commented on the study. They expressed widespread support for and confidence in the work of the Special Rapporteur. One observer outlined some major themes which should be addressed in the study. He pointed to a shift in theoretical and juridical approaches to the perception of the rights of indigenous peoples which had occurred in the late nineteenth century. Prior to this time in history, indigenous peoples had been recognized as possessing natural rights to the territories they occupied; as holding a status as subjects of international law; and entitled to the same self-governing autonomy as "civilized" races. After the theoretical and juridic change in the late nineteenth century, however, it had become the normal practice to focus upon Nations States as the only subjects of international law which acted as the legal guarantors of all peoples within their boundaries. With this perspective, national sovereignty precluded the natural rights of indigenous peoples, such as those which had been recognized by earlier thinking and legislation. According to the speaker, the shift in the late nineteenth century had resulted in the rejection of hundreds of treaties previously signed between States and indigenous peoples.

96. One Government observer stressed the importance of enlarging the areas of application and activity of the Voluntary Fund for Indigenous Populations, recalling the adoption of a recent Commission on Human Rights resolution to devote a portion of the Fund to establishing advisory and information activities to Fund recipients and other Working Group participants. Such activities, the cost of which would be modest, should relate to objectives and functions of the Working Group and the role that indigenous peoples have in its activities, in particular the preparatory work for the Universal Declaration on the Rights of Indigenous Peoples. A non-governmental observer underlined in this context the importance of organizing and financing training courses and seminars for indigenous peoples. Recalling the objective of the Voluntary Fund, the speaker noted, however, that it would be unwise to broaden the mandate of the Fund unless substantial additional funds were made available to it. This problem could be avoided by drawing on the resources of another Voluntary Fund which is attached to the Advisory Services Programme of the Centre for Human Rights. Such training courses and seminars for indigenous peoples should preferably, he said, be held at the regional level where costs are lower and language problems less significant.

97. Another topic discussed under this agenda item was the possible programme and agenda of the 1990-1991 Meeting of Experts to review national experience in the operation of schemes of local, internal self-government for indigenous peoples as authorized by General Assembly resolution 42/47. It was stressed that significant improvements have been made in the area of indigenous self-government, partly as a result of the reviewing and standard-setting role of the Working Group. In the opinion of the speaker, Governments must be convinced of the practical and constructive elements of self-government, as well as of its role as unifying and pacifying rather than dividing countries. The Meeting of Experts should contribute to the development of practical models of self-government, based on actual experience in different parts of the world. The Meeting should also include the assessment of the relationship between autonomy and the effective enjoyment of other rights. It was also suggested that the Meeting should examine current practices and experiences in the area of self-government; various fiscal and administrative schemes in the field; and the planning and implementation of self-government, including constitutional arrangements. In Annex I of the present report, the Working Group has adopted a proposal for the agenda and some other arrangements for consideration by the Meeting of Experts.

98. In the course of the debate under this item, a representative of Indians in Brazil invited the Chairman/Rapporteur to visit his country in order to obtain first-hand information about recent and current developments affecting indigenous peoples.

99. A Maori representative invited members of the Working Group and other observers present to attend the World Indigenous Peoples Conference on Education to be held at the Turangawaewae Marae, Ngaruawahia, Hamilton, New Zealand from 7 to 12 December 1990. She explained that this Conference will address education culturally and holistically with emphasis on how indigenous peoples express themselves spiritually through music, drama, dance, oratory and other artistic forms, with the aim being survival and progression of individual cultures and demonstration of unity through diversity.

## ANNEX I

### Decisions and Recommendations

1. The Working Group requests that its report as in previous years be transmitted to Governments, indigenous peoples and intergovernmental and non-governmental organizations for specific written comments and proposals for the elaboration of the revised text of the draft Universal Declaration on the Rights of Indigenous Peoples as contained in annex II of the present report.
2. The Working Group further recommends that the Chairman/Rapporteur, Ms. Erica-Irene A. Daes, be entrusted with the task of preparing a second revised text of the draft declaration to be based on the comments received in writing by members of the Group as well as those mentioned above in paragraph 1 and others made at sessions of the Group.
3. To further facilitate the completion of the draft declaration, Governments and indigenous peoples' organizations should be invited to participate in a number of informal, in-session and open-ended drafting groups to seek agreement on recommendations which may be made for consideration by members of the Working Group.
4. Likewise the Working Group recommends to the Sub-Commission to strongly encourage Governments and indigenous peoples to conduct joint meetings at the national level, with participants of policy- and decision-making capacity, in order to reach the goal of presenting to the Group for its consideration at the eighth and future sessions agreed-upon texts to the degree possible.
5. For the purpose of facilitating its drafting mandate, the Working Group should be authorized to meet for up to 10 working days at its eighth and future sessions.
6. The Working Group appreciates contributions made by Governments, indigenous peoples and non-governmental organizations to the United Nations Voluntary Fund for Indigenous Populations and it has been satisfied to meet with and hear statements made by recipients of travel grants from the Fund many of whom represent peoples and organizations not previously in attendance at sessions of the Group. The Working Group encourages continued strong support for the Fund's activities.
7. The Working Group looks forward to reviewing the preliminary report on treaties, agreements and other constructive arrangements by the Special Rapporteur of the Sub-Commission, Mr. Miguel Alfonso Martínez, at its eighth session in 1990 and decides to include in its agenda a separate item devoted to the issue.
8. The Meeting of Experts on Indigenous Self-Government which was authorized by General Assembly resolution 42/47 of 30 November 1987 may wish to consider the following agenda:
  - I. Scope and effective exercise of internal autonomy and self-government
    - A. Fields where autonomy would be effective as a means of strengthening the enjoyment of all human rights

- B. Means of assuring popular participation and respect for human rights by autonomous indigenous institutions
- II. Fiscal and administrative relations between indigenous Governments and States
  - A. Models of apportioning responsibility, providing for ongoing consultations and resolving disputes
  - B. Alternative resource-sharing arrangements, and co-operation in the planning and management of development
- III. Effective means of planning for and implementing autonomy, including negotiated constitutional arrangements and involving both territorial and personal autonomy
- IV. Recommendations for standard-setting

The Meeting should be organized with the same form of participation as the Seminar on the Effects of Racism and Racial Discrimination on Social and Economic Relations Between Indigenous Peoples and States. At least one of the background papers for the Meeting should be prepared by an indigenous expert.

9. The Secretary-General should encourage the Global Consultation on the Right to Development, to be held in December 1989 in accordance with Commission on Human Rights resolution 1989/45, to take due account of the rights and concerns of indigenous peoples, in particular the reports of the Working Group and of the Seminar on Effects of Racism and Racial Discrimination on Social and Economic Relations Between Indigenous Peoples and States, and to consider the extent to which the same principles may be applicable to other groups.

10. The Working Group took note of the invitation addressed to the Chairman/Rapporteur by Indian observers from Brazil (see paragraph 98 of the present report) and leaves this matter pending so as to proceed with further consultations and arrangements with all the parties concerned.

11. The Working Group decided to give further consideration to the possibility of establishing a United Nations Commissioner for Indigenous Peoples, to co-ordinate international action for the recognition and promotion of the rights of indigenous peoples and for the improvement of their economic, social and political conditions, when necessary.

12. The Secretary-General should organize, within the framework of the United Nations, regular programmes of technical co-operation and a technical conference in 1991 on practical experience in the realization of sustainable and environmentally-sound self-development by indigenous peoples, with the same format and participation as the Seminar on the Effects of Racism and Racial Discrimination on Social and Economic Relations Between Indigenous Peoples and States.

13. The United Nations Centre for Transnational Corporations should assist the Working Group in preparing a data base on transnational investments and operations on indigenous peoples' lands and territories, and in particular those lands which are currently in dispute.

14. The Working Group welcomes upcoming information publications by the Secretariat relating to indigenous rights, drawing particular attention to Commission on Human Rights resolution 1988/23. The Group also expresses the wish that the Centre for Human Rights should continue to prepare additional versions of the Universal Declaration of Human Rights in indigenous languages for distribution to the relevant groups.

15. The Secretary-General should give consideration to requests from indigenous peoples' organizations for technical assistance from the programme of advisory services in the field of human rights, and from other United Nations system programmes providing technical assistance in human rights, development and the environment; and in appropriate cases accept and utilize the assistance offered by indigenous peoples' organizations themselves for this purpose.

16. The Secretary-General should organize regional training courses for indigenous peoples' organizations on international human rights standards and procedures, and the Sub-Commission and Commission on Human Rights should encourage Governments and non-governmental organizations to make arrangements for this purpose through the appropriate programmes.

17. The General Assembly should proclaim 1993 the International Year for Indigenous Rights, with an explicit focus on the development process and on promoting international co-operation with indigenous peoples' organizations. One or two experts from the Sub-Commission should be appointed to prepare, without financial implications, a working paper on possible United Nations activities for an International Year.

ANNEX II

First revised text of the draft Universal Declaration on the Rights of Indigenous Peoples, as presented by the Chairman/Rapporteur, Ms. Erica-Irene Daes, in document E/CN.4/Sub.2/1989/33

The General Assembly,

Considering indigenous peoples born free and equal in dignity and rights in accordance with existing international standards while recognizing the right of all individuals and groups to be different, to consider themselves different and to be regarded as such,

Considering that all peoples and human groups have contributed to the progress of civilizations and cultures which constitute the common heritage of humankind,

Recognizing the specific need to promote and protect those rights and characteristics which stem from indigenous history, philosophy of life, traditions, culture and legal, social and economic structures, especially as these are tied to the lands which the groups have traditionally occupied,

Concerned that many indigenous peoples have been unable to enjoy and assert their inalienable human rights and fundamental freedoms, frequently resulting in insufficient land and resources, poverty and deprivation, which in turn may lead them to voice their grievances and to organize themselves in order to bring an end to all forms of discrimination and oppression which they face,

Convinced that all doctrines and practices of racial, ethnic or cultural superiority are legally wrong, morally condemnable and socially unjust,

Reaffirming that indigenous peoples in the exercise of their rights should be free from adverse distinction or discrimination of any kind,

Endorsing calls for the consolidation and strengthening of indigenous societies and their cultures and traditions through development based on their own needs and value systems and comprehensive participation in and consultation about all other relevant development efforts,

Emphasizing the need for special attention to the rights and skills of indigenous women and children,

Believing that indigenous peoples should be free to manage their own affairs to the greatest possible extent, while enjoying equal rights with other citizens in the political, economic and social life of States,

Bearing in mind that nothing in this declaration may be used as a justification for denying to any people, which otherwise satisfies the criteria generally established by human rights instruments and international law, its right to self-determination,

Calling on States to comply with and effectively implement all international human rights instruments as they apply to indigenous peoples,

Acknowledging the need for minimum standards taking account of the diverse realities of indigenous peoples in all parts of the world,

Solemnly proclaims the following declaration on rights of indigenous peoples and calls upon all States to take prompt and effective measures to implement the declaration in conjunction with the indigenous peoples.

#### PART I

1. The right to the full and effective enjoyment of all fundamental rights and freedoms, as well as the observance of the corresponding responsibilities, which are universally recognized in the Charter of the United Nations and in existing international human rights instruments.
2. The right to be free and equal to all the other human beings in dignity and rights and to be free from adverse distinction or discrimination of any kind.

#### PART II

3. The [collective] right to exist as distinct peoples and to be protected against genocide, as well as the [individual] rights to life, physical integrity, liberty and security of person.
4. The [collective] right to maintain and develop their ethnic and cultural characteristics and distinct identity, including the right of peoples and individuals to call themselves by their proper names.
5. The individual and collective right to protection against ethnocide. This protection shall include, in particular, prevention of any act which has the aim or effect of depriving them of their ethnic characteristics or cultural identity, of any form of forced assimilation or integration, of imposition of foreign life-styles and of any propaganda derogating their dignity and diversity.
6. The right to preserve their cultural identity and traditions and to pursue their own cultural development. The rights to the manifestations of their cultures, including archaeological sites, artefacts, designs, technology and works of art, lie with the indigenous peoples or their members.
7. The right to require that States grant - within the resources available - the necessary assistance for the maintenance of their identity and their development.
8. The right to manifest, teach, practise and observe their own religious traditions and ceremonies, and to maintain, protect and have access to sacred sites and burial-grounds for these purposes.
9. The right to develop and promote their own languages, including an own literary language, and to use them for administrative, juridical, cultural and other purposes.
10. The right to all forms of education, including in particular the right of children to have access to education in their own languages, and to establish, structure, conduct and control their own educational systems and institutions.



11. The right to promote intercultural information and education, recognizing the dignity and diversity of their cultures, and the duty of States to take the necessary measures, among other sections of the national community, with the object of eliminating prejudices and of fostering understanding and good relations.

### PART III

12. The right of collective and individual ownership, possession and use of the lands or resources which they have traditionally occupied or used. The lands may only be taken away from them with their free and informed consent as witnessed by a treaty or agreement.

13. The right to recognition of their own land-tenure systems for the protection and promotion of the use, enjoyment and occupancy of the land.

14. The right to special measures to ensure their ownership and control over surface and substance of resources pertaining to the territories they have traditionally occupied or otherwise used including flora and fauna, waters and ice sea.

15. The right to reclaim land and surface resources or where this is not possible, to seek just and fair compensation for the same, when the property has been taken away from them without consent, in particular, if such deprivation has been based on theories such as those related to discovery, terra nullius, waste lands or idle lands. Compensation, if the parties agree, may take the form of land or resources of quality and legal status at least equal to that of the property previously owned by them.

16. The right to protection of their environment and in particular against any action or course of conduct which may result in the destruction, deterioration or pollution of their traditional habitat, land, air, water, sea ice, wildlife or other resources without free and informed consent of the indigenous peoples affected. The right to just and fair compensation for any such action or course of conduct.

17. The right to require that States consult with indigenous peoples and with both domestic and transnational corporations prior to the commencement of any large-scale projects, particularly natural resource projects or exploitation of mineral and other subsoil resources in order to enhance the projects' benefits and to mitigate any adverse economic, social, environmental and cultural effect. Just and fair compensation shall be provided for any such activity or adverse consequence undertaken.

### PART IV

18. The right to maintain and develop within their areas of lands or territories their traditional economic structures and ways of life, to be secure in the traditional economic structures and ways of life, to be secure in the enjoyment of their own traditional means of subsistence, and to engage freely in their traditional and other economic activities, including hunting,

fresh- and salt-water fishing, herding, gathering, lumbering and cultivation, without adverse discrimination. In no case may an indigenous people be deprived of its means of subsistence. The right to just and fair compensation if they have been so deprived.

19. The right to special State measures for the immediate, effective and continuing improvement of their social and economic conditions, with their consent, that reflect their own priorities.

20. The right to determine, plan and implement all health, housing and other social and economic programmes affecting them, and as far as possible to develop, plan and implement such programmes through their own institutions.

#### PART V

21. The right to participate on an equal footing with all the other citizens and without adverse discrimination in the political, economic and social life of the State and to have their specific character duly reflected in the legal system and in political and socio-economic institutions, including in particular proper regard to and recognition of indigenous laws and customs.

22. The right to participate fully at the State level, through representatives chosen by themselves, in decision-making about and implementation of all national and international matters which may affect their life and destiny.

23. The [collective] right to autonomy in matters relating to their own internal and local affairs, including education, information, culture, religion, health, housing, social welfare, traditional and other economic activities, land and resources administration and the environment, as well as internal taxation for financing these autonomous functions.

24. The right to decide upon the structures of their autonomous institutions, to select the membership of such institutions, and to determine the membership of the indigenous people concerned for these purposes.

25. The right to determine the responsibilities of individuals to their own community, consistent with universally recognized human rights and fundamental freedoms.

26. The right to maintain and develop traditional contacts and co-operation, including cultural and social exchanges and trade, with their own kith and kin across State boundaries and the obligation of the State to adopt measures to facilitate such contacts.

27. The right to claim that States honour treaties and other agreements concluded with indigenous peoples.

PART VI

28. The individual and collective right to access to and prompt decision by mutually acceptable and fair procedures for resolving conflicts or disputes and any infringement, public or private, between States and indigenous peoples, groups or individuals. These procedures should include, as appropriate, negotiations, mediation, arbitration, national courts and international and regional human rights review and complaints mechanisms.

PART VII

29. These rights constitute the minimum standards for the survival and the well-being of the indigenous peoples of the world.

30. Nothing in this Declaration may be interpreted as implying for any State, group or individual any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

### ANNEX III

The Darwin Declaration, adopted by a Global Consultation on the "Integrity of Creation: Our Land is Our Life", convened by the World Council of Churches in Darwin, Australia, 7-13 May 1989

From 7 May through 13 May 1989, the World Council of Churches Programme to Combat Racism, convened a Global Consultation on the "Integrity of Creation: Our Land is Our Life". We came together, in deference to Creation and filled with a sense of urgency, to declare that a state of emergency exists in regard to the survival and status of indigenous peoples worldwide. We have come to Larrakia country in Darwin, Australia to assert our rights as sovereign peoples and to document the atrocities committed against ourselves, our territories and, therefore, our spirituality.

Indigenous peoples from all over the world met with church representatives and the Chairman/Rapporteur of the United Nations Working Group on Indigenous Populations to consider the connection between racism and the consequent historical denial of indigenous rights, including land rights and the inherent right of self-determination, as inflicted by powerful individuals, elites, dominant peoples, transnational corporations, countries, Governments and churches.

The principle objectives of the Consultation were to identify the major problems of indigenous peoples from the various regions of the world, to identify the major obstacles which prevent indigenous peoples from achieving self-determination and self-governance, and to petition the World Council of Churches and other international organizations to pursue corrective action by undertaking specific activities in support of these indigenous concerns.

A consensus of participants found that the churches of the world have been a part of the problem; a challenge was put forth that the churches confess to having been part of the problem and rise to become part of the solution in keeping with the principles of the Gospel.

As indigenous aboriginal peoples, we believe that we have an inherent and inalienable right to self-determination in the control of our territories, establishment of our Governments and the maintenance of our traditional cultural and religious practices.

We are 125 indigenous women and men from 14 nations, representing various churches, liberation movements and grass-roots organizations from lands currently controlled by a few individuals and dominant Governments of the world. The international delegates to this Consultation, through the exposure process, were able to witness and verify the suppression of the sovereign rights of indigenous, Aboriginal peoples of Australia.

Essential to the survival of our peoples is the preservation of our extended family structures. To this end, the indigenous women of this Consultation, as mothers of our native nations, decry and denounce all actions which divide and negatively affect the integrity of our families, thereby diminishing the integrity of Creation.

We call for global action to cease the cultural and physical genocide of forced removals of indigenous peoples from our lands, of forced removals of indigenous children from our families, of police brutality and State harassment, particularly against women and children. We further demand protection from all forms of abuse and oppression including domestic violence, employment discrimination and all other forms of discrimination, immigration policies and displacement. The shift, by Governments, from domestic spending towards increasing militarization and the devastating social impact of military bases and military personnel on native women, children and men are, likewise, oppressive realities from which we demand protection.

We, the indigenous peoples here assembled, supported by all the participants of the Darwin Consultation, assert that:

1. Indigenous peoples are endowed by our Creators with a spiritual light which the churches and nations of the world are called upon to acknowledge and respect. This light is reflected from our cultural and religious practices and the teachings of our elders. The preservation and respect for this force is a fundamental, sovereign right for we who have given birth to the faiths of the world.
2. Indigenous peoples have had our lands invaded by land-greedy nations and local, individual collaborators, and the invaders have established themselves in our lands, subjugating us to their will ever since.
3. Indigenous peoples have been coerced since the arrival of invading forces, never freely consenting in the cession of our indigenous rights and territories.
4. Indigenous peoples strive for and demand the full spectrum of autonomy available in the principle of self-determination, including the right to re-establish our own Nation States, independent of the jurisdiction of our invaders and their accompanying political structures.
5. Indigenous peoples shall control our own institutions of government, our economies and our social and legal structures.
6. The churches and Governments have an obligation to see Points 4 and 5 come to reality by providing the necessary means, without any restriction attached.

In seeking justice and peace consistent with these assertions, we call upon the global community, as members of our richly diverse human family, to acknowledge and respect these stark realities by ensuring the fundamental rights of all peoples. From our different corners of the globe, we call out to our brothers and sisters, asking that they heed our cry, listen to our pain and respond to our call for justice. To begin to respond to this existing state of emergency we make the following urgent calls for regional actions:

1. AUSTRALIA

(a) That this forum calls on the Federal Government to continue the Royal Commission into Aboriginal Deaths in Custody until an appropriate crimes authority under Aboriginal control, including the Chief Royal Commissioner, with full investigative and prosecutorial authority, is established through

Federal Legislation. This Consultation recognizes that a cut-off date for the Australian Royal Commission, at this stage, is an insult to Aboriginal people and would lead to an increase in their deaths at the hands of police and prison warders.

(b) That the World Council of Churches (WCC) strongly urge the ACC to support the NSW Aboriginal people in their rejection of the NSW Government's proposal to abolish land rights.

(c) That the WCC calls upon the ACC to demand the Northern Territories Government to maintain its sacred sites act in its present form.

(d) That the WCC and other international bodies support our demands to grant sovereign rights to Aboriginal people.

(e) That the WCC approach the Australian Department of Defence, insisting that they halt the proposed Naval relocation from Sydney to Jervis Bay.

## 2. AOTEAROA

That the WCC in conjunction with the United Nations, urge the New Zealand Government to honour the Treaty of Waitangi and that the peoples and churches of the world stand in solidarity with the Maori people in 1990 - the one hundred and fiftieth anniversary of the signing of the Treaty.

## 3. THE PACIFIC REGION

We call on the WCC in conjunction with the United Nations to undertake all necessary action to prevent the flooding of the low lying islands by urgently addressing the greenhouse effect; to halt the expansion of the military industrial complex, the dumping of any toxic wastes and to pressurize the French Government to move out of New Caledonia (Kanakya) and to stop the testing of nuclear bombs in Mururoa.

## 4. HAWAII

We call on the WCC in conjunction with the United Nations to have Hawaii placed on the list of non self-governing territories under the Special Committee on Decolonization.

## 5. GUAM

We call on the WCC in conjunction with the United Nations to ensure that the United States accepts in total Guam's Commonwealth Act of February 1988 for the self-determination of the Chamorro people.

## 6. THE PHILIPPINES

We call on the WCC in conjunction with the Vatican to: stop the total war policy of the United States-Acquino régime: bring about the disbandment and disarmament of all paramilitary/vigilante groups.

7. EAST TIMOR

We call on the WCC in conjunction with the United Nations to put pressure on the Indonesian Government for the withdrawal of Indonesian troops from East Timor and the recognition of sovereignty of the indigenous peoples.

8. KANAKY

We call on the WCC to lobby and monitor the United Nations to put pressure on the French Government to establish an independent, international inquiry into the massacre of the 19 citizens of Ouvea on 19 May 1988 and subsequent acts of brutality and murder, and the assassination on 5 May 1989.

9. SOUTH AMERICA

We call on the WCC to lobby Government agencies and to call on its member churches to stop the adoption and fostering of indigenous children to people of other cultures, especially overseas, through programmes such as the World Vision child sponsorship.

10. NORTH AMERICA

We call on the WCC in conjunction with the United Nations to put pressure on the Canadian Government to immediately resume the Canadian constitutional process of First Ministers' meetings with the Aboriginal peoples and, in addition, to complete the process of treaty making with First Nations.

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