

STATEMENT OF THE
INDIAN LAW RESOURCE CENTER
to the
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WORKING GROUP ON INDIGENOUS POPULATIONS
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Madame Chairperson, thank you for the opportunity to address agenda item 4 regarding standard-setting activities. On behalf of the Indian Law Resource Center, I would like to address two specific matters: the first being the developments concerning the American Declaration on the Rights of Indigenous Peoples and secondly, the concept of "indigenous peoples."

As we reported at the 53rd session of the Commission on Human Rights, the Inter-American Commission on Human Rights of the Organization of American States has completed its preparation of a proposed American Declaration on the Rights of Indigenous Peoples. We would like to call attention to these developments because of their direct and immediate relevance to indigenous peoples in the Americas.

On June 5, 1997, the OAS General Assembly adopted a resolution which instructs the Permanent Council to study the proposed Declaration. In addition and of particular interest to indigenous peoples and the United Nations, the resolution requests that the Permanent Council ensure that the declaration reflects "the concerns of indigenous peoples," as well as "the work of the United Nations in this area." The resolution also provides for a December 31, 1997, deadline for state observations and recommendations to be transmitted. This will be followed by comments by the Inter-American Juridical Committee and the Inter-American Indian Institute and finally, the resolution instructs the Permanent Council to convene a meeting of "government experts in this field...with a view to possible adoption" of the proposed declaration at the twenty-eight regular session of the OAS, which will take place in June 1998. The final clause of the resolution is completely ambiguous with regard to "government experts in this field" and the purpose of this meeting.

The Center would like to commend the Inter-American Commission for its serious efforts to advance indigenous human rights in the Western Hemisphere. Despite the shortfalls which exist in the text, we are encouraged by this development. More important, we are deeply

concerned that there will be governments mobilizing their forces, intent upon weakening the existing text. Hence, the ambiguous nature of the latter paragraphs of the OAS General Assembly resolution. The Center is eager to engage in dialogue with indigenous peoples of North, Central and South America about the strategy to ensure the adoption of the strongest indigenous human rights standards within the OAS process. For those who are interested we have copies of the English and Spanish version of the OAS General Assembly resolution and the proposed Declaration.

Regarding agenda item 4(a) on the concept of "indigenous peoples," we are still of the firm belief that no definition of the term "indigenous peoples" is necessary in any of the human rights instruments now being considered by the United Nations or the Organization of American States. We are also in opposition to any attempts to include qualifications on the term "peoples" or in the context of its relationship to the fundamental right to self-determination. Indigenous peoples, as distinct peoples, have a right to the term "peoples," as well as the right to self-determination.

A number of states have made public their positions with regard to the use of the term, including the United States. Those states tend to associate the term with "balkanization," fears of secession and protection of the territorial integrity of existing states. However, the international reality is that at the same time that local communities have gained greater autonomy and new states have emerged, communities and peoples at all levels have sought greater integration. There is an overriding trend of enhanced interconnectedness, which does not diminish the value of diverse cultures and the exercise of the right to self-determination.

The UN member states' interpretation of the self-determination implied in the term peoples is counterproductive and it unnecessarily limits the opportunity for indigenous peoples at the United Nations from making headway. Narrower conceptions of the term peoples are flawed in their limited underlying vision of a world divided into mutually exclusive "sovereign" territorial communities. This limited conception of peoples largely ignores the multiple, overlapping spheres of community, authority and interdependency that actually exist in the human experience. This vision corresponds with the traditional Western theoretical perspective that limits humanity to two perceptual categories--the individual and the state--an which views states according to a model of mutually exclusive spheres of territory, community and centralized

authority. This conception obscures the human rights character of self-determination and diminishes self-determination values in a world that is in fact evolving differently from one concerned only with statehood categories.

Any conception of self-determination that does not take into account the multiple patterns of human association is at best incomplete. Properly understood, the principle of self-determination benefits groups, that is "peoples," in the ordinary sense of the term--throughout the spectrum of humanity's complex web of interrelationships and loyalties, and not just peoples defined by existing or perceived sovereign boundaries. In a world of increasingly overlapping and integrated political spheres, self-determination concerns the constitution and functioning of all levels and forms of governments. Ordinarily, terms in international legal instruments are to be interpreted according to their plain meaning. There should be no exception to the use of the world peoples as applied to the indigenous world.