

doCip
ARCHIVES



four directions council
conseil des points cardinaux
consejo de los cuatro vientos

COMMISSION ON HUMAN RIGHTS
SUB COMMISSION ON PREVENTION
OF DISCRIMINATION AND PROTECTION
OF MINORITIES
WORKING GROUP ON INDIGENOUS POPULATIONS
SIXTH SESSION AUGUST 1-5. 1988

WGIP 88/NAH/1

MADAM CHAIRPERSON; MEMBERS NATIONS; OBSERVATION NATIONS; AND FELLOW NGO MEMBER WE BRING YOU GREETINGS FROM THE TREATY MAKING MEMBERS OF THE FOUR DIRECTIONCOUNCI COUNCIL; WE ALSO BRING YOU PRAYERS AND WISHES FOR RELIEF OF THE PAIN AND SUFF-ERING OF INDIGENOUS PEOPLES THE WORLD OVER; WE WISH TO MAKE COMMENTS ON THE ONE REASON FOR OUR COMING TO THIS GATHERING; THE STUDY OF TREATIES CONCLUDED BETWEEN STATES AND INDIGENOUS POPULATIONS. WE HAVE BEEN COMING TO THIS MEETING FOR NOW 11 YEARS EACH TIME FOR SOLE REASON OF TREATIES; IT IS FAIR TO SAY WE HAVE STUDIED MANY QUESTIONS IN AND AROUND THIS QUESTION SO WE HEARTEN TO HEAR AT OUR LAST SESSION THAT THE WORKING GROUP TOOK A VERY IMPORTANT STEP OF RECOMMENDING THAT ONE OF THE MEMBERS, PROFESSOR ALFONSO MARTINEZ BE ENTRUSTED WITH A STUDY OF THE TREATIES MADE BY INDIGENOUS PEOPLES AND STATES IN MANY PARTS OF THE WORLD. WE ALSO REJOICE THE FACT THAT THIS RECOMMENDATION WAS ADOPTED WITHOUT OPPOSITION BY THE SUB COMMISSION. WE WERE DISMAYED HOWEVER BY THE RATHER VAGUE GUIDELINES INTRODUCED BY THE COMMISSION, IT ALSO TOOK THE UNPRECEDENT STEP OF REQUESTING SUBMISSION AND DEBATE OF AN OUTLINE, BEFORE CONSIDERING APPROVAL OF THE FULL STUDY, WE NOW FEEL WE NEED TO DEVOTE AGAIN A RATHER SUBSTANTIAL PART OF OUR TIME THIS YEAR TO THE RECONSIDERATION OF THE SCOPE AND CONTENTS OF THIS STUDY. IN OUR ORGINAL DEFINITION OF THE SCOPE OF THE STUDY, THREE NEW ELEMENTS WERE INTRODUCED BY THE COMMISSIONS RESOLUTION OF 1988/ 56, THEY ARE;

AN ORGANISATION IN CONSULTATIVE STATUS. CATEGORY II. WITH THE
UNITED NATIONS ECONOMIC AND SOCIAL COUNCIL

Panote Michelle
INNU KANANTUAPATSHET
Naskapi-Montagnais-Innu Association
North West River, Labrador AOP 1M0
Canada

Bernie Francis
SANTE MAWI'OMI wjit MIKMAQ
P.O. Box 1628
Sydney, Nova Scotia B1P 6T7
Canada

Milo Yellowhair
LAKOTA TREATY COUNCIL
P.O. Box 862
Pine Ridge, South Dakota 57770
USA

A D. Tallbird
SOUTHERN CHEYENNE RESEARCH
& HUMAN DEVELOPMENT CORP
P.O. Box 143
Concho, Oklahoma 73022 USA

- (1) "OTHER CONSTRUCTIVE ARRANGEMENTS" ARE TO BE EXAMINED BY THE SPECIAL RAPPORTEUR, ALONG WITH TREATIES AND AGREEMENTS
- (2) THE STUDY IS TO TAKE INTO ACCOUNT THE "SOCIO-ECONOMIC REALITIES OF STATES AND THE INVIOABILITY OF THEIR SOVEREIGNTY AND TERRITORIAL INTEGRITY"
- (3) THE AIM OF THE STUDY IS TO EXPLORE "INNOVATIVE, FORWARD-LOOKING APPROACHES TO RELATIONSHIPS" BETWEEN STATES AND INDIGENOUS PEOPLES;

MEMBERS OF THE WORKING GROUP I AM REMINDED OF A PHRASE IN MANY OF THE TREATIES THAT BEGINS "AS LONG AS THE GRASS GROW, AS LONG AS THE WATER FLOWS" COULD THE COMMISSION BE MORE CLEAR ON THESE GUIDELINES? AND ARE THEY USEFUL? AS A PARTICIPANT IN THE DEBATE AND CONSULTATIONS ON THIS MATTER AT THE COMMISSION, WE WOULD LIKE TO OFFER THESE REFLECTIONS.

THE TERM OF "OTHER CONSTRUCTIVE ARRANGEMENTS" REEKS OF THE AMERICAN MILITARY POLICY OF OVERKILL. WE DON'T MEAN TO BE UNKIND BUT THE FACT IS THE STUDY MAY BE EXPANDED TO EVERY CONCEIVABLE CUSTOMARY OR LEGISLATIVE POLITICAL ARRANGEMENT BETWEEN STATE AND INDIGENOUS PEOPLES--- THAT IS; THE STUDY WOULD BE NEARLY AS BROADAS THE MARTINEZ COBO REPORT. BUT MARTINEZ COBO ARGUES THE STUDY OF TREATIES SHOULD BE TAKEN BY ITSELF, THE REASON BEING IT WAS TOO COMPLEX IN ITSELF TO BE ADDRESSED PROPERLY WITHIN THE FRAMEWORK OF A LARGER STUDY. WE HOPE THAT THE SPECIAL RAPPORTEUR EXERCISE DISCRETION AND NOT GO TOO FAR AFIELD OF NEGOTIATED AGREEMENTS. WE WOULD ALSO REMIND THE WORKING GROUP OF THE DIFFERENT LEVELS OF THE RELEATIONSHIPS WITH STATES;

THE COMMISSIONS REFERENCE TO THE SOVEREIGNTY AND TERRITORIAL INTEGRITY, ALONG WITH THE TERM SOCIO-ECONOMIC REALITIES IS UNSETTLING AND CLOUDS THE STUDY. WHOSE SOVEREIGNTY? WHOSE TERRITORIAL INTEGRITY? WHOSE SOCIO-ECONOMIC REALITIES? IT APPEARS THAT SOME STATES FEAR WHAT THE SPECIAL RAPPORTEUR WOULD CONCLUDE. THE SIGNING OF TREATIES BY INDIGINOUS PEOPLES AND STATES RECOGNIZES THE RIGHT TO COMPLETE INDEPENDENCE OF BOTH PARTIES. WE BELIEVE THE COMMISSION WOULD HAVE BEEN WISE TO AVOID ANY REFERENCE TO THE QUESTIONS OF STATEHOOD, THIS WILL LEAVE THE SPECIAL RAPPORTEUR WITH A LITTLE MORE DISCRETION.

AND LASTLY, THE COMMISSION'S ADVISE TO BE INNOVATIVE AND FORWARD LOOKING, WE APPLAUD AND AGREE FOR WE DO OUR WORK UNDER THE WATCHFUL EYE OF THE COMMING SEVEN GENERATIONS, WE HOPE THE STUDY OF TREATIES EXAMINES THE FUTURE IMPORTANCE OF RESPECTING EXISTING TREATIES AND THE WISDOM OF MAKING NEW ONES. LET IT BE SAID THAT WE HAVE A GREAT INTREST ON WHAT STATES SHOULD DO IN THE FUTURE TO IMPROVE THE ENJOYMENT OF HUMAN RIGHTS BY INDIGENOUS POPULATIONS;

WE HAVE REACHED THE CONCLUSION THAT THE GUIDELINES SET BY THE COMMISSION IS CONFUSING AT BEST AND SUGGESTING A TOO BROAD OF SCOPE AND FOCUS UNNECESSARILY ON SOME SENSITIVE LEGAL QUESTIONS. THIS DOESN'T NEED TO BE A PROBLEM HOWEVER,

IF WE CAN AGREE THAT THESE NEW ELEMENTS CAN BE DIGESTED WITH DISCRETION AND WE MUST NOT WAVER FROM THE OVERALL AIM OF THE ENTIRE EFFORT WHICH IS TO FIND A SITUATION WHERE STATES RESPECT THE RIGHT OF CONSENT OF THE INDIGENOUS PEOPLES; IN CONCLUSION WE WOULD THE FOLLOWING FOR USE IN DEVELOPING AN OUTLINE FOR THE STUDY OF TREATIES; WE MUST RECOGNIZE THE DIFFERENCES AND SIMILARITIES OF TREATIES WHEATHER THEY BE IN NORTH-AMERICA, AFRICA, OR ASIA, WE MUST RECOGNIZE THE PRESENT DAY APPLICATION AND TO WHAT EXTENT THEY ARE APPLIED AND RESPECTED BY MUNICIPAL LAW, AND IN ANY STUDY WE HAVE TO INCLUDE THE STUDY OF PRESENT DAY TREATIES AS THE JAMES BAY CONVENTION AND WHETHER THESE CONVENTIONS AND COMPACTS PROVE TO BE BENEFICIAL OR NOT. WE REMIND YOU ALSO THE CONDUCT OF NEGOTIATIONS AND IMPLEMENTATION BE EQUAL, JUST AND EVEN SIDED, WE SHOULD INCLUDE A CONSIDERATION OF APPROPRIATE INTERNATIONAL MECHANISMS FOR ASSURING A BALANCED AND REPRESENTATIVE NEGOTIATIONS WITH FULL RESPECT FOR PAST AND FUTURE TREATIES; FINALLY WITH AN EYE ON THE RECENTLY COMPLETED TREATIES OF THE USSR AND USA WE MUST HAVE A WAY TO VERIFY THE COMPLETED TREATIES;

WE THANK YOU FOR THIS SHORT TIME AND WE WISH YOU AND ALL THE PEOPLE YOU TOUCH BE BETTER FOR HAVING KNOWN THEM; LE AMPETU KE LE WOPELA HECHA NA EUHELA NAPA CHU SAZ PELO.....mita ku ya oyasine