

STATEMENT BY MR. H.SUPANDAR
MEMBER OF THE INDONESIA OBSERVER DELEGATION
WORKING GROUP ON INDIGENOUS POPULATIONS
GENEVA, 5 AUGUST 1987.

Madam Chairperson,

As was the case two years ago, my delegation is participating in your Working Group's sessions as an observer. We have followed with great interest, the progress made by the Working Group, over which you have so ably presided. A number of constructive contributions to the tasks of the Working Group in preparing draft principles of the declaration on the protection and promotion of the rights of indigenous populations have been undeniably useful for the successful completion of the mandate of the Working Group. In this respect, we cannot but express our deep appreciation to you, as well as to the other members of the Working Group for your noble efforts in helping to resolve the complex and intricate problems related to the rights of indigenous populations.

We would however, at this juncture, like to express our dismay that some representatives from NGOs who supposedly represent the so-called RMS (Republic of South Molucca) and OPM (Free Papua Movement) have abused the forum by launching a defamatory and callous attack against my country, Indonesia. Not only is their over zealous agitation completely devoid of any sense of proportionality, but their statements are irrelevant to the tasks of the Working Group and clearly reveal the true objectives of their indefensible political cause, namely their dream of establishing independent states within the Republic of Indonesia.

The calumnious and baseless accusations against Indonesia have been made many times in the past and are based purely on hearsay, second hand information and fabricated reports from Indonesia's detractors, which have been interspersed with clichés and which totally contradict the true situation prevailing in the provinces of Irian Jaya and Maluku.

There is no need, therefore Madam Chairperson for my delegation to

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entertain their accusations since they do not contribute to the objectives of the mandate of the Working Group but only lend credence to these self-styled movements.

Before concluding, we would like to recall the historical fact that that since independence in 1945, the province of Maluku has been an integral part of Indonesia. Indeed, the South Malukus, have always been part of the Indonesian nation. For the outsider with little knowledge of the history of Indonesia, the RMS's only connection with Indonesia is due to its name and because a small number of South Moluccans who dreamt of an imaginary state, were at one time, members of a group of mercenaries in the pay of the colonial army which fought against the Indonesian freedom fighters during Indonesia's war for independence. At the end of that bloody war, a number of these mercenaries, after their failure to create disorder and turmoil, chose to leave Indonesia and were shipped to the metropolitan country. The remainder were integrated into the Indonesian army.

Some members of the group who live in the metropolitan country have continued to nurture their dreams of an imaginary state and in the meantime they involve their children - who have never seen Maluku - in their illusions. Persistently believing in their unfulfilled dreams, they are unable to face reality which caused them in desperation to manipulate any forum to launch their attack against Indonesia. If they wish to voice their frustrations, it would be appropriate to address themselves to the metropolitan country which once promised them their imaginary state.

With regard to the separatist movement called the "The Organisation of Free Papua" (OPM), all their charges against Indonesia have been refuted in this forum in the 1985 session. There is no need therefore to repeat them again. We would only like to remind the participants of the meeting that the people of Irian Jaya, the former Dutch territory exercised their right of self determination through re-integration with Indonesia through elections under the auspices of the United Nations. This was based on the agreement of 15 August 1962 between Indonesia and the Netherlands which was thereafter approved by the General Assembly of the UN in September of the same year. Since then, the province has

substantially developed, in particular under the national 5 year development plan. As a result, efforts to revive the idea of creating an independent state within the Republic of Indonesia, as promised by the former colonial administration failed. This resulted in frustration on the part of an insignificant group, most of which were in exile, who later established the self styled movement called OPM.

Thank you, Madam Chairperson.

Madam Chairperson,

Let me first of all join my colleagues members of the Working Group and others who have spoken before me in extending to you sincere congratulations on your election to ^{the} chair. It is once again an expression of the confidence we all have in your outstanding qualities, proven competence and experience and in your commitment to the cause of indigenous peoples.

Madam Chairperson,

I would like to comment briefly on the question of self-determination and autonomy which has been raised several times in the course of our debate.

It is, in my view, an extremely important question and one which we should consider with great care, because of the sensitivity and passion it has and can arouse.

The association of the concept of self-determination with the process of decolonization has made it suspect in the eyes of many Governments. Worse still some Governments have tended to view claims for self-determination and autonomy by indigenous groups as secessionist moves and threats to the sovereignty and integrity of the nation-state. But as has been pointed out by several indigenous groups represented at this meeting, the situation of some of them is indeed akin to a colonial situation where their dignity and rights are ruthlessly suppressed and denied. This has naturally led some indigenous peoples to present their claims for self-determination and autonomy in terms of a reach for outright sovereignty and independence. The reaction of Governments faced with this kind of claim has been equally predictable.

However, I believe that from these positions it is possible to move the pendulum into a position that will encourage positive response ^{and} cooperation from Governments and all concerned in guaranteeing to indigenous peoples their right to self-determination and autonomy. I am not advocating the continuation of the paternalistic attitudes of some Governments to indigenous peoples in this matter, but we must recognize the varying degrees of autonomy and self-determination that the circumstances of each indigenous group or people call for.

What is important in my view is that in our standard-setting effort we establish a general enough principle of self-determination and autonomy that will allow for the needs of various indigenous groups and peoples to be fully met.

In order to attain this goal it is imperative that national constitutions should be revised and amended to cater for the needs of indigenous peoples; their full participation in political, economic, social and cultural activities as separate yet integral part of national life should be guaranteed by law. And in this regard nothing short of constitutional guarantees of the right of indigenous peoples to self-determination and autonomy will do.

Madam Chairperson, the other question I wish to raise relates to the review of ILO Convention 107. On the one hand, it has been said that mechanisms and opportunities exist for indigenous peoples to participate fully and directly in that review exercise. But on the other hand, concern has been expressed by representatives of indigenous groups that ILO procedures will effectively preclude their full and direct participation in the review exercise. Madam Chairperson, with your kind permission I should like to take this opportunity to address an appeal to the ILO Observer representative in this meeting to clarify what the true position is with regard to the participation of indigenous peoples in the review exercise of Convention 107.

Finally, Madam Chairperson, although it is early days yet, I should like to suggest for future action that a monitoring mechanism should be devised for overseeing the Convention on the rights of indigenous peoples which we hope will eventually be drawn up and adopted by Member States of the United Nations on the basis of the Declaration towards which we are now working. This could follow the pattern of the Committee on the Elimination of Racial Discrimination which monitors the status of implementation of the provisions of the Convention on the Elimination of All Forms of Racial Discrimination. The establishment of a reporting mechanism whereby Governments would be required to give periodic account of progress in the implementation of measures designed to protect the rights of indigenous peoples would be particularly welcome in this regard.

I should add that as in the case of the Convention on the Elimination of All Forms of Racial Discrimination, a future Convention on the Rights of Indigenous Peoples should require Governments to incorporate its

provisions in specific domestic legislation. In this way we might hope to prevent Governments from resorting to vague references such as we have heard in this debate to constitutional and other provisions which they claim provide adequate human rights protection for all their citizens including their indigenous populations. Quite clearly if the rights of indigenous peoples were adequately provided for and protected, our meeting here would be unnecessary.

Madam Chairperson, I should like to conclude my remarks by appealing to all Governments, foundations, etc. to contribute generously to the Voluntary Fund for Indigenous Populations to enable the purposes and objectives for which it has been established to be achieved.

I thank you, Madam Chairperson.

STATEMENT BY Mme. GU YIJIE, MEMBER OF THE WORKING GROUP

(6 August 1987)

Madame Chairman,

At the outset, please allow me to congratulate you upon your re-election to the chair in the current session of the working group under the sub-commission. Your remarkable talent and experience will surely enable this session to achieve the expected results. I will do my humble share in cooperating with you to fulfill the tasks confronting this session.

We have entered the stage of standard setting in our meeting. That task is of utmost importance and bears great significance in that the results achieved in the current session and the standards set therein would lay a foundation for the indigenous populations in their future struggle to seek their inalienable fundamental rights. For that purpose, I would now like to present the situation of minority ethnic groups in China and outline the measures taken by the Chinese government in that regard in order to provide some points of references for the deliberations of standard setting of our meeting .

As I have mentioned before in the past sessions, there does not exist any indigenous population in China. I believe that Dr. Cobo is quite right in his definition of indigenous population as contained in his report. He stated that " Indigenous populations are composed of the existing descendants of the peoples who inhabited the present territory of a country wholly or partially at the time when persons of a different culture or ethnic origin arrived there from other parts of the world, overcame them and, by conquest, settlement or other means, reduced them to a non-dominant or colonial condition." It is quite obvious from Dr. Cobo's definition that indigenous population are a group of people who had originally lived for a long time in a region and were later conquered as a result of alien invasion . Over 93% of the population presently living on the Chinese mainland are of Han nationality and have inhabited there for several thousand years. China also counts 55 minority ethnic groups who live together with the Hans. One cannot find any case in China where alien

invaders "conquered" the original ethnic groups in their territory. In fact, the minority ethnic groups in our country enjoy equal rights

with other

ethnic groups. China's constitution has provided in Article 4 of the General Principles that, " All nationalities in the People's Republic of China are equal. The state protects the lawful rights and interests of the minority nationalities and upholds and develops the relationship of equality, unity and mutual assistance among all of China's nationalities."

In China a policy of ^{regional} national autonomy is being carried out in areas ^{inhabited by people of the} of minority nationalities. The autonomous regions have various organs at all levels functioning and exercising the right to be ~~the~~ masters of their own affairs. ^{I am} ~~am~~ giving an introduction to the situation in China's minority autonomous regions because this might be of ~~some help~~ ^{use} ~~to~~ ^{as reference in} our discussion and standard setting.

An important policy of the Chinese Government concerning the national minority autonomous regions is assisting the development of local economy, culture, et. In the light of the particular needs and conditions of various regions, the Government allocates funds to assist local development and economic construction. The government also helps train cadres and technical personnel in administering the ~~work~~ of the autonomous regions in ~~all~~ fields and at all levels. The right to development is the most important to the autonomous regions. Without economic and cultural development there will be no development in other fields. ^{There's no} ~~Need~~ ^{that} for reticence, due to historical and other reasons, the areas of minority nationalities are still backward in economic and cultural development. Without the assistance and guidance from the central Government in economy, personnel and other fields, it would be difficult for the autonomous regions to seek development and advancement.

In the field of education, in autonomous regions local governments at all levels are empowered to develop independently the education undertakings within their own regions. Larger and more important autonomous regions have set up their own institutes of higher learning. All autonomous regions have their own primary and secondary schools and teachers' colleges for ~~the~~ training ~~of~~ teachers of minority nationalities. These schools teach in their own languages. There are publications ^{that} come out in their own ^{languages} written ^{classes} characters. Some famous universities in China have set up special ~~courses~~ for students from minority nationalities and carry out education programmes in accordance with the special needs of these students. In Beijing, the capital of the People's Republic, there is an institute for nationalities with thousands of students from various nationalities all over the ^{country}. The main objective of the institute is to train and bring up ^{qualified} personnel in various fields so that they can serve the construction and development ^{needs} of the autonomous regions.

In the field of health ~~care~~, China's laws and decrees stipulate that autonomous regions manage independently their own affairs in health care, while the competent organs of the State assist them through certain measures. The State also set aside certain appropriations as subsidies

so that those who can not afford medical service free can enjoy free medical service. The autonomous regions have set up medical centres with medical workers sent by the state helping set up hospitals and training local medical workers. The traditional medicine of minority nationalities have also made remarkable development. For example, the traditional medicines of Tibetan, Mongolian, Uighur, Dai nationalities have histories of a thousand years. They play a important role in treatment of diseases and relieving patients of their sufferings. Now, many diseases such as smallpox, dysentery, venereal diseases, cholera, which used to seriously harm people's health, have been basically eliminated or controlled to a great extent. The health conditions of minorities ethnic groups have been greatly improved.

Due to historical and other reasons, China's areas inhabited by national minorities have developed at a comparatably slow pace. The transformation of the area from it's backwardness can not accomplished overnight.

And China itself is still a developing country with ^{limited} resources for development. Nevertheless, in my view, when the state pursues a correct policy of national equality and provides assistance in economy, culture, education, health care and social development whenever possible, the areas inhabited by minority nationalities will embark on a path of steadily development, together with the other parts of China.

Now I wish to make a few remarks on the issue of standard setting. Instead of commenting on all of the content of the draft standards which is of great complexity, I will share with you my thoughts on part of the content of the draft standards.

In my view, in setting the standards for the indigenous populations, the following important respects should be covered (I wish to repeat here that what I am going to refer to is not the whole content of the standards):

1. The right of the indigenous populations to enjoy the fundamental rights and freedom provided for in the Charter of the United Nations, the Declaration of Human Rights and the human rights covenants should be recognized.

2. The indigenous populations should receive the same respect as the rest of the citizenenes of a state, without being discreminated against. The domestic legislations and policies of each state should

provide effective protection to this right of the indigenous populations.

3. The indigenous populations have the right to teach their children in schools in their own language. Their language and culture should be protected and respected.

4. In order to ensure the health of the indigenous populations, medical and health facilities in various forms should be established and importance should be attached to the traditional medical treatment and medicines of the indigenous populations. Scientific studies should be carried out on these medical treatment and medicines so that they can be improved on and developed.

5. The traditional culture, arts and way of life of the indigenous populations should be protected and their freedom of religion be respected and effectively guaranteed.

As for the other rights and freedoms of the indigenous populations, I will deal with them at later occasions.

Thank you, Madame Chairman.

Statement by Mr. NAKAMURA, Counsellor of the
Permanent Mission of Japan in Geneva
United Nations Working Group on Indigenous Populations

5 August, 1987

Mme. Chairman,

Let me first express our admiration for the efficient and equitable manner in which you have been chairing this important Working Group, and our sincere hope that the Group will continue to make progress in its work under your able chairmanship. Indeed, the question of indigenous people is acquiring ever more attention all throughout the world, and this body has been the focal centre on this question within the U.N. system. The Government of Japan wishes to follow closely the important work carried out in this WG, and in trying to contribute to it, wishes to provide some information on the situation of the Aïnu people in Japan.

It is said that several ethnic groups were mixed and formed into the Japanese people over the long period of history. The Aïnu is considered to be one of these ethnic groups, and their descendants, who are said to number about 24,000, live mainly in Hokkaido.

In Japan, everyone's rights to enjoy one's own culture, to practice one's own religion and to use one's own language are not denied, and the Aïnu people are equally not denied the enjoyment of these rights as nationals of Japan whose equality is guaranteed under the Japanese Constitution.

Also, in the implementation of the various administrative measures, the people of the Aïnu, as Japanese nationals, are equally treated just as the rest of the Japanese people are.

Furthermore, with a view to taking special positive measures designed to improve the social and economic status of the Aïnu people, comprehensive measures have been taken since 1974 in the Utari Welfare Measures, which include the improvement of living environment, strengthening social welfare, promotion of education and culture, and the transmission and preservation of the social and cultural heritage. The Government of Japan and local public entities have actively made special budget allocation for these measures, which have amounted to 30.9 billion yen by the end of FY1986 and are determined to continue to make such efforts.

As for the Japanese initial report submitted under the International Covenant on Civil and Political Rights, the gist of the part concerned is that, in the light of the purport of the article 27 of the Covenant, there are no minorities in Japan who are denied the enjoyment of the rights stipulated in this article. The Japanese Government neither claims Japan to be a "monoethnic nation", nor denies the existence of the Aïnu people.

Concerning the Hokkaido Former Indigenous Protection Law enacted in 1899, its aim was to protect the Aïnu people who lived, at that time, in dire poverty. At present, only two matters in the Law are still effective and it does not infringe upon the rights of the Aïnu people.

The first is the restriction on the transfer of granted land. Under the Hokkaido Former Indigenous Protection Law, land of up to 49,500 m² can be granted without compensation to each Aïnu family who is or intends to be engaged in agriculture, for the purpose of securing their livelihood.

The purpose of the requirement of permission of the Governor of Hokkaido when granted land is transferred to others, is to ensure that the land would be utilized in accordance with the purpose for which it has been granted to the Aïnu people. The Governor of Hokkaido therefore grants permission for the transfer of lands when it is considered to be more beneficial for the Aïnu people to transfer the land than to keep it. In recent years, there have been no cases in which the Governor of Hokkaido has not granted permission for the transfer of land.

Secondly, the Governor of Hokkaido, under the Hokkaido Former Indigenous Protection Law, can take charge of common property of the Aïnu people on their behalf, for the purpose of preserving the property, when joint management of the property by the Aïnu people is difficult.

At present, the Governor of Hokkaido is taking charge of about 940,000 yen of bank deposits as common property of the Aïnu people.

If there is a more appropriate way to take charge of common property of the Aïnu people than to place it under the Governor's care, the way is open for such care under the Law.

As for the future status of this Law, the Government would first like to see the result of the discussions which are currently underway among the local parties concerned.

Thank you Mme. Chairman.



MISION PERMANENTE DE NICARAGUA
ante la oficina de Naciones Unidas
y los organismos Internacionales
Ginebra - Suiza

I N T E R V E N C I O N

de la

DELEGACION DE NICARAGUA

ante

EL GRUPO DE TRABAJO SOBRE POBLACIONES INDIGENAS

GINEBRA

6 de agosto de 1987

Señora Presidente:

De conformidad con sus consejos sobre la brevedad de las declaraciones, permítaseme resumir el proceso de autonomía de la región de la costa atlántica de mi país.

En el mes de diciembre de 1984, se inició la discusión generalizada sobre un proyecto de autonomía y dos años y medio después, dicho proyecto está en su última etapa, conforme a la Constitución de la República, para su entrada en vigencia. Precisamente el día de ayer el Presidente de la Asamblea Nacional, órgano legislativo de mi país, anunció públicamente que ese Poder del Estado discutirá la futura Ley de Autonomía de la Costa Atlántica en setiembre próximo.

El contenido del proyecto de Ley de Autonomía es el resultado del ejercicio de la democracia en su sentido más amplio. La definición de la autonomía y los principios que la guían es el producto de miles de consultas populares y de cabildos abiertos en que se debatió primeramente el texto del capítulo de la autonomía contenido en la Constitución política y posteriormente para la elaboración del "Proyecto de Ley sobre las Regiones Autónomas de la Costa Atlántica".

Estamos, no obstante lo anterior, conscientes de que se está terminando solo una etapa en este proceso que necesita de continuidad. La ley es solo

un puerto de entrada; no es la respuesta a todos los problemas de la costa atlántica y de las etnias allí existentes, no es la llave maestra sino una guía para la práctica, un instrumento para la acción.

No es tampoco en su contenido actual, una ley para siempre. Tendrá que mejorarse, se tendrán que descubrir mejores perfiles. Con el transcurso del tiempo y su puesta en práctica, se descubrirán los defectos y se entrará entonces en un período de rectificación.

El Proyecto recoge la legitimidad histórica de los derechos de las comunidades de la Costa Atlántica, reconoce el carácter multiétnico de nuestro pueblo y la legitimidad de construir la unidad en la diversidad. La ley expresa los principios sobre los cuales se sostiene la autonomía, señala la división territorial al interior de las regiones y explicita los derechos de los habitantes de las comunidades con independencia de los derechos y deberes establecidos en la Constitución política. A este respecto, el Artículo 12 del Proyecto dice:

"Los habitantes de las comunidades de la Costa Atlántica tienen derecho:

1. A la absoluta igualdad de derechos entre sí.
2. A preservar y desarrollar sus lenguas, religión y cultura.

3. Al uso, goce y disfrute de las aguas, bosques y tierras comunales dentro de los planes de desarrollo nacional.
4. A organizar sus actividades sociales y productivas conforme sus propios valores.
5. A recibir educación en su propia lengua mediante programas que recojan su patrimonio histórico, las tradiciones y características de su medio ambiente, todo de acuerdo con el Sistema Educativo nacional.
6. A las formas comunales, colectivas o individuales de propiedad y transmisión de la tierra".

La ley establece la creación de las regiones autónomas que tendrán sus sedes en Puerto Cabezas y Bluefields donde funcionarán los Gobiernos de las etnias. La naturaleza de esta administración regional y el nombramiento de un Coordinador Regional, así como el carácter democrático para nombrar a los Representantes de los Consejos o de las Asambleas, estructura que tendrá como mínimo 30 personas y como maximum 50, las cuales serán electas mediante el sufragio universal, directo y secreto.

El proyecto recoge los requerimientos de los recursos presupuestarios para que funcione adecuadamente la Administración local. Es explícito en lo que se

refiere a las aportaciones del Gobierno Central para programas estratégicos, e igualmente crea un Fondo Especial de Desarrollo para los aportes extraordinarios o contribuciones del exterior.

Esta ley no es solo un instrumento jurídico, como síntesis de la voluntad popular, sino que también es un reto para la Revolución, ya que el enemigo no renuncia fácilmente en su proyecto de destrucción de la Revolución Popular Sandinista.

Sra. Presidente,

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[Los Estados Unidos] han invertido más dólares en los preparativos para una posible invasión a Nicaragua que la ayuda internacional recibida por nuestro país desde el triunfo de la Revolución. Esta agresión que ha sido condenada por la Corte Internacional de Justicia en su histórica sentencia del 26 de junio de 1986, ha causado miles de muertos y daños económicos cuantiosos.

Los efectos directos e indirectos de esta guerra de agresión afectan mucho más a la Costa Atlántica por su bajo nivel de desarrollo, resultado de la explotación irracional en el pasado por parte de empresas transnacionales y por su aislamiento. La zona para pesca industrial está restringida al norte de Puerto Cabezas, que es una de las más ricas en langostas y camarones. Muchos barcos pesqueros han sido quemados, destruidos por minas y otros robados. La actividad contrarrevolucionaria ha agravado

los problemas de transporte y comunicación con el resto del país. Las carreteras a menudo están cortadas. El FDN, principal grupo contrarrevolucionario, cuenta con misiles tierra-aire que dificultan la navegación aérea. Aserríos quemados, camiones destruidos, obreros asesinados, repercuten en la actividad maderera que se ve paralizada en la costa. Durante la estación seca incluso provocan incendios forestales. Hasta mayo del corriente año, más de 15.000 hectáreas fueron incendiadas por acciones del FDN y de Kisan Guerrerista.

Como producto de las negociaciones y acuerdos, entre el Gobierno y los grupos indígenas alzados, la actividad bélica ha disminuido en la Costa Atlántica; sin embargo, este diálogo ha querido ser boicoteado por el enemigo que cuenta con agentes especializados ^{en} ~~en~~ instituciones indigenistas, principalmente de Norteamérica, que desde 1985 han trabajado para obstaculizar el mismo sin resultado alguno. *algunas*

Como consecuencia del diálogo, el Gobierno ha autorizado el regreso de las comunidades a sus antiguos poblados en el Rio Coco, miles de miskitos han regresado de Honduras con la asistencia del ACNUR, se han comenzado proyectos para desarrollar la zona y con la participación activa en la defensa de los antiguos alzados se augura el futuro éxito de la continuidad del proceso de autonomía.

El Gobierno, no obstante, considera que para una mejor implementación de la ley es necesario un ambiente de paz y, en ese sentido, participa y participará activamente en el proceso de Contadora y en la utilización de todos los medios de solución de conflictos establecidos en la Carta de las Naciones Unidas, incluso el Consejo de Seguridad, la Asamblea General, la Corte Internacional de Justicia y otros Organismos especializados.

Nicaragua, respetuosa del ordenamiento jurídico internacional y de la convivencia pacífica entre las naciones, tiene como proyecto interno la implementación de un Estado de Derecho con justicia social e igualdad entre los pueblos.