specifically prohibited sex discrimination and stereotyping in employment. The Carter Administration has improved the enforcement capabilities of the Equal Employment Opportunity Commission abd HEW's Office of Civil Rights. It has addressed the problems inherent in the Social Security System and adopted programs to facilitate loans to women business owners. Finally, women in the United States have been accorded civil rights equal to those enjoyed by men and are beginning to make inroads into the political establishment.

On the other hand, further improvements are still needed in many government programs. The Commission believes, for example, that additional efforts must be made to ensure that women of all ages have access to the type of education and training that will prepare them adequately for careers outside the home. Of primary importance for young women is improved enforcement of Title IX of the 1972 Education Amendments. Improved follow-up mechanisms, including more frequent on-site inspections and more specific reporting requirements, would be advisable.

While recognizing that several federal programs have sought to make day-care facilities more widely available, the Commission believes that a much greater commitment of funds and resources will be necessary before U.S. performance in this sphere will match that of some other CSCE states. It should, therefore, become a high priority of Congress and the Administration to increase the level of federal assistance to state and local programs in providing day-care facilities to working parents.

Clearly, the U.S. record leaves room for improvement. However, U.S. policies and women's programs do represent a good faith effort to comply with the Final Act's equal rights provisions.

AMERICAN INDIANS[21]

American Indians have much in common with other U.S. minority groups. However, it would be extremely misleading to view the rights of American Indians solely in terms of their status as a racially distinct minority group, while neglecting their tribal rights. The Indian tribes are sovereign, domestic dependent nations that have entered into a trust relationship with the U.S. Government. Their unique status as distinct political entities within the U.S. federal system is acknow-

21. Unless otherwise indicated, background information in this section has been provided by the Office of the Assistant Secretary for Indian Affairs of the U.S. Department of the Interior.

ledged by the U.S. Government in treaties, statutes, court decisions and executive orders, and recognized in the U.S. Constitution. This nationhood status and trust relationship has led American Indian tribes and organizations, and the U.S. Government to conclude that Indian rights issues fall under both Principle VII of the Helsinki Final Act, where the rights of national minorities are addressed, and under Principle VIII, which addresses equal rights and the self-determination of peoples.

The U.S. commitment to Indian self-determination is articulated in the Indian Self-Determination and Education Assistance Act that became public law in early 1975. The policy of the U.S. Government, articulated in this law, is designed to put Indians, in the exercise of self-government, into a decision-making position with respect to their own lives. The United States has recognized that it has not always lived up to its obligations in its protection of the rights of Native Americans to a continuing political existence, to land and natural resources and to cultural distinctness. The U.S. Government, however, is improving its performance and attempting to close the gap between policy and practice.

At the CSCE hearings in April of 1979 on U.S. domestic compliance with the Helsinki accords, criticism was directed toward U.S. treatment of Indians -- both as citizens of Indian nations and tribes, and as individual minority group members. Other criticisms have been brought to the Commission's attention by the U.S. Commission on Civil Rights, which has solicited opinions from such sources as tribal organizations and Indian interest law firms. In addition, the Commission has noted criticism from other signatory states. The allegations and criticisms concerning Indian rights cover a broad spectrum: administrative and institutional conflict of interest; coordination and funding problems at the federal level; insufficient opportunity for effective Indian involvement in the federal decision-making process; inadequate protection of tribal rights by the Federal Government; discrimination against Indians as a minority; the poor socio-economic profile of Indians; purported sterilization of Indian women against their wishes; Indian prisoners of conscience and accusations of police misconduct; forcible assimilation of Indians into white society and removal of Indian children from their home or tribal environment; and insensitivity to Indian cultural needs. The remainder of this section of the report addresses these criticisms and will attempt to assess Indian rights within the context of the Helsinki Final Act.

The Federal Administration of Indian Policy

The Federal Government's trust responsibilities and special relationship extends to Indian nations, tribes and individuals. The major federal departments with programs relating to Indians are Interior; Health, Eduction and Welfare; Agriculture; Housing and Urban Development; and Commerce. The Departments of Labor, Transportation, Treasury, State and Defense also have programs important to Indians. The Department of Justice handles most of the legal problems affecting Indian rights. Other agencies such as the U.S. Commission on Civil Rights and the Equal Employment Opportunity Commission have functions of consequence to Indians.

The Interior Department is the agency which has the greatest impact on Indian affairs. Interior is explicitly charged with the task of protecting Indian lands and resources and has specific statutory responsibility for ensuring the continued well-being of Indian tribes and people. The Bureau of Indian Affairs (BIA) is the main agency within the Interior Department that deals with Indian affairs.

The dual role of the BIA as an advocate of Indian interests and principle agent of the trustee (the United States) has given rise to a large measure of Indian mistrust. The BIA has been accused of paternalism and mismanagement in the past. The present BIA administration has acknowledged past problems and has taken steps to resolve them, recognizing that it has often implemented negative policies too vigorously, while positive policies have been carried out less vigorously. The BIA is now improving its management structure and system, and it is moving to facilitate greater coordination and cooperation with the other agencies on program and policy matters.

Civil, Political and Tribal Rights

While Indians in off-reservation areas may seek protection as members of a national minority under the civil rights laws, Indians on and near reservations are entitled to additional protection through specialized statutes delineating tribal rights.

Indians constitute less than one-half of one percent of the U.S. population and are widely disbursed throughout the country. Hence, they are not a particularly effective political force. Therefore, historically Indians have depended greatly on their unique legal status to protect them from the erosion of their rights by non-Indian private interests and state and local government.

It is paradoxical that classic civil rights arguments on equal protection are often invoked by non-Indians in this country as a means of limiting the implementation of Indian rights. Some non-Indians maintain that the the accordance of tribal rights by the Federal Government is tantamount to racial discrimination against non-Indians. Actually, the U.S. Government entered into a trust relationship with the separate tribes in acknowledgement not of their racial distinctness, but of their political status as sovereign nations.

Role of the Justice Department

The Department of Justice has the responsibility to litigate Indian interests in the courts. Two sections of the Justice Department fulfill these functions: the Office of Indian Rights of the Civil Rights Division and the Indian Resources Section of the Lands Division.

The Office of Indian Rights was established in 1974 to enforce all federal civil rights provisions as they apply to Native Americans as well as the provisions of the Indian Civil Rights Act of 1968. This office was created as a result of a study of the Civil Rights Division which found that racial discrimination was a significant contributing factor to the social and economic problems faced by American Indians. Since its establishment, the Office of Indian Rights has engaged in litigation involving voting rights cases, discrimination cases concerning access to state and local services, and improvement of conditions in detention facilities with predominantly Indian inmates.

The Indian Resources Section of the Lands Division is responsible for Indian-related, non-civil rights litigation such as lands, natural resources, tribal government and treaty rights issues.

Tribal Interest Law Firms

To help defend their rights, Indians themselves have established tribal interest law firms, such as the Native American Rights Fund (NARF) founded in 1970. These organizations supplement the work of the Justice Department, which Indians assert has inadequately enforced and protected their rights. Furthermore, Indians assert that conflicts of interest arise within various departments with divergent agencies' perspectives on Indian interests. For example, disputes over land and resources in Indian country sometimes bring into play the BIA, the Bureau of Land Management, and the Fish and Wildlife Service of the Interior Department. Moreover, in cases where

there are no direct conflicts of interest, Indians assert that political factors and the personal biases of Justice Department functionaries against taking the Indian side in disputes hinder the enforcement of Indian rights.

Law Enforcement on Indian Reservations

Four law enforcement agencies have jurisdiction on Indian reservations: the FBI investigates, and the U.S. Attorney prosecutes, violations of federal law that are designated to be Major Crimes (murder, kidnapping, rage and 11 other serious crimes); BIA police and tribal police are responsible for policing, investigating minor crimes, and maintaining law and order on a day-to-day basis; and, state police have authority in situations when both the offender and the victim are non-Indians.

The degree of confidence Indians have in the criminal justice system varies from reservation to reservation and from state to state. Indians complain that some U.S. Attorneys have not established effective prosecutorial guidelines for Major Crimes offenses, causing delays in processing cases. BIA police, tribal police and federal investigators often duplicate investigative work. On some reservations, law enforcement and court facilities are inadequate and tribal police and tribal judges are insufficiently trained. Some of the non-Indian law enforcement and prosecutorial personnel that operate on reservations are not sensitive to Indian customs and needs.

The U.S. Government is aware that these factors tend to shake Indian confidence in the criminal justice system, and is working to increase the effectiveness of police and prosecutors in Indian country. Much work remains to be done, however.

Allegations of Police Misconduct

Over the years, mutual resentments have built up between Indians and various governmental authorities. As Indian people have become more assertive, and sometimes militant, in demanding their rights, these resentments have increased. Racist statements and actions of some authorities have cause many Indian people to allege that they cannot receive fair trials and that certain Indian activists are now in prison not because of the crimes they have committed but because of their political activism.

Domestic groups have charged -- and some CSCE signatories, the USSR in particular, have echoed these charges -- that law enforcement officials have engaged in systematic harassment, surveillance and other extra-legal activity against Indian activists. These critics further asset that leaders of the American Indian Movement (AIM), such as Russell Means, Dennis Banks and Leonard Peltier, are examples of activists who have ended up as political prisoners. (Further information on Means and certain other activists is contained in the section on Alleged Political Prisoners). Critics charge that police and prosecutors increased their alleged harassment of AIM leaders and other activist Indians following the widely-publicized 1973 armed takeover of Wounded Knee, South Dakota, by Indian militants. The occupation of Wounded Knee produced a complicated situation involving several law enforcement agencies, including tribal police from Pine Ridge Reservation. When such controversial confrontations occur, the potential for conflict and misunderstanding is considerably heightened.

Judicial Decisions and Trends, 1975-1979

Trends in the courts must be reviewed within the context of the three judicial systems that apply. The federal courts, Indian courts and state courts are distinct systems, deriving their powers from separate authority and retaining their own peculiar jurisdictions to try to punish crimes by or against Indians and to determine the nature and extent of Indian treaty and other federally reserved rights.

The trend in the decisions of these systems is an effort to clarify which court system has jurisdiction over a cause of action under the circumstances. Particularly in this decade, these court systems, with the federal courts in the lead, are defining where, when and over whom Indian tribes or states have jurisdiction, and which governmental system has jurisdiction to act with respect to Indian boundaries, Indian resources, tribal members and non-members, and with respect to who can control the exercise of tribal rights off-reservation.

The present activity of the federal courts and their increasing deference to tribal courts and tribal authorities tend to support the view that the Indian policy of the United States is designed to give wide latitude to Indian tribes in the exercise of self-government. This appears to be particularly true when the principal tribal activities are in the areas of controlling their citizenry on the reservation and asserting governmental taxing and regulatory control over Indians and Indian property. There seems to be a tendency by the ocurts to avoid strong statements of Indian self-government only where the property or the reservation is largely out of Indian control. The courts also receive policy guidance from Congress

and from the executive branch in these areas, as they interpret the law and review the actions of the Congress and the Executive Branch to assure compliance with the U.S. Constitution.

A telling measure of the real successes Indians have scored in the courts in defense of their rights was seen, oddly enough, in the proliferation of "backlash" bills that were put before the 95th Congress. By means of these bills, anti-Indian political interests hoped to weaken the solid legal basis upon which Indian rights cases were being successfully won in the courts. These lobbying groups pushed Congress to terminate the trust responsibility altogether, abolish the reservations, institute state regulation of hunting and fishing on Indian lands and deny due process rights of tribes pressing claims in court. This attempt so alarmed Indian people that many undertook an arduous journey, "The Longest Walk," from California to Washington, D.C. in the summer of 1978 to voice their concern to the Congress.

For a variety of reasons, none of the "backlash" bills was ever heard of or referred out of committee, expiring with the adjournment of the 95th Congress. However, bills of a similar nature are pending before the present Congress and are still the focus of much concern for Indian people. Should these bills be enacted into law, the cause of Indian rights in the U.S. would suffer a serious setback.

Power of the Congress

Federal courts have consistently ruled that Congress has the plenary authority to fix the terms of the U.S. Government's trust relationship with the Indians. Indians assert, given the historical precedent, that the breadth of this Congressional plenary power to legislate in their regard carries with it the potential danger that such power will be misused to deprive Indians of their rights, since Indians are not as strong in numbers as the non-Indian voting public in the states.

It is not the existence of the power that should be the focus of the discussion but how and when it is exercised. More than one hundred measures expressly affecting American Indian and other Native peoples have been enacted since 1975. The 95th Congress alone created 79 new laws pertaining to Native Americans. While some of these laws affect only one or a few tribes or individual Indians, many Congressional acts during the past four years represent policy statements of major significance affecting Native governments and people in the U.S. Two of these acts -- one establishing the American Indian Policy Review Commission and the other setting forth an Indian

self-determination operating policy -- were passed in the first days of 1975.[22] Subsequently, the Congress passed important legislation addressing basic human rights and needs of Indian people in the areas of health, education, child welfare, religious freedom, economic development, land and natural resources and tribal recognition and restoration. Legislation enacted during this period follows a consistent policy line repudiating terminationist and assimilationist policies of the 1950's, removing barriers to Indian self-determination and local level control and enhancing the basic quality of life of Native American peoples.

Balanced against this progress, the House Interior Committee, in January of 1979, voted to abolish its Indian Affairs Subcommittee, which can be credited with drafting and reporting legislation affecting Indian interests in recent Congresses. As a result, Indian legislation will now be one of the many contending areas of legislative responsibility of the full Interior Committee, increasing the likelihood that fewer Members of Congress will be well versed in Indian matters. The Select Committee on Indian Affairs of the Senate, established in the 95th Congress primarily to consider over 200 progressive legislative recommendations made by the American Indian Policy Review Commission, will continue to function in the 96th Congress. These recommendations, however, remain to be considered within this Committee, and the Committee's existence in the 97th Congress is uncertain.

Socio-Economic Profile

Federal Assistance Programs

Under Principle VII, the U.S. has pledged to promote and encourage the economic and social rights of its people. Often, the U.S. has been called to task by Indians, Indian advocates, and other CSCE countries for failing to act to improve the socio-economic situation of Indians.

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22. The Congress created the American Indian Policy Review Commission in 1975 and mandated it to conduct a "comprehensive review of the historical and legal developments underlying the Indians' unique relationship with the Federal Government in order to determine the nature and scope of necessary revisions in the formulation of policies and programs for the benefit of Indians." The Commission reported its findings and recommendations to Congress on May 17, 1977 and expired on June 30, 1977.

Native Americans, on the average, have the lowest per capita income, the highest unemployment rate, the lowest level of educational attainment, the shortest lives, the worst health and housing conditions and the highest suicide rate in the United States. The poverty among Indian families is nearly three times greater than the rate for non-Indian families, and Native people collectively rank at the bottom of virtually every social and economic statistical indicator.

When the federal government negotiated treaties with various tribes, it promised them that the Indian people would be provided a permanent and economically viable and self-sustaining homeland, that the reservations would be made to bloom, that the Federal Government would assist the tribes in transforming their way of life.

The U.S. has acknowledged that it has not yet lived up to this promise. However, over the past five years important steps have been taken to improve the situation of American Indians.

Federal Assistance Programs

An overall strategy is just developing to deal with the problem of Indian poverty, the basis of many other problems.

Native people are citizens of both their tribes and the United States. As U.S. citizens they are entitled to federal assistance available to the general public, and, like other U.S. citizens, Indians may turn to the courts for redress if they believe they have been denied access to such federal services.

At the level of local service delivery systems, the Federal Government has extended recognition to tribal governments, and the Congress has repeatedly included tribes per se in such programs of general application as General Revenue Sharing, the Comprehensive Employment and Training Act and the Joint Funding Simplification Act. Yet, tribal eligibility for participation in federal domestic assistance programs to state and local governments is not uniform. In some instances, program eligibility is defined, in an apparent oversight, as intended for "state and state subdivisions," a formulation which seems to exclude tribes. In other instances, where eligibility provisions do not specify "state and state subdivisions" only, the provisions have been incorrectly interpreted by some administrators to exclude tribal governments.

Congress has created a number of programs which are intended specifically for Indians, both as tribes and individuals. These programs generally are in fulfillment of the Federal Government's trust responsibility and many of them are derived from specific treaty obligations of the U.S.

Tribal Recognition and Restoration Legislation

The past policy of terminating Federal-tribal status was intended by the Congress to assist Indian people into the mainstream by severing all federal ties and ending federal services in one cash payment. The consequences of terminations have proven tragic for the Indian people and against the national interest. Congress repudiated this practice when it examined the case of the Menominee Tribe of Wisconsin and restored their political relationship with the United States in 1973. Since 1975, the Congress has recognized or restored to recognized status six tribes, making members eligible to benefit from special federal programs that are designed to assist Indian tribes.

Federal Acknowledgement Project

The Federal Acknowledgement Project was undertaken because there may be Indian tribal groups which should but do not receive the benefit of the special federal-Indian relationship. In September of 1978, the Secretary of the Interior published final rules setting criteria for determining whether such groups qualify for this special relationship with the U.S. Government. These criteria were developed after extensive consultation with Indian groups and became effective October 2, 1978.

At the present time, there are nearly 500 governmental entities, including Indian tribes, pueblos, bands, rancherias, communities and Alaska Native villages and corporations which are recognized as eligible for BIA trust services. Thus far, more than 50 other Indian groups have petitioned the Secretary for acknowledgement of their status as Indian tribes.[23]

The Role of the Indian Health Service

The Indian Health Service (IHS) of the Department of Health, Education, and Welfare is the primary federal health resource for approximately 760,000 Indians and Alaska Native people living on or near Federal Indian reservations or in traditional Indian country such as Oklahoma and Alaska. It provides a comprehensive program of preventive, curative,

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23. The information found in this portion of the American Indian section has been provided by the Indian Health Service of the Department of Health, Education and Welfare.

rehabilitative and environmental services. The Service also provides limited assistance to approximately 274,000 of the 507,000 urban Indians to enable them to gain access to those community health resources available to them in areas where they reside.

Indian health advisory boards have played an important role in developing IHS policy and allocating resources. Tribes also have been actively involved in program implementation. As a result of new laws enacted in the last five years, the number of tribes managing health services has increased. The scope of tribally managed activities is broad, ranging from the provision of outreach services in the community to the planning, construction, staffing and operation of health care facilities.

The Indian Health Care Improvement Act, which authorizes higher resource levels for a seven-year period, beginning in Fiscal Year 1978, seeks to increase the number of Indian health professionals for Indian communities. It also authorizes IHS to set up programs with Indian urban organizations to improve Indians' access to health services.

Indian Health Developments

The health of Indian people has improved significantly. This gain is due, in part, to the overall expansion of health service and the construction of better health care and sanitation facilities. Since 1955, hospital admissions have more than doubled; outpatient visits increased seven-fold and dental services six times. Partly as a result of the increased use of hospitals, the infant mortality rate has been reduced by 74 percent and the maternal death rate by 91 percent. During the same period, the death rate for influenza and pneumonia dropped 65 percent; certain diseases of early infancy, 72 percent. Tuberculosis, once the great scourge of the Indians, in 1955 struck eight out of every 1,000; now it strikes fewer than one. An Indian child born today has a life expectancy of 65.1 years, an increase of 5.1 years over a child born in 1950. Progress and improvements do not mean that the U.S. has succeeded in raising the health status of Indians to the high level that it seeks. Further efforts will be required.

Sterilization

An allegation persistently raised by some American Indians and echoed by several CSCE states is that the U.S. Government, under IHS auspices, is coercing large numbers of Indian women to be sterilized. This alleged governmental sterilization policy is perceived as a manifestation of a far more monstrous governmental policy -- that of genocide. Those who make this

very serious allegation often cite statistics from a 1976 U.S. Government Accounting Office (GAO) report regarding the IHS.

IHS attributes these allegations to misinterpretations of the GAO report, and says there are no suggestions in the report that the IHS has undertaken any activities to sterilize Indians without their consent. IHS states that is has yet to receive a single documented case of coerced sterilization or failure to obtain informed consent for performance of a procedure that could result in sterilization. However, IHS acknowledges that the GAO study cites procedural deficiencies in obtaining informed consent. After these deficiencies were detected by GAO, IHS initiated several actions to correct them. Furthermore, HEW drew up new sterilization regulations and improved sterilization reporting and monitoring requirements, which are now being carried out by IHS and other health services. IHS categorically denies that its aim is to control population size in any way, and insists that its goal is to enhance and expand the life of the Indian and Alaska Native. Statistics show that the Indian population served by IHS has twice the birth rate and over three times the population growth rate of the U.S. population as a whole.

Economic Development Efforts

Many reservation lands are rich in natural resources, which can be used by the tribes to lift themselves out of poverty. Some tribes are actively pursuing economic self-reliance through the development of their oil, gas, coal, uranium and other energy resources. Other tribes have not made final decisions regarding development of their resources and still others have decided against development at this time. If there is to be development, it is a function of the Federal Government to assure that the best and most economically and environmentally sound arrangements are made. In addition, the government is to provide technical and financial assistance to ensure that the tribal decisions will be based on an expert and experienced evaluation of the technical and factual data.

Help has been provided from the White House or federal agencies when tribes have requested it. In 1977, five federal agencies gave the member-tribes of the Council of Energy Resource Tribes more than two million dollars for this endeavor. Two agencies, the Community Services Administration and the Administration for Native Americans, have ear-marked their funding for a human needs assessment of the impact of energy development on the affected Indian people. And, the Department of the Interior has an ongoing responsibility to assert the Indian interest in resource protection and development of related policies.

Legislative Actions

During 1977 and 1978, Congress passed about 50 bills which expressly benefit tribes and individual Indians. The most hotly debated Indian issues in the Congress during 1977 and 1978 were Indian water rights in the Southwest, Indian fishing rights in the Northwest and Indian land rights in the East. Despite controversy, the 95th Congress passed mutual-consent agreements achieving settlement of a water rights case in Arizona and the first of the Eastern Indian land claims cases in Rhode Island. By an Act of July of 1978, the Ak-Chin Indian Community's longstanding water claims were settled, enabling the tribe to continue their profitable tribal agriculture programs, thus avoiding years of economic hardship in litigation.

Similarly, the Rhode Island Indian Claims Settlement Act of September of 1978, sponsored and vigorously supported by CSCE Commission Co-chairman Claiborne Pell, ratified a negotiated settlement of to the case brought by the Narragansett Indians under the Indian Non-Intercourse Act of 1790. The Act cleared title to acreage in the state authorizing federal funds to reimburse the tribe for lands lost and to purchase lands. On August 20, 1979, the Administrtion and the Cayuga Nation of New York arrived at a land claim settlement that will involve the establishment of a trust-development fund for the tribe. The settlement will soon be sent to Congress for ratification.

Federal Involvement in Land and Resources

Tribal Land Acquisition Acts

Recognizing that the futures of Indian tribal governments and tribal economies are largely dependent on a sufficient land base to support their populations, it is a continuing United States policy to assist tribes with land acquisitions and land consolidation programs. During the years from 1975 to 1978, Congressional legislation has authorized acquisition by tribal groups of about 400,000 additional acres of land, assisting some 30 tribes to expand their land base.

Eastern Land Claims

The issue of land claims brought by Indians against states, municipalities and private landowners in federal courts in the eastern U.S. has received national attention. The claims are against states, cities and individuals, rather than against the Federal Government; they are based on the allegation that the Federal Government did not approve transfer of these lands by Indians to non-Indians, which is required by a statute first enacted in 1790 as the Indian Trade and Intercourse Act. Following the ratification of a mutual consent agreement by the 95th Congress, the first Indian land claims court settlement

was reached between the state of Rhode Island and the Narragansett tribe. In May of 1979, the state returned 1,800 acres to the tribe. A similar approach will facilitate the settlement of the claims of some 3,000 Indians comprising the Passamaquoddy and Penobscot tribes in Maine to a land in that state.

Now that the Narragansett/Rhode Island settlement is concluded (and a major step toward resolution of the Maine case has been taken) other Indian land claims may be examined in an atmosphere conducive to fruitful negotiation.

Water Policy

Conflicts over water rights in the Southwest constitute some of the most intense disputes between the states and Indians. Many are the subject of ongoing litigation in both state and federal court. For years, the states pursued a policy of homesteading on arid western lands, while the Federal Government was designing and constructing water projects with little regard to the needs of Indian communities or to the potential negative impact such projects could have on the ecological condition of reservation lands. The U.S. Supreme Court acknowledged Indian water rights early in this century in a decision known as the Winters Doctrine.

In his water policy message on June 17, 1978, President Carter announced a new water policy. Implementation of the policy is to be conducted in consultation with the Indian tribes. The Presidential directive calls for negotiations whenever possible to resolve conflicting water claims. Should negotiations fail, litigation in federal, as opposed to state, courts is favored.

Fishing Disputes

Over the past five years, Indian fishing has been the subject of serious public and political controversy. The Federal Government -- despite tremendous opposition from non-Indian communities -- has used its authority to assert the full range of fishing rights reserved to the tribes when the reservations were created. The government also recognizes the need to protect the resource. The government recognizes the right of these tribes to fish for commercial, as well as for ceremonial and subsistence purposes.

The United States Government has actively sought to protect Indian fisheries from environmental degradation, from the potential negative consequences of non-Indian diversion of waterways for agricultural and industrial purposes, from excessive non-Indian commercial and sport fishing, and from other dangers to the resource. For example, in the State of California, the government is addressing these problems as it

attempts to put the Hoopa and Yurok tribes' fishery resource in good order for their future use and self-management. As yet, the United States has avoided going to court to determine the extent of the tribal fishery right. The California Department of Natural Resources is taking a similarly positive approach, working with the federal agencies and the Indians to improve the fish stock and to lay a basis for coordinated tribal/state/ federal management of the resource in the future.

However, when litigtion cannot be avoided, the Federal Government often assumes trustee responsibility for the defense of Indian treaty rights in the courts. The Federal Government's commitment to protect Indian rights -- even if this would mean confrontation with a state -- is exemplified by an emotionally charged fishing rights dispute in Washington State.

In 1974, a landmark court decision (U.S. v. Washington) was announced, affirming the treaty fishing rights of 19 Northwest Indian tribes. The decision declared these tribes entitled to catch up to half the harvestable fish and to participate jointly with the State of Washington in the management of their fishery resources. State officials, institutions, courts and non-Indian fishers refused to accept and abide by the decision and court orders.

Finally, in the middle of the 1977 fishing season, the federal courts, at the recommendation of the Administration, were forced to take over management of the fishery. Rising to the challenge in the face of massive illegal fishing by non-Indians, strong public emotion and legal obstacles in the State, the federal agencies pooled their resources to aid the federal court in managing the fishery. On July 2, 1979, the Supreme Court ruled that Indian tribes in the Northwest are entitled by treaty to half the harvestable catch, warning State authorities to comply.

Culture and Education

Until a few years ago, many policy makers viewed education as a key to Indian assimilation and often regarded Indian culture and history as impediments to the full participation of Indians in American life. The excesses of this period resulted in great damage to Indian people, producing statistics of low educational achievement and a host of related problems, including the disruption of Indian families and cultural and tribal life styles.

The older policies were phased out in the early 1970's and were replaced with the more enlightened policy of today. Under the current policy, assimilation is a choice for the individual Indian to make. Indian history and culture are viewed as positive assets, rather than negative impediments

to Indian adjustment to contemporary American life, and the control of Indian education is in the hands of the people most directly affected by the education being provided, the Indian tribes and Indian people.

The intent of this policy is not only to increase Indian participation and involvement in the educational process but also to improve the quality of Indian education through the development of programs designed to meet the unique educational needs of Indian tribes and communities.

The Indian Child Welfare Act

In response to valid criticism that it has not adequately been protecting the integrity of the Indian family and community over the years, Congress passed the Indian Child Welfare Act of 1978. The U.S. has recognized that Indian children lost ties with their extended families and cultural heritage through adoption into non-Indian families or placement in non-Indian foster homes and institutions.

The Indian Child Welfare Act eliminates unwarranted Indian parent-child separation; it ends discrimintion that has prevented Indian parents from qualifying as foster or adoptive families; and it provides Indian communities with comprehensive child-welfare and family service programs.

The American Indian Religious Freedom Act

The religious practices of American Indians are an integral part of their culture, tradition and heritage and form the basis of Indian identity and value systems. To guarantee Indian rights in this regard, the American Indian Religious Freedom Act was signed into law in August of 1978. The Act proclaims that it is the policy of the U.S. to protect and preserve for American Indians their inherent right of freedom to believe, express and exercise their traditional religions, including, but not limited to, access to sites, use and possession of sacred objects and the freedom to worship through ceremonies and traditional rites.

Conclusion

A review of U.S. policies and practices with respect to Native Americans shows that they are neither as deplorable as sometimes alleged, nor as successful as one might hope. In some areas, federal policies and programs have failed to achieve permanent solutions to the serious problems facing tribes and their citizenry. In other areas, appropriate remedies have achieved notable progress in meeting the unique needs of Native American governments and individuals. The efforts to find solutions to Indian problems is made more difficult by the

highly complex governmental, economic, social and political context surrounding Indian life. The important consideration, especially in terms of U.S. obligations under the Helsinki Final Act, is that serious efforts are being made.

The funding for Indian programs has risen dramatically in the past 20 years, and the educational, social and economic conditions are improving. In line with the government policy of putting Indian people into determinate roles, Indians are managing their own resources, controlling their own assets and administering their own programs to a greater degree than in the past.

Resolution of problems in the future will require continued and intensified cooperation between concerned government agencies and the Native peoples themselves. More opportunities should be provided for Indians to share in the formulation of federal policy and the development of federal programs that will significantly affect their interests.

The growing cooperation between the Federal Government and Indians in defense of their civil rights and tribal rights to land, resources and self-government is sometimes perceived as a threat by some segments of the American population, who argue that the unique legal status of American Indians constitutes special, preferential treatment of them by the U.S. Government. However, in general, public reaction to the new policies of greater equity toward Indians has been favorable. The BIA has established programs to assist the tribes and Native peoples to better present their diverse histories, cultures and goals to other Americans through the media, school curricula, and other channels of communication. In addition, various citizens groups comprised of Indians and non-Indians alike, such as the American Friends Service Committee, are helping to educate the public about the respective rights of Indians and their non-Indian neighbors.

To further fulfill U.S. obligations under the Helsinki accords regarding the rights of American Indians, the Commission believes the U.S. Government should energetically pursue the more equitable policy lines established in recent years and should continue to help increase public awareness of the unique nature of American Indian rights.

RELIGIOUS LIBERTY

The issue of religious liberty is addressed in Principle VII of the Helsinki Final Act in two references:

> "The participating states will respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or