

COMMISSION ON HUMAN RIGHTS

Sub-Commission on Prevention of
Discrimination and Protection
of Minorities

Working Group on Indigenous Populations

Fourth session

Geneva

29 July - 2 August 1985

Item 5 of the agenda

STANDARD-SETTING ACTIVITIES:

EVOLUTION OF STANDARDS CONCERNING THE RIGHTS OF INDIGENOUS
POPULATIONS

DRAFTING OF A BODY OF PRINCIPLES ON INDIGENOUS RIGHTS,
BASED ON RELEVANT NATIONAL LEGISLATION, INTERNATIONAL
INSTRUMENTS AND OTHER JURIDICAL CRITERIA

Material received from non-governmental organizations
in consultative status with the
Economic and Social Council

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Draft Declaration of Principles Proposed by the Indian Law
Resource Center, Four Directions Council, National Aboriginal
and Islander Legal Service, National Indian Youth Council,
Inuit Circumpolar Conference, and the International Indian
Treaty Council

A special assembly of indigenous NGOs including the Indian Law Resource Center, Four Directions Council, National Aboriginal and Islander Legal Service, National Indian Youth Council, Inuit Circumpolar Conference, and International Indian Treaty Council, as well as other indigenous national and organizational delegations from Australia, Brazil, Canada, Chile, Ecuador, India, Mexico, Norway, Peru, and the United States, was held at the Palais des Nations, Geneva, from 22 to 26 July 1985. The purpose of this meeting was to seek consensus on action to be taken at the fourth session of the Working Group on Indigenous Populations.

The development of a United Nations declaration on the rights of indigenous peoples was the principal topic of discussion, and it was generally agreed that progress depended on the Working Group's adoption and dissemination of a working text or outline of principles for refinement at its future sessions.

The assembly reviewed with particular interest the draft principles prepared by various indigenous organizations and previously tabled with the Working Group, and invited a small drafting group to incorporate participants' comments into a revised text. The assembly reviewed, amended and adopted this revised text by consensus on 26 July, and agreed to table it with the Working Group on Indigenous Populations as a possible working text.

English and Spanish versions of the draft principles are equally authoritative.

Declaration of principles

1. Indigenous nations and peoples have, in common with all humanity, the right to life, and to freedom from oppression, discrimination, and aggression.
2. All indigenous nations and peoples have the right to self-determination, by virtue of which they have the right to whatever degree of autonomy or self-government they choose. This includes the right to freely determine their political status, freely pursue their own economic, social, religious and cultural development, and determine their own membership and/or citizenship, without external interference.
3. No State shall assert any jurisdiction over an indigenous nation or people, or its territory, except in accordance with the freely expressed wishes of the nation or people concerned.
4. Indigenous nations and peoples are entitled to the permanent control and enjoyment of their aboriginal ancestral-historical territories. This includes surface and subsurface rights, inland and coastal waters, renewable and non-renewable resources, and the economies based on these resources.
5. Rights to share and use land, subject to the underlying and inalienable title of the indigenous nation or people, may be granted by their free and informed consent, as evidenced in a valid treaty or agreement.

6. Discovery, conquest, settlement on a theory of terra nullius and unilateral legislation are never legitimate bases for States to claim or retain the territories of indigenous nations or peoples.
7. In cases where lands taken in violation of these principles have already been settled, the indigenous nation or people concerned is entitled to immediate restitution, including compensation for the loss of use, without extinction of original title. Indigenous peoples' desire to regain possession and control of sacred sites must always be respected.
8. No State shall participate financially or militarily in the involuntary displacement of indigenous populations, or in the subsequent economic exploitation or military use of their territory.
9. The laws and customs of indigenous nations and peoples must be recognized by States' legislative, administrative and judicial institutions and, in case of conflicts with State laws, shall take precedence.
10. No State shall deny an indigenous nation, community, or people residing within its borders the right to participate in the life of the State in whatever manner and to whatever degree they may choose. This includes the right to participate in other forms of collective action and expression.
11. Indigenous nations and peoples continue to own and control their material culture, including archeological, historical and sacred sites, artifacts, designs, knowledge, and works of art. They have the right to regain items of major cultural significance and, in all cases, to the return of the human remains of their ancestors for burial in accordance with their traditions.
12. Indigenous nations and peoples have the right to be educated and conduct business with States in their own languages, and to establish their own educational institutions.
13. No technical, scientific or social investigations, including archeological excavations, shall take place in relation to indigenous nations or peoples, or their lands, without their prior authorization, and their continuing ownership and control.
14. The religious practices of indigenous nations and peoples shall be fully respected and protected by the laws of States and by international law. Indigenous nations and peoples shall always enjoy unrestricted access to, and enjoyment of sacred sites in accordance with their own laws and customs, including the right of privacy.
15. Indigenous nations and peoples are subjects of international law.

16. Treaties and other agreements freely made with indigenous nations or peoples shall be recognized and applied in the same manner and according to the same international laws and principles as treaties and agreements entered into with other States.
17. Disputes regarding the jurisdiction, territories and institutions of an indigenous nation or people are a proper concern of international law, and must be resolved by mutual agreement or valid treaty.
18. Indigenous nations and peoples may engage in self-defense against State actions in conflict with their right to self-determination.
19. Indigenous nations and peoples have the right freely to travel, and to maintain economic, social, cultural and religious relations with each other across State borders.
20. In addition to these rights, indigenous nations and peoples are entitled to the enjoyment of all the human rights and fundamental freedoms enumerated in the international Bill of Rights and other United Nations instruments. In no circumstances shall they be subjected to adverse discrimination.