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COMMISSION ON HUMAN RIGHTS

Sub-Commission on Prevention of
Discrimination and Protection
of Minorities

Working Group on Indigenous Populations
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Items 4 and 5 of the provisional agenda

REVIEW OF DEVELOPMENTS PERTAINING TO THE PROMOTION AND PROTECTION OF
HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS OF INDIGENOUS POPULATIONS

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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Introduction

1. In resolution 1982/34 of 7 May 1982, the Economic and Social Council authorized the Sub-Commission to establish annually a working group on indigenous populations to review developments pertaining to the promotion and protection of the human rights and fundamental freedoms of indigenous populations, including information requested by the Secretary-General annually, and to give special attention to the evolution of standards concerning the rights of indigenous populations.
2. In resolution 1984/35 B of 30 August 1984, the Sub-Commission requested the Secretary-General to circulate the report of the Working Group (E/CN.4/Sub.2/1984/20), and the conclusions, proposals and recommendations of the Special Rapporteur, Mr. José R. Martínez Cobo (E/CN.4/Sub.2/1983/21/Add.8) to Governments, specialized agencies and United Nations bodies concerned, organizations of indigenous peoples and other interested non-governmental organizations for comments and suggestions, in anticipation of the fourth session of the Working Group in 1985.
3. In accordance with these regulations, appropriate communications requesting information, comments and suggestions were addressed by the Secretary-General to Governments and the organizations referred to.
4. The present document contains the replies received from non-governmental organizations up to 23 April 1985. ^{1/} Additional replies, if any, will be included in addenda to this document.

^{1/} The World Federation of United Nations Associations has indicated that they have at present no information to be submitted to the Working Group.

COMMISSION OF THE CHURCHES ON INTERNATIONAL AFFAIRS
(WORLD COUNCIL OF CHURCHES)

[Original: English]
[20 February 1985]

I have the honour to submit for your action and information the following:

1. A publication on Land Rights for Indigenous People by the Programme to Combat Racism (PCR) of the World Council of Churches (WCC);
2. A letter addressed to the Prime Minister of Canada, the Rt. Hon. Pierre Trudeau, by the Director of PCR, Dr. Anwar Barkat, concerning the Lubikon Lake Indian Band, Northern Alberta.

Land Rights for Indigenous People contains a statement by the WCC Central Committee on the topic and a background document including case studies on Australia, Brazil and Canada, and a collection of related material. Dr. Barkat's letter has drawn wide publicity in Canada since September 1983. 2/

2/ These documents are available for consultation in the Secretariat files.

INDIAN COUNCIL OF SOUTH AMERICA

[Original: Spanish]

[6 March 1985]

... some documents from the Indian Council of South America (CISA) which we have just received rather late. This is a declaration by the CISA International Commission for the Rights of Indian Peoples concerning the serious events which have occurred in the area of Ayacucho, Peru, together with three annexes. ^{3/} In May 1984 CISA created the International Commission for the Rights of Indian Peoples with the firm resolve of helping to put an end to all kinds of violations of human rights among the Indian populations of South America. This Commission is already working directly in the field in Ayacucho and neighbouring areas. The reports collected by it are annexed.

DECLARATION BY THE CISA INTERNATIONAL COMMISSION
FOR THE RIGHTS OF INDIAN PEOPLES

GENOCIDE IN THE ANDES

Since the year 1980 of the Gregorian calendar, the name of Ayacucho has spread beyond the frontiers of the Republic of Peru, which is a mere 164 years old. Its foundation as a republican State took place 289 years after the invasion and the illegal colonialist and imperialist occupation by the ancestors of the Spanish State began. The grounds and justification for the invasion for the Roman Catholic Church, which today has its headquarters in Rome, Italy in the independent State of the Vatican, were contained in the simple fact that we, the invaded nations, were not Christians. Our peoples became the vassals of the King of Spain and of the Roman Catholic Church.

While the Western Christian world is considered to have existed in history for 1,985 years, we Indians can today assert that the year 1532, when Atawallpa was assassinated, marked the start of the systematic violation of the human rights of the Indian nations and/or communities living in the territory of what is now known as the Republic of Peru.

If we had the possibility to travel back through time and space to the early years of the Spanish invasion of our land of America, taking with us the Universal Declaration of Human Rights of the United Nations and the members of the international human rights organizations, it is certain that the Spanish State and the Catholic Church would be universally condemned for their genocidal atrocities against the Indian peoples of the Americas. It is certain that the genocide perpetrated against the Jews by the Nazi régime of Hitler's Germany would be negligible by comparison. It is certain that all the political and religious heads of the Spanish empire would be sentenced either to hanging or to life imprisonment. It is certain that historical

^{3/} Contents of the annexes: reports by CISA on what is happening in Ayacucho; a special report in the magazine Quehacer of the Centro de Estudios y Promoción del Desarrollo (Centre for the Study and Promotion of Development) (DESCO); a special report from the bi-monthly magazine Debate. These documents are available for consultation at the Secretariat.

justice would be done. It is certain that the true history of our peoples would be talked about. It is certain that mankind would be enriched by the wisdom of our peoples. It is certain that colonial oppression would be terminated.

Unfortunately, this has not yet happened, and we therefore assert and declare to the world and to all Members of the United Nations that the violation of the human rights of the Indian peoples of the Americas has been going on for 493 years, while in the Republic of Peru in particular it has existed in latent form for 453 years.

The world of human rights advocates and the world of government leaders must first and foremost understand that the genocide taking place in the Central Sierra of Peru at the present time cannot be blamed directly on the present Government or on the irrational members of the Communist Party of Peru known as "Sendero Luminoso" ("Shining Path").

The list of those directly responsible for the latent genocide begins with Francisco Pizarro and the priest Valverde, and all those who contributed to the inhuman enslavement, exploitation and total subjection of the Indians, the age-old inhabitants of Peru. Internationally, in the course of history there are two culprits - the ancestors of the Spanish State and the ancestors of the ecclesiastical State of the Vatican, and, of course, all the present system of taxation and oppression which governs our existence as peoples with our own culture and history.

"Sendero Luminoso" appeared on the political and military scene in 1980 with the utopian objective of radically reversing the system in force in order allegedly to put an end to hunger and poverty. From the start their political and military activities were violent; they began by assassinating people, calling themselves Marxists, Leninists, Maoists, and followers of the thinking of Comrade President Gonzalo. That was the start of the present period of terror for the defenceless villagers, the majority of whom are bilingual illiterates - i.e. cannot read or write in Spanish or in Quechua. There are also communities which do not speak Spanish. It is quite impossible for the minds of our brothers, whether dead or still living, whether old people, adults or children, to store up words such as Russia, China or even the names of the rulers of Peru.

As is the case in all constituted States in the world any rebellion, just or unjust, provokes a reaction directed at putting it down, and human rights disintegrate automatically. The death of the enemy is the ultimate end, whether physically or institutionally. In Ayacucho and its neighbourhood the senderistas have as their ultimate purpose to liquidate the enemy in the form of the structures of the Peruvian State in order to impose others; the purpose of the forces of security, as established in the Constitution of Peru, is to watch over and protect those structures and therefore their ultimate aim is also to liquidate the enemy.

Who are the people caught in the cross fire, the innocent victims in this dirty war between two forces ignorant of Indian reality and the true identity of America? To date the only victims are humble Quechua villagers, ranging from old people to children, and none of the dead are bankers, industrialists, estate owners or important politicians; the majority are people who lived and live totally forgotten and discriminated against by the history which has been imposed and the history now taking place. They are human beings who represent no cost to the Peruvian State either in Peruvian currency or in dollars. They are the direct descendants of the true lords of the land and its wealth.

The term "informer" means certain death for the villagers, either from "Sendero Luminoso" or from the security forces. After each raid or attack on their communities by the contending groups, the villagers are forced to obey all kinds of orders and to say nothing of all the disorder or ill-treatment they are made to suffer. Who imposes order and respect and protects the communities? No one. The fate of our brothers is to be cannon fodder and the object of ballistic experiments and the mental aberrations of the warring forces.

When the villagers decide to put up a resistance to the vandalism and inhuman activities of the senderista groups or the groups of the security forces which abuse their powers and duties, the "official voices" are raised of those who do not suffer when they hear the village peasants tell how they are forced by the army or the navy to arm and defend themselves. This is yet another example of the anti-Indian and inhuman reaction of sectors of public opinion concerned that Indian deaths should follow their normal course until the Government is "checkmated", but completely unaware that the villagers are exercising their natural rights when they group together to protect their lives and property.

The Government for its part makes no effort to contribute to the civil defence of the villagers and takes not the slightest account of the deaths and the distress. However, it should be recalled that the Government of Peru is answerable to the National Parliament which contains the representatives of the political parties, that is, of those commonly called the "right" or the "left"; in other words, the Government of Peru is a direct responsibility of all the representatives whether they are senators or deputies, and all other cultural, social, economic, political, military and religious institutions. Generally speaking, the representatives disregard the situation of the Indians and the tragic genocide in Ayacucho.

One of the leading spiritual institutions, the Roman Catholic Church, protected by the Peruvian State, has never spoken out impartially. When Pope John Paul II visited Peru he only called upon the senderistas to make peace, as though they were the only culprits, without taking into account the fact that the conquistadores assassinated Indians in the name of the God whom he represents.

In the face of the ignorance of the great majority of humble folk, whether Indians or non-Indians, the Head of the Roman Catholic Church endorsed the genocide of the Andes in the eyes of the world when he took into his hands the cross used by the first authors of the genocide led by

Francisco Pizarro in 1532. His main concern was the Catholic faith, as though we were living in the European sixteenth century when it was believed that hunger, poverty, violent death and exploitation were caused by not being Christian or by not believing in God or Jesus Christ.

It is vitally important to realize that the horrible deaths, the burning of homes, the violations and assassination of children, illiteracy, the lack of land to work, the denial of historical truth, poverty and racial, cultural, social, economic and political discrimination afflicting the Quechua villagers came not from lack of faith in Roman Catholicism, but from the oppression and colonization which we Indians are still suffering all over the Americas.

How can we put an end to the genocide in the Peruvian Andes?

1. The personal safety of the villagers should be guaranteed.
2. Those responsible for the existing exploitation and poverty should be tried and sentenced.
3. The leaders and militant assassins of "Sendero Luminoso" should be condemned.
4. Those responsible for the arbitrary behaviour, abuses and deaths caused by members of the security forces should be condemned.
5. Persons and institutions who exploit the poverty of the villagers for the purposes of their personal enrichment should be condemned.
6. The Quechua and Aymara languages should be recognized officially and children and adults educated in them.
7. All systems of exploitation and racial, cultural, social, economic and political discrimination should be rooted out.
8. Emergency measures should be taken to protect the lives of the villagers against hunger, diseases and resultant death.
9. Moral standards should be imposed for governors and governed in order to eliminate public corruption.
10. Policy measures should be taken to provide the region with economic support.
11. All the "bosses" and "ex-bosses" (latifundia owners) who take advantage of the situation to revenge themselves on the villagers should be brought to trial.
12. The lives and future of orphans as well as of elderly persons should be protected.
13. Seeds, tools and resources should be provided to reactivate crop and cattle farming, currently semi-paralysed.

14. National and international opinion should be made conscious of the need for historical justice for the Indian nations and/or communities.
15. The spiritual sovereignty of the Indian nations should be recognized.
16. The culture and history of the Indian nations should be recognized.
17. The racial discrimination practised through national and world history should be eliminated.
18. Those historically responsible for the subjection of the Indian nations should be condemned.
19. The political infrastructure of the Peruvian State should be restructured and the political power emanating from Lima decentralized.
20. The population in general should be educated in the rights and values of the Indian nations and their contributions to the national identity.

WORLD ASSOCIATION OF GIRL GUIDES AND GIRL SCOUTS

[Original: English]

[8 January 1985]

We are in general harmony with the spirit of the report (E/CN.4/Sub.2/1984/20). We would draw special attention to needs of girls and women as so often they are the first to be exploited and the last to be educated.

WORLD CONFEDERATION OF ORGANIZATIONS OF THE TEACHING PROFESSION

[Original: English]

[13 and 22 March 1985]

[The World Confederation of Organizations of the Teaching Profession submitted the following information on Maori education in New Zealand, supplied to them by the Post Primary Teacher's Association (PPTA):

Resolutions adopted at the 1984 Annual Conference of the PPTA;

An article on qualifications of Maori language teachers, from the PPTA News; and

the Report of the Maori Educational Conference sponsored by the New Zealand Maori Council.

They also submitted the following information on the education of indigenous peoples, provided to them by the National Education Association (NEA), the United States of America:

"Education of Indigenous Peoples" and "Educational Neglect",
NEA Working papers for participants at the conference on Educational Neglect,
February 1975; "American Indian/Alaska Native Education: Quality in the
Classroom", NEA. 4/

Of the PPTA resolutions they drew particular attention to decision C 84/10 which endorsed the following recommendations contained in the report of the Waahi Hui:]

1. That taba Maori become part of the core curriculum and that it be an integral component in the total curriculum, structure and organization of all schools that it be given a minimum time allowance.
2. That it be compulsory for Maori language to be taught to any child that requests it.

4/ The above-mentioned documents are available for consultation at the secretariat.

3. That PPTA develop a conditions of service policy for the employment of resource people from the community whose skills are needed to teach specialized elements of taba Maori. (Note: The specialized elements of taba Maori referred to include such things as marae protocol, carving and local tribal genealogy and traditions.).
4. That each school should have a special staffing allowance to provide for the supervision and development of taba Maori throughout the school.
5. This Conference deplores the fact that School Certificate in its present form gives a significant group of students a sense of failure, and demands that it be abolished and replaced with a broader-based system of assessment.
6. This Conference recommends that all schools seek and adopt new strategies of communication, involvement and interaction with their local Maori communities for the advancement of Maori children; and reaffirms the policy that each branch establish a multicultural advisory committee.

WORLD COUNCIL OF INDIGENOUS PEOPLES

[Original: English]

[19 October 1984]

The World Council of Indigenous Peoples has decided to establish a document containing the most basic rights of indigenous peoples.

A discussion has taken place on the preferable structure of such a document, and a draft covenant presented by the Sami delegation has formed the basis of the discussion.

The great merit of this draft covenant was appreciated by all participants. It was recognized that it contained elaboration of the essential rights, such as the right to self-determination, the right to land (and other economic rights), civil and political rights, and the right to maintain our own culture, religion and language.

It should be underlined that the enjoyment of these rights also requires recognition of respect for the customary laws of indigenous peoples, within the limits of internationally recognized human rights.

The adoption, by the Fourth General Assembly of WCIP, 5/ of the attached document does not imply that all participants subscribe to every detail of the document. It should rather be seen as an important working paper whose general outline has been endorsed by the WCIP. It will serve as a basis for further discussion, elaboration and modification by a commission delegated by the Fourth General Assembly. It will also be submitted to the Working Group on Indigenous Populations, and will hopefully guide the presentations by the representatives of the indigenous peoples to that working group.

5/ Other resolutions adopted by the Fourth General Assembly are available for consultation at the secretariat.

It has been found preferable, at the present stage, to present the document as a declaration. However, it is foreseen that it will be followed by a convention. This will require the incorporation of provisions concerning the supervision, the handling of complaints, and the process of ratification by States and by indigenous organizations:

- Principle 1. All indigenous peoples have the right of self-determination. By virtue of this right they may freely determine their political status and freely pursue their economic, social, religious and cultural development.
- Principle 2. All States within which an indigenous people lives shall recognize the population, territory and institutions of the indigenous people.
- Principle 3. The cultures of the indigenous peoples are part of the cultural heritage of mankind.
- Principle 4. The traditions and customs of indigenous people must be respected by the States, and recognized as a fundamental source of law.
- Principle 5. All indigenous peoples have the right to determine the person or group of persons who are included within its population.
- Principle 6. Each indigenous people has the right to determine the form, structure and authority of its institutions.
- Principle 7. The institutions of indigenous peoples and their decisions, like those of States, must be in conformity with internationally accepted human rights both collective and individual.
- Principle 8. Indigenous peoples and their members are entitled to participate in the political life of the State.
- Principle 9. Indigenous people shall have exclusive rights to their traditional lands and its resources, where the lands and resources of the indigenous peoples have been taken away with their free and informed consent such lands and resources shall be returned.
- Principle 10. The land rights of an indigenous people include surface and subsurface rights, full rights to interior and coastal waters and rights to adequate and exclusive coastal economic zones within the limits of international law.
- Principle 11. All indigenous peoples may, for their own needs, freely use their natural wealth and resources in accordance with Principles 9 and 10.
- Principle 12. No action or course of conduct may be undertaken which, directly or indirectly, may result in the destruction of land, air, water, sea ice, wildlife, habitat or natural resources without the free and informed consent of the indigenous peoples affected.
- Principle 13. The original rights to their material culture, including archeological sites, artifacts, designs, technology and works of art, lie with the indigenous people.

- Principle 14. The indigenous peoples have the right to receive education in their own language or to establish their own educational institutions. The languages of the indigenous peoples are to be respected by the States in all dealings between the indigenous people and the State on the basis of equality and non-discrimination.
- Principle 15. Indigenous peoples have the right, in accordance with their traditions, to move and conduct traditional activities and maintain friendship relations across international boundaries.
- Principle 16. The indigenous peoples and their authorities have the right to be previously consulted and to authorize the realization of all technological and scientific investigations to be conducted within their territories and to have full access to the results of the investigation.
- Principle 17. Treaties between indigenous nations or peoples and representatives of States freely entered into, shall be given full effect under national and international law.

These principles constitute the minimum standards which States shall respect and implement.

WORLD COUNCIL OF INDIGENOUS PEOPLES

[Original: English and Spanish]

[27 March 1985]

BOGOTA DECLARATION

The World Council of Indigenous Peoples (WCIP), an international organization have consultative status with the United Nations, along with its five regional non-governmental indigenous organizations consisting of the Regional Coordinator of Indian Peoples of Central America (CORPI) representative of indigenous organizations of the Central American Nation-States, the South American Indian Council (CISA) representative of indigenous organizations of the South American Nation-States, the Pacific Regional Council representative of indigenous organizations of the Pacific Nation-States, the Nordic Sami Council representative of indigenous organizations of the Samiland including Norway, Sweden and Finland and the North American Region representative of indigenous organizations from Canada and the United States of America.

Hereby makes this Declaration to the Government of Nicaragua, to the indigenous organization MISURASATA and to the governments, peoples and communication services throughout the world, that:

The principles upon which our Indigenous Peoples in the Americas and throughout the world are founded are principles upon which the WCIP are guided.

The Nation-States of Republics of the Americas which today exist are the products of invasions, occupation and colonization of our nations and original peoples. These Nation-States and Republics have institutionalized and systematized oppression upon our peoples, imposing models and systems inconsistent with the truth of the circumstances of our existence.

During the colonization process of Nicaragua and during the rule of the Government of the Republic of Nicaragua, the Rights of Indigenous Peoples have not been fully recognized nor respected; to the contrary, the Indigenous Peoples have been victimized by the denial of recognition and respect of their fundamental rights.

With the change in the Government of Nicaragua and with the establishment of the administration of the Sandinista Front of National Liberation, the Miskito, Sumo and Rama peoples had hoped to finally achieve the full recognition and respect of their historical indigenous rights.

After five years of the Sandinista régime of the Government of Nicaragua, the indigenous people are continuing to struggle to achieve the recognition and respect for their inalienable rights such as the right to autonomy, to territory, to the natural resources and to the practice of their indigenous culture, social organization, economic system and political process.

The failure to recognize these rights and the application of a policy of genocide in the form of violence and repression against the indigenous people has produced violence in kind. This continuing conflict has been capitalized upon by antagonistic political forces foreign to the indigenous struggle, resulting in jeopardizing the struggle and worsening the situation for our brothers and sisters.

The WCIP, with its regional organizations recognize and affirmatively support the indigenous organization MISURASATA in their efforts to achieve, with the Nicaraguan Government, a just recognition of the inalienable natural rights of the Miskito, Sumo and Rama peoples who, from time immemorial, have inhabited the Atlantic coast of Nicaragua.

The WCIP, with its regional organization, further declare that policies of systematic genocide against our peoples have been and continue to be present in the majority of Nation-States and republics throughout the Americas, OUR MOTHER EARTH. We call upon, we demand that each national government examine with the most serious frame of mind, its present government policies and practices and conform them to the principles of humanity, respecting fully the rights of indigenous peoples, in order to achieve the full peace and amicable coexistence of all peoples.

The WCIP with its regional organizations unconditionally support the efforts of peace with recognition of indigenous rights efforts which are approached bilaterally, fully respecting the dignity and sovereignty of both parties, begun since October 1984 and continuing to this moment between MISURASATA and the Government of Nicaragua.

The WCIP with its regional organizations further declares that indigenous peoples are not social classes or oppressed ethnic groups; we are nations and/or peoples discriminated against, oppressed and exploited racially, culturally, spiritually, socially, economically and politically.

We suffer this discrimination, repression and exploitation within our own regional territories as well as throughout the Nation-States and republics of the Americas and in other regions of the world.

The WCIP with its regional organizations expresses its sincere hope that the present negotiations to achieve peace with justice, conducted between the indigenous representation and the Government of Nicaragua will be conducted in an attitude of mutual respect for the dignity and humanity of each other, taking into full comprehension the realities of the peoples for whom these negotiating parties represent.

The WCIP with its regional organizations appreciate and thank the Government of Colombia and the national indigenous organization of Colombia, ONIC, for their efforts and support in facilitating these negotiations between the Government of Nicaragua and the indigenous organization MISURASATA. We furthermore appreciate and thank the Colombian Government and ONIC for their generous hospitality shared with the international indigenous observers.



