

COMMISSION ON HUMAN RIGHTS

Sub-Commission on Prevention of
Discrimination and Protection of
Minorities

Working Group on Indigenous Populations
Fourth Session
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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 specialized agencies and
other bodies within the United Nations system

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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 resolutions, appropriate communications requesting information, comments and suggestions were addressed by the Secretary-General to Governments and to the organizations referred to.
4. The present document contains the replies received from the specialized agencies and other bodies within the United Nations system up to 25 April 1985. Additional replies, if any, will be included in addenda to this document.

ECONOMIC COMMISSION FOR LATIN AMERICA AND THE CARIBBEAN

[Original: English]

[20 March 1985]

As regards the request for information on relevant activities being carried out by this Commission, mention should be made of two initiatives of the Social Development Division: the study on the status and main problems faced by the Mapuche population in the south of Chile, to be completed soon, and the preparation of a seminar on present problems and medium-term prospects for participation of Andean indigenous populations (in Ecuador, Peru and Bolivia) to be sponsored jointly by ECLAC and the Instituto de Estudios Peruanos.

As to the documents you have sent us, we fully share the view that the elimination of discrimination is a most pressing task. Although ECLAC does not have a special unit for dealing with human rights problems it is continually dealing with them in the Latin American context, since it believes that the denial of the fundamental rights of many indigenous populations in the region is closely related with the vicious circle of poverty, the lack of political participation and the deterioration of material resources and socio-cultural institutions. It can be noted that these institutions, which the report examines in the context of the right to self-determination, also represent valuable cultural resources for the purposes of popular participation and economic self-management.

The Commission on Human Rights ought to be commended for the publication of these reports which constitute an important step forward towards the solution of the serious problem of inequity in development.

Finally, we should like to refer you to an article by John Durston, of the Social Development Division, which was published by ECLAC, the Latin American Institute for Economic and Social Planning (ILPES) and UNICEF, as part of a book entitled Pobreza, necesidades básicas y desarrollo, ^{1/} as well as to various articles in an ECLAC/UNEP publication entitled Sobrevivencia campesina en ecosistemas de altura.

ECONOMIC COMMISSION FOR AFRICA

[Original: English]

[2 January 1985]

In the final part of the Special Rapporteur's report (E/CN.4/Sub.2/1983/21/Add.8, paras. 302-303), it is recommended that "a separate study dealing with the indigenous populations in African countries or regions" be undertaken. Relating the substance of this recommendation to the paragraph devoted to the definition of "indigenous populations" (paras. 21-22 of the final part of the report), it is difficult to determine what the objectives of such a study in Africa could be, and what target groups it would be intended to cover.

From the ECA point of view, three scenarios are possible in such a context:

(a) A study of the historical migratory movements that have along centuries engendered the present mosaic of African ethnic and tribal groups. Such a study would not be at all easy to undertake, and will not, in any case, lead to determining which group is "genuinely" indigenous and which is not.

(b) "Indigenous populations" versus "non-indigenous citizens" or "Expatriates" could be another approach to the study. In this case, the concept of "discrimination against indigenous populations" could be misconstrued to relate, directly or indirectly, to the prevailing economic and social dependence of the continent. Could that be the objective or subject matter of such a study?

(c) Minority groups that were originally inhabiting certain areas and that were, through pressure of successive waves of population movements, excluded from enjoying their rights to a secure and normal life. With the exception of the Southern African subregion where the racist Government of South Africa has enforced and maintained its apartheid policies against the "indigenous populations", it is not clear where else in Africa a study about such groups could be carried out.

ECA would appreciate receiving information on the objectives, duration, target groups, methodological approach of, and means retained for, such a study, whose implementation would certainly be of importance and interest to ECA.

^{1/} This article is available for consultation in the Secretariat files.

CENTRE ON TRANSNATIONAL CORPORATIONS

[Original: English]

[26 December 1984]

... the United Nations Centre on Transnational Corporations ... has not so far undertaken any work [dealing with indigenous populations].

OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

[Original: English]

[8 March 1985]

The Office has been entrusted with the task of providing international protection and assistance to refugees and is therefore, not in a position to provide the type of information requested.

However, UNHCR has monitored the work of the Working Group and welcomes its efforts to establish standards and to advance the realization of the human rights of indigenous populations within their own national communities. Such efforts are conducive to the creation of conditions in which the rights of indigenous populations are recognized and protected, communal harmony may exist, and where as a consequence such populations are not forced to leave their countries and become refugees.

FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

[Original: English]

[13 March 1985]

Both reports (E/CN.4/Sub.2/1984/20, and E/CN.4/Sub.2/1983/21/Add.8) seem to show that there is a greater awareness among an increasing number of organizations and Governments of the very unique significance of land resources to the survival of indigenous populations and agrarian societies and this in itself is to be welcomed.

Paragraph 199 and paragraph 204, final part of the report of the Special Rapporteur

The statement in paragraph 199 that "in some countries, the plunder of land is effected by means of legal instruments, promulgated by the Governments on which landowners still have a significant influence", would suggest that there would be an interest in elucidating the nature, dimension and consequences of the problem, and in considering the legality of the "legal instruments" promulgated by non-indigenous groups of people and Governments over people and goods of indigenous communities.

Paragraphs 509-574 of the final part of the report of the Special Rapporteur

The report shows, inter alia, that, not infrequently, the interests of indigenous populations are sacrificed in the name of development. With regard more specifically to land use development, an awareness of social customs is

also important to intelligent land use decision making. Tribal and religious practices, as well as customary practices covering marriage, dissolution thereof and inheritance, may all have considerable bearing upon land development decisions. Decisions which consider these patterns and practices are likely to be more practical and more respected than development decisions rendered in ignorance of social customs, economic practices and demography.

With regard to natural resources legislation, it seems advisable that customary rights and practices be respected and as far as possible safeguarded; however, it would seem that such rights and practices should not constitute an impediment to development.

UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

[Original: English]

[5 April 1985]

Within the context of Major Programme XII - The Elimination of Prejudice, Intolerance, Racism and Apartheid - of the Second Medium-Term Plan for 1984-1989 (4 X C/4 Approved), UNESCO is pursuing research on ethnic group relations in different societies and, on the reasons for the unequal incorporation of certain social and ethnic groups within social and economic life.

An activity planned, in co-operation with the Latin American Social Sciences Council (CIACSO) for the Latin American and Caribbean region, includes the analysis of the access to means of redress by the most disadvantaged groups, in cases of ethnic, religious, racial or political discrimination. National, subregional, regional and international legal and administrative provisions against discrimination will be examined in this respect, and the specific situation of indigenous populations will be considered. These themes will be discussed at a meeting to be organized in Quito, Ecuador, in October 1985, and the results will be communicated to the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities.

The plan of action of the Working Group on Indigenous Populations from 1985 onwards (E/CN.4/Sub.2/1984/20) includes themes of relevance and interest to the programme of UNESCO, notably the two themes for discussion at the fourth session in 1985 (theme (i): Right of indigenous populations to develop their own culture, traditions, language and way of life, including the right to freedom of religion and traditional religious practices, and theme (ii): Right to education), as well as the proposed theme concerning the right to trade and to maintain economic, technological, cultural and social relations.

