



UNITED NATIONS
 ECONOMIC
 AND
 SOCIAL COUNCIL



Distr.
 GENERAL

E/CN.4/Sub.2/1985/22
 27 August 1985

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
 Sub-Commission on Prevention of
 Discrimination and Protection
 of Minorities
 Thirty-eighth session
 Agenda item 11

STUDY OF THE PROBLEM OF DISCRIMINATION AGAINST
 INDIGENOUS POPULATIONS

Report of the Working Group on Indigenous Populations
 on its fourth session

Chairman/Rapporteur: Mrs. Erica-Irene A. Daes

CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
INTRODUCTION	1 - 11	3
Election of officers	4	3
Participation in the session	5 - 9	3
Organization of work	10	5
Documentation	11	5
<u>Chapter</u>		
I. GENERAL DEBATE	12 - 20	6
II. REVIEW OF DEVELOPMENTS PERTAINING TO THE PROMOTION AND PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS OF INDIGENOUS POPULATIONS	21 - 56	8
A. General remarks	21 - 25	8

<u>Chapter</u>	<u>Paragraphs</u>	<u>Page</u>
B. The 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	26 - 29	9
C. The right to education	30 - 33	9
D. The right to life, to physical integrity and security of indigenous populations ...	34 - 37	10
E. The right to land and to natural resources	38 - 47	10
F. The right to self-government, autonomy or self-determination and to political institutions and representation of indigenous populations	48 - 52	12
G. Other rights	53 - 56	12
III. EVOLUTION OF STANDARDS CONCERNING THE RIGHTS OF INDIGENOUS POPULATIONS	57 - 86	14
A. General remarks	57 - 70	14
B. Substantive principles	71 - 84	16
C. Form of instrument	85 - 86	19
IV. OTHER MATTERS	87 - 96	20

ANNEXES */

- I. Plan of Action from 1986 onwards.
- II. Draft principles.
- III. Declaration of principles adopted by the Fourth General Assembly of World Council of Indigenous Peoples.
- IV. 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.

*/ The list of working papers and other written statements submitted to the fourth session of the Working Group on Indigenous Populations is issued separately in document E/CN.4/Sub.2/1985/22/Add.1.

INTRODUCTION

1. The creation of the Working Group on Indigenous Populations was proposed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in its resolution 2 (XXXIV) of 8 September 1981, endorsed by the Commission on Human Rights in its resolution 1982/19 of 10 March 1982 and authorized by the Economic and Social Council in its resolution 1982/34 of 7 May 1982. In that resolution the Council authorized the Sub-Commission to establish annually a Working Group on Indigenous Populations to meet for up to five working days before the annual sessions of the Sub-Commission in order to:

(a) Review developments pertaining to the promotion and protection of human rights and fundamental freedoms of indigenous populations, including information requested by the Secretary-General annually from Governments, specialized agencies, regional intergovernmental organizations and non-governmental organizations in consultative status, particularly those of indigenous peoples, to analyse such materials, and to submit its conclusions to the Sub-Commission, bearing in mind the report of the Special Rapporteur of the Sub-Commission;

(b) Give special attention to the evolution of standards concerning the rights of indigenous populations, taking account of both the similarities and the differences in the situations and aspirations of indigenous populations throughout the world.

2. The outgoing Chairman of the Sub-Commission at its thirty-seventh session, in consultation with the geographical groups, appointed Mr. Miguel Alfonso Martínez, Mrs. Erica-Irene Daes, Mrs. Gu Yijie, Mr. Kwesi B.S. Simpson and Mr. Ivan Toševski to serve on the Working Group on Indigenous Populations, during its fourth session in 1985.

3. The Working Group held 11 public meetings from 29 July to 2 August and on 23 August 1985.

Election of Officers

4. At its first meeting, on 29 July 1985, the Working Group by acclamation elected Mrs. Erica-Irene A. Daes as Chairman/Rapporteur.

Participation in the session

5. The session was attended by Mr. Miguel Alfonso Martínez, Mrs. Erica-Irene Daes, Mrs. Gu Yijie, Mr. Kwesi B.S. Simpson and Mr. Ivan Toševski.

6. The following States Members of the United Nations were represented by observers: Argentina, Australia, Bangladesh, Brazil, Canada, China, France, Honduras, India, Indonesia, Mexico, Nicaragua, New Zealand, Norway, Peru, Sri Lanka, Sweden, Turkey, United States of America and Viet Nam. The Holy See was also represented by an observer.

7. The following United Nations specialized agency was represented during the session: International Labour Organisation.

8. The following non-governmental organizations (NGOs) in consultative status with the Economic and Social Council were represented:

(a) Indigenous Peoples' NGOs: Four Directions Council, Indigenous World Association, International Indian Treaty Council, Indian Law Resource Centre, Indian Council of South America (CISA), Inuit Circumpolar Conference, National Aboriginal and Islander Legal Service Secretariat, National Indian Youth Council and World Council of Indigenous Peoples.

(b) Other NGOs: Amnesty International, Anti-Slavery Society for the Protection of Human Rights, Baha'i International Community, Commission of the Churches on International Affairs, Defence for Children International, International Association of Penal Law, International Federation of Human Rights, International Movement for Fraternal Union Among Races and Peoples, International Union for Conservation of Nature and Natural Resources, International Federation for the Protection of the Rights of Ethnic, Religious, Linguistic and other Minorities, International Human Rights Internship Program, International League for the Rights and Liberation of Peoples, International Law Association, Pax Christi International, Procedural Aspects of International Law Institute, Survival International, and World Federation of United Nations Associations (WFUNA).

9. The following indigenous people's organizations, as well as other organizations, were represented at the session and furnished information to the Working Group with its consent.

(a) Indigenous peoples' organizations: Aboriginal Development Services of Bangladesh, Ad Mapu Chile, Alaska Native Brotherhood, Alaska Native Foundation, Alianza de Profesionales Indigenas Bilingues, Asociación Interretnica de Desarrollo de la Selva Peruana (AIDSESP), Chakma People from Chittagong Hill Tracts, Colition of First Nations, Central Indigena del Oriente Boliviano, Comité Exterior Mapuche, Comunidad Indígena Maskery, Confederación Campesina Indígena del Perú, Confederación de Nacionalidades Indígenas de la Amazonía Ecuatoriana, Coordinadora Regional de Pueblo Indio (CORPI), Cordillera Peoples Alliance, Council of Conne River Micmacs (Newfoundland, Canada), Dene Nation of Canada, Ermineskin Indian Nation, Grand Council of the Crees (Quebec), Grand Council Treaty No. 3 (Canada), Haudenosaunee, Hobbema Four Nations, Indigenous Survival International, Inuit Tapirisat of Canada (ITC), Knikatu (Alaska Native Village Corporation), Louis Bull Indian Nation, Metis National Council/Canada, Miskitu People of Nicaragua, Misurasata, Montana Indian Nation, Movimiento de la Juventud Kuna, Movimiento Independiente Ecuador Ayllu, National Aboriginal and Islander Health Organization, National Federation of Land Councils, Native Council of Canada, Native Women's Association of Canada, New South Wales Aboriginal Land Council, Nordic Sami Council, Sovereignty for Hawaii Committee, Tasmanian Aboriginal Centre, Toledo Maya Cultural Council, Union de Comuneros "EMILIANO ZAPATA" de Michoacan, Unión de Naciones Indígenas (UNI) de Brazil, Western Shoshone Nation and Zapotec Nations.

(b) Other organizations and institutions: Academia de la Lengua y la Cultura Guainía, American Friends Service Committee, Asociación Nacional de Apoyo al Indio, Asociación Diffusion IMTI Et Bulletin Amérique Indienne, Centre for Tribal Conscientization, Center for World Indigenous Studies, Commission Pro Indio de Sao Paulo, Comisión Permanente por la Vivienda y la Familia Indígena, Comité Belge-Amerique Indienne, Education Secretariat Affiliated A.F.M., Free Papua Movement, Gesellschaft Für Bedrohte Völker, Grupo de Trabajo - Ecuador, Incomindios Schweiz, Indigenous Peoples' Research, Documentation and Information Center (DOCIP), International Association Against Torture, Informationzentrale für Nordamerikanische Indianer, International Centre for Constitutional Studies, International Scholars for Indigenous Americans (ISIA), International Work Group for Indigenous Affairs (IWGIA) (Denmark), Svensk Indiaska Forbundet (Sweden), Workgroup on Indigenous Peoples (Netherlands).

In addition, several participants in the Special Course on Indigenous Peoples in International Law at the "Chateau de Bossey", near Geneva, as well as scholars and individual experts attended the meetings. All in all, approximately 250 persons took part in the session.

Organization of work

10. At its first meeting, the Working Group adopted its agenda and decided to devote approximately four to five meetings to item 4 on review of developments, four to five meetings to item 5 on standard-setting activities, and one to two meetings to item 6 on other matters.

Documentation

11. Documents and written statements submitted to the Working Group are listed in Annex V. */

*/ Issued separately in document E/CN.4/Sub.2/1985/22/Add.1.

I. GENERAL DEBATE

12. At the first meeting of the Working Group, the Chairman-Rapporteur, Mrs. Erica-Irene Daes, made an opening statement in which she recalled the Working Group's mandate as described in resolution 1982/34 of the Economic and Social Council, as well as in resolutions 1984/35 B of the Sub-Commission and 1985/21 of the Commission on Human Rights. She pointed out that the agenda should be read in conjunction with the Plan of Action as adopted by the Working Group at its third session in 1984. ^{1/} According to that Plan, the topics to be given priority at the fourth session related to: (a) the 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 (b) the right to education. The Chairman/Rapporteur pointed out that the Plan of Action discussed could also refer to topics considered at the third session, as to the right to land and to natural resources, and to the question of definition. Furthermore, other matters as specified in the Plan, could also be raised.

13. The Chairman/Rapporteur reiterated the understanding which had prevailed among all participants at previous sessions that it was outside the mandate of the Working Group to hear allegations and urged the participants to restrict their statements to the items under discussion and to engage in a constructive dialogue. It was repeatedly pointed out by the Chairman/Rapporteur that the Working Group, under its mandate, was not empowered to act as a chamber of complaints.

14. Some governmental observers expressed their satisfaction with the methods of work which had been followed by the Working Group and wished that the fruitful discussion and constructive atmosphere which had prevailed in the past, would also guide the present session.

15. The observation was made that the large number of participants in the fourth session of the Working Group was a forceful indication of the concern for and the interest in the issues under consideration.

16. Pursuant to a decision taken by the Working Group, at its 2nd meeting on 29 July 1985, arrangements were made for the issuance of press releases by the Press Unit of the United Nations Secretariat in order to give more publicity to the work undertaken by the Group, and the issues considered. Accordingly, press releases were issued on the 3rd to 10th meetings held from 30 July to 21 August 1985. The Working Group expressed its wish that press releases could continue to be issued at its forthcoming sessions.

17. In the light of the discussions held and the progress made during the fourth session, the Working Group adopted a Plan of Action for implementation from 1986 onwards (See annex I to the present report.

^{1/} E/CN.4/Sub.2/1984/20, annex I.

18. At the 9th meeting, on 2 August 1985, the Minister of Indigenous Affairs of Nicaragua addressed the Working Group. At the same meeting, the Secretary-General of the Foreign Ministry of Nicaragua also made a statement.

19. At the 4th and 9th meetings, on 30 July and 2 August, the Secretary of the Department of Aboriginal Affairs of Australia addressed the Working Group.

20. At the 3rd meeting, on 30 July 1985, the representative of the Privy Council Office of the Government of Canada also addressed the Working Group.

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

A. General remarks

21. The observers of non-governmental and indigenous organizations and institutions, in their interventions, placed emphasis on many issues, including the right to life, to land, to physical integrity and security, the right to develop their own cultural traditions, language, religious practices and the enjoyment of political, economic and social rights. The attention of the Working Group was drawn to a number of situations where, in their view, human rights of indigenous populations were seriously infringed. It was pointed out that the submission of information on recent developments pertaining to the rights of indigenous populations, including violations of these rights, was done with the understanding that this did not constitute complaints, but exclusively examples of factual situations which the indigenous populations were faced with, including areas of their deep concern. The view was expressed that such information on recent developments and situations could assist the Working Group in formulating international standards concerning indigenous rights and would possibly encourage dialogue between the Governments concerned and indigenous populations.

22. Several governmental observers informed the Working Group about recent legislative, administrative, judicial or other measures adopted to regulate land rights and protect political, civil and cultural rights of indigenous populations. Mention was made of on-going negotiations between Governments and indigenous communities aimed at improving relations and guaranteeing better protection of indigenous rights.

23. The importance of the opportunity offered by the Working Group for a constructive dialogue to be continued between Governments and indigenous populations was stressed. The continuous support for the activities of the Working Group in carrying out its mandate was also underlined by all participants.

24. Some governmental observers referred to the historical circumstances and other conditions which had turned indigenous populations into one of the most vulnerable sectors of society. Reference was also made to the many political, economic, social and cultural problems, still existing in terms of standard of living, education, culture, health and adequate housing, etc. In this connection, they expressed their willingness to take further steps towards the solution of these problems.

25. The observer from the International Labour Office informed the Working Group about the ILO's continued supervisory work concerning the application of the Convention No. 107, Indigenous and Tribal Populations, 1957. He stated that the ILO Committee of Experts had made comments concerning the Convention's application in Argentina, Bangladesh, Brazil, El Salvador, Pakistan and Peru, at its most recent session in March 1985. Referring to statements made by some indigenous observers indicating the impact on indigenous rights of certain projects supported by international organizations, he also informed the Working Group that the ILO had been in contact with the World Bank and other organizations offering technical assistance in order to co-ordinate their activities in this field. Furthermore, ILO appreciated receiving information from non-governmental organizations concerning countries which had ratified Convention No. 107.

B. The 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

26. Many indigenous observers stated that indigenous culture and traditions tended to be viewed as folklore and exploited for tourism. Indigenous language was, through certain policies, put into an inferior position by the imposition of official languages. In many cases, the indigenous language was totally disregarded in the educational system or was taught simply as a foreign language. It was felt that these and similar practices undermined or dissolved the integrity of indigenous cultures.

27. It was alleged that the traditional life-style of indigenous populations was violated by governmental authorities, institutions, and multinational and national companies in many parts of the world. A large number of speakers requested that the rights of indigenous populations should be protected by national, regional and international measures to develop their own traditions and way of life.

28. Governmental observers stated the commitment of their Governments to ensure the preservation and enhancement of religions, traditional cultures and languages and to provide an education appropriate to the culture of indigenous populations and responsive to their needs. Some informed the Working Group that special assistance was provided, inter alia, in the area of native communication and broadcasting, especially native language broadcasting, the establishment of cultural centres, and of social and cultural development programmes. One observer informed the group that programmes for aboriginal women had been established. He also said that a major goal of his Government's educational programmes was to ensure that it was locally controlled and culturally and linguistically appropriate.

29. Another governmental observer referred to the successful effort in his country to revive indigenous traditions. In particular there had been a concerted effort to revive and establish a new standing for the language. His Government's policy was to adopt the language of the indigenous populations as an official language of the country. Appropriate legislation is to be introduced to this effect.

C. The right to education

30. Referring to principle 14 of the draft declaration submitted by several non-governmental organizations, 2/ indigenous observers stated that they considered education a focal key in the process of preserving and promoting indigenous rights.

31. Several indigenous observers said that indigenous populations were often among the least educated parts of the larger national populations and presented the highest rates of illiteracy. Moreover, even when education was provided, it often suffered from serious drawbacks, the most serious of which was its assimilationist direction. Among these factors were the provision of education, in most cases, not in the indigenous but in the official languages, and the fact that teachers were not members of the communities in which they taught. The teaching of history was frequently ethnocentric, not taking into account the past of indigenous peoples and was presented from the colonial viewpoint of "discovery".

2/ E/CN.4/Sub.2/AC.4/1985/WP.4/Add.4 and annex IV to the present report.

32. One indigenous observer referred to his organization's efforts to promote true bilingual education, illiteracy programmes and adult education. Another indigenous observer underlined that States were responsible for action to assist indigenous populations keeping their educational rights including their languages, history, culture and own traditional style of life. Religious and educational systems were meant to allow indigenous populations to keep their own identify.

33. Governmental observers stated that education in their countries was provided without discrimination to all citizens, including to indigenous populations. Some speakers described the efforts that were being made to develop and apply special educational programmes adopted to the particular needs of indigenous populations, including, especially, teaching in indigenous languages.

D. The right to life, to physical integrity and security of indigenous populations

34. Several indigenous observers and other observers from non-governmental organizations alleged that there had been recent instances in several countries of violations of the right to life, to physical integrity and security of indigenous populations. Some of them pointed out that it was often in the process of land reform, programmes of transmigration and forced relocation that persecution, involuntary disappearances, arbitrary detention, torture, killings and other violations of human rights took place. It was also said that no judicial procedures had been undertaken regarding the officials who had allegedly committed such violations.

35. It was pointed out by these speakers that the deprivation of indigenous populations of their land and other natural resources often threatened their very right to life. One indigenous observer said that in his country indigenous populations were being harassed not only by governmental forces but also by armed opposition groups.

36. Some non-governmental organizations alleged that genocidal practices were taking place in countries in different parts of the world and urged the Group to bring those situations to the Sub-Commission's attention.

37. Some governmental observers referred to efforts taken in their countries to prevent violence against indigenous populations. One observer reported that his Government had made progress by recognizing police abuses and bringing to trial those responsible for violence against indigenous persons or communities.

E. The right to land and to natural resources

38. All the observers from indigenous populations who addressed issues concerning the right to land stressed the critical importance of land for the very survival of indigenous populations and the retention of their identity as such. It was stressed by such observers that ownership of land had to remain collective. Reference was made to instances in several countries where land reform advanced by Governments had resulted in the destruction of such co-operative ownership, the transfer of land to companies and the disruption of the indigenous communities.

39. Some of these observers made particular mention of the negative impact of transnational corporations as well as international and national agencies and

bodies that provided funds or expertise for development projects on indigenous land. It was felt that many such programmes negatively affected their land and natural resources and consequently their traditional way of life, including currently viable indigenous economies, such as subsistence fishing, and resulted in problems of, inter alia, health and nutrition.

40. It was pointed out by several speakers that even when legal titles to land existed, such titles were often not respected.

41. Some indigenous observers drew attention to several examples of destruction or deterioration of indigenous land and natural resources through pollution, construction of hydroelectric power stations, spreading radioactivity or dumping nuclear waste, and creating of national parks on indigenous land, as well as mining and other economic activities. Objections were also voiced against the use of indigenous land for military purposes and against the destruction of historical and sacred sites, artifacts and designs.

42. One indigenous observer called for a moratorium on any further taking, pollution or destruction of traditional indigenous land until appropriate international standards were put into force. The participant of another non-governmental organization stressed the importance for indigenous populations of the right to cross borders of countries in order to utilize ancestral land.

43. Some indigenous observers strongly supported the view that indigenous land was inalienable and could not be sold by anybody for profit. The indigenous populations were entitled to immediate restitution including compensation for the loss of land, without extinction of original title. In that connection, some observers from Governments expressed the view that holders of indigenous land had the right to exploit it or sell it, if they so wished.

44. Other indigenous participants stated that commitments undertaken by representatives of some Governments, including those made at previous sessions of the Working Group, with regard to mining activities and compensation for the loss of land, had not been put into practice. In this context, it was pointed out by a Government observer that these matters were still being discussed by all parties involved and that final policies were yet to be determined.

45. One Government observer informed the Working Group that a new bill had been drafted by her Government and was expected to be introduced during the current year, fostering the retention of indigenous land and its use, and recognizing cultural concepts of communal land ownership.

46. Another Government observer referred to a draft bill of rights which would affirm a treaty signed in 1840 with the indigenous populations, recognizing certain of their basic rights. He also mentioned draft legislation to be introduced later this year relating to indigenous land and its use as well as to the cultural concepts of communal land ownership.

47. Another Government observer stated that the solution of problems regarding indigenous issues, including land rights, had to be considered in the general context of the socio-economic development of a country and in accordance with the resources available to solve economic difficulties and to cover the needs of the society as a whole. The situation of indigenous populations would improve only with the overall improvement in a country. With regard to the demarcation of

indigenous land, he said that such delimitation had been prepared by the authorities but its implementation had proven difficult due to organizational and other drawbacks of the State machinery in a developing country such as his.

F. The right to self-government, autonomy or self-determination and to political institutions and representation of indigenous populations

48. Observers from Governments and from indigenous organizations referred to recent developments in certain countries concerning political institutions, representation, self-government or self-management of indigenous populations.

49. Some Government observers stated that their Governments acted in consultation with indigenous communities in efforts to assess their needs and promote their rights. One observer described the activities of his Government, in consultation with Indian communities, aimed at establishing self-governing structures at the local level.

50. One indigenous observer explained how the indigenous populations of a particular country had within the last decade obtained autonomy with extensive local control over the cultural, social and economic sectors of its territory.

51. Another indigenous observer stated that her people had political representation in the National Assembly of the country and that efforts were being made at that level to ensure respect for the right to land and natural resources, as well as other rights. She added that indigenous representatives actively participated in the dialogue with the Government for the solution of existing problems. She put forward the view that, in the circumstances of her country, one way to overcome social inequality was participation in State power. Other speakers pointed out that in some countries the level and degree of consultation between indigenous populations and Governments were not adequate to comply with the needs and requests put forward by indigenous communities.

52. A number of indigenous observers, referring to recent developments and efforts by certain Governments to identify indigenous populations with minorities underlined that such a concept denied to them, inter alia, the right to self-determination. They also expressed the view that the concept of indigenous populations had to be clearly distinguished from that of minorities as it had been already done during the First and Second World Conferences to Combat Racism and Racial Discrimination. 3/

G. Other rights

53. Several indigenous observers referred to official programmes of transmigration in some countries which they claimed were aimed at radically changing the demographic composition of indigenous areas. It was pointed out that such practices threatened some indigenous populations with extinction. In that connection it was stressed that in some cases such programmes had been made possible through the international financial assistance from certain intergovernmental institutions. There were suggestions that the Working Group should use its influence to stop transmigration programmes of this kind.

3/ A/CONF.92/40 and A/CONF.119/26.

54. Some speakers drew the attention of the Working Group to the fact that indigenous refugees continued to leave their countries fleeing persecution and harsh conditions of life. The opinion was expressed that, where armed conflicts inflicted harm on indigenous populations, international humanitarian law should be applied.

55. Referring to cases of removal of children from their families and the alarming situation among indigenous populations of health and child care, one indigenous observer urged Governments to allocate financial funds to indigenous communities, for improving health services and child care.

56. In connection with these matters, a number of projects were mentioned by Government observers. Those projects concerned areas such as medical and legal services, housing, education, agricultural and technological development, communications, etc. In general, the speakers asserted that the policies of their Governments in these fields were guided by principles such as self-government or self-management as well as by the international instruments which established universally recognized standards.

III. EVOLUTION OF STANDARDS CONCERNING THE RIGHTS OF INDIGENOUS POPULATIONS

A. General remarks

57. In her opening statement, the Chairman/Rapporteur drew special attention to the part of the mandate of the Working Group relating to standard-setting activities in accordance with resolution 1982/34 of the Economic and Social Council, to the resolution 1984/35 B of the Sub-Commission and resolution 1985/21 of the Commission on Human Rights, which emphasized this part of the mandate. She expressed her hope and expectation that the Working Group, at its fourth and future sessions, would intensify its efforts in this regard.

58. Some of the other members of the Working Group expressed support for the emphasis the Chairman/Rapporteur had placed on the standard-setting activities of the Group and stated that the time had come to begin the preparation of a draft. Similarly, the statements made by the Government observers, by observers of indigenous populations and their organizations, and of other non-governmental organizations, indicated general agreement with this drafting mandate and the need for and expectation of the preparation of new standards and norms on indigenous rights.

59. According to one member of the Working Group, while many international instruments were obviously related to the human rights of indigenous populations, the special needs of the beneficiaries involved required new standards so as to provide fresh impetus and new emphasis on addressing and remedying the underlying problems, including the frequent alienation between the indigenous populations and nations on one side and the States on the other side.

60. The view that existing instruments did not adequately respond to the needs of indigenous populations was endorsed by most speakers, including observers from Governments. The opinion was also expressed that the relevant provisions of the existing human rights instruments should be implemented for the protection of the rights of indigenous populations.

61. Several observers of the indigenous populations also stated strongly the need for special indigenous rights standards. Inequalities and oppression suffered for centuries; ethnocidal practices; the actual dismal situation and marginalized existence in many countries, notwithstanding lofty statutes and policies; lack of understanding and knowledge reflected in accusations of backwardness and primitiveness; and forced assimilation and integration by majority populations, were brought up as reasons underlining the need for new standards concerning indigenous rights and freedoms. The hope was voiced that precise new international standards would also bring into line national legislation and its prompt implementation. The more specific reason most often mentioned was deprivation of the territorial base and land rights, including all the surface and sub-surface resources which come with the land and which form so essential a base of the indigenous way of life.

62. One member of the Working Group offered words of caution for the road to a comprehensive declaration. It was in the same context pointed out by some Governmental observers that the standards had to be drafted in such a way that they would cover all indigenous groups, a task said to be particularly difficult because of the factual diversities and different political demands involved. One set of solutions would not serve the needs of all aboriginal groups, even within one and the same country. Overly ambitious targets could also jeopardize the depth and seriousness of the analysis needed for the contents and implications of the various substantive rights.

63. One member of the Working Group expressed the view that he had some hesitation in using the term "indigenous peoples". The term "people" as used in the Charter, related to all peoples, and new criteria establishing two different kinds of peoples should preferably not be introduced into international law. The political and legal use of the concept of "indigenouness" would only inflict confusion. With a unified approach to the term "people", there was no need to specify special rights for indigenous peoples. Most indigenous peoples could be treated as minorities, and any attempted distinction between the two was nothing more than an artificial dilemma. The minority concept was a well known quantitative concept in constitutional and international law. There were peoples with States and others without States. Taking into account the reality and historical political processes, it would be illusory to expect from the Working Group any recognition or definition in this regard. Likewise, according to the same member, the right to land was important for every human being and group and emphasis on land rights for indigenous peoples was a misunderstanding as there was no specific need to tie ownership of land to cultural or ethnic identities. What was important, was to find out the functions of land in different societies. Bearing in mind what was stated, the Working Group, in his view, needed more time for further clarification of concepts before it could begin a drafting process of standards in this field.

64. Another member of the Working Group pointed out that the United Nations had managed for 40 years without a definition of the term "people" and that a definition of "indigenous peoples" was not necessary, at least for the moment, for the purposes of the present standard-setting activities, especially as there were ample international precedents of the usage of the latter term. The reality of the situation was also reflected by the presence in the conference room, in which the Working Group held its meetings, of a large number of persons who considered themselves to be indigenous and who attached basic values to this identification. The task of the Working Group should not be further complicated by definitions of the beneficiaries; rather, the difficulties associated with defining the term "minority" should serve as a warning signal to this Group. Similarly, with regard to the right of peoples to self-determination, this right should not automatically be associated with independence.

65. A member of the Working Group stated that the Group should draw inspiration from the influence which the Declaration on the Granting of Independence to Colonial Countries and Peoples ^{4/} had had on the decolonization process. Thanks to this Declaration, adopted by the General Assembly in 1960, millions of people all over the world now lived in freedom and independence. It was his belief that the recognition and the restoration of basic rights to indigenous populations and peoples would be hastened if an appropriate declaration could be drawn up by the Working Group with the co-operation of all the parties concerned, bearing in mind that any future set of principles could only be adopted with the support of Governments.

66. Another member of the Working Group agreed that, historically speaking, the concept of indigenous populations was associated with colonialism and aggression by foreign nations and powers, but she warned that there should be no confusion between indigenous populations on the one hand and ethnic minorities in certain countries and regions on the other hand. Issues relating to multinational States

^{4/} General Assembly resolution 1514 (XV) of 14 December 1960.

with populations of different origins should be dealt with in other fora, also so as to assure success in the work of the Working Group. Indigenous populations should be on an equal footing with all nationalities and individuals of any nation, but with clear protection of special rights.

67. Several indigenous observers pointed out that the term "indigenous populations" should be changed to "indigenous peoples" which in their opinion accurately reflected reality. They insisted that they represented peoples and nations and did not wish to be considered mere populations or minorities subject to outside definitions.

68. Many speakers stated that the report prepared by the Special Rapporteur, Mr. José Martínez Cobo, entitled "Study on the Problem of Discrimination against Indigenous Populations", 5/ especially its chapter containing conclusions, recommendations and proposals, 6/ should be taken into account in the process of formulating new standards.

69. One individual expert advised that the Working Group should look into existing or possible national constitutional provisions in connection with its drafting work. It should be kept in mind that international standards on indigenous rights, for example concerning autonomy, special parliamentary representation and voting régimes, could be incorporated into constitutional laws which would in this manner supplement the standards.

70. The Observer for the International Labour Office, after endorsing the efforts of the Working Group on the development of standards, stated that his organisation was moving towards the revision of Convention No. 107, Indigenous and Tribal Populations, 1957, and had initiated specific procedures and timetable to this effect. In a written submission to the Group, 7/ ILO provided additional information on its work in this regard. Several speakers during the Working Group session warmly welcomed the measures taken up by ILO. One Governmental observer stated that the Working Group should take due account of the ongoing work in relation to the revision of Convention No. 107 and that ILO should in its work closely follow developments in the Working Group.

B. Substantive principles

71. A member of the Working Group expressed the view that the drafting efforts must be anchored in existing international instruments such as the Universal Declaration of Human Rights, the International Covenants on Human Rights, the United Nations Declaration and the International Convention on the Elimination of All Forms of Racial Discrimination, and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. Indigenous populations and peoples must be entitled to the full enjoyment of these and other human rights. In addition, it should be a cardinal principle of any standards that they allow for the redressing of disadvantage and abuse, suffered over the years, which should be backed up by affirmative action at the national level.

5/ E/CN.4/Sub.2/476 and Add.1-6; E/CN.4/Sub.2/1982/2 and Add.1-7 and E/CN.4/Sub.2/1983/21 and Add.1-8.

6/ Ibid., Add.8.

7/ E/CN.4/Sub.2/AC.4/1985/WP.2/Add.1.

72. According to another member of the Working Group, the major principles to be covered, in addition to fundamental rights and civil rights laid down in other applicable instruments, were the right to life and physical freedom and security, the right to land and natural resources inherited by indigenous populations, the deprivation of which could in their case amount to deprivation of the right to life; and the right to appropriate political self-rule.

73. Two drafting texts were submitted to this session of the Working Group by indigenous non-governmental organizations. The World Council of Indigenous Peoples submitted a declaration of principles, adopted at their Fourth General Assembly in Panama in September 1984 (reproduced in annex III), and the Indian Law Resource Center, the Four Directions Council, the National Aboriginal and Islander Legal Service, the National Indian Youth Council, the Inuit Circumpolar Conference and the International Indian Treaty Council submitted a declaration of principles, adopted at an assembly of indigenous Working Group participants in Geneva in July 1985 (reproduced in annex IV).

74. Many speakers from all sides referred to specific rights to be included in the international standards awaiting drafting by the Working Group. The most detailed listings with proposed concrete wording were contained in the above-mentioned draft declarations of principles put forward by indigenous non-governmental organizations. With some variations, several governmental observers stated that the rights to land, religion, education and culture and respect for other aspects of their own life and for their own economic and political situation should be properly reflected in the new standards.

75. In accordance with the Plan of Action for 1985, specific suggestions were made with regard to the cultural, linguistic, educational and religious rights of indigenous populations. Indigenous observers emphasized the urgency in maintaining and securing their cultural identity, heritage and traditions in the broadest sense, including their cultural and religious value systems. It was stressed that education should be provided by and for themselves, in their own language and with their own curriculum. Some speakers mentioned in this regard the need for intercultural education and making certain that the larger national societies also learn about indigenous cultures. Furthermore, the fullest regard for indigenous religious beliefs and religious sites was required when drafting a relevant article in the new standards.

76. With regard to principles concerning the education and culture of indigenous populations, one government observer raised the following basic issues:

"How best to preserve and enhance indigenous cultures, languages, and religions within larger societies?"

What are appropriate methods for ensuring that indigenous populations have control and influence over their own cultural and educational activities?"

How can the values of indigenous populations be preserved within their own communities, and shared with the broader society?"

What measures are appropriate to overcome the cultural losses experienced by many indigenous populations through history?"

He felt that the discussion of these issues might bring about significant progress towards a workable scheme for ensuring that the concerns at stake be respected.

77. Numerous suggestions forwarded by indigenous observers relating to the right to earth or to land and natural resources were retained under active consideration by the Working Group in accordance with the Plan of Action. Ancestral land or the territorial base was said to be essential to all other rights of indigenous populations and their future generations, including the right to life. Collective rights and peaceful possession of the surface and sub-surface of these lands should, therefore, it was maintained by the indigenous speakers in general, be covered by the new standards, especially those connected to the indigenous way of life and activities relating to renewable resources, such as fishing, whaling, hunting, harvesting, gathering and trapping. It was also suggested that without corresponding rights to adequate surface and ground waters, indigenous land rights would be rendered meaningless.

78. With regard to the standard-setting, the right to earth or to land and natural resources was considered essential by many of the indigenous observers because of the many forms of dispossession which existed. These forms, which were said to have become more prevalent in modern times through transmigration and technological advances, were reflected, inter alia, in increased pollution, dam constructions, mining operations, military activities and other environmental contamination. Attention was drawn to the fact that indigenous populations had never had problems with conservation of the environment or the extinction of species so that protection groups were quite misdirected in their criticism of indigenous practices.

79. The right to self-determination was the subject of many statements by indigenous speakers. While some spoke in this context of autonomy or self-government as necessary for their control over the land as well as their economic, social and cultural systems, others spoke of the right in a broader sense barring discovery, conquest, the concept of terra nullius, and occupation as means of depriving them of sovereignty. Several indigenous observers also emphasized the need to respect treaties freely concluded between them and States, in accordance with the principle of pacta sunt servanda, which should be reiterated in the new standards.

80. It was suggested that many other rights be included in a future set of standards, as set out in the two draft declarations proposed by several indigenous non-governmental organizations. The above-mentioned rights and others suggested from the floor included the right to peace, human dignity and justice, the right to life, physical integrity and security, the right to determine their own membership or citizenship, political rights; family rights; the right to move across State boundaries for the conduct of traditional activities; the right to humanitarian treatment of indigenous refugees; the right not to be subject to relocation; and the right to prior authorization by indigenous populations of technological, scientific or social investigations.

81. The observer from one indigenous non-governmental organization, in the context of existing and forthcoming international standards affecting indigenous peoples, emphasized the need to establish remedies. The responsibility of States to respect populations, in accordance with the Charter of the United Nations and to protect peoples against private and public encroachment should, therefore, be established. He and some other indigenous speakers also referred to the right of indigenous populations, as a last resort, to defend themselves against violations of their rights.

82. Some indigenous observers spoke about the need to send international observers to national constitutional and political negotiations taking place between indigenous populations and Governments in various parts of the world. Two indigenous non-governmental organizations, in their comments upon one aspect of the proposed draft declaration ^{8/} concerning the resolution of disputes between States and indigenous populations, recommended that the Working Group elaborate further upon the point that it is the duty of indigenous communities and member States to engage in good-faith dispute resolution with respect to their differences. Such disputes should be resolved by agreement between the parties. If good-faith negotiations failed the two parties might wish to continue their negotiations with the assistance of a mediator, or the parties might wish to make efforts to establish a process for deciding the matters by an impartial third party. These speakers also recommended that the international community should be entitled to monitor the progress of dispute resolution efforts and to encourage all parties to pursue such efforts in good faith. The Working Group, in fulfilling its mandate, should be able to hear information about the negotiations and monitor their progress.

83. One governmental observer expressed concern over proposals relating to the right of self-determination and the status of indigenous populations as subjects of international law, as spelled out in the draft declaration submitted by a number of indigenous non-governmental organizations. ^{9/} He pointed out that indigenous populations, as was the case in his own country, might wish to organize their own life autonomously and to have their own institutions. However the proposed text went much further and included the right to determine their political status and citizenship. Indeed, reference to the right to self-determination would imply the right of secession, which Governments would not be in a position to admit. He also questioned the assertion that indigenous peoples and nations are subjects of international law. International law was created by States, through agreements or practice and there were no indications that States recognized indigenous peoples and nations as subjects of international law. In his view, therefore, it would be incorrect to include in the declaration something that in fact did not find support in international law.

84. In response to proposals already advanced, one Working Group member expressed the opinion that it would be desirable, before the fifth session of the Working Group, that Governments submit their views on specific drafting language for consideration by the Group.

C. Form of instrument

85. There was more or less general agreement from all sides that the standards to be drafted by the Working Group should in the first instance form a declaration, eventually to be adopted by the General Assembly of the United Nations. The possibility of a convention was also mentioned, but there seemed to be general agreement, also on this point, that this kind of instrument would emerge further down the road, possibly with inspiration from the declaration.

86. One government observer pointed out after endorsing the idea of a carefully thought out and drafted declaration, that such an instrument could be just as or even more important than a convention. A declaration on the basic principles of indigenous rights could eventually become binding upon all members of the international community, like the Universal Declaration of Human Rights, while a Convention would be binding only upon the States which would choose to ratify it.

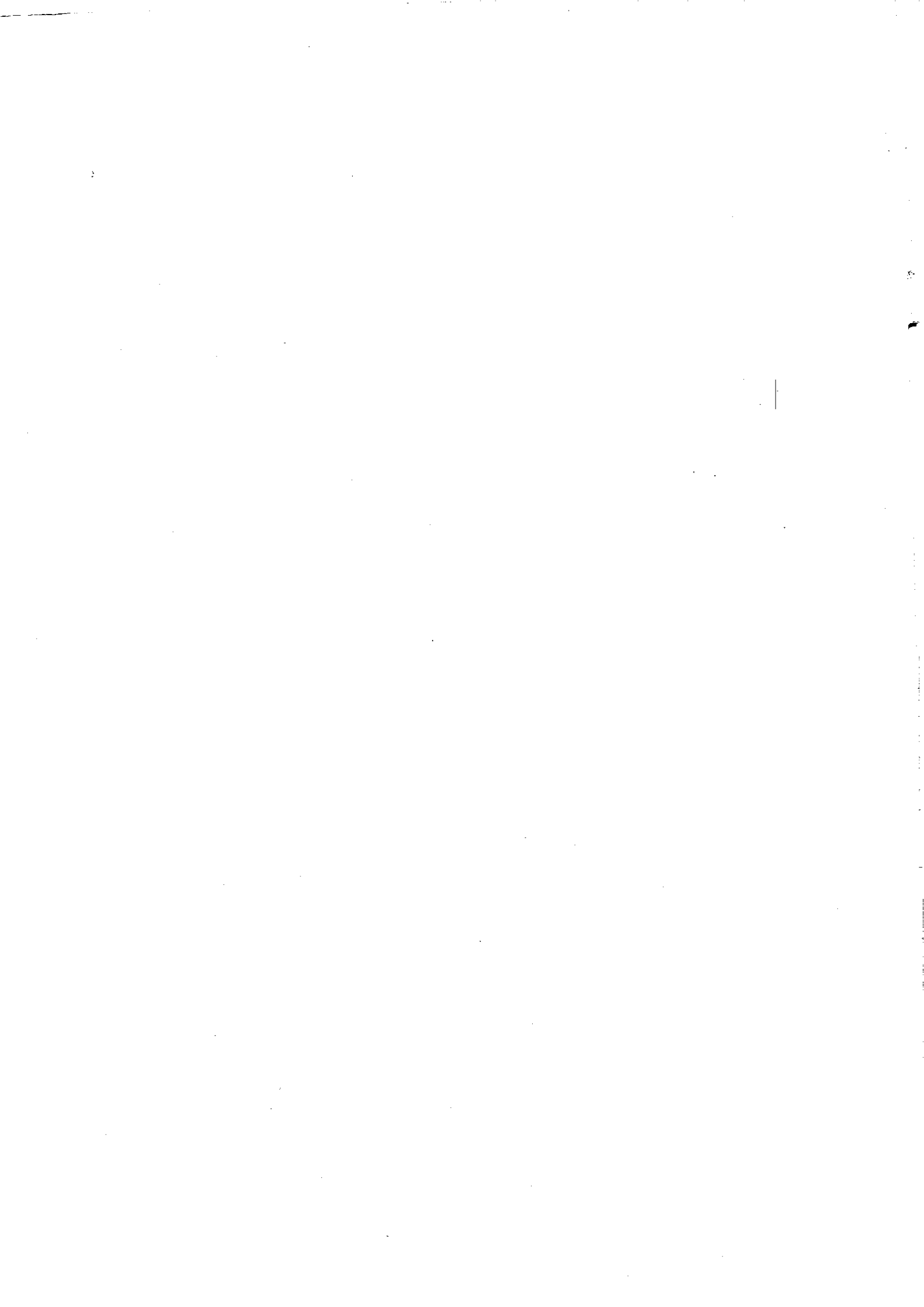
^{8/} E/CN.4/Sub.2/AC.4/1985/WP.4/Add.4 and annex IV to the present report.
^{9/} Ibid.

IV. OTHER MATTERS

87. Concern was expressed by some indigenous participants and from one governmental observer about the need to assure the right of indigenous representatives to leave their countries in order to attend sessions of the Working Group. Similarly, and according to some speakers more urgently, the need to ensure the safe re-entry of indigenous participants in the Working Group to their respective countries was emphasized, as well as the prevention of any reprisals against participants because of their statements or mere attendance.
88. Several government and indigenous observers, as well as members of the Working Group, expressed their approval of and appreciation for the passing of resolutions by the Sub-Commission, Commission on Human Rights, and the Economic and Social Council on the establishment of a Voluntary Fund for Indigenous Populations. One observer stated that his Government would be contributing \$A 20,000 to the Fund as soon as its establishment had been endorsed by the General Assembly and appropriate administrative arrangements had been made. The observer for one non-governmental organization described the activities of his organization in financing the participation of indigenous observers from various countries.
89. Several speakers stressed the need for continued support from the Secretariat to the Working Group. One government observer urged the Secretariat to give high priority and more time in coming years to assisting the Group in discharging its tasks.
90. Several indigenous observers suggested that the Secretariat put together an analytical compilation or summary of existing instruments and proposals related to indigenous rights, in particular the right to self-determination and the right to land.
91. Six indigenous non-governmental organizations suggested that the Secretariat be requested to prepare and circulate an analytical compilation of documents and other available information concerning developments and conditions affecting the rights of indigenous populations and communities in several specific, enumerated regions of the world, without the singling out of individual countries. It was felt that a compilation of this sort would greatly facilitate the task of the Working Group in carrying out its mandate.
92. As the Working Group was not empowered to receive specific complaints, a few indigenous observers suggested that a review of available channels and procedures for the filing of such complaints at the international and regional levels be made.
93. A large number of indigenous observers suggested that the sessions of the Working Group should be extended from 5 to 10 days. It was argued that the complexities and broad scope of the standard-setting task awaiting the Group, in addition to the other part of its mandate relating to the review of developments and the large number of participants justified such an extension.
94. It was suggested by an indigenous non-governmental organization that a United Nations seminar should be held on indigenous populations within the framework of the programme of advisory services in human rights, and that indigenous organizations should be included in this programme, with special emphasis on encouraging the development of national and regional consultations between indigenous populations and Governments.

95. Numerous indigenous observers made reference to the Special Course on Indigenous Peoples in International Law held from 15 to 26 July 1985, at the "Château de Bossey", near Geneva, which provided indigenous persons with information about the activities and functioning of United Nations bodies dealing with human rights.

96. One indigenous non-governmental organization presented to the Working Group a series of resolutions on various subjects adopted by the International Indigenous Youth Conference, held at Batoche in Canada from 22 to 26 July 1985.



ANNEX I

PLAN OF ACTION FROM 1986 ONWARDS

1. (a) This plan of action for the Working Group is indicative only and the sequence of priorities may be changed at later sessions; (b) the issue of treaties and agreements concluded between States and indigenous populations will be discussed, whenever pertinent, in connection with any theme. Under the item of the agenda concerning the review of developments, any issue falling under the mandate of the Working Group may be brought up. It is expected that protection of the right to life, to physical integrity and security of indigenous populations will be discussed each year. It is also expected that information will be received and discussions will be held on the evolution of policies regarding indigenous populations. Under the agenda item relating to standard-setting activities, issues discussed at the third and fourth sessions of the Working Group may be further considered by the Group at its fifth and future sessions. Each year, under the item "Other matters" of the agenda, themes not listed below may be taken up.

2. As repeatedly stated at the fourth session of the Working Group, emphasis will be placed, at the fifth and future sessions of the Group, on the part of its mandate relating to standard-setting activities.

3. 1986: Fifth session

(a) Consideration of the right to autonomy, self-government and self-determination, including political representation and institutions;

(b) Consideration of the right and responsibility of indigenous populations, as of all others, to respect universally recognized human rights and fundamental freedoms;

(c) Consideration of the right to health, medical care, other social services and adequate housing.

4. List of preliminary priorities for the subsequent sessions of the Working Group

(a) Consideration of principles of equality and non-discrimination;

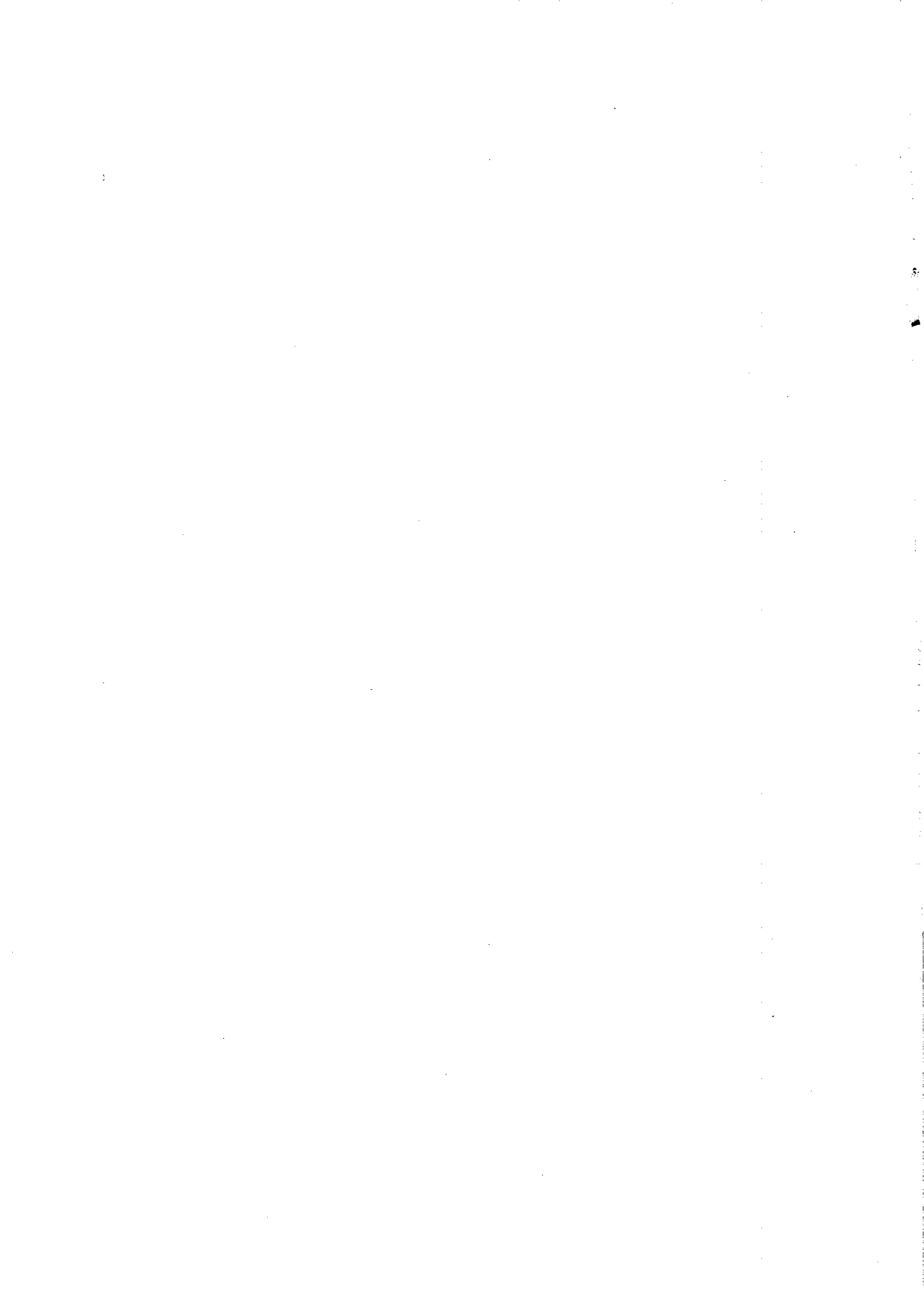
(b) Consideration of the right to legal assistance and protection in administrative and judicial affairs;

(c) Consideration of the right to traditional productive activities, work, free choice of employment, just and favourable conditions of work, and protection against unemployment, as well as the right to form and join trade unions for the protection of their interests;

(d) Consideration of the right to freedom of peaceful assembly and association;

(e) Consideration of the right to social security;

(f) Consideration of the right to trade and to maintain economic, technological, cultural and social relations.



ANNEX II

After considering the comments and information submitted by Governments and indigenous organizations since its establishment, the Working Group discussed, in the course of several private meetings held during the present session, how to continue its immediate future work on standard-setting in accordance with its mandate as laid down in resolution 1982/34 of the Economic and Social Council, and on the basis of operative paragraph 8 of Sub-Commission resolution 1984/35 B. It was agreed to proceed as follows. 1/

The Working Group should aim at producing, in due course, and as a first formal step, a draft declaration on indigenous rights, which may be proclaimed by the General Assembly.

As a point of departure in that process, the Working Group should take due account of the international instruments already existing on this subject within the United Nations system, particularly those which make up the International Bill of Human Rights, and proceed on the basis of opinions advanced by both Governments and indigenous organizations.

Governments and indigenous organizations should be encouraged to submit comments and suggestions on the drafts prepared by the Working Group. Their special attention should be drawn, in anticipation of the Working Group's fifth session in 1986, to the following rights already proposed and discussed, in a preliminary manner, at the Working Group's previous sessions:

Draft Principles

(preliminary wording)

1. The right to the full and effective enjoyment of the fundamental rights and freedoms universally recognized in existing international instruments, particularly in the Charter of the United Nations and the International Bill of Human Rights.
2. The right to be free and equal to all other human beings in dignity and rights, and to be free from discrimination of any kind.
3. The collective right to exist and to be protected against genocide, as well as the individual right to life, physical integrity, liberty, and security of person.
4. The right to manifest, teach, practice and observe their own religious traditions and ceremonies, and to maintain, protect, and have access to sites for these purposes.

1/ One member of the Working Group was not present when this decision was taken.

5. The right to all forms of education, including the right to have access to education in their own languages, and to establish their own educational institutions.

6. The right to preserve their cultural identity and traditions, and to pursue their own cultural development.

7. The right to promote intercultural information and education, recognizing the dignity and diversity of their cultures.

ANNEX III

Declaration of principles adopted at the Fourth General Assembly of the
World Council of Indigenous Peoples in Panama, September 1984 ^{1/}

- 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 without 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.

^{1/} Appeared also in document E/CN.4/Sub.2/AC.4/1985/WP.4 and Corr. 1.

- 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.

ANNEX IV

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 1/

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.

1/ Appeared also in document E/CN.4/Sub.2/AC.4/1985/WP.4/Add.4.

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-defence 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 Human Rights and other United Nations instruments. In no circumstances shall they be subjected to adverse discrimination.

