

UNITED NATIONS ECONOMIC AND SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/Sub.2/1985/NGO/9
7 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

Written statement submitted by the Four Directions Council,
a non-governmental organization in consultative status

(category II)

The Secretary-General has received the following communication which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV)

[6 August 1985]

As the distinguished expert from Ghana observed at the fourth session of the Working Group on Indigenous Populations, the roots of the indigenous problem rest in colonialism. Indigenous organizations have expressed the same view, and repeatedly emphasized their view that the solution depends on self-determination, self-government, or autonomy. Use of the term "self-determination" alarms many Governments, however, because they consider it synonymous with independence. This is not necessarily the case, but it is clear that we need to redefine self-determination in the indigenous context, and in the post-colonial world generally.

Self-determination and decolonization

The principle of self-determination arose as a practical response to a particular historical problem: the European empires dominating Africa, Asia, and much of the islands of the Caribbean and Pacific. Imperialism, concentrating world power in a few European States, was viewed as an immediate threat to world peace and security, and the rapid dismantling of empires was given so high a priority that little attention was paid to alternatives other than independence for the former colonies. Indeed, many colonies were emancipated without regard for democratic processes, on the mere strength of diplomatic consultations. Since the liberated territories were isolated from existing States and had substantial indigenous majorities, there were no real practical objections to immediate independence. In some instances, however, hasty decolonization resulted in the liberation of territories rather than peoples. Existing legal boundaries, most of them established for the convenience of the colonizing Powers, were given precedence over linguistic and cultural patterns. This has left some regions a legacy of unresolved tensions which unfortunately encourage conflict and invite external interventions threatening the integrity of newly-independent States.

This suggests the need to examine the possibility of a "second stage" of decolonization, in which newly-independent States employ regional constitutional arrangements, including provisions for regional autonomy of distinct territorial ethnic groups, to reconcile regional differences and strengthen national unity.

Self-determination and "indigenous populations"

"Indigenous populations", as the term is used in the United Nations, usually refers to distinct aboriginal groups subjected to external administration within States that achieved their independence before the establishment of the United Nations decolonization programme. "Study of Discrimination Against Indigenous Populations", E/CN.4/Sub.2/1983/21/Add.8, 1379; E/CN.4/1985/NGO/6. For practical security reasons, States have generally opposed any consideration of independence for these groups, invoking the principles of territorial integrity and national unity of States in accordance with the Charter of the United Nations and General Assembly resolution 2625 (XXV). These objections do not necessarily exclude indigenous populations from the enjoyment of self-determination, however, since self-determination can also include various forms of regional autonomy or federalism within existing States, as suggested by the General Assembly in its resolutions 1514 (XV) and 1541 (XV). Thus it would seem extremely reasonable to look on regional autonomy as a compromise between the principles of self-determination and territorial integrity, when considering enclaves occupied by indigenous populations. In our view, this compromise would lead to a greater degree of national stability and security than the outright rejection of the aspirations of indigenous populations for greater political, cultural and economic freedom.

This is not to imply that there are no indigenous populations eligible for decolonization in the traditional sense. Many groups currently classified as "indigenous" are actually the majority within an existing State, as in some parts of Central and South America or the majority within an island territory claimed or controlled by a nearby State, as in parts of Australasia and North America. In these instances, no compromise between the principles of self-determination and territorial integrity is necessary.

Self-determination as a continuing right

As reflected in the Secretary-General's recent study on "Popular Participation", E/CN.4/1985/10, a number of States are suggesting that the right to self-determination continues after independence, but changes from a collective right to decolonization, into an individual right of democratic participation in government through (for example) free elections. In other words, these States contend that self-determination includes both the right of a people to form their own independent Government, as well as their subsequent right, as individuals, to control that new Government through democratic processes. While we join in the ideal of participatory government we find this right already separately enshrined in article 25 of the International Covenant on Civil and Political Rights. In the view of the Covenant's draftsmen, then, self-determination as a collective right (art. 1) and individuals' right to participate in government (art. 25) are different things.

Does self-determination imply some kind of collective right, distinct from popular participation, that continues after independence? We believe it does, and that this continuing right flows from the fact that many States, as a result of free association at the time of independence, or simply as a result

of their history prior to independence, consist of aggregations of culturally-distinct territorial groups which resist integration into a single new national culture. Whether such culturally-plural States arose from voluntary or involuntary processes, it seems to us that their survival depends on their ability to respect regional differences, and to accommodate these differences through creative regional political arrangements. Any programme of involuntary integration is likely to fail, breed conflict, and invite external intervention.

We suggest, then, that the traditional unitary conception of independent States is losing practical meaning in our contemporary world. The same pragmatism that led to the original development of the principle of self-determination in the post-war world of European empires, argues for the recognition of distinct territorial communities' continuing collective right to a negotiated degree of autonomy in today's world of plural States.