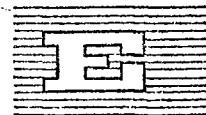


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STUDY OF THE PROBLEM OF DISCRIMINATION AGAINST
INDIGENOUS POPULATIONS

Written statement submitted by the Indian Law Resource Centre
a non-governmental organization in
consultative status, Roster

Indigenous peoples throughout the world will be heartened to hear that there has been a serious consideration of the creation of a United Nations working group on the rights of indigenous peoples. From our experience in working with indigenous communities in the Western Hemisphere, we know of the very great need for such a working group. Creation of a working group on the rights of indigenous peoples will be an important step in alleviating the suffering of indigenous groups.

Indigenous peoples face many serious problems today. Throughout the Western Hemisphere, many indigenous peoples are subjected to systematic oppression and suffer abject poverty. Indian communities with rights to vast areas of land are prohibited from using their own resources. Ancient indigenous governments, which have held legitimacy within their communities and elsewhere for centuries, are being attacked. The activities of multinational corporations have devastating effects on indigenous cultures. Even worse, some multinationals carry on programmes of active deculturation.

In many countries in the Western Hemisphere, the national governments fail to protect indigenous rights and very often engage in outright attacks on indigenous communities.

Indigenous peoples all over the world face similar problems. The root problem involves more than the oppression of individual indigenous people, which in itself is a grave problem. But much more importantly the basic structural problem is the refusal to recognize the rights of indigenous peoples to their community land, culture, and self-government.

This problem of refusal to recognize the rights of indigenous communities is not a transient problem, which can be solved with a change in national government or policy. It is a constant problem, which exists in varying degrees without regard to any particular political régime or government.

This problem of lack of recognition of indigenous community rights to land, culture and self-government is a proper concern of the international community. Throughout the Western Hemisphere, domestic law does not recognize valid treaties with indigenous nations and peoples and the inherent rights held by indigenous communities. In many countries, domestic law imposes special disabilities and restrictions on the rights of indigenous peoples to be heard in court. These restrictions apply to indigenous peoples solely because of their race. Therefore, indigenous communities are increasingly bringing their problems to the United Nations and other international bodies. The volume of communications and complaints made by indigenous peoples to the United Nations is rapidly increasing, even though few people know of the availability of international fora.

Over the last few years, indigenous peoples in Central and South America have become much better organized. Despite terrible suffering and oppression, indigenous peoples are developing strategies for action. Shut out of their own domestic courts, these people are increasingly looking to international human rights law and procedures for redress of their grievances.

The problems of indigenous peoples are unique and thus require specialized, careful analysis. Some problems of gross human rights violations, such as torture for example, are unmistakable and instantly condemnable. But with respect to the problems faced by indigenous communities, however, identifying the precise contours of the problems of human rights violations is sometimes difficult. To properly address and understand the violations of the human rights of indigenous peoples, specialized and detailed analysis is sometimes required. In order to disentangle and unravel the problems of indigenous peoples in the Western Hemisphere from three to four hundred years of colonial history, careful study and legal analysis is required.

The present suffering of indigenous peoples must not be left to the historians and librarians. We are not talking about history, but rather serious and continuing patterns of abuse of human rights violations which persist today.

A body is needed to work on easing the human rights problems of indigenous peoples; just as bodies have been created for certain other human rights problems. The violations of the human rights of indigenous peoples must not and cannot be left in some dark corner, but must be faced openly and frankly. A working group is essential in order to focus particular expertise on unravelling these problems. This working group should focus on modern human rights guaranteed by international law. The world must not leave indigenous peoples entangled in the cobwebs of colonial history.

The problems of indigenous people have been under study by this body for many years. Now is the time to build on such study, to apply the insights and understandings such study brings forth. A specialized group is vital to giving the appropriate attention demanded by this unique problem.

Indigenous peoples do not yet have an appropriate international forum designed especially for hearing their concerns. Efforts to raise the problems of indigenous communities in international fora have proceeded without proper focus, under agenda items and in fora not originally intended and not adequately suited to give full attention to the problems of indigenous communities. The violations of human rights of indigenous peoples cause problems of life and death proportions. For indigenous peoples in the Western Hemisphere, the basic question is survival. If more indigenous communities are eradicated from the planet, we will all be much poorer. Indigenous people have suffered too much already. For the sake of the survival of these people, we must not turn away our eyes. Creating a working group is critical and must be done soon.