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INDIGENOUS ISSUES

Written statement\* submitted by the International Centre for Human Rights and Democratic  
Development ( Rights & Democracy), a non-governmental organization in special  
consultative status

The Secretary-General has received the following written statement which is  
circulated in accordance with Economic and Social Council resolution 1996/31.

[31 January 2003]

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\*This written statement is issued, unedited, in the language(s) received from the  
submitting non-governmental organization(s).

Rights of Indigenous Peoples: Time is running out!

1. In December 1993, the General Assembly of the United Nations adopted Resolution 48/163, proclaiming that the International Decade of the World's Indigenous Peoples would begin on December 10, 1994. The end of this Decade is fast approaching, and the Sub-Commission on the Promotion and Protection of Human Rights has already proposed to hold an international conference in 2003 to take stock of progress (2001/12).
2. Some very significant steps have been made, such as the creation of a Permanent Forum on Indigenous Issues, and the nomination of a Special Rapporteur on the fundamental rights and freedoms of indigenous peoples. The Permanent Forum held its first session in New York in May 2002, and now has a permanent secretariat.
3. Article 209 of the Durban Declaration and Programme of Action against Racism, Racial Discrimination, Xenophobia and Related Intolerance, calls for speedy agreement on the text of the Draft Declaration on the Rights of Indigenous Peoples. It echoes Resolution 2001/12 of the Sub-Commission on the Promotion and Protection of Human Rights, which asks the participants of the Working Group on Indigenous Populations, created by Resolution E/CN/RES/1995/32 of the Commission on Human Rights, to do everything in their power to accelerate the pace of work. A paragraph in Resolution E/CN/RES/2002/65 makes a similar appeal: "Underlining the importance of concluding, at the latest in 2004, the "Draft United Nations Declaration on the Rights of Indigenous Peoples," for consideration and adoption by the General Assembly, prior to the conclusion of the International Decade of the World's Indigenous Peoples."
4. Although some progress was made during the last session of the Working Group on the Draft Declaration, and while a consensus was nearly reached on Article 8 of the Draft Declaration, much work remains to be done in order for all 45 articles of the declaration to be adopted. At the risk of repeating the same refrain year after year, it is of the utmost importance for governments to make a special effort to understand that the recognition of all indigenous peoples' rights does not represent a threat to world peace, on the contrary, it is a factor of stability.
5. The foremost aspiration of indigenous peoples, the indispensable tool recognizing their collective existence and crucial to ensuring their survival, is still conspicuous by its absence. Despite the fact that the right that is considered the cornerstone of the human rights framework — the right to self-determination — is addressed in Article 1 of the covenants on civil and political rights and on economic, social and cultural rights: "All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."
6. Even though experts in treaty-monitoring mechanisms continue to issue specific recommendations to states on the observance of Article 1 as it applies to indigenous peoples (CCPR/c/76/add.105 and CCPR/c/79/add.112), this right remains to be recognized by certain Member States of the United Nations, particularly those attending the Working Group created by Resolution E/CN/RES/1995/32. While the

right is enshrined in Article 3 of the current text of the Draft Declaration on the Rights of Indigenous Peoples, it has not yet been adopted in its current wording: “Indigenous peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.” The last session of the Working Group on the Draft Declaration, in December 2002, failed to arrive at a consensus on this issue.

7. In August 2002, in releasing its final observations regarding Canada, the Committee for the Elimination of Racial Discrimination expressed its consternation at the direct correlation between the economic marginalization of indigenous peoples in Canada and the ongoing dispossession of native lands. This is precisely the situation that Articles 25 to 30 of the Draft Declaration, dealing with land and resource rights, seek to remedy. There is also a direct link between a peoples’ right to self-determination and the right to benefit from the resources present on their land, as clearly established in the second paragraph of Article 1 of both covenants.

8. It would be a shame to come to the end of the Decade and be forced to observe that governments still refuse to recognize that the rights stemming from peoples status under international law apply equally and without discrimination to indigenous peoples.

9. It would be equally regrettable if governments were to agree on a new text that is judged unacceptable by indigenous peoples, when there is a broad consensus among indigenous peoples regarding the text produced by the Sub-Commission on the Promotion and Protection of Human Rights.

#### Convention 169 of the International Labour Organization

10. Convention 169 on Indigenous and Tribal Peoples in sovereign states, adopted by the International Labour Organization in 1989, presently constitutes what Special Rapporteur Rodolfo Stavenhagen has referred to as “a dynamic instrument,” based on the fact that guaranteed rights are justiciable.

#### Working Group on Indigenous Populations

11. The Working Group on Indigenous Populations, a subsidiary organ of the Sub-Commission on the Promotion and Protection of Human Rights whose mandate is to review developments pertaining to the rights of indigenous peoples, raises the awareness of the international community on the situation of indigenous peoples worldwide. It acts as a complement to the permanent body, whose mandate does not specifically include human rights.

Recommendations

1. Rights & Democracy reaffirms its interest in the adoption of the Declaration on the Rights of Indigenous Peoples, which explicitly recognizes their right of self-determination, before the end of the Decade dedicated to them, in conformity with Resolution E/CN/RES/1995/32 and with the full participation of indigenous representatives.
2. Considering that there is only one year remaining before the end of the Decade, Rights & Democracy requests the Commission on Human Rights to recommend special measures, other than informal inter-sessional meetings between states, aimed at accelerating the pace of work and that these measures include the full involvement of indigenous representatives.
3. Rights & Democracy requests the Commission on Human Rights to recommend that all governments comply with the Durban Declaration and Programme of Action to which they subscribed during the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, by showing a greater political will with a view to facilitating the adoption of the Declaration.
4. Rights & Democracy supports the recommendation of the Permanent Forum requesting the Economic and Social Council to give due consideration to applications by indigenous peoples when filling vacancies within the secretariat. Rights & Democracy requests the Commission on Human Rights to formulate this recommendation and to invite governments to provide adequate funding for the secretariat of the Permanent Forum and to assist the Special Rapporteur in carrying out his mandate.
5. Rights & Democracy also requests the Commission on Human Rights to call on states that have not yet done so to sign and ratify Convention 169, as it did in Resolution 2002/65.
6. Rights & Democracy requests the Commission on Human Rights to renew the mandate of the Working Group on Indigenous Populations and to take measures to organize the World Conference on Indigenous Peoples, in accordance with Resolution 2001/12 of the Sub-Commission on the Promotion and Protection of Human Rights, for the purpose of taking stock of the achievements of the Decade of Indigenous Peoples.

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