



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/Sub.2/AC.4/2003/14
15 June 2003

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on the Promotion and
Protection of Human Rights
Working Group on Indigenous Populations
Twenty-first session
21-25 July 2003
Item 4 (b) of the provisional agenda

**REVIEW OF DEVELOPMENTS PERTAINING TO THE PROMOTION
AND PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL
FREEDOMS OF INDIGENOUS PEOPLE**

**PRINCIPAL THEME: "INDIGENOUS PEOPLES
AND GLOBALIZATION"**

**Working paper on globalization and the economic, social and cultural rights
of indigenous populations, submitted by Mr. El Hadji Guissé, member
of the Working Group on Indigenous Populations**

1. At the start of the twentieth century, the world economy was based on relations between national economies and the economy was controlled through a system of bilateralism. Peoples and individuals hardly counted; States alone had international relations which, in the colonial era, were based upon the domination of the colonizing Powers, which imposed their will on the dominated peoples.
2. Indigenous peoples lived on their land before settlers moved in as a result of conquest, occupation, colonization, etc. Whenever dominating peoples extended their territory or settlers took new lands by force, the livelihoods and very existence of indigenous populations were endangered.

3. During the periods of conquest and colonization, these populations were dispossessed of their entire livelihoods, especially their lands. The current situation of these peoples, formerly termed “natives”, is a legacy of colonial history. The treaties and conventions imposed on native peoples by the colonizers were nothing short of acts of dispossession of these peoples for the benefit of settlers, who received protection and assistance from their State of origin.

4. Today the colonial usurpation of the land of indigenous peoples and their enslavement are cited to explain the extreme poverty in which they live. The law of the colonizing States followed a logic of domination and repression. European expansion and the emergence of empires following the industrial revolution of the eighteenth century impelled the colonial Powers to seek out markets and resources on every continent.

5. The right to dominate had created a sphere of action in which settlers evaded all forms of justice or punishment, with confiscation transformed into right of ownership with all that this entails. This grabbing of the riches of indigenous populations endured for nearly 300 years in Africa. When the former colonies gained their sovereignty, they perpetuated the former system of exploitation of the lands and wealth of indigenous populations by concluding agreements with the former settlers amounting to complete dispossession without compensation, thereby condemning the indigenous population to a state of poverty.

6. It is imperative to avoid further degradation of land and natural resources resulting from the development of projects sponsored by Governments and transnational corporations *without the informed consent* of local communities and without considering their alternative suggestions, even though it is these communities that suffer the negative consequences of such projects. Indigenous populations have the right to preserve, restore and protect their environment.

7. Globalization or integration of the international economy overlooks all the rights which indigenous populations enjoy in the eyes of the international community, by allowing transnational corporations, aided and abetted by host States - essentially in the South - complete licence to exploit.

A. Globalization, environment and indigenous populations' right to health

8. Indigenous populations have always lived in a wholesome natural environment, far from pollution, protecting and respecting the other forms of life that make up this environment. They have always lived in harmony with other living things in their environment without having to destroy them. They have fished, gathered and hunted strictly according to their needs, ensuring that both plant and animal life are replenished. They have always used their environment to feed, care for and clothe themselves - in a word, to lead a healthy lifestyle.

9. Indigenous people also find in this natural environment the medicines they need for their health and that of the animals they have managed to domesticate. The right to a wholesome environment, to health, food and housing - i.e. rights without which a person descends into extreme poverty - have always ensured that the indigenous population enjoys security and stability.

10. The advent of globalization has destroyed this hope. The search for areas to exploit has led States and transnational corporations to enter into agreements to sell the land where indigenous peoples live, from which they are then evicted. Globalization has allowed these corporations to exploit the natural resources of the indigenous peoples as they please, and it is they who must be held directly responsible for environmental collapse and water and air pollution. The current scale of pollution will certainly trigger significant climatic changes, which will aggravate still further the problems of health, food and education that currently affect poor countries.

11. Sometimes medicines obtained from plants and other living things in the natural environment are coveted by multinational pharmaceutical companies, but without giving indigenous populations a share either in the exploitation of these plants, or in the benefits of this exploitation.

12. Transnational corporations care nothing for repairing the destruction they wreak. Corporations, States and the international community alike should recognize the negative consequences of economic activities and impose a code of conduct upon all those who play an economic role. The deterioration of the natural environment has endangered the quality of life in every country in the world, particularly in areas inhabited by indigenous populations. Environmental pollution has dangerously compromised the enjoyment of important economic, social and cultural rights of these populations.

13. At the start of the twentieth century, the international economy was based on relations between national economies. In contrast, globalization involves the break-up of national controls and structures in a context of integrated organic development in which international considerations trump national ones and private interest prevails over the general interest.

14. Indigenous peoples, who are particularly vulnerable, are excluded from this process and their wealth is plundered. Indigenous or native peoples lived on their land before settlers arrived and acquired dominance through conquest, occupation, colonization, etc.

15. Whenever dominating peoples extended their territory or settlers took new lands by force, the crops, livelihoods and very existence of indigenous populations were endangered. The threats to the crops and land of indigenous peoples, and to their status and other rights as groups and citizens, take different forms and do not necessarily lead to the same results.

16. All this is a consequence of colonial history. The treaties concluded between the colonizers and the colonized were simply acts of dispossession for the benefit of the colonizer. When the former colonies gained their international sovereignty, they perpetuated the former system of exploitation of the land belonging to the indigenous people by concluding agreements with the former settlers involving dispossession with practically no compensation.

17. The indigenous populations have often sought, since the birth of the new nations, to preserve their identity and their land. The relationship between the indigenous people and the land is the core of its heritage and its existence.

18. Hitherto we have witnessed a system of State-to-State colonization. Today, we are witnessing a process of private colonization in which the colonizers' sole objective is profit and the unfettered exercise of the right of ownership over assets acquired by fraudulent means. This system has the downside of creating a legal situation in which the colonists evade all forms of prosecution or punishment, with confiscation transformed into right of ownership with all the legal consequences that flow from this.

19. The provisions of former law, essentially comprising imposed treaties, should be repealed in their entirety and replaced by fairer and more equitable legislation which better protects the interests of the indigenous populations. These must not be new rules to ensure that the rich get richer, which is the purpose of globalization.

B. Globalization and neglect of the rights of indigenous populations

20. Globalization is a new *modus operandi* of world capitalism, which supports the emergence of globalized firms that pursue a global approach to the design, production and distribution of their goods and services.

21. The globalization of the economy is not globalization in the sense that its beneficial effects are spread evenly among a growing number of countries and peoples. Globalization operates through exclusion and a process of selective integration. Its result is the marginalization of all social groups that are unable to participate in economic activity, including indigenous populations.

22. Land is without a doubt central to the life of a people. The relationship between indigenous peoples and their land embodies fundamental rights that are simultaneously legal, economic and social in nature and form part and parcel of their identity. It is in the context of this relationship that fishing, gathering and farming - which have always enabled these peoples to live and survive - must be understood. It is this relationship which, in the past, has also enabled these peoples to exercise sovereignty over the resources and natural wealth on and in their land.

23. Globalization is a system in which States are weakened to an extent which even affects the exercise of their sovereignty, and where real and undivided power resides in private economic power alone. The search for this power has resulted in the confiscation of croplands and other resources that used to belong to indigenous populations, and this pattern has survived the various phases of decolonization.

24. Land law was drawn up by and for the benefit of the colonial Powers, who left no room for the rights of the indigenous populations in the essentially one-sided treaties they imposed on the subjugated chieftains. Land acquired in this manner is exploited in an uncontrolled manner by the rich and powerful; the indigenous populations are excluded, unable to claim even the smallest share of the huge revenues derived from its exploitation. We Africans retain bitter memories of the experience of the Ogoni people in Nigeria, some of whom were sentenced to death and executed for having claimed their share of the wealth derived from the crude oil under their land. For some time now, the Bororo people of Cameroon have been unsuccessfully trying to block the passage across their crop and grazing lands of a pipeline that will make it easier to tap the country's oil wealth.

25. International financial institutions, especially the World Bank, acknowledge that indigenous peoples are the poorest in the world, despite living in the richest areas of the planet. They also admit that the identities, crops, lands and resources of indigenous peoples are interdependent and particularly vulnerable to the changes wrought by globalization.

26. This acknowledgement by the World Bank brings to mind the principle that development requires participation by the population groups that are to be both its promoters and its beneficiaries. The rights of peoples considered both individually and collectively must be taken into account in all actions intended to encourage the development of these peoples. Indigenous populations must be able to use and develop the land on which they live and to be protected against encroachments. When the commercial use of natural resources (forests, minerals or hydrocarbons) occurs on land belonging to or habitually used by indigenous populations, they should be informed of their rights and the potential impact of the planned exploitation, and be involved in decision-making regarding the planned commercial use.

27. In many countries, land set aside for parks and protected areas may encroach upon and often swallow all the land reserved for indigenous populations, without any compensation being provided.

C. Poverty among indigenous people

28. Indigenous populations, which international institutions recognize as being the most vulnerable and excluded, are naturally the poorest, living as they do in the most wretched penury without hope of a future for themselves or their descendants. Indigenous populations that rely on the sea or rivers for a living no longer have the means to feed themselves from the water, since they lack the capacity to compete with industrial-scale fisheries.

29. The same problems confront indigenous populations who draw their livelihood from the forests. The timber industries that exploit these forests are absolutely oblivious to the rights of these populations. In African forests, each decision to cede the forest homes of indigenous populations to transnational private companies, without taking account of their rights, already constitutes a violation of their fundamental rights, for example their rights connected with their land. The *raison d'être* of private corporations, namely maximum profit at minimum cost, is incompatible with respect for the rights of indigenous populations. This is the lesson we learn from the history of colonization, which was pursued while completely ignoring the rules of the indigenous natural environment.

30. The principal consequence of all this is the accelerated and chronic pauperization of indigenous populations, who now live in the most abject poverty for which the international community is largely to blame through the intermediary of its finance institutions. It is superfluous to state that women and children are the principal victims.

31. Indigenous populations, robbed of their land and vanquished by the indiscriminate law of the market economy, are choosing the path of exile in search of decent living conditions. Others have been reduced to a state of agricultural or industrial slavery, or seek work in mines for starvation wages or as porters in the towns, where they earn a pittance.

32. According to the *Human Development Report 1990* published by the United Nations Development Programme (UNDP), 90 per cent of farmers own barely 11 per cent of cropland, whereas 10 per cent of the new rich own the remaining 89 per cent. The globalization of the economy, driven solely by the profit motive and chiefly by transnational corporations, the World Trade Organization and the international financial institutions - a process which has no social dimension - overlooks the needs, prerogatives and rights of indigenous populations.

33. It is also important to remember the negative role played by States, which, when organizing land transfers, often resort to expropriations, forcible clearance and savage and blind repression to satisfy the requirements of international companies whose profits flow abroad.
