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Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
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Item 10 of the provisional agenda

STUDY OF THE PROBLEM OF DISCRIMINATION
AGAINST INDIGENOUS POPULATIONS

Preliminary report submitted by the Special Rapporteur,
Mr. José R. Martínez Cobo

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INTRODUCTION

1. The following paragraphs describe briefly the origin of the decision to make a complete and comprehensive study of the problem of discrimination against indigenous populations 1/.
2. The Special Study on Racial Discrimination in the Political, Economic, Social and Cultural Spheres prepared under the direction of Mr. Hernán Santa Cruz as Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities 2/ included a chapter (chapter IX) on "Measures taken in connexion with the protection of indigenous peoples". The Special Rapporteur's conclusions and proposals were contained in chapter XIII. Those relating to problems of indigenous populations appeared in paragraphs 1094-1102 (section B of the chapter). Paragraph 1102 read as follows:

"1102. As the chapter on indigenous populations is only one part of the over-all Study of Racial Discrimination, the subject has by no means been exhausted. For instance, the information available to the Special Rapporteur did not enable him to determine precisely what kind of policy is being pursued in the various countries towards indigenous populations, although he was able to state that most countries have adopted a policy of integration. For a more thorough analysis of the extent of the problem and the national and international measures needed to solve it, the Special Rapporteur considers that the competent organs of the United Nations in co-operation with the specialized agencies, such as UNESCO, the ILO and FAO - since most of the indigenous populations are engaged in agricultural activities - and with national and regional institutions such as the Inter-American Indian Institute, should make a complete and comprehensive study of this problem."
3. The Sub-Commission on Prevention of Discrimination and Protection of Minorities examined the study of racial discrimination at its twenty-third session (1970). In the course of the discussion, many of its members endorsed the Special Rapporteur's recommendation that the United Nations should make further studies on the question of the treatment of indigenous populations.
4. Mr. Santa Cruz submitted a draft resolution requesting the Commission on Human Rights to recommend to the Economic and Social Council the adoption of four draft resolutions. The text submitted was based on the proposals made in chapter XIII of the study and took into account the discussions which the

1/ The report which the Special Rapporteur will submit to the Sub-Commission at its twenty-sixth session will contain a complete account of the measures taken by the United Nations and its specialized agencies and by regional inter-governmental organizations to protect indigenous populations.

2/ E/CN.4/Sub.2/307 and Add.1-5, subsequently issued as Racial Discrimination (United Nations publication, Sales No.: E.71.XIV.2).

Sub-Commission had held on the subject up to that time. Part B of the draft dealt with indigenous populations and included the following operative paragraph:

"The Economic and Social Council

"...

"5. Authorizes the Sub-Commission on Prevention of Discrimination and Protection of Minorities to make, as part of its study on the protection of minorities, a complete and comprehensive study of the nature and extent of the problem of discrimination against indigenous populations and of the national and international measures necessary to eliminate such discrimination in co-operation with the specialized agencies concerned and other competent international, regional and national organizations."

5. Two members of the Sub-Commission submitted proposals on that operative paragraph. One of them considered that, in view of the quality of Mr. Santa Cruz's study which discussed many aspects of the problem, it would be superfluous at that stage to request the preparation of a new report on the same subject. In his reply, the Special Rapporteur referred to paragraph 1102 of the study, in which the need to make further studies on the question was affirmed. Another member of the Sub-Commission, explaining that his purpose was to obviate any conflict with the provisions of the Sub-Commission's resolution 9 (XX) and to ensure that the Sub-Commission would not necessarily have to include the question of discrimination against indigenous populations in its study on the protection of minorities, proposed a formal amendment to the draft operative paragraph to the effect that the study on discrimination against indigenous populations could be made either as part of the study on the protection of minorities or as a separate study.

6. The Special Rapporteur having accordingly revised his draft, which became operative paragraph 6, it was put to the vote and the following text was adopted:

"The Economic and Social Council

"...

"6. Authorizes the Sub-Commission on Prevention of Discrimination and Protection of Minorities to make, either as part of its study on the protection of minorities, or as a separate study, a complete and comprehensive review of the nature and extent of the problem of discrimination against indigenous populations and of the national and international measures necessary to eliminate such discrimination, in co-operation with the specialized agencies concerned and other competent international, regional and national organizations."

7. The Commission on Human Rights considered the Sub-Commission's draft resolution at its twenty-seventh session (1971). The draft having been formally submitted to the Commission, several of its members favoured the preparation of a separate study on discrimination against indigenous populations.

/...

8. One of them expressed the opinion that should the frequent assertions that in many countries the indigenous populations were in fact the majority rather than the minority be substantiated, it would perhaps be better to establish a new body to deal with the problem of discrimination against indigenous populations. That suggestion was subsequently rejected by the Commission, which decided to entrust the study to the Sub-Commission.

9. Several members of the Commission submitted joint draft amendments to operative paragraph 6 of the Sub-Commission's draft, which later became operative paragraph 7. Those amendments were accepted and the text, which was not amended subsequently and is therefore given in the following paragraph, was adopted unanimously.

10. The Economic and Social Council at its 1771st plenary meeting held at Headquarters, New York, on 21 May 1971, unanimously adopted, as resolution 1589 (L), draft resolution III proposed by its Social Committee. That text contained, with minor drafting changes in operative paragraphs 5 and 6, the text submitted by the Commission, whose operative paragraph 7 had not been amended and was approved as originally drafted by the Commission with the following text:

"The Economic and Social Council

" ...

"7. Authorizes the Sub-Commission on Prevention of Discrimination and Protection of Minorities to make a complete and comprehensive study of the problem of discrimination against indigenous populations and to suggest the necessary national and international measures for eliminating such discrimination, in co-operation with the other organs and bodies of the United Nations and with the competent international organizations."

11. The Sub-Commission dealt with this question again at its twenty-fourth session (1971). In its resolution 8 (XXIV) of 18 August 1971, entitled "Complete and comprehensive study of the problem of discrimination against indigenous populations", the Sub-Commission, recalling that the Council in operative paragraph 7 of its resolution 1589 (L) had authorized the Sub-Commission to make a complete and comprehensive study of the problem of discrimination against indigenous populations, decided to appoint the undersigned as Special Rapporteur to carry out the study and requested him to submit a progress report to the Sub-Commission at its twenty-fifth session.

I. SCOPE OF THE STUDY

12. In dealing with this subject, the relevant provisions of all paragraphs of Economic and Social Council resolution 1589 (L) must always be borne in mind. As may be seen from operative paragraph 7 of that resolution, which has been quoted verbatim in paragraph 10 above, the Sub-Commission has been authorized to undertake, in co-operation with other organs and bodies of the United Nations and with the competent international organizations, the following two basic tasks:

- (i) To make a complete and comprehensive study of the problem of discrimination against indigenous populations; and
- (ii) To suggest the necessary national and international measures for eliminating such discrimination.

13. In so far as the first of these tasks is concerned, the words "complete and comprehensive" in the text of the Council's resolution clearly mean that a study should be made which would embody all important elements of the subject and that each element should be examined in depth so that none of its relevant aspects is neglected.

14. In this connexion, the "Outline used for the collection of information" which is attached as an annex includes a detailed list of all subjects which must be covered in the study. It should be mentioned that the final report on the study will not necessarily have to follow the order of subjects given in the outline.

15. Obviously, the second stage of the work, which consists in suggesting measures for eliminating existing discrimination, cannot be undertaken until the first has been completed since the first will identify precisely those of the present situations in which there are injustices against indigenous populations and which must therefore be eliminated, and the type of measures to be adopted to that end.

16. The meaning given to the two basic concepts "discrimination" and "indigenous populations" must necessarily determine the scope of the study.

17. In carrying out the work which the Sub-Commission has entrusted to the Special Rapporteur, it will therefore be necessary to examine as forms of discrimination any institutions or practices which do not conform to a broad concept of equality guaranteeing indigenous populations that:

- (a) they are not discriminated against in any way, either by commission or omission, particularly in so far as any of the rights and freedoms set forth in the Universal Declaration of Human Rights is concerned; and

(b) special measures are taken to place them on an equal footing with other persons or groups in the real and effective enjoyment of such rights and freedoms, over and above any formal equality they may have achieved already.

18. The other element to which reference is made in the Special Rapporteur's terms of reference, and to which serious attention must be paid, is that of indigenous populations. The following chapter seeks to define the meaning to be given, for the purposes of the study, to these words.

II. DEFINITION OF "INDIGENOUS POPULATIONS" FOR THE PURPOSES OF THIS STUDY

19. The definition of indigenous populations for the purposes of this study involves the following four tasks:

(a) Establishment of a "working definition" to be used in the collection of information for the study;

(b) Identification of population groups which should be regarded as indigenous in individual countries; this is a task to be undertaken when the individual country papers relating to the study are drafted;

(c) Comparative study of all the definitions contained in the individual country papers;

(d) Definition of indigenous populations from the international point of view. This definition will be one of the results of the study and will constitute the basis of the proposals which the Special Rapporteur will submit as part of his final report so that the Sub-Commission may formulate recommendations concerning measures to be adopted in this area.

20. This chapter sets out to accomplish the first of these tasks.

21. A working definition to be used in the collection of information must be adopted in order to achieve a certain degree of comparability in the content of the information collected, since there is no unanimity at the national level regarding the definition of indigenous populations.

22. Different criteria are sometimes applied even within a single country. Informal social practice may reflect ideas either broader or narrower than those constituting the legal notion of "indigenous populations". In addition, experts on the subject sometimes have their own ideas concerning the definition which should be adopted in a given country. The effective notion of what constitutes "indigenous", as applied in practice by government authorities, may differ from what is embodied in the officially accepted definition of what should be regarded as "indigenous". It may even happen that within a single country there are different legal criteria applying in matters covered by different branches of the law.

23. As Mr. Hernán Santa Cruz has written in his study on Racial Discrimination:

"346. Identifying a person or group as indigenous may be a complex and difficult proposition, however. In many instances, the first confrontation between 'inhabitants' and 'invaders' took place centuries ago. With the passing of time, life in common broke down the physical and ethnic distinctions between the two groups and brought about varying degrees of biological and cultural hybridism. The resulting social, racial and cultural blending makes it very difficult to arrive at a precise definition of who may today be

considered to be the 'indigenous' or 'aboriginal' inhabitants in a given country. The only exceptions may be groups which occupied or sought refuge in jungle areas, thick forests or mountains, or other areas of difficult access, where they could maintain their own distinct culture and way of life, and who have remained in relative isolation up to present date.

"347. Under these circumstances, the problem arises today of determining in each case the criterion to be applied in defining which groups are to be held as 'indigenous'. In this connexion it has been written: 'The notions with reference to which such groups are classified are so flexible and varied that there are often discrepancies in statistical data or estimates within a single country, and useful comparisons between one country and another are impossible. Different and often contradictory criteria tend to be used by administrators, lawyers and sociologists as a basis for their definition, such as the colour of the skin, language, customs, tribal conditions and living standards. Every country has tackled the problem of definition in its own way, according to its own traditions, history, social organization and policies.'"

24. In the following paragraphs circumstances pertinent from the international standpoint are examined, national formulations being left aside for the present, with a view to establishing a working definition to be used in the collection of information for the study.

25. In formulating the definition with which we are concerned at this point we need not take into account such factors as whether the populations in question are large or small from the point of view of total numbers or the percentage they represent, whether certain groups live in only one country or in several countries, and whether the populations are concentrated in specific areas or scattered throughout the territory of the country in which they live.

26. Conversely, we should take into account such factors as the circumstance that a special type of relationship was established, in the area which now constitutes the territory of a given country and prior to the establishment of the State, between the ancestors of the various segments of the existing population; the manner in which certain elements were included in the State; and the national and cultural characteristics forming the basis of the State structure.

27. Those elements which appear essential to the definition of indigenous populations, within a historical framework, are described in the following paragraphs.

28. The existence of certain groups prior to the establishment of the State is undoubtedly a fundamental factor in the definition of indigenous populations.

29. Certain groups of a country's population are characterized as indigenous because their ancestors inhabited a region or area at the time when persons of a different cultural and/or ethnic origin arrived there from other parts of the world and overcame them. The "invaders" or "new arrivals" subjugated the "inhabitants"

by means of open military conquest or by other less direct but equally effective means involving as a rule expanding settlements resulting from activities which had originally been confined to trade and the exploitation of commodities. In general, the increasing encroachment on land resulting from expanding settlements led ultimately to a violent confrontation of the two groups and the defeat of the "inhabitants" by the "settlers". Control of the most important areas of the territory emphasized the subjection of the former by the latter and led to the colonial subordination of the territory and its inhabitants.

30. It is clear that the "original inhabitants" and their descendants came to be regarded as "indigenous" vis-à-vis the "colonizers" and their descendants.

31. The present status of such populations is determined by the circumstance that, although there may have been a considerable degree of biological and cultural fusion between the two groups - something which can by no means be taken as typical in every case - there still exist at least two main population groups with different social and cultural characteristics which can be traced back to those of the original groups of inhabitants and those of the newly arrived colonizing settlers involved in the first confrontation many years earlier.

32. Later, when the present State structure was established, the descendants of the original groups of inhabitants were compulsorily, or at least without their consent, placed under the jurisdiction of the State. It should be added that the State was constituted on a basis incorporating mainly the national, social and cultural characteristics of the predominant group. In the circumstances, the indigenous populations, which still maintain their distinctive characteristics in the social, economic and cultural spheres, tend to conform more to their special customs and traditions than to the institutions of the country of which they now form part.

33. It must be added that in general indigenous populations are not organized in national communities but constitute tribal or semi-tribal groups with land ownership systems based on the clan or the tribe. Most of them are rural population groups.

34. In the light of these historical considerations, the following working definition is proffered:

"Indigenous populations are composed of the existing descendants of the peoples who inhabited the present territory of a country wholly or partially at the time when persons of a different culture or ethnic origin arrived there from other parts of the world, overcame them and, by conquest, settlement or other means, reduced them to a non-dominant or colonial condition; who today live more in conformity with their particular social, economic and cultural customs and traditions than with the institutions of the country of which they now form part, under a State structure which incorporates mainly the national, social and cultural characteristics of other segments of the population which are predominant."

35. In the formulation of this definition account was taken, inter alia, of the definition in Convention 107 (1957) of the International Labour Organisation (ILO) concerning the protection and integration of indigenous and other tribal and semi-tribal populations in independent countries, which is repeated in ILO Recommendation 104 (1957) on the same subject, and the empirical guide used in the ILO study on Indigenous Populations (1953). As may be observed, the proposed definition is similar to those texts in certain important respects and differs from them in others.

36. In order to clarify further the reasons underlying the proposed definition, the text of the definition may be divided into the following four elements.

First element

"Indigenous populations are composed of the existing descendants of the peoples who inhabited the present territory of a country ..."

37. Reference is made to population groups living at the present time who are descended from peoples who at a particular time in the past were settled in a given area. This study is not concerned with the question of establishing who may have been the original inhabitants of a country or region. Furthermore, there are areas in the world that can be considered as veritable crossroads of mankind; some countries in those areas, however, now recognize certain groups as the indigenous population of the country. There is probably no region in the world with a completely undisturbed population; in most countries at least substantial groups of the present inhabitants are descendants of people who arrived there from other parts of the world at one time or another.

38. Reference is made to the "present territory of a country", rather than to the "country", in order to take account of two facts: first, that in all probability the country which exists today did not exist at all at the time of the conquest or other original contact; and, second, that even if "independent" communities were then living in the territory which is now the territory of the country, it is doubtful that they constituted at that time a "State" or "country" in the present meaning of those words. Furthermore, the suggested text emphasizes that even if the country existed as such at that time, it probably did not have the same territory it has now.

Second element

"at the time when persons of a different culture or ethnic origin arrived there from other parts of the world, overcame them and, by conquest, settlement or other means, reduced them to a non-dominant or colonial condition."

39. This passage contains a necessary reference to the fact that the persons who overcame the inhabitants of the country in question must have arrived there from other parts of the world and must have been of a different culture or ethnic origin. If that were not the case, the question would have been one involving a problem between indigenous populations.

40. Mention is also made of the fact that the "new arrivals" overcame the "original inhabitants" and, "by conquest, settlement or other means, reduced them to a non-dominant or colonial condition". Besides direct and open military defeat (conquest) there are other means whereby the "invading" peoples gained a foothold in the "newly discovered" territories and deprived the "inhabitants" of their lands, minerals and other goods and their self-determination. Trade, generally followed by expansionist settlement policies, and the establishment of facilities for the exploitation of minerals or other goods, with the subsequent enlargement of those facilities in order to attract settlers and the ensuing confrontation leading to the predictable defeat of the "inhabitants", are two of the various means by which control has been gained over territories, goods and peoples.

41. All these processes culminated in the imposition of a condition of political, economic and cultural dependence on a "metropolitan" Power which exploited land, goods and peoples to its own advantage. This subsequent state of affairs is generally known as "colonization".

Third element

"who today live more in conformity with their particular social, economic and cultural customs and traditions than with the institutions of the country of which they now form part".

42. No existing indigenous population can validly be said to conform to institutions it has maintained, unchanged, since the time of the conquest, settlement or other form of reduction to a non-dominant or colonial condition. What are now known as "indigenous institutions" are a mixture, in varying degrees, of colonial and pre-colonial institutions as adapted by the indigenous populations to their new condition. Nevertheless, it is necessary to indicate that indigenous populations "today live more in conformity with their particular social, economic and cultural customs than with the institutions of the country of which they now form part". This wording seeks to avoid any characterization of the customs and traditions beyond the fact that they are "particular" to such groups, whether they were originally their own or not.

Fourth element

"under a State structure which incorporates mainly the national, social and cultural characteristics of other segments of the population which are predominant."

43. There is no doubt that Council resolution 1589 (L) is concerned with the protection of non-dominant population groups. This notion pervades the whole text, which clearly relates to groups in need of protective measures.

44. For the purposes of this study, it is essential to characterize these indigenous populations as groups which are non-dominant in the society and are placed under a non-neutral State structure. Their position as non-dominant groups is the very reason for the need to institute protective measures in their favour, affording them special rights and services.

45. Isolated or marginal populations. Although they have not suffered conquest or colonization, isolated or marginal population groups existing in the country should also be regarded as covered by the notion of "indigenous populations" for the following reasons: (a) they are descendants of groups which were in the territory of the country at the time when other groups of different cultures or ethnic origins arrived there; (b) precisely because of their isolation from other segments of the country's population they have preserved almost intact the customs and traditions of their ancestors which are similar to those characterized as indigenous; (c) they are, even if only formally, placed under a State structure which incorporates national, social and cultural characteristics alien to theirs.

III. PREPARATION OF THE STUDY

46. The resolutions of the Sub-Commission, the Commission and the Council did not refer to the procedure for the preparation of the study. The question therefore arises whether the Special Rapporteur should follow any of the existing special directives.
47. The general directives relating to the preparation of studies on discrimination set out in resolution B adopted by the Sub-Commission at its sixth session 3/ as amended by the Commission at its tenth session, 4/ are considered applicable to this study.
48. These directives were originally adopted only in relation to the Study of Discrimination in Education. However, there is a firmly established custom concerning their applicability to other studies of discrimination undertaken by the Sub-Commission, for they have been used in the preparation of all such studies. In every case, the respective Special Rapporteurs and the Sub-Commission have adopted these directives explicitly or implicitly.
49. At the same time, the general directives are applicable only in so far as they are appropriate to the present study: some adjustments will have to be made, since the directives will be applied to matters that go beyond mere prevention of discrimination. Some of the measures which have been or must be adopted in relation to indigenous populations are more like the measures taken for the protection of minorities than those aimed at preventing discrimination.
50. The three successive stages established in those directives - (I) collection, analysis and verification of material, (II) production of a report, and (III) recommendations for action - appear to be indispensable for the preparation of the study on indigenous populations and the national and international measures that may be suggested as a result of it.
51. In the first of the above-mentioned stages, the Special Rapporteur intends to have recourse to the following sources of information among others: (a) Governments of States Members of the United Nations or members of the specialized agencies which have indigenous populations; (b) the Secretary-General; (c) the specialized agencies and the competent organs of the United Nations; (d) the relevant organs of the regional intergovernmental organizations; (e) non-governmental organizations recognized by the Economic and Social Council as being in consultative status and having a special interest in the study; (f) non-governmental bodies active in the scientific, anthropological, sociological and ethnological fields; (g) the works of scientists and recognized authorities on the subject.

3/ E/CN.4/703, para. 97.

4/ Official Records of the Economic and Social Council, Eighteenth Session, Supplement No. 7, para. 418.

52. As soon as the Special Rapporteur has decided on the final version of the outline following the discussion of it during the twenty-fifth session of the Sub-Commission, he will begin work on the first stage, namely, collection, analysis and verification of material, by sending out notes, together with the outline, requesting information. In addition, in 1973 the Special Rapporteur intends to visit some countries having large indigenous populations in order to observe at first hand the circumstances in which they live and to discuss with the Governments the complex situations which arise.

53. In accordance with resolution 9 (XII) of the Commission on Human Rights, requests for information shall be sent to all States Members of the United Nations and members of the specialized agencies. Monographs will be prepared for the study only on those countries which have indigenous populations. It is not quite clear as yet which those countries are. Certainly monographs will have to be prepared on about 30 countries at least and it is probable that other countries will have to be included, although that will depend partly on the response to the Special Rapporteur's requests for information for the study.

54. The Special Rapporteur intends to be guided by the provision contained in the last paragraph of part I of the general directives which states:

"Summaries of material dealing with each country will be prepared and forwarded to the Governments concerned for comment and supplementary data."

55. The subjects dealt with in these summaries will follow the same order as in the outline for the collection of information in order to facilitate comparison when the final report on the study is prepared.

56. The summaries will be revised in due course in the light of the comments, observations and additional data sent by Governments and these revised summaries will be used in the preparation of the final report. In accordance with United Nations efforts to limit documentation, the Special Rapporteur suggests that the final texts of the country monographs should not be issued in mimeographed form as conference room papers, although they will be available to the members of the Sub-Commission and other interested persons who wish to consult them.

57. In applying part II of the general directives, relating to the "production of a report" account will have to be taken of the fact that indigenous populations are a special segment of a country's population and are in a disadvantageous position. Because of this circumstance, it is the State's duty to take special measures, grant special rights or provide special services for the benefit of the indigenous populations in the territory under its jurisdiction, in fulfilment of its obligation to try to make up for the disadvantages from which they suffer.

58. Consequently, the report on this study will: (a) be global in nature and include all the kinds of discrimination condemned by the Universal Declaration of Human Rights, although it will pay particular attention to cases of discrimination that are typical of general trends and to cases in which discrimination has been successfully eliminated; (b) be based on facts, be objective and refer to both the

de facto and the de jure situation; (c) indicate the factors which in each case have led to discriminatory practices against the indigenous populations or the lack of appropriate special measures to make up for their disadvantageous position in society, identifying those practices which are of an economic, social, political or historical character and those stemming from a policy that is clearly designed to produce, maintain or aggravate them; (d) note the general trend and the development of legislation and practice in the matter of discrimination against indigenous populations or the lack of the necessary special measures in favour of such populations and indicate what measures should be taken to make up for existing inadequacies stating whether such measures help appreciably to lessen or eliminate discrimination against indigenous populations, affording them better protection and assistance; indicate instances in which legislation and practice are retrogressing or remaining static; (e) draw to the fullest possible extent on the conclusions on the subject already reached by other organs of the United Nations or the specialized agencies; (f) include all the material and information the Special Rapporteur is able to gather, duly analysed together with any conclusions and proposals which are deemed relevant so that the Sub-Commission may be able to formulate recommendations to the Commission on Human Rights on the measures to be taken; (g) be intended not only to serve the Sub-Commission as a basis for drafting its recommendations but also to inform world public opinion.

59. As envisaged in section III of the general directives, recommendations will be made after the Sub-Commission examines the report. In accordance with resolution 9 (XII) of the Commission on Human Rights, such recommendations as may be made shall "be of an objective and general character in accordance with the Charter of the United Nations".

ANNEX

OUTLINE FOR THE COLLECTION OF INFORMATION

- (i) In the preparation of this outline the following working definition of indigenous populations was used:

"Indigenous populations are composed of the existing descendants of the peoples who inhabited the present territory of a country wholly or partially at the time when persons of a different culture or ethnic origin arrived there from other parts of the world, overcame them and, by conquest, settlement or other means, reduced them to a non-dominant or colonial condition; who today live more in conformity with their particular social, economic and cultural customs and traditions than with the institutions of the country of which they now form part, under a State structure which incorporates mainly the national, social and cultural characteristics of other segments of the population which are predominant."

- (ii) This definition is given here to show the main criterion by which the Special Rapporteur will be guided in collecting information relating to the United Nations study on indigenous populations. In order to facilitate comparison of the information, Governments, organizations and individuals who provide information in accordance with the outline are urged to bear in mind the above definition as far as possible.
- (iii) Information on the definition of indigenous populations in each country should be provided as indicated in Part A, I, of this outline.

A. GENERAL INFORMATION

I. Definition

1. Individuals, groups or communities considered indigenous under the legal system of the country. Other concepts which are generally prevalent in the country, whether legal or not. The criterion or criteria used to establish whether an individual, group or community is or is not indigenous.
2. Information on whether a person who has been considered "non-indigenous" may come to be considered "indigenous" and, if so, how. Conversely, whether an "indigenous" person may come to be considered "non-indigenous" and, if so, how.
3. Problems encountered in defining persons undergoing one of the processes of change referred to in the preceding paragraph.

II. Composition of the population

4. Present situation. Statistical and other data indicating the country's total population, the total size of the indigenous population and the proportion of the country's total population which it represents.
5. Statistical trends. Increase or decrease in the size of the country's indigenous populations in the past 200 years. Reasons for any decrease in the total size of the indigenous population or in the size of certain indigenous groups.

III. Historical background

6. The historical events, knowledge of which is essential to an understanding of the present situation of the country's indigenous populations, including information about any: (1) violent conflict between the indigenous and other populations; (2) forced removal of indigenous population groups from their ancestral lands and resettlement in other places; (3) concentration of indigenous population groups in "reservations" or "preserves"; (4) migration within the country or emigration to other countries of indigenous population groups; (5) other similar events. Indication of the reasons, circumstances and results in each case.

B. BASIC PRINCIPLES

IV. Basic provisions

7. Basic provisions of the Constitution and other fundamental laws, administrative decisions, executive decrees and judicial rulings concerning indigenous populations in general.

8. Information concerning the fundamental status attributed by law to the indigenous populations. Such information should state, in particular, whether:

(1) A special legal status has been established to protect indigenous populations and exempt them from certain obligations, while at the same time limiting their exercise of certain rights until they reach a level of development enabling them to be on an equal footing with the rest of the population; or

(2) indigenous populations have been recognized as having all the rights and obligations of citizens and, in addition, benefit from certain special provisions established in their favour and considered necessary because of the fact that they have a relatively weak position in society, such provisions to remain in force as long as they continue to be in such a position.

V. Fundamental policy

9. What problems are considered in the formulation and development of this policy. Description of the State's officially declared policy on indigenous populations; reasons for choosing such a policy, and an indication of whether the desires and views of the groups involved are taken into account when the policy is formulated.
10. Indication of whether different policies have been adopted which can be applied according to the circumstances of the various groups and whether there are cases in which practice departs from the officially adopted policy, with a detailed account of any such departures.
11. Development of State policy towards indigenous populations.
12. Action taken to ensure the control, examination and revision, whenever necessary, of this policy and of the measures adopted under such policy, so that measures do not remain in force after they have ceased to be useful.
13. Review of the policy pursued by unofficial organizations (religious missions or missions, commissions or groups of a scientific, anthropological, ethnological, sociological or other nature that have undertaken action programmes among the indigenous populations.

VI. Administrative arrangements

14. Government bodies. Description of the bodies responsible for developing, applying and giving effect to official policy on indigenous populations, including information on whether they are part of the central administration, or co-ordinated with it, as: (1) separate ministries; (2) bodies within ministries; (3) bodies operating under more than one ministry; (4) autonomous institutions, whether or not connected with one or more ministries; etc. Information on any existing regional or local bodies.
15. Private bodies. Information on whether: (1) they have been established by and are under the control of one or more government ministries; (2) they have been recognized by the State; or (3) they receive a State subsidy.
16. Other arrangements. Mixed bodies or activities of a mixed governmental and non-governmental nature.
17. Functions. Brief description of the functions of the bodies in question, whether carried out by one or by several such bodies. Co-ordination of activities.
18. Staff. Qualifications and requirements for appointment to such bodies. Selection. Tenure, irremovability. Responsibilities. Training relevant to the problems of indigenous populations, whether in-service or prior to appointment to the post.

19. Funds. Sources from which the bodies in question receive funds. What authority controls them.

C. INFORMATION ON DISCRIMINATION AGAINST INDIGENOUS POPULATIONS
AND THE ELIMINATION THEREOF

VII. Prohibition, prevention and elimination of discrimination against indigenous populations, in general

20. Information concerning general measures that have been adopted:

(1) To prohibit and put an end to any act of discrimination against indigenous populations;

(2) To ensure that all national, regional and local public authorities and institutions, individuals and private groups and organizations act in accordance with the principle of non-discrimination against indigenous persons, groups or communities, and that they do not: (i) engage in any discriminatory act or practice; (ii) sponsor, defend or support discriminatory acts; (iii) prevent the full and equal exercise by indigenous populations of their human rights and fundamental freedoms.

(3) To promote the elimination of barriers between the indigenous and non-indigenous segments of the population and discourage anything that might tend to strengthen division and rivalry between them.

VIII. Prohibition, prevention and elimination of discrimination against indigenous populations, particularly:

a. In the enjoyment of certain human rights and fundamental freedoms

21. Information on measures adopted to guarantee the right of everyone, whether indigenous or non-indigenous, to equality before the law, in respect of the following rights:

(1) The right to equal treatment before the tribunals and all other organs administering justice;

(2) The right to security of person and protection by the State against any violence or bodily harm, whether inflicted by government officials or by any individual, group or institution;

(3) The right to freedom of movement and residence within the borders of the State, including the right to leave one's country and to return to it;

(4) The right of access to any place or service intended for use by the general public such as transport, hotels, restaurants, cafes, theatres and spectacles, parks, beaches and markets;

b. In the enjoyment of certain other human rights and fundamental freedoms

22. Information on the prevention and elimination of discrimination and on any additional measures taken to make up for existing disadvantages and to ensure full enjoyment of certain human rights and fundamental freedoms. Particular attention will be given to the 10 areas dealt with in the following sections:

1. Health, medical care, social security and social services

Discrimination and the elimination thereof

23. Information on whether the existing public and private services in those fields are available equally to the indigenous and non-indigenous segments of the population (mentioning, in addition, any problems relating to the geographical distribution of medical and hospital facilities and personnel, prices and availability of medicines, etc.).

24. Statistical data on health, dietary and nutritional patterns; morbidity and mortality rates of the indigenous and non-indigenous segments of the population. Reasons for any differences.

25. Prohibitions of restrictions on the possession or consumption by the indigenous populations of intoxicating beverages and other toxic substances that do not apply to the rest of the population.

Special measures

26. Development of effective health measures among the indigenous populations and utilization, where possible, of their prevailing cultural and religious traditions and everyday medical and para-medical practices.

27. Encouragement of the organization by the indigenous populations of their own health bodies.

28. Training of indigenous persons as medical and para-medical personnel and medical aids; special training for non-indigenous health personnel working among indigenous populations, including the necessary anthropological and psychological training of such personnel; special institutions established for that purpose.

29. Nutritional surveys of existing dietary differences and dissemination or development of the means needed to overcome these deficiencies.

30. Preventive medicine measures. Immunization. Sanitary measures. Prevention and control of epidemic diseases that pose a special threat to indigenous populations and of the epizootic diseases that may affect their livestock.

31. Prevention of harm to the natural environment of forest-dwelling populations. Protection of the existing balance and of the flora and fauna on which such populations now exist.

32. Curative medicine and surgery.

33. Sanitary measures in markets and other places where indigenous populations assemble for commercial, communal, ceremonial or religious purposes.

34. Programmes and institutions to combat alcoholism, the consumption of coca leaves and other drugs and the forms of drug addiction found among indigenous populations. Importance of certain cultural and communal aspects in this connexion.

2. Housing

Discrimination and the elimination thereof

35. Direct or indirect limitations, restrictions and obstacles, whether de jure or de facto, imposed on the access of indigenous persons, families or groups to ownership, rental or occupation of housing; on public or private loans for construction or for the purchase or acquisition of public or private land for that purpose; or on participation by such persons, families or groups in public, private or mixed housing development plans.

36. Legislative, administrative and judicial provisions and measures to combat such discrimination, and the results achieved.

37. Measures to protect indigenous persons, families or groups from intimidation or pressure intended to induce them to sell, vacate or abandon housing they are already occupying.

38. Prevention of dangerous or harmful construction in or around areas now occupied by housing for indigenous persons, families or groups.

Special measures

39. Public and private measures taken to alleviate the problems of inadequate housing for indigenous populations in rural and urban areas, with particular reference to:

(1) Protection of ownership, rental or occupation of housing by indigenous persons, families or groups;

(2) Special rights granted to indigenous persons, families or groups in respect of access to housing under public or private development plans;

(3) Material services to indigenous persons, families or groups:

(a) Construction of housing;

(b) Provision of housing - purchase or rental of existing buildings;

- (c) Improvement and repair of buildings already occupied;
- (d) Grants and loans to indigenous persons, families or groups for construction, acquisition or improvement of housing;
- (e) Subsidies to bodies financing the construction, acquisition or improvement of housing for indigenous persons, families or groups.

3. Education

Discrimination and the elimination thereof

40. Information regarding any direct or indirect impediments, limitations, restrictions or obstacles (either de jure or, as a result of economic, social and cultural factors, de facto) affecting indigenous persons, groups or communities with regard to:

- (1) Access to all types and levels of education: (a) regulations and conditions governing admission to public or private schools of any kind in all grades and at all levels; (b) forms of aid, such as scholarships and grants, or provision of lodging, food, transport or clothing, whether or not education is provided free of charge; (c) geographical distribution of schools and other educational establishments; (d) measures taken to guarantee assistance for school-age children, including information on parental attitudes in this regard, particularly in rural areas.
- (2) Training, employment and remuneration of teachers: (a) access of indigenous students to the same institutions as those to which non-indigenous students are admitted; (b) types and levels of training provided; (c) procedures and conditions governing the selection, appointment, promotion and dismissal of indigenous teachers and the remuneration and other benefits they receive as compared with those received by non-indigenous teachers.

41. Measures of protection against such impediments, limitations, restrictions or obstacles.

Special measures

42. Information as to whether appropriate arrangements have been made to ensure that indigenous children:

- (a) Have school facilities in their communities or nearby, or at least in a general area within easy reach;
- (b) Receive instruction from teachers with a fluent command of the children's mother tongue, the vernacular most widely used in the community or the language which prevails in the area;

- (c) Learn to read and write that language or vernacular;
- (d) Receive instruction in the essential elements of the indigenous culture of the community to which they belong;
- (e) Gain an understanding of the essential elements of the country's dominant culture in such a way that they are not estranged from their own cultural background;
- (f) Receive instruction in speaking, reading and writing correctly the official language of the country;
- (g) Benefit from any plans covering the provision of assistance, scholarships, allowances, grants, lodging, food, transport or clothing which have been devised particularly for them by the Government, by the indigenous communities or by organizations of any kind.

43. Information as to whether the educational programmes and materials prepared for the indigenous populations:

- (a) Have been developed in the light of the appropriate ethnological studies so that the methods and techniques used in connexion with them are in harmony with the cultural environment and take into account the degree of the indigenous population's closeness to or remoteness from the dominant culture of the country;
- (b) Place sufficient emphasis on the culture, traditions, history, arts and handicrafts of the indigenous populations;
- (c) Have been prepared with a view to ensuring that the valuable elements of the indigenous oral culture are not destroyed in the process of being reduced to writing for transmission in the written vernacular;
- (d) Contain elements relevant to the social and cultural characteristics of the indigenous communities so that they may gain awareness of their rights and obligations as a group and as individuals;
- (e) Place emphasis on the value of friendship between the various segments of the population and promote understanding and appreciation of the non-indigenous cultures.

44. Information as to whether the educational programmes and materials prepared for the non-indigenous population:

- (a) Embody appropriate measures to combat and eliminate misconceptions or prejudices which the non-indigenous populations may have with respect to the indigenous communities of the country;
- (b) Include appropriate information on the history, traditions, customs, culture, arts and handicrafts of the indigenous populations and on their contributions to the cultural environment of the non-indigenous populations;

- (c) Stress the need to recognize the right of the indigenous populations to preserve and further develop their cultural characteristics;
- (d) Place emphasis on the value of friendship between the various segments of the population and promote understanding and appreciation of the indigenous culture.

45. Information on educational establishments and institutions, indicating:

(1) Whether the indigenous communities or their leaders, or indigenous persons, groups or organizations, have participated or collaborated in founding and operating official or non-official educational establishments and institutions in their communities, or are participating or co-operating in their work, and, if so, in what way and to what extent;

(2) Whether there are indigenous educational facilities or institutions functioning independently of the official or non-official institutions and facilities active in the community and, if so, the kinds and levels of instruction offered;

(3) Whether such establishments and institutions are intended to serve school-age children only, or whether they are also used to meet the educational needs of the adult population and those of the community as a whole;

(4) Whether teachers and instructors are recruited, in so far as possible, from among the members of the indigenous communities themselves and preferably by persons who are familiar with the vernacular language and the customs of such communities and who work closely with the leaders of the community in carrying out their duties.

4. Language

Discrimination and the elimination thereof

46. Impediments, limitations, restrictions or obstacles of any kind whatsoever affecting indigenous populations in the exercise of their right to use their own language in their private relations.

47. Measures of protection against such impediments, limitations, restrictions or obstacles. Penalties, remedies, recourse.

Special measures

48. Information on the following matters:

(1) Recognition given to the indigenous languages by the State and private institutions, whether in the publication of legal texts; in statements made by public officials concerning government policy or in versions of such statements; in didactic and general literature; in newspapers and periodicals; in radio and

television programmes. Libraries, whether for books, newspapers and periodicals, or sound recordings on disc or tape, and other repositories where materials in the vernacular languages are kept. Provision of facilities for the indigenous populations to use their own language, either orally or in writing, in legislative, judicial and administrative bodies;

(2) Instruction in the indigenous languages: (a) For indigenous persons - primary, secondary or higher education provided by the State or by public or private groups for indigenous persons or groups in their own language and cultural traditions. Establishment of separate schools for this purpose, or the institution of special programmes of this nature in general schools. Pre-school training of indigenous children in the language used in the schools they will attend; (b) For non-indigenous persons - instruction in the indigenous languages in institutions of primary, secondary and higher education, whether by means of optional courses or as part of the general curriculum;

(3) Study of the indigenous languages. State, public or private institutions involved in the study and development of the indigenous languages, whether in the form of special academies or institutes, of special linguistic departments or courses in educational institutions, or otherwise. Officially recognized alphabets of the indigenous languages; grammatical and philological studies, dictionaries of the indigenous languages, bilingual or multilingual dictionaries and texts. Translation of important texts into the vernacular languages and from these languages into others. Efforts to "modernize" certain indigenous languages.

(4) Teaching of the official language to indigenous persons at all levels and in educational institutions of every kind, and access of such persons to all information media utilizing that language.

5. Culture and cultural, social and legal institutions

Discrimination and the elimination thereof

49. Information concerning impediments to the exercise of or restrictions on the right of indigenous populations to equality with other segments of the country's population in access to cultural institutions and activities.

50. Information as to whether: (1) Marriages or unions between indigenous and non-indigenous persons are prohibited or restricted de jure or de facto; (2) Legal or social limitations or restrictions are imposed on "mixed" unions or families; (3) The offspring of such unions have inferior status, de jure or de facto, merely because of the legal status of their parents' union; (4) Indigenous persons or groups are subjected to de jure or de facto limitations or restrictions with respect to certain civil and commercial acts involving the acquisition, mortgage, transmission or alienation of property and, if so, for what reasons.

51. Measures of protection, recourses and remedies against such impediments or restrictions.

Special measures

52. Information concerning action taken: (1) To establish measures for protection against the use of force or intimidation to compel or induce indigenous persons, groups or communities to take part in certain cultural activities or attend certain cultural institutions against their will; (2) to safeguard the maintenance and further development of the indigenous culture by persons, groups or communities which so desire through the establishment and operation of schools, libraries, museums and other special cultural and educational institutions, and to give due attention and consideration to that culture in the information media; (3) to give official recognition and protection to the important norms of such traditional law of the indigenous populations as may obtain in the indigenous communities with regard to: (a) marriage, informal or de facto unions, indicating whether such unions are regarded as comparable to or on an equal footing with other forms of civil or religious marriage, or with marriages or de facto unions which may have been recognized by the State; (b) family relationships and other aspects of family law; (c) divorce and the dissolution of formal or informal marital unions; (d) laws and practices in respect of succession; (e) acquisition, assignment, tenancy, use, transmission and alienation of land, water or other important possessions; (f) corporate and co-operative forms of ownership and exploitation of land and other goods; (4) to protect successful commercial establishments and operations of the indigenous communities and their traditional industrial enterprises; (5) to take into account, in any reform programmes which may affect the indigenous populations, their particular views and basic perspective with regard to communal, familial and labour organization, and their views concerning the distribution, tenancy and use of land, water and other important possessions in the daily life of the indigenous communities; (6) to ensure that such changes and scientific and technological innovations as may be required are introduced into the indigenous communities in such a way as to avoid unnecessarily disturbing or traumatic effects; (7) to assist indigenous groups and persons from rural areas who have recently migrated to urban areas in adapting to the change in their environment and solving the problems which they may face in connexion with employment, housing and the social and psychological aspects of their new environment by providing them, for example, with special training, services and facilities to equip them to cope successfully with urban life.

6. Employment and vocational training

Discrimination and the elimination thereof

53. Direct or indirect de jure or de facto impediments or restrictions which may affect the right of the indigenous populations to work, the free choice of employment, trade union rights, working conditions and equitable and satisfactory remuneration, protection against unemployment and equal pay for equal work.

54. Measures of protection against and other measures to combat such impediments and restrictions. Penalties, remedies, compensation.

Special measures

55. Information as to whether the Government has established services to:

(1) Inform indigenous workers and their employers of the legal provisions governing labour contracts, remuneration, housing, benefits in the event of industrial accidents, transport and other conditions of work;

(2) Regulate or supervise procedures for the recruitment of indigenous workers and their conditions of employment, in particular to ensure that:

(a) Written or oral explanations are provided in the vernacular language concerning essential matters so that the workers recruited are aware of all the conditions of employment and accept them freely and with full knowledge;

(b) Conditions of employment are offered which conform at least to minimum statutory provisions and regulations;

(c) Health standards are met and seasonal restrictions and minimum age requirements are observed;

(d) Appropriate transport which meets all the prescribed requirements is provided for the journey to recruitment centres or work sites and for the return journey to the workers' communities;

(e) It is possible for the indigenous workers to maintain adequate contact with their communities and appropriate communication with their families;

(3) Ensure that the remuneration of indigenous workers is protected and:

(a) Is paid only in legal tender, save for such portion as does not exceed the maximum legal percentage payable in kind or in services;

(b) Is never paid in alcohol, other intoxicating beverages or drugs;

(c) Is never paid in locations close to taverns or stores, except in the case of workers employed in such establishments;

(d) Is never subject to deductions, withholding or adjustments in excess of the maximum limits set for:

(i) the part which may be paid in goods or services;

(ii) the amount attachable to meet obligations incurred previously;

(iii) money which is to be paid directly to the family of the worker, under Government supervision;

(iv) recovery of salary advances;

(e) Is always paid in full, including the final payment in virtue of any contractual obligation upon termination of the work relationship.

(4) Guarantee and enforce the right of the indigenous worker to be returned to his community at the expense of the contractor or the employer in the event that:

(a) He is incapacitated, by illness or accident, during the journey to the place of employment or during the period of employment;

(b) He is declared unfit for work after undergoing a medical examination;

(c) He is not hired, for a reason for which he is not responsible, after being brought from his community for the purpose of being hired;

(d) The competent authority establishes that the worker was recruited by error or fraud on the part of the contractor or employer;

(5) Ensure that no personal effects or tools regularly used by indigenous workers are appropriated or withheld for payment of debts or non-fulfilment of contract, unless such measures are taken with the prior approval of the competent administrative or judicial authority.

56. Information as to whether the Government has established programmes to protect the traditional handicrafts and industries of the indigenous populations with a view to improving techniques and methods of work, production and marketing, and working conditions, taking care not to disturb any fair labour arrangements for the organization of such activities which are essential to the indigenous tradition; programmes to obtain equitable and satisfactory prices and to protect designs and artistic characteristics against unfair competition from mass-produced reproductions; and programmes to promote the establishment of the more effective operation of co-operative organizations so that they may more successfully meet the challenge presented by modern manufactured products.

57. Information as to whether programmes of vocational training for the indigenous populations:

(a) Are designed specifically for this purpose and are based on the appropriate ethnological and anthropological studies;

(b) Make provision for the training of persons belonging to the indigenous populations as instructors;

(c) Are conducted in the vicinity of the place where such persons live and work;

(d) Ensure that instruction is given, to the extent necessary, in the vernacular language;

(e) Are co-ordinated with programmes and methods of basic education and with assistance measures enabling independent workers to acquire the necessary materials and equipment and helping wage-earners to find employment compatible with their abilities and aspirations.

58. Commercial training and agricultural training. Information concerning any administrative provisions made to provide the indigenous populations, either free of charge or at reduced cost, with special courses or apprenticeships in public or private commercial and agricultural establishments; placements; grants and aid programmes.

7. The right of ownership, with particular reference to land

Discrimination and the elimination thereof in respect of ownership

59. De jure or de facto denials of or restrictions on the rights of persons, groups and communities to own property, individually or collectively.

60. Measures of protection against such denials or restrictions. Penalties, remedies, recourse.

Special measures

61. Legislative, executive, administrative and judicial measures adopted to protect the lawful property rights of indigenous persons, groups or communities.

62. Steps taken to: (1) guarantee respect for and protection of the procedures established by indigenous custom for the transmission by members of the indigenous communities of the right of land use; (2) prevent advantage being taken of such customs or of lack of understanding of non-indigenous laws and regulations to obtain the ownership of, or other rights to the use of, lands belonging to the indigenous populations or lawfully used by them.

63. Special provisions concerning the sale, mortgaging or otherwise encumbering, rental, attachment, etc., of lands belonging to indigenous persons, groups or communities, to, or for the benefit of, non-indigenous persons, groups or organizations, including - in certain cases - the requirement of prior authorization or subsequent approval by communal bodies or by the competent administrative or judicial authorities.

64. Special provisions concerning the investigation, establishment and registration of titles to land and to water resources acquired by consuetudinary legal procedures and the registration of all land and all water resources to which they hold title, or the right of ownership or possession or in which they have shares.

65. Provisions to strengthen and further develop successful and appropriate co-operative procedures applied by the indigenous populations in connexion with systems of production, supply, marketing and credit with respect to land use, and other related factors.

66. Special measures to prevent and combat harmful practices with respect to mineral or other resources of the subsoil of land belonging to indigenous persons, groups or communities, applied at the time when such resources are discovered or thereafter.
67. Special measures to protect isolated indigenous populations and their fauna and flora against expanding non-indigenous settlements or enterprises.
68. Recognition of the authorities within the indigenous communities which control the distribution of land among their members, and support of such authorities.
69. Due consideration for the satisfaction of the needs of the indigenous populations with respect to land and the means to exploit it successfully, and the necessary legal provisions in this regard.
70. The major aspects of any agrarian reform programmes designed particularly to obtain land for the indigenous populations and to distribute to them means for working both the land which they already own and land which they are to receive under such programmes.

8. Political rights

Discrimination and the elimination thereof

71. De jure or de facto denials of or restrictions on the following rights of the indigenous populations, whether imposed directly or indirectly:
- (1) The right to participate in elections and other operations conducted for the purpose of ascertaining the will of the public;
 - (2) The right of access to elective or non-elective public office, whether legislative, executive, administrative or judicial;
 - (3) The rights of peaceful assembly and association for political purposes, including the formation of and membership in political parties, and the right of freedom of expression for such purposes.
72. Measures of protection against such denials or restrictions.

Special measures

73. Information as to whether separate representation of the indigenous and non-indigenous populations has been established at any level and, if so, details as to the special conditions governing the separate electorates and separate access to elective and non-elective positions, whether legislative, executive, administrative or judicial, and an indication as to whether such conditions work to the advantage or disadvantage of the indigenous populations of the country.

74. Information as to whether the indigenous organizations and communities have been recognized as local or regional political entities, indicating the manner in which such recognition has been granted.

75. Information, where appropriate, as to whether the indigenous communities concerned have been granted the necessary measure of autonomy or self-government in political or administrative matters or in the establishment of their own courts, or in all of these spheres.

9. Religious rights and practices

Discrimination and the elimination thereof

76. Information as to denials, limitations or restrictions existing de jure or in practice with regard to the right and freedom of the indigenous population:

(1) To profess its creed or religion, to practice or not to practice any particular religion, and to change or to retain any religion or creed;

(2) To express its religion or creed and to worship in accordance with its beliefs and customs;

(3) To comply with the tenets of religious practice and observance regarding, for example, the form of marriage and its dissolution, burial of the dead, religious celebrations and festivals, dietary practices, religious vestments, fasting, mortification, use of symbols and images, processions and other rites;

(4) To refrain from performing acts incompatible with the prescriptions of its religion or creed;

(5) To provide instruction in its religion or creed to co-religionists, to train religious leaders, and to assemble in groups for the purpose of religious education;

(6) To seek, receive and freely disseminate information and to propagate ideas concerning religion or creed, without thereby becoming subject to persecution or coercion.

77. Measures of protection against such denials or restrictions.

Special measures

78. Information concerning special provisions and measures of protection, administrative, civil and penal, to prevent and combat any interference with acts of worship and religious practices and observances of the indigenous populations and to protect all altars, chapels and other sacred places and objects and ancestral burial grounds.

10. Legal assistance

Discrimination and the elimination thereof

79. Information as to whether programmes of legal assistance are applied equally to the indigenous and non-indigenous segments of the population or whether, on the contrary, distinctions are made to the detriment of the indigenous populations with regard to: spheres of application, services offered, organizations providing services, selection of legal counsel, requirements and conditions for granting aid, the authorities responsible for taking decisions in this connexion and the financial aspects of the matter.

Special measures

80. Information as to whether programmes of legal assistance have been set up within the country to serve indigenous populations in particular and, if so, indications as to the following:

(a) The spheres of application. Political and administrative matters; administration of justice. Legislative procedures regarding matters of interest to the indigenous communities;

(b) Services offered. Advice and oral or written opinions; preparation and drafting of legal documents; investigation; seeking and obtaining evidence; negotiations; preparation of cases; representation in trials of and appeals. Other services.

(c) Organizations providing services and status of legal counsel. Legal counsel employed by the Government for these purposes on a full-time basis and paid by the Government. Appointment of special legal counsel not in the Government's employ for these purposes, to provide representation in particular cases. Services provided by bar associations, public societies, legal aid societies, trade unions or peasants' associations; by indigenous communal organizations and other bodies, with or without financial support from the Government. Other provisions. Scope for the exercise of free choice of legal counsel under such programmes.

(d) Requirements and conditions. Information, in particular, as to whether the person seeking legal assistance must adduce: (1) lack or insufficiency of funds; (2) "reasonable grounds" for the legal action contemplated; (3) imminent abuse or violation of rights.

(e) Authorities responsible for deciding whether legal assistance should be granted and for ensuring and supervising the operation of the established services.

(f) Financial aspects. Legal services free of charge or at a reduced fee. Exemption from taxes in respect of such services. Exemption from or reduction of charges, fees and costs. Assistance in providing financial guarantees as a condition for provisional release in criminal cases. Waiver, reduction or payment of the costs of obtaining evidence and of such expert services, translations and interpretations as are necessary. Loans and advances to cover necessary expenditures.