



TREATY COUNCIL NEWS

NEWSLETTER OF
THE INTERNATIONAL INDIAN TREATY COUNCIL
54 MINT ST. #400 SAN FRANCISCO, CA 94103

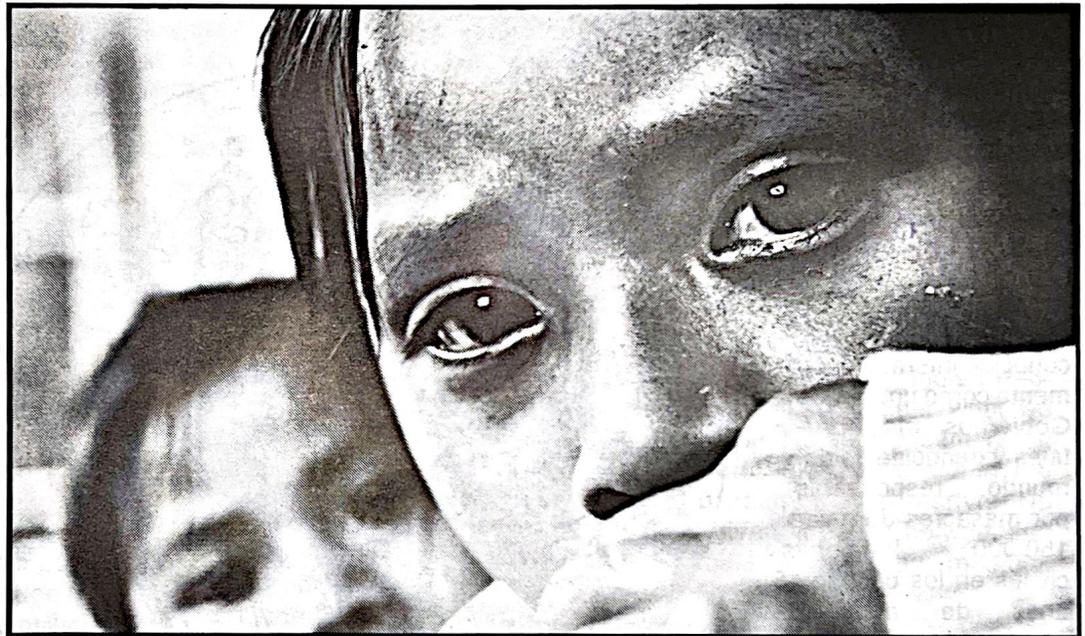
SPRING 1995

HISTORIC AGREEMENT RECOGNIZES INDIAN RIGHTS IN GUATEMALA INDIGENOUS COMMUNITIES VIEW THE ACCORD WITH GUARDED OPTIMISM

On March 31, 1995 an historic "Accord on the Rights and Identity of Indigenous Peoples" was signed by the Guatemalan government, the military and the Guatemalan National Revolutionary Unity (URNG).

When the Guatemalan government signed the accord, it committed itself to promote indigenous political rights and cultural development. The Guatemalan government has never before recognized the distinct rights of the Mayan Indian Peoples of that country, despite the fact that they make up over 65% of the population. In fact, the government of Guatemala is internationally recognized as one of the most brutal and genocidal in the world, carrying out the massacres of up to 150,000 Indian civilians in the last 15 years of its "counter-insurgency" program.

The agreement is an important part of the ongoing peace negotiations between the government and the UNRG guerrilla movement which has been engaged in the longest-running civil war in Central America. The accord compels the government to respect language, spirituality, and culture of the Mayan People, and includes the promise of educational reforms which will include Mayan language, culture and science in the curriculum. The accord represents an important step towards democracy and constitutional reform by recognizing that Guatemala is a multi-ethnic, multi-cultural and multi-lingual nation.



Immediately after the agreement was signed, representatives of over 300 indigenous communities attended an assembly of the Coordination of Mayan Peoples' Organizations of Guatemala to evaluate it. Most Indigenous communities and representatives view the accord with guarded optimism. Although the accord can not erase the effects of five hundred years of violence and oppression, it is an important first step in insuring the rights of the Mayan Peoples in Guatemala. "It is a small step in the right direction," reads the declaration from the assembly, "but it is a significant factor in strengthening the hope of the Mayan Peoples that we rid ourselves of the marginalization, oppression, discrimination, exploitation, and colonization that we presently suffer."

There were several critical areas including the fundamental issue of land rights, which were viewed only as minimal first steps. For example, although the agreement will legalize communal land holdings and recognize some local control over use of resources, many leaders attending the Mayan assembly, including Rigoberta Menchu, expressed concern that the land agreements in the accord are not sufficiently wide-reaching or clear regarding their implementation.

[continued on p. 3] [En Espanol: p.2]

INSIDE: UPDATES ON THE DRAFT DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES; THE U.N. TREATY STUDY; IITC INTERVENTIONS; UN RESOLUTIONS; THE INDIGENOUS RESPONSE TO THE HUMAN GENOME PROJECT AND MORE...

ACUERDO HISTORICO RECONOGE LOS DERECHOS DEL PUEBLO INDIGENA DE GUATEMALA

El 31 de Marzo, 1995 el historico "Acuerdo Sobre Identidad y Derechos de Los Pueblos Indigenas" fue firmado por el Gobierno de Guatemala, el ejercito y representantes de URNG.

Con este acuerdo, el gobierno de Guatemala se comprometio a reconocer y promover los derecho politicos y el desarrollo cultural de los Pueblos Indigenas. Es la primer vez que el gobierno Guatemalteco ha reconocido los derecho distintos de los Pueblos Mayas, aunque El Pueblo Maya incluye mas que 65% de la poblacion del pais. De hecho, el gobierno de Guatemala ha sido reconocido internacionalmente como uno de los Gobiernos mas brutales y genocidales del mundo, responsable por masacres de hasta 150,000 Indigenas civiles en los pasado 15 anos de actividades "contra-insurgentes".

Este acuerdo forma una parte importante de los acuerdos de paz entre el gobierno y los guerrillas-URNG- quienes han llevado a cabo la guerra civil mas larga en Centro America.

El acuerdo obliga al gobierno a respetar el lenguaje, espiritualidad y cultura del Pueblo Maya, y incluye la promesa de reformas educativas con respeto al lenguaje, la cultura y la ciencia Maya en el curriculo. El acuerdo representa un paso importante hacia democracia y reforma constitucional reconociendo que Guatemala es una nacion pluricultural y multilingue.

Immediatamente despues de

firmar el acuerdo, representantes de mas de 300 comunidades indigenas se reunieron en la asamblea de la Coordinacion de Organizaciones del Pueblo Maya de Guatemala para evaluar el acuerdo. La mayoría de las comunidades y representantes ven el acuerdo con optimismo cauteloso. Aunque el acuerdo



no puede borrar los 503 anos de opresion y violencia, es un primer paso importante para garantizar los derechos del Pueblo Indigena de Guatemala.

"Es un paso pequeno en esa direccion" dijo la declaracion de la asamblea, "pero es un factor significativo par fortalecer la esperanza del Pueblo Maya en que se acabara la marginacion, opresion, discrimination, explotacion y colonizacion que sufrimos hoy."

Habian varias areas criticales incluso el tema fundamental de los derechos a la tierra, pasos vistos solo como principios minimos. Por ejemplo, aunque el acuerdo legaliza tierras comunales y reconoce el uso de recursos naturales y su control por la comunidad, muchos de los lideres que atendian, incluso Rigoberta Menchu, expresaron inquietudes respecto a que los acuerdos sobre la tierra no son suficientes plenos ni claros con respeto a su implementacion.

Rigoberta dijo que aunque es importante que el acuerdo menciona el asunto de la tierra, "Yo veo que esto es una fantasma, cual le falta lo suficiente para implementarlo." Ella dio enfasis que "conceptos corren el riesgo de ser solo historias si no son implementados en situaciones reales en cuales hay desacuerdo, especificament en asuntos de la tierra."

En el siguiente comuniqué, mandado al CITI de parte del Comité de Unidad Campesina -CUC-, La Instancia de Unidad y Consenso Maya -IUCM- una coalición de 76 organizaciones, expresaron su evaluación de los puntos clave del Acuerdo Sobre Identidad y Derechos de Los Pueblos Indigenas: [continued on p. 4]



[continued from p. 1]

Rigoberta stated that "the fact that the agreement mentions the land issue is important. But I continue to see this agreement as a mere wish, lacking clear mechanisms (to implement change)." She stressed that "concepts run the risk of remaining history if they are not applied to real disputed situations like the land issue."

In the following communiqué, sent to IITC by the Comité de Unidad Campesina (CUC), the Instance for Mayan Unity and Consensus (ICUM), a coalition of 76 organizations, express their initial evaluation of the principals of the Accord on the Identity and Rights of Indigenous Peoples:

POINTS OF EVALUATION

1. This is the first time in the history of Guatemala that the State and the government recognize and accept the existence of discrimination at every level, against the Indigenous Peoples of Guatemala, principally against the Mayan People.
2. The accord opens up real possibilities for the participation of Mayan People in different positions of national life.
3. This is the first step to the ending of discrimination, oppression and marginalization of the Mayan People.
4. It is a national compromise to perpetuate the participation of the Mayan People in political, economic, social and cultural decisions at the State government level.
5. It is the first step in the recognition and exercise of local power through the installation of representatives and legitimate authorities from the Mayan People.
6. It gives us a basis for our economic development as Mayan People through municipal business.

7. It is important for the structure of autonomy of the Mayan People, the fact that the accord establishes criteria for municipal autonomy giving power of decision to the communities in the municipalities.

8. In establishing constitutional reforms, the characterization of the nation as multicultural and multilingual represents an advancement in the judicial and constitutional structure to begin the formation of a new State of government. Upon completing the reforms we will be leaving behind the oppressive, dictatorial, repressive and exploitative State and government.

9. The importance that the Accord has to the theme of the Mayan woman must be recognized because it marks the beginning of the very profound political struggle of the Mayan women to put an end to the triple marginalization and discrimination of which we are objects: for being poor, for being women and for being indigenous.

10. The recognition and commitment to Mayan Rights are fundamental because with them we will be able to implement and exercise true justice in our communities and eradicate much of the impunity and partiality that exists at this time within the Guatemalan judicial system.

11. In the economic aspect, the theme of tenancy of our Mother Earth remains very superficial and insufficient. What is lacking is the emphasis on the concept of the Mayan Peoples' HISTORIC RIGHT, since before the last 503 years, to the recovery and tenancy of the land Guatemala. We believe that the redistribution of the land is one of the fundamental problems that we must resolve to avoid more conflicts in the future.

12. It concerns us that the accord doesn't mention the theme of militarization, being that it affects mainly the Mayan People. In no part of the

accord does it mention the destructive effects of the existence of militarism in our communities, much less establish the solution to this problem.



CONCLUSIONS:

a) This agreement is the basis for more intense and deeper struggles for all of the Mayan communities and organizations to continue to gain ground toward the complete exercise of our rights as Mayan Peoples.

b) It will only be possible to fulfill this accord if the organizations, authorities, institutions, groups and other representatives of the Mayan People come together. This means intensifying our work in every area, sacrificing group and organizational interests and putting first the overall interests of the Mayan Indian People. We must remember what we have won in this accord is the result of our efforts, sacrifices and the blood of many Mayan martyrs. No right is given, it has to be won, and this should be our short, medium, and long term goal.

After having issued the previous evaluation and to largely advance our work, so that with great certainty the Accord on the Identity and Rights of Indigenous Peoples can be fulfilled, the IUCM considers fundamental the following:

1. That the Coordination of Organizations of the Mayan People of Guatemala -COPMAGUA "SAJB 'ICHIL", make this accord their own as the result of 503 years of struggle and resistance, reaffirming the commitment to advance the work at every level: local, regional and national in order to fulfill the accord.

2. That COMPAGUA perpetuate the participation of more coalitions and organizations in order to

[continued on p. 14]

**INSTANCIA DE UNIDAD Y CONSENSO MAYA I.U.C.M.
VALORACIONES DEL "ACUERDO SOBRE IDENTIDAD Y
DERECHOS DE LOS PUEBLOS INDÍGENAS" FIRMADO EL
31 DE MARZO DE 1995, ENTRE GOBIERNO, EJERCITO Y LA UNIDAD
REVOLUCIONARIA NACIONAL GUATEMALTECA..**

VALORACIONES:



1. Es la primera vez en la historia de Guatemala que el Estado y gobierno reconocen y aceptan la existencia de la discriminación en todo nivel, contra los pueblos indígenas en Guatemala, principalmente contra el Pueblo Maya.

2. El acuerdo abre las posibilidades reales de participación del Pueblo Maya en diferentes espacios de la vida nacional.

3. Es el punto de partida para acabar con la discriminación, opresión y marginación del Pueblo Maya.

4. Es un compromiso nacional para propiciar la participación del Pueblo Maya en la toma de decisiones políticas, económicas, sociales y culturales, a nivel de Estado y de gobierno en Guatemala.

5. Es el punto de partida para el reconocimiento y ejercicio del poder local, por medio de la instauración de las autoridades representativas y legítimas del Pueblo Maya.

6. Nos da bases para la autogestión económica del Pueblo Maya por medio de los asuntos municipales.

7. Es importante para la construcción de la autonomía del Pueblo Maya, el hecho de que el acuerdo establece criterios de autonomía municipal, porque esto da poder de decisión a las comunidades de los municipios.

8. A plantear reformas constitucionales, sobre todo caracterizar a la nación como Pluricultural, y Multilingüe, representa un avance en la estructura jurídica y constitucional para iniciar en la formación de un nuevo

Estado y gobierno. De cumplirse con las reformas estaremos dejando atrás a este Estado y gobierno opresivo, dictatorial, represivo y explotador.

9. Es de reconocer la importancia que da el Acuerdo al tema de la Mujer Maya, porque marca el inicio de una lucha política más profunda de las mujeres Mayas para acabar con la triple marginación y discriminación que somos objeto: por ser pobres, por ser mujeres y por ser mayas (indígenas).

10. Es fundamental el reconocimiento y compromisos que hacen las partes del Derecho Maya (derecho consuetudinario), porque con ello daremos inicio a ejercer la verdadera justicia en nuestras comunidades y así erradicar tanta impunidad y parcialidad que existen en este momento, en el sistema judicial, guatemalteco.

11. En el aspecto económico, queda muy superficial e insuficiente la tenencia de la Madre Tierra. Hace falta retomar el planteamiento del Pueblo Maya del DERECHO HISTÓRICO, es decir, desde hace 503 años, a la recuperación y tenencia de la tierra en Guatemala. Consideramos que este es otro de los problemas fundamentales que debemos resolver para evitar más conflictos en el futuro: la redistribución de la tierra.

12. Nos preocupa que el acuerdo no menciona el tema de la militarización, siendo al Pueblo Maya el más afectado por esta. En ninguna parte menciona los efectos destructivos re-

alixardos por la existencia de militarización en nuestras comunidades, mucho menos establece solución a la misma.

CONCLUSIONES:

a) Este acuerdo es la base para luchas más intensas y profundas de todas las comunidades y organizaciones del Pueblo Maya para seguir conquistando los espacios indispensables para el pleno ejercicio de nuestros derechos como Pueblo Maya.

b) Este acuerdo será posible de realizarse solamente con el concurso de las organizaciones, autoridades, instituciones, grupos y otros representantes del Pueblo Maya. Esto significa intensificar nuestro trabajo en cada área, sacrificando intereses de grupo y organizaciones y anteponiendo los intereses generales del Pueblo Maya. Recordemos que los que hemos conquistado en este acuerdo es el resultado de nuestro esfuerzo, sacrificios y sangre de muchos mártires mayas. Ningún derecho se regala, todo se conquista, y esa debe ser nuestra meta a corto, mediano y largo plazo.

Después de haber emitido las valoraciones anteriores y para impulsar ampliamente el trabajo, para que este Acuerdo sobre Identidad y Derechos de los Pueblos Indígenas sea cumplido con mayor certeza, La IUCM considera que es fundamental lo siguiente:

1. Que la Coordinación de Organizaciones del Pueblo Maya de Guatemala COPMAGUA "SAJB'ICHIL", haga suyo este acuerdo de manera contundente, como el resultado de la lucha y resistencia de 503 años, reafirmando el compromiso de impulsar trabajo a todo nivel: local, regional y nacional para el cumplimiento de acuerdo.

2. Que COPMAGUA propicie la participación de más coordinaciones y organizaciones en su seno, para ampliar su representatividad y legitimidad.

3. Que esta asamblea ratifique a COPMAGUA como el ente

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THE U.N. COMMISSION ON HUMAN RIGHTS ACTS ON THE DRAFT DECLARATION



INTERNATIONAL INDIAN TREATY COUNCIL POSITION AND UPDATE:

On March 3, 1995 the 51st Session of the U.N. Commission on Human Rights passed a formal resolution creating a new open-ended, inter-sessional Working Group to continue discussion of the Draft Declaration for the Rights of Indigenous Peoples. The resolution (E/C.N.4/1995/32) was finally adopted by consensus following several weeks of caucusing, debates, voting delays, compromising and intense discussion among the government delegates, as well as concerted lobbying efforts by Indigenous non-governmental organizations (NGO's) to insure the participation of Indigenous Peoples in future discussions of the Declaration.

The adoption by the United Nations of a Declaration for the Rights of Indigenous Peoples is one of the primary stated objectives for the International Decade of the World's Indigenous Peoples, and has long been a goal of Indigenous organizations working at the U.N.

The current text of the Draft Declaration for Rights of Indigenous Peoples is the product of 13 years of work by the U.N. Working Group on Indigenous Populations. When approved by the U.N. General Assembly, the Declaration will establish international standards and recognition by the U.N.'s member countries of Indigenous Peoples' rights.

The Draft Declaration reflects the input of hundreds of Indigenous representatives from throughout the world, as well as U.N. experts and some member states. In the summer of 1994, the current text of the Draft Declaration was passed by both the Working Group on Indigenous Populations and the 46th Session of the U.N. Sub-Commission on the Prevention of Discrimination and Protection of Minorities.

The next step in the Declaration's progress through the U.N system was the 1995 Session of the Commission on Human Rights, which took place in Geneva, Switzerland January 30-March 8, 1995. This was the first time the Declaration was formally discussed by the member states (countries) of the United Nations.

Indigenous Peoples have long anticipated a struggle to preserve the current version once the countries become directly involved in discussion of its content. Some countries have stated their intention to weaken the Draft Declaration's strong language in support of Indigenous Peoples' self-determination and land rights.

Opposition over the current text's use of Indigenous

"Peoples" has been expressed by the United States, Canada, Brazil and other governments because self-determination is internationally recognized as the right of all "Peoples". Instead, these governments are advocating for the much more general and much weaker term "Indigenous people" to be used in the document, a change that Indigenous NGO's and Peoples continue to vehemently oppose.

In addition many countries have expressed opposition to the Draft Declaration's strong support for the right of Indigenous Peoples to control and own their traditional territories, as well to and use and protect the natural resources on their traditional lands.

The Declaration's specific content was not a matter of formal debate at the 1995 Session of the Commission on Human Rights, although these differences of opinion were an underlying factor in all discussions. Instead the focus was on creating a mechanism and process for further discussion on the Draft Declaration. According to current protocol, the 53 member countries of the U.N. Commission on Human Rights will have to approve the text of the Declaration before it is submitted to the Economic and Social Council (ECOSOC), and then to the General Assembly for final adoption.

The creation of an "inter-sessional" (multi-year) Working Group focusing on this one issue was anticipated and was discussed by countries and U.N. staff last year as the mechanism that would most likely be established by the Commission. Therefore, this aspect of the resolution was not a surprise or a matter of much debate during the Commission.

Of greatest immediate concern to the IITC and the other participating Indigenous organizations was the critical issue of whether Indigenous organizations and Peoples would be able to participate in this new Working Group.

IITC delegates attended the entire 6 weeks of the Session and helped to organize an intensive, unified team effort with other Indigenous organizations from several continents, including the Inuit Circumpolar Conference, the Grand Council of the Crees, the Sami Council, the Indian Law Resource Center, 4 Directions Council, the International Organization for Indigenous Resource Development, the Confederacy of Treaty Six First Nations, the World Council of Indigenous Peoples, the Indigenous Initiative for

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Peace, and the Asian Indigenous Peoples Alliance, along with Indigenous members of State delegations such as Australia, Canada, and Denmark.

The focus of the Indigenous lobbying effort was to secure a mechanism for the participation of not only the Indigenous NGO's with ECOSOC "Consultative Status", such as IITC, who would already be able to participate under existing U.N. procedures, but also for organizations and communities without Consultative Status who would ordinarily not be credentialed at the Commission on Human Rights level.

This effort faced considerable initial opposition from many countries to a broader level of Indigenous participation, as well as arguments that it would represent a departure from presently accepted protocol. But with the support of a few "friendly" governments, the Indigenous delegations were able to achieve an agreement that Indigenous organizations and Peoples would be able to participate in the Working Group through a special credentialing procedure. The process for requesting credentials by non-Consultative Status organizations and Peoples was established under an addendum to the Commission resolution (see enclosed, below).

Participation by NGO's in the Commission on Human Rights consists of the right to be present and to make written or oral statements ("interventions"), and also provides considerable opportunity to speak with the country delegations directly. Indigenous NGO's do not have voting rights but are able to make a considerable impact through lobbying, assisting with drafting resolutions and making interventions on key issues.

The input of the credentialed Indigenous NGO's and Peoples in this inter-sessional Working Group will be along these lines, although much could also be determined by the rules established by the working group's chairperson, who has not yet been selected. Advance application and approval of credentials will be necessary; "drop-ins" will reportedly not be able to participate.

Although very involved at every step with the Draft Declaration up to this point, the IITC understands that the Declaration for the Rights of Indigenous Peoples is ultimately a document which the member countries of the U.N. will agree to abide by and uphold. It is not, in the final analysis, a document by or for Indigenous Peoples. Indigenous Peoples will not be required to agree to it, and will not be limited or restricted by its content.

However, it is in the best interests of Indigenous Peoples around the world that the final Declaration be as strong and far reaching as possible. To achieve this end it is necessary that we participate and express our views to countries openly and formally at every possible opportunity.

In the long run, most countries realize that a Declaration that does not have the basic support of Indigenous Peoples will be of little value to the United Nations or its member states. This "Legitimization" factor is the basis of the considerable clout that Indigenous organizations and Peoples will continue to have in the process, for as long as we consider it productive to remain directly involved.

This IITC is very aware, after 21 years of working at the U.N., that U.N. protocol and bureaucracy are confusing, discouraging and at times infuriating to Indigenous Peoples, who should be able to have a full and unfettered voice and participation as Sovereign Nations and Peoples. U.N. work, which we believe will eventually lead to this full recognition, is a step-by-step process which requires strategic planning and great perseverance for every small step forward.

For Indigenous Peoples, communities, organizations and individuals who wish to participate in a United Nations forum addressing the concerns of Indigenous Peoples without having to apply for credentials, the Working Group on Indigenous Populations will continue to meet in Geneva in July to consider matters related to standard-setting and to hear new developments affecting the rights of Indigenous Peoples. The WGIP is open to all participants without the need for U.N. credentials.

The resolution that follows is, in part, the result of many weeks for hard lobbying by Indigenous Peoples to open up the door one crack more and to preserve, as much as possible, the gains we have made to date. Because the Draft Declaration is such a critical document and will require continued strong support from Indigenous Peoples to protect its most essential elements, the IITC encourages all interested Peoples and organizations to apply for credentials to participate in the new Working Group.

As of this writing, a firm date for the first meeting of the inter-sessional Working Group has not been set, but a date is under discussion for the fall of 1995. The location will most likely be Geneva, but this also has not been finalized.

IITC offers its services to assist organizations and Peoples who may still have questions after reading the enclosed resolution and addendum about how to apply for credentials.

In addition, Indian Tribes and community organizations are strongly requested to write or call their contacts in the United States government (or other governments if located outside the U.S) to insist upon support for the current text of the Draft Declaration, which was printed in full in the last issue of Treaty Council News, and can also be obtained from the IITC Information Office* or the U.N. Center for Human Rights in New York.

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*In addition to the resolution creating the Inter-sessional Working Group on the Draft Declaration, the 51st Session of the Commission on Human Rights passed several other resolutions directly concerning or of special interest to Indigenous Peoples, including:

— Adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights

— Human Rights and Bio-ethics

— Human Rights and Environment

— Protection of the Heritage of Indigenous Peoples

— A Permanent Forum for Indigenous Peoples within the U.N. System

— The International Decade of the World's Indigenous Peoples, Programme of Activities for 1995

— Assistance to Guatemala in the field of human rights

To obtain the complete text of any of these resolutions, please contact the IITC Information Office in San Francisco or the U.N. Center for Human Rights in New York.

In the next issue of Treaty Council News, the resolution on Toxic Wastes and Human Rights will be reprinted in full, along with instructions on how to submit information to the new Special Rapporteur for this Study.



IITC Delegates in Geneva: Alberto Saldamando, Leo Begay, Puksu Iqualikinya

This letter is an invitation from Assistant Secretary-General Ibrahima Fall to Indigenous Peoples (with or without ECOSOC Consultative Status), to participate in the inter-sessional Working Group for the elaboration of the Draft Declaration on the Rights of Indigenous Peoples....

OFFICE DES NATIONS UNIES A GENÈVE



UNITED NATIONS OFFICE AT GENEVA

CENTRE POUR LES DROITS DE L'HOMME

CENTER FOR HUMAN RIGHTS

Télégrammes: UNATIONS, GENÈVE
Télex: 41 29 62
Téléphone: 917 1234 - 917 3413
Téléfax: (22) 917 0212

Ref. N°: G/SO 234 (18-2)
(à rappeler dans la réponse)

Palais des Nations
CH-1211 Geneva 10



21 April 1995

Dear Sirs,

I have the honour to draw your attention to Commission on Human Rights resolution 1995/32 of 3 March 1995 by which the Commission decides to establish an open-ended inter-sessional working group to elaborate a draft declaration on the rights of indigenous peoples (copy enclosed).

Subject to the approval of the Economic and Social Council, a special arrangement will be established to allow indigenous organizations without consultative status to participate at the proceedings of this working group, the details of which you can find in the annex to resolution 1995/32. In this respect, if you wish to attend the working group, you are invited to send the Centre for Human Rights the information requested in paragraph 3 of the annex.

Furthermore, the Secretary-General is requested, in paragraph 8 of resolution 1995/32, to invite non-governmental organizations in consultative status with the Economic and Social Council and organizations of indigenous people authorized to participate at the working group, to submit written comments to the working group on the draft declaration as submitted to the Commission by the Sub-Commission on Prevention of Discrimination and Protection of Minorities (copy enclosed).

In light of the above, the Secretary-General would like to invite you to submit your comments to the Assistant Secretary-General for Human Rights at the Centre for Human Rights, United Nations, 1211 Geneva 10, Switzerland, before 31 July 1995.

Yours sincerely

Ibrahima Fall
Assistant Secretary-General for Human Rights

U.N. COMMISSION ON HUMAN RIGHTS

51ST SESSION 1995/32.

ESTABLISHMENT OF A WORKING GROUP OF THE COMMISSION ON HUMAN RIGHTS TO ELABORATE A DRAFT DECLARATION IN ACCORDANCE WITH OPERATIVE PARAGRAPH 5 OF GENERAL ASSEMBLY RESOLUTION 49/214 OF 23 DECEMBER 1994.

The Commission on Human Rights.

Bearing in mind General Assembly resolution 47/75 of 14 December 1992 and part II, paragraph 28 of the Vienna Declaration and Programme of Action (A/CONF.157/23),

Recalling its resolution 1994/29 of 4 March 1994, in which it urged the Sub-Commission on Prevention of Discrimination and Protection of Minorities to complete its consideration of the draft declaration on the rights of indigenous people and to submit to the Commission at its fifty-first session the draft declaration together with any recommendations thereon,

Welcoming Sub-Commission resolution 1994/45 of 26 August 1994 in which the Sub-Commission decided to adopt the draft declaration as agreed upon by the members of the Working Group on Indigenous Populations and to submit it to the Commission at its fifty-first session,

Recalling General Assembly resolution 49/214 of 23 December 1994, in which the Assembly encouraged the Commission to consider the draft declaration with the participation of representatives of indigenous people, on the basis of and in accordance with appropriate procedures to be determined by the Commission,

Emphasizing the importance and special nature of the draft declaration as a standard-setting exercise specifically for indigenous people,

Recognizing that organizations of indigenous people have special knowledge and understanding of the current situation of the world's indigenous people and their human rights needs,

Expressing its appreciation to the Working Group on Indigenous Popula-

tions for its contribution to the process of elaboration of the draft declaration,

1. Decides to establish, as a matter of priority and from within existing overall United Nations resources, an open-ended inter-sessional working group of the Commission on Human Rights with the sole purpose of elaborating a draft declaration, considering the draft contained in the annex to resolution 1994/45 of 26 August 1994 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, entitled "United Nations declaration on the rights of indigenous peoples" for consideration and adoption by the General Assembly within the International Decade of the World's Indigenous People;

2. Encourages the Working Group to consider in this context all aspects of the draft declaration, including its scope of application;

3. Requests that the Working Group meet for 10 working days at the earliest possible date in 1995;

4. Also requests that the Working Group recommend to the Commission the time and duration of its meetings in subsequent years;

5. Further requests the Working Group to submit a progress report to the Commission on Human Rights for consideration at its fifty-second session;

6. Invites relevant United Nations organs, bodies, programmes and specialized agencies and non-governmental organizations in consultative status with the Economic and Social Council which are inter-

ested in contributing to the activities of the Working Group to participate in its work, in accordance with established practice;

7. Decides that participation of other relevant organizations of indigenous people, in addition to non-governmental organizations in consultative status with the Economic and Social Council, should be in accordance with the relevant provisions of Economic and Social Council resolution 1296 (XLIV) of 23 May 1968 and the procedures set out in the annex to the present resolution, and invites such organizations to submit applications as soon as possible;

8. Requests the Secretary-General to invite Governments, inter-governmental organizations, non-governmental organizations in consultative status with the Economic and Social Council and organizations of indigenous people authorized to participate to submit, for consideration by the Working Group, comments on the draft declaration submitted by the Sub-Commission;

9. Recommends that the Economic and Social Council take the appropriate steps to expedite the implementation of the present resolution;

10. Decides to consider the question again at its fifty-second session under an appropriate agenda item to be decided upon;

11. Recommends the following draft decision to the Economic and Social Council for adoption:

*The Economic and Social Council.

Recalling Commission on Human Rights resolution 1995/32 of 3 March 1995

Reaffirming its resolution 1296 (XLIV) of 23 May 1968, entitled 'Arrangements for consultation with non-governmental organizations', in particular its paragraphs 9, 19 and 33,

Recalling the mandate of the Council Committee on Non-Governmental Organizations, especially as contained in paragraph 40 (e) of resolution 1296 (XLIV),

1. Endorses Commission on Human Rights resolution 1995/32 of 3 March 1995;
2. Authorizes the establishment, as a matter of priority and from within existing overall United Nations resources, of an open-ended inter-sessional working group of the Commission on Human Rights with the sole purpose of elaborating a draft declaration, considering the draft contained in the annex to resolution 1994/45 of 26 August 1994 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, entitled draft 'United Nations declaration on the rights of indigenous peoples', for consideration and adoption by the General Assembly within the International Decade of the World's Indigenous People and operating in accordance with the procedures established by the Commission on Human Rights in the annex to resolution 1995/32;
3. Also authorizes the open-ended Working Group to meet for 10 working days at the earliest possible date in 1995;
4. Invites applications from organizations of indigenous people not in consultative status with the Economic and Social Council which are interested in participating in the Working Group;
5. Requests the Coordinator of the International Decade, in accordance with the procedures established by the Commission on Human Rights in resolution 1995/32 and following consultations with the States concerned, in accordance with Article 71 of the Charter of the United Nations, to forward all applications and information received to the Council Committee on Non-Governmental Organizations;
6. Requests the Council Committee on Non-Governmental Organizations to meet as necessary to examine the applications and, having considered all relevant information, including any views received from the States concerned, to recommend to the Economic and Social Council those organizations of indigenous people which should be authorized to participate in the Working Group, including at the first session in 1995;
7. Decides, on the basis of the recommendations of the Council Committee on Non-Governmental Organizations, to authorize the participation in the work of the Working Group of interested organizations of indigenous people, in accordance with rules 75 and 76 of the rules of procedure of the functional commissions of the Economic and Social Council;
8. Requests the Commission on Human Rights at its fifty-second session to review the progress of the Working Group and to transmit its comments to the Economic and Social Council at its substantive session for 1996;
9. Requests the Secretary-General to provide the necessary services and facilities for the implementation of the present resolution."

53rd meeting
3 March 1995

[Adopted without a vote.]

ANNEX: PARTICIPATION OF ORGANIZATIONS OF INDIGENOUS PEOPLE IN THE OPEN-ENDED INTER-SESSIONAL WORKING GROUP

1. The procedures contained in the present annex are adopted solely to authorize the participation of organizations of indigenous people not in consultative status with the Economic and Social Council.
2. These procedures are consistent with the procedures set forth in resolution 1296 (XLIV) of 23 May 1968 of the Economic and Social Council and do not constitute a precedent in any other situation. They shall apply only to the Working Group created by Council resolution ... and they shall remain in effect for the duration of the Working Group.
3. Organizations of indigenous people not in consultative status wishing to participate in the Working Group may apply to the Coordinator of the International Decade. Such applications must include the following information concerning the organization concerned:
 - a) The name, headquarters or seat, address and contact person for the organization;
 - b) The aims and purposes of the organization (these should be in conformity with the spirit, purposes, and principles of the Charter of the United Nations);
 - c) Information on the programmes and activities of the organization and the country or countries in which they are carried out or to which they apply;
 - d) A description of the membership of the organization, indicating the total number of members.
4. Upon receipt of applications, the Coordinator of the International Decade should consult with any State concerned pursuant to Article 71 of the Charter of the United Nations and paragraph 9 of resolution 1296 (XLIV) of the Economic and Social Council. The Coordinator should promptly forward all applications and information received to the Council Committee on Non-Governmental Organizations for its decision.
5. Authorization to participate shall remain valid for the duration of the Working Group subject to the relevant provisions of part VIII of resolution 1296 (XIV) of the Economic and Social Council.
6. The activities of organizations of indigenous people authorized to participate in the Working Group pursuant to these procedures shall be governed by rules 75 and 76 of the rules of procedure of the functional commissions of the Economic and Social Council.
7. Organizations of indigenous people authorized to participate in the Working Group will have the opportunity to address the Working Group, consistent with the relevant provisions of paragraphs 31 and 33 of Council resolution 1296 (XIV), and are encouraged to organize themselves into constituencies for this purpose.
8. Organizations of indigenous people may make written presentations which, however, will not be issued as official documents.
9. States having indigenous populations should take effective measures to bring the invitation to participate and these procedures to the attention of organization of indigenous people potentially interested in contributing to and participating in the Working Group.



IITC Oral Intervention 8 February 1995.
United Nations Commission on Human Rights
51st Session
Agenda Item 8, The Right to Development



Thank you Mr. Chairman.

As the Secretary General in his report E/CN.4/1993/16 as well as the report of the Working Group on the Right to Development, E/CN.4/1995/27 have observed, the Right to Development is based upon the human rights and fundamental freedoms described in the United Nations Charter, the Universal Declaration on Human Rights, and the International Covenant on Economic, Social and Cultural Rights. For Indigenous Peoples all over the world, the Right to Development is the right to life, the right to survival itself.

Mr. Chairman and Distinguished Members of the Commission, for Indigenous Peoples the Right to Development is not limited to the right to share in economic benefits derived from the exploitation of their traditional lands and natural resources. Indigenous Peoples around the world challenge the equating of profit-based resource exploitation or industrialization with "development". Activities that are destructive to the inter-dependent relationship between human societies and the natural world are not sustainable and are therefore incompatible with development in its truest sense.

For Indigenous Peoples, the Right to Development must begin with our right as Peoples to define for ourselves what constitutes development, taking into consideration our own cultures, values, social and economic systems, as well as our traditional knowledge, spirituality and relationship with the natural world.

Indigenous Peoples and their traditional lands are one and indivisible. The recognition and respect for the right to traditional lands is the very basis of the Right to Development for Indigenous Peoples. To be practical and real in its application, the Right to Development must include each People's right to assert jurisdiction over

their traditional lands in order to prevent usage's of land and resources which are incompatible with that People's definition of development. Accordingly, the final report of the U.N. sponsored 1990 Global Consultation on the Realization of the Right to Development observed in paragraph 104 that during the Consultation "it was underlined that the most destructive and prevalent abuses of Indigenous rights are the direct consequence of development strategies that fail to respect the fundamental right of self-determination".

Full and informed participation by Indigenous Peoples in decisions regarding activities based outside traditional territories which impact traditional lands or means of subsistence must also be included in the Right to Development.

Mr. Chairman, we have seen that far too often resource exploitation is imposed upon Indigenous Peoples, with no respect for the rights or wishes of the affected Peoples or for their cultures, pre-existing economies or the ecosystem upon which their survival depends.

We have seen that these destructive activities are often presented to impoverished and uninformed Indigenous communities as opportunities for economic development. The actual outcome has consistently been vast profits for corporations and governments on the one hand and forced relocations, contamination of lands and waters, irreparably damaged ecosystems, and disruption of traditional economies and cultures for the affected Indigenous Peoples on the other hand. In addition, those who protest are many times met with brutal repression.

Abundant examples of these types of situations, either already ex-

isting or imminent, can be cited from every continent of the Earth. Mr. Chairman, we would like to cite a small number of particularly critical examples that we hope will serve to represent others too numerous to include in the brief minutes allotted to us today.

THE OGONI, NIGERIA & SHELL OIL CORPORATION

The Ogoni People, Indigenous to South-eastern Nigeria, live in dire poverty without even minimal social services or modern facilities, although in recent years Shell Oil corporation has extracted 900 million barrels of oil from their traditional lands. In addition to receiving no economic benefits from these activities, the traditional agricultural economic base of the Ogoni People has been destroyed by the drilling and resulting pollution which has contaminated land and drinking water used by both livestock and humans. According to a study by Pro-natura International, oil drilling by Shell Oil Company has ruined beyond redemption the Ogoni Peoples' land, which is the basis for their survival.

THE AMUNGE PEOPLES

As reported by the Center on Transnational Corporations in E/CN.4/sub.2/1994/40, the Amunge Peoples have lived on the Island of New Guinea for 50,000 years, achieving a sustainable way of life in harmony with their natural surroundings based upon sophisticated Indigenous systems of irrigation and drainage for growing traditional foods. For the Amunge, land use is based upon "collective mutual ownership". The People are seen as belonging to the land they use. The Indonesian government has, however, declared Amungme land to be "public lands" and has permitted mining by Freeport McMoran and Gold Corporation which has contaminated waterways and lands essential to the survival of the Amungme People. The Amungme People, no longer able to peruse their own development, face forced relocation, cultural destruction, loss of their way of life, lands, identity and very existence.

THE DINEH (NAVAJO) & PEABODY COAL MINING

Similarly, in the state of Arizona in the United States near the sacred Black Mesa, the Hopi and Navajo Council agreed to coal mining on a huge scale in response to the potential for economic benefits to the tribes. They were not informed or prepared for the massive destructive effects on the environment or way of life of the traditional communities surrounding the Black Mesa Peabody Coal mine, most of whom opposed the mine from the very beginning. Dineh families who have lived on these lands for many generations are being forcibly displaced by continuing expansion of the open-pit mine, and by the deterioration of the fragile desert ecosystem and scarce water supply upon which the Peoples and their traditional livestock-based economy depend. Herbal medicine plants are being destroyed, air quality is being affected and petroleum-based wastes are being dumped without restriction.

THE GWICH'IN ATHABASCAN

Above the Arctic Circle in Alaska the Gwich'in Athabascan People are currently resisting a similar fate as the United States Congress is planning to once again consider opening the Arctic National Wildlife Refuge for oil and gas exploration, although such activities would threaten the calving grounds of the Porcupine Caribou herd which provides the cultural and economic basis for survival of the Gwich'in Peoples in both Alaska and Canada. We will soon see if the U.S. Congress chooses to defend the survival and sustainable way of life of an entire People along with the preservation of an unspoiled wilderness area or will instead support macro-economic resource extraction by transnational oil corporations. Citing this example, the International Indian Treaty Council concurs with the Commission on Human Rights in its resolution 1993/22 which "recognized that the biggest obstacles to the realization of the right to development lay at the international macro-economic level and also recognized the existence of impediments at the national level".



Assurances of environmental protection are always made by the corporations and governments which promote resource exploitation from which they derive huge profits. But Indigenous Peoples such as the Gwich'in need only to look at the fate of Indigenous Peoples whose lands and waters have been irreparably contaminated by oil drilling, clear cutting, mining and other types of non-sustainable resource extraction. Recently, for example the destructive activities of oil corporations operating on Indigenous Peoples' lands in Ecuador have come under international scrutiny. Unfortunately, by the time such extensive contamination becomes known to the world, the damage to both Indigenous cultures and the environment is often irreversible.

The continuing disregard by corporations and governments alike to the rights and survival of Indigenous Peoples in this regard is testimony to the the critical need for clearly defined international standards recognizing the Right to Development for Indigenous Peoples.

Mr. Chairman and Distinguished Members of the Commission, we will conclude by pointing out that when the Right to Development for Indigenous Peoples is ignored with impunity the entire world, particularly the

future generations, will suffer.

By asserting their Right to Development for Indigenous Peoples are also protecting some of the last unspoiled lands, uncontaminated waters and healthy ecosystems in the world. Indian Peoples of the Amazon basin, the Penan and other Dajak Peoples of Borneo, the Sarawaks of Malaysia and the Baka and Bakola Peoples of the Cameroon are not only resisting the destruction of the rapidly shrinking rain forests upon which their own development and survival depends. They are also fighting, often at the risk of their own lives, to preserve the air that all of our grandchildren will breathe.

Finally Mr. Chairman, we request that this intervention and the concerns it raises be considered by the Working Group on the Right to Development as part of its mandate to identify obstacles to the implementation and realization of the Declaration on the Right to Development, in keeping with the Declaration of the Commission on Human Rights 1993/30 that "recommends to all thematic rapporteurs, special representatives, independent experts and working groups to pay particular attention, within the framework of their mandates, to the situation of Indigenous People[s]".

Thank you, for all our Relations.

DECLARATION OF INDIGENOUS PEOPLES OF THE WESTERN HEMISPHERE REGARDING THE HUMAN GENOME DIVERSITY PROJECT



We are the original peoples of the Western Hemisphere of the continents of North, Central and South America. Our principles are based upon our profound belief in the sacredness of all Creation, both animate and inanimate. We live in a reciprocal relationship with all life in this divine and natural order.

Our responsibility as Indigenous Peoples is to insure the continuity of the natural order of all life is maintained for generations to come.

We have a responsibility to speak for all life forms and to defend the integrity of the natural order.

In carrying out these responsibilities we insure that all life in its natural process and diversity continues in a reciprocal relationship with us.

We hold precious all life in its natural form. The harmonious progress of the natural order in the environment shapes and defines healthy genetic diversity.

The principle of harmony requires that we do not violate the principles of Creation by manipulating and changing the natural order.

Given that our natural relationship has been interfered with by foreign or non-indigenous external forces in a long history of destruction, we have never abandon these responsibilities.

In the long history of destruction which has accompanied western colonization we have come to realize that the agenda of the non-indigenous forces has been to appropriate and manipulate the natural order for the purposes of profit, power and control.

To negate the complexity of any life form by isolating and reducing it to its minute parts, western science and technologies diminishes its identity as a precious and unique life form, and alters its relationship to the natural order.

Genetic technologies which manipulate and change the fundamental core and identity of any life form is an absolute vio-

lation of these principles, and creates the potential for unpredictable and therefore dangerous consequences.

Therefore, we the Indigenous Peoples and Organizations participating in this meeting from North, Central and South America reject all programs involving genetic technology.

We particularly oppose the Human Genome Diversity Project which intends to collect and make available our genetic materials which may be used for commercial, scientific and military purposes.

We oppose the patenting of all natural genetic materials. We hold that life cannot be bought, owned, sold, discovered or patented, even in its smallest form.

We denounce and identify the instruments of intellectual property rights, patent law, and apparatus of informed consent as tools of legalized western deception and theft.

We denounce all instruments of economic apparatus such as NAFTA, GATT and the World Trade Organization (WTO) which continue to exploit people and natural resources to profit powerful corporations, assisted by governments and military forces of developed countries.

We demand that scientific endeavors and resources be prioritized to support and improve social, economic and environmental conditions of Indigenous peoples in their environments, thereby improving health conditions and raising the overall quality of life.

We reaffirm that indigenous peoples have the fundamental rights to deny access to, refuse to participate in, or to allow removal or appropriation by external scientific projects of any genetic materials.

We demand the Human Genome Diversity Project and any other such scientific project cease any attempts to seduce or coerce participation in their projects through promises of benefits and

financial gain in order to obtain consent and participation of indigenous peoples. We demand an immediate moratorium on collections and/or patenting of genetic materials from indigenous persons and communities by any scientific project, health organization, governments, independent agencies, or individual researchers.

We demand that nation-state governments and their departments do not participate, fund or provide any assistance to the Human Genome Diversity Project or any related programs, or seek to hold patents or otherwise benefit from the genetic materials taken from indigenous peoples.

We call on religious communities, human rights, social justice and environmental organizations, funding agencies, all individuals and institutions refuse to participate, fund, or provide other assistance to the Human Genome Diversity Project and any related programs.

We extend our support and solidarity to all those who are resisting these efforts, or are seeking the repatriation of genetic materials already taken or removed from their control.

We urge the international community and the United Nations to participate with Indigenous peoples in developing international policies and conventions which protect all life forms from genetic manipulation and destruction.

We call on our brothers and sisters of the indigenous nations around the world, and concerned peoples in the international community to stand up and unite in our efforts to protect the natural diversity and integrity of life.

The support of all humans in this declaration would protect the sacredness of all life, the natural order, and would provide a healthy future for generations to come.

As declared by the undersigned participating organizations in Phoenix, Arizona on February 19 of 1995:

[signed by 18 Indigenous Organizations, see p. 13 for listing]



IITC ORAL INTERVENTION, March 7, 1995
UNITED NATIONS COMMISSION ON
HUMAN RIGHTS 51ST SESSION
ITEM #14: HUMAN RIGHTS AND SCIENTIFIC AND
TECHNOLOGICAL DEVELOPMENT.

Mr. Chairman,

This item of the agenda poses several disturbing ethical questions and issues for Indigenous communities. Human rights and scientific technological development must include the involvement of Indigenous Peoples to establish, together with governments and scientific institutions, a set of regulations or "code of bioethics", established as a standard respectful of indigenous cultural integrity and diversity, the collective value of community, informed consent and concern for the preservation of Indigenous Peoples cultural and intellectual "property". And yet genetic material today is an international commodity. According to the United Nations Development Program, interdependence is growing constantly. Further, as this commission is aware, currently there are no restrictions on patents for plants and animals as intellectual property, including human genes.

This complex and confusing subject distresses Indigenous communities deeply for it begins to probe the traditional knowledge and innovative systems developed centuries ago which continue to this day, involving healing elements derived from plants, seeds, germplasms, and animals which are included in prayer songs and dance ceremonies to renew life and respect

their gifts of life to peoples. The scientific community is oblivious to this form of offering thanks to the creation and instead sterilize, separate and remove themselves, indeed isolate themselves, from the interconnected web of life and the wisdom that comes from this belief.

The need to protect fundamental human relationships and rights and their correlation to all life forms, macro and microbial, is crucial for Indigenous Peoples. At present the "Bio-pirates" and pharmaceutical companies are unrelenting in their pursuit to explore, research and find the most common medicinal plants used in more than one community. The most "valuable" medicinal plants or genes are those with the longest track record in the most locations.

Mr. Chairman, Indigenous Peoples are also alarmed that the Convention on Biological Diversity which entered into force on December 29, 1993 and currently has over 106 Parties, is ultimately the body to regulate the copyrights and patent rights to plants, seeds and human genetic resources. The Biodiversity Convention must be restructured to include the inherent rights of Indigenous Peoples and an understanding of the spiritual relationship we have to all living beings.

On February 18-19, 1995 leaders representing a diversity of Indigenous Nations from throughout Canada, the USA, Panama, Ecuador, Peru, Bolivia and Argentina met in Phoenix, Arizona to develop strategies in response to the proposed Human Genome Diversity Project (HUGO), a world wide effort by scientists to collect genetic samples of 722 distinct Indigenous Peoples. The genetic samples would then be "immortalized" and stored in gene banks around the world providing a perpetual source of human cell lines for genetic research and manipulations. The Human Genome Diversity project opens the door for potential widespread abuse of human genetic materials for scientific, commercial, or military purposes.

The IITC recommends that the topic of Indigenous Peoples be included on the agenda at the next Conference of the Parties (COP) to the Convention on Biological Diversity in 1995 as a matter of urgency and not held up until 1997 as currently proposed. Further, COP II should address biosafety, ex situ collections, Intellectual Property Rights, incentives and Indigenous knowledge.

Finally, the IITC encourages support for establishment of a long term participation of Indigenous Peoples at the COP and the Commission on Sustainable Development (CSD) to promote three priority areas: preserve and maintain Indigenous knowledge; promote application of Indigenous knowledge only with the involvement and approval of Indigenous Peoples; and benefit sharing issues.

[continued from p. 12, List of signatory organizations...]

Amazanga Institute, Provinzia de Pastaza, Ecuador.
Asociacion Kunas Unidos Por Napguana, Panama.
Coordinadora de Mujeres Indigenas de Bolivia, La Paz, Bolivia.
CONIC Consortium, Albuquerque, New Mexico.
Council of Athabaskan Tribal Governments, Stevens Village, Alaska.
En'owkin Center, Penticton, British Columbia, Canada.
Independent Traditional Seminole Nation of Florida, Immokalee, Florida.
Indigenous Environmental Network, National Office, Bemidji, Minnesota.
Indigenous Environmental Network, Oklahoma Region, Tulsa, Oklahoma.

Indigenous Peoples Alliance, Phoenix, Arizona.
Indigenous Peoples Support Network, London, Ontario, Canada.
Indigenous Women's Network, Boulder, Colorado.
Inter-Ethnic Association of the Peruvian Rain Forest (AIDSESP), Peru.
International Indian Treaty Council (IITC), San Francisco, California.
South and Meso American information Center (SAIC), Oakland California.
Sovereignty Peoples Information Network, British Columbia, Canada.
Tonantzin Land Institute, Albuquerque, New Mexico.
TonaTierra, Phoenix, Arizona.



"Chiapas was the scene for one of the largest coordinated political demonstrations on the 12 of October (1992) when almost 10,000 Indigenous people from some twenty different organizations marched through the highland town of San Cristobal de las Casas."
Source: IWGIA Newsletter No. 1- Jan/Feb/March-1993. "Indigenous Mobilization in Mexico" by H.Moknes.

[continued from p.2]

enlarge its representation and legitimacy.

3. That this assembly ratify COMPAGUA as the political, representative and legitimate entity if the Mayan People, as the voice before any branch or organism of the State, and before international organisms, such as it says in the accord.

After that has been said previously, the Instance of Mayan Unity and Consensus (ICUM), with its 76 member organizations, before this great assembly of COMPAGUA communicates the following:

1. We will continue to struggle tirelessly until we are able to completely exercise the rights of Mayan People, including the issue of the demilitarization of our communities, the issue of land, and others that were not contemplated in the recently signed accord.

2. We will work unconditionally for the fulfillment and implementation of the Accord on the Identity and Rights of Indigenous Peoples.

3. That we will make this accord our own, as an instrument of struggle in order to continue gaining the necessary

spaces for the complete fulfillment of the Mayan People, to put an end to the misery, hunger, poverty, marginalization, repression, discrimination, and oppression.

4. Our decision to continue strengthening the Unity and the Consensus that prevails in COMPAGUA, as with the creation of alliance with all of the sectors and groups of the Mayan People, and of the civilian society, so that between all of us we can construct a new STATE: Just, democratic, multicultural and multilingual.

Guatemala, May 2, 1995

[continuado de pagina 4]

político, representativo y legítimo del pueblo Maya, como interlocutor ante cualquier dependencia y organismo del Estado, y ante los organismos internacionales, tal y como dice el Acuerdo.

Por todo lo anteriormente expuesto, la INSTANCIA DE UNIDAD Y CONSENSO MAYA -IUCM-, con sus 76 organizaciones miembros, ante esta magna asamblea de COPMAGUA, comunica que:

1. Seguiremos luchando incansablemente hasta lograr el ejercicio pleno de todos los derechos del pueblo Maya, incluyendo el tema de desmilitarización de nuestra comunidades, el tema de la Madre Tierra y otros que no quedaron contemplados en el Acuerdo recientemente firmado.

2. Trabajamos incondicionalmente para la implementación y cumplimiento del Acuerdo sobre Identidad y Derechos de los Pueblos Indígenas.

3. Hacemos nuestro este acuerdo, como un instrumento de lucha para seguir conquistando los espacios necesarios para la realización plena del Pueblo Maya, a fin de acabar con la miseria, hambre, pobreza, marginación, represión, discriminación, opresión.

4. Nuestra decisión de seguir fortaleciendo la Unidad y el Consenso que prevalece en COPMAGUA, así como la creación de alianza con todos los sectores y grupos del Pueblo Maya, y la sociedad civil, para que entre todos podamos construir el nuevo Estado: Justo, Democrático, Pluricultural y Multilingüe.

Guatemala 2 de Mayo de 1995



"500 Years of Resistance." Mr. Owns the Sabre

Excerpts from the Accord on the Identity and Rights of Indigenous Peoples:

"The recognition of the identity of Indigenous Peoples is fundamental for the construction of a national unity which is based on a respect of the political, cultural, economic and spiritual rights of all Guatemalans."

"Indigenous land rights include collective, communal as well as individual tenancy, rights to property, to possession and other rights, as well as the use of natural resources to benefit the community, without destruction of the environment. It is necessary to develop legislative and administrative means for the recognition, title, protection, revindication, restitution and compensation of these rights.

Algunos Puntos del Acuerdo Sobre Identidad y Derechos de Los Pueblos Indigenas:

"El reconocimiento de la identidad de los Pueblos Indigenas es fundamental para la construccion de la unidad nacional basada en el respeto y ejercicio de los derechos politicos, culturales, economicos y espirituales de todos los Guatemaltecos."

"Los derechos reletivos a la tierra de los Pueblos Indigenas incluyen tanto la tenencia comunal o colectiva como el individual, los derechos de propiedad, de posecion y otros derechos reales, asi como el aprovechamiento de los recursos naturales en beneficio de las comunidades, sin perjuicio de su habitat. Es necesario desarrollar medidas legislativas y administrativas para el reconocimiento, titulacion, proteccion, revindicacion, restitution y compensacion de estos derechos."

**51ST SESSION OF THE UNITED NATIONS COMMISSION ON HUMAN RIGHTS;
 FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS,
 INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:**

Agenda Item 11: INTERNALLY-DISPLACED PERSONS.

IITC Oral Intervention, 21 February, 1995

Mr. Chairman:

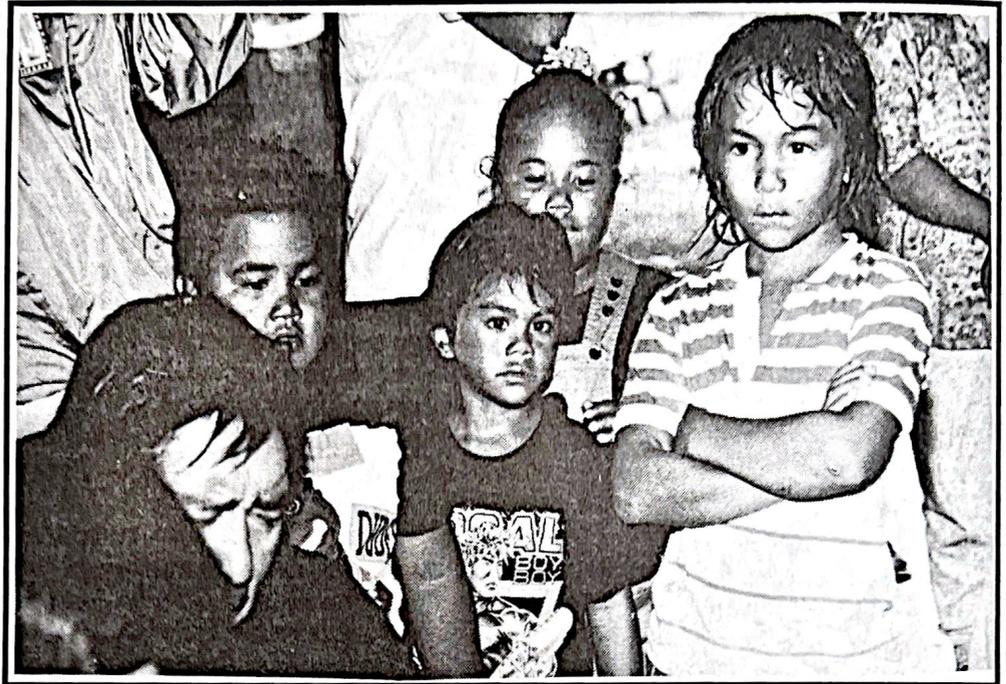
The International Indian Treaty Council (IITC) with our sister organization, the *Comite de Unidad Campesina (CUC)* speak in the name of communities eradicated by the internal armed conflict in Guatemala.

GUATEMALA

From the beginning of the Decade of the 80s, more than one million of us Guatemalans have been displaced and forced to flee our places of origin as a result of the scorched earth policies, and massacres of our communities, perpetrated by the army. The great majority of those of us displaced have been Mayan, and since that time we find ourselves in the jungle, in the large cities and in refuge in southern Mexico.

Those of us who have sought refuge in the jungle formed ourselves into Communities of Populations in resistance (CPR). In February of 1994, the Inter-American Commission on Human Rights and the representative of the Special Rapporteur visited our communities and afterwards affirmed in their reports the fundamental problems facing the CPR:

1. Military harassment, including the theft of our harvest, as well as intimidation and pressure on the population to form Civil Self Defense Patrols (PACs);
2. Lack of personal and collective juridical recognition;
3. Lack of basic services for



Native Hawai'ian children stand with the Sacred Drum at the IITC 15th Treaty Conference held in Makapu'u, Hawai'i in 1993 and hosted by the Sovereign Nation of Hawai'i.

which the state has responsibility;

4. Lack of land and economic development.

Mr. Chairman: We who have organized into the National Council of the Displaced of Guatemala (CONDEG) live in conditions of extreme poverty, that directly affects our health and particularly the health of our children. The response that the government has given to our requests for a life of dignity has been constant control, persecution, kidnapping, disappearances, and threats and intimidation as is demonstrated by the following deeds:

On January 12, 1994, LORENZO QUEJ PU, member of the settlement of displaced persons "Mario Antonio Diaz" was kidnapped and disappeared and to this day we do not know his whereabouts. On December 3, 1994

our associate PEDRO PEREN MUX was assassinated, and to this day those responsible have not been brought to justice.

Those thousands of us who have found refuge in Mexico have been working for our return in an organized manner, with dignity and security, collectively, to Guatemala, without a military presence in our communities nor with an obligation to form Civil Patrols.

Our organized return, since its beginning in January 20, 1993, has been inhibited by the lack of political will on the part of the government to resolve the problem of the land tenure.

Mr. Chairman: Our Delegation supports the recommendations of the Special Rapporteur on Guatemala,
[continued next page]

that: Strict compliance with the obligations contracted in the Accords of 8 October, 1992, are not only required, they are the common demand of the communities of the returned. Their security must be guaranteed, as well as their health, their education, their housing; the process of [refugee] documentation should begin, being vigilant as to their security and commit strong efforts for their adequate reinsertion [into Guatemalan society].

Mr. Chairman: For these reasons, we ask that this Commission take into consideration the situation of the victims of human rights violations and consider the case of Guatemala under item 12 of the Agenda, naming Dr. Monica Pinto as Special Rapporteur.

DINEH (NAVAJO) RELOCATION

Mr. Chairman: Our delegation continues to be concerned with the ongoing relocation of the traditional Dineh Peoples, commonly known as Navajos, that is taking place in Big Mountain, Cactus Valley and surrounding communities in the state of Arizona, United States of America, that was ordered in 1974.

Under the relocation program, families have been forced to abandon their lands and have been forced to move to contaminated lands and into cities as a result of government mandated livestock reductions, harassment by law enforcement officials and Peabody Coal Company private security forces, threats of arrest, and the effects of environmental degradation caused by Peabody's massive strip mining operations.

The commission should note that this is the largest forced relocation of Indian Peoples in the U.S. during this century. We call upon the Commission on Human Rights to adopt resolution 1994/44 of the Sub-Commission, calling for continued monitoring of the situation. Recently 111 of 112 affected families voted against the last accord proposed by

the mediators. The serious concerns over the land of these affected families should be taken into account by the accords. The most critical concerns of the affected families at this time center on secure permits for adequate water supplies, rights to take

For Indigenous Peoples, the enjoyment of all other human rights and fundamental freedoms is dependent on the enjoyment of the inherent Right to Self Determination....

IITC Intervention: Agenda Item 9. 51st Session of the UN Commission on Human Rights, February 2, 1995.

and use timber, permits to keep domestic animals for female children and grandchildren, as well as general permits to keep domestic animals.

Our delegation call upon the Secretary General's Representative on internally displaced persons to make recommendations pursuant to resolution 1993/30 on this critical situation while it is still possible to protect the way of life of the affected Indian Peoples.

HAWAIIAN ISLANDS

Mr. Chairman: Our delegation also wishes to call attention to the situation of the Indigenous People of Hawaii, whose government was illegally overthrown by the United States in 1893, in violation of a ratified bilateral peace and friendship Treaty between the U.S. and the Nation of Hawaii. Since that time, Native Hawaiians have been disenfranchised and displaced in their own Nation.

Lands that were set aside for them after the overthrow of their Nation have never been distributed, forcing Native Hawaiians to become landless and often homeless internal refugees. Although the United States Congress formally apologized in 1993 for its illegal overthrow of this sovereign Nation, the restoration of Hawaiian sovereignty and territory has not yet been initiated by the U.S. Govern-

ment. Our delegation urges that this process should begin without further delay.

Mr. Chairman: Recently, increased military intervention by the Mexican Army in Chiapas has displaced many Indigenous persons, and in some cases entire communities. In addition, local officials have used the conflict to confiscate lands, further displacing Indigenous and campesino families.

The displacement of Indian Peoples by Military conflicts between states, specifically the recent war between Peru and Ecuador, is of profound concern to our delegation. Members of the Shuar- Ashuar Indian communities have been displaced or forced to flee as a result of this conflict.

The International Indian Treaty Council calls upon the governments of Peru and Ecuador to uphold the recently declared cease fire and to immediately assist the complete return of the affected Indigenous communities to their traditional territories.

When Indigenous peoples are forced to flee military campaigns carried out on their traditional lands, it is rare that they are able to fully return to these lands. Many times their lands become permanently occupied by military forces or other parties, leading to more conflict and long term displacement. In addition, Indigenous lands and properties contaminated and destroyed by warfare are rarely restored by the involved governments after the conflict ends.

Mr. Chairman: As this is a widespread and pervasive problem affecting Indigenous Peoples in many areas of the world, we request that the Representative of the Secretary-General on internally displaced persons address the displacement of Indigenous Peoples and communities as a result of armed conflict as a primary focus of his ongoing work.

Thank you, Mr. Chairman.

1995 THE LAST YEAR FOR PARTICIPATION IN THE U.N. TREATY STUDY



THE United Nations' Study on Treaties, Agreements and Other Constructive Arrangements between States and Indigenous Populations was initiated by a Special U.N. Resolution in 1989. The final report is scheduled to be presented to the U.N. in the summer of 1996. 1995 is the final year for submitting information to the study.

The purpose of the *Treaty Study* is to determine the status under international law of the Treaties and other Agreements which have been made between Indigenous Peoples and States (countries), as well as to document the perspectives of Indigenous Peoples regarding their relationships with colonial governments and States.

Most of the Treaties and Agreements made by Countries with Indigenous Nations have been violated, with little opportunity for redress within the legal systems of these countries. The recognition of these Treaties as valid and binding under international law would be of very great importance to all Indigenous Peoples.

While work within the U.N. will not by itself solve our problems, IITC believes that the recognition of our rights and status by the Countries of the world will be a very important step in support of traditional Peoples' struggles for sovereignty and self determination around the world.

The participation of Indigenous Peoples, whether or not they are directly affected by Treaties, is vital for the greatest impact to be achieved by the *Treaty Study* and for the maximum number of cases to be included in the final report. Indigenous Peoples, Communities and organizations are invited to participate directly by submitting documentation and completing the questionnaire developed by Dr. Miguel Alfonso Martinez, the Special Rapporteur appointed by the U.N. to conduct the *Treaty Study*.

The International Indian Treaty Council has compiled an informational handbook on the *Treaty Study*. The Treaty Study Questionnaire, along with some points of clarification and excerpts from a workshop by Dr. Martinez are included in this handbook.

Interested Peoples, organizations and individuals are encouraged to contact the IITC Information Office in San Francisco for a copy of the Treaty Study Handbook (available in English and Spanish) or to get more information about the Treaty Study and how to participate.

INTRODUCTORY HANDBOOK FOR

"THE U.N. STUDY ON TREATIES, AGREEMENTS AND OTHER CONSTRUCTIVE ARRANGEMENTS BETWEEN INDIGENOUS POPULATIONS AND STATES"

COMPILED BY THE INTERNATIONAL INDIAN TREATY COUNCIL



"Treaties are the universal language of co-existence in the world today. It is for this reason that our case is so strong in the international community. It is for this reason that when we make charges against the United States and other oppressive governments of the Western Hemisphere, they can find no voice to answer us."

— Sixth International Indian Treaty Conference

MANUAL DE INTRODUCCION

PARA EL ESTUDIO DE LAS NACIONES DE TRATADOS, CONVENIOS O ACUERDOS CONSTRUCTIVOS ENTRE LAS POBLACIONES INDIGENAS Y ESTADOS

Compilado por el Consejo Internacional de Tratados Indios



"Hoy en día en el mundo los tratados son el idioma universal de coexistencia. Esta es la razón por la cual nuestro caso es tan fuerte en la comunidad internacional. Por esa razón es que Hemisferios Occidental, ellos no encuentran voz para contestarnos."

— Sexta conferencia internacional del Consejo Internacional de Tratados Indios

TREATY COUNCIL NEWS (TCN) is the official news bulletin of the International Indian Treaty Council (IITC). The IITC is a Non-Governmental Organization (NGO) with Consultative Status at the Economic and Social Council (ECOSOC) of the U.N. The IITC sincerely thanks Ms. Betty of BMC Unlimited and all the others who have helped in the work of the IITC. We also wish to thank the subscribers of TCN. We are striving to publish Treaty Council News as a quarterly in 1995. Your support and participation in our efforts to provide information on Indigenous struggles is greatly appreciated. TCN invites submissions of works by Indigenous journalists, graphic artists, photographers and organizations. Subscription rate is \$15 U.S.; \$35 Int'l (1st class); \$25 Organizations and institutions.

International Indian Treaty Council
 54 Mint St. #400
 San Francisco, CA 94103
 (415) 512-1501; fax (415) 512-1507
 Email Address: IITC@igc.apc.org

IITC Mission Statement
 The International Indian Treaty Council (IITC) is an organization of Indigenous Peoples from North, Central and South America and the Pacific, working for the sovereignty and self-determination of Indigenous Peoples and the recognition and protection of indigenous rights, treaties, traditional cultures and sacred lands.

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A LETTER TO NUCLEAR-AFFECTED COMMUNITIES

Respected Indigenous Leaders, Communities, Organizations, and Interested Friends,

The IITC has received a small grant to begin to gather information on nuclear contamination of Indigenous Lands and Peoples in the Americas and Pacific Islands, and the effects of this contamination on future generations.

We hope to use this information to examine past and present governmental policies on nuclear materials as they affect Indigenous Peoples, and to report on the nuclear contamination of Indigenous communities, their lands, the unborn and future generations, to the United Nations Commission on Human Rights and other international bodies.

We are finding that there are a great many ways in which Indigenous Peoples have been poisoned by nuclear materials. We believe that it is necessary to document the great manyways in which Indigenous peoples are, or have been subjected to nuclear poisons. We also need to identify as many Indigenous communities as possible that have been or

are being poisoned as well as the role of governments and governmental agencies in exposing our peoples to contamination.

The IITC would very much appreciate your help in locating indigenous communities that have been subject to nuclear contamination in any form. We would also appreciate knowing if any documentation exists of that community's contamination. If you have any information or suggestions that could help us, please write or call the Nuclear Contamination Project's team leader, Alberto Saldamando, at the IITC Information office in San Francisco, (415) 512-1501.

The IITC very much appreciates your participation in this important project. We also appreciate your response as soon as you are able. We look forward to hearing from you.

Sincerely,
 Andrea Carmen
 Executive Director, IITC.

URGENT ACTION BULLETIN: PROTECT THE ARCTIC NATIONAL WILDLIFE REFUGE



In May, 1995 both Houses of the U.S. Congress voted to attach oil exploration in the Arctic National Wildlife Refuge (ANWR) to the Budget Bill.

This move proposes ANWR oil leasing income as a means to balance the federal budget and pay off the deficit. In reality, it is one more attempt by the oil corporations and the Alaska Congressional delegation to open up the refuge for oil exploration.

This vote brings the threat of full scale oil extraction in ANWR one step closer. At stake is an entire Arctic eco-system, including the Porcupine caribou herd birthing grounds and the way of life and survival of the Gwich'in Athabascan Nation, who have depended upon this herd for their subsistence and culture since time immemorial.

The Gwich'in People need your support to remove oil leasing in ANWR from the "Budget Reconciliation Bill", which will be voted on by Congress in July, and to insure the protection of the Porcupine caribou herd by making ANWR a permanent wilderness area.

Supporters should contact their congressional representatives IMMEDIATELY by calling (202) 224-3121. Indian organizations are requested to pass resolutions to send to congressional members.

Contact: The Gwich'in Steering Committee P.O. Box 202786 Anchorage, Alaska 99520. 907-258-6814 Mashi choo' (Thank you very much).

"It is really too bad that the U.S. Congress is telling the American People that they can pay off their national debt by sacrificing our people and their way of life. That is bad for the American People and very bad for our people too."

Sarah James, Spokesperson for the Gwich'in Steering Committee. & IITC Board Member.



Photo: Karen Jettmar

"Our Arctic way of Life has endured for more than 20,000 years. Must we now die for six months of oil?"

-- Gwich'in Steering Committee

ADDRESS CORRECTION REQUESTED



TREATY COUNCIL NEWS
54 MINT St. #400
SAN FRANCISCO, CA 94103
(415) 512-1501 FAX: 512-1507
EMAIL: IITC@IGC.APC.ORG

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