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**Title**

Recent United Nations Initiatives Concerning the Rights of Indigenous Peoples

**Permalink**

<https://escholarship.org/uc/item/6s16j3n3>

**Journal**

American Indian Culture and Research Journal , 21(3)

**ISSN**

0161-6463

**Author**

Quesenberry, Stephen V.

**Publication Date**

1997-06-01

**DOI**

10.17953

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# Recent United Nations Initiatives Concerning the Rights of Indigenous Peoples

**STEPHEN V. QUESENBERRY**

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Recent developments<sup>1</sup> within the United Nations (U.N.) and its subsidiary bodies present opportunities for an unprecedented dialogue on the relationship between States<sup>2</sup> and indigenous peoples and the rights of these peoples under international law. These opportunities may not be pressed to fullest advantage in the United States, however, because knowledge of the U.N.'s work on indigenous rights is not widespread among Native American communities, nor is the U.N. generally viewed as a forum to which they may bring their concerns.<sup>3</sup> Indeed, it would be rare for Native American tribes, whose attention is increasingly focused on congressional actions which threaten their political and economic survival, to divert limited resources from domestic issues to the international dialogue on the rights of indigenous peoples. Nevertheless, it is at the international level and within the U.N. that the best hope for long-term protection of indigenous peoples may lie.

Section I of this paper examines the recent U.N. initiatives on

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Stephen V. Quesenberry is a lawyer and the director of litigation of California Indian Legal Services, a statewide nonprofit corporation organized to provide legal representation to low-income individuals regarding issues of federal Indian law. Quesenberry also has been active in advocacy efforts for the international protection of human rights, especially the rights of indigenous peoples.

the rights of indigenous peoples and their relevance to the situation of Native American tribes. Section II offers strategies for broader and more active tribal participation in these international standard-setting processes. A basic premise of the following discussion is that efforts to achieve progressive change in United States Indian law and policy can be strengthened and promoted by the increased participation of Native American tribes and organizations at the U.N.

## I. UNITED NATIONS INITIATIVES CONCERNING INDIGENOUS PEOPLES

### **The International Decade of Indigenous People**

By Resolution 48/163 of December 21, 1993, the General Assembly of the United Nations proclaimed the International Decade of the World's Indigenous People (International Decade), commencing December 10, 1994.<sup>4</sup> The International Decade has both symbolic and practical aspects: symbolic in the sense that it represents a heightened awareness, within the international community, of the rights of indigenous peoples as proper subjects of international law, and practical in the sense that it includes a program of action for achieving specific objectives keyed to an ongoing process of international action on indigenous issues. Indeed, the General Assembly resolution was largely a response to a number of actions taken by U.N. bodies, specialized agencies, non-governmental organizations (NGOs), and individual indigenous representatives and organizations over the past few years.

During the International Decade, indigenous groups will be targeting specific goals. Foremost among these are General Assembly adoption of an international declaration on the rights of indigenous peoples, the creation of a permanent forum within the U.N. for indigenous peoples, and the convening of a world summit on indigenous peoples. A permanent forum for indigenous peoples is essential to bridge the gap between mere aspirations and the full realization of indigenous rights as concrete, enforceable obligations acknowledged and respected by the international community. The forum must have full participator and representative rights within the U.N. and be invested with sufficient powers to carry out its assigned functions such as overseeing the implementation, in concert

with concerned U.N. bodies, of the draft declaration and other international instruments relevant to the lives, rights, and affairs of indigenous peoples.

Much of the effort during the International Decade will focus on forging partnerships between indigenous peoples and State governments to achieve the goals and objectives of a comprehensive U.N. program of action for the International Decade.<sup>5</sup> These partnerships, coupled with a sharply defined program of action for the International Decade, are essential to achieving constructive movement on indigenous issues within the International Decade. Thus far, two technical meetings on the planning of the International Decade have been convened in Geneva, the first in July 1994, and the second July 20 to 21, 1995, attended by representatives of States and indigenous and non-governmental organizations. Subsequent to the first technical meeting in 1994, the secretary-general submitted to the General Assembly a preliminary report on a comprehensive program of action for the International Decade.<sup>6</sup> The General Assembly adopted the short-term program for 1995 in its Resolution 49/214 of December 23, 1994. The short-term program, which appears in an annex to the secretary's report, encourages State governments to support the International Decade by contributing to the U.N. Trust Fund for the International Decade, and, in consultation with indigenous people: (1) preparing relevant programs, plans, and reports in relation to the International Decade, (2) seeking means of giving indigenous people greater responsibility for their own affairs and an effective voice in decisions on matters that affect them, and (3) establishing national committees or other mechanisms to ensure that the objectives and activities of the International Decade are planned and implemented on the basis of a full partnership with indigenous people.<sup>7</sup>

Following the July 1995 technical meeting, the General Assembly adopted the comprehensive program of activities for the International Decade in its Resolution 50/157 of December 21, 1995.<sup>8</sup>

### **The ILO Convention on Tribal and Indigenous Peoples**

In 1989, the International Labor Organization (ILO) adopted the Convention Concerning Indigenous and Tribal Peoples in Independent Countries, Convention No. 169.<sup>9</sup> It updated an

earlier ILO convention, No. 107, on the same subject.<sup>10</sup> These conventions are the only international treaties on the recognition and protection of the rights of indigenous peoples. Convention No. 169 has been ratified by ten countries.<sup>11</sup> Neither the United States nor Canada has ratified it.

Convention No. 169 has been heavily criticized by many indigenous groups, their criticism primarily directed at the caveat in Article 1(3) that "[t]he use of the term 'peoples' in this Convention shall not be construed as having any implications as regards the rights which may attach to the term under international law." This language precludes the critical linkage in international law between the term "peoples" and the right of self-determination, a linkage that is essential to full recognition of the legal status of indigenous peoples under international law and the realization of the dual goals of stability and certainty in the evolving relationships between these peoples and State governments. The qualification of the term "peoples" is thus viewed by these indigenous groups as undermining the major goals of the Convention.

While Convention No. 169 is by no means a perfect statement of the aspirations of indigenous peoples, it does mark a major shift from the earlier assimilationist orientation of Convention No. 107 to a recognition of "the aspirations of these peoples to exercise control over their own institutions, ways of life and economic development and to maintain and develop their identities, languages and religions, within the framework of the States in which they live..."<sup>12</sup> Rather than dwell too long on the limitations of the convention, it seems more prudent for indigenous representatives to build upon its positive elements, such as the principle of self-identification,<sup>13</sup> in their advocacy for an international declaration on the rights of indigenous peoples and for a U.N. convention on the same subject.

### **The Draft Declaration on the Rights of Indigenous Peoples**

Within the U.N. human rights bodies, the Working Group on Indigenous Populations (WGIP), created by the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities (Sub-Commission), has been the main forum for participation at the international level by indigenous peoples. The WGIP is open to all representatives of indigenous peoples and their communities and organizations. The open-

ness of its sessions, which includes the participation of representatives of governments, NGOs, and U.N. agencies, has strengthened its position as a focal point of international action on indigenous issues. The WGIP is today one of the largest U.N. forums in the field of human rights. One of the most significant accomplishments of the WGIP is its completion, after years of intensive discussion, of a draft declaration on the rights of indigenous peoples.

As part of an international standard-setting process, the draft declaration is, literally, law in the making. Review of the draft declaration has been guided by General Assembly Resolution 41/120 (December 4, 1986) entitled, "Setting international standards in the field of human rights," which set guidelines for the development of international legal instruments dealing with human rights.<sup>14</sup> Among these is the requirement that the instrument "[b]e consistent with the existing body of international human rights law..." In addition, the draft declaration "identifies new rights in response to the particular situations of indigenous peoples."<sup>15</sup> Thus, the draft declaration reflects both existing and evolving standards of international human rights law in the specific context of indigenous peoples. And, as has been the case with other U.N. declarations, it will provide the legal basis and political momentum for the eventual adoption of a U.N. convention on indigenous peoples.

The draft declaration is divided into eight parts: I—general principles; II—life, integrity, and security; III—cultural, religious, and linguistic identity; IV—education and public information; V—economic and social rights; VI—land and resources; VII—indigenous institutions; and VIII—implementation. It is a comprehensive document that builds on the existing body of international law and also identifies new rights in response to the particular situations of indigenous peoples. For these reasons, the document should be of particular interest to tribal and indigenous peoples in countries where laws provide limited or no protection for indigenous rights, including rights to land, culture, language, and self-determination. Even in countries where some protections are provided, for example in the United States, there is widespread dissatisfaction with the pace and quality of implementation of these rights by government agencies and officials.

One of the issues that is likely to remain a major part of the agenda of the new inter-sessional working group created by the

Commission on Human Rights to review the draft declaration is whether a definition of indigenous peoples should be included in the draft.<sup>16</sup> Leaving the term undefined has raised a number of State concerns, among them the political implications of the linkage in international law between the term *peoples* and the principle of self-determination.<sup>17</sup> If the determination of indigenous status is solely a matter of self-identification, some States argue that any stateless group, including ethnic and national minorities, would be in a position to claim such status and with it, the right to self-determination.<sup>18</sup> Indigenous representatives, on the other hand, argue that the definition is a concern of the indigenous themselves and should not be subject to a State's concept of which groups or persons are included in the term. Indeed, Article 8 of the draft declaration confirms "the right [of indigenous peoples] to identify themselves as indigenous and to be recognized as such."<sup>19</sup>

In a seminal 1971 United Nations study of discrimination against indigenous populations conducted by Jose Martinez Cobo, the right of self-identification was tied to specific criteria.<sup>20</sup> Cobo's definition, while useful, is not entirely satisfactory. Then again, there is no need to rush to definition where "no simple formula will be completely adequate to capture all the manifestations of complex phenomena, particularly in dynamic, changing contexts."<sup>21</sup> But definitions determine rights, and to that extent it is not unreasonable for States to insist that agreement be reached on at least some basic criteria of "indigenesness." However difficult that task may be, it cannot be ignored and will undoubtedly be an issue when the inter-sessional working group convenes in Geneva this November.

The draft declaration prepared by the WGIP was adopted by the Sub-Commission on August 26, 1994 by Resolution 1994/45<sup>22</sup> and forwarded to the full Commission for review.

### **Creation of the Inter-Sessional Working Group on the Draft Declaration**

Instead of adopting the draft declaration on the rights of indigenous peoples as recommended by the Sub-Commission, the Commission on Human Rights decided to establish its own inter-sessional working group to prepare another draft, taking into consideration the WGIP draft.<sup>23</sup> While the adoption of a draft U.N. declaration on the rights of indigenous peoples

remains on the Commission's human rights agenda, indigenous organizations are understandably concerned that their draft of the declaration, which was the subject of years of intense discussion and clarification, may be rewritten or revised by the inter-sessional working group in ways that would substantially reduce its intended scope and protections.

Over the years, the sessions of the WGIP have been the most informal and open sessions within the U.N. system. Participation by indigenous organizations regardless of official NGO status under Economic and Social Council (ECOSOC) Resolution No. 1296 (XLIV) was encouraged and welcomed. This policy ensured that interested indigenous individuals and organizations would have a direct voice in the discussions and drafting of the declaration. Because of this unprecedented participation, there is a sense of ownership of the draft declaration among these organizations. It is a product of their efforts, achieved with input from, but not directed by, State governments.

Indigenous groups initially feared that the new inter-sessional working group, whose procedures for participation<sup>24</sup> are more formal and potentially restrictive than those of the WGIP, might diminish the influence and control that indigenous peoples have thus far exercised over the development of the draft declaration. To address these concerns, the Commission invited applications to participate in the inter-sessional working group by national indigenous organizations "not in consultative status with the ECOSOC." The ECOSOC Committee on Non-Governmental Organizations (NGO Committee) reviews the applications and any other relevant information, "including any views received from the States concerned." There was some concern that this opportunity for State review and comment might ultimately limit the participation by grassroots national indigenous organizations, especially those that have been most aggressive in their advocacy and criticism of State indigenous law and policy. These fears have not been borne out.

At the 1995 session of the inter-sessional working group, ninety-nine organizations of indigenous people applied for accreditation. Of these, seventy-eight organizations were approved and representatives of thirty-four actually attended the session.<sup>25</sup> During the 1996 session, forty-seven indigenous organizations accredited in accordance with Commission Resolution 1995/32 attended the inter-sessional working group.<sup>26</sup> While it appears that the accreditation process has not posed a significant obstacle to broad participation by indige-



nous groups, some concerns have been voiced that the process needs to be further expedited to ensure that all applications are considered and acted upon by the time the session for which accreditation is sought commences.

### **The Study of Treaties, Agreements, and Other Constructive Arrangements Between States and Indigenous Populations**

In 1988, on the recommendation of the Commission on Human Rights, ECOSOC appointed Miguel Alfonso Martinez, an independent expert from Cuba and member of the United Nations Sub-Commission on the Prevention of Discrimination and the Protection of Minorities, Special Rapporteur to the Sub-Commission,<sup>27</sup> with the mandate<sup>28</sup> to prepare a study of treaties, agreements, and other constructive arrangements between States and indigenous populations.<sup>29</sup> The purposes of the study are set forth in the Commission on Human Rights Resolution 1988/56 of March 9, 1988, and, as explained by the special rapporteur, its "ultimate purpose" is:

to offer elements concerning the achievement, on a practical level, of the maximum promotion and protection possible, both in domestic and international law, of the rights of indigenous populations and especially of their human rights and fundamental freedoms.<sup>30</sup>

The study will provide a valuable source of information on treaties and other legal instruments used by States and indigenous peoples in the historical course of their dealings.

Divided generally into three parts, the study will (1) analyze "the origins of the practice of concluding treaties, agreements, and other constructive arrangements between indigenous populations and States"; (2) evaluate "the contemporary significance of those legal instruments"; and (3) consider "the potential value of [the instruments] as elements for the regulation of the future relationships between indigenous populations and States."<sup>31</sup> It will also provide an important analysis of State compliance with and implementation of these agreements. Ultimately, in addition to its relevance to the international standard-setting process, the study should provide the basis for States, in consultation with indigenous peoples, to consider possible constitutional, legislative, and administrative mea-

asures to address indigenous concerns, especially self-determination issues, within the State-indigenous relationship; and to determine the relevance of early treaties and other instruments to contemporary indigenous issues.

Early in the study process, the special rapporteur prepared a comprehensive questionnaire for the study, which was widely circulated to States and indigenous groups and organizations during 1991 and 1992. The questionnaire contains separate sets of questions for State governments and indigenous groups and organizations. It seeks information on the current status of any treaties, agreements, or constructive arrangements between States and indigenous peoples, also focusing on their purposes, the circumstances of their negotiation, their substantive provisions, any administrative and judicial interpretations, and their implementation (or lack thereof). Importantly, the questionnaire solicits specific recommendations regarding the future role of these treaties and other instruments.

The number of responses to the questionnaire from both States and indigenous groups has been disappointing, though the special rapporteur has supplemented this information with research and site visits to some of the countries with substantial indigenous populations, including the United States. Oral and written testimony gathered through meetings, hearings, and personal interviews also have been incorporated into the preliminary reports.<sup>32</sup>

The special rapporteur has submitted three progress reports on the study to the Sub-Commission, the most recent at the August 1996 session of the Sub-Commission.<sup>33</sup> These reports have been generally well received by both State governments and indigenous groups; however, budgetary constraints have imposed practical limitations on the study. Because there is no travel budget for the special rapporteur, he has had to rely on the financial support of indigenous NGOs for travel expenses to conduct field research and site visits.

It was originally anticipated that the study would be completed and a final report submitted to the Sub-Commission in 1995. However, health problems of the special rapporteur and the study's limited budget have delayed his work. The new completion date for the study is 1997.

## II. STRATEGIES FOR INCREASED INVOLVEMENT BY INDIGENOUS GROUPS IN THE WORK OF THE UNITED NATIONS AND ITS BODIES

### **The Significance of the United Nations' Work**

Before discussing strategies for supporting the initiatives discussed above, it is worth considering why Indian tribes in the United States should participate in the development of international standards for protection of the rights of indigenous peoples.<sup>34</sup> There are a number of compelling reasons.

First, with regard to the draft declaration, this is a document that will establish key international standards for the recognition<sup>35</sup> and protection of the rights of indigenous peoples. These international standards, even if not accepted by a particular State through adoption or ratification, exert considerable pressure on State policy, articulated through State legislative or executive actions and implemented by the State's courts. In addition, some standards are already part of international treaty law or are considered evolving standards of international common law.

Second, the more active and vocal the indigenous participation at the international level, the more likely it is that a State will acknowledge and respond to legitimate indigenous concerns. It can be politically embarrassing for a State to be brought to task in an international forum by indigenous groups alleging violations of human rights. This is as it should be. States should not be immune from criticism in international fora when human rights, including rights of indigenous peoples, are at stake.

Third, many tribal and indigenous groups in the United States and elsewhere have reached an impasse in their relationships with national governments, thus restricting significant movement on indigenous concerns at the domestic level. The recent congressional recommendations to cut back Bureau of Indian Affairs' and tribal priority funding, to tax selected Indian economic enterprises, and to waive the immunities of Indian tribes are evidence of this. In the face of such regressive domestic measures, which undermine the economic basis for tribal self-governance and self-determination, Indian tribes should consider whether, in addition to any domestic remedies, the human rights activities of the U.N. provide an alternative for addressing their concerns. Moreover, by pressing for interna-

tional consensus on standards for the protection of indigenous rights as human rights, including the right to development, Indian tribes can elevate and broaden the discussion, removing it from the constraints of domestic law and policy. An international dialogue increases the base of participation, both as to States and indigenous groups, making it less likely that one powerful State or group of States will be able to dictate the agenda. Progress at the international level on indigenous issues and concerns, therefore, can create political momentum and pressure for similar progress at the domestic level.

Fourth, the draft declaration contains legal standards that extend beyond the protections afforded specific areas of indigenous concern under the laws of the United States and elsewhere. As the chairperson of the WGIP pointed out, the draft declaration includes new rights developed in response to the demands of particular situations.<sup>36</sup> Indigenous rights, like human rights in general, are not static, wooden things. They are evolving, vital, and influenced by many different political, social, economic, and judicial currents in the stream of human development.

Finally, the work of the U.N. on indigenous issues is especially important because its scope is global. We live in a shrinking world whose farthest reaches are brought into our personal and vicarious experiences through major technological advances. What happens in Chechnya reverberates on Indian reservations in South Dakota. The historical experiences of Native Americans, steeped in the blood of gross violations of human rights, have their modern-day counterparts in Colombia, El Salvador, Bosnia, Chechnya, Rwanda, South Africa, and other countries. The difference is that technology's global window has made it increasingly difficult for States to hide these violations or escape international condemnation. In this atmosphere of international scrutiny, as we view our not-so-distant neighbors through the "windows" of our global village, the possibility of consensus on human rights standards that could only be dreamed of in the past is now within reach. Yet this unprecedented potential will remain unfulfilled unless peoples throughout the world, especially indigenous peoples, demand that States adhere to basic standards for the protection of human rights as a matter of international law, the law of the global village. This is where the U.N. plays a critical role. It is the forum in which this process, this dialogue, can and should occur.

### **Strategies for Increasing the Extent and Effectiveness of Participation by Indian Tribes in the Development of International Standards for Protection of the Rights of Indigenous Peoples**

Thus far, Native American participation at the U.N., especially at the WGIP, has been primarily through a handful of United States-based indigenous NGOs. With the completion of the draft declaration and its acceptance by the Sub-Commission, there is a need for broader-based support. This broader base means Indian tribes and indigenous organizations, including national Indian organizations such as the National Tribal Chairmen's Association, the National Congress of American Indians,<sup>37</sup> and the American Association on Indian Affairs. Their active involvement in the International Decade of Indigenous People, especially in the development of a United States plan for the Decade, is critical to achieving the overall goals of the Decade.

The counterpart to indigenous participation in the International Decade, and to indigenous efforts seeking international consensus on standards governing the rights of indigenous peoples, is the participation of States. The U.N. comprehensive program for the Decade envisions this participation as a partnership between States and indigenous peoples and organizations for the purpose of planning and implementing the activities of the Decade. For Indian tribes and national Indian organizations in the United States, this means a partnership with the United States government. Such a proactive role for the United States, however, seems problematic unless the tribes demand it and demonstrate that both domestic and international interests will be well served by an active United States role.<sup>38</sup> Certainly one of the strongest incentives for United States participation will be a strong showing of broad-based and active support for the Decade by Indian tribes, national Indian organizations, and United States-based indigenous NGOs.

The following are suggested strategies for increasing the participation by indigenous groups and organizations in the United Nations activities relating to the rights of indigenous peoples, with special attention to the International Decade of Indigenous People:

1. Identify existing networks of those indigenous and non-indigenous groups involved in the U.N.-sponsored work on indigenous issues. Use these networks, or create new networks, as mechanisms for obtaining and exchanging information and for participating in the international standard-setting processes of the U.N.

Indigenous NGOs based in the United States are a logical starting point, followed by non-indigenous NGOs that have demonstrated their support on indigenous issues. The network of indigenous organizations outside the United States is rapidly expanding, although only a handful of NGOs worldwide have ECOSOC consultative status.<sup>39</sup>

2. Identify resources to support effective participation at relevant sessions of U.N. bodies in New York and Geneva. For example, using the NGO network mentioned above, identify: (a) lawyers, law professors, and students who are familiar with the U.N. and its work on indigenous issues and who would be willing to assist in a paid or volunteer capacity; and (b) funding for travel and projects related to the International Decade of Indigenous People. Two potential sources of funding are the United Nations Voluntary Fund for Indigenous Populations<sup>40</sup> and the Voluntary Fund for the International Decade.<sup>41</sup>
3. Request that the United States government take steps to implement the domestic components of the U.N.'s comprehensive program of action for the International Decade.<sup>42</sup> Specific steps should include the formation and funding of a national commission composed of indigenous and United States government representatives who would develop a United States-specific action plan for the Decade. This plan would complement the international action plan and also provide a national forum for indigenous groups to raise issues relating to the development of international standards on indigenous peoples and how that process should influence United States Indian policy. (The complete text of the recommended activities for States as part of the draft program of activities for the Decade is included in Appendix A to this paper.)

4. In conjunction with the formation of a national commission for the International Decade, establish a clearinghouse on international indigenous issues that would be responsible for compiling and disseminating materials on the Decade, especially documents relating to international and domestic standard-setting on the rights of indigenous peoples. The clearinghouse could either become part of the activities of the national commission, or could be housed within one of the United States-based indigenous NGOs or national Indian organizations. Since both options would require funding, the United States should be asked to provide all or part of the funds as a demonstration of its commitment to the goals of the Decade.
5. Support the work and recommendations of the special rapporteur on the treaty study, whose final report is due this year. The study provides Indian tribes a unique opportunity to present, through an international study, an account of their historical dealings with the United States as confirmed in treaties and other legal instruments.<sup>43</sup>
6. Apply to the Office of the Coordinator for the International Decade, U.N. Centre for Human Rights, for certification to participate in the sessions of the Commission on Human Rights' inter-sessional working group on the elaboration of a draft declaration on the rights of indigenous peoples. The inter-sessional working group meets each year in Geneva. Its next session has been scheduled for October 27 through November 7, 1997.<sup>44</sup>

Resolution 1995/32 of the Commission on Human Rights outlines the process for participation in the inter-sessional working group. In the resolution, the Commission speaks of the "participation of other relevant organizations of indigenous people, in addition to non-governmental organizations in consultative status with the Economic and Social Council." Because Indian tribes are vested with the inherent powers of a sovereign, there could be some question as to whether the phrase "organizations of indigenous people" is meant to include tribal governments. Presumably, an indigenous governmental organization would be eligible to apply. Indian

tribes, however, are not mere governmental organizations. They are the government itself. This ambiguity in the accreditation appears to have been resolved by a liberal construction and application of the term *organization*. At least one North American Indian tribal government has been accredited under the procedures outlined in Resolution 1995/32.<sup>45</sup>

Applications should be sent to the Council Committee on Non-Governmental Organizations for review and consultation with the State concerned (the United States).<sup>46</sup>

### III. CONCLUSION

International discussion of human rights issues has increasingly focused on the nature and content of the rights of indigenous peoples. In every part of the world there are peoples who identify themselves as tribal or indigenous and who seek the right to self-determination. Most of these movements and struggles for self-determination are centuries old, are rooted in past injustices, and find expression in terms such as cultural integrity and autonomy. Ultimately, they reflect varying degrees of the indigenous peoples' separation in status, in both a political and territorial sense, from that of the State. The struggles of these peoples, expressed in contemporary terms through the human rights mechanisms of the U.N. and other international bodies have, at long last, resulted in their aspirations being moved to the forefront of the international human rights agenda.

This increased international dialogue on indigenous issues, however, has not been free of conflict. Some States have expressed the fear that nascent indigenous nationalism threatens the integrity of States and have raised questions concerning the definition and rights of indigenous peoples, especially the right to self-determination. Others contend that the relationship between States and indigenous peoples within their territories is a matter of domestic, rather than international, concern. Still, in spite of this resistance, the number of States participating in the international dialogue is increasing and the potential for progressive changes in the relationship of States and indigenous peoples seems greater than ever. But there is still much work to be done, and the momentum created by the recent completion of a draft declaration on the rights of indigenous peoples must be sustained by broad, active participation from indigenous peoples and organizations in the continuing review



of the draft by the United Nations Commission on Human Rights.

Indian tribes and national Indian organizations in the United States can and should participate actively in these international activities. Their participation is especially important in the review of the draft declaration, the completion of the U.N. Treaty Study, and the development of a United States plan to implement the U.N. program of action for the International Decade of the World's Indigenous People. It is only through such participation that the aspirations of the tribal and indigenous peoples of the United States and elsewhere may eventually be translated into the concrete reality of international legal standards for the protection of their rights. United States-based indigenous NGOs and representatives have played a key historical role in pressing for and achieving major changes in the way that the U.N. and its constituent State members deal with indigenous peoples. It is now time for Indian tribes and national Indian organizations to participate more directly and actively, both in the international dialogue on indigenous rights and in the domestic dialogue with the United States government regarding the content of these rights and their implementation within the United States political and legal systems.

## APPENDIX A

### ANNEX I

#### **DRAFT PROGRAMME OF ACTIVITIES FOR THE INTERNATIONAL DECADE OF THE WORLD'S INDIGENOUS PEOPLE**

##### **A. Objectives**

Taking into account General Assembly resolution 48/163, the main objective of the Decade is the strengthening of international cooperation for the solution of problems faced by indigenous people in such areas as human rights, the environment, development, health, culture, and education.

The theme of the Decade is to be amended to "Indigenous people—partnership in action." This theme, while retaining continuity with that of the International Year, emphasizes that the focus of the Decade is on operational activities to strengthen international cooperation. Underlying the activities of the Decade are the principles of cooperation, consultation and participation of indigenous peoples.

The specialized agencies of the United Nations system and other international and national agencies, as well as communities and private enterprises, should devote special attention to development activities of benefit to indigenous communities.

A major objective of the Decade is education of indigenous and non-indigenous societies concerning the situation, cultures, rights, and aspirations of indigenous peoples. In particular, efforts should be made to cooperate with the Decade for human rights education.

An objective of the Decade is the establishment of institutions and mechanisms for the full and active participation of indigenous peoples at the international, regional, and national levels in matters of concern to them.

An objective of the Decade is to further the implementation of the recommendations pertaining to indigenous peoples in the Vienna Declaration and Programme of Action, in particular the recommendation that consideration be given to the establishment of a permanent forum for indigenous people in the United Nations system.

An objective of the Decade is the adoption of the draft declaration on the rights of indigenous peoples and the further development of international standards for the protection and promotion of the human rights of indigenous peoples, including effective means of monitoring and guaranteeing those rights.

The formulation of the objectives of the Decade should fix practical and quantifiable outcomes that will improve the lives of indigenous peoples and that can be evaluated half-way through the Decade and at its end.

## **B. Activities of the major actors**

### **1. United Nations observances**

A formal opening-day ceremony by the Secretary-General in New York in connection with the forty-ninth session of the General Assembly, with representation from indigenous people.

A formal observance each year on the International Day of Indigenous People, in New York, Geneva, and other offices of the United Nations.

Official observance of the Decade as part of the World Summit for social Development, the Fourth World Conference on Women, the United Nations Conference on Human Settlements (Habitat II), and other international conferences related to the aims and themes of the Decade.

Issuance of a special series of stamps by the United Nations Postal Administration highlighting the goals and themes of the Decade.

## **2. Activities of the Coordinator and the Centre for Human Rights**

Establish an adequately staffed and resourced indigenous peoples unit.

Request Governments to second qualified indigenous people, in consultation with interested national indigenous organizations, to assist in the administration of the International Decade of the World's Indigenous People.

Create a fellowship programme, in collaboration with the Advisory Services of the Centre for Human Rights, to assist indigenous people wishing to gain experience in the different branches of the Centre for Human Rights, and in other parts of the United Nations system. Such fellowships might be available for indigenous research and other similar activities.

Open a roster of indigenous organizations and experts in various fields who might be available to assist United Nations agencies as partners or consultants.

Create an advisory group of persons with relevant knowledge of indigenous issues, and acting in their personal capacity, to advise the Coordinator for the Decade and United Nations organizations, at their request. The members of this advisory group could include eminent indigenous persons, government representatives, independent experts, and officials of the specialized agencies.

Hold annual coordination meetings of Governments, organizations of the United Nations system, and indigenous and non-governmental organizations to consider Decade activities and develop an integrated, action-oriented strategy to advance the interests of indigenous people.

Compile, on the basis of communications of the focal points in the United Nations system organizations, a regular newsheet containing information about meetings of interest, major or innovatory projects, new sources of funding, policy developments, and other news to be distributed to Decade partners.

Encourage the development of partnership projects to address specific regional or thematic issues bringing together Governments, indigenous people, and several appropriate United Nations agencies.

Establish a communications programme linking the Coordinator to the national committees for the International Decade, the focal points of the United Nations system, and to a network of indigenous organizations and communities; also develop a database of indigenous organizations and other relevant information, in cooperation with indigenous peoples, Governments, academic institutions, and other relevant bodies.

Prepare, in collaboration with the Department of Public Information, information about indigenous people for distribution to the general public.

Develop a research programme, in collaboration with Governments, United Nations departments, specialized agencies, and indigenous organizations, to aggregate data specific to indigenous people.

Organize meetings on relevant themes of concern to indigenous people.

Launch a series of publications on indigenous issues to inform policy makers, opinion-formers, students, and other interested people.

Develop a training programme on human rights for indigenous people, including the preparation of relevant training materials, when possible in indigenous languages.

Establish a board of trustees or advisory group, including indigenous people, to assist the Coordinator of the Voluntary Fund for the International Decade.

Develop, in collaboration with Governments, indigenous people and the appropriate United Nations agencies, projects and programmes for support by the Voluntary Fund for the Decade.

### **3. United Nations public information activities**

Production and dissemination of a series of posters using designs by indigenous artists.

Organization of a lecture series at United Nations Information Centres and campuses linked to the United Nations University, using indigenous speakers.

Publication in indigenous languages of the Universal Declaration of Human Rights and the draft declaration of the rights of indigenous peoples.

### **4. United Nations system operational activities**

Establish focal points for indigenous issues in all appropriate organizations of the United Nations system.

Adopt programmes of action for the Decade in the governing bodies of specialized agencies of the United Nations system in their own fields of competence.

Prepare, publish, and disseminate a manual containing practical information on how indigenous peoples could have access to agencies of the United Nations.

Develop research on the socio-economic conditions of indigenous peoples, in collaboration with indigenous organizations and other appropriate partners, with a view to publishing regular reports.

Establish appropriate mechanisms and practices to ensure the participation of indigenous organizations and experts in the design and implementation of national and regional programmes of concern to them.

Hold regular inter-agency consultations with indigenous peoples to exchange views and develop strategies on the programme of action for the Decade.

Hold consultations with national committees and development agencies to consider possibilities of cooperation in the activities of the Decade.

Develop training materials for indigenous peoples on human rights, including the translation of the main international instruments into different indigenous languages, and give them wide distribution. Consider the possibility of using radio programmes in order to gain access to indigenous communities not having written languages.

Prepare a database on national legislation on various forms of self-government or other matters of particular relevance to indigenous peoples.

Hold consultations of all interested parties on the themes of development, the environment, health, education, and culture with a view to elaborating possible programmes in these areas.

## **5. Activities of regional organizations**

Consider regional programmes of action to promote and support the objectives of the Decade.

Hold regional meetings on indigenous issues with existing regional organizations with a view to strengthening coordination, taking advantage of the United Nations system machinery, and promoting the direct and active participation of indigenous peoples of the different regions. The Working Group on Indigenous Populations could consider the possibility of holding its sessions in conjunction with these meetings.

Develop training courses and technical assistance programmes for indigenous peoples in areas such as project design and management.

Make funds at the regional level available to activities benefiting indigenous peoples.

Draw up regional instruments for the promotion and protection of indigenous peoples.

## **6. Activities of Member States**

Establish national committees for the Decade or similar mechanisms, to include indigenous people, all relevant departments and other interested parties, to mobilize public support for the various activities connected with the decade.

Use part of the resources of existing programmes for activities of direct benefit to indigenous peoples.

Develop, in collaboration with indigenous communities, national plans for the Decade, including main objectives and targets, fixing quantitative outcomes, and taking into account the need for resources and possible sources of financing.

Adopt measures to increase knowledge among the non-indigenous population, starting at the elementary school level, concerning the history, traditions, culture, and rights of indigenous peoples, with special emphasis on the

education of teachers at all levels.

Examine the possibility of ratifying ILO Convention 169, in close consultation with the indigenous organizations of each country.

Legally recognize the existence, rights, and languages of indigenous peoples, preferably through constitutional reforms and the adoption of new laws to improve their legal status and guarantee their territorial and economic rights.

Implement chapter 26 of Agenda 21 of the United Nations conference of Environment and Development and the relevant provisions of the Convention on Biological Diversity.

## **7. Activities of indigenous organizations**

Establish an information network which can be linked to the Coordinator and facilitate communications between the United Nations system and indigenous communities.

*International indigenous organizations should develop information for local communities concerning the goals of the Decade and the activities of the United Nations.*

Establish and support indigenous schools and university-level institutions and collaborate with the relevant United Nations agencies; participate in the revision of school texts and the contents of programmes of study in order to eliminate discriminatory contents and promote the development of indigenous cultures; develop indigenous curricula for schools and research institutions.

Create documentation centres, archives, and in situ museums concerning indigenous peoples, their cultures, laws, beliefs, and values, with material that could be used to inform and educate non-indigenous people on these matters. Indigenous people should participate on a preferential basis in the administration of these centres.

Establish networks of indigenous journalists and launch indigenous periodicals at the regional and international levels.

The major areas of concern for indigenous peoples are the funding of their activities and projects, territorial rights, respect for indigenous culture and rights, education, communication, environmental issues, health, recognition of their status as "peoples" and not "people", improvement of their living conditions, cultural, and intellectual property, consultation with indigenous peoples and support for their traditional political systems.

## **8. Activities of non-governmental organizations and other interested parties, including educational establishments, the media and business**

Cooperate with indigenous organizations, communities, and peoples in the planning of activities for the Decade.

Create radio and television centres in indigenous regions to provide information on the problems and proposals of indigenous peoples and to improve communication between indigenous communities.

Promote indigenous cultures through the publication of books, the production of compact discs, and the organization of various artistic and cultural events which enhance knowledge of and serve to develop indigenous culture.

Involve different social and cultural groups in the activities planned for the Decade.

## ANNEX II

### DRAFT SHORT-TERM PROGRAMME OF ACTIVITIES FOR THE DECADE JANUARY 1995-DECEMBER 1996

1995

#### **Theme: promoting social development and strengthening the role of indigenous women**

#### **First quarter**

Expert meeting on land rights and claims of indigenous people

Establishment of the Voluntary Fund for the International Decade of the World's Indigenous People

Preparation and dissemination of a presentation video on the Decade

#### **Second quarter**

Publication of the first book of a series on contemporary indigenous themes

Eighth session of the Voluntary Fund for Indigenous Populations

Establishment of a fellowship programme for indigenous people

Initiation of a communications programme linking the Coordinator to focal points of the United Nations system, national committees for the Decade, and indigenous networks

#### **Third quarter**

Technical meeting on the Decade to finalize recommendations for the programme of action, with the special themes of indigenous people and social development and indigenous women

Thirteenth session of the Working Group on Indigenous Populations

First session of the advisory group of the Voluntary Fund for the International Decade

International Day of Indigenous People, 9 August

### **Fourth quarter**

Inter-agency consultation on practical measures to implement the programme of activities for the Decade: under special consideration—a preliminary project outline for a systematic research programme on the socio-economic status of indigenous people

Regional workshop on indigenous women

Submission of the Secretary-General's final report on the programme of activities for the Decade

Publication of poster, brochure, media kit, and other information material for the Decade

**1996**

## **Theme: improving living conditions and health**

### **First quarter**

Preparation and dissemination of a manual containing practical information about United Nations organizations for use by indigenous organizations

Regional workshop on traditional medicine

Issuance of regular information on United Nations activities for the Decade to the network of focal points, national committees, and indigenous organizations

### **Second quarter**

Publication of the second book of a series on contemporary indigenous themes

Ninth session of the Voluntary Fund for Indigenous Populations

### **Third quarter**

Technical meeting on the Decade, with the special theme of indigenous people and their living conditions and health

Fourteenth session of the Working Group on Indigenous Populations

Second session of the advisory group of the Voluntary Fund for the International Decade

International Day of Indigenous People, 9 August



## **Fourth quarter**

Expert meeting on protection of the heritage of indigenous peoples

### **ANNEX III**

#### **Possible themes for years and projects**

1995	Promoting social development and strengthening the role of indigenous women
1996	Improving living conditions and health
1997	Restoring relationships with land and resources
1998	Language, education, and culture
1999	Law, justice, and human rights
2000	Achieving environmentally sound development
2001	Work
2002	Self-government and self-determination
2003	Peace and security
2004	Partnership in international action

### **APPENDIX B**

#### **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 (XLIV) 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 (XLIV), 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 organizations of indigenous people potentially interested in contributing to and participating in the Working Group.

## NOTES

1. This article was originally written in October 1995. In the intervening two years, the work of the United Nations and indigenous peoples has progressed on a number of fronts, though more slowly than hoped for, especially with respect to efforts to reach accord on the basic text of the Draft Declaration on the Rights of Indigenous Peoples. Where practical, the author has attempted to update the original text to include more recent developments.

2. The term *States*, as used in this paper, means the sovereign nations that

are members of the United Nations, not their constituent units. It does not refer to states such as California, Arizona, or Nevada, which comprise the United States of America.

3. This is not to say that Indian organizations in the United States are unaware of the United Nation's activities with respect to tribal and indigenous peoples. In December 1993, the National Congress of American Indians (NCAI) adopted Resolution NV-93-11, a Resolution to Support and Promote the Adoption of the Draft U.N. Declaration on the Rights of Indigenous Peoples.

4. G.A. Res. 163, U.N. GAOR, 48th Sess., Supp. No. 49, A/48/49 (Vol. I), at 281 (1994).

5. In Resolution 49/214 (December 23, 1994), the General Assembly established the operational focus of the decade as "Indigenous people: partnership in action." G.A. Res. 214, U.N. GAOR, 49th Sess., Supp. No. 49, A/49/49 (Vol. I), at 237 (1995).

6. U.N.Doc. A/49/444 (September 28, 1994).

7. *Ibid.*, note 5, at 239, ¶19.

8. G.A. Res. 157, U.N. GAOR, 50th Sess., Supp. No. 49, at 219, U.N. Doc. A/50/49 (1996).

9. ILO, *Official Bulletin*, vol. LXXII, 1989, Ser. A., no. 2, p. 63; entry into force: September 5, 1991.

10. Convention No. 107 (1957), Convention Concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries. This convention remains in force for those States that have ratified it but have not ratified the revising convention, Convention No. 169.

11. Bolivia, Colombia, Costa Rica, Denmark, Guatemala, Honduras, Mexico, Norway, Paraguay, and Peru. The convention entered into force on September 5, 1991. (*Found at* URL=<http://ilolex.ilo.ch:1567/public/50normes/ilolex/sqcggi/query>, visited on August 19, 1997.)

12. Preamble to Convention No. 169.

13. Article 1(2) of Convention 169 states that the principle of self-identification is "a fundamental criterion for determining the groups to which the provisions of this Convention apply,...."

14. G.A. Res. 120, U.N. GAOR, 41st Sess., Supp. 53, A/41/53, at 178 (1987).

15. Statement of Madame Erica-Irene A. Daes, chairperson of the WGIP. Technical review of the United Nations draft declaration on the rights of indigenous peoples, U.N. Doc. E/CN.4/Sub.2/1994/2 (April 5, 1994).

16. This issue also has been raised in preliminary discussions on the establishment of a permanent forum on indigenous peoples within the United Nations. A workshop on this issue was held on June 26-28, 1995, in Copenhagen, Denmark, in which representatives from both State governments and indigenous groups participated. The report of the workshop reflects the concern of some participants that "in the absence of a universally applicable definition, discussions on a possible permanent forum would be impossible." U.N. Doc. E/CN.4/Sub.2/AC.4/1995/7, at 4, ¶10 (July 12, 1995). The

Commission on Human Rights has requested that the High Commissioner, Center for Human Rights, convene a second workshop prior to the 1997 session of the WGIP, drawing upon the results of the Copenhagen workshop. See Resolution 1997/30, found at URL=<http://193.135.156.15/html/menu4/chrres/1997.res/30.htm>, visited on August 19, 1997.

17. Articles 1(2) and 55 of the U.N. Charter refer to "the principle of equal rights and self-determination of peoples." Common Articles 1(1) of the 1966 International Covenants on Civil and Political Rights, and on Economic, Social and Cultural Rights include the statement: "indigenous peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."

18. One article concludes that the content of the right to self-determination for indigenous peoples is equated "with... 'internal' self-determination in contradistinction to 'external' self-determination," which may only come into play if representative government fails. Brolman and Zieck, "Some Remarks on the Draft Declaration on the Rights of Indigenous Peoples," 8 *Leiden Journal of International Law* (1995): 103, 107-08. The authors criticize the draft because it does not completely renounce the possibility of "external" self-determination, which includes the right to secession under certain circumstances, and because the right of "internal" self-determination, as stated therein, implies a right to autonomy that sets up a competing nationalism within the boundaries of the State. *Ibid.*, at 111.

19. This "absolutist concept" of the right to self-identification may "stretch the concept of 'indigenesness' beyond credulity, and increase the level of state resistance to the recognition of indigenous rights and status under international law." Corntassel and Hopkins Primeau, "Indigenous 'Sovereignty' and International Law: Revised Strategies for Pursuing 'Self-Determination'," 17 *International Human Rights Quarterly* (1995): 343, 365.

20. In his 1971 study, Cobo provided the following definition of *indigenous peoples*: "Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems." See technical review of the United Nations draft declaration on the rights of indigenous peoples, U.N. Doc. E/CN.4/Sub.2/1994/2, at 3, ¶10 (April 5, 1994).

21. P. Thornberry, Keele University, "Indigenous Peoples: Reflections on Concept and Definition," a paper presented to the Working Group on Indigenous Populations at its 1995 session. Thornberry further reflects that if there is to be a definition, "[t]he identification of a cluster of relevant elements in the concept of indigenous has much to recommend it. It is important not to produce a narrow result and attempt to reduce indigenesness to only one

'supreme' factor." In other words, functionality and flexibility should be the key requirements.

22. U.N. Doc. E/CN.4/1995/2-E/CN.4/Sub.2/1994/56, at 103 (October 29, 1994).

23. See Commission on Human Rights Resolution 1995/32, U.N. ESCOR, 1995, Supp. No. 3, at 110, U.N. Doc. E/1995/23-E/CN.4/1995/176 (March 3, 1995).

24. *Ibid.*, Annex to Resolution 1995/32 of the Commission on Human Rights.

25. Report of the Working Group established in accordance with Commission on Human Rights Resolution 1995/32 of 3 March 1995, U.N. Doc. E/CN.4/1996/84 (January 4, 1996).

26. U.N. Doc. E/CN.4/1997/102 (December 10, 1996).

27. ECOSOC Resolution 1988/134 (May 27, 1988), U.N. ESCOR, 1st Sess. 1988, Supp. No. 1, at 51, U.N. Doc. E/1988/88 (1989).

28. ECOSOC Resolution 1989/77 (May 24, 1989), U.N. ESCOR, 1st Sess. 1989, Supp. No. 1, at 62, U.N. Doc. E/1989/89 (1990).

29. The International Indian Treaty Council, a United States-based indigenous NGO with offices in San Francisco, California, first proposed a treaty study in 1977.

30. Report of the Working Group on Indigenous Populations, Annex III, Outline of the Study on Treaties, Agreements and Other Constructive Arrangements Between States and Indigenous Populations by Special Rapporteur, Miguel Alfonso Martinez. U.N. Doc. E/CN.4/Sub.2/1988/24/ Add.1, at 3, ¶10 (August 24, 1988).

31. *Ibid.*, at 6, ¶s 21-23.

32. In September 1994, California Indian Legal Services (CILS) submitted answers to the special rapporteur's questionnaire. In its responses, CILS focused on the eighteen unratified California Indian treaties, highlighting the disastrous effects of the U.S. Senate's refusal to ratify the treaties, including the widespread impoverishment and the near-extinction of California's indigenous peoples. CILS recommended comprehensive remedial measures in the form of legislation to redress the status and funding problems of California's tribes, especially the unacknowledged tribes.

33. U.N. Doc. E/CN.4/Sub.2/1996/23 (August 15, 1996).

34. Some Indian tribes from the United States have used the various U.N. human rights fora, including the WGIP and the Sub-Commission, to raise issues concerning their rights as indigenous peoples. In the Sub-Commission, this has been done through indigenous NGOs, such as the International Indian Treaty Council, the Indigenous World Association, and the Indian Law Resource Center.

35. The term *recognition* is a misnomer in the sense that indigenous peoples claim they are already separate nations and, as such, *always have had* the right to self-determination.

36. See *supra*, text accompanying note 15.

37. At the historic Tribal Leaders Meeting with President Clinton on April 29, 1994, NCAI President gaiashkibos stressed the need for the United States to embrace a policy of real self-determination for all indigenous peoples, and urged the president and the nation to take the lead in ensuring passage of the draft U.N. declaration on the rights of indigenous peoples.

38. On April 2, 1992, the United States Senate ratified the International Covenant on Civil and Political Rights (ICCPR), eighteen years after it was signed by President Jimmy Carter. Subsequently, in 1995 the United States presented its initial report on compliance with the ICCPR to the U.N. Human Rights Committee, as required by Article 40 of the ICCPR. This periodic reporting requirement places United States' compliance within the provisions of the ICCPR, including the right of self-determination of peoples (Article 1), under public scrutiny. An active United States' role, in partnership with Indian tribes and Indian organizations, to implement a national plan for the International Decade would be consistent with, and would further implementation of, the United States' obligations under the ICCPR. This kind of partnership can only enhance the United States' international standing on human rights issues.

39. The following indigenous NGOs have ECOSOC consultative status: Aboriginal and Torres Strait Islander Commission (Australia), Grand Council of the Crees (Canada), Indian Council of South America (Peru), Indian Law Resource Center (United States), Indigenous World Association (United States), International Indian Treaty Council (United States), International Organization of Indigenous Resource Development (Canada), National Aboriginal and Islander Legal Service Secretariat (Australia), Sami Council (Finland), and World Council of Indigenous Peoples (Canada). See, *List of Indigenous Organizations*, U.N. Doc. E/CN.4/Sub.2/AC.4/1994/CRP.1 (June 1, 1994), for a list of over 200 indigenous peoples, nations, and organizations that have participated in some capacity at the United Nations.

40. With financial assistance from the Voluntary Fund on Indigenous Populations, fifty-two indigenous participants were able to attend the July 1995 session of the Working Group on Indigenous Populations in Geneva. Report of the Working Group on Indigenous Populations at its thirteenth session, U.N. Doc. E/CN.4/Sub.2/1995/24, at 11, ¶ 30 (August 10, 1995).

41. In its Resolution 48/163 of December 21, 1993, the General Assembly authorized the secretary-general to establish a voluntary fund for the International Decade and accept contributions from State governments and other entities. The Voluntary Fund is intended to support projects in all the areas identified in the resolution and is also a "source of funding for consultations, information activities, publications, meetings and other activities that promote the objective of the Decade." Preliminary report on a comprehensive programme of action for the International Decade of the World's Indigenous People, U.N. Doc. A/49/444, at 14, ¶ 56 (September 28, 1994).

42. *Ibid.*, at Annex I (Draft programme of activities for the International Decade), Item 6, page 21. A copy of Annex I is included as Appendix A to this paper.

43. With reference to California's unacknowledged tribes, it is hoped that the treaty study will reflect information provided to the special rapporteur on the eighteen treaties negotiated during 1851 and 1852 between the United States and various tribes and bands of California Indians, but subsequently rejected and placed under seal by the United States Senate. The treaties are not only historical evidence of the government's bad faith, but have particular relevance today. The treaties' unfulfilled promises are the source of continuing problems concerning tribal status, lack of adequate land and housing, and denial of basic health, education, and welfare services to many California Indians.

44. Commission on Human Rights Resolution 1997/31, *found at* URL=<http://193.135.156.15/html/menu4/chrres/1997.res/31.htm>, *visited on* August 19, 1997.

45. The Lummi Indian Business Council is listed as an observer/participant in the inter-sessional working group's report on its 1995 session. U.N. Doc. E/CN.4/1996/84 (January 4, 1996).

46. The procedure for application and the required information to be provided are set forth in the Annex to Resolution 1995/32 of the Commission on Human Rights, a copy of which is included in Appendix B to this paper.