

EVALUATION REPORT
FOR THE INTERNATIONAL FIRST DECADE
OF THE WORLD'S INDIGENOUS PEOPLE
1995-2004

Executive Summary

Translated by Pedro Fco. Garcia Obregon

Mexico City, May 2006

INDEX

Introduction.....	4
I. THE INDIGENOUS PEOPLES OF AMERICA AT THE END OF THE 20TH CENTURY AN THE BEGINNING OF THE 21ST	6
II. THE STATE OF THE ECONOMIC AND SOCIAL DEVELOPMENT OF THE INDIGENOUS PEOPLES OF LATIN AMERICA AND THE CARIBBEAN DURING THE FIRST DECADE 1995-2004.....	9
II.1. Background.....	9
II.2. Economic and social development or verification of indigenous poverty?.....	10
II.3. Indigenous development options.....	14
III. EVALUATION OF THE INTERNATIONAL FIRST DECADE OF THE WORLD'S INDIGENOUS PEOPLE 1995-2004.....	18
III.1. A limited good: the Decade of the Indigenous People.....	18
III.2. The long path towards the Decade	19
III.3. The proclamation of the decade and the establishment of an activities program.....	26
III.4. The Working Group on Indigenous Populations and the Decade.....	33
III.5. The <i>Declaration</i> and Vienna's <i>Programme of Action</i>	37
III.6. The ILO, the Convention No. 169 and the Decade of the Indigenous People.....	39
III.7. The Special Rapporteur on the situation of Human Rights and Fundamental Freedoms of the Indigenous People in the final years of the Decade.....	41
III.8. The creation of the Permanent Forum on Indigenous Issues, equal representation and the mandate.....	47
TEPOZTLAN DECLARATION.. AFTER THE DECADE OF THE WORLDS INDIGENOUS PEOPLE SUMMARIES AND PERSPECTIVES.....	53
RECOMMENDATIONS.....	57
For the United Nations System.....	57
For the Inter-American System.....	58
For the States.....	59
For the universities.....	61
For the indigenous people.....	61

Preliminary Note

With the sponsorship of the Programa Universitario México Nación Multicultural (PUMC), of the Universidad Nacional Autónoma de México (UNAM), in coordination with the Rigoberta Menchú Foundation, 25 indigenous leaders of America met, from the 10th to the 12th of October of 2004 and drafted the *Tepoztlan Declaration*, about the *International First Decade of the World's Indigenous People 1995-2004* (which we reproduced at the end of the Summary). The 12th of October, the indigenous leaders and the UNAM Rector, Juan Ramon de la Fuente, signed the *Pacto del Pedregal*, a document that contains two tasks where the aid of the university was petitioned: 1) the elaboration of a *Report on the Decade's 1995-2004 evaluation*; and 2) the development of a follow-up and evaluation model, with adequate cultural indicators, for the Second Decade 2005-2014. The PUMC was designated to be responsible for making sure both tasks are completed, in coordination with the *Comisión de Seguimiento del Pacto del Pedregal*, chosen by the indigenous leaders.

The composition of the extensive *Report*¹ and of the *Executive Summary* was coordinated by Carlos Zolla, in the PUMC site, in Mexico. Dr. Nina Pacari (Ecuador) and Myrna Cunningham (Nicaragua), members of the Commission, revised in Mexico- from the 14th to the 17th of march and from the 2nd to the 5th of April, respectively-, the original texts, formulating numerous observations and additional proposals to the document. The draft of the extensive *Report* was sent to the *Tepoztlan Declaration* signers. The widespread diffusion of the *Report* will take place in October of 2006. Interested parties can ask for a copy via e-mail to: pumc.investigacion@gmail.com, or via regular mail addressed to:

Programa Universitario México Nación Multicultural/UNAM

Av. Río de la Magdalena 100 – Colonia La Otra Banda

C. P. 01090, México, D. F.

MÉXICO

¹ The extensive *Report* version contains the annexes *La población indígena de América y Los pueblos indígenas de América*, the referred Bibliography, and a series of Framed texts form indigenous organizations, U.N. agencies, researches and organizations of the international cooperation.

EVALUATION OF THE INTERNATIONAL FIRST DECADE OF THE WORLD'S INDIGENOUS PEOPLE

1995-2004

Executive Summary

Introduction

The balance of THE INTERNATIONAL FIRST DECADE OF THE WORLD'S INDIGENOUS PEOPLE 1995-2004 –proclaimed by the United Nations General Assembly by means of the 48/163 resolution- constitutes, for the indigenous communities, an unavoidable task. The importance of the matter is undeniable and centers great part of the aspirations and demands formulated by the indigenous communities from the first contacts of these communities with the National Societies, up to the ones sustained today within the Permanent Forum of Indigenous Issues.

The complexity of the evaluation does not derive solely from the difficulty of identifying, storing and analyzing documentation and data that give account to the multiple aspects that were put into play as a result of de Decade's proclamation and that should form part of an information system related to the indigenous communities of the world, which does not exist. In fact, the first obstacles, where the evaluation stumbles upon, are of a conceptual nature: the distinction between the world's indigenous *peoples* and *populations*- in the name of Decade itself- is of a political, judicial, demographic and cultural nature. Furthermore, in the Decade, did the primary target, try to emphasize the fortification of the cooperation or the fortification of the communities, like main addressees of the undertaken or programmed actions? The answers from either question derive –as was shown in the Decade- important complications of legal, political, financial or institutional nature. Achieving

consensus in regards as to what has to be understood, in this scope, as “autonomy”, “freedom of election”, “lands and territories”, “free, informed and previous consent”, “indigenous rights”, “participation”, “intellectual property”, tangible and intangible heritage”, “multiculturalism or intercultural” and above all, to pay special attention to the meaning and transcendence that these concepts earn in the indigenous views of the world, is still an essential task when creating –and deciding- declarations and agreements.

The same fact that many nations did not recognize as indigenous their native communities, or the approval of legal instruments that excluded them, made those communities invisible, or diluted them into other social categories (peasants, marginalized, poor), and the lack of standards from the United Nations disclosed the acute contradictions that hindered the achievement of one of the most important objectives addressed in the United Nations for the First Decade –the approval of the Declaration on the Rights of Indigenous Peoples- as well as with the red tape found within the system’s agencies, the weak articulation of the approved tasks in the action plan, the shortage of transferred resources for the cooperation and development of the indigenous individual, and the scarce and unequal fulfillment of the tasks and programs to which the governments of the member States had agreed. The general impression is that the first Decade materialized as a long-awaited commodity, although somewhat limited.

In light of the Decade’s accomplishments, the general balance is indicative of the importance and righteousness of the indigenous struggles and demands achieved by the Decade’s proclamation, the approval of the Declaration’s draft, the creation of the Permanent Forum, the continuity of the Working Group on Indigenous Populations activities or the appointment of the Special Rapporteur on the situation of Human Rights and fundamental freedoms of indigenous people, as well as the constitutional reforms in numerous countries, the creation of the Fund for the Development of Indigenous Peoples of Latin America and the Caribbean, the institutional reforms that gave way to the

creation of specialized organizations on the theme or the advancements in terms of policies that are starting to take into account the multicultural and intercultural aspects in countries where important groups of indigenous population exist. The indigenous mobilizations of 1992, on the 500th anniversary of the European conquest and colonization of America, and the degree of maturity of the indigenous movement constitute fundamental references in order to comprehend the basic transformations that took place during the Decade.

The proclamation of the Second Decade for the 2005-2014 period is viewed as an indicator of the importance of the indigenous theme and about its justified presence in the international and national agendas. Furthermore, it is fair to emphasize, the necessity of fulfilling unfinished tasks, of reverting historical exploitation, unequal and dismissive processes, and of generating and consolidating new social, economic, political and cultural relationships between the indigenous peoples, national societies and States still reticent to fulfill the contracted compromises.

I. THE INDIGENOUS PEOPLES OF AMERICA AT THE END OF THE 20TH CENTURY AND THE BEGINNING OF THE 21ST

For the indigenous peoples, it is essential that the census instruments, surveys and, in general, the demographic and socio-demographic systems effectively and periodically capture the magnitude of the indigenous population, its geographic location, the number and situation of their languages and dialects, the access to basic services and the States' jurisdiction; as well as the fecundity, morbidity and mortality rates, schooling, quality of the land and natural resources, employment and immigration, giving account of the conflicts in which the indigenous peoples appear to be involved, generating inventories of environmental and cultural goods, that will allow them to effectively control their own projects and development. Experience shows the necessity to introduce an ethnic-cultural perspective

into the statistics, developing and applying registry tools that are receptive of diverse, multicultural and intercultural environments.

In spite of the advancements achieved in the Decade in regards to census registry of the indigenous population, it is remarkable how vague the diversity figures on indigenous populations (often for a same country) that are frequently mentioned in important government documents, UN agencies, international cooperation organizations or the multilateral banks. Time and time again, we have read that “the indigenous population in America has been estimated between 40 to 60 million of inhabitants” (WHO), “the total number of indigenous peoples in Latina America is estimated to be around 40 million of inhabitants” (IDB), “the total of indigenous individuals in Latin America and the Caribbean ranges between 33 and 40 million” (IDB), “Latin America shelters four-hundred indigenous communities, approximately 50 million persons” (Institute for Connectivity in the Americas-ECLAC) or “the indigenous peoples represent 45 million people which conform the 400 different indigenous communities, located in 24 countries from the American Region. This number represents the 6% of the total American populations, 10% of the total Latin American and the Caribbean populations and 40% of the total, Latin American rural population” (PAHO).

The global numbers are accepted as valid because they were originated from international organizations, without a critical examination from the countries that are included in the demographic charts. In any case, these “calculations”, “estimations” or “approximate magnitudes”, show: the conceptual and instrumental limitations of censuses, surveys and samplings, the heterogeneity which results of the lack of consensus between countries in order to apply common categories, the diverse and numerous mechanisms of exclusion, and above all, the need to correct them. The experience obtained from the historical and conceptual analysis of the demographic series we took for our *Report* show: a) the application of excluding categories of indigenous population’s important segments (i.e., the restricted registration of “indigenous language speakers, with age groups of 5, 6, 14 years or more); b)

the partial “samplings” to “estimate” whole populations; c) the inadmissible use of categories like “race” or “color” (to the absurd extent of registering population as “white-black”, “pure yellow” or “yellow-indigenous”); d) the censuses that, directly, do not register the indigenous population, and finally, e) the fluctuations imposed by public policies: this is how we see that when the cultural homogenization policies about indigenous affairs were dominant, a sub-enumeration was observed from the indigenous peoples, whereas, when regional governments have granted more importance to the indigenous communities and to the necessity of capturing their greatness, the numbers have increased significantly, and the methodologies of the registry systems have progressed as well.

The “statistical ethnocide,” as numerous anthropologists and demographers have named, impacts, or is directly associated to government related programs and actions (and from international cooperation as well), in a structure that goes from denial of the existence of the communities or people, to the disregard of risk factors of communities and languages, even the budget reductions or the non-fulfillment of international compromises signed related to human rights, lands and territories, health, education, housing, communication or production loans. Throughout America, we found that 24 countries do not register their indigenous population, being the most worrisome cases those of El Salvador, Honduras and, mainly, Peru. The indigenous population of Ecuador has been reduced, according to their official numbers, to 6% of their entire population, while in Mexico there are two *official* types of indigenous peoples, the “registered” populations and the “estimated” one, with a variation between them of more than 4 million people.

In our analysis, we corroborated that *if we abide by the official figures provided by 21 countries*, America possess 38,504,026 indigenous individuals, a figure that is *well below all of the estimations done by demographers and experts*. In contrast, the censuses, surveys, language and anthropologic literature atlases about *America’s indigenous peoples*, demonstrated that the number of what we were able to identify by means of these sources is of 840, instead of the 414 that were

registered and published in 1983 by UNESCO and the Inter-American Indigenous Institute. This fact ratifies the importance of indigenous diversity throughout the continent, proprietor, as is well know, of the largest amount of linguistic families in the world. To disdain the number, distribution and judicial situation of the indigenous peoples the study shows is another way to contribute to the concealment of the fragmentation processes we inherited form the Colony, to pretend that the use of defined demographic categories with oppressive ideologies and to minimize the indigenous cultural continuity in large territorial areas.

The scant impact, which the recommendations, formulated by organizations and experts, even by the indigenous intellectuals and own organizations, have had in the countries cannot be easily dismissed. Precisely, while examining the human development of the indigenous population in Latin America, during the 1994-2004 period (referring to the first Decade), two experts form the World Bank pointed out that: “At this present time, neither the censuses nor the home-based surveys, have a systematic methodology of meticulous identification of the indigenous peoples. Therefore, the elaboration and use of a standardized questionnaire is recommended when surveys are used by separate countries in different years.” This, among many others, is one of the lessons obtained form the conclusion of the International Decade of the World's Indigenous People.

II. THE STATE OF THE ECONOMIC AND SOCIAL DEVELOPMENT OF THE INDIGNEOUS PEOPLES OF LATIN AMERCIA AND THE CARIBBEAN DURING THE FIRST DECADE 1995-2004

II.1. Background

Like in previous periods, the UN elaborated and promoted, during the Decade, worldwide reports about diverse issues considered priorities in the policies of the organizations and that usually related to their specialized agencies and organizations: agriculture and nutrition, commerce and

development, human development, childhood, the environment, women, peace, populace, intellectual property, refugees, healthcare, etcetera, besides special reports related to diverse issues. The presence of the indigenous matter to them is, to say the least, unequal; their situation is usually alluded to the position of exemplifying certain problem areas, such as: poverty, discrimination, inequality, “invisibility” and exclusion, cultural differences, restricted access to basic services, lower life expectancy or high percentage of migration. A classic reference in the matter, the *Estudio del problema de la discriminación contra las poblaciones indígenas* (better known as the *Informe Martínez Cobo*), which touched a wide array of subjects related to the indigenous world, is a document that stands out for its transcendence and for its solitude: practically, there is no similar work that offers a glimpse into the set of actual circumstances of the world’s indigenous peoples. The *Informe Martínez Cobo* had, among other virtues, displaying that the indigenous theme crossed most of the many social life themes.

Absurdly, this occurs at a time where, despite important information voids, the quantity of data the subject generates by social and environmental sciences is quite abundant, or by organizations like the World Bank, the IADB or the ECLAC, and by projects in which the UN’s own agencies collaborate or participate, mainly, when the UN- specially through the United Nations Development Plan (UNDP) - regularly publishes the *Human Development Report* and has originated the elaboration of national *Human Development Report*. According to the UNDP, of the 60 reports that were published during the Decade about American countries, only in 15 reports did we find information regarding indigenous peoples (ranging from a complete chapter to a mere statistical chart). This is a serious matter, and it might constitute the opportunity for the indigenous peoples, in close collaboration with public universities within their region, to rely on follow up and systematic evaluation tools for the Second Decade, declared for the 2005-2014 period.

II.2 Economic and social development or verification of indigenous poverty?

Still recognizing the precarious information base, which offers few possibilities of doing comparative analysis, we have seen during the Decade's years a particular proliferation of poverty studies and, in particular, about *indigenous poverty*. The great theoretical and empirical problem that hinders most of these studies is that they conceive poverty away from the inequality frame, without references to the production of riches in which the indigenous peoples do participate- generally inserted in asymmetrical models.

Poverty is verified by illustrating it with data related to *education* (schooling, illiteracy, school desertion and gender), *health* (mortality divided in age, sex, cause and ethnic groups; morbidity, service access, use of traditional medicine and local resources for healthcare), *basic social infrastructure* (housing, drainage, drinking and tubed water availability or electricity) or *employment* (activity branches, wages, non-wage work, sub-employment, informal economies and participation in the workforce markets). Generally the information is truthful- although insufficient-, but the interpretations shows our inability or resistance to present structural analysis that illustrate the origins of poverty, not only a verification. The UNDP, in one of their reports about Chile, warned, "the vision, also, of the indigenous question as an exclusively poverty subject would reduce the complex topic to one of its variants and, therefore, would not manage to surpass the poverty nor the subordinated and discriminatory character of the indigenous peoples in Chilean society."

One of the grave consequences indigenous poverty studies have is that they tend to displace ethnicity (the differential ethnic condition) which in reality are relationships based on power and exploitations among some social sectors above others. For example, in the renowned study conducted by the World Bank, *Las poblaciones indígenas y la pobreza en América Latina* (in reality, it was a study of only four countries), expressions like this one, are found: "In Guatemala, the degree of inequality of incomes between the indigenous and non-indigenous populations combined en each region is higher than the inequality of incomes estimated between different groups. *This proves that the*

income inequality is clearly an inter-ethnic problem.” [The underlined part is ours]. The affirmation dangerously resembles those that qualify the struggles, demands and claims of the more helpless and excluded- for example, the immigrants of diverse ethnic groups that travel from their lands to the old, colonial metropolis- as “ethnic, inter-ethnic and cultural wars.”

This is not about minimizing indigenous poverty: any moderately documented study will ratify that the indigenous peoples are the ones that present the highest rates of marginalization, the lowest salaries, the most elevated percentages of child, mother and general mortality, the lowest life expectancy, the most severe limitations in regards to basic services access, adding land eviction, forced displacements in order to build “works of public interest” like hydroelectric or tolled highways, or for oil and mining exploitation.

When not linking, or by barely doing so, inequality with poverty, studies about indigenous poverty cannot explain accumulation processes that characterizes the region. Another study, from the World Bank (*Desigualdad en América Latina y el Caribe: ¿Ruptura con la historia?*) specifically points out: “Latin-America suffers from an enormous inequality. The country of the region, with the least income inequality is still the most unequal than any other country in the Organization for Economic Cooperation and Development (OECD) or from Eastern Europe. Poverty addresses, in addition, an invasive phenomenon that characterizes every aspect of life, like access to education, health and other public services; access to land and other assets; the functioning of dependable credit and labor markets, and the participation and influence of policies. Inequity is persistent also; in its modern form, inequality at a higher level originates from excluding institutions that have done so since colonial times, surviving different political and economic regimes, from interventionist strategies and import substitution to policies directed more towards the markets...(…) Inequality is a predominant aspect in Latin-American societies, referenced to income differences, service access, power and influence and, in many countries, treatment received from the police and the judicial system. According

to home-based surveys, the richest 10% of individuals receive between 40% and 47% of the highest total income of Latin-American societies, while the poorest 20% only receives between 2% and 4%.”

In numerous studies about indigenismo, in official programs and plans, in proposals of international and nongovernmental organizations, it was rather frequent to find the statement that the material poverty of indigenous communities contrasts with their cultural wealth. Indigenous peoples, it was said, were depositories of and immense language heritage, of medical and literary traditions, of ritualistic systems, of music, dances, celebrations and a notable and diverse utilitarian, ornamental, celebratory and religious craftsmanship. In good measure this line of discourse is still in force, but has broadened and reoriented towards the natural resources field, in part because of the influence of ecologic and conservationist movements, in part to the new development proposals and tendencies which, in the framework of globalization, see in indigenous territories not the “sanctuaries of biological diversity” but the important sources of exploitable, transformable and marketable (biodiversity) natural products. “It is in that sense –according to a study of the United Nations Environment Programme (UNEP) - that, along with the ancestral forms of intensive exploitation that characterized the ‘Third World looting’, today a conservationist natural exploitation is promoted. Biodiversity appears not only as an array of life forms, but as natural reservoirs –biologically and culturally diverse territories and habitats-, that today are being valued by their genetic wealth, eco-tourism resource or their carbon collecting function. If in the past, the modern-colonial ideal built sugar cane, banana, coffee and cotton *latifundios*, the new meaning of biodiversity for capital is leading to the generation of a new type of *latifundio*, the genetic one. (...) Recent policies revolving around biodiversity not only respond to a concern of loss of biological species and their important role in the ecological equilibrium of the planet. Biodiversity has been revealed as an enormous bank of genetic resources, which are the raw materials of the large-scale food and pharmaceutical consortiums, whose economic value now exceeds even those of oil corporations. On the other hand, for the countries and communities where the biggest bio-

diverse areas are located, they represent, for one part, the referent of cultural paths and meanings which are destroyed when converted into economic values; for the other part, biodiversity is the expression of the productive potential of an ecosystem, where the possible strategies for sustainable management are proposed, as well as the measures of cultural and economic appropriation of their resources.”

The advent of new studies about ingenious poverty with analysis that corresponds to the years of the first Decade, show –indirectly and unintentionally- the scant impact that the UN agencies, multilateral banks and governments of the region have had.

However, in addition, high conflict levels persist in indigenous regions, that erode the possibilities of an integral, harmonic and, above all, attuned to the ideas, projects and universal views of the indigenous peoples development. In spite of the limited number of visits and missions to the region’s countries that the Special Rapporteur on the situation of Human Rights and fundamental freedoms of indigenous people, at the end of the Decade, it is remarkable to note how many conflicts he was able to register, from those linked to the so-called “development mega-projects”, to corporate human rights, political, economic, social and cultural violations of the indigenous peoples. [In the complete report, we give detailed account of the more that 100 conflicts in American countries, denounced or hinted by the Special Rapporteur.]

Finally the slanted and partial outlook of indigenous poverty studies (where those with “the code of deficiencies” stand out) finally blends with the treatment of the indigenous peoples as “cultures” rather than social groups that could actually be part of their socio-economic development, maximizing not only the wealth in their territories and traditional knowledge, but in recognizing that they possess a vast, historical experience in world-related collaboration models and in non-accumulative and reciprocal exchange.

II.3. Indigenous development options

In spite of the reminders about the concept of human development (closer to the indigenous way of thinking and living, although limited in their vision about Earth) the most part of the approaches on the subject do not measure the real possibilities of indigenous development, instead they center their attention into the welfare benefits, reducing the basic, social infrastructure dowry, and end up suggesting to the States (and these, in their majority, accept the formula) to improve health and education.

Our aim is, to emphasize the possibility of forging authentic options of development for indigenous peoples, which, painfully, modern conflicts –so as not to refer to the colonial and nineteenth century situations) have put into evidence:

1. The indigenous communities were, and currently are being forced out throughout the continent, displaced from the water producing zones, from the regions rich in hydro carburets or from metallic and non metallic mining zones, from the woods, jungles, wetlands and, in general, from the areas with the highest biodiversity of the planet (the creation of “ecologic reservoirs” frequently bothered the native communities that lived there). Also from the regions where the landscape is identified for the mega-projects and tourist developments (including the eco-tourism and ethno-eco-tourism), from the beach fronts and coastal areas, from the lagoon systems and, even from traditional farm land that happen to pique developers interest in order to build new urban settings. In a few words, indigenous wealth passes to other hands and leaves the communities not only poorer but also skeptical towards promises of “a sustainable and integral development.”
2. Migration forced by poverty and unemployment has shown that “the poor make good business,” as the important monetary remittances from working migrants, directed to their home countries, are corroborated. Even the U.S. State Department, singled out the excessive cost of sending

money back home (up to an 18,5% in collection concepts plus the deductions of commissions from the exchange of dollars to national currencies). Furthermore, migration currents favor the economies of the countries where workers flock to, because of the availability of manual labor, low salaries or the money “saved” from not paying health care and social security. It goes without saying that large contingencies of indigenous migrants are looking for better options in terms of jobs and basic service access.

3. The land and farm crisis, in the majority of countries that have indigenous populations in Latin-America, not only has lowered the prices of national products, but has deteriorated the indigenous agricultural systems (i.e. the new Mesoamerican policultivation) and has propelled the substitution of native species for genetically altered organisms, generating new dependencies in terms of seed markets, technologies, fertilizers, etcetera.
4. The voracity not only focuses on the natural resources but also on the traditional indigenous knowledge, related to the historical selection of interesting medical and nutritional species. Not only do the mechanisms of asymmetric insertion in the indigenous regional and national economies persist, but also they are absent of all official development schemes on fair trade and supportive credits programs.
5. To revert the aforementioned point, might implicate the development of new associative systems and social work the preparation of investment, construction and administration projects, which the majority of governments do not have in place. It is necessary to guarantee the formation of economic subjects, integrated to the projects that, from that moment on, freely choose their social, cultural and political livelihood, the potential creation of jobs and new and own projects, the settlement of youth, the generation of educational expectations locally oriented; that is: real and present development instead of possible and declarative.

6. It is important to underline that the projects of productive development are not defined solely for their technical or economic viability, but from being associated to a social viability and cultural adequacy. That is, the option to generate inverse social conditions in indigenous communities, giving their territorial, natural and productive resources (local-regional) adequate worth, with advantages and/or market creation, technological and administrative improvements, productive re-conversion, generation of non-traditional jobs (specially for the younger prospects), security for invested capital, and, above all, control of their own development. From this perspective, it is the State's function to facilitate these associative processes, guaranteeing the equal generation of health for effective regional development.

III EVALUATION OF THE INTERNATIONAL FIRST DECADE OF THE WORLD'S INDIGENOUS PEOPLE 1995-2004

III.1 A limited good: the Decade of the Indigenous People

In general terms, the evaluation of the Decade 1995-2004 show the existence, as a certain Anglo-Saxon anthropologist would say, of a yearned albeit insufficient good. Moreover, it has to do with expectations being high before the Decade's proclamation, because it suggested that substantial structural and lasting changes, that would improve the living conditions of the indigenous peoples of America and the World, could be made; in achieving consensus to would approve fundamental standards, in the fluency and magnitude of development resources, in the creation of new participation and decision instances, even learning of the brief (and limited) the International of the World's Indigenous Peoples left behind.

According to multiple evidences- of which our *Report* tries to emphasize the most important ones-, accomplishments were well below expectations. Not disdaining what was accomplished: we were and still are the most interested social set in the consolidation of the spaces meant for interlocution and participation, in the defense of the new structures and tools for the protection of indigenous rights (economic, social, cultural, environmental, civic and political), in the indigenous contributions to public policies that eliminate inequality and encourage an intercultural agreement and the joining together with the UN system structure in order to affirm the content of their mandates and, by the same path, to reinforce their ethical, political and practical ethical authority. We cannot turn a blind eye toward the abyss that separates the declarations from the facts, before the loss of opportunities to achieve effective advancements that impede –like it has been repeatedly denounced from within the UN- the land and resources despoliation, discrimination, marginalization and forced assimilation, poverty, exclusion and uprooting, conflicts and violations of fundamental human rights. Thus, our critical view, but above all, constructive and hopeful.

III.2. The long path towards the Decade

The International Decade of the World's Indigenous People was proclaimed at the end of 1993 and effectively established for the 1995-2004 period. It could not be understood to its full extent the transcendence of this fact, if it was not mentioned the long, treaded path by the communities in their relationship with the U.N., dating back at least to 1970, when the Economic and Social Council (ECOSOC), through the Sub commission of Prevention of Discrimination and the Protection of Minorities “recommended the general and complete study of the discrimination problems against indigenous peoples.” Thirty-two years later, the Special Rapporteur, Dr. Rodolfo Stavenhagen, pointed out that “the United Nations system carries out many activities related to the indigenous communities. Among them, it is fair to point out; the periods of annual sessions of the Working Group on Indigenous Populations which, starting from 1982, examine the situation of indigenous people and formulate recommendations on the subject. Its main achievements have been the preparations of a ‘project of declaration of the United Nations on the rights of indigenous peoples’ that is actually being examined by the Commission of Human Rights. A similar declaration is being prepared in the American regional system. However, the only binding judicial instrument about indigenous human rights is the International Labour Organization Agreement No. 169, ratified up to this day, by 14 states.” We might add, that the diffusion between indigenous peoples Agreement No. 107 –during the 1957-1989 period– was practically non-existent, even to the point of ignoring their existence and judicial reaches by many civil servants and legislators of countries within the region, situation that persist with the No. 169 Agreement.

The facts mentioned are significant, at least in two types of problems: for one part, the red tape associated to procedures in the international sphere to provide agile and opportune solutions to reiterated demands raised by ample social sector of the planet, generally the poorest or discriminated; for the other, the scant, partial and reticent approval from the member States and governments with

resolutions that are thoughtfully approved in assemblies and United Nations forums, but that, the resolutions do not get unanimity of the member States- as it happens with the *Universal Declaration*, or the *American Declaration on the Rights of Indigenous Peoples*- or that they weakly impact the judicial framework and national and local public policies in the matter.

It would be naïve to assume that the approval or adoption of pacts, agreements, declarations or protocols in the United Nations bosom would judicially and morally empower them in order to facilitate –in the area’s countries- the reparation of historical inequalities, to generate new and improved conditions for the integral indigenous development, to obtain total respect to the lawful, consecrated rights, to protect and assist the more vulnerable groups (indigenous children, women an the elderly, for example), to guarantee access to basic services or to cause political participation. We realize that there is a new sensibility towards indigenous matters, a generation and extension of novel interlocution spaces, of the formulation and defense of theoretical, moral and political democratizing principles. Moreover, and we need to insist on it, we cannot, must not forget the assemblies, workgroups, conferences, workshops or meetings of experts sponsored by the United Nations constitute *one* o the scenarios where the struggles, demands and constructive purposes of the indigenous communities have been installed and that the repercussion of the conquests do not equally impact the member States (their institutions, policies and programs), financial corporations, transnational companies, political parties, churches, cooperation organizations or the multilateral bank. For that reason we emphasize that *the outcome of the International Decade of the World’s Indigenous People 1995-2004 cannot be limited, as some texts seem to suggest, to the relationship between indigenous communities and the complex structure of the United Nations System which, progressively, has “opened its forums” has “admitted us” or has “embraced us” The monitoring and periodic evaluation of the Second Decade will result in an essential task for the immediate future.*

The evident achievements of the indigenous movement in the international scenarios should not be confused in regards of the enormous difficulties that these communities face to make their voices heard, that the legitimacy of their demands be recognized, their rights respected and that the expected changes take place. Like the Secretary-General of the United Nations, Mr. Kofi Annan categorically stated, on August 9th 2003, as the International Day of the World's Indigenous People was commemorated: "...in this occasion let me remind you that dialogue in itself is not enough. We must pay special attention to the measures destined to protect the indigenous peoples rights and to improve their situation in respect of their lands, their languages, their way of life and their cultures. (...) Lest also remember the tremendous problems so many indigenous populations have to face, that range from the unacceptable levels of poverty and disease, to dispossession, discrimination and the denial of basic human rights."

Synthesizing lets try to remember the notable resolutions that, in the international level, in relation to the struggles and demands of the indigenous peoples, and in the period between 1972 to 1995 were presented and, in some cases, approved in the UN bosom. Viewed from the indigenous peoples perspective, the resolutions adopted and the proposals that still await consensus and approval offer a field immersed in light and shadow, that needs to be revealed in order to make the recently proclaimed Second Decade the ideal scenario for the complete development of the millions of indigenous people of America and the world. Lets remember then, the antecedents of the Decade, including some activities, announcements or resolutions that, although approved previous 1995, were prolonged over the years of the period we analyzed.

1. 1971. The naming, by the Sub commission of Prevention of Discrimination and the Protection of Minorities, in the role of Special Relator, Mr. José Martínez Cobo, with the order to make a

detailed study of discrimination against indigenous peoples and to recommend national and international measures to eliminate it.

2. 1972. A UNESCO agreement for the Protection of the World Cultural and Natural Heritage.
3. 1973-1982 International Decade to Combat Racism and Racial Discrimination.
4. 1977. ECOSOC. International NGO Conference on Discrimination against Indigenous Populations in the Americas.
5. 1978. UNESCO, Declaration on Race and Racial Prejudice.
6. 1978. WHO, Declaration of Alma Ata on Primary Health Care.
7. 1979. WHO, Creation of the Workgroup on Promotion and Development of Traditional Medicine
8. 1981. UN Assembly about “Indigenous Peoples and the Earth”
9. 1981-1984. Sub commission of Prevention of Discrimination and the Protection of Minorities. Publication of *Estudio del problema de la discriminación contra las poblaciones indígenas* (Informe Martínez Cobo)
10. 1982. Creation of the Workgroup on Indigenous Peoples, from the Sub commission of Prevention of Discrimination and the Protection of Minorities, which later, and responding instantly at the indigenous request, changed its name to Working Group on Indigenous Populations. (WGIP)
11. 1985. United Nations Voluntary Fund for Indigenous Populations.
12. 1986. Expert meeting convened by the Commission of Administrations for the revision of Convention 107 on Indigenous and Tribal Populations.
13. 1988. World Declaration on Sustainable Development (Manila Declaration)
14. UNESCO’s recommendation on safeguarding of Traditional and Popular Culture.

15. 1989. Convention No. 169 of the International Labour Organization Indigenous and Tribal Peoples in Independent Countries.
16. 1990. International Decade for the Elimination of Colonialism. (1990-2000)
17. 1991. The Fourth United Nations Development Decade. (1991-2000)
18. 1992. United Nations Conference on Environment and Development. (The Earth Summit, Brazil) Action Program. Program 21.
19. 1993. Presentation of the United Nations Declaration on the Rights of Indigenous Peoples Project.
20. 1993. Second World Conference on Human Rights (Vienna) where the creation of a permanent forum on indigenous matters was recommended.
21. 1993. PAHO, Indigenous Peoples of America and Health Initiative.
22. 1993. Third International Decade to Combat Racism and Racial Discrimination. (1993-2003).
23. 1993. Proclamation of the International Year of the World's Indigenous Peoples.
24. 1994. Proclamation of the International Day of the World's Indigenous Populations. (August 9. In commemoration of the first day of meetings of the Working Group on Indigenous Populations.)

In this long road towards the Decade –paraphrasing the expression used by our indigenous brothers referring to the “long road towards the Permanent Forum”-, our communities not only faced adverse, objective conditions that threatened life itself, but also governmental models that perpetuated poverty, exclusion, discrimination and racism, that persisted on “assimilating” and that disdained the indigenous people capacity to formulate alternative routes in terms of public policy. The same International Labour Organization reflected this situation by analyzing the limitation of Convention 107: “Among the more arguable aspects that figured [of the Convention], was the supposed premise that the only possible future for tribal and indigenous peoples, was the integration to the majority of the

national societies. Furthermore, that all of the decision related to development resided only on the State and not to the populations that could be affected by them. With the increasing conscience levels on part of the indigenous and tribal peoples during the decades of the sixties and seventies, and with the increasing participation of indigenous participation on an international level, these assumptions began to be questioned. During the 1970's decade, the United Nations began to study, in more detail, matters related to the indigenous and tribal populations, and at the same time, the indigenous peoples began to organize on an international scale. Then, the necessity to update the Convention 107 emerged. The Expert Meeting of 1986, convened by the Administration Council of the ILO, concluded that 'the integrating focus of the Conventions was obsolete and that its applications was harmful in this modern world.

Making a recount of the initiatives from the UN bosom related to indigenous peoples, United Nations High Commissioner for Human Rights pointed out: "Usually, there are notable similarities between the problems, complaints and different interests of the indigenous peoples, in spite of their cultural and ethnic diversity, and, therefore, in the manner in which they are presented before international forums. The participation of the indigenous communities and organizations in the United Nations assemblies has facilitated to differentiate these similarities. Frequently, -specially since new nations emerged after the decolonization that followed world war two- the indigenous peoples insisted in maintaining their identity, and their own cultural heritage. Now, a conclusion has been reached that, in general, assimilation and integrations policies destined to fully incorporate these groups into majority populations is highly counterproductive.

The creation of the Working Group on Indigenous Peoples (WGIP) constituted a substantial advancement for the global indigenous movement, because it was possible to have a specific instance within the United Nations, and to facilitate access to the meetings to other organizations, particularly the Economic and Social Council (ECOSOC). The work of the WGIP, the attendance of indigenous

and government representatives, of non-governmental organizations, experts and academics, and the debates to the core itself, contributed to the generation of fundamental information (for example, about the existence of indigenous peoples in all of the continents, their demographic, social, political economic, linguistic or cultural importance.), but also to impel measures that impacted on the formulation and reaches of national and international judicial tools, and in member States public policies.

This stage, before the Decade (that generally speaking corresponds to the 1971-1993 period) showed the difficulties -many of which still persist- of the indigenous peoples for: a) to have the information regarding international affairs, the initiatives in the UN center, the dimension and reach of the approved and proposed tools, participation modalities and, in general, the significance of the indigenous theme in the international field; b) effective access to the meeting of the United Nations system, generally limited by budget related issues, but also by the reticent support from governments towards indigenous representations, or by restrictive measures from the UN; finally, c) the enormous difficulties in order for the indigenous subject to appear, significantly, on the international agenda.

For Latin America and the Caribbean, the period that lasted, roughly, from the declaration of Barbados I (1971) to the proclamation (1993) of the International Decade of the World's Indigenous People (1995-2004), includes what to many social analysts and scientists have called "the indigenous emergency in America during the seventies, eighties and nineties." For purposes pertaining to this document, that period begins with the ethnocide denunciations in Latin America, the State's criticism to indigenismo, and the proposals for ethnic-development, that concludes in 1995, with culminating moments like the years 1989 (approval of the Convention 169 from the ILO), 1992 (with massive social mobilizations commemorating the 500 years of the arrival of Christopher Columbus to the Abya Yala islands), 1994 (with the rise of the Ejército Zapatista de Liberación Nacional, in Chiapas, Mexico) and through the years with the important indigenous movements in Bolivia, Ecuador, Nicaragua,

etcetera. Those ten years showed, in America at least: the theoretical and political contradictions of State indigenismo, the crisis of the agricultural products and the neo-liberal, structural reforms, and the incorporation of the indigenous people to new (always asymmetrical) development models with industrial poles that caused the accelerated migration from the farmlands to the cities; also, the growing organization process of indigenous peoples and communities with a renovated a more qualified demand of rights, the emergence of a new indigenous leadership and of identification processes without precedence, numerous indigenous struggles for land, for the defense of their rights, for better living conditions and for political participation, finally, for the more organic, articulate and notorious confirmation of ethno-political movements that today, constitute the backbone of a powerful indigenous current which is getting harder to ignore, disdain or exclude.

For the matter at hand, lets point out that when the conquests, at an international level, achieved by the indigenous people are enunciated in forums, working groups, assemblies or seminars, as a result of long and dramatic years of struggle, it does not constitute a rhetorical exercise that seeks to legitimize the indigenous presence in new spaces for expression. On the contrary, numerous struggles endorse these positions, which have not only awoken a new sensibility in extended social sectors, but also the gullibility, resistance and, in not too few cases, the most fierce persecution by the oppressive forces of antidemocratic governments, in conjunction with companies or corporations that exploit the environment, that invade indigenous territories and that consume their natural resources.

III.3. THE PROCLAMATION OF THE DECADE AND THE ESTABLISHMENT OF AN ACTIVITIES PROGRAM.

In the extended version of our document, we reproduced the Resolution 48/163 from the United Nations General Assembly that proclaimed the new Decade, we conserved, for this report, the most relevant passages. The General Assembly

“2. Decide that the Decade’s goal should be the strengthening of the international cooperation for the solution of problems indigenous peoples face in spheres such as human rights, the environment, development, education, health; (...) 6. Asks the Coordinator to coordinate the activities’ program for the Decade in cooperation and full consultation with governments, and competent organizations, the International Labour Organization and other specialized organizations within the United Nations System, indigenous peoples organizations and non-governmental institutions;

7. Requests to the specialized and competent organizations from the United Nations System to designate the entities that will be in charge of coordinating, along with the Human Rights Center of the Dependency the activities related to the Decade;

8. Invites the governments to watch over that the activities and objectives of the Decade are planned, and carried out through full discussions and collaboration from indigenous populations;

9. Requests to the specialized bodies, to the regional commissions and other organizations from the United Nations System to examine, along with governments and in association with indigenous populations, the best way to contribute to the success of the Decade, and that they transmit their recommendations to the Economic and Social Council;

10. Makes a plea to the specialized bodies, to the regional commissions, to the financial and development institutions and to other competent organizations from the United Nations system, so that their efforts to take into account the needs of the indigenous populations, in their programming and budgeting activities, increase;

11. Invites all of the indigenous populations' organizations, and other non-governmental organizations that are interested and considering in contributions that might facilitate the Decade's success, with sights on presenting them to the Working Group on Indigenous Populations;

12. Requests to the Human Rights Council that it petition to the Working Group on Indigenous Populations to determine possible programs and projects related to the Decade and to present them to the Commission through the Subcommittee of Prevention of Discrimination and the Protection of Minorities for their examination;

13. Recommends that adequate, human and financial resources be facilitated to the Human Rights Center in support of the activities carried out on relation to the indigenous populations, within the framework of the general fortification of their activities that is foreseen in the Declaration and in Vienna's Action Plan.

14. Requests to the Secretary General to establish a voluntary contribution fund for the Decade, and to authorize it to accept and administer voluntary contributions from governments, inter-governmental or non-governmental organizations, from other private sources, as well as particular ones, with the object of financing projects and programs during the Decade.

15. Urges the governments, inter-governmental and non-governmental organizations, to make voluntary contributions to for the Decade that the Secretary General establishes and invites indigenous populations to do the same.

16. Invites the governments, specialized bodies and organizations competent form the United Nations system and other inter-governmental institutions, including financial institutions, to consider the possibility of contributing additional resources to finance the allegiance of ideal personnel, including indigenous personnel, to the Human Rights Center, maintaining the due balance between the regions.

17. Encourages governments to establish national committees or other structures of more permanent characteristics, where representatives of the indigenous communities participate in order to plan the activities for the Decade;

18. Requests that the meeting that convenes from the compromises of Resolution 46/128 of the General Assembly of the 17th of December of 1991, to review the Year, also examines the preparations for the Decade with the full participation of the indigenous populations, mainly in respect to elaboration of a detailed action plan, including an evaluation mechanism, and the establishment of a financial plan for the Decade, and that the meeting presents a report to the Working Group of Indigenous Peoples;

19. Urges the specialized and competent bodies, programs and organizations from the United Nations system to, when planning the activities for the Decade, study different forms to utilize existing programs and resources in order to effectively favor indigenous populations, studying ways to incorporate or to foment indigenous activities and perspectives;

20. Requests to the Human Rights Council that in their 50th period of sessions they assign priority to the examination of establishing a permanent forum for indigenous populations within the United Nations System. (...)

22. Also requests to the Secretary General that it presents a preliminary report in its 49th session period and a final report in their 50th session period about a broad action plan for the Decade.

According to what expressed in the last section of the Resolution (number 23), the General Assembly approved the Decade's Activities Program, which was supposed to be the application guide for the period. The Decade formulated a set of objectives and goals, displayed under the slogan: "Indigenous Populations: Collaboration in action." In the UN's own words: "The Decade's objective is to strengthen international cooperation for the solution of problems indigenous populations face in matters of human rights, the environment, development, health, culture and education."

“In 1995, the General Assembly approved the Decade’s activities program and determined certain number of precise objectives:

- the development of activities, by specialized organizations within the United Nations system and other national and inter-governmental bodies, that will benefit indigenous communities
- to educate indigenous and non-indigenous societies about the culture, languages rights and aspirations of indigenous populations
- the promotion and protection of the rights of indigenous populations
- the application of the recommendations that relate to indigenous populations formulated in every international, top level conferences, among them the proposal to establish a permanent forum for the indigenous populations within the United Nations System
- the approval of the project of the United Nations declarations on the rights of indigenous peoples and the formulation of international standards, as well as national laws, for the protection and promotions of the indigenous populations human rights.

“The General Assembly recommended that the achievement of the Decade’s objectives will be evaluated, taking into account, if indeed the quality of life for indigenous populations had increased. It proposed that the progress made halfway into the Decade (1999) and at the end of it (2004) had to be evaluated.”

In the aforementioned sections about indigenous peoples at the end of the XX century and beginning of the XXI, and related to the state of economic and social development of the indigenous peoples of America, we gave account of the situation during the Decade. Along with the positive initiatives, there still persist fundamental structures of oppression, discrimination, exclusion, inequality and poverty. Among the first we point out:

1. 1994. Proclamation of the International Day of the World's Indigenous Peoples.
2. 1995. Declaration of Indigenous Women. Fourth World Conference on Women. Beijing China.
3. 1995. Workshop on a Permanent Forum on Indigenous Issues. Copenhagen, Denmark.
4. 1995. Regional Council of the South Pacific on Knowledge and Intellectual Property Rights of Indigenous Peoples.
5. 1996. Universal Declaration of Linguistic Rights from the World Conference on Linguistic Rights. Barcelona, Spain.
6. 1996. Expert Seminar on Practical Experiences regarding Indigenous Land Rights and Claims. Whitehorse, Canada.
7. 1997. Workshop on a Permanent Forum on Indigenous Issues. Santiago, Chile.
8. 1997. Inter-governmental Forum on Forests.
9. 1997. First International Conference on "Intellectual Property Rights of the Indigenous Peoples before the New Millennium." Madrid, Spain.
10. 1999. WHO. Geneva Declaration on the Health and Survival of Indigenous Peoples. International Council Meeting on the Health of Indigenous Peoples. Geneva, Switzerland.
11. 2000. Creation of the Permanent Forum on Indigenous Issues. UN, Washington D.C. Resolution 2000/22 of the Economic and Social Council (ECOSOC).
12. 2001. International Summit against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Durban, South Africa.
13. 2001. Declaration of the International Indigenous Forum on Biodiversity. Working Group on Access and Distribution of Benefits referred to the Convention about Biological Diversity. Bonn, Germany.
14. 2001. Resolution by which the figure of the UN Special Rapporteur on the situation of the Human Rights and Fundamental Freedoms of Indigenous Peoples.

15. 2001. Evaluation of the effects of Convention No. 169 from the ILO.
16. 2001. UNESCO Universal Declaration on Cultural Diversity.
17. 2002. World Summit on Sustainable Development. Johannesburg, South Africa.
18. 2002. Global Strategy for Traditional Medicine of the World Health Organization 2002-2005.
19. World Summit on the Information Society. UN, Geneva Switzerland.
20. 2003. Strategies and Action Plan 2003-2007 of the Initiative on the Health of the Indigenous Peoples of America. PAHO, Washington D.C.
2003. Creation of the Voluntary Fund for the Permanent Indigenous Forum.

It is evident that when specific situations are confronted by countries or region, with the proposals that should be carried out which are contained in pacts, conventions and declarations or recommendations generated in the period, the modesty of the advancements and the scarce coordination of the programs, projects and international and national, continental and local, are noticed. Two examples are enough: the first one, with data from the economic balancer sheet on Latin America and the Caribbean that the ECOSOC made at the same time it finalized the first Decade; the other related to the situation of women.

“The set of Latin American and Caribbean Economies –the Economic and Social Council pointed out- grew 1.7% in 2003. This favorably contrasts with the reduction of the gross domestic product (GDP) of .6% registered in 2002. Nevertheless, the recovery has been insufficient to revert the stagnation of the last few years, and the product per inhabitant is still 1.2% lower than in 1997. The gross formation of capital has been practically stuck in the current year and its actual level is 12.5% lower than the one registered five years back. The positive sign of the evolution of economic activity impelled a slight increase of the occupation rate. However, unemployment is still high, of 10.7%, and poverty has increased as well, ascending to 44% of today’s indigenous regions.”

The second example is: in the highest UN spheres, during the Decade, a persistent call of attentions was made about the situation on the indigenous women. What would have happened, we ask ourselves, if the task coordination of those summoned- and that stated their agreement on the declaration- for the substantial betterment of the women living conditions would have been achieved: ECOSOC, High Commissioner for Human Rights. ILO, WHO, UNICEF, UNIFEM, UNDP, UNFPA, UN-Habitat, UNEP, FAO, UNESCO, UNITAR, PMA, IOM, UNHCR, WIPO, World Bank, Inter-American Development Bank, ECLAC-CELADE, OAS, the Special Rapporteurs and the member States governments, NGO's (recognized or not by the UN), churches, private initiative, national organizations and commissions on human rights, the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean, the Inter-American Indigenist Institute, universities and the mass media, international cooperation bodies and the WTO, and the indigenous peoples of America organizations? In light of these possibilities –we insist, without taking any merit away from the initiatives celebrated and formulated by the indigenous communities-, isn't the evidence of a lost opportunity manifested?

It is not possible to offer a detailed account of what happened –or it could have happened or not- in each and every one of these working fronts. We emphasize, then, the situation in some of those structures which were specifically created to take care of indigenous matters or that, not having that condition, constitute an inevitable point of reference: the WGIP, the Vienna Conference, the ILO, and the Convention No. 169, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples and, naturally, the Permanent Forum on Indigenous Issues.

III.4. The Working Group on Indigenous Populations and the Decade

At the Decade's end, the Working Group on Indigenous Populations (WGIP) of the Subcommittee on Prevention of Discrimination and Protection of Minorities has been, for 22

interrupted years- until the creation of the Permanent Forum- the most important space for expression, reflection and debate on indigenous issues on the bosom of the United Nations.

Knowing the WGIP activities in light of the Decade's evaluation is opportune, in at least three aspects: a) the direction of the team as an instance specified by the UN that possessed the double duty of examining the events related to promotion and protection of human rights and fundamental freedoms of indigenous populations” and to “pay special attention to the evolution of standards relative to the rights” of the same communities; b) the progressive conversion of the WGIP into an expression, demand, negotiation, denunciation, and proposal forum for populations and communities' representatives and organizations, in a follow-up request (not always formal and fairly limited) of the resolutions and recommendations issued from diverse scopes within the United Nations; c) the preparations of documents that have become of great importance of the dialogue and debate on indigenous rights: the elaboration of the project of the Universal Declaration on the Rights of Indigenous Peoples, or *Los pueblos indígenas y la tierra y La soberanía permanente de los pueblos indígenas sobre sus recursos naturales*, prepared by Mrs. Erika-Irene Daes.

The detailed relation of the numerous activities that the WGIP has done over the years exceeds the limits of this report. The discussions carried out on important themes and the positions (often divergent) sustained by indigenous and governmental representatives, agencies from the United Nations system, non-governmental organizations, multilateral bodies, etcetera...stand out. The positions adopted by the WGIP –including their own continuity before the creation perspectives of the Permanent Forum- did not always find unanimous consensus or the support of the State member's governments. A testimony of this is found in the Editorial *Boletín Informativo* of March/April 2003: :The last session of the Commission on Human Rights ended with the adoption of four resolutions and two decisions in respect of the indigenous populations. *Two resolutions were particularly controversial: the resolution in favor of keeping the Working Group on Indigenous Populations*

(WGIP) was accepted because of the massive support form African, Central and South America, and Asian countries; the decision of naming Mrs. Erica-Irene Daes as Special Rapporteur for Indigenous peoples' permanent sovereignty over natural resources was rejected by many states but finally approved." [The underlining is ours.]. Therefore, in effect, various countries were in favor if removing the WGIP because of the creation of the Permanent Forum, under the "duplicity of functions" argument. The Commission on Human Rights adopted the Resolution No. 2003/05, by a 34 in favor, 15 against and 15 abstinence vote and indicated unequivocally that there was no duplicity of functions, and that the WGIP, Permanent Forum and Special Rapporteur were complementary; the votes of numerous American countries, with important magnitudes of indigenous populations (only the United States opposed) and the favorable pronouncements of the majority of African sub-Saharan countries were added.

The most important incomplete task, form the proposals launched by the WGIP during the Decade, is, without a doubt, the approval of the United Nations Declaration on the Rights of Indigenous Peoples. As Mililani Trask, member of the Permanent Forum on its first stage, summarized, "the WGIP began its work on the Project of the United Nations Declaration on the Rights of Indigenous Peoples in 1985. In 1993, it submitted a final text to the Subcommission, which was adopted with no modification done to it on August 26, 1994, according to the Resolution No. 11994/95. By the Resolution No.1995/32 of March 3, 1995, the Commission on Human Rights decided to establish an inter-session Working Group of open composition, with the objective of elaborating a Declaration Project for its adoption by the General Assembly during the Decade. This decision was authenticated by the ECOSOS's Resolution No. 1995/32 of July 25, 1995.

"THE WGIP revised the Declaration Project for eight years. During all this time, the Member States fully participated in the reunion's debates about every point of the document. In 1994, the Declaration was transmitted to the Subcommission, a global organization of renowned, international

judicial experts who revised the document and adopted it with no modifications made. Since then, the Declaration was dormant in the hands of the inter-session Working Group. Each Year, the CANSUZ States (Canada, Australia, New Zealand and the United States) opposed, in block, the fundamental right of free determination of the indigenous communities. These States and a few others more, insisted in the document's re-elaboration. A brief examination of the Annex from the inter-session Working Group E/CH.4&2001/85 from February 6, 2001, shows that the amendments proposed to the original text diminished human rights and international, legal protections of the indigenous people. Throughout the Annex, the term [indigenous peoples] appears, now, in parenthesis. As is manifested in the Annex II of the Report, the Indigenous Conclave seeks to achieve the same international human rights other communities enjoy under International Law.

“The proposals in the Annex reveal the continued effort of a minority of Member States to impose non-democratic and discriminatory policies against indigenous populations, going against the objectives and fundamental principles of the United Nations.”

When the documents of the WGIP sessions are examined in certain detail, when analyzing materials like “The Indigenous peoples’ permanent sovereignty over natural resources” of the Special Rapporteur Mrs. Erika-Irene Daes, or, when the progressive disruption and display of the indigenous topics in the United Nations system and their impact in the member countries are corroborated, the many different shades of the general overview of the Decade are manifested, the possibilities and limits, the hope and disillusion before this “limited good”. And that, in effect, the WGIP was the resonance box for the consensuses, but also of the theoretical, judicial and political disagreements. This complicated process showed as well, the necessity to make adjustments in the United Nations structure or, also, as Mililani Trask pointed out, “the Decade (...) proposed a program of realistic and feasible actions, but many of its objectives and goals have not been met for lack of resources”, to “the lack of standards on indigenous peoples human rights that are needed for binding the United Nations work”, to

the inexistence, in some United Nations agencies, of political guidelines “specifically destined to the indigenous populations”, to the shortage of human resources or to the “system’s inability to develop the necessary internal organization to make the Decade effective.”

The transcendence of the subject Mrs. Daes tackles, in the “The Indigenous peoples’ permanent sovereignty over natural resources”, the solid argumentation displayed in favor of the sovereignty matter, before those who still argue about the risks of secession and “balkanization”, and, finally, the set of basic Recommendations she formulated, explain the displeasure and annoyance -if not blatant opposition- manifested by a group of Member States. Recommendations that, in essence, pointed towards correcting historical and structural situations that have negatively impacted, and still do, the lives of the indigenous populations, in their development perspectives and in their enjoyment of their natural resources: “The States, in consultation of the indigenous peoples, have to modify their laws and constitutions, and adopt every legislative and administrative measures necessary to guarantee to the indigenous populations the enjoyment of the property of the natural resources that are located on the surface of the lands they historically occupy and use, in their subsoil or otherwise, and of the benefits that derive from them. Since the concern of using the term “sovereignty” has been manifested, the Special Rapporteur proposes that the parties be troubled less, when elaborating these laws and measures, on how to denominate the right, and pay more attention if the terms employed fully protect the rights of indigenous peoples over their natural resources.”

The Future of the WGIP will surely depend on its capacity to change –in coordination and not competition with the Forum- in a specialized instance for the follow-up of UN resolutions, and mainly, in the formulation of standards that formalize policies and procedures.

III.5. The *Declaration* and Vienna’s *Programme of Action*

The World Conference on Human Rights (Vienna, Austria, 14 to 25 of June, 1993) that approved the *Declaration and Vienna's Programme of Action* resulted of the utmost importance for the comprehension of the Decade 1995-2004, of the finished and unfinished tasks and of the continuity or lack thereof of the process that began before 1995. We emphasize the relevance of the Conference, at least for the following reasons: a) For the attention given, in the United Nations highest level, the topic of “promotion and protection of human rights [as] a high-priority matter for the international community and [considering] that the Conference constitutes a unique opportunity to carry out an exhaustive analysis of the international human rights system and of the protection mechanisms of human rights, destined to harness and promote a more exact observance of those rights”, an objective of great interest for the indigenous communities of America and the World, an un-relinquishing principle for their lives and their harmonious development; b) *because the Conference ratified the validity of the International Pact on Political and Civil Rights and from the International Pact on Social, Economic and Cultural Rights, immediately followed and embraced “with appreciation the celebration in 1993 of the International Year of the World's Indigenous Peoples”*, c) because it emphatically, and with no ambiguities established, that: “Every community has the right of free determination”. And that their denial “constitutes a violation to human rights”; because the Conference (...) recognizes the intrinsic dignity and the incomparable contribution if indigenous people to the development and pluralism of society and fiercely reiterates the international community's determination of guaranteeing economic, social and cultural well being and the pleasure of a sustainable development. The States must guarantee the full and free participation of the indigenous populations in all aspects of society, in particular in those areas that pertain to them. Considering the importance of the activities of promotion and protection of the indigenous populations' human rights and the contribution of those activities in the political and social stability of the States where this populations reside, the States should take arranged, positive measures, according with international

law, in order to guarantee the respect of every human right and fundamental freedom of the indigenous populations, over a basis of equality and no discrimination, and recognize the value of diversity in its different identities. Cultures and social organization.

In its resolutions, Vienna's Conference dedicated a special section to *Indigenous Populations*, asking "the Working Group on Indigenous Populations, WGIP (...), to complete the project about the declaration on the rights of the indigenous populations" and "recommends that the Commission on Human Rights examines the possibility to renew and update the Working Group on Indigenous Populations mandate once the declaration of the indigenous populations rights project is finished." And, specially, because "*The World Conference on human rights recommends to the General Assembly that it proclaim an international decade on the world's indigenous people to begin in January of 1994 and that it contains programs oriented to defined actions of common accord with the indigenous populations. It should be established for this purpose a voluntary fiduciary fund. In the framework of said decade the creation of a permanent forum for the indigenous populations within the United Nations System should be created.*" [Underlined is ours].

The follow up and evaluation of the Second Decade cannot lose sight if the Vienna recommendations about the Declaration on the Rights of Indigenous People, the support to the Forum and Decade, the situation of the WGIP and the fiduciary fund and, specially, the set of measures for the monitoring of the strict respect to human rights and in general, on the contents on the aforementioned *Pacts*.

III.6. The ILO, the Convention No. 169 and the Decade of the Indigenous Peoples

The UN documents, in particular those from the International Labour Organization (ILO), known or referred as "the oldest of the specialized bodies within the United Nations System" (1919) and its jurisdiction as the space where "the only two international conventions that exclusively refer to

tribal and indigenous populations: the *Convention No. 107 on tribal and indigenous populations, 1957, and the Convention No. 169 on tribal and indigenous peoples, 1989.*”, were elaborated and approved. Their singularity is due, fundamentally, to the fact that in the United Nations system “there is no structure similar to the ILO. It is the only international organization in which its members are governments and where employee and employers representation participate in all of its activities.”

When analyzing the impact globalizations has had on indigenous communities, the report carried out by the ILO combines warnings and concerns: “The indigenous populations are an especially vulnerable group. When their integration into the global economy has been done without free, previous and informed consent, and with no adequate protection of their rights, their means of life and culture have been severely affected. In such cases, the investments in extracting companies, big hydroelectric complexes and plantations have given way to massive displacements, to a disorganization of their ways of life, to an ecological degradation and to the violations of their fundamental human rights.” Significantly, the ILO analysis on income inequality, the adequacy of the labor protection before the new market realities, previous, free and informed consent, protection of the environmental resources of the poorest populations, and above all, job security, unveil “a world of anxiety and anger”, in the organization’s own words.

Approved five years before the start of the Decade, the Convention No. 169 constituted a point of reference needed at the time of debating the problems concerning human right of indigenous populations. Even though the influence was visible in many countries of the area, which modified their judicial instruments, and the undeniable fact that convention transformed into a struggle banner for the numerous indigenous populations of America, the governments demonstrated a conduct that combined apathy, tolerance and disdain. Latin America exhibited a sample board of cases: from countries like Mexico, that ratified it immediately (1990), but never complied with the compromises the act

implicated, to Argentina (which more or less approved it rapidly, but ratified it 10 years later), to the extreme in Chile, where the declarative adhesions cannot hide the lack of political will to ratify it.

We wait with interest and attention the results promised by the ILO about the Decade, since it will probably contain data we have not had access to. We recognize, notwithstanding, the progress that the Convention No. 169 means in relation to the Convention No. 107, the diffusion between governments and indigenous people that the ILO made of it, the technical assistance to some indigenous development projects (eco-tourism in Bolivia, Ecuador and Peru), the opening of a scholarship program for indigenous people, the participation in researches about employment in indigenous regions (Mexico), the seminars to consolidate the peace process in Guatemala or the consultancy provided by the Commission for Indigenous Peoples Rights form the National Constitutional Assembly for the constitutional reform in Venezuela. In addition, it is important to point out that the ILO has not given strict monitoring to the governmental compromises with conventions that is distinguished for its strong binding power, and that the impact of the diffusion, if not accompanied by the previous characteristic, will always be a limited action.

In reference to the culmination of the Decade, the organization has pointed out: “The ILO is currently carrying out a revision of the role it has been playing the advancement towards the fulfillment of the Decade’s objectives, as well as the repercussion of the Convention (No. 169) and of the technical cooperation activities. In spite of the obvious Decade’s achievements, there is still a long road to cover, and it is fundamental that the works destined to promote and protect the world’s tribal and indigenous rights continue.”

III.7. The Special Rapporteur on the situation of Human Rights and fundamental freedoms of indigenous people in the years of the Decade

Between the initiatives that took place during the Decade, 1995-2004, it has particular relevance the naming, for a three-year period, of a Special Rapporteur on the situation of Human Rights and fundamental freedoms of indigenous peoples (SR). In numerous occasions, the urgent need of counting with a high-level officer inside the United Nations, with objectivity, social sensitivity, moral authority and knowledge of the subject, had been raised, in order to have direct contact with the main actors and the circumstances that surround the violation of human rights and fundamental freedoms of the indigenous peoples. Moreover, as the SR effectively pointed out in his first report, “even though many accusations are presented in relation to the rights of indigenous peoples, in general the denouncements are referred to indigenous collectivities, albeit communities, tribes or determined populations.” Important point since it sends, among other debates, to the indigenous complaints about the recognition and respect of the collective rights.

According to what was stipulated in the Resolution 2001/57 of the Commission of Human Rights, on the April 24, 2001, the SR received the following mandate: “a) to obtain, solicit, receive and to exchange information and communications of all the relevant sources, including governments, the indigenous peoples, their communities and organizations, on violations of their fundamental freedoms and rights; b) formulate recommendations and proposals on appropriate measure and activities to prevent and resolve violations of indigenous human rights and fundamental freedoms; and c) to work in close relation with other special Rapporteurs , special representatives, working groups and independent experts from the Commission of Human Rights and the Sub commission on Promotion and Protection of Human Rights.

To guide their activities, the SR defined an “outlook” and a “framework” that would include the attention to: a) the activities of the United Nations relative to the theme, from 1970 onwards; b) the binding judicial instruments pertaining to the indigenous people; c) the UN and OAS declaration projects on indigenous peoples rights; d) other international declarations; e) declarations and directives

of diverse international bodies (UNESCO, PAHO, UNDP, international financial institutions, etcetera); and, finally, e) the legislation and national legal reforms, related to the subject. The Rapporteur also warned that “even though there has been progress in the last two decades, in particular in respect to international and national legislation relative to the indigenous human rights, its situation is still cause for great concern. If we look at the different indicators that show the achievements in social, economic, and cultural rights, the indigenous people are systematically situated in a lower level in regards to the rest of the population.”

Inside that framework, the SR considered that “the main human rights problems that plague indigenous people” might be identified in the following fields: “A. Rights of ownership of the land. B. Native lands and territories. C. Education and culture (1. Language, 2. Education, 3. Multiculturalism). D. Social organization, local government, customary law. E. Poverty, standard of living, sustainable development. F. Political Representation, autonomy and free determination.”

Summarizing his own performance during the first three years of his term (August 2001 to August 2004), Dr. Rodolfo Stavenhagen informed to the General Assembly the following: “Since his appointment in 2001, the Special Rapporteur has concentrated his efforts in three main areas of work: the thematic research in matters that impact the situation of the rights and fundamental freedoms of the indigenous peoples; visits to countries; and, in third place, the communication with the governments on alleged violations of human rights and fundamental freedoms of the world’s indigenous peoples.

“During the examined period, the Special Rapporteur received information on diverse situation in which indigenous human rights and fundamental freedoms had been infringed, in relation to the right of land, territory, environment and natural resources; the administration of justice and legal conflicts; poverty, standards of life and sustainable development; language, culture education; its own government, autonomy, political participation and the right of free determination. Furthermore, the Special Rapporteur learned of different situations referent, among others, to the no application of the

international standards in force, in regards to the fight against discrimination; death threats to indigenous leaders, forced disappearances of indigenous activists and representatives; violence and death of indigenous people caused by the use of excessive force by agents of public order or security forces during social conflicts; extrajudicial executions of indigenous people attributed to paramilitary groups or private forces that cooperate with the State, are tolerated by the latter, as well as forced displacements due to the execution of development projects, to social conflicts or to political and economic insecurity.

“The visits to the countries were a crucial component of the mandate of the Special Rapporteur and an excellent way to channel analysis and comprehension *in situ* of the situation of the indigenous populations. During the reviewed period, the Special Rapporteur has carried out official visits to Guatemala, Philippines, Mexico, Chile, Colombia, Canada and has visited a certain number of communities in other locations from invitations of different indigenous populations from Nordic countries, southern Africa and Japan.”

A set of important limitations undermines the recommendations of the United Nations Special Rapporteurs. In effect, SR can recommend, suggest, urge and even denounce governments, institutions, corporations and other instances that –like in this case- are involved in violations of indigenous rights and freedoms. They can –as the SR did- describe and call out conflictive situations, point out the existence of “protective legislatures” is no guarantee for the respect of these rights and liberties, to notice the “important voids in the promotion and protection of human rights and fundamental freedoms” or to inform about the failure to carry out binding international norms in specific countries. But the obstacles to correct this undesired situations are pointed out, not without euphemisms, by the own UN, since “the experts underline *the situations than inspire restlessness*”, and even though their reports might be an “important factor for change”, the achievements –in case of being reached- “*will depend on how governments and civil society, of the country at hand, as well as the international*

community, will react before the violations and the expert's observations, conclusions and recommendations." [The underline is ours].

We do not pretend to minimize the importance of the creation of the SR figure for the indigenous rights and liberties, or from the other Rapporteurs, who even, during the Decade, visited indigenous regions and gave account of what the conflictive situations in matters of racial discrimination, education, housing, freedom of speech, forced displacements or looting of natural resources. However, we cannot call it a deception either: the flagrant violations of human rights in general, particularly those that occurred in indigenous communities, are usually the ones committed from situations of power: a power that corrupts, erodes fundamental values, privileges earning and looting and is usually far from modifying its behavior by the fact that the perpetrators "are being watched". The lack of response from countries to the observations made by the Rapporteurs when they examine dire situations and formulate recommendations to the governments, is clear sign of lack of interest- when they are accomplices of the ones violating the rights- towards the judicial guarantees of the victims; no less worrisome are the reports that distort the truth and, even more serious, when the Rapporteurs are dismissed on flagrant violations that they have observed and documented.

The SR produced at the end of his 2004 report to the General Assembly a set of Recommendations, preceded by the affirmations of "the balance that can be made of the achievements of the International Decade of the World's Indigenous Populations, that so many expectations raised ten years ago, are modest. Therefore the recommendation of the Economic and Social Council in their 2004/290 decision for the General Assembly to consider proclaiming a second decade with the objective of impressing more dynamism and to consolidate the goals already achieved, as well as achieving other, is most welcome."

In what way is it possible to consolidate these achievements and reach others relative to the tasks of the SR? From our perspective, it would be essential: 1) To increase the number of Special

Rapporteurs on the situation of Human Rights and Fundamental Freedoms for Indigenous Populations, naming at least one SR for one of the know regions by the UN; 2) To increase the number of visits and mission to countries; 3) To operate in a coordinated manner with other UN Special Rapporteurs. A clear indications that it is possible to achieve collective consensus was pointed out, in 2005 by the SR himself, when he referred that “in the occasion of celebrating the Human Rights Day (December 10), the Special Rapporteur, along with 27 independent experts of the Commission, including the representatives of the Secretary General, other special Rapporteurs and independent experts of the Commission, published a communiqué in which an appeal was made to the international community so that, among other things, special attention is paid to the deficit in matters of protection of human rights of indigenous peoples during the Second International Decade of the World’s Indigenous Peoples. In his communiqué, the experts of the Commission expressed, among others, their concern before the grave violations that indigenous populations suffer in every regions of the world, the difficult situation of indigenous women and girls before such violations, as well as the existing obstacles that impede the enjoyment of indigenous populations of their economic, social and cultural rights”; 4) That the SR work in a closer relationship with the International Criminal Court, the Inter-American Court of Human Rights and other similar, national and international instances; 5) That a Guide for the Reports of Special Rapporteurs is elaborated and that it stipulates basic criteria and contents, and that it underlines the importance of analyzing the facts from an intercultural perspective; 6) That an annual report with the contributions made by the SR for the indigenous rights, as well as from other Special Rapporteurs, is elaborated; 7) That, with the support of the ECOSOC, a firm appeal is made to the countries when they present reports on the situation of the indigenous peoples rights, in the sense that they include the opinions of the victims.

III.8. The Creation of the Permanent Forum on Indigenous Issues, equal representation and the mandate

The creation of the Permanent Forum constituted, without a doubt, the most important conquest of the indigenous populations in the United Nations structure, in the course of the First Decade, in stark contrast with the deceptions generated because of the lack of approval of the Universal Declaration on the Rights of Indigenous Peoples. That is for several reasons, in which the following stand out: the effective fulfillment of what proposed in 1993, in the Vienna Declaration, the possibility the availability of a specific structure –surpassing the mere role of “observers”- that identified six themes of capital interest for the indigenous populations (Health, Human Rights, Economic and Social development, Education and culture and the Environment) and a manifested attention to the women, children and indigenous youth. Also, for the equal nature of the governmental indigenous representation, a model that had already been tried in the Fund for the Development of Indigenous Peoples in Latin America and the Caribbean. This represented a decisive improvement in respect of the representation schemes of State indigenismo, which predominated in America since the early decades of the XX century until, at least, the 70’s. The Resolution 2000/22 of the Economic and Social Council, on July 28, 2000, approved in the 45th Plenary Session, created the Forum, emphasizing as the primordial task to identify “the proposals, objectives, recommendations and the spheres of possible measure adoption: that, by means of the Council, are recommended to “the States, the United Nations system and the intergovernmental organizations, to the indigenous communities, to the private sector and to the non-governmental organizations that render assistance in the realization”. That is to say, an ample field of propositions and actions, which would later be ratified when the coexistence of a new association on the indigenous theme, before the Millennium Objectives was raised, opened up. The Resolution literally pointed out.

1. “*Decides* to establish, as a subsidiary body of the Economic and Social Council, a permanent forum for indigenous matters, integrated by 16 members, eight of whom have been proposed by their governments and chosen by the Council and the other eight have to be named by the President of the Council, prior an official consult with the Table and with the regional groups by means of their coordinators, about the base of ample consults with the indigenous organizations, taking into account the diversity and geographical distribution of the indigenous populations of the world, as well as the transparency principles, representation and equal opportunities for all of the indigenous communities, including internal procedures, when necessary, and the consultation processes of the local indigenous peoples; all of the members will act in personal title as independent experts in indigenous matters during a three-year period with the possibility of re-election or a new naming for a new period; the States, the United Nations bodies, intergovernmental organizations and non-governmental organizations recognized as consultation entities by the Council can participate as observers; the organizations of the indigenous populations can also participate as observers according to the procedures applied by the Working Group on Indigenous Populations of the Sub commission of Promotion and Protection of Human Rights.
2. *Decides, as well,* that the Permanent Forum for Indigenous Issues serves as an assessing body of the Council, with the mandate of examining indigenous matters in the context of the Council’s attributions relative to the economic and social, cultural, environmental, education and health and human rights development, thus the Permanent Forum:
 - a. Will render specialized assessment and will formulate recommendations on indigenous matters to the Council, as well as to the programs, funds and United Nations bodies, by means of the Council.

- b. Diffusion of the activities related with indigenous matters and will promote their integration and coordination within the United Nations System;
 - c. Will prepare and diffuse information on the indigenous issues;
- 3. *Also Decides* the Permanent forum applies the regulations established for the subsidiary bodies of the Council, when appropriate, unless the Council decides otherwise, and that the labor of the Permanent Forum is ruled by the consensus principle.
- 4. *Decides* that the Permanent Forum celebrates a period of annual sessions of ten working days in the United Nations Offices in Geneva or in the United Nations Site, or any other place where they decide to convene, according to the Financial Regulation and the United Nations Detailed Financial Regulation.
- 5. *Furthermore, decides* that the permanent forum presents an annual report to the Council about its activities, including the recommendations that are submitted for considerations; the report should be distributed between the bodies, funds, programs and pertinent bodies of the United Nations as a mean, among other things, to promote dialogue on indigenous matters within the United Nations system.
- 6. *Decides as well* that the Permanent Forum is financed against the available funds from the United Nations ordinary budget and its specialized bodies and by means of the voluntary contributions that can be contributed.
- 7. *Decides* that five years after its creation, the Council, in light of the acquired experience, evaluates the functioning of the Permanent Forum, with the method of selection of its members included.
- 8. *Also Decides* that once the Permanent Forum has been established and celebrated its first annual period of sessions, the Council proceed, without pre-judging any result, with an examination of all the mechanisms, procedures and existing programs within the United Nations related to

indigenous issues, including the Working Group on Indigenous Populations, with the purpose of rationalizing activities, avoidance of duplicate and superimposed tasks and to promote efficiency.

The vision of the indigenous people in respect of the Forum is summarized by the Nobel Peace Prize and UNESCO's Goodwill Ambassador, Rigoberta Menchu's words, when she pointed out to one of the member of the Forum: "The concretion of the Permanent Forum crystallizes a long awaited demand yearned by the indigenous communities since we had the opportunity to propose and defend it during the World Conference on Human Rights, celebrated in Vienna 10 almost ten years ago. Its approval by the relevant United Nations bodies and its recent integrations constitute a step ahead on our struggle to establish a new form of dialogue with the peoples of the world, based in the acknowledgment of our rights, respect and dignity.

"The Forum's fort task should be to build a true *network* that will allow every indigenous community of the world to bring forth their problems and to share their initiatives, promoting the meetings between themselves and the exchange of experiences, as well as to change into a true spokesperson and conduit in order for the delayed problems of our populations find a channel to come out of their invisibility, so they can find decent treatment.

"I cherish the hope that the Permanent Forum sows, from its first steps, the harmony and dialogue, the respect and solidarity to the diverse initiatives that are impelled by the indigenous leaders in their own lands that will allow us to reaffirm our values, traditions and knowledge, making front to multiple situations of conflict that characterize the current lives of the indigenous peoples and their struggles.

"Equally, I wish to encourage you to urge the Permanent Forum to take special care of their resources in order to assure a close relationship between the United Nations, its diverse instances and

bodies and the indigenous populations; reaffirming the value of multilateral dialogue that will allow us to be actors of a world more complex and interdependent, and to find in it answers to our worries and aspirations. I consider essential that this step impels, with renewed spirit the full concretion of the objects that we proposed for the *International Decade* and, in particular, the approval of the United Nations Declaration on the Rights of Indigenous Peoples in the terms adopted by the Sub commission of Prevention of Discrimination and the Protection of Minorities.”

Maybe the Permanent Forum might be the ideal space to evaluate what took place during the First Decade, and make its own balance, analytical pro-positive. It was anticipated that it would be completed in 2006, which is why we are confident our *Report* contributes to it. The Forum is a privileged scenario for dialogue and coexistence between civilizations and in each and every one of their proposals, there should be a favored intercultural vision of phenomenon, in order to serve as examples of the possibilities to eliminate historical relationships of exclusion of the indigenous populations. It is necessary to broaden the activity sphere that limits the characteristics of the “independent experts” that their members have. The denouncement –without giving it up- should give way to the monitoring of the compromises and the search for mechanisms in order to concrete proposals, many of which are innovative and almost always fair. The increase in the budgets –in the first place the ones that the countries predetermine for the indigenous peoples, but simultaneously the ones from the UN, international cooperation and the multilateral bank- should be an inalienable goal. The association of objectives and goals of the new Decade with the Millennium Development Goals should be a constant theme in the agenda for the indigenous populations. The approval in the bosom of the General Assembly, of the Universal Declaration on the Rights of Indigenous Peoples, and of the American Declaration, constitute a central goal of deliberations and negotiations.

The new Decade is a framework, a scenario, a set of situations, themes and problems, it is a field of development and institutional and structural reforms –in the countries and in the international

sphere-, it is a new phase that should benefit from the analysis of the positive and negative experiences of the First Decade, and, above all, it is a new opportunity to substantially modify the relationship between communities, States and the group of societies in the planet.

THE INDIGENOUS PEOPLES AFTER THE DECADE:

SUMMARIES AND PERSPECTIVES

Tepoztlan, Morelos 12th of October of 2004

From the sacred site of Tepoztlan, uniting our hearts, thoughts, dreams and experiences; compromised with the strength of wisdom from our ancestors, men and women, and from the indigenous peoples of America, convened by the Rigoberta Menchú Foundation and the Universidad Nacional Autónoma de México, we express:

Making use of the sovereignty and freedom of election of our peoples, in the context of the struggle of the 500 years of resistance and determined to promote deep, structural transformations, we declared the indigenous peoples' Decade, in 1993, which was accepted by the States, Governments and United Nations System, in 1994.

We state that although we were aware that a single decade was not enough time to change the historical relationships of colonization and oppression, nor to eradicate racist and dismissive practices to which our peoples have been subjected to; we considered the Decade to be a significant first step towards establishing a new relationship between the indigenous peoples and the States and national societies.

The Decade was conceived as an opportunity to generate and apply more equitable social, economic, political and cultural relations, between States, indigenous peoples and society in general. However, the major obstacle was reflected in our inability to uniform concepts about poverty, democracy, citizenship, power-governance, development and security that are still related to the colonial subordination that continues to characterize the States.

Ten years after, we recognize the unfinished task in the total materialization and in the recognition and exercise of our rights within the United Nations System; meanwhile, the States and Governments did not assume their compromise. By their own accord, transnational and monopolizing corporations, far from building a social compromise, threaten the lives and collective rights of our peoples, privileging their excessive, particular interests, legitimized by the negotiation processes from commercial treaties, which subordinate the sovereignty of the States.

Welcoming, during the Decade, the persistent proposal from the indigenous peoples, the Permanent Forum on Indigenous Issues, within the United Nations, was established with a proportional representation of indigenous peoples and States. Furthermore, a Special Relator on indigenous peoples' human rights should carry out efforts that will incorporate the strengths and perspectives of the indigenous community.

Despite the initial advancements achieved, we regret the series of obstacles that have limited the fulfillment of other objectives established in the Decade Declaration. We, the indigenous peoples, have accepted that the contents approved by the Sub-Commission on Prevention of Discrimination and Protection of Minorities about the Project of Declaration on the Rights on Indigenous Peoples in the United Nations, constitute the minimum standards to defend the life of our peoples. Some of these collective fundamental rights consist of freedom of choice, territorial rights, the collective knowledge and natural resources right, recognition of treaties and agreements between indigenous peoples and States, among others. The fact that the States did not adopt the Declaration during the first Decade reveals the lack of political commitment to continue the development of international standards for

indigenous peoples' human rights. The absence of an international instrument of this importance, feeds the dispersion in the execution of policies from within the agencies and institutes from the United Nations System and the States and Governments, a matter that has remained constant throughout the Decade.

In spite of some of the legal and constitutional rights advancements in most Latin-American countries, there have been no practical applications in public policies, even less in State policies, which have created, in some cases, regressions in terms of implementation of rights, of revitalization of indigenous politics and of racist practices and new forms of exclusion.

As the decade ends, the construction of democratic states, inclusive, intercultural, equal; based on a genuine social pact that recognizes the right of freedom of choice of the indigenous peoples, expressed through diverse forms of autonomy and auto-governance that the peoples promote inside the scope of the new State models, is still a challenge. These transformations require of the political commitment of the States, expressed in the redistribution of political power and reorientation of the budgeting resources, which will allow the development and the outright execution of the collective rights of the indigenous peoples, especially those concerning freedom of election.

The struggle process and establishment of the Decade have imparted new lessons and new perspectives to the indigenous peoples. The new International Scenario demands, from the indigenous peoples, a reinforcement of their strategies, the re-articulation of involvement spaces and the reconstruction of new paradigms, starting from communal, local, national and global levels, thus guaranteeing the generation and implementation of authority, of territorial cohesion, of reconstituting the peoples so that in conjunction they can constitute the strength of the auto-governments; considering the role of

indigenous women and the compromise in the integral, spiritual and political formation of the coming generations.

We state that the advancements achieved, so far, during the Decade, are due to the struggle and pressure exerted by the participation and pro-positive capacities of the indigenous peoples. The leadership of our peoples, from the communal level to the international one, has been placed as hope for the continuation of the struggle. From this strength, we propose the following recommendations:

RECOMMENDATIONS

Recommendations for the United Nation's System

1. That the Permanent Forum on Indigenous Issues, with the full participation of the indigenous peoples, contribute to the protection and monitoring of the fulfillment of the goals pertaining to the International Second Decade of the Indigenous Peoples of the World 2005-2014.
2. That the *Universal Declaration on the Rights of Indigenous Peoples* be adopted by the General Assembly in the first years of the new Decade, taking into considerations that the project has already been approved in the United Nations by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and accepted by thousands of indigenous peoples throughout the world, because said document contain the minimum standards for an acceptable life, dignity and well-being of our indigenous peoples.
3. That the following recommendations be taken into consideration and be established as minimum goals for the Second Decade:
 - a) The consolidation of the protection and promotional mechanisms of human rights for the indigenous peoples.
 - b) The effective implementation of the Millennium Objectives for Development that relate to the indigenous peoples.
 - c) That the States, agencies and specialized organs of the United Nations embrace the criteria and definitions set by the indigenous peoples, making sure that they fully participate on the fulfillment process of the Development Goals of the first Decade and the Action Plan of the Second Decade.

4. That United Nations and the member States make sure that the necessary resources, for the effective operation of the participation instances of the indigenous peoples in the activities defined in the Second Decade, be available.
5. That the United Nation's organs effectively embrace the recommendations formulated to them, in issues related to the administration of justice by the Special Relator for Human rights and Fundamental freedoms of the Indigenous Peoples, by the Inter-American Institute of Human Rights and by the Seminary of Experts about "Los Pueblos Indígenas y la Administración de Justicia" (Madrid, Spain, November, 2003), supported by the United Nations High Commissioner for Human Rights.
6. That the necessary measures for articulate and effective work from the United Nations' Special Relators, who perform missions to the indigenous peoples' regions, be adopted and that the effective fulfillment of the recommendations formulated by those who are part of the member States governments be monitored.
7. That the indigenous peoples matters be incorporated in an articulate and systematic manner, in the programs of the United Nations group of agencies and specialized organs, paying particular attention to the indigenous women situation.
8. That the member States convene in the creation of a regular census, balancing demographic instruments with adequate cultural indicators.
9. That the United Nations agencies and specialized organs , as well as their regional and national representatives, pay special attention to the numerous conflicts, of diverse origins, that affect the life, security and development of the peoples, towns and indigenous individuals.

Recommendations for the Inter-American System

1. That the Organization of American States (OAS), in their next Assembly, proclaims the Decade of the Indigenous Peoples of America.
2. To demand the creation of a Permanent Forum of the Indigenous Peoples in the Inter-American System, as a space open for debate, dialogue, negotiation, agreement and mediation in a continental scale.
3. That in the discussion and approval process of the *American Declaration of Indigenous Peoples Rights* it is assured that the full and effective participation of the indigenous peoples will be in terms of equality and dignity. We indicate that the indigenous peoples will not accept a Declaration that reduces our rights beyond the minimum standards agreed upon by the indigenous peoples and approved by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in the United Nations Declaration Project.
4. The fulfillment, on the part of the specialized, international organizations and by the governments of the member States, of the recommendations contained in the *Declaration of the Indigenous Childhood and Adolescence of Latin America to the Latin American Summit 2005*.

Recommendation for the States

1. That the States accept, with the full and effective participation of the indigenous peoples, the action plans for the International Second Decade, establishing in unison evaluation and monitoring mechanisms.
2. That the States, agencies and specialized organs define, in cooperation with the indigenous peoples, procedures and registry instruments to compile, systematize and disseminate released statistical information about indigenous peoples (based on identity, language and self-description criteria) for the effective monitoring of the programs developed through the Decade.

3. That tripartite (indigenous peoples, States and Agencies of the United Nations System) committees are conformed for the creation, supervision and evaluation of the Decade's plans, respecting the specified diversity of each of the peoples.
4. That measures are implemented to inform about the degree of completion of the recommendations, observations and action plans that refer to the indigenous peoples established in:
 - a) The monitoring Organs of the international Pacts and Agreements, like the Committee of Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities
 - b) The Latin American Summits
 - c) The World Conference against Racism
 - d) The World Summit on the Information Society
 - e) The World Conference on Women
 - f) The International Conference on Population and Development
 - g) Other conferences
5. That the Governments divulge and comply with the recommendations emitted by the Special Relators of the United Nations, as a result of their visits and missions, on indigenous peoples related themes. We exhort that the Governments of Chile, Colombia, Guatemala and Mexico comply with the recommendations emitted by the Special Relators of the United Nations and the Fundamental Freedoms of the Indigenous Peoples during the first Decade.
6. To develop evaluation processes on the impact of the first Decade and to formulate integral action plans to carry out during the Second Decade.
7. That the States that have not yet done it, ratify the Agreement No. 169, of the International Labour Organization, about Indigenous and Tribal Peoples in Independent Countries.

Recommendations for the Universities

1. That the universities –specially those of public origins, in which superior education is a social advantage- decidedly set in motion the development of intercultural approaches of transverse characteristics in the fields of teaching, investigation, dissemination and entailment with indigenous peoples and organizations.
2. That the universities foment and ensure that the indigenous youth have access to higher education, eliminating exclusion barriers generated by economic, social, linguistic and cultural reasons, encouraging investigations about the economic and social development of indigenous peoples.
3. That the United Nations University complies with the recommendations of creating Centers of Regional Excellency for the study of the indigenous peoples situation and their integral development perspectives.
4. That the universities define and apply tools for the follow up of the commitments contracted by the governments and international organizations concerned with the Decade of the Indigenous Peoples, and to produce useful information for public policies in the matter, including legislative initiatives.
5. That the universities contribute to the development of the adequate, cultural indicators in order to give account of the indigenous peoples' situations and the fulfillment of the Development Objectives of the Decade and the Decade's Goals.

Recommendations for the Indigenous populations

1. That the communities, towns, organizations and indigenous peoples contribute, with our available resources, to the consolidation and reinforcement of the achieved triumphs during the first Decade in the international, regional, national and local fields, and that an active participation constitutes the maximum guarantee for the fulfillment of the planned objectives and the solidification of the fundamental demands.
2. That the indigenous participation in the Permanent Forum, in the Work Group about Indigenous Peoples, in the links with the Special Relators and in the diverse spaces conquered after many years of struggle be, essentially, the scenarios in which our proposals, recommendations and initiatives are launched, without giving up the substantiated denouncement.
3. That in the international forums and in our national and local spaces, we may articulate our efforts in order to follow up the commitments contracted by the parts for the fulfillment of the Decade's Goals and the Development Objectives of the Millennium.