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## **RIGHTS OF DISTINCT PEOPLES**

Bertha R. Miller

## **BOOK REVIEW: The Brutality of Nations**

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## **BRUNO GABRIEL: A MISKITO NATIONALIST AND REVOLUTIONARY**

Bernard Q. Nietschmann

## **THE WORLD BANK'S TRIBAL ECONOMIC POLICY**

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## Rights of Distinct Peoples

### The United Nations is the forum for the ten year State and Nation debate over terms contained in the Draft Universal Declaration on Rights of Indigenous Peoples

Bertha R. Miller  
Center for World Indigenous Studies

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The United Nations will consider at its General Assembly in 1992 adoption of a Universal Declaration on Indigenous Peoples' Rights. Every bit as thorny a subject as any other considered for debate by international organizations, the rights of indigenous peoples will take center stage as a matter of major importance in a world body that has long avoided conclusive consideration of the subject.

From the very beginning of modern international relations, the League of Nations in 1919 deliberated on the companion questions: What standards and procedures ought to guide states and empires as they rearrange political boundaries and allow for the self-determination of colonized peoples distant from a colonial power? What standards and procedures ought to guide states and empires if they apply the principle of self-determination to peoples inside the boundaries of existing states? Between 1919 and 1960, standards and procedures for the decolonization of peoples distant from colonial powers evolved and were encoded in international law as the *Declaration on the Granting of Independence to Colonial Countries and Peoples* (UN General Assembly resolution 1514 [XV] of 14 December 1960). Proclaiming the need to bring "to a speedy and unconditional end [to] colonialism in all its forms and manifestations" member-states of the United Nations declared:

The subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment

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### Editor's Notes

Laws have been made among humans in one form or another for at least six millennia before the present. Historians record that while laws and rules of conduct were orally proclaimed and occasionally written in various forms throughout antiquity, no laws defining the responsibilities of a ruler and the ruled had been codified until 1068 AD. It was in that year that the *Código ó Compilación de los Ustages*, a written code defining the reciprocal rights and responsibilities of the sovereign and his subjects in Catalunya of the Kingdom of Aragon, was penned by Ponç Bofill March of Barcelona. Ponç Bofill March was appointed "judge of the palace" in 1030 AD, but he did not begin to write the *Código* until 1035 AD. One hundred forty-seven years before the English barons forced King John to accept the *Magna Carta* (1215 AD), the people of Catalunya instituted the world's first document declaring fundamental human rights. For more than 900 years, the definition and practice of human rights has continued to evolve.

As Bertha R. Miller's *Rights of Distinct Peoples* reveals, principles of human rights may be extended to peoples of the Fourth World through a *Universal Declaration on Rights of Indigenous Peoples* currently being debated in the United Nations. Miller reviews the revised first draft of the Declaration and reports the differing viewpoints of states, nations and non-governmental organizations participating in sessions of the United Nations Working Group on Indigenous Populations.

In his review of Dan Jacobs' *The Brutality of Nations*, Associate Editor Jerome E. Taylor comments on the Nigerian/Biafran war and how Jacobs' book may more accurately describe the "brutality of states."

A frequent contributor to the Journal, Bernard Q. Nietschmann reveals for the first time the detailed circumstances surrounding the death of a leading Miskito Warrior, *Bruno Gabriel*, during the war between Nicaragua and the Miskito, Sumo and Rama peoples of Yapti Tasbia in 1984. Nietschmann's closeness to the Miskito people and conversational writing style reveal the truth of a life that should have continued and a war that should never have been.

After World War II, reconstruction of war-torn Europe became both a moral and economic necessity to the countries on the winning side. Without reconstruction, the world's economy was surely to collapse along with the rubble under millions of tons of bombs. But, after Europe regained its economic footing, the International Bank for Reconstruction and Development ("The World Bank" as it is more commonly known was established in 1945) turned its attention to "developing the Third World." The World Bank became a major source of investment revenue for building roads, hydroelectric dams, communications facilities and urban and agricultural development projects. While such development efforts often failed to produce economic prosperity for Third World states, and instead seemed to serve the interests of businesses and governments of the Second and First worlds, in the 1970s and 1980s the World Bank discovered the Fourth World. Fourth World nations were discovered to be an obstacle to World Bank development projects, due in large measure to the frequent encroachment of such projects into Fourth World nation territories. In *The World Bank's Tribal Economic Policy* we discuss the 1982 policy and its impact and implications for nations and states.

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ment to the promotion of world peace and cooperation. (GA Resolution 1514 [XV] 1.)

With that single stroke, the international community opened the door to the establishment of scores of new states in Africa, the Caribbean, Asia, Melanesia and the South Pacific. The question of decolonizing peoples distant from colonial powers had finally been resolved after forty-one years. But, the other question of self-determination for peoples inside the boundaries of existing states remained unsettled. States with nations inside their boundaries regarded the question of self-determination for "internally colonized peoples" as too threatening to the sovereignty of the state. If "internally colonized peoples" were allowed self-determination and self-government, it was argued, some states would collapse. In view of this argument first presented in the League of Nations, the question of "internally colonized peoples" was set aside. The question was simply too threatening to the permanence of individual states and the state system itself.

Newly decolonized peoples who formed new states in Africa, Asia, and Melanesia regarded the question of "internally colonized peoples" even more threatening than established states in Europe. Their hard-won independence from European states would be seriously jeopardized if each new state was forced to consider the self-determination rights of nations on top of which the state structure was formed.

In the United Nations General Assembly, new state members quickly and without reservation joined their former colonial masters to adopt *General Assembly resolution 1803 (XVII)* on 14 December 1962 on "Permanent sovereignty over natural resources." This resolution aimed to ensure that each state had control over its domain. But in 1970, the United Nations adopted the *Declaration on Friendly Relations and Cooperation among States* specifically aimed at any action that would dismember an existing state. States governments declared any action unacceptable "which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination."

The combined meaning of the 1962 General Assembly resolution and the 1970 declaration on "non-self-dismemberment" was clear. "Internally colonized nations" were not to enjoy the rights of peoples, the right of self-determination, if their exercise of self-determination would mean the dismemberment of an existing state. By 1970, many of the world's states concluded that the issue of "internally colonized nations" and their exercise of self-determination was settled and would not present a threat to the

existing world state structure.

Despite the appearance of having settled the question of the future political status of nations ruled by a state, the United Nations Commission on Human Rights began, tentatively, to take up the question once more in 1972. In 1973, the Commission on Human Rights assigned a Special Rapporteur, Mr. José R. Martínez Cobo, to the task of undertaking a *Study of the Problem of Discrimination Against Indigenous Populations* - the very peoples whose political right of self-determination had been implicitly denied by the UN resolution on permanent sovereignty over natural resources and the 1970 Declaration on the non-self-dismemberment of existing states. The mere fact of the "Cobo Study," reopened the long delayed debate about the future of "internally colonized nations."

The "Cobo Study," which continued for ten years (it was completed in 1983), coincided with the growing politicization of what would eventually be called Fourth World nations or indigenous nations. The power of states over Fourth World nations was beginning to be more directly and widely challenged on virtually every continent. Not only did nations politically challenge states, but they began to challenge states through armed struggle. Through the 1960s and 1970s, Fourth World nations struggled with state domination and by the middle 1970s they began to challenge states on the wider-playing field of international debate.

From August 24 to August 27, 1977 delegates to the Second General Assembly of the World Council of Indigenous Peoples met in the Sammi Land city of Kiruna in the State of Sweden. Chief George Manuel presided over the Assembly as the Council's president. After careful deliberation, delegates to the General Assembly adopted a declaration on Human Rights for indigenous peoples. In speeches following this General Assembly, Chief Manuel called upon the United Nations to work with indigenous peoples to formulate a "Declaration on the Rights of Indigenous Peoples."

Five years after the WCIP Second General Assembly, the United Nations authorized the establishment of the United Nations Working Group on Indigenous Populations. The U.N. Economic and Social Council gave the Working Group the specific mandate to examine the "evolution of standards for the rights of indigenous populations," and to receive information on developments that would indicate the future shape of these standards. By 1985, the Working Group received an expanded mandate to draft a Universal Declaration on the Rights of Indigenous Peoples.

Seventy years after the League of Nations first considered the subject of promoting the self-determination of nations located inside the boundaries of existing states, its predecessor the United Nations, began the formal

process of drafting new international legislation concerned with the rights of tribal and national peoples. In the Summer of 1989 the U.N. Working Group on Indigenous Populations prepared a first text of a Draft Declaration.

In consideration of remarks, comments, suggestions and proposals presented before the Working Group over a period of six years by States representatives, representatives of indigenous nations, and non-governmental organizations, the Working Group prepared a draft text with parts underlined to indicate terms and phrases currently under debate. During its eighth session (June 23 - August 9, 1990) in Genève, Switzerland, the United Nations Working Group on Indigenous Populations will consider suggested changes in the draft resolution and 30 principles below.

**FIRST REVISED TEXT OF THE  
DRAFT UNIVERSAL DECLARATION ON  
RIGHTS OF INDIGENOUS PEOPLES**

E/CN.4/Sub.2/1989/33  
15 June 1989



The General Assembly,

Considering indigenous peoples born free and equal in dignity and rights in accordance with existing international standards while recognizing the right of all individuals and groups to be different, to consider themselves different and to be regarded as such,

Considering that all peoples and human groups have contributed to the progress of civilizations and cultures which constitute the common heritage of humankind,

Recognizing the specific need to promote and protect those rights and characteristics which stem from indigenous history, philosophy of life, traditions, culture and legal, social and economic structures, especially as these are tied to the lands which the groups have traditionally occupied,

Concerned that many indigenous peoples have been unable to enjoy and assert their inalienable human rights and fundamental freedoms, frequently resulting in insufficient land and resources, poverty and deprivation, which in turn may lead them to voice their grievances and to organize themselves in order to bring an end to all forms of discrimination and oppression which they face,

**Convinced** that all doctrines and practices of racial, ethnic or cultural superiority are legally wrong, morally condemnable and socially unjust,

**Reaffirming** that indigenous peoples in the exercise of their rights should be free from adverse distinction or discrimination of any kind,

**Endorsing** calls for the consolidation and strengthening of indigenous societies and their cultures and traditions through development based on their own needs and value systems and comprehensive participation in and consultation about all other relevant development efforts,

**Emphasizing** the need for special attention to the rights and skills of indigenous women and children,

**Believing** that indigenous peoples should be free to manage their own affairs to the greatest possible extent, while enjoying equal rights with other citizens in the political, economic and social life of States,

Bearing in mind that nothing in this declaration may be used as a justification for denying to any people, which otherwise satisfies the criteria generally established by human rights instruments and international law, its right to self-determination,

**Calling** on States to comply with and effectively implement all international human rights instruments as they apply to indigenous peoples,

**Acknowledging** the need for minimum standards taking account of the diverse realities of indigenous peoples in all parts of the world,

**Solemnly proclaims** the following declaration on rights of indigenous peoples and calls upon all States to take prompt and effective measures to implement the declaration in conjunction with the indigenous peoples.

**PART I**

1. The right to the full and effective enjoyment of all fundamental rights and freedoms, as well as the observance of the corresponding responsibilities, which are universally recognized in the Charter of the United Nations and in existing international human rights instruments.

2. The right to be free and equal to all the other human beings in dignity and rights and to be free from adverse distinction or discrimination of any

kind.

## PART II

3. The [collective] right to exist as distinct peoples and to be protected against genocide, as well as the [individual] rights to life, physical integrity, liberty and security of person.

4. The [collective] right to maintain and develop their ethnic and cultural characteristics and distinct identity, including the right of peoples and individuals to call themselves by their proper names.

5. The individual and collective right to protection against ethnocide. This protection shall include, in particular, prevention of any act which has the aim or effect of depriving them of their ethnic characteristics or cultural identity, of any form of forced assimilation or integration, of imposition of foreign life-styles and of any propaganda derogating their dignity and diversity.

6. The right to preserve their cultural identity and traditions and to pursue their own cultural development. The rights to the manifestations of their cultures, including archaeological sites, artifacts, designs, technology and works of art, lie with the indigenous peoples or their members.

7. The right to require that States grant - within the resources available - the necessary assistance for the maintenance of their identity and their development.

8. The right to manifest, teach, practice and observe their own religious traditions and ceremonies, and to maintain, protect and have access to sacred sites and burial-grounds for these purposes.

9. The right to develop and promote their own languages, including an own literary language, and to use them for administrative, juridical, cultural and other purposes.

10. The right to all forms of education, including in particular the right of children to have access to education in their own languages, and to establish, structure, conduct and control their own educational systems and institutions.

11. The right to promote intercultural information and education,

recognizing the dignity and diversity of their cultures, and the duty of States to take the necessary measures, among other sections of the national community, with the object of eliminating prejudices and of fostering understanding and good relations.

## PART III

12. The right of collective and individual ownership, possession and use of the lands or resources which they have traditionally occupied or used. The lands may only be taken away from them with their free and informed consent as witnessed by a treaty or agreement.

13. The right to recognition of their own land-tenure systems for the protection and promotion of the use, enjoyment and occupancy of the land.

14. The right to special measures to ensure their ownership and control over surface and substance of resources pertaining to the territories they have traditionally occupied or otherwise used including flora and fauna, waters and ice sea.

15. The right to reclaim land and surface resources or where this is not possible, to seek just and fair compensation for the same, when the property has been taken away from them without consent, in particular, if such deprivation has been based on theories such as those related to discovery, terra nullius, waste lands or idle lands. Compensation, if the parties agree, may take the form of land or resources of quality and legal status at least equal to that of the property previously owned by them.

16. The right to protection of their environment and in particular against any action or course of conduct which may result in the destruction, deterioration or pollution of their traditional habitat, land, air, water, sea ice, wildlife or other resources without free and informed consent of the indigenous peoples affected. The right to just and fair compensation for any such action or course of conduct.

17. The right to require that States consult with indigenous peoples and with both domestic and transnational corporations prior to the commencement of any large-scale projects, particularly natural resource projects or exploitation of mineral and other subsoil resources in order to enhance the projects' benefits and to mitigate any adverse economic, social, environmental and cultural effect. Just and fair compensation shall be provided for any such activity or adverse consequence undertaken.

## PART IV

18. The right to maintain and develop within their areas of lands or territories their traditional economic structures and ways of life, to be secure in the traditional economic structures and ways of life, to be secure in the enjoyment of their own traditional means of subsistence, and to engage freely in their traditional and other economic activities, including hunting, fresh- and salt-water fishing, herding, gathering, lumbering and cultivation, without adverse discrimination. In no case may an indigenous people be deprived of its means of subsistence. The right to just and fair compensation if they have been so deprived.

19. The right to special State measures for the immediate, effective and continuing improvement of their social and economic conditions, with their consent that reflect their own priorities.

20. The right to determine, plan and implement all health, housing and other social and economic programmes affecting them, and as far as possible to develop, plan and implement such programmes through their own institutions.

## PART V

21. The right to participate on an equal footing with all the other citizens and without adverse discrimination in the political, economic and social life of the State and to have their specific character duly reflected in the legal system and in political and socio-economic institutions, including in particular proper regard to and recognition of indigenous laws and customs.

22. The right to participate fully at the State level, through representatives chosen by themselves, in decision-making about and implementation of all national and international matters which may affect their life and destiny.

23. The [collective] right to autonomy in matters relating to their own internal and local affairs, including education, information, culture, religion, health, housing, social welfare, traditional and other economic activities, land and resources administration and the environment, as well as internal taxation for financing these autonomous functions.

24. The right to decide upon the structures of their autonomous institutions, to select the membership of such institutions, and to determine the membership of the indigenous people concerned for these purposes.

25. The right to determine the responsibilities of individuals to their own community, consistent with universally recognized human rights and fundamental freedoms.

26. The right to maintain and develop traditional contacts and co-operation, including cultural and social exchanges and trade, with their own kith and kin across State boundaries and the obligation of the State to adopt measures to facilitate such contacts.

27. The right to claim that States honour treaties and other agreements concluded with indigenous peoples.

## PART VI

28. The individual and collective right to access to and prompt decision by mutually acceptable and fair procedures for resolving conflicts or disputes and any infringement, public or private, between States and indigenous peoples, groups or individuals. These procedures should include, as appropriate, negotiations, mediation, arbitration, national courts and international and regional human rights review and complaints mechanisms.

## PART VII

29. These rights constitute the minimum standards for the survival and the well-being of the indigenous peoples of the world.

30. Nothing in this Declaration may be interpreted as implying for any State, group or individual any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.



## What is the Debate All About?

The very issues that prevented serious consideration of self-determination for “internally colonized nations” seventy-years ago are at the core of the present international debate concerning the Draft Universal Declaration on Rights of Indigenous Peoples. Fourth World nations argue that they have original sovereignty, and states argue that only the state can have sovereignty. Nations argue that they are distinct peoples while states argue that nations are mere populations under the control of a state. Nations argue they have territories and natural resources, and states argue that nations have lands which are under the regulation of the state. And, nations argue they should enjoy the right of self-determination and self-government like all other peoples while states argue that the exercise of self-determination by nations must be limited or completely rejected if the political integrity of an existing state is threatened.

The first revised text of the Draft Universal Declaration on Rights of Indigenous Peoples raises important questions about the legitimacy of some existing states. Excerpts from the growing debate over the specific terms of the Declaration (presented below) illustrate the different points of view expressed by states governments, indigenous peoples and non-governmental organizations. The intensity of this debate is expected to increase during the eighth session of the United Nations Working Group on Indigenous Populations meeting in Genève, Switzerland.

## Excerpts from comments on Declaration Draft

The documented comments below (E/CN.4/Sub.2/1989/33/Add.1 June 20, 1989) was compiled by the Secretariat at the request of the Chairman-Rapporteur, Mrs. Erica-Irene A. Daes, and contains an analytical compilation of the observations and comments on the draft universal declaration on indigenous rights (E/CN.4/Sub.2/1988/25 and E/CN.4/Sub.2/1988/24, Annex II). These comments were received by 16 June 1989 from the Governments of Australia, Byelorussian Soviet Socialist Republic, Union of Myanmar, Canada, Czechoslovakia, Finland, Mexico, Panama, Romania, Sweden and Venezuela; the United Nations Centre for Transnational Corporations, the United Nations Educational, Scientific and Cultural Organization, the Food and Agriculture Organization of the United Nations and the following non-governmental and indigenous organizations: Four Directions Council, Indian Law Resource Centre, Inuit Circumpolar Conference, National Indian Youth Council, Regional Council on Human Rights in Asia and Survival International.

Further comments or observation were compiled in addenda to document E/CN.4/Sub.2/1989/33.

## GENERAL OBSERVATIONS ON THE DRAFT DECLARATION

### Australia

1. Australia supports the thrust of the draft declaration towards recognition of the right of indigenous people to be free and equal to all other human beings, to preserve their cultural identity and traditions, and to pursue their own cultural development.

2. However, there is a fundamental concern which the Australian Government believes needs addressing before further progress can be made. This concern has to do with the relationship between:

(a) The rights of indigenous peoples proposed in the draft, and

(b) Basic human rights (as enshrined in other United Nations Conventions and Covenants) and citizenship rights (as enshrined in State laws).

3. The preamble refers to “existing international standards” and “international human rights instruments,” and Part I also refers to the right to enjoy all fundamental rights and freedoms as set down in the Charter of the United Nations, and in existing human rights instruments. However, it is not clear from the draft itself whether it operates within the framework of existing agreements or whether the draft declaration is conferring additional rights specifically for indigenous peoples and thus going beyond the provisions for minorities in the International Covenant on Civil and Political Rights.

4. From Australia’s perspective, it is clearly the former relationship which the draft declaration should seek to present. This would entail reference at the outset to the effect that the rights recognized in the draft declaration should be read in conjunction and consistently with the major human rights instruments. Reference could also be made to the effect that “nothing in the draft declaration shall be taken to imply that rights it accords to indigenous peoples override the rights previously accorded by other international human rights instruments.”

5. There also remains the question of how to make it clear that the indigenous rights reflected in the draft declaration are effective within the framework of State law and are not to be interpreted as implying separate development or statehood for indigenous people, or extra-citizenship rights. It is Australia’s view that the State must remain sovereign and that, if there is a



conflict between an indigenous right and a State law or citizenship right, the latter is to be overriding.

6. It therefore needs to be specified that references to "peoples" as opposed to "populations" and references to autonomous institutions (part V) do not imply either:

(a) The right to self-determination as understood in international law, or

(b) Within the State, to the separation and singling out of a particular racial/ethnic group for a unique set of rights (to do so would be in contravention of articles 1, paragraph 4, and 2, paragraph 2, of the International Convention on the Elimination of All Forms of Racial Discrimination).

7. The difficulty lies on the one hand in recognizing the unique cultural qualities and historical circumstances of indigenous peoples and, on the other, in ensuring that those peoples operate within the framework of State laws and sovereignty. Australia's concerns relate to those principles where emphasis is placed on unique or special entitlements without any qualification being made to the overriding framework of State laws and standards.

8. Principles 1, 2, 3, 4, 7, 11 and 19 are supported by Australia. The following principles, while perhaps requiring minor changes to the form of words used, are essentially compatible with the Government's policy and are also supported: 5, 6, 8, 20, 26, 27 and 28.

9. It needs to be stressed that the Government's policy in the area of indigenous rights is still evolving. However, the remaining principles are not currently covered by the Australian Government's policy and would require further attention and discussion for Australia to support them.

### Byelorussian Soviet Socialist Republic

The Byelorussian SSR supports the idea of drawing up and adopting a declaration on indigenous rights and has made a number of observations on the draft set of principles for inclusion in the declaration. We consider the draft declaration to be an important contribution towards establishing legal rules and securing more effective protection for all indigenous rights and freedoms.

### The Union of Myanmar

1. In the view of the Government of the Union of Myanmar, it is imperative that the draft universal declaration on indigenous rights include a definition of the term "indigenous peoples" to be formulated in a clear, concise and unambi-

guous manner. The absence of such a precise definition may give rise to different interpretations of the term, thereby making it open to serious controversy on the applicability of the declaration. On the other hand, such a definition would surely add to the clarity not only of the objective but also of the remaining provisions of the draft. There can thus be little or no room whatsoever for ambiguities as to the "peoples" to which it applies.

2. Some declarations on human rights, such as the Universal Declaration of Human Rights, do not include definitions of terms. In this connection, it may be observed that there is a difference between the Universal Declaration of Human Rights and the proposed draft universal declaration on indigenous rights. The former is of a universal character and applies to all individuals or human beings the world over; its very universal character does not permit of different interpretations as to the individuals or groups of persons to which it applies. This is not the case with the present draft declaration, which applies only to certain groups and peoples who are still deprived of their fundamental rights. This being the case, there is an imperative need for the inclusion of a clear, concise and unambiguous definition of the term "indigenous" peoples.

3. It is a fact that the definition of the term "indigenous" in article 1 (b) of ILO Convention 107 may be taken as a model or basis for working out such a definition, if necessary with appropriate modifications for further improvement.

4. As to other provisions of the draft, the rights sought to be bestowed upon indigenous peoples are found to be far broader and more comprehensive than in ILO Convention 107. This argues more strongly in favour of the need for a clear, concise and unambiguous definition in a way, first, not to infringe upon the sovereignty and independence of the Member States of the United Nations and, secondly, to do away with any possibility of disputes regarding the applicability or application of the draft declaration.

5. The absence of a precise definition or, by the same token, the presence of a loose and broad one will be susceptible of tendentious interpretations and, if that were allowed to be the case, it would certainly not be conducive to the creation of an international climate of harmony and concord, which should be the primary objective of any attempt to draft an important standard-setting

### Canada

1. Canada notes that, in formulating the draft principles the term "peoples" has been used in lieu of the term "populations;" the latter term is used throughout the United Nations system in this context and has a clear and unambiguous meaning. While different States, including Canada, may employ the term "peoples" domestically with reference to their indigenous populations, the meaning of the term "peoples" in international law is unclear. Its use may

relate to the right of self-determination, which would not be acceptable to many States.

2. In a previous submission (E/CN.4/Sub.2/AC.4/1988/2/Add.1), Canada observed that, in formulating standards for indigenous populations, principles should be framed in terms of objectives rather than of rights and/or entitlements to certain kinds of government programmes and duties imposed on States. These remarks remain applicable.

3. Furthermore, Governments and indigenous populations should be presented with objectives that are reasonable, achievable and designed to meet the needs of populations. To the extent that the draft principles prepared to date reflect these concerns, Canada expresses its appreciation to the drafters. However, it notes that, while undoubtedly well-intentioned, the achievability of certain principles may be questioned by States.

4. Canada recalls its previous comment that one way of ensuring that objectives are achievable and acceptable is to make sure that principles correspond as closely as possible to existing international norms. In this respect, Canada notes, with appreciation, the reference to the guidelines contained in General Assembly resolution 41/120 of 4 December 1986.

5. Canada appreciates that, because of the particular circumstances in which they find themselves, indigenous persons may require special international protection in order to achieve a truly equal enjoyment of rights. However, it is concerned that some of the draft principles (such as principle 21) seem to go beyond the laudable objective of ensuring indigenous persons the full enjoyment of fundamental human rights, on an equal basis with other nationals, and aim at creating new classes of rights over and above fundamental human rights.

6. In previous comments (E/CN.4/Sub.2/AC.4/1988/2/Add.1), Canada has stated that the rights contained in a draft declaration on indigenous rights should generally be oriented towards the rights of individuals, though it recognized that some of the rights would have a collective aspect. Given that this remains Canada's view, it finds the collective orientation of many of the proposed rights to be somewhat problematic.

7. In addition, Canada would expect the draft principles to reflect the fact that national laws generally make most human rights subject to certain limitations, justifiable in particular circumstances, provided that the basic content of those rights remains uncompromised.

8. Canada is of the view that terms should be clearly defined to minimize ambiguity and to ensure that desired objectives are achieved. In this respect, it is noted that the term "ethnic characteristics" referred to in the earlier principle 4 has been amended so that the clause now refers to "ethnic and cultural

characteristics." Given this differentiation between ethnic and cultural characteristics, the meaning of "ethnic characteristics" *per se* is unclear.

9. It should be noted that, despite the concerns expressed above, Canada already supports the intent of many of the draft principles and is working with indigenous groups, among others, to ensure that indigenous Canadians enjoy the full range of rights and freedoms available to all Canadians.

### Czechoslovakia

1. The Czechoslovak Socialist Republic welcomes the proposal for the adoption of a universal declaration on indigenous rights, seeing its importance primarily in the fact that it is conducive to securing the future and further development of indigenous communities. In this connection, Czechoslovakia wishes to raise certain questions which, in view of the importance of the matter, should be resolved before the finalization of the draft declaration.

2. Czechoslovakia believes that if the adoption of the declaration is to make a real contribution to the welfare of indigenous populations, it is necessary to clarify the meaning of the term "indigenous peoples," i.e. to define which people are covered thereby, as it may be applicable to people living in different parts of the world under widely differing conditions. It would therefore be advisable to include the term "indigenous peoples" in the title of the declaration and to define it more precisely in the preamble or in the text of the declaration itself.

3. Clarification of the meaning of the term "indigenous peoples," i.e. peoples intended to be covered by the declaration, is all the more important in view of the fact that in certain specific situations the inclusion of a people among "indigenous peoples" might mean the limitation rather than the expansion of their rights. For example, the United Nations Charter sets forth the principle of equal rights and self-determination of peoples (Art.55). The import of this right is also set forth in article 2 of the International Covenant on Economic, Social and Cultural Rights and in article 1 of the International Covenant on Civil and Political Rights, where it is laid down in more general and wider terms than in the draft declaration on indigenous rights. Thus a people considered indigenous will have only limited rights in comparison with other peoples, as the aforementioned provisions of the United Nations Charter apply to all peoples. Yet in a number of cases full-scale application of the principle of equal rights and self-determination of peoples in respect of "indigenous peoples" would not be useful; sometimes it would be even impossible.

4. For the sake of precision, it would also be advisable to pay attention to the formulation of those provisions of the draft declaration that set forth the rights and freedoms of indigenous peoples and their obligations in a specific social structure. Provisions such as article 29, paragraph 2, of the Universal Declaration

of Human Rights and article 2, paragraph 3, of the International Covenant on Civil and Political Rights may be recalled in this connection. These are provisions which have to be observed in one way or another, according to the circumstances, everywhere, in every organized society, i.e. also in the exercise of the rights of indigenous peoples.

5. In respect of indigenous peoples, the application of such limiting provisions might be misused in a way contrary to the interests of indigenous populations and their rights, e.g. as regards the observance of "religious traditions and ceremonies," as there might be traditions and ceremonies corresponding to the customs and development of a given indigenous people yet absolutely extraneous to the ideas and morals underlying the European traditions which constitute the basis of the 1948 Universal Declaration of Human Rights as well as of other instruments on human rights adopted in the United Nations hitherto.

6. The relationship between the instruments on human rights adopted in the United Nations or in the specialized agencies such as ILO or UNESCO and the rights of "indigenous peoples" as set forth in the draft declaration should be defined in more precise terms.

### Finland

1. In the draft declaration, the term "peoples" is used alternatively with the term "populations" with reference to indigenous populations. Although virtual unanimity seems to prevail in favour of the term "peoples." Finland finds, and the practice of international law has so far been such, that the term "populations" would be preferable. At least as regards the Finnish Sami, who live together with the rest of the population in the same territories but without anywhere constituting a majority, the concept of "population" would be clearly more descriptive of the present situation than the concept of "people." However, if the use of the term "people" is established, it will not cause practical problems for Finland.

2. As a general observation, it can be said that the present draft declaration is considerably more comprehensive than the previous version circulated in the spring of 1988. The amplifications relate partly to questions which are being discussed in connection with the revision of ILO Convention No. 107. The text of the draft declaration largely concurs in this respect with the text proposed for the ILO Convention. Finland would find it desirable that the Declaration and the Convention should as far as possible correspond, even though this may give rise to certain problems owing to the fact that agreement has not yet been reached on the amendments to the ILO Convention.

### Mexico

1. The Government of Mexico considers the purpose and content of this document to be important for the promotion of measures at the national level to provide for, specify and secure the fundamental rights of indigenous peoples within its territory. It is also conducive to reflection, at both the national and international levels, on the rights of indigenous groups.

2. The Government considers that the draft universal declaration on indigenous rights should be adopted by the United Nations, in the near future, so that the various indigenous peoples can have an adequate legal framework for the protection of their rights. Furthermore, this instrument can help to promote recognition of the original cultures of many countries.

3. In addition, and subject to further information we may provide on the topic, we list below the objectives which the Mexican Government has set itself in order to improve the living standards of the indigenous communities and to promote their participation in the life of the nation:

- (a) Priority attention to solving land tenure problems and conflicts;
- (b) Halting the loss of indigenous lands and, within those lands, clarifying land tenure rights among the indigenous groups themselves;
- (c) Combating any form of intermediarism that could impede full participation of the indigenous populations in the general development process;
- (d) Respecting, and securing respect for, the rights of these groups;
- (e) Promoting their incorporation in national development while maintaining their development within their own cultural model.

### Panama

1. The report of the Working Group on Indigenous Populations is a document of major significance. It encompasses the aspirations of both government representatives and indigenous organizations concerning the problems and aspirations of indigenous populations.

2. The draft universal declaration on indigenous rights reflects all contemporary assumptions regarding indigenous populations and represents genuine recognition of the rights of those populations to be observed by Governments and societies.

3. The Constitution of the Republic of Panama provides that the State shall accord special attention to rural and indigenous communities with a view to promoting their participation in national economic, social and political life. In recent years, indigenous groups, in conjunction with the Government, have drawn up various pieces of draft legislation, including that providing for the creation of the Emberá territory. Some of the other drafts have not been fully completed and are undergoing the necessary technical revisions. One of the drafts concerns the updating of the special regulations governing the San Blas territory, set up in 1953.

4. In the light of the above, the Republic of Panama considers the draft declaration to be a further contribution of the United Nations to contemporary international law and an additional instrument for the protection of indigenous rights.

### Romania

1. In order to achieve its desired effect of promoting the rights of indigenous populations, the draft declaration should take account of the different situations existing throughout the world and be based on a complex approach to the problem designed to ensure not only the economic and social progress of such populations and their integration in the modern development process, but also respect for their traditions and special characteristics.

2. Accordingly, the draft declaration should provide for an undertaking by States to promote the economic and social development of indigenous populations as part of their overall national development programmes, as well as through special measures to speed up the economic modernization of the areas which they inhabit.

3. Such programmes and measures should provide for the gradual integration, in appropriate ways, of the indigenous populations in the social, economic and political life of the country in which they live, as citizens with the same rights and responsibilities, without any discrimination or distinction, while preserving their traditions and special characteristics.

4. The draft declaration should basically reflect more closely the Declaration on the right to development adopted by the General Assembly in resolution 41/128 of 4 December 1986.

5. On this basis, the draft should also provide for an undertaking by States to ensure that members of indigenous populations have access to the benefits of social progress, namely, employment, education, housing, health and social security.

6. Experience has shown that it is not enough to provide solely for the rights of given populations or individuals; those rights must be reflected in specific undertakings by the States in whose territories they live.

7. The measures provided for in the draft declaration must reflect the diversity of situations, constitutional frameworks and social systems existing in various parts of the world, as regards ownership of land and means of production, the education and health systems and measures for the preservation and protection of property and cultural and artistic objects. Only in this way can the draft declaration be of universal value.

8. Accordingly, provisions such as those contained in paragraphs 6, 8, 10 and 12 to 20 should be expanded to stipulate that the rights set forth therein will be exercised within the constitutional and legislative framework of the State concerned. This question could also be dealt with in a general provision to the effect that all the relevant rights will be exercised within the constitutional framework of the country in question and in accordance with its internal legislation.

### Sweden

1. The Government of Sweden is concerned about the implications of the proposal to substitute the term "peoples" for that of "populations" in the text. If the term "peoples" is to be used, Sweden believes that a qualifying clause is necessary that clearly indicates that the right of self-determination, as that term is understood in international law, is not implied by the use of the term "peoples."

2. As for the proposal to include the concept of collective human rights in the text, Sweden is rather hesitant. The Swedish standpoint is that human rights are individual by definition. Sweden's wish is to safeguard human rights in as clear and logical a way as possible. In order to achieve that goal, Sweden thinks it necessary to avoid rendering the concept of human rights weak or ambiguous. It is also important to be able to supervise the observance of human rights.

3. Those two important aspects of the possibilities of strengthening and safeguarding the observance of human rights might be endangered in two ways by introducing the concept of collective human rights. In the first place, issues might be blurred in the sense that it would not be at all clear in what instances, where and at whose initiative the issue of a transgression of those rights was to be brought up. In this context, it seems appropriate to point to the close connection between problems of this nature and the lack of a definition of the notion of "indigenous populations" or "peoples." Secondly, it must be pointed out that the inclusion among the international normative texts on human rights of collective rights of the kind now suggested might create conflicts between such rights and individual human rights as laid down, for instance, in the International

Covenant on Civil and Political Rights. Fields where problems of this character might arise are, for instance, criminal justice and family law and, in fact, in some instances, the very principle of the rule of law. There might also be unwarranted discrepancies between rights granted to indigenous populations and rights granted to minorities under article 27 of the Covenant. This would run counter to the principle of non-discrimination.

4. All this could create a situation where the contents and field of application of traditional and essential human rights became blurred. Undoubtedly the interests of all are, on balance, better served by as clear and concrete norms as possible, that form part of a coherent system of normative texts in the field of human rights. One way of ensuring this is to make indigenous rights individual ones, as for instance minority rights in article 27 of the Covenant.

5. This would undoubtedly be the best way of ensuring a clear, coherent and functional normative system in the field of human rights, which would be in accordance with the aims set out in General Assembly resolution 41/120. For those reasons, Sweden is not prepared to endorse collective human rights in the draft declaration. The objectives sought by introducing collective human rights must be served through governmental commitments formulated in other ways in the draft declaration.

6. What has been said above naturally does not imply that individual rights could not be invoked by several individuals together or by a group of individuals. Such, for instance, is the case as regards the rights enumerated in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights.

## Venezuela

1. In accordance with Venezuelan constitutional law, all the country's inhabitants are protected, and their rights guaranteed, by identical legal provisions, on the premise that one of the State's fundamental duties is to maintain social and legal equality, without discrimination based, among other factors, on race, as proclaimed in the preamble to the Constitution, article 61 of which guarantees everyone the enjoyment of equal treatment in all matters pertaining to social relations and the benefit of equal opportunities.

2. With regard to the special position of the indigenous populations, who are gradually being incorporated into the life of the country, article 77 of the Constitution makes provision for the possibility of establishing by law any exceptional system required to protect these indigenous communities and incorporate them into the social, economic and political life of the State.

3. Venezuela has always taken a very clear stand in defence of the indigenous

inhabitants and will continue to do so, but it also takes a clear stand on safeguarding and effectiveness of the rule of law, and on equality before the law for all the inhabitants of the Republic.

4. In consequence, Venezuela supports all efforts being made at the international level to secure recognition for indigenous communities of the essential and basic human rights, with due regard for their special characteristics and life-styles, and it agrees that States should extend them special protection.

5. Upon examining the draft universal declaration on indigenous rights, Venezuela notes that the draft purports to go even further than protection of indigenous persons and efforts to prevent discrimination against them; it seeks to create a special situation that would place them in a privileged position with respect to the rest of the community of the country in which they live.

6. The draft declaration tends not so much to prevent discrimination as to increase it by fostering the establishment within States of independent compartments or communities, something that Venezuela cannot by law accept, ensure or protect under its constitutional regime.

## Food and Agriculture Organization of the United Nations

1. It is felt that the draft declaration provides a comprehensive and detailed coverage of fundamental indigenous rights as well as a suitable legal framework for the socio-economic development of indigenous communities under a variety of national circumstances and situations. FAO would like to stress the importance of establishing - in consultation and co-operation with all the parties concerned - an effective implementation system of the universal standards of indigenous rights.

2. FAO has no major modifications or additions to propose to the present text of the draft declaration. As regards procedures for resolving conflicts and disputes (para. 28, part VI) of the draft declaration, it would suggest that the word "arbitration" be inserted after the word "mediation."

## Four Directions Council

1. The draft prepared by the Chairman-Rapporteur of the Working Group, as appended to the Working Group's sixth report, is thorough, precise, and represents a fair balancing of the aspirations of indigenous peoples and the legitimate concerns of States.

2. The draft declaration distinguishes, in several articles, between "individual" and "collective" rights. In the Council's view, all the rights or indigenous

peoples have both individual and collective aspects. Individuals are the beneficiaries of these rights, but individuals exercise them through participation in their own collective institutions, such as tribal, social, political and religious organizations.

3. It is suggested that the terms "individual" and "collective" should generally be avoided in the operative part of the declaration. Instead, the final preambular paragraph should refer to "the following individual and collective rights of indigenous peoples," to make it unambiguous that the rights described may all have both individual and collective aspects.

4. The expression "individual and collective," should be retained in paragraph 28 of the declaration, however, to make it clear that both individuals and groups are subjects of the rights contained in the declaration. As such, both individuals and groups should have access to national, regional and international mechanisms for redress of violations of these rights.

5. As it stand, the draft avoids the question of self-determination in the traditional sense, anticipating instead that indigenous autonomy will be exercised within the territorial and constitutional frameworks of existing States. While this may be true, it would be prudent to avoid any possible misuse of the declaration as a pretext for denying the right to self-determination to peoples who would otherwise clearly be entitled to its exercise - for example, the indigenous majority of South Africa. This suggests the propriety of including a saving, clause in the preamble to the effect that:

"Mindful that nothing in this declaration may be used as a pretext for denying to any people, which otherwise satisfies the criteria generally established by international law, its right to self-determination;"

6. The Council takes the liberty also of suggesting the procedure which might be followed by the Working Group in continuing the drafting of the declaration. It will be essential to build on the widest possible exchange of views among Governments and indigenous peoples' organizations. For this reason, no substantive revision of the draft should be attempted this year. Instead, the Council recommends the following:

(a) At the seventh session of the Working Group in 1989: general discussion of the draft declaration; circulation of the text for further comments and proposals; preparation by the Chairman-Rapporteur of an article-by-article compilation of comments and proposals received, for discussion at the Working Group's eighth session;

(b) At the eighth session of the Working Group in 1990: article-by-article review of the draft declaration, and appointment of small drafting groups,

including representatives of Governments and indigenous organizations, to suggest ways of consolidating the proposals made on specific articles or groups of articles; one or more sessional meetings of the Working Group during the forty-second session of the Sub-Commission to receive the preliminary suggestions of the drafting groups; preparation, by the Chairman-Rapporteur and members of the Working Group, of a substantive revision of the draft declaration, for discussion at the Working Group's ninth session in 1991.

### Indian Law Resource Center

1. The Center supports the decision to prepare a declaration of rights rather than a more general declaration of principles. It feels that this is a more positive and useful contribution towards the goal of promoting and enhancing respect for the human rights of indigenous peoples.

2. The Center also supports the decision to declare explicitly certain rights as collective rights or rights of collectivities as well as to declare rights which belong to individuals. It is in the area of collective rights that the declaration will make its greatest contribution, but the individual rights of indigenous persons are equally important.

3. Certain ideas have guided the Center's thinking on a draft declaration. These ideas are in many ways reflected in the draft universal declaration on indigenous rights. The Center believes it preferable to establish a few broad and specific rights which will address all major concerns and issues vital to indigenous peoples rather than to attempt to elaborate a large number of items to cover every conceivable problem or violation of rights. More specific and detailed provisions for implementing, protecting and enforcing these rights is the proper function of a covenant or convention on indigenous rights. In the Center's view, it is best to declare universal rights for indigenous peoples in broad, ringing and enduring terms.

### Inuit Circumpolar Conference

1. The Conference continues to be concerned about the lack of uniformity in the terminology of the draft declaration when referring to the collective and individual rights of indigenous peoples. The terms "right," "collective right," "individual rights," and "individual and collective right" are all used in the draft. As a result, it is uncertain, for example, whether the draft is affirming both collective and individual language rights when it refers to the "right to maintain and use their own languages" (art. 9).

2. As a general rule, the draft declaration should use terminology that accommodates all the basic rights of indigenous peoples (i.e. both collective and

individual), while at the same time emphasizing the centrality of collective rights to indigenous peoples and cultures. This vital perspective could be highlighted in the preamble. Specific references to "individual rights" or "collective rights" should be used only when the context of the provision does not permit a broader meaning.

## National Indian Youth Council

### A. Self-determination

1. The draft does not specifically include self-determination among the rights of indigenous peoples. This omission raises concern, given the importance attached to the right by indigenous representatives attending the various Working Group sessions as well as the attention focused on the principle by the Working Group itself.

2. The Council understands the concern that States - which ultimately must assent to a United Nations declaration on indigenous rights - will resist any language suggesting a basis for their dismemberment. The broad right to self-determination, however, is not simply interchangeable with the narrow means of secession. Secession was the appropriate means for application of the right in colonial situations. It does not follow that application of the right to self-determination beyond colonial situations entails the same remedy. Nor does it follow that self-determination applies only where secession is at issue.

3. An increasingly common view among international law scholars is that the right to self-determination has applications beyond the decolonization process in which secession was the norm (e.g. Chen, "Self-determination as a human right," in *Toward World Order and Human Dignity* (M. Reisman and B. Weston eds., 1976); Ronen, *The Quest for Self-Determination* (1979)), and that indeed the right should be understood to apply to indigenous peoples (see Brownlie, "The rights of peoples in modern international law," and Falk, "The rights of peoples (in particular indigenous peoples)" in *The Rights of Peoples* (J. Crawford ed., 1988)). This view reflects the universality attached to the principle as included in the United Nations Charter (see Umozurike, *Self-Determination in International Law* 44-54 (1972)).

4. The contours of the right to self-determination as applied to indigenous peoples will develop within international law according to the relevant factors. Prominent among such factors is that few indigenous peoples assert that the vindication of their rights lies in reconstituting themselves into independent States. The case can be made that the varying structures of indigenous societies are in fact inimical to the structure of the modern State (see Crone, "The tribe and the State," in *States in History* 58-68 (1986)), and thus it makes even less

sense in this context to speak of self-determination in terms of secession and the establishment of new States.

5. The real concerns here are preventing the oppression of indigenous societies by existing States and other modern structures, and creating a positive condition for the development of indigenous societies. What indigenous self-determination requires is the recognition of a duty by States to make structural accommodations and to secure entitlements for the indigenous peoples within their borders in order that each may continue its unique existence according to its desires. Only in the rarest of circumstances would the true expression of an indigenous people's self-determination require the dismemberment of a State willing to realize these goals.

6. The farthest the draft declaration goes in addressing self-determination rights in the political - and most contentious - sphere is in asserting in article 23 the "collective right to autonomy in matters relating to their own internal local affairs." Article 23 goes on to list substantive areas - education, information, culture, etc. - in which indigenous peoples are entitled to exercise limited autonomy.

7. This provision is problematic first of all because of the amorphous nature of the term "autonomy." Far from being identified with some clear minimum standard of self-government, autonomy has become a catch-all term with little understood meaning beyond the notion of special State measures directed at a region with a minority or indigenous population to govern the region's participation within the larger State apparatus. Furthermore, the listing of substantive areas over which indigenous peoples are deemed entitled to exercise autonomy could be construed as exhaustive and thus is in itself potentially limiting.

8. To the extent that article 23 envisages a certain kind of arrangement in the term "autonomy," it is likewise flawed. Emphasis on any such prescription as universally applicable to indigenous self-determination interests ignores the diverse qualities and situations that pertain to the multitude of indigenous peoples throughout the world, and assumes the consent of all indigenous peoples to one formula.

9. A more appropriate approach would be to accede to indigenous peoples' repeated suggestions and affirm their right to self-determination as a foundational principle. The suggested approach would decline to define in universal terms the outcome of the right's exercise, i.e. integration, autonomy, associated statehood, secession, etc.; instead, the outcome of the right's exercise would be considered a function of the specific character of each indigenous people and of its consent to the terms of its existence within the relevant larger social, economic and political structures.

10. It is thus submitted that the right to self-determination of indigenous peoples be affirmed as:

“The right of each indigenous people to maintain and develop freely the institutions and attributes that constitute its particular character as a distinct community; including the right of an indigenous people to consent to the terms of the mechanisms governing its status vis-à-vis the State and other relevant structures, through direct negotiation or other appropriate procedures.”

11. Such a formulation, focusing on the specific character of each indigenous people as controlling, would meet indigenous self-determination interests and negate all but illegitimate status concerns about dismemberment. The right to secede in international law would not be expanded, in that secession would remain an issue only in specific instances where a particular people possessed attributes under circumstances already acknowledged as warranting independent statehood (see generally Buchheit, *Secession* (1978)).

### B. The duty of States to take affirmative measures

12. For the most part, the rights specified in the draft declaration are formulated as static guarantees, e.g. “The right to manifest, teach, practice and observe their own religious traditions and ceremonies ....” Only in some instances is the statement of a right complemented by the statement of a duty or a call for positive action on the part of States, e.g. “The duty of States to seek and obtain their consent” for mineral exploration on their lands.

13. Apparently the assumption is that the bare statement of a right will be construed to carry with it an affirmative duty of the States concerned to implement the right. But such an optimistic construction will not necessarily be upheld in practice, as prior experience demonstrates. The duty of States to take positive measures should be affirmed as to each right and not just a few of the asserted rights. This could be accomplished, inter alia, by amplifying the 10th paragraph of the preamble, which calls upon States to implement existing international human rights instruments as they apply to indigenous peoples.

14. A universal declaration on indigenous rights should forestall any such limiting interpretation of the rights affirmed by including specific and comprehensive language on the duty of the State to implement the rights by positive action.

### Survival International

1. Survival International is very pleased by the overall progress being made in the elaboration of a declaration on indigenous rights. There are a number of

positive aspects in the draft declaration. The draft refers to “indigenous peoples” rather than “indigenous populations,” which is a good sign of the progress being made towards a recognition of indigenous demands. The draft declaration confers collective as well as individual rights and is clearly opposed to national policies of integration and assimilation. It also seeks to protect the identities of indigenous societies by ensuring respect for their cultures, languages, religions, traditions and customs. The corresponding duties of nation States to ensure respect for these rights are not enumerated, however.

2. The draft declaration also contains some strong provisions regarding the rights of indigenous peoples to the use and ownership of their traditional lands. Provisions are included which appear to recognize the right of indigenous peoples to the collective ownership of their lands (art. 13). Survival International considers, however, that this right should be made more explicit and that the concept of territories, which is preferred by many indigenous peoples, should be adopted in the declaration in the context of the right of ownership, rather than just the right of control (art. 14). The provision that no lands may be taken away from indigenous peoples without their free and informed consent (art. 12) is a major advance on existing international law. However the draft declaration is weaker than existing international law in not making explicit the right of indigenous peoples to full compensation with land for land lost, in cases where they agree to relinquish a certain piece of land. Another deficiency is that, again, the corresponding duties of nation States to ensure respect for land and territorial rights are not enumerated.

3. Survival International is concerned that the draft declaration appears to make no provision to secure the customary grazing rights of pastoral peoples where these rights are held on lands that are customarily considered to be owned by others. Survival International is also concerned that the provision made to ensure indigenous control over the exploitation of subsurface resources is not adequate to defend the rights of indigenous peoples.

4. The draft declaration attempts to make provision to ensure that indigenous peoples maintain control over their own development. However, the language used to secure these rights is weak and ambiguous. Indigenous peoples have made explicitly clear to the Working Group that they demand the right to “self-determination,” by which they mean the right to control all their own affairs through their own institutions, including in some instances the right to secession from the State. The draft declaration does not extend this right to indigenous peoples and uses instead the language of “consultation,” “participation,” “informed consent” and so on.

5. Survival International is committed to defend the right to self-determination. Article 23 of the draft comes nearest to recognizing this right through its recognition of a collective right to autonomy in matters relating to internal affairs. This right, while welcome in itself, falls far short of the full right to self-



determination. Moreover, actual examples where regional autonomy has been granted to indigenous peoples within a nation State reveal all too clearly how extensively nation States can manipulate such arrangements to their advantage.

6. Survival International welcomes the fact that a Special Rapporteur has been appointed to examine the legal complexities that arise from relations between indigenous peoples and States secured through treaties. Modifications in the declaration following the report of the Special Rapporteur and its discussion in the Working Group should be envisaged.

## COMMENTS ON THE PREAMBLE

### Venezuela

1. The passage in the first preambular paragraph relating to recognition of the right of all individuals and groups to be different and to be regarded as such is inappropriate; one fails to see how a State could create a variety of regimes, different for each particular person or group, when the aim in every community organized as a State is precisely to ensure that all persons will be on an equal footing before the law.

2. Similarly, the statement in the ninth preambular paragraph to the effect that indigenous peoples should be free to manage their own affairs is very general and could give rise to conflicts which the State must avoid. The State has a responsibility to ensure that all its inhabitants are governed and protected by legal rules that apply to everyone, without exception.

### United Nations Educational, Scientific and Cultural Organization (UNESCO)

#### First preambular paragraph

The "right to be different" is indeed an ambiguous notion. It could lead to treating indigenous peoples in a paternalistic way because they are considered different, or to closing them up in ghettos because they are so different that they should be "protected" and hence become objects of museology. Indeed, the very first words of this preambular paragraph are puzzling: the paragraph provides that indigenous peoples are equal to all other human beings in dignity and rights, which seems to imply at the outset that on the one hand there exist indigenous peoples and on the other hand "all other human beings." This is simply inappropriate, since indigenous peoples are human beings.

#### Third preambular paragraph

Indigenous culture should be included along with the traditions, social structures and lands traditionally occupied by indigenous populations.

#### Fourth preambular paragraph

The use of the term "Rebellion" is misleading and makes the struggle against discrimination and all forms of oppression seem less legitimate. Another wording of this phrase is proposed, e.g. "which in turn has led them to voice their grievances and to organize themselves in order to bring an end to all forms of discrimination and oppression which they face."

#### Seventh preambular paragraph

UNESCO does not recommend the use of the term "ethnodevelopment," which implies that indigenous peoples may be set apart and isolated from the benefits of the national society. They may very well receive separate and unequal treatment. Another wording is proposed, e.g. "through development based on their own needs and value systems."

### Indian Law Resource Center

In the seventh preambular paragraph, it is recommended that the words "through ethnodevelopment" be omitted. This term is unclear and may be taken as limiting the meaning of the paragraph. Secondly, the institutions and economies of indigenous societies should be strengthened as well. The paragraph should read:

"Endorsing calls for the consolidation and strengthening of indigenous societies and their institutions, economies, cultures and traditions and comprehensive participation in and consultation about all relevant development efforts."

The Center would recommend adding an additional preambular paragraph to introduce the principle of the "right to be left alone." The additional paragraph would be as follows:

"Believing that States and others should respect the desire and needs of those indigenous peoples who wish to be left alone."

In the ninth preambular paragraph, the Center would suggest deleting the phrase, "to the greatest possible extent." In the Center's view, this phrase adds no significant meaning to the statement and could serve to negate the right in question without any particular reason. It unnecessarily limits the statement.

To the final preambular paragraph, the Center proposes adding the following phrase: "and recognizing that certain indigenous peoples may have additional and more extensive rights according to their particular characteristics and circumstances."

### Inuit Circumpolar Conference

In the third preambular paragraph, it should be made more clear that the rights of indigenous peoples are a direct consequence of their original use and occupation of their traditional territories. The Conference feels that the essential spiritual and material relationship that indigenous peoples have with their lands, resources and environment should be emphasized.

In the seventh preambular paragraph, development is specifically linked to indigenous peoples but not to their traditional territories. The Conference believes that Inuit society and culture could be strengthened through the right of development and through control of and participation in orderly developmental activities in and affecting their territories. In addition, it should be made clear in the last paragraph of the preamble that States should take prompt and effective measures to implement the draft declaration but only "in conjunction with the indigenous peoples affected," and not unilaterally.

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As the above comments, suggestions and recommendations illustrate, there is a wide gap between many of the state's positions and the positions of indigenous nations as reflected in views expressed by non-governmental organizations like the Inuit Circumpolar Conference and the Indian Law Resource Center. As long as the state's governments insist on the view that "self-determination equates to secession" and the state must have absolute control over indigenous territories and peoples, it may not be possible to achieve a political settlement between nations and states through an instrument like the Draft Universal Declaration now under consideration. By not compromising with the indigenous nations on terms to be contained in the Draft Declaration, state's government risk a quite natural reaction by nations which seek greater control over their own political, economic and social destinies. By continuing to deny the right of self-determination to indigenous nations, and by denying the territorial integrity claimed by Fourth World nations, states avoid reality. As many of the world's wars now waged in the world demonstrate, Fourth World nations will not be denied the right to freely determine their own political, economic and social future. The Draft Universal Declaration on Rights of Indigenous Peoples could have a profound affect on political relations in the world, and perhaps by having terms agreeable to both nations and states, a more peaceful world will emerge.

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## Book Review:

Dan Jacobs: *The Brutality of Nations*, Paragon House Publishers, 1987. 383 pages.

### An Internal Matter of a Sovereign Nation, a review of *The Brutality of Nations*, by Dan Jacobs.

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"An internal matter of a sovereign nation," thus United Nations Secretary General U Thant described the war between Nigeria and Biafra. What he meant by this was that the genocide being committed by the government of Nigeria was not of direct concern to the United Nations. It was also not of direct concern to the governments of England and the United States. The human suffering, the loss of lives perhaps in the millions, did not draw a reaction from the U.N., the United States or England, nor did it deter them from their goal of helping Nigeria retain control over Biafra.

But this lack of concern would not have been publicly acceptable. The starvation caused by the Nigerian blockade had to be covered up and denied. This was made difficult by wide publicity given to the famine and a world-wide relief effort to provide food to civilians in Biafra. In order to constrain knowledge of the Nigerian use of starvation as a tactic of war and to prevent food aid from reaching Biafra, the International Committee of the Red Cross (ICRC) was suborned into frustrating the relief efforts it claimed to be running.

The stories of starvation were denied as Biafran propaganda. All relief effort was forced to go through the ICRC. Nigeria prevented any food from reaching Biafra while being praised by the U.S. and England for its willingness to allow the food in. And the Red Cross sat on its hands while claiming that Biafra was refusing the food in order to use the starvation of its people to gain world sympathy. Biafra was turned into a giant concentration camp and the war was won by Nigeria.

That this was done, and was done actively by England with the assistance of the U.S. and the U.N., is carefully laid out in great detail in this book. Sixty pages of notes document the sources of Jacob's informa-

tion. During the crisis Jacobs worked as a consultant to UNICEF and had direct knowledge of false statements made by U Thant to the press in order to assist in the cover-up.

A better title of this book might have been "The Brutality Towards Nations." While it is concerned with the immense brutality towards the Ibo



nation by the government of Nigeria, a similar story could be told of many other nations that have suffered genocide while the governments of the world did nothing, hid the facts or actively helped.

Jacobs does not make the general case that states are interested in the preservation of their boundaries to the

extent that a successful secession in another state is seen as a threat to all states. He dwells primarily on the direct interests of the major players in Nigeria, mainly in the oil that Biafra threatened to secede with. But the point is brought out by the facts related in the book, for example when he talks of the efforts of the ICRC to establish structures to prevent a repeat of the Biafran famine:

So the ICRC attempted to strengthen the Geneva Conventions in "conflicts not of an international character" [nations attacked by states]. There was great resistance to this in the meetings of government representatives; leadership of the opposition came from two countries which had themselves a short time before been killing large numbers of people they claimed as their own citizens - Pakistan and Iraq. As a result the Red Cross did not gain the added authority it sought to aid civilians in wars such as Nigeria-Biafra.

If there were any who doubted that states subjected their own populations to genocidal attacks, this book should at last bring them back to reality. More importantly, it should also make clear that states will see it to be in their interest to help suppress a nation's efforts to become independent from another country.

Jerome E. Taylor  
Associate Editor



## BRUNO GABRIEL

### A Miskito Nationalist and Revolutionary

*He was a Miskito hero, a patriot, and a best friend. He was an Astro, a Miskito nationalist and revolutionary who took on the responsibility of leading a desperate fight to liberate his people from Sandinista occupation.*

Bernard Q. Nietschmann  
University of California - Berkeley

On my first day in Costa Rica a bomb explosion prevents me from meeting the ARDE leaders. Misurasata people brush the bombing aside as a fact of life for a resistance organization. Their real concern is what has happened to Comandante Alwani whose base camp was hit by a very large Sandinista operation and nothing has been heard from inside for days since the frantic radio messages that the camp was under heavy attack and the boys were pinned down by Piri crossfire.

Alwani means thunder in Miskito and it is the nom de guerre of Bruno Gabriel who has 200 men under his regional command which is located at Gunpoint, a high-ground tropical rain forest area west of Tasbapauni, on the banks of Pearl Lagoon. Years ago I used to sail from Tasbapauni

across the lagoon to Gunpoint with Baldwin Garth to visit his brother Elgie who raised cattle and grew bananas, plantains, manioc, dasheen and toquisque in the unusually fertile soil. I always looked without success for the pirate cannons in the shallow waters near the point for which the place was named. Now Gunpoint also has a modern meaning.

The Misurasata reception group that met me at Juan Santamaría Airport took me out to dinner at the Central Palace in Pavas. The restaurant is said to be safe: we are given a private room, the cook is Miskito, the waitress -- María Luz, is Bruno's girlfriend, and one of the combatants guards the Toyota Land Cruiser outside ("to make sure no one puts a bomb in the jeep"). Security has been increased after today's attempt by two FSLN agents to plant a briefcase bomb at a meeting of the three ARDE leaders Edén Pastora, Alfonso Robelo and Brooklyn Rivera. Instead, the bomb went off inside the Sandinistas' car, probably while a timer was being set by the two FSLN agents.

Of the group at the restaurant I only know a couple of the commanders and Kiddy Blandford. Kiddy is from Tasbapauni and he used to take me turtle fishing in the late 1960s and he taught me how to sail and to navigate by the stars. He now uses his knowledge of the sea to guide long-distance open-boat weapons deliveries to the Indian fighters inside the occupied nations. Jotam López is the Sumo representative to Misurasata. Modesto Watson is one of the top Misurasata leaders, and Fran, his wife, is a former Peace Corps volunteer from Michigan. Modesto is distrustful of me and asks why I have volunteered to go inside.

"We are fighting for our land and our dignity. We don't need outside help. How do we know you are not with the CIA?"

Kiddy and the two lower coast commanders vouch for me and cool Modesto down. But still I sense suspicion from those who I don't know from the old days. Fortunately the talk turns to the present concern.

## Bruno's People

"We've lost touch with Bruno for 20 days," Modesto tells the group. "Ever since the clash with the Piri at Gunpoint there has been no word. A rescue mission will go inside Friday, tomorrow."

Bruno has 200 men under his command -- dispersed in units of 35-50 -- but only one-half have weapons. He put out a radio message on June 16 (1983) that they were being attacked by a large Sandinista force. Then he went off the air and attempts to contact him from ARDE's radio at "The

Hill" outside San José have failed. One thing appears certain: if the Sandinistas managed to kill him that news would be headlines on the front pages of Managua newspapers. Bruno is believed to be the best commander in either of the two wars against the Sandinistas.

On Thursday at 6:30 P.M., Wyman, one of Bruno's commanders, calls the Misurasata office from Tortuguero, a small fishing community on the Caribbean 27 miles south of the Nicaraguan border. He has brought out six wounded and everyone has been detained by the Costa Rican Guardia Rural (GAR). Bruno is alive and needs help inside.

Gordo -- Rafael Zelaya -- takes the blue Toyota pickup and leaves immediately for Limón on the Caribbean to organize a boat, supplies and crew for a trip inside tomorrow. Brooklyn makes some calls and then leaves with his bodyguard Eustice Flowers from Set Net to see someone about getting the Guradia Rural to release Wyman and the boys so they can give Bruno's location.

"Mister Barney, we should go ourselves to Limón and to find Wyman to make sure Bruno's people will be helped," Kiddy suggests. "Bruno is the top man and he has mostly Tasbapauni, Set Net and Little Sandy Bay boys with him. You know most of them. If Bruno is in trouble we need to do something."

On the bus to Limón we meet a Miskito man from Puerto Cabezas who was accused of being a contra and had to leave to avoid being arrested.

"Pure Cubans in Port and they are taking over all the jobs, pushing the Indians out. The Cubans have thieved peoples' houses. The Cubans come to town, drive around, look for what house they like, then say the owners are Contras or capitalists, the owners are tossed out and then the Cubans move in. And the Cubans take most of the food, the little there is. Now the people have no work, no food and many have been forced from their own houses. The jails are full."

"The only work the Sandinistas give is to be an oreja and spy on your own people. That's the only little work there is."

"The Sandinistas put the Wangki Indians in those Tasba Pri camps. Just feed them rice cooked in a barrel, like hog. If you don't like it, you don't eat."

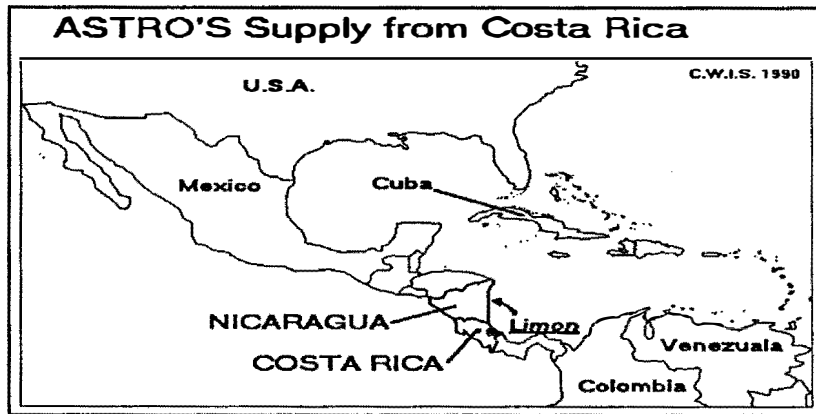
"The people can't say anything. They just have to close their mouths

like in the Somoza time. What can they do now? But when the time comes, they are going to rise up and push out those Sandinistas and Cubans.”

“Yeah, those Sandinistas seem bad,” Kiddy says to the man across the bus aisle. Kiddy whispers to me, “keep quiet,” and then touches his ear to warn me of possible orejas -- informants -- on the bus.

When we are out of earshot at a restaurant stop at Turrialba, half-way to Limón, Kiddy begins my new education and instead of stars, reefs, winds and currents as in the past, it is now about informants, security precautions, and who can be trusted.

“Many Sandinistas are here in Costa Rica and they have many friends to help them. Some of the Miskito people are working with them so don't trust speaking in Miskito,” he cautions. “We have to move through these



waters like the octopus -- easy, suspicious and hidden.”

Kiddy began helping the resistance when it first formed in late 1981. After two years of Sandinista military occupation and the FSLN's abolishment of Indian rights and Indian government, community people concluded they had no choice but to resist and urged the young men and women to organize guerrilla groups throughout the occupied nations. The older people-- their mothers and fathers, grandmothers and grandfathers -- support the unta wahmika, the “bush boys”, with food from their homes and farms. Kiddy supplied food from his farm and turtles he harpooned at sea. One of his sons was killed in fighting in 1982 and another was

captured in 1983 by Sandinista Security and taken away to Bluefields and never seen again. When Sandinista Security again began to arrest people in Tasbapauni in January, 1983, Kiddy took his youngest son Walter and his turtling canoe and slipped out of town and crossed the lagoon to join Bruno's resistance force at Gunpoint. Later, Bruno asked him to take some wounded to Costa Rica and a request for weapons to Brooklyn in San José.

“It was dead calm, no wind, so we had to paddle all the way. Five days and no water after the first day and no food at all. It was punishing. Punishing. We just paddled. I don't know how they didn't catch us. We were becalmed right in front of the Bluff. The Sandinistas were all around us. God saved us.”

### Limón Bar Talk

Limón is an old Caribbean-style town of white and green two-story wooden houses with verandas and red corrugated sheet metal roofs, wooden high-steeple Moravian and Anglican churches and general stores run by Chinese who speak a little of four or five languages in the store and maintain Chinese culture in their homes above. Limón has gone downhill since the heyday of the banana plantations, and the buildings are rotting and sagging, the roofs rust and leak, the cement buildings that house the San José government people are stained black and are dank and moldy, and decaying wastes clot the sea breeze.

Hot sunny mornings dry off the rain-soaked town and the humidity rises to steam-bath levels. By mid-afternoon, the sky darkens to windward and the sea changes from turquoise to slate-gray and the rains sweep in to drench Limón in what to the uninitiated appears to be the beginning of the 40-day deluge.

Once off the beaten path, Limón now has become a crossroads of the war. Already multicultural with Creole (Black), different Indian peoples, Chinese, American missionaries, and Costa Rican Ladinos, Limón now has Miskito, Sumo, Rama, Creole and Ladino peoples from the north, along with a sprinkling of free-lance journalists from Europe and the United States, square-jawed blue-eyed blond men in their early thirties who people say are Israeli, Russian or American, and less noticeable wispy-haired people in wire-rimmed glasses and brown pants who could be from anywhere.

Limón is the Casablanca of Central America. The town is filled with refugees and exiles from the north who are packed into small rooms and

hustle each day to get a little work ("chamba") to buy a plate of rice and beans, plátanos and fish. A few people have jobs with the ARDE resistance that keeps some safe houses in Limón and transfers war matériel northward to the training camps in Costa Rica and to the base camps in Nicaragua and to Yapti Tasba.

In the bars, parks and street corners the talk is about the war, the latest news from inside, Sandinista oppression, and the good, the bad and the ugly about resistance political leaders. Edén Pastora, the famous Comandante Cero, whose commando takeovers in Managua of the Gran Hotel, January 22, 1967 (his birthday) and the National Palace, August 23, 1978, were critical in the overthrow of the Somoza's dictatorship, nevertheless, only has mixed popularity in Limón. This is because he was head of a 800-man FSLN special forces unit from Managua ordered to Bluefields in September, 1980 to put down the Creole demonstrations against the Cubans. Eleven Creoles were killed and many wounded and arrested and most Creole resistance leaders now in Limón fled here because of Pastora. Others believe he is too leftist, too Sandinista and that he is not against the Marxist-Leninist goals of the revolution but only against the Russians and Cubans that took control of the revolution.

Rudy Sinclair, who used to work in my boat crew during the early 1970s, tells me, "Pastora is a Sandinista. He is one of them. His radio station is called "Voz de Sandino", his own organization within ARDE is called the Frente Revolucionario Sandino and he calls himself a Sandinista. We don't trust him even if he is fighting against the Frente Sandinista".

Limón bar talk has it that another ARDE leader, Alfonso Robelo, head of the MDN (Movimiento Democrático Nicaragüense) and former member of a government junta after the Sandinista takeover of Nicaragua, represents the interests of the rich Nicaraguans in exile and those left in the country and does not advocate the changes necessary to bring grassroots democracy and development to Nicaragua.

And the conventional wisdom in Limón has it that Brooklyn Rivera, the third ARDE leader and head of Misurasata (Alliance of Miskito, Sumo, Rama and Sandinista Peoples) is too leftist, a Miskito nationalist who is against the other Indian and Creole peoples, and that he is too egotistical and does not respect the opinions and needs of the Misurasata commanders.

Almost all the Ladino, Creole and Indian exiles and combatants I talk to agree that the political leaders are not doing enough for the fighters and civilians inside. People want better leaders, better organizations, more democracy in the organizations, and they want weapons. One thing the people agree on is that Bruno is a legitimate leader, a Coast hero, and the

most popular and effective military commander.

One fighter on R&R in Limón explains that "people are suffering inside but have no help, and people on the outside are willing to join in to fight but have no help. If we have to make a deal with the Devil to survive we should. Last week two people came from San Andrés with money to buy arms. Their plan is to revolt against the Colombians who have taken control of the island from the San Andrés people and using the island to ship out cocaine to the States. Some day we could help them but not now because we too are looking for arms to buy, not sell. They left to look somewhere else. So we are right here, waiting, waiting for the Devil."

Kiddy and I go to a Misurasata safe house in Cangrejo, a barrio on the north side of Limón, to wait for Wyman and the wounded to come from Colorado Bar. "Gato" -- Guillermo Espinoza from the Wangki -- is head of Misurasata logistics and has 13 boys crowded into the house waiting to be transferred to the Liminaka camp in southeastern Nicaragua where a large area has been liberated by the combined ARDE forces. Gordo, who is cooking an opossum road-kill in Maggi soup, assures us that Wyman will arrive soon.

## At Gunpoint

I hardly recognize Wyman or any of the Tasbapauni combatants with him. He was twelve years old when I lived next door in Tasbapauni. Wyman is 20 now and wide and solid.

"They hit us hard. We didn't know they were coming. And they knew where we were." Wayman explains what happened when the Sandinistas attacked Bruno's group at the Gunpoint camp.

"We only had about 40 at the camp, the rest were on missions to the north and west. I don't know, maybe 300 to 500 came and they opened up at 4 o'clock in the morning. Bullets all over the place. We were lucky we didn't all die right there. Bruno saved us, though. He got us out of there and we were able to come around and hit the Sandinistas from the back. Six hours we fought. At 10 o'clock Bruno told me to take the most wounded and get them to Costa Rica. He took the fighters and some who have minor wounds north into the skomfra swamps between Kuringwas and Awal Tara [Río Grande] rivers."

"Bruno has the radio but he had to leave the batteries in the camp. Everyone is very low on ammunition. He needs supplies."

"The Sandinistas were all over the place for more than two weeks

before I could get the wounded to Pearl Lagoon. Finally, we got a dori and went out Pearl Lagoon Bar at night. It took us three days and three nights to reach Costa Rica. We turned over in the surf at Tortuguero.”

“Wyman, how did the Sandinistas know the location of the Gunpoint camp?” I ask him.

“Mr. Barney, almost all of the Tasbapauni people are against the Sandinistas but some are working with them. You remember Gusi Wilson, Stan Hunter, Shakhm Tucker, and Filmore Nash? Well, they are all orejas for the Sandinistas. And Rubio Wilson and Norton Dixon are Sandinistas. They are proud of it. One of these people probably found out and told the Sandinistas where the camp was. We will find out who it was.”

“Many people you know are dead. Floyd Wilson, Naptili Prudo, Alejandro Prudo, plenty more. They took Granville Garth to jail and pulled out his fingernails. Byron Blandford was in jail and I was too for a time. When they let me out I went into the bush with the boys and this is the first time I’ve come out in two years. Many more would be dead if it weren’t for Bruno. He has taught us a lot. And he killed that son of a bitch Juan Bimbo. That bastard was arresting and torturing innocent people and sending them to jail in Bluefields and Managua. Bruno ended that.”

With Bruno

A couple of weeks later Bruno came to Costa Rica with several wounded. I was in the Misurasata office with Gato, Suazo, and Modesto listening to Enerio Danny tell about his escape out of Honduras when Bruno entered. People cheered and ran to embrace him.

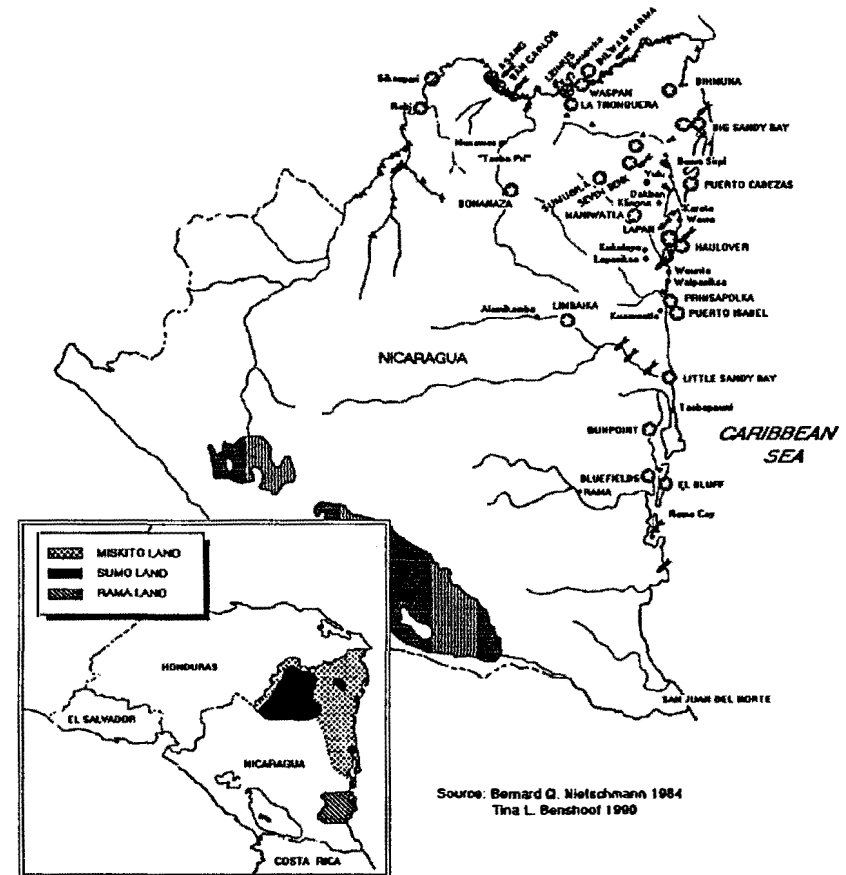
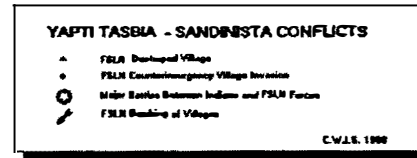
He looked to be about 5’ 11”, 190 pounds, a wide, strong face, long straight hair, and big powerful hands. He wore a black beret with a Cuban military insignia, a long-sleeve “Pacific Coast Highway” T-shirt, Levis and Nike high-top tennis shoes. And he had just about the biggest smile imaginable. He radiated enthusiasm and purpose.

A few days later, Brooklyn asks Bruno to take me with him on the next trip inside. Bruno agrees under the condition that I drop everything so that he will have enough time to prepare me for the trip -- locations, codes, penetration and escape routes, people who will help and other necessary things in case we get in trouble or are separated inside, and I must explain to him exactly what it is that I want to do and how I plan to go about it.

When we are alone Bruno explains that it is necessary to keep strict security. “The Sandinistas have agents and informants everywhere. If they

find out we are taking a gringo inside things will be harder for us and you. From now on, don’t make any telephone calls and we will keep you out of sight.”

Bruno’s idea for keeping me out of sight and to prepare for the trip is to take me with him into Nicaragua to the ARDE base camps where he plans to meet with Edén Pastora to get weapons to carry inside to the fighters. Bruno feels that it is safer for us in ARDE-controlled Nicaragua



than it is in Costa Rica.

On August 8 Bruno assembles a small group in Limón to go to the ARDE liberated zone in southeastern Nicaragua. Jotam López, Wyman Martínez, a Creole boatman called Rastaman, China a combatant from Wounta and a couple of others. We carry five 54-gallon barrels of gasoline and a load of food for the fighters in the Misurasata camp.

The Nicaraguan border is about 100 miles north by way of the inland canal from Moín to the Río Colorado and then to the Río San Juan which marks the international boundary. On the way I get a chance to learn a little about my companions.

Rastaman, wearing shades and a green and red Jamaican knitted cap, tells me, "I'm a seaman. I have papers. I could get a good job on a ship out of here. But because of what they are doing to my people I am here to get mixed up in this shit."

Jotam shows me the difference between a M-67 and an M-61 hand grenade. The M-61 is egg-shape, weighs a pound, has a three-second fuse and has explosion radius of 30 square meters. The M-67 is half a pound and has a range of 25 square meters and a five-second fuse, "longer because you can throw it farther."

I notice that there is no ring on the safety clip on one of the hand grenades on Jotam's belt and that it is tied with a brown shoestring. "Indian Power," Jotam tells me and winks.

"The Sandinistas attacked the Sumo villages just like they did the Miskito," he says. "In July 1982 they burned down most of my people's communities and killed every animal down to the last chicken and puppy. From then on we are at war but it is hard for us to get supplies from Misurasata and Misura because all the leaders are Miskito and they don't support us as they should."

Jotam leans closer, "We Sumo have to support ourselves like we've always done. The gold mines are on our land and are ours but the Sandinistas are working them. But those aren't the only mines. My father told me where the secret mines are. Only a few of the very old people know about this. My plan is to use the gold from these mines to buy arms for my people."

He tells me about the world market price for gold and that four people could mine \$1,000,000 worth of gold in three months and be able to carry in out in backpacks from the Sumo land.

"Forty pounds for each of the four people; that's 160 pounds and a

million dollars. With that money my people can buy arms to fully equip 500 fighters, from boots to hats, everyone with an 'Aka' and an M-79, and a M-60 for every ten people, and a M-30 for every 25. That's the way we are going to get the Sumo country back. The only thing we need to do this mission is quicksilver, what you call mercury. Can you get some for us? Do you know a company that will buy the gold?"

The secret gold mines of the Sumo sounds like the title of a bad Hollywood movie, but here in this dugout canoe going north toward Nicaragua Jotam's gold-for-guns plan seems plausible.

China is the pseudonym for a heavy-duty robust woman from Wounta who has been fighting for two years. She tells me that the Sandinistas have killed her sister and brother, and on September 16, the anniversary of their deaths, she likes to take a K-bar knife and slip into the bush by herself to hunt Sandinistas on patrol or on guard. She has been trained by Bruno's people in explosives, automatic rifles, light machine guns, and communications.

Two hours north by boat from Limón is Roma, one of Pastora's training camps and the main supply base. Originally built for tourists that never came, ARDE leases Roma and the tourist cottages are filled with Frente Revolucionario Sandino (FRS) recruits being trained in the nearby tropical rain forest. Tourists pass in chartered boats on the way to see sea turtles nest at Tortuguero and they wave to the people on the wharf at Roma. If they only knew.

Bruno gives a big abrazo to a wiry man with graying hair and quick movements and introduces me to Popo who is in charge of the training camp. Popo, Adolfo José Chamorro, is a Korean war vet who used to run Pastora's training camp in Guanacaste, Costa Rica for Sandinista recruits fighting against Somoza. Popo is now ARDE's logistics chief and is in charge of the three-month training sessions that put 80 to 100 men at a time into real-war situations.

"A person can have love for patria but that's not going to save his life. We have to teach them the little things that make the difference."

Popo is 52 years old, carries a Colt .45 tucked behind his belt, a .22 survival rifle on a shoulder sling, and two packs of Delta cigarettes are under tucked up sleeves of a Canales de Costa Rica T-shirt which look like miniature football pads.

"The Sandinistas are strong. We have to be smarter. That's what we teach the boys here."

Bruno takes me to the storeroom and opens the door. Boxes and boxes



fill the huge shed. Boxed outboard motors -- 115, 90, 40 hp, spare parts, wooden boxes of automatic rifles and ammunition, clothes, boots, packs, knives, toothpaste, flashlights, socks, walkie-talkies, batteries, and on and on.

"This is what they have. Wait until you see the junk we must fight with," Bruno says. "I've got to get some of these things to take on the trip inside."

Everyone at the Roma camp treats Bruno with great respect and even deference. Popo tell me that if Pastora had a Bruno he would control the entire southern front. Bruno talks to Pastora's fighters, giving advice and encouragement and asking what he can do for them. A few ask for spending money for cigarettes which can be bought at a small store in the camp. Bruno asks Popo to distribute some cigarettes and quit being so cheap.

## Liberated Nicaragua

We cross into Nicaragua at five the next afternoon. The Río San Juan marks the border between Nicaraguan and Costa Rica and right now the river is in full flood and has washed over into the adjacent lowlands so the international frontier is under a two-mile-widesheet of muddy, turbulent, tree-strewn water that threatens to capsize our canoe. This area is the wettest region in Central America and averages 250 inches of rain a year, with the current month, August, averaging over three feet, a yard of water.

We reach an ARDE outpost after running two hours up the Caño San Juanillo.

"Welcome to Free Nicaragua," a jungle-suit clad FRS man tells us. Comandante Peter is one of the original Sandinistas who fought against Somoza's National Guard and now is fighting to take back the revolution from the "internationalists and the communists."

The outpost is a campesino house into which is crammed communication equipment, boxes of ammunition and several FRS and MDN fighters who have walkie-talkies and brand new M-16s equipped with grenade launchers and either scopes or night scopes. A campesino family is watching a soccer game between Costa Rica and South Korea on a television powered by a generator-batteries-converter setup.

Bruno and Comandante Gonzo discuss the war and tactics. Gonzo is close to Pastora and says that ARDE's strategy is first to pursue the war on

the Atlantic Coast because the people support the Indian resistance. He believes the Pacific Coast is not ready yet because "the oppression has not yet touched the masses as it has on East Coast."

Gonzo continues: "The plan is to bring in weapons in quantity and set up ambushes so that every time the Sandinistas leave their barracks, some don't come back. They'll have to bring in 30,000 men to the coast and that means expenses. This is a military war, but it is fought economically. We captured 37 EPS last week and they had little food and some didn't have boots. This sort of pressure is the first step. The second step is to hit the towns, the barracks, Bluefields, the Bluff. And the third step is after we take the coast we move toward the Pacific"

"We can't fight a guerrilla war in the monte like Fidel did. That's finished. They surround you and put up a barricade of men to stop food, arms, logistics from reaching you, and then they move out the people so then you don't have support. They create an island and you are on it. Then you are no longer a guerrilla, you are a boy scout."

"Remember, Gonzo, we Indians are fighting to reclaim control over our territories and resources. That's our revolution. You people are trying to reclaim control over your revolution and you think that allows you the right to govern Indian nations. It doesn't." Bruno jabbed his finger at Gonzo to emphasize the point. "The East Coast is our country."

"Ok, Ok. We have an agreement with you people about autonomy. Don't worry. Don't worry." Gonzo patted Bruno on the back. "Don't worry."

Later, Bruno confided, "We do worry. We don't trust them to keep their word about our autonomy. We share the same enemy but different goals. They need us now because we have better fighters and more civilian support than they do. And we need them because there is no outside support for an Indian revolution. A lot of these guys are really good people but they grew up being racist and they don't accept an equal partnership in this war and they don't accept Indian goals of autonomy."

We spend the next day in a nearby Misurasata basecamp that is located up a narrow, twisting creek filled with tree snags. The camp is built on a slight rise and surrounded by a swamp. It looks like something out of the Louisiana bayous. Pastora's people selected the site and it is a disaster: mud, 24-hour mosquitoes, far from good water or dry wood, and the fighters have no lanterns and they have not had anything but rice and beans for the last 16 days. They have no base radio, no generator, few arms, no

boats, no outboard motors. This is a far cry from the FRS ARDE camp we just left.

Bruno is mad. "This is all our allies allow us. The sons-of-a-bitches. We are in an alliance but they receive everything and keep everything."

I am given a sleeping platform made of saplings lashed with thin vines and roofed with palm leaf. It is dry and it is above the mud for which I am grateful. I string my mosquito net which is called a bar in this part of the world.

The night is dry and clear and work groups prepare rice and beans and dasheen (taro) cooked in dirty river water. Others sing Miskito revolutionary songs accompanied by Blandino playing a guitar and the spirit in the camp lifts above the mud and dirty rice and the hordes of mosquitoes. Gato gives a political talk, Jotam is on guard duty, and China is inside the mosquito net reading her bible by candlelight with an AK-47 by her side.

Bruno talks to me about necessary security precautions in Costa Rica. He thinks security in the Misurasata office is slack, too many people know too many things, and too much is said on the telephone.

"The thing that saves us is that the office people and all the outside political people often don't know what's going on inside. They spend most of the time talking about objectives and personal problems and seldom help us. The war is inside and that's where we have our politics and our support. The Sandinistas would really love to find out about that."

"Our Indian revolution comes from living inside with the people and suffering with them and defending them. That's how our revolution started and that's how it grows and evolves. The Misurasata and Misura political leaders in Costa Rica and Honduras don't know about this first hand. They talk about rights but don't suffer injustice."

The mosquitoes are relentless and we slap in the dark. Mosquito repellent is a contradiction in terms. I ask Bruno how he got involved in all this.

"We were happy when they overthrew Somoza and his government. My people are poor because the Nicaraguans exploit and profit from our resources. The Sandinistas promised that they would end that exploitation. But they turned out to be worse than Somoza because they wanted more than our resources. They thought they could take our land and force

us to submit to their revolution and rule."

"I joined Misurasata in 1979 to work on behalf of my people. The Sandinistas didn't want Indians to have our own organization. They tried to repress us in everything but we became stronger politically because we pressed for what the people demanded: recognition of Indian rights to our territory and resources, and Indian self-determination over everything Indian. So when we did the land tenure study and proved that all the community land that makes up our territory is ours, they arrested our entire leadership. It was an act of war. They were in our country and they arrested our government."

"With many others I went to Honduras. Hundreds of us went north to look for support to fight the Sandinistas. It was hard because neither the Nicaraguans, Hondurans or Americans wanted to support our struggle. By the middle of 1981 we had maybe 4000 young people but we had no help. It was difficult just to get food for them. Fagoth got some promises for small support and we put together the first group, The Astros, about 80 to start. We got some good training. That yes. Guatemala and Argentina were a big help. But Fagoth was a dictator and too tied to ex-Guardia people so the entire Astro force left him. That was September 20, 1981. Empty handed we returned to clean the Sandinistas from our country.

"I was with William Francis and David Rodriguez at the Raiti battle and I fought in all the Wangki clashes -- 12 along that river. We started with a shotgun and a couple .22 rifles. By 1982 we were fighting only with arms we recovered from the Sandinistas. They were bombing and burning the villages. We couldn't stop them. They had too many combatants and too many weapons. So I left for Costa Rica with Marcos to look for support. Brooklyn was there with Pastora. We walked for six months. Rough. But we learned a lot. All the Indian peoples and communities were getting into the war."

"I lived with every Indian people -- Miskito, Sumo and Rama, and each has their own culture, language and way of life. But all are united in this struggle."

"I've got to do something. I have the responsibility."

Bruno is 22 years old and is head of the resistance for the southern half Indian nations. Tomorrow we will locate Edén Pastora and Bruno will ask for weapons to bring inside. Far inside.

## Comandante Cero

Bruno and I hitch a ride on an ARDE medical speedboat that is going

to stop at many of the commando posts and settlements in the liberated zone. Comandante Peter says the area is reasonably secure and only occasionally do Sandinista patrols venture in to set an ambush or to mortar a position. Peter carries an M-16 and a M-79 grenade launcher and he loans Bruno a M-16 with a scope. An ARDE nurse, Olivia, has a large box of medicine. A former San Juan River trader is the motorman.

ARDE's objective is to hang on to this "liberated territory," a very isolated and heavily forested area, develop a solid military and political springboard, and meanwhile help the scattered residents carry on with some of their normal activities. Besides medical and public health people, ARDE has brought in teachers and provides protection so that people can again raise crops and trade along the river.

The camps we visit usually have 15 to 30 people with good arms and communication equipment. Some of the arms have been obtained from the Sandinistas, including some heavy and light machine guns. The dietary mainstay is rice and beans. Armed women and girls make up perhaps 15 percent of the force in the region. Lipstick and camouflage in the rain forest.

Bruno reunites with Escuela a Sumo, and Conejo and some other Rama fighters from the old days. Bruno asks why they are fighting with Pastora's FRS instead of with the Misurasata Indian resistance. "Because this is where the weapons are," Escuela tells him.

Conejo says that to get Indian territorial autonomy it is necessary to get rid of the Sandinistas and to do that it is necessary to get the most and best weapons possible. "Here I have modern weapons to fight the Sandinistas who also have modern weapons. If I were with Misurasata, I would be lucky to have a hunting rifle. I began fighting the Sandinistas with a machete. But they are much stronger now. I must have weapons that are as good or better than the ones they have."

This is a modern war. Conejo is carrying probably 60 pounds of gear, including a brand-new AK-47, an M-79, ammunition, grenades, and a pack stuffed with hammock, nylon quilt, and an extra set of clothes. Bruno wears Levi pants and jacket, tennis shoes, and besides the M-16 he carries a .38 revolver, a hand grenade and a cassette tape player in a nylon mesh bag. On the river again, he slaps in a Jimmy Cliff tape and scans the banks ahead for movement. Bruno is the complete warrior.

We find Pastora at his THP base. Heavily bearded and wearing a camouflage suit and cap with a Cuban red star, Edén Pastora Gómez, known as Comandante Cero, is 46 years old, graying but robust and enthusiastic.

In 1958 Pastora organized the Comité Revolucionario Nicaragüense

in opposition to the Somoza dictatorship and in 1959 he joined the Frente Revolucionario Sandino (FRS).

Pastora gained world attention on August 23, 1978 when he and a small Sandinista force assaulted the Nacional Palace in Managua and took hostage Somoza's Congress. He exchanged them for the release of more than 50 Sandinistas in prison -- including Tomás Borge, a very large sum of money, an airplane and safe passage to Panama. Archbishop Obando y Bravo and various diplomats flew with Pastora to guarantee his safety. Pastora returned to take charge of the Southern Front at the head of the 1800-man "Frente Benjamín Zeledón". When the FSLN took power in July 1979, the nine comandantes -- who did no fighting against Somoza's National Guard -- were intimidated by his popularity and assigned him to head the Milicias Populares Sandinistas (MPS), a low and relatively obscure position.

On April 15, 1982 he declared that he would leave Nicaragua to work as an internationalist" with the guerrilla forces in Guatemala and El Salvador. People close to him say that he received \$5,000,000 from Libya's Omar Kadafhi to organize an internationalist group to assist the insurgency in Guatemala. Instead, he went to Costa Rica and with MDN leader Alfonso Robelo, organized ARDE (Alianza Revolucionaria Democrática) to militarily and politically oppose "the false Sandinistas and communists" who had taken over the revolution.

In July 1982, Brooklyn Rivera and Misurasata joined ARDE to fight against the Frente Sandinista.

ARDE is composed of two main guerrilla forces, the FRS with 1500 Nicaraguans in arms led by commanders who fought against Somoza, and Misurasata with 1700 Miskitos, Sumo, Ramas and Creoles in arms led by Indian commanders, mostly Miskitos. Also part of ARDE are Alfonso Robelo's MDN which is basically a political party and has but 35 armed people, and Fernando "Negro" Chamorro's UDN-FARN (Unidad Democrática Nicaragüense -- Fuerzas Armadas Revolucionarias Nicaragüense) with perhaps 60 combatants.

Bruno tells Pastora that he has come to get weapons to carry inside to some Misurasata tropas. The ARDE people in San José denied Rivera's request. Popo in Roma said he had the materials but has to have an order from Cero before releasing the items.

"Why don't you fight with us, Bruno?" Pastora says. "You won't have these problems and you'll always have your pick of weapons and the best logistic support. You'll have your own command."

"I am Miskito and I am fighting for my people's rights, for our autonomy. You aren't fighting for these things. Your fight is for something different. But we need arms because the Sandinistas are our enemy too."

"Your people already get arms, as many as you ask for and can use. You wasted your trip here." Pastora emphasizes his words with vigorous pointed-finger hand movements and then looks around the circle of commanders and fighters who have gathered to listen.

"You know that we receive very little and most of the arms are old and in poor condition. You know my forces don't have heavy arms, like yours do. We don't have new arms like your people have. We are in the same struggle, we should have the same arms."

"You are not in the same struggle. You want to separate one-half of Nicaragua and have your own country. We won't allow that. We can't allow that." Pastora looks angry.

"No, what you say is wrong. My people have historic rights to our territory. That is Indian land, it always has been. It is not half of Nicaragua. Look, you know we are fighting for autonomy. You and Robelo and Rivera agreed on that."

Pastora slashes and stabs the air with his hands. "Bruno, I'll tell you the same thing I told Brooklyn. When the Miskito people suffer 50,000 casualties like we did fighting against Somoza to bring freedom to all of Nicaragua, then you can have your autonomy."

Bruno spreads his feet and with hands on hips he speaks slowly and deliberately. "Yes, I heard you said that. Our fighters know you said that. None of us are waiting to be given autonomy. We are fighting for it. We are killing Sandinistas to achieve it. If we have to kill 50,000 to gain our autonomy we will. It is the Spaniards who will lose 50,000, not my Indian people. But for now you need us. You need the East Coast. You get to be on the East Coast and in exchange for that we are supposed to get weapons and logistics. My men are the best fighters but have the worst arms."

Bruno and Pastora are deadlocked at the threshold of the next war. Is this a preview of a time when ARDE, Misurasata, Misura, the FSLN and the FDN will all fight each other? Certainly enough justifications exist to have a Lebanon-style war here. So far a greater enemy unites lesser friends.

Pastora reaches out and puts an arm around Bruno's shoulder and

gives him a friendly squeeze. "You are hard-headed. What a waste. Let's get something to eat and talk some more about this," he says and leads Bruno into the camp's main house. "Ramón, you join us," Pastora tells one of his main commanders.

On the trip back to Limón Bruno confides, "He's agreed to give us a few things. It's enough to do the trip. But it is only a tiny part of what we need. These ARDE Spaniards are down here with all this good equipment and hardly fighting and my men are in the middle of the war and have very little. "Ispaiel saura", bad Spaniards. Bruno clenches his fist. "Arrogant bastards. But we have to play the game to get anything."

The canoe's motor wash slaps against the banks of the Tortuguero Canal and white egrets take wing and black turtles plop into the dark waters. The white and the black will return. Our passage only momentarily changes things.

"Barney, let me tell you something. Our war has three enemies. First, the Sandinistas. Second, our Nicaraguan allies. Third, our own political leaders. All of them."

Twelve days later Bruno has the weapons Pastora promised and they are loaded quickly onto the waiting boat for the trip inside. Bruno's objective is to organize the scattered tropas into a coordinated resistance force. My objective is to find out what had happened to the Miskito communities during two years of war.

## Miskito Alamo

The biggest battle in the Indian-Sandinista war took place for 11 days, October 1-11, 1983, in the region I had left only a few days before. While I was in Washington, D.C. presenting testimony before the Organization of American States on Sandinista violations of the Miskito people's human rights, Bruno and his resistance force and scores of Miskito communities were in a desperate battle for survival.

The details of what happened during this tragic battle were not available until January 1984 when a boat-load of wounded and sick managed to get out of the battle area. I returned to Costa Rica to meet this boat from Wounta. Rene Baker, the school teacher who had been tortured by Sandinista Security, and Enerio Danny, one of the top Miskito commanders, were on board. Both had participated in the planning and the fighting. I taped their story.

Bruno believed that Rivera would send the requested heavy weapons and so he went ahead with the plan to protect the communities from the

impending Sandinista mass attack. Bruno anticipated that the Sandinista attack force would rely on refueling at Puerto Isabel (Puerto Benjamín Zeledón), so he led an amphibious attack with dugout canoes and destroyed the fuel storage tanks that contained an estimated 300,000 gallons of gasoline and diesel and routed the Sandinista garrison and took over the settlement. Bruno and the commanders waited night after night for the boats to come from Costa Rica with the weapons.

The Sandinista attack began at 5:00 A.M., October 1, when planes from Puerto Cabezas began to bomb Haulover. The bombing went on all day and night. On Saturday, the Sandinistas continued bombing Haulover and began to bomb communities at Lapan, Layasiksa, Walpasiksa, Tuburus, Prinsapolka and Puerto Isabel. According to Rene Baker, the Sandinistas dropped between 65 and 70 500 lb bombs (at least 27 on Haulover, 3 Layasiksa, 13 Lapan, 5 Walpasiksa, 10 Puerto Isabel and 7 on Tuburus). During the operation, an almost continuous barrage took place of air-to-ground rocket attacks and machine gun strafing against the communities.

The Sandinistas used nine airplanes (mostly Cessna 337 "Push and Pull"), two helicopters, several transport boats, three patrol boats, and some 4000 EPS troops.

Without adequate weapons to challenge the airplanes and helicopters and to sink the soldier-laden transport boats, Bruno was forced to covert his plan to defend the communities into one of staged withdrawal in order to slow the Sandinista attacks enough to allow the community people time to escape into the mangrove and palm swamps.

Many of the Sandinista units were green and the soldiers poorly trained, though well equipped. Sandinista casualties were very high due to ambushes and to the EPS's attempts to storm dug-in resistance positions. Resistance leaders estimate that several hundred EPS soldiers were killed during the 11-day battle.

Resistance and community losses totaled 44 which includes 11 civilians killed during the bombing, 27 civilians (mostly children and older people) killed by sickness and starvation during the 45 days spent in the mangrove swamps, and 6 Indian combatants. Jotam López' brother Salazar was killed by a hand grenade, another boy died from a gunshot wound, and four were killed by a bomb dropped on their boat: Issac the motorman, Solano, Bruno's brother Riginio Gabriel, and Bruno Gabriel.

## Bruno's Death

Bruno, his brother and the others were killed when a Sandinista "Push and Pull" aircraft spotted their boat on the Prinsapolka River as they were

trying to evacuate civilians, including Bruno's mother and younger brothers and sisters, from Wounta which the Sandinistas were close to taking. Bruno loaded as many as possible on the boat, some 25, and headed out through the back creeks and rivers to take the civilians up the Prinsapolka to a safe Misurasata base camp. The other Wounta people fled into the adjacent swamps to escape.

The airplane approached the boat from behind and nobody on board heard it because of the noise from the outboard motors. When it was almost overhead Bruno spotted it and began shooting with an AK-47. The plane dropped a single small bomb which came right for the boat. Bruno's 19-year-old brother Riginio tried to deflect the bomb with his hands. The explosion killed Issac, Solano and Riginio. Bruno was hit in the middle of the forehead with a large piece of shrapnel.

Bruno was taken into the mangrove and cared for by his mother Clemencia, sister Marina, and brothers Malcom and Alfredo. Meanwhile some of the Misurasata commanders rigged a high aerial and used the Misura radio transmitter to make contact with ARDE in San José. They requested Brooklyn to send a fast boat to evacuate Bruno -- who miraculously was still alive -- to Costa Rica for emergency medical treatment.

Bruno lived for five days with a piece of metal embedded through his forehead into his brain. Members of the family took turns holding him in their arms to keep him warm during the almost continuous cold rains in the mangrove swamp. They waited for news that a boat had arrived for Bruno. But no boat was sent. Bruno died as he fought -- waiting for help from Costa Rica. He died in Clemencia's arms. They buried him in the mangrove.

At the end of 11 days of fighting, the Misurasata-Misura resistance was very low on ammunition and was forced to withdraw into the forests and swamps. But they had succeeded in covering the evacuation of all of the communities. The Sandinista assault force occupied the vacant communities for six weeks. Without food, blankets and shelter, the people shivered and grew hungrier and sicker and some died in the swamps as they waited for the Sandinista troops to leave the villages.

## The Capture of Bruno's Family

Shattered by the death of two sons, Bruno's mother and sister and brothers stayed in the swamp for days trying to make their way to Walpasiksa. They were captured by a Sandinista patrol and taken to Puerto Cabezas. Meanwhile, Bruno's father, Alfredo, who had been fighting with a tropa at Haulover, learned of the death of his two sons and then a few days

later, of the capture of his wife, daughter and sons.

Clemencia and the family were jailed in Puerto Cabezas, held for three days and only given water and rice, and then interrogated by César Paez, a torturer and the number two man in Sandinista Security for the area. César Paez is a Miskito from Waspam who has worked with the Sandinistas from the start and whose job it is to enforce the Sandinista occupation. He told Clemencia that she must "confess" that Bruno was working with the CIA and that if she didn't, her remaining children would be taken from her and placed with Sandinista families. Clemencia refused to do this.

Undeterred by this refusal, the DGSE engineered a "confession" by inviting a reporter and photographer from the Sandinista government newspaper *Barricada* to meet with Clemencia

and her family. Photographer Mario Tapia took pictures and then reporter Marcio Vargas returned to Managua to write the story the Frente Sandinista wanted.

Bruno Gabriel, one of the counterrevolutionaries of ARDE, was killed in a clash with the people's combatants in the south of Special Zone 1 (North Zelaya) when he tried to flee in a speedboat from Wounta to Prinzapolka during the first part of "Heroes and Martyrs Operation Limbayka," developed (though not yet in its final stage) by EPS and MINT in order to dislodge the contras that were moving into this zone with an insurrection plan for Miskito communities with the objective of taking Puerto Cabezas.

Facing up to the lies of her own son, Clemencia Peralta and her younger children, now having taken stock of his escapade, spoke with the *Barricada* reporters of "beginning again" of trying to convince the mothers and families of others like Bruno and Riginio who are going about with the contras, that "they tell them to turn in their arms and return home and they should stop being fooled by those that live in tranquility in Costa Rica drinking rum and sending the people to kill and die" (*Barricada*, October 25, 1983).

## The Rescue of Bruno's Family

Clemencia and the children were put under house arrest in Puerto Cabezas and closely guarded the first three months. But as they carried out normal daily activities and did nothing unusual, State Security's interest began to wane and the guards were reduced to but one.

On a week-end night in early March, 1984, an old rusty and dusty Ford

taxi rattles along the Lamlaya road toward Puerto Cabezas. Inside are two Miskito commanders dressed in frayed civilian clothes and street shoes and each is carrying a worn plastic rice bag containing a folding stock AKM-47, five 30-round clips and four hand grenades. They instruct the willing driver to turn into the Baracón section of Puerto Cabezas and to stop in front of the white and green house with the fence of hibiscus bushes.

One of the commanders gets out, looks at the house, shakes his head no, and seemingly lost calls to the guard on the front steps. "Hermano, can you help us find a family?" Alongside the taxi, the guard is told to be quiet and is disarmed and tied and gagged. The taxi is backed into the driveway and the lights turned off. They wait to see if any alarm has been given. Nothing.

One of the commanders knocks on the side of the house with a prearranged signal. The door opens.

"Aunti, its us. Come now. Hurry!"

Clemencia and the children barrel down the steps and are put into the back seat; the commanders take the front. "If we are stopped and questioned, we are just a family returning home late," one of the commanders tells Clemencia and the children.

The taxi returns on the same road to Lamlaya, the river landing two miles south of Puerto Cabezas.

The taxi driver is sent on his way and then a sharp whistle is made. A canoe appears from the darkened edges of the river. Bruno's family is helped in and quietly the canoe is paddled into the shadows again. Five hours later Clemencia is reunited with her husband Alfredo in a resistance camp. They wait a week and then drift down the Wawa River at night, just 12 miles south of Puerto Cabezas, and undetected, start the motor and head for Costa Rica.

## Bruno

Bruno's death was reported on the front pages of the Sandinista newspapers and the Frente Sandinista rejoiced. They had reason to. The loss of Bruno was a major blow to the Indian resistance.

The first baby born in the Limón refugee camp after Bruno's death was given his name; a political-military resistance plan was named after him; and his tropa inside -- now commanded by Negrito -- took his name.

The Sandinistas called Bruno a Contra, a mercenary, a criminal, an

employee of the CIA. He was none of these. He was a Miskito hero, a patriot, and a best friend. He was an Astro, a Miskito nationalist and revolutionary who took on the responsibility of leading a desperate fight to liberate his people from Sandinista occupation. Bruno's responsibility now passed to other Astros.

"The Sandinistas questioned everyone in the communities about a gringo. They were looking for you, Mr. Barney," Rene Baker tells me. "We learned from our people that the Piri looked for extra big footprints in the mud -- American-size -- to track where you went. The Sandinista Security women said they want to catch you alive and cut your body up in little pieces."

"Correct. You better be extra careful everywhere," Enerio warns me.

*Bernard Nietschmann is a citizen of both Yapti Tasbia and the United States of America. He has chronicled events in the lives of Miskito, Sumo and Rama peoples for a generation and has actively served as an advisor to Yapti Tasbian political and military leaders for most of that time. Nietschmann's contribution to this issue of the Fourth World Journal, "Bruno Gabriel" will appear as a chapter in a book soon to be published by the Center for World Indigenous Studies. Nietschmann is a frequent contributor to C.W.I.S. publications. He provided the photograph of Bruno Gabriel and members of the Astros which appears at the beginning of this article, and he was the original source for the "Yapti Tasbia -Sandinista Conflicts" map which appears on page 169.*

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## A Double Edged Sword

# The World Bank's Tribal Economic Policy

## A Change in International Economic Development Strategies?

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Fourth World leaders throughout the world express the opinion that the World Bank, and other international financial institutions, should become more directly involved in providing loans and grants to indigenous peoples for their economic development. The World Bank's policy concerning tribal populations tests the wisdom of the indigenous leaders' demands. In May 1982, the World Bank published its first major "tribal policy" as a guide for making loans to its member state governments entitled: Tribal Peoples and Economic Development: Human Ecologic Considerations. The 111 page World Bank policy document was written by Robert Goodland of the World Bank Office of Environmental Affairs, OEA/PAS. David Maybury-Lewis of the anthropological group *Cultural Survival*, Raymond Noronha, Rebecca Latimer, and Francis Lethem made contributions to the final document. In this article I review the major points of the policy and comment on its implications for indigenous peoples.

Release of the World Bank tribal policy was timely in the light of the world-wide recession and the emerging political activism among indigenous peoples within the international arena. That many countries like Mexico, Brazil, Australia, Peru, Bolivia, Chile, India, Indonesia and China are among many states indebted to the World Bank, the International Monetary Fund, various regional banks and private banks, means their loans are directly affected by this new World Bank policy. That many of these countries are bordering on default to lending institutions, but eager to borrow still more money, makes this new policy even more important

for indigenous peoples.

As we shall explain below, the World Bank's tribal policy has already had some effects on state/nation relations and it may become the most important tool for political and economic leverage available to indigenous peoples as they work to achieve greater economic and political freedom from external exploitation. Until now, indigenous peoples have been able to apply only moral and limited political leverage on states governments to gain domestic concessions. Where indigenous peoples like the Naga in India, Papuans in West Papua, Quiche in Guatemala, Yanomamö in Brazil and Venezuela, Maasai, Shoa and other nations inside African states and the Basque in Spain have been forced to use confrontation and violence to win their freedom or defend against state intrusions, the Bank's tribal policy may become a potent new weapon. It may provide indigenous peoples an opportunity to apply real economic and political pressure from outside states, within the framework of the international financial system.

We shall further show how this new international policy may conversely become a major new weapon for states' governments to accelerate economic and political assimilation of indigenous peoples into dominant or controlling state societies. Indigenous leaders who will ignore the World Bank's new loan policy will do so at their own peril, and the peril of their peoples. The internal economic development policies of industrial states and developing states are already being affected by the World Bank's new tribal policy. We urge in this article that indigenous leaders become familiar with the World Bank and the international monetary system so as to better understand the motivations of state governments as they selectively deal with indigenous peoples. Sudden changes in states' policies toward indigenous peoples may be a direct result of the World Bank's new tribal policy.

## World Bank Organization

The World Bank is theoretically controlled by a board of governors; each of the 142 member countries is individually represented on the board. In reality, 20 Executive Directors and the WB President (the Bank President is selected and appointed by the President of the United States) actually control the World Bank and manage its day-to-day operations. (Lappe, Collins, Kinley 1980:171)

Voting power in the WB is defined according to each country's Bank stock ownership. The United States has the greatest voting power because it owns 18.61% of the total stock. Several U.S. allies: United Kingdom, 6.45%; West Germany, 7.01%; Japan, 8.35%; France, 3.75%; Canada,

3.31% and Italy, 2.57% have sizable voting power too. (WB Report 1986) Their combined voting strength with the U.S. represents 50.05% of the total stock held by member countries. In other words, seven countries or 5% of the total WB membership hold majority control of the World Bank.

## The World Bank's Tribal Policy

Following more than a year of preparation, the World Bank issued: *Tribal Peoples and Economic Development: Human Ecologic Considerations*. This policy resulted from the recognition among World Bank Directors that: Indigenous peoples experience extensive social, economic and political dislocation as a direct or indirect result of WB supported development projects (dislocations which threaten their survival); and, indigenous claims to land and other rights have become an obstacle to World Bank and state government strategies and projects - preventing successful completion of projects or causing costly delays. While the policy is based on a two-pronged analysis, it is the latter that weighed heavily on the minds of Directors. To reduce or eliminate the negative impact of WB projects on indigenous peoples, and to reduce the chances the indigenous populations will continue to obstruct or delay development efforts, the World Bank instituted a policy which seeks to resolve both problems.

## What does it say?

The Policy document begins by making two basic statements to explain which the World Bank found it necessary to establish a policy concerning tribes and borrowers with tribal populations.:

Increased attention by the World Bank to the design of project components appropriate for the recuperation or restoration of a tribal society - including welfare survival; and preservation of tribal groups - is merited for several reasons. Failure to design components of projects to benefit these poorest of the poor in developing member nations widens the gap between nationals and the tribal people, and may even result in the destruction of the tribal peoples. . . . The problem is large in numbers of tribal groups and will worsen as the national population grows, and as ever more marginal land is tackled by development. Another major justification for the Bank's concern is the great potential value of tribal knowledge of management of marginal lands: an increasing investment opportunity contributing significantly to the dominant society. [Italics added for emphasis]



Other reasons for such special attention relate to the vulnerability of projects affecting tribal people, Bank policy on the social design of projects, and state's government and international legislation.

Failure to understand customary tribal rights to land will result in considerable implementation delays. . . . Tribal groups may also, at some future date, resort to legal actions to claim reinstatement of their original territories or compensation for loss of these lands, if acquired in a manner inconsistent with acceptable customary laws and practice. There is ample precedent for this in recent cases - for example, in the States of Wisconsin, New York, Main, and Washington in the United States, and in Australia and Papua New Guinea.

(Goodland: World Bank 1982:10 - 11)

The Bank's policy is clearly moral and economic at its root. It is not concerned with the political rights of indigenous peoples. Its moral foundations are similar to those that drive the Summer Institute of Linguistics (SIL) which emphasizes the assimilation of tribal peoples into state populations. The basic premise of this moral view is that: Progress is inevitable and the objective must be the eventual assimilation of indigenous peoples into the state system, and the preservation of ethnic identity. This view has been described as the conservative-humanitarian view. (Bodley 1982:192) This moralistic perspective compliments the essentially economic interests of the World Bank.

As a profit-making business, of the transnational variety, the World Bank's principal motivation is making a profit, promoting capital formation, expanding the market economy and promoting development towards these ends. In the more remote regions of the world, as well as in many of the more populated regions, capital expansion by corporations is being made less expensive for raw material development as a result of World Bank development loans to states' governments. The major obstacle to road development and other basic development efforts in these remote areas is tribal populations. International human rights legislation and wider global consciousness of indigenous peoples prevents the World Bank from simply ignoring the wholesale destruction of indigenous peoples. It is, therefore, more preferable to promote the market economy in the name of progress while aiding in the process of assimilation.

### World Bank Policy Abstract

The policy document cites three alternatives which represent the range of options for dealing with indigenous peoples. These include: total enforced isolation of the tribal groups allowing no change, and rapid and

complete assimilation resulting in the loss of the tribe's identity, and, the intermediate policy alternative of cultural autonomy which allows the retention of a large measure of tribal autonomy and cultural choice. The Ignoring a fourth alternative - Political autonomy - the World Bank adopted the intermediate policy. For the intermediate policy to succeed, several conditions are noted in the document as essential:

National governments and international organizations must support rights to land used or occupied by tribal people, to their ethnic identity, and to cultural autonomy.

The tribe must be provided with interim safeguards that enable it to deal with unwelcome outside influences on its own land until the tribe adapts sufficiently. (Emphasis added)

Neither the nation nor the nontribal neighbors should compete with the tribal society on its own lands for its resources. (Goodland 1982:28)

The goal of this World Bank policy is to produce the following outcome:

A tribal population that forms a recognized and accepted ethnic minority - one component of an ethnically pluralistic national society;

as such, this ethnic minority maintains its traditional way of life more or less modified in accordance with the preferences of the tribal population itself;

the tribal economic system progressively evolves from pre-contact subsistence to a sustained-yield agro-ecosystem with the production of a surplus on occasion. (Emphasis added) (Goodland 1982:28)

The World Bank established this policy for all of its member states. Its central focus is, of course, on those states which have identifiable tribal populations within their boundaries. To implement this policy, the WB has established several operational steps required of borrowers, which we outline as follows:

#### 1. Country Economic Analysis and Sector Work

The World Bank prepares an introductory and basic economic report which

includes an assessment of a country's economic and social structure. Knowledge and general locations of tribal groups that may "constrain development strategies or projects, or that need special attention" is recorded to assist designers of proposed bank supported projects.

## 2. Project Identification

"If the presence of tribal people in the general region is identified, and a decision is made not to relocate the project to avoid the tribal area, then reconnaissance by (intermediaries) appropriate anthropologists would be necessary before project preparation." Consult the "state tribal agency" (i.e. Department of Aboriginal Affairs, Australia; Department of Social Welfare, Indonesia; Instituto Nacional Indigenista, Mexico, Division de Comunidades Nativas de la Selva, Peru etc.) or non-governmental tribal organizations within the State for comprehensive and detailed information.

## 3. Project Preparation

State government staff or agencies (including consulting firms) concerned with project preparation must have "specialist indigenist" advisors to evaluate the information collected about the tribe. Project preparation teams should furnish a profile of the affected tribal society and an assessment "of the possible impact of the project on the tribal peoples." The Bank will aid the applicant country in its efforts to establish a Project Preparation Facility and locate international or bilateral sources of financing to establish the facility.

## 4. Appraisal

Determination is made by the Bank as to the adequacy of the tribal component prepared by the applicant country as a part of its project proposal. Three areas will be evaluated: [i] reviewing the measures proposed to mitigate the impact of the project on the tribal people; [ii] assessing whether there are risks that the tribal people might interfere with project implementation; [iii] assessing the ability of the tribal agency to implement the proposed tribal component.

## 5. Negotiations

The Bank and the applicant country must agree on the details of the tribal component of the proposed project. Consideration will be given to the possible need for new domestic state legislation and administrative rules which may be needed to ensure the success of the project. (Goodland; World Bank 1982:33 - 34)

## Tribal Obstacles to State Economic Progress

The WB tribal/loan policy appears on the surface to be open and supportive of indigenous interests. The policy document spells out the intention to establish "procedures to ensure the survival of tribal peoples, and to assist with their development." Indeed, the policy is not wholly inconsistent with the proclaimed views of the World Council of Indigenous Peoples. (WCIP Third General Assembly, 1981, Canberra, Australia) (WCIP submission to Economic and Social Council: United Nations Third Development Decade) But, unlike the WCIP's view, the World Bank policy steers clear of any consideration of tribal political rights and rights to territory and natural resources. It also avoids the possibility that tribal groups may not desire to integrate or become assimilated into a surrounding state society. Furthermore, the World Bank implicitly considers only state political jurisdiction, and explicitly recognizes the value of indigenous lands and technical knowledge to non-indigenous societies without considering whether indigenous peoples wish to give such wealth to the state society. The World Bank policy ignores tribal political jurisdiction and tribal laws, and ignores the great importance that tribal technology has for the welfare of indigenous peoples themselves.

Tribal assertions of original rights have caused slow-downs and actually stopped the construction of dams, roads, electrical lines, communications facilities and ports. Borrowing states experience costly delays, and more importantly, these countries often fail to demonstrate their capacity to complete Bank supported projects in a profitable way. The WB Policy is fundamentally aimed at "safeguarding tribal rights" while simultaneously easing tribes into a mainstream economic system, thereby, reducing the likelihood that they will act as obstacles to development projects. Development in this context simply means slow dismemberment of tribal societies while advancing "market economy" goals in the name of inevitable progress.

## WB Policy Implications for Indigenous Peoples

Of the estimated 1 billion indigenous people in the world, about 85% are located within the boundaries of Third World countries. Many of these countries are heavily indebted to the World Bank, International Monetary Fund, Regional Banks and private banking institutions. These countries rely heavily on international loans, grants and credits to prevent collapse of their respective economies; they are most directly affected by the WB

tribal policy. Countries like Mexico (with an external debt exceeding \$90 billion (US)), Brazil (\$70 billion (US)), and Costa Rica (\$4 billion (US) with its highest per capita debt in the world) also have sizable indigenous populations.

In many instances, indigenous nations which vigorously oppose state development projects may literally hold a whole country hostage to gain certain economic and political concessions. Indian Tribes in Costa Rica, for example, could literally prevent the development of a World Bank supported hydroelectric dam and, thus, cause Costa Rica to default on its loans. If the countries of Mexico, Brazil, Guatemala, Peru, Venezuela and Panama were caused to default on their outstanding external debts, the global economic system could simply collapse.

The effect of state financial collapse on indigenous communities would be minimal. It is mainly due to this circumstance (long considered a disadvantage) that indigenous peoples are such a formidable obstacle to economic development projects throughout the world. The paradox created by the World Bank's tribal policy is that the poorest of the poor can exercise enormous economic power through the manipulation of World Bank loan guidelines, and by obstructing World Bank supported development projects to gain economic and political concessions for their own benefit.

In many situations around the world, states' governments have become victims of the economic system which they have long advocated. The World Bank tribal policy can become a powerful economic tool for indigenous nations to force states' governments to bend to their economic and political interests. Indigenous peoples may be the key to implementing the *Declaration for a New International Economic Order*, while giving rise to a new international political order where even the smallest nations can become active participants in global economic, strategic and political affairs.

Indigenous nations only recently began to use moral and political leverage within the international arena to promote their own interests. These efforts have been aimed at modifying state government behavior toward indigenous nations. They began to experience limited successes in the 1980s. The World Bank's policy may now be used as real economic leverage to promote political change. Of course this opportunity is dependent on the extent that indigenous leaders mobilize their own limited resources. And it is partly dependent on the extent that other indigenous nations will help their brother nations. The Bank policy can certainly be turned against indigenous nations if they lack the capacity to assert their will in the international community and with the World Bank itself.

## **WB Tribal Policy Implications for States' Governments**

States' governments enjoy the real opportunity to turn the WB policy into an economic and political bonanza by pressing tribal peoples to support state economic and strategic goals. They can use political interference, financial buy-offs and military suppression as domestic tools to force indigenous nations to support State development interests. Such actions can erode indigenous nations' capabilities to oppose development projects. States' governments and their multi-national corporate associates can create an economic and political climate which convinces indigenous nations that it is in their own best interest to support World Bank supported projects. Promises of money, health facilities, educational facilities, and state government grants of limited political jurisdiction over lands and natural resources have historically been used to sway indigenous nations. Through such maneuvers, states have caused indigenous nations to accept encroachments by states' governments and corporate economic interests.

## **WB Policy is a Double Edged Sword**

The World Bank tribal policy can serve as a double edged sword with possible benefits and disadvantages to indigenous peoples and states' governments. If indigenous nations have not seen the necessity to leverage concessions from states' governments through the use of international tools in the past, they are now forced by the World Bank's action in May 1982 to recognize that their homelands and peoples are now directly threatened by an international action which will be used against them. The WB policy can either be used by indigenous leaders to protect and preserve the rights and interests of their people, or they can permit states' governments to take advantage of the new policy and use it against indigenous peoples.

The irony is that the WB policy creates a situation where indigenous peoples and Third World countries (both economically desperate and suppressed) are forced into confrontations which can spell the economic and political destruction of one or the other. The major beneficiaries of such confrontations will be industrial states and multi-national corporations. This will be particularly true if Third World states win the confrontations.

In actuality, neither indigenous nations nor Third World states can win unless they both agree to respect one another's right to politically and

economically exist as distinct political entities. Mutual coexistence in pursuit of a new international political order is what both must require. While an international monetary collapse may ultimately benefit indigenous nations, they cannot win military confrontations against state governments - though they may be able to hold the state in a protracted conflict of attrition. An international monetary collapse may seriously disrupt states' governments, but these same states can use military force to destroy an indigenous nation.

Indigenous nations have a new tool that may supply strong leverage on states' government. Through indigenous nations intervening in the WB loan process and pressing the policy requirement for "consenting tribal societies," it is a real possibility that indigenous nations can become equal partners in the debate about development. And at the same time, indigenous nations can exercise a kind of "pocket book" diplomacy that will win them an equal place at the table of development decision making.

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