

## UN DEVELOPMENT GROUP GUIDELIENS ON INDIGENOUS PEOPLES' ISSUES (excerpt)

### *Who are indigenous peoples?*

The international community has not adopted a definition of indigenous peoples and the prevailing view today is that no formal universal definition is necessary for the recognition and protection of their rights. However, this should by no means constitute an obstacle to UN agencies in addressing the substantial issues affecting indigenous peoples. What follows is a brief overview of some of the existing attempts to outline the characteristics of indigenous peoples.

The ILO's Indigenous and Tribal Peoples Convention, 1989 (No. 169) applies to:

Tribal peoples whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations. Peoples who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions. The Convention also states that self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply. The *Study on the discrimination against indigenous peoples* (Martínez Cobo Study) puts forward the following "working definition": Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems.

The Working Group on Indigenous Populations' *Working paper on the concept of "indigenous people"* lists the following factors that have been considered relevant to the understanding of the concept of "indigenous" by international organizations and legal experts:

Priority in time, with respect to the occupation and use of a specific territory;

The voluntary perpetuation of cultural distinctiveness, which may include the aspects of language, social organization, religion and spiritual values, modes of production, laws and institutions;

Self-identification, as well as recognition by other groups, or by State authorities, as a distinct collectivity; and

An experience of subjugation, marginalization, dispossession, exclusion or discrimination, whether or not these conditions persist. Self-identification as indigenous or tribal is considered as

a fundamental criterion and this is the practice followed in the United Nations and its specialized agencies, as well as in certain regional intergovernmental organizations. Article 33 of the United Nations Declaration on the Rights of Indigenous (UNDECLIPS) refers to the rights of indigenous peoples to decide their own identities and procedures of belonging.