

Free-determination and the States: Commentary on Barbados III

by Aucan Huilcaman

I read with interest the "Declaration of Barbados III" reprinted in the last issue of *Abya Yala News* (Vol:8 no.3). Considering the breadth of material included in the declaration, I will only comment on the portion of that document which begins with suggestions to the governing Latin American states, the United Nations and its various specific bodies such as the OIT, UNESCO, UNDP, and FMI. Second, I also want to comment on the declaration's final section related to the self-determination of Indigenous peoples and the nationally constituted states.

We are in agreement in relation to the identification and historical analysis of factors which have made the political and cultural oppression of Indigenous peoples possible, as well as the views on ideological, political, religious, and economic colonialism and neocolonialism.

However, the declaration's call to the Latin American governing states seems misplaced. The states are fully aware of the reality in which we Indigenous peoples live. They know that this reality has been constructed by force and violence. The denial of our physical and cultural existence produced by the political constitutions and legal systems responds to the homogenizing nature of the governing states, and is the result of organized political decisions, not of coincidence or circumstance.

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The promises which Latin America's governing states have made through documents in summits such as those held in Mexico and Spain respond to Indigenous peoples' undeniable reality, but these resolutions are very far from being implemented in practice. In the meeting in Spain, the governments promised to establish a Development Fund for Indigenous Peoples of Latin America and the Caribbean. Now, when Indigenous peoples petition the fund for economic assistance, they are told that the fund has no resources and that it is only a negotiating table between some international organizations and Indigenous communities. In order to legitimize their actions, they have established an oversight council with Indigenous representation. However, Indigenous delegates have to be accredited by each country's chancellor. They call this "democratic participation," but it is nothing more than state colonialism under the guise of recognition and democracy.

Similarly, the governing states came to a set of agreements at the Earth Summit in Rio de Janeiro in 1992. If we try to verify compliance with these agreements, we do not find any concrete means in the legal, political or economic arenas to ensure better administration of natural resources. It is easier to identify the thousands of hectares of land, mountains, rivers, and lakes which have been destroyed and contaminated. Undoubtedly, as it has become impossible to evade the Indigenous reality, the governing states will make a declaration

regarding Indigenous peoples whenever they hold a continental meeting, but in no case does this imply compliance with their promises.

I believe that any demands or exhortations require precision. We Indigenous peoples are fighting for the recognition of our rights, rooted in our historical and political condition as a people, with all powers in the areas of rights, ideology, politics, and culture which this implies, such as the restitution of fundamental rights and freedoms such as free-determination and the restitution of ancestral lands. These conditions are precede any form of recognition, otherwise, the states will continue to determine the framework for recognition and relations between Indigenous peoples and the governing states.

I consider out of context the call to the United Nations and its various special bodies, as if these were something separate from the constitution, control, and intervention of the governing states. It is time to state what the United Nations is and what it truly represents. The United Nations does not exist; what truly exists are "Concerted States" which are simply institutional structures with a legal, political and ideological base and with defined interests. Taking into account that the ideological base and sustenance of a nation is fundamentally cultural. It is no longer possible to contend that the "states are politically-organized nations." States in America (Wallmapu in the Mapuche language) have no corresponding socio-cultural reality. Therefore, the United Nations



are the same governing states that have been constructed without taking into account the cultural diversity of the continent.

The ILO (International Labor Organization), UN Development Program and UNICEF are not independent of the United Nations or of the governing states. Thus, their actions are not autonomous. All of their plans, programs, and projects require governmental approval. It is sufficient that an Indigenous organization comes into conflict with the state in the process of their struggle, for these organizations to limit the help they give.

Relating to the declaration's statement, "We believe it necessary to approve the Charter of Indigenous Peoples Rights promoted by the UN," it is worth mentioning that after thirteen years of discussion between members of the UN Working Group and Indigenous representatives, the governments are not willing to recognize fundamental rights such as *free-determination* and the restitution of ancestral territories. Free-determination is a right prior to, or conditional for, enjoyment of the other rights. Before demanding prompt ratification of this legal instrument, it is essential to be sufficiently informed of the fundamental rights that Indigenous peoples are defending in the various spaces available to us, as well as positions taken by the states in relation to these rights. Without incorporating these conditions, new forms of domination could spring from international law, even as it is framed as the recognition of Indigenous peoples and their rights. During the Working Groups' final session (July 25-29, 1994), they did not permit revision of the declaration, and merely received Indigenous representatives "comments," thereby preventing full recognition of the conflict between Indigenous rights and the states.

The right to free-determination, formulated by the Indigenous peoples, shows the divide between the historical

legitimacy of Indigenous peoples' inalienable rights and the legality that sustains the states. The Indigenous people maintain with all our conviction that the states, do not have more rights than we do, nor have we authorized them to invoke our exclusive rights, nor intervene in our peoples' future.

Since the declaration also calls on the International Labor Organization (ILO) and refers to its Covenant 169, I have to comment that this Covenant reflects the state-governments' politics of juridical colonialism as well as that of the UN's agencies. Although the Covenant recognizes us as peoples, it simultaneously rejects the rights that stem from this recognition, so that it remains purely symbolic. The Covenant's most significant element lies in providing Indigenous people the right to "consultation and participation." However, this right becomes ineffective when we remain politically oppressed by the states. Indigenous consent in this context is relative. At the UN World Conference on Human Rights in June of 1993 where I served as spokesperson for the Indigenous representatives, we stated "We call on the States to ratify Covenant 169 of the ILO provided that the Indigenous peoples are in agreement. We understand this instrument as the first step to establish new and better relations between the states and the Indigenous peoples."

In reference to the international development and financial organizations such as the World Bank, IMF, Interamerican Development Bank, it should be noted that the development they have imposed is unilateral, and has assaulted Indigenous cultural identities and the economies of reciprocity. These are the same organizations that approved projects for construction of hydroelectric dams and other such endeavors within Indigenous territories, for example, the hydroelectric dams on the River Bio-Bio within Pehuenche Mapuche lands. Any invitation to change policies made to these institu-

tions is very far from being met, especially since they respond to the interests of the governments and are not independent bodies.

The declaration ends referring to the democratization of Latin America, of geopolitical reorganization, and the recognition of the Indigenous territories. I reiterate that we are in agreement on this: it continues, however, with a call for recognition of Indigenous rights "in a framework of a self-determination compatible with, and complementary to the sovereignty of national states.. I am not sure if I should conclude that in this passage the declaration presents a set of contradictions barely compatible with the previous analysis, or whether it is the political orientation of the signatory organization. Whatever the case, I will emphasize the implications this essential aspect has for possible solutions and new relationships between Indigenous peoples and states.

It is incongruent to propose the compatibility Indigenous self-determination and the sovereignty of the nationally constituted states. It's worth reiterating that Indigenous people are fighting for *free determination* and not self-determination. These concepts have different meanings and implications in the legal, political, ideological, historical, and cultural fields. Indigenous peoples have yet to determine whether we want to develop ourselves within or outside of the structures of the so-called nation-states. Furthermore, as I pointed out above, nation-states don't exist. What exists are state-governments. The homogenizing and unilateral nature of the state-governments is what maintains the lack of cultural understanding and social intolerance. Complementarity with the States as they are is impossible. It will only be possible when both institutions recognize each other reciprocally under the basic principle that neither is more valid than the other, and that each system of organization is the most adequate for its own culture.