

INDIAN LAW RESOURCE CENTER

601 E STREET, SOUTHEAST, WASHINGTON, D.C. 20003 • (202) 547-2800

PROPOSAL

AN INDIAN HUMAN RIGHTS PROGRAM FOCUSING ON GUATEMALA AND BRAZIL

August 13, 1987

Summary of Proposal

This proposal requests \$45,000 to support a program of human rights advocacy on behalf of Indian people in Guatemala and Brazil and to plan and develop a broader program of Indian human rights advocacy for future years. Our program will emphasize providing legal assistance to human rights victims and Indian leaders in Guatemala and Brazil.

Introduction

Since it was founded, the Indian Law Resource Center has been the leading legal organization advocating and defending the human rights of Indian people at the international level. The Center is the only Indian legal organization providing international human rights assistance for Indians in Central and South America.

Violations of Indian rights in Central and South America, particularly in countries such as Guatemala and Brazil, include the killing of thousands of Indian people, forcible relocation of tens of thousands of other Indian people, massive invasions of Indian lands and the denial of basic rights. These violations occur in greater or lesser degree in practically all the countries of the Americas. International attention is often the only recourse for the victims of the most serious violations, because in most countries the basic human rights of Indian people are not adequately protected by the national legal system.

The goal of our international human rights work is to win

recognition and legal protection for the most fundamental rights of Indian people throughout North, Central and South America. Our strategy is to bring international attention to the need for greater protection of Indian rights and to stimulate international pressures against those countries which ignore and violate Indian rights. Our goal is to foster establishment of legal protections for Indians in every national legal system and in international law.

In the United Nations the Center has consultative status as a Non-Governmental Organization. This permits the Center to participate actively in the sessions of the U.N. Human Rights Commission, the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the U.N. Working Group on Indigenous Populations. The Center also advocates the international recognition of Indian rights before the Inter-American Commission on Human Rights of the Organization of American States and other international human rights bodies.

The human rights of indigenous populations, which are receiving very active attention and discussion in the United Nations and in other international bodies, are the same fundamental rights which are of greatest concern to Indian people in the United States. These include the right to native lands and resources, the right to self-government or self-determination and the right to maintain cultures, religions, languages and traditions.

There is an obvious and growing need for a strong and professional program of human rights advocacy by Indian people especially in relation to human rights violations in Central and

South America. A grossly disproportionate number of all human rights violations in Central and South America, including most of the killings in Guatemala, are perpetrated against Indian people. It is also apparent that the level of concern and activity about the rights of indigenous people is extraordinary, especially in the United Nations. The Working Group on Indigenous Populations is recognized as the most active, most heavily attended and fastest moving of all the U.N. human rights working groups.

There is a clear and compelling need to establish and carry on a professional program of human rights advocacy for the promotion and defense of the rights of Indian people in the Americas because there is an enormous unmet need for expert legal assistance and consultation. A program of this sort ought to have the same kind of funding and the same kind of programatic attention which is given to other kinds of human rights issues.

In this light it is remarkable that no Indian organization has a professional human rights advocacy program which is capable of dealing adequately with even the most minor situations. This is not because of a lack of will or ability, but because very little funding has been available. The immediate problem is that no organization, including the Center, has sufficient funding or "seed money" to start and carry out the planning and development of a serious and active program of the sort that is needed. The Center's human rights program has been rather successful, but it has functioned with nothing more than sporadic and nominal funding. Only one other Indian organization, the National Indian

Youth Council, carries on any sort of legal human rights effort, and that effort also lacks serious funding.

Because of the urgency of these issues and the increasing attention being given them internationally, we think that if a strong and viable human rights program could be initially developed, other foundations, particularly the Ford Foundation, would likely be willing to provide major funding to continue such a program.

Considering our long experience in this area, going back more than 12 years, the Center is in a good position to develop the kind of serious ongoing human rights program that is needed, including assistance to other Indian organizations in Central and South America to develop legal programs of their own. We have been involved with all the work in the U.N. including the groundbreaking efforts in the 1970's. We have also pioneered with legal advocacy in the Yanomami case in the OAS Inter-American Commission on Human Rights. We have a multilingual staff and a legal staff which is unmatched in expertise and experience.

We propose to develop a program of human rights advocacy in regard to Indian rights which focuses initially on two countries, Guatemala and Brazil. To develop such a program we must be in a position to examine for ourselves particularly complex situations such as those in Guatemala and Brazil, and we must have the resources that will enable us to carry on a satisfactory level of work for a sufficient period of time.

To begin to meet the needs for human rights advocacy we need

to have travel funds and funds for staff work to enable us to visit these and other countries to carry on in-depth discussions with Indian leaders and Indian organizations and to gather information about the conditions affecting Indian rights. Unless we are able to have such meetings and to carry on that kind of face-to-face fact gathering and consultation, it will never be possible to offer serious human rights advocacy assistance, and it will never be possible to develop a coordinated international human rights program for Indians.

We propose a project with three elements: work in Guatemala, work in Brazil and development of a broad program. First, we think the situation in Guatemala deserves immediate attention. We need to gather information about the Indian situation and work with Indians here to combat violations of rights. This is discussed in more detail below.

Secondly, we wish to respond to the requests for legal help which we have received from the United Indian Nations of Brazil. (UNI). For several years we have done legal work in the case of the Yanomami Indians of Brazil, and it is clear that the human rights crisis for Indians in Brazil is of great significance. We already have direct contact with the leaders of UNI, and we feel that we could provide concrete legal assistance to this organization if we had the resources to do so.

Thirdly, we want to develop from this work and from our past work a broader program of international human rights advocacy on behalf of Indian peoples. This limited project would give us the opportunity to travel to other countries in the region when we

travel to Guatemala and Brazil. It will give us the opportunity to meet with Indian leaders, organizations (such as CONFENIAE in Ecuador, AIDSESEP in Peru and others), and Indian communities in other countries to determine how an effective human rights program should be carried out.

What we propose is relatively modest. We do not expect to be able to handle many cases or to solve major problems at first. We do expect to be able to initiate a credible and substantial level of legal assistance beyond what we or anyone has done to date.

Guatemala

Human rights violations affecting Indians in Guatemala have been, almost without question, the most serious human rights problem anywhere in the Americas during the past ten years. Thousands of individuals, almost all of them Indians, have been ① killed in countless incidents and massacres. Hundreds of Indian villages have been destroyed altogether and tens of thousands of Indian people have been forcibly resettled in model villages or ② "poles of development". And tens of thousands have fled to ③ Mexico, the United States and other countries.

More than 60% of the population of Guatemala is made up of Mayan Indians. Many of these Indian people speak no Spanish, but only their own Indian language. Indian people have little or no role in the government of the country.

Violence against Indian people in Guatemala came to a peak about four years ago, when, by all accounts, it reached genocidal proportions. Since then, killings and disappearances

have been gradually reduced but have not been eliminated. The government of Venicio Cerezo promised to improve the human rights situation in the country and made particular pledges to do away with the model villages, but Cerezo has been unable to effectively limit the power of the Army, and has been consequently unable to bring human rights violators under control. There have been recurring outbreaks of violence and major human rights violations involving military or paramilitary forces.

One of the most serious ongoing situations affecting the human rights of Indian people in Guatemala is the "model village" program. Under this program tens of thousands of Indian people have been removed from their Native villages and placed in large government-created, military-controlled villages. The home villages of most of the people in the model villages have been destroyed. At this time, there appears to be little prospect of any change of policy which would permit the people in the model villages to return to their home areas and home villages.

*Model
village
program*

In addition, in all Indian villages the people suffer under Civil Patrols. All adult males are required to serve in these Civil Patrols which function as an arm of the Guatemalan military, supplanting traditional village authorities. The promise that the Civil Patrol system would be made voluntary or disbanded has not been fulfilled by President Cerezo.

*Civil
Patrols*

These government programs in the Guatemalan highlands have had a devastating and possibly irreversible effect on the survival of indigenous cultures and traditions. Each village differs from another in its dress, customs, traditions and even in its

effects

language in many cases. What were distinct and very autonomous cultures and societies have now been thrown together far from their native areas and subjected to strict military control. The likelihood that these unique cultures and traditions can survive under these circumstances is not high.

It will be extremely important for us to visit some of Indian villages to see for ourselves the conditions which exist and to determine to what extent basic human rights are being violated. It is essential that the Center, as an Indian organization, learn first-hand from Indian leaders and individuals in the model villages and in Guatemala as a whole, what the conditions and facts are about the treatment of the Indian people. We must ask the Indian people themselves about their aspirations in regard to the protection and advancement of their rights. We must gather as much specific information as possible about conditions in Indian villages and about situations affecting the human rights of Indian people throughout the country.

It will be especially important for us to have face-to-face contact with the emerging human rights organizations in Guatemala. While none of these organizations is ostensibly or particularly an Indian organization, Indians are working with some of them. It is almost inevitable that the major concerns of some of these organizations will eventually include questions of Indian rights.

One of the most serious difficulties in dealing with questions of violations of Indian human rights in Guatemala has

human rights orgs. in Guatemala

Difficulties: terrorism and repression

been the fact that the terrorism and repression against Indian people in Guatemala has been so extreme that practically no Indian organizations or Indian leaders have been visibly public for many years. We have been able to meet on several occasions with Indian representatives and Indian individuals from Guatemala concerning human rights violations there, but we are hopeful that we will now be able to make contact with authentic Indian representatives and Indian organizations inside Guatemala. We need to establish good relations with organizations and leaders with whom we may be able to work on an ongoing basis for the promotion of Indian rights.

The main purpose of these visits and meetings will be to determine how the Center can most effectively help defend and promote Indian rights in Guatemala. We are confident that there is a great deal that we will be able to do in terms of presenting information and perhaps specific cases to international human rights bodies. We are hopeful that we may be able to find ways to assist Indian leaders from inside Guatemala to participate effectively in using international human rights mechanisms to mobilize world opinion to correct the persistent human rights violations affecting Indians there.

purpose of proposal

We are also extremely interested in continuing our work on behalf of Guatemalan Indian refugees in the United States. For several years we have provided legal assistance to hundreds of Mayan refugees who are requesting asylum in the United States. One of the most critical concerns at this time is the question of the treatment of Indian refugees who return to Guatemala. There are documented instances of reprisals against some who returned.

Refugees in the U.S.

reprisals against one who returned

The effort to gain political asylum for Indian refugees in the United States turns in great part on the question of the likelihood of repression, retaliation and human rights violations against returning refugees. The recent immigration reform law has by no means settled the problems for Guatemalan Indians in the United States, and, accordingly, it is important that we be able to do work in Guatemala which will assist these very needy refugees.

Brazil

The situation is quite different. For several years we have had contact with and from time to time we have worked with leaders of the United Indian Nations of Brazil (UNI). Last Fall, Ailton Krenak, the principal leader or coordinator of UNI, visited our office in Washington, D.C. and talked at length with us about their work and struggles in Brazil and about their need for support and international assistance.

One of the constituent groups of UNI is the Yanomami Indian *Yanomami:*
confiscation,
settlers, economic
development project
people who have for many years been fighting to protect their homelands from confiscation, from settlers, and from economic development projects. The Center has been the leading legal organization helping to present the case of the Yanomami people to the Inter-American Commission on Human Rights. There is no question that the Yanomami people both need and desire support and assistance at an international level in their fight for their lands and their survival. We are proud of the rather successful work we have done to date, and we are eager to carry on and expand

this work. We feel it is essential for us to visit Brazil to assess and analyze the progress which has been made in the Yanomami case and to determine what future steps may be needed and what additional legal measures may be called for. As the Indian people of Brazil are becoming increasingly well-organized and as our contact and familiarity with them increases, we expect that we will be able to share a great deal more information and be much more helpful in future human rights efforts.

In Brazil, the problems of the Yanomami Indians are typical of situations experienced by many of the Indian nations there. The principal problems revolve around protecting land rights and stopping development practices which result in the displacement and eventually in the death and destruction of Indian groups. Ailton Krenak described how illegal mining is taking place on Indian lands by multi-national corporations, which have been issued permits solely for the purpose of exploring on Indian lands. This is a major problem that UNI is addressing.

Typical problems: protection of land rights - stop of development practices resulting in displacement and death

illegal mining by multinat. corp.

Another major problem in Brazil is the system of involuntary government trusteeship for all tribal Indians. Under Brazil's legal system, Indian nations and tribes and individual members of these Indian nations are in a state of trusteeship in which they do not have normal legal capacity or normal legal rights. Instead, their legal rights and activities are strictly governed and controlled by the government of Brazil. This system of trusteeship is carried on in the name of protecting the Indian people, but the system, in fact, results in the systematic denial of basic rights to Indian people in Brazil.

(no normal legal capacity or rights)

system of INVOLUNTARY TRUSTEESHIP:

results

The Center has played a leading role in analyzing and

challenging the system of Indian trusteeship in the United States, and we could offer helpful insights based on our experience here.

UNI is now working on a program to have four points adopted into the Brazilian Constitution: 1) The government must recognize Indians as original occupants of the land; 2) lands of Indian nations are inalienable; 3) Indians are entitled to the control of their land and the usufruct of their lands; and 4) the government must respect Indian social, political and religious institutions. Obviously this legal reform program could go a long way toward alleviating present problems of discrimination and denial of other rights. Legal protection of Indian rights in Brazil is of special importance because Indian people are a very small part of the population (less than 1%), and have very little possibility of exercising political power. Constitutional protections are, therefore, of special importance.

In order for us to support the work of UNI and in order to help mobilize international support and international human rights attention, it will naturally be necessary for us to visit Brazil, meet with Indian leaders there and gather first-hand information about the situation and about the goals and objectives of Indian leaders. There is little doubt that the Indian organizations and leaders in Brazil are very well organized and capable of carrying out practically any activity or program they may choose, but they very much want and need international support, particularly legal expertise to help them design and carry out their programs. Mr. Krenak wants us to be

able to consult with UNI and to give advice about our experience in the use of international human rights mechanisms. They are also very interested in our experience and the progress that we have made in our efforts to reform domestic laws, particularly by using international human rights mechanisms and international support. Mr. Krenak expressed interest in having our assistance in analyzing alternative legal strategies for overcoming problems of human rights violations.

International Support and Communication

We must point out and emphasize the especially great importance of hemisphere-wide mutual support among Indian nations and Indian organizations. Since the mid-1970's when international cooperation and international activity on the part of Indian leaders began in earnest, we have seen a remarkable and very encouraging degree of unity among Indian people throughout the Americas. This unity and mutual support among Indian nations and Alaskan and Hawaii Natives has proven to be a very valuable asset which needs to be developed, strengthened and utilized to achieve important human rights goals throughout the hemisphere. The Center has played an important role in bringing together diverse Indian and Alaska Natives nations and tribes which have many interests in common. This human rights project and the communication that we hope to establish and strengthen will no doubt result in still greater international cooperation and mutual support among Indian nations and organizations.

Naturally, we will want to increase and carry on the work that we are already doing to supply information, documents and

other materials about international human rights matters to Indian organizations in Brazil, Guatemala and elsewhere. The Center has regular and convenient access to the United Nations, the Organization of American States, the United States Congress and many human rights organizations. As a result, we are in a position to gather and distribute important documents and materials about Indian rights, human rights, international developments and other matters of particular importance to Indian organizations throughout the Americas. We want to carry on this work and to make it more relevant, particularly in the cases of Brazil and Guatemala.

Budget

Our budget for this project for the first year is rather modest because we are not counting on a high level of initial foundation support. The amount budgeted is far less than what is actually needed and what would be justifiable in terms of a strong human rights program. We think, however, that this will support a serious effort which will allow us to develop a stronger and larger program in future years. The development of such a human rights program during this initial period is essential for raising more substantial foundation support in the future.

In our budget we have given special attention to the need to travel in the region. Perhaps nothing else is so important as our ability to make visits to Guatemala and Brazil and to neighboring countries as well in order to carry on the work we have planned. Indeed, it is the absence of funds to do this

minimum level of necessary travel which has been the most serious impediment the Center has faced in carrying out and developing a more serious human rights program. This budget anticipates three major trips by a pair of staff members. Armstrong Wiggins, our Director for Central and South American programs, is expected to participate in each trip and Steven Tullberg or Robert Coulter will be the second member.

Other items in the budget are self-explanatory and in keeping with our experience with expenses in similar projects. All expenditures are subject to a financial audit at the close of each year. We would be happy to provide additional information about our budget and financial accounting system, if needed.

Information About The Center

The Indian Law Resource Center is a law office controlled and directed by Indians. The Center was founded in 1978 to give legal help without charge to Indian nations and tribes to protect their human rights, their rights of self-government, their lands, and their cultures. The Center carries on research and educational work for the development and protection of Indian rights at both the national and international levels. The legal assistance that we provide, especially in the areas of legal reform and the international protection of human rights, is unique and practically unavailable elsewhere.

The Center has a staff of nine, five of whom are Indians. The legal staff includes four attorneys: Robert T. Coulter, Steven M. Tullberg, Curtis G. Berkey, and Cheryl L. Sanfilipo.

The Center is a non-profit, tax-exempt organization under section 501(c) (3) of the Internal Revenue Code. The Center is funded entirely by grants and contributions from foundations, churches, and individuals. The Center accepts no government support. All contributions are tax deductible.

Qualifications of the Staff

The principal staff working on the Guatemala Project and the Brazil Project will be the Executive Director, Robert T. Coulter, and Staff Attorneys, Steven Tullberg, Curtis Berkey and Cheryl Sanfilipo. Staff qualifications are summarized below.

Robert T. Coulter, Executive Director and founder of the Center, is a Potawatomi attorney with more than 15 years of legal experience in Indian affairs. He was previously Acting Executive Director of the Institute for the Development of Indian Law, staff attorney for the Native American Legal Defense and Education Fund and the United States Commission on Civil Rights, and has published numerous articles in the field of Indian law. He received his law degree, cum laude, from the Columbia University School of Law.

Steven M. Tullberg began working in Indian affairs in 1977 and was one of the founding attorneys of the Center. After graduating cum laude from Columbia Law School in 1970, he was staff attorney for the New York Civil Liberties Union and later headed a legal services office in Liberty, New York. He continued his litigation experience as staff attorney for the Mental Health Division of the Public Defenders Service in Washington, D.C. before joining the Center's legal staff.

Curtis G. Berkey has worked in the Indian rights field since 1974. He joined the Center's legal staff in 1979 after graduating from Catholic University School of Law. Before law school, he was a research associate and wrote extensively on Indian legal rights at the Institute for the Development of Indian Law. He has published numerous articles, including a law review article on the subject of Indian jurisdiction.

Cheryl L. Sanfilipo, a Mohawk lawyer and a graduate of Albany Law School, recently joined the Center. In December, 1986 Cheryl was awarded an international human rights internship to continue her work at the Center.

Board of Directors

Robert T. Coulter. Potawatomi. Attorney; Chairman of the Board and Executive Director for the Indian Law Resource Center, Washington, D.C.

Mario Gonzalez. Oglala Sioux. Attorney for the Oglala Sioux Tribe; Pine Ridge, South Dakota.

Rayna Green. Cherokee. Ph.D.; Applied Anthropologist, Smithsonian Institution, Washington, D.C.

Jack Greenberg. Vice Dean and Professor of Law; Columbia University School of Law, New York, New York.

Wilma Mankiller. Cherokee. Principal Chief; Cherokee Nation, Tahlequah, Oklahoma.

John Mohawk. Seneca. Contributing Editor of Akwesasne Notes; Gowanda, New York.

Terrence A. Sidley. Attorney; formerly Executive Director of the Native American Legal Defense and Education Fund, Alexandria, Virginia.

Rueben A. Snake, Jr.. Winnebago. Chairman, Winnebago Tribe, Winnebago, Nebraska and President, National Congress of American Indians.

AN INDIAN H.R. PROGRAM, FOCUSING ON
GUATEMALA AND BRAZIL
PROPOSED EXPENSE BUDGET

OCTOBER 1, 1987 - SEPTEMBER 30, 1988

Salaries

Attorney, Director	\$ 4,000
Staff Attorneys and Other	12,647
Secretarial Services	<u>2,000</u>
Total Salaries	18,647
Fringe Benefits @ 14%	<u>2,611</u>

Total Salaries & Fringe

21,258

Accounting/Auditing	1,700
Travel (6 trips @ \$2,326)	13,956
Rent, Office	2,266
Utilities	400
Equipment Rental/Maintenance	500
Telephone	2,400
Postage	500
Duplicating/Printing	400
Office Supplies	200
Subscriptions/Books	250
Office Insurance	160
Depreciation	200
Miscellaneous	510
Board Expenses	<u>300</u>

23,742

Total Expenses

\$45,000

MG:7/87