



**UNPO CONFERENCE**  
**ON**  
**POPULATION TRANSFER**  
**1992**

# **REPORT OF THE UNPO CONFERENCE ON POPULATION TRANSFER**

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## **SECTION ONE**

### **[1] CONFERENCE OBJECTIVE AND AIMS**

The objective of the UNPO Conference on Human Rights Dimensions of Population Transfer, held in Tallinn Estonia 11-13 January 1992, was to bring together representatives of UNPO Members and of other peoples and nations affected by population transfer, experts on questions of population transfer, human rights, international law and related fields, and representatives of governments and NGOs to discuss

- the legal and human rights aspects of population transfer
- possible ways to address the problems caused by population transfer

The Conference, chaired by Linnart Maell, was organized by UNPO and hosted jointly with the Congress of Estonia.

The specific aims of the Conference were to

- advance the discussion on the human rights dimensions of the policy and practice of population transfer initiated by UNPO's Second General Assembly and brought to the attention of the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities
- consider whether population transfer in itself constitutes a violation of human rights and the legality of population transfer under international law
- consider the consequences of the practice of population transfer
- explore viable and humane methods to resolve problems resulting from the practice of population transfer once it has been implemented
- discuss and influence policy alternatives in the Baltic region, where the Conference was held, and elsewhere.

### **[2] CONCLUSIONS**

The Conference

- condemned in the strongest terms the practice of population transfer
- stressed the magnitude and urgency of problems caused thereby and the exacerbation of these the longer they are ignored
- criticized the lack of effective action with respect to this question by the UN and other international organizations
- characterize the practice of population transfer as a crime against humanity which violates fundamental human rights of individuals and peoples including the right to self-determination
- endorsed UNPO General Assembly Resolution GA/2/1991/2 and UN Sub-Commission on Human Rights Resolution E/Cn.4/Sub.2/1991/38
- expressed concern with the need to redress situations resulting from the practice of population transfer humanely and/or compensate its victims
- called on governments, international organizations, corporations, and non-governmental organizations to cease all practices which promote, implement, encourage or result in population transfer

### **[3] RECOMMENDATIONS**

The Conference recommended that UNPO and the Conference participants

- persuade the World Bank, United Nations Development Programme, regional and other international organizations, governments and corporations not to fund or implement activities which promote or result in violations of human rights by population transfer
- document, compile and publish information on population transfer in order to raise the awareness of the seriousness and magnitude of the issue and to provide a tool for action against the practice of population transfer
- use the 1993 World Conference on Human Rights as a means of focusing attention on the problem
- consider the usefulness of a new treaty instrument and international machinery to prevent the crime of mass expulsions and other forms of population transfer; to compensate its victims and to punish states and individuals responsible for it
- mobilize governments, non-governmental organizations and individuals to address the question of population transfer and to pursue the issue vigorously in appropriate UN bodies
- actively promote the recognition of and the realization of the right of peoples and nations to self-determination which is fundamental to resolving the question of population transfer
- endorse the proposal of the Latvian delegation to hold a conference on decolonisation, including the completion of the decolonisation of the Baltic states
- appeal to governments and funding agencies to assist in these efforts with financial support

### **[4] CONTEXT**

At the 42nd Session of the UN Sub-Commission a resolution was adopted without a vote entitled 'Human Rights Dimensions of Population Transfer, including the Implantation of Settlers and Settlements' (E/Cn.4/Sub.2/1990/17). It was introduced as a result of initiatives taken by Christa Meindersma, Michael Van Walt, Scott Leckie and Anthony Simpson.

The Second General Assembly of UNPO passed a Resolution (UNPO/GA/2/1991/2) on the 'question of human rights of nations and peoples subject to population transfer'

A paper, entitled 'Population Transfer', was submitted to the 43rd meeting of the Sub-Commission by the International Federation for the Protection of the Rights of Ethnic, Religious, Linguistic and Other Minorities under agenda item 8. Other submissions were also made: see E/Cn.4/Sub.2/1991/NGO 2; E/Cn.4/Sub.4/1991/NGO 3; E/Cn.4/Sub.2/1991/NGO 10. Further, an informal working paper was submitted to the Sub-Commission by its alternate Nigerian members. Christi Ezim Mbonu which focused on development-related resettlement (E/Cn.4/Sub.2/1991/47).

On the basis of these submissions and the UNPO Resolution, a strongly-worded draft resolution on the subject of population transfer was introduced by Mr T C Van Boven; it was amended and adopted without a vote (E/Cn.4/Sub.2/1991/38). It commits the Sub-Commission to 'include the question of the human rights dimensions of population transfers, including the implantation of settlers and settlements, in its future work programme with a view to considering further effective action on this matter, taking into account the working paper submitted by Ms Christi Ezim Mbonu and such other relevant materials as provided by NGOs, organizations and other UN-bodies to the Secretary-General.

### **[5] PLACE OF MEETING AND PARTICIPATION**

The Conference was held in Tallinn, the capital of Estonia, a country where acute problems as a result of past population transfer of Russians and others into the Baltic states by the Soviet Union exist. Today, the indigenous population amounts to between 50-60% According to official Soviet figures, over the past ten years the Estonian population increased by 1.6% whilst the non-Estonian figure jumped 16.6% as a result of the population transfer policy. During the Soviet occupation, there was economic discrimination against Baltic peoples and they were denied a significant share in political and economic power and development and the Estonian language and culture suffered. A similar situation exists in Latvia.

The majority of the Conference participants were representatives of affected nations and peoples, as UN believes in the need to hear the views of the most knowledgeable people on the issue of population transfer, namely the victims themselves. They participated on an equal footing with representatives of governments, non-governmental organizations and United Nations and other experts.

Attending the Conference were

- thirty-three delegates representing UNPO members
- one observer delegate
- eight representatives of governments
- twelve representatives of human rights NGO's, United Nations experts and other experts in the field of human rights and international law

## [6] LIST OF PARTICIPANTS

### Members:

Aboriginals	Ms Helen Corbett
Abkhazia	Mr Guram Gumba
Acheh	Tengku Hasan M di Tiro
	Mr Shahbuddin A Rauf
Albanians in Kosova	Ms Edita Tahiri
	Mr Hivzi Islami
Armenia	Mr Ashot Nazarian
Assyria	Mr Daniel O Crisby
	Sen John Nimrod
Bougainville	Mr Mike Forster
Chechen	Mr S Ibragimov
	Mr L Usmanov
Chittagong Hill Tracts	Ms Chandra Roy
Crimea	Mr T Uliazov
East Turkestan	Mr Hamit Hamrayev
	Mr Anvar Hajiyev
Estonia	Dr Linnart Maell
	Mr Tunne Kelam
	Mr Mart Laar
	Mr J Adams
Greeks in Albania	Mr Menelaos Tzelios
Iraqi Turkoman	Dr Shaheen M Nakeeb
Kurdistan	Mr Latif Rashid
Latvia	Mr Olgerts Dzenitis
Mari	Mr S Sanukov

South Moluccas	Mr J Wattilete
	Mr O Matulesy
Tibet	Kasur Lodi Gyari
	Ms Tsering Jampa
West Papua	Mr Viktor Kasiepo
	Ms Grace Roembiak
	Mr Otis Simopiaref
Zanzibar	Dr Yussuf Salim

**Observers:**

Polish Minority in Lithuania Dr Jan Sienkiewicz

**Governments:**

Mr Witold Spirydowicz	Foreign Ministry of Poland, Warsaw
Ms Helena P Ahlin	Embassy of Sweden, Tallinn
Mr P J A N Peters	Foreign Ministry of the Netherlands
Ambassador Mr Sven E Nordberg	Danish Embassy, Tallinn
Mr Istvan Sandor	Foreign Ministry of Hungary
Ms Brit Lovseth	Ambassador of Norway, Embassy of Norway, Tallinn
Mr Hughes Faeton	First Secretary, Embassy of France, Tallinn
Mr Trivimi Velliste	Foreign Ministry of Estonia

**UN, NGO and other experts:**

Ms Christina Bloch	Minority Rights Group*, London
Mr Reed Brody	International Commission of Jurists, Geneva
Hon Justice Michael Kirby CMG	Member of UNESCO, Committee on Rights of Peoples, Sydney
Ms Christa Meindersma	UNPO
Ms Claire Palley	Member UN Sub-Commission on Prevention of Discrimination and Protection of Minorities, Oxford/Cyprus
Mr Joseph Schechla	Settlements Watch, US
Mr Anthony Simpson	Centre for International Environment Law, Sydney
Mr Alfred-Maurice De Zayas	UN Centre for Human Rights, Geneva
Mr Said Saleh	Somalia
Mr Cad Pedersen	Director Foreign Political Society, Copenhagen
Ms Sharon H Venne	Cree Nation, Edmonton, Canada
Mr David Goldberg	School of Law, University of Glasgow, Scotland

\*Minority Rights Group attended as observer. Ms Bloch as participant.

## SECTION TWO

*The expert materials provided by Ms C Meindersma in the preparation of this section is gratefully acknowledged*

### [1] INTRODUCTION

The UNPO Conference was convened to discuss the legal and human rights aspects of Population Transfer and to explore ways to redress the problems caused by the process. This issue has been continuously brought up by affected peoples as the greatest threat to their survival. Many such examples were instanced during the course of the Conference, the first session of which was devoted to listening to the first-hand testimony of those directly affected by the practice of Population Transfer. Summary comments of representatives of peoples so affected are contained in section three of this Report.

### [2] WHAT IS POPULATION TRANSFER

(a) Population Transfer is a complex phenomenon, the policy and practice of which has been largely absent from the human rights debate. It involves population movement. All Population Transfers have the common feature of large-scale movement of groups of people. But, it is a distinct form of population movement. In most cases, Population Transfer is initiated by government policy. Generally speaking, the practice of Population Transfer is based on reasons, which have to do with the ethnic composition of the people being moved or the people into whose territory settlers are being moved. Population Transfer, whether settlement or removal, plays a part in a larger policy directed towards a specific racial or ethnic group and is usually politically motivated and often rooted in racism. There are two broad categories affected by Population Transfer: The people being transferred (the settlers or removed people) and those into whose area the others are being moved (the original inhabitants; some or all of these may be deported or removed as well).

Attention must focus on the rationale of a government's original decision to undertake or acquiesce in Population Transfer. Military, strategic and political *reasons* are often the true reasons for government involvement in Population Transfer. Justifications such as 'voluntariness', 'national security' and 'temporariness' are often offered, but should be treated skeptically as often they merely conceal a government's wish to create demographic changes in order to consolidate, control and, in some instances, even to destroy in whole or in part a particular community.

Not all large-scale movements of people constitute Population Transfer. Population Transfer should be distinguished from refugee situations. The Conference was made aware that not only government policies are in issue. Development projects, funded by international organizations, such as the World Bank, may result in the large-scale removal or resettlement of indigenous populations from their native lands. The Conference criticized the lack of attention and priority given to the question of human rights and Population Transfer in particular when such development projects are being planned and implemented.

(b) The forms of Population Transfer and the circumstances under which it occurs are manifold. The following are some discussed at the Conference. (i) removal for the sake of nuclear testing; to make way for large-scale development projects; as punishment for alleged contort during a war or other conflict; repopulation of territory in the name of progress and removal simply because a group belongs to a particular people (ii) implantation of settlers

with the motive of colonizing territory (accompanied by assimilatory practices); to 'civilize' 'backward' peoples; to influence the outcome of referenda (iii) influx of laborers to subjugate the inhabitants with the aim of changing the demography of an area. The circumstances vary greatly.

The Conference considered that Population Transfer may occur, for example, (i) in conflict situations: eg in war, declared or otherwise; under conditions of occupation; by action provoking refugee problems (ii) in time of peace : transfers can be for public interest purposes with lawful or unlawful intention. They can take the form of movement under 'freedom of movement constitutional provisions' or under specific government programs. Population Transfer can occur in these circumstances by way of expulsion (or pressurized departure) of inhabitants and/or by implantation of settlers.

(c) The Conference debated the merits of defining the term Population Transfer. Some argued that it is essential to have a clear definition of the term. Others took the view that the time taken to define such a notion would be so protracted that it might obstruct practical means to deal with this urgent problem. Defining Population Transfer poses some difficult questions: does Population Transfer import the notion of governmental action? Is its character affected by its being induced by means of economic incentives? Does transfer necessitate the physical movement of persons, or can there be a Population Transfer effected solely by the redrawing of borders? How should those moving be described: as settlers? Or colonizers? Or transmigrants? Must the numbers of people involved be large? Should numbers be part of the definition, or should the definition focus on the rationale and intention involved in the transfer? How long must settlers have been on a territory for it to have been 'theirs'? What is the norm which governs the passage of time and the possibility of the acquisition of rights by prescription? Is lack of consent to the move necessary on the part of those transferred and/or those receiving them? What is 'consent'? How can consent be evidenced?

Without coming to any definitive definition, the Conference accepted the following working definition of the phenomenon, viz: Population Transfer can be described as 'The movement of large numbers of people, either into or away from a certain territory, with government involvement or passive acquiescence and without the free and informed consent of the people being moved or the people into whose territory they are being moved'. This working definition covers two distinguishable manifestations of Population Transfer, the implantation of settlers and the removal of people. It includes such essential elements as: absence of free and informed consent, the government's intention behind the movement, and effect on peoples.

### **[3] LEGAL AND HUMAN RIGHTS ASPECTS**

Little sustained consideration has been given in the past to the legality of the implementation of Population Transfer policies and their effects. The Conference concluded that the practice of Population Transfer is a crime against humanity, which violates fundamental human rights of individuals and peoples, including the right to self-determination.

At the outset, the Conference was invited to be critical in analyzing the legality of Population Transfer. Some skepticism was expressed about the value of couching obligations in legal terms at all, the contention being that international law is politics written in legal terms. Law can be regarded as a set of accepted rules or as rules of conduct, which can be changed when not responding to needs. The task of the Conference was not to assume the legitimacy of



Population Transfer or only to develop guidelines for organized transfer programs, but to question the very legality of population transfer itself and its consequences.

In the long-term, Population Transfer causes threats to the peace and security by exacerbating ethnic sensibilities and perceptions of grave injustice, both internationally and nationally. In some countries, Population Transfer is sanctioned by national law. This shows that states still consider Population Transfer to be a domestic affair. But, since 'domestic' Population Transfer policies pose serious threats to peace and often lie at the root of ethnic conflicts, principles of nonintervention and state sovereignty should not permit Population Transfer to be immune from the scrutiny of the international community. In fact, most Population Transfers breach human rights, humanitarian treaties and principles of customary law.

The legal and human rights aspects of Population Transfer were divided into two topics: (i) the practice per se of Population Transfer and (ii) the effects of the practice, including the impact on settlers and on original inhabitants.

(i) The movement of people itself that occurs with state involvement and without the free and informed consent of those people or those into whose territory they are being moved, has in some cases been prohibited by international law under the Fourth Geneva Convention of 1949 (with respect to occupied territory) and under the International Military Tribunals, forbidding mass deportations during wartime. This can be extended to mass deportations and expulsions during peacetime, even if such displacements occur solely within the borders sovereign state. Population Transfer can also constitute the crime of genocide if it is intended to result in the destruction of a people or religious or cultural group.

A problem arises in connection with the clash between the right to free internal movement within the borders of a state and its misuse to cloak transfers of population. Commonly justified in terms of freedom of movement, settlers may appear to move voluntarily into an inhabited area, whereas the movement is planned or induced by a government as part of a larger political operation aimed at disenfranchising a distinct people.

The Conference actually found that there may be very few circumstances in which Population Transfer is not illegal or a crime. In a few limited situations, which can arise from a natural disaster, an emergency or security needs, the transfer may be for genuine public interest purposes. But this would have to be accompanied by proper compensation and resettlement costs. Some removals are motivated by a state's desire to save a threatened minority abroad, but such transfers must be genuinely voluntary, with those involved being offered a real choice to remain where they are.

(ii) The effects of Population Transfer are equally violative of international law. Population Transfer results in the violation of universally recognized human rights, such as the right to freedom of movement, the right to choose one's residence, the right to security of person, freedom from arbitrary arrest and the right to freedom from discrimination. The Conference was reminded of the need to bear in mind both the individual human rights of those persons being moved and the collective rights of the original inhabitants into whose territory people are being moved and of the removed people. When the policy of Population Transfer singles out distinct peoples or racial, linguistic or religious population groups, it is discriminatory. This is so in its application or in its effects, as widespread discrimination and a society divided along racial lines favoring the settler population generally results. Governments carrying out policies which result in a process whereby a culturally distinct people loses its

identity may be guilty of ethnocide (not recognized in any international instrument). Population Transfer may cause the loss of land of indigenous peoples, which can constitute an element of ethnocide. Population Transfer violates the basal right of peoples to self-determination.

The influx of settlers and their appropriation of dominant positions of status and power, leads to the decline of the opportunity for a people to continue to exist as such, and to determine its status and development. Demographic manipulations also affect the implementation of self-determination by means of referenda or elections.

The Conference found that today no effective mechanisms exist for addressing the human rights violations inherent in the practice of population transfer.

#### **[4] REDRESS**

The Conference concerned itself with the need to redress situations resulting from the practice of Population Transfer humanely and/or to compensate its victims. It agreed that any feasible solution must take account of both the oppressed peoples right to self-determination and the human rights of the settlers. There can be a serious conflict of rights of the victims of population transfer and the often involuntary participants in the practice. If settlers are repatriated after years in an area, questions may be asked as to the circumstances in which and the extent to which a restorative transfer is appropriate or lawful. This was a most sensitive and difficult issue dealt with by the Conference: should there be a right of return for such people if they had been removed themselves? Should this be a legal right, or, more generally, should conditions be created to allow those original inhabitants who had been removed (or their descendants) to return to their traditional lands? Secondly should there be a right to repatriate settlers who moved to a territory under a Population Transfer policy which was a violation of international law?

(a) Re-transfer of settlers involving repatriation and/or rehabilitation was urged by most victims of Population Transfer. Legalization of the stay of unlawfully implanted settlers would be tantamount to the condonation of a crime against humanity and would perpetrate the illegality and injury. Settlers should have no automatic right to remain where they are and the new polity will have to exercise discretion concerning their stay taking into account human rights.

The Conference addressed the potential for creating new practices which might be labeled 'reverse Population Transfer' and which could be as injurious as the original practice. Furthermore, if Population Transfer is a crime in international law, would this not imply that there were 'bad' Population Transfers and 'good' Population Transfers?

The Conference looked at the different categories of settlers in reference to the appropriateness of repatriation. The re-transfer of the colonizing state's organs of power - military, police and security personnel should be considered as one category. If people had settled to provide technical services or to exploit an area economically, this could constitute a different situation. Finally, involuntary settlers, who were moved there by their governments or who moved in good faith in search of better lives, constitute yet another category. Voluntary re-transfers, effected through some inducement or incentive scheme could be considered as an option for most of these groups, although the first category could in most cases be repatriated even involuntarily. But, these approaches must be distinguished from any

generalized involuntary re-transfer of non-official individuals and their families. This entails drawing some line to distinguish legal, from illegal, residents. On humanitarian grounds, there must come a time when settlers or their descendants are not liable to deportation. Some participants suggested the line should be drawn at the start of World War 2, after which the new world order was established. Some situations were regarded as easier to deal with because of the relatively recent period within which colonization had occurred. The Conference was urged in general to recommend solutions that were viable and humane. In particular, settlers should be dealt with as the subject of negotiations between the states concerned in peaceful dispute settlement procedures and be treated with humanity.

(b) As regards the victims, their rights of return should be inviolable. Indeed, for the state of which the deportees are nationals to negotiate away that right would constitute a breach of their human rights. Redress in the form of compensation to the victims or punishment of the perpetrators was also considered.

## **[5] CONCLUSION**

The Conference agreed on the acute need to pursue the matter both within the UN-system and wherever possible outside that system. Some frustration was expressed at the slow program that could be made at the UN and its ineffectiveness to address situations until it already might be too late. UNPO members should also treat each other as a source of solidarity and assistance.

The Conference recommended that awareness of the problem should be heightened and the illegality of Population Transfer as a crime sui generis and the consequent systematic violations of human right acknowledged; mechanisms for compensation to the victims and punishment for those responsible should be considered; the UN, which had so far failed to take effective action appropriate to the magnitude and urgency of the problem, should be pressed to take up the matter in all its fora.

International organizations, governments and corporations should be urged not to undertake projects, which promote or result in Population Transfer. The relevant rules of international law that could be applicable should be invoked. This should include work on the 'Draft Code of Crimes against the Peace and Security of Mankind', the International Law Commission's work on draft articles concerning 'state responsibility' and pressure on the UN General Assembly to initiate action to draft a 'Declaration on the Principles of International Law, including Human Rights Law Applicable in Armed Conflicts whether within or between States. Consideration should also be given to the usefulness of a new treaty instrument or the elaboration of already existing conventions by way of Protocols and the establishment of machinery to prevent the crime of mass expulsions and other forms of Population Transfer. Such machinery could include the establishment of a new, peaceful mechanism for defining and implementing peoples' right to self-determination.

The Conference proved to be an important, first step towards addressing and outlawing the practice of Population Transfer, which has dire consequences for distinct peoples and nations worldwide. International law is inadequate in this area. The Conference is a step in the process of creating new law with the participation of the affected peoples themselves.

## SECTION THREE

### SUMMARY OF COMMENTS FROM MEMBERS

(in alphabetical order)

#### [1] ABKHAZIA (Guram Gumba)

The problem of population transfer is an international problem which threatens the survival of nations. Without international co-operation, there will be no system within which a nation can be safe and enjoy human rights.

The policies of Russia towards the Caucasus had terrible consequences, with more than 4 million Abkhazians leaving the country. 3 million live in the USA and other countries. Many suffer discrimination and lose their language, customs and culture. The population of Abkhazia was 300,000 at the end of the 19th century - 84 native - but this will be down to 58, by the end of the 20th century.

The Conference should consider the following points in the final resolution or perhaps, in a separate resolution concerning the plight of the Caucasians in exile:

- (i) Official recognition of the right to return of Abkhazians forced to leave the Caucasus or their offspring
- (ii) Appeal to the governments of Russia, Turkey, Syria and Jordan to
  - (a) Recognize the right of repatriation for people of Caucasian origin
  - (b) Facilitate entry to the country for Caucasians living abroad
  - (c) Recognize the rights of the Caucasian Confederation Parliament and the governments of the Caucasian Republics to establish and carry out repatriation programs.

#### [2] ABORIGINALS (Helen Corbett)

Our story is told in a passionate way because cruel and inhumane treatment threatens us with extinction. The telling is not easy, and, in any case, we are used to different forms of storytelling in different sorts of settings from this type of formal conference. The others who tell their stories are due our thanks; they are courageous people who are being subjected to cruel treatment at the hands of various states. Population transfer takes many forms.

When Aboriginals lost control of immigration policy they lost control of population transfer. They never ceded sovereignty to the British - who occupied the lands on the principle of 'terra nullius: In the Aboriginals' situation, there is population transfer as a result of

- removal of Aboriginals for the sake of nuclear bomb testing during the 1950s. The state gave the sites back in the belief that people can still use them, but they are still contaminated.
- removal of Aboriginals in favor of mining and pastoral interests
- housing policies
- assimilation of our people into the dominant culture
- removal of children from **native** communities and families. It is estimated that 1 in 6 children have been removed. The attempts to link back are severed by colonial policies. The children are looking for their roots, but they don't know who they are.

UNPO should assist its members to investigate situations involving population transfer. Specifically, it should help Aboriginals find out where their children are. It should get government delegations to come to this sort of conference - even though it pre-empted discussion. However, it is good to see those governments who are at the conference. Aboriginals must get more financial assistance to help finance new structures and be enabled

to come to conferences like this. Aboriginals are the poorest sector in a colonialist Australia which, because it is regarded as part of the 'developed' world, means that they can't get funding easily. The challenge for government delegations present is, how can they help Aboriginals in these respects?

[3] ACHEH (Tengku Hasan di Tiro)

Population transfer violates the self-determination of the indigenous people of a given territory on whose ancestral land the alien population is transferred. It is worth repeating the wisdom of Machiavelli that 'sending immigrants is the most effective way to colonize other countries because it is less offensive than to send military expeditions, and much less expensive. This practice occasions sad stories from all over the world. The capacity for self-determination is put in jeopardy by population transfer. Even before the stage of no return is reached, the indigenous people may be subjugated because the occupying power's population take positions of political, economic and cultural dominance. The approach to the problem posed by this issue should be guided by a sense of justice but also by an awareness of injustice.

The transfer of Javanese Indonesians to Aceh/Sumatra is from Indonesia - the former Dutch East Indies empire kept intact by the Javanese. Indonesia is a colonizing empire. Aceh/Sumatra has been subjected to Java since 1949. Since then, several million people have been transplanted on Aceh/Sumatran soil containing the most fertile and strategic parts of Indonesia. In the South Sumatran district of Lampung, over 80% of the population are no longer indigenous people. The Javanese Minister for 'Transmigration' (the Javanese code-word for population transfer) has pledged to 'integrate all ethnic groups into one nation - the Indonesian nation'. There will, therefore, be only one ethnic group - Indonesian. There is a scheme for moving 7.5 million people to create the Javanisation of non-Indonesian areas, and the major areas designated for the transmigrants are in strategic locations. Dispossession is now also created by World Bank/IMF supported development. In the last two years, 20,000 Achenese civilians have been massacred, creating a link between population transfer and genocide. The Javanese directed population transfer is criminal and illegal.

There should be a conference resolution condemning Javanese genocide against Achenese citizens and calling on the Indonesian authorities to cease immediately from all extra judicial killings and from transferring Javanese people to Aceh/ Sumatran territory. The UN Commission on Human Rights should take appropriate measures to apply the Fourth Geneva Convention against Indonesia.

As regards repatriation, a statement had been signed declaring that the only people to be forcibly repatriated would be the police and those who had co-operated with the Javanese; regular Javanese citizens are a different case. All that this conference can do is issue a declaration that UNPO will make all efforts to be just - for each situation is unique. The UN had not been effective; UNCHR was informed about refugees but did not want to offend the Indonesian government, while the Human Rights Commission are removed from reality, and the Indonesian government works against the Aceh claim in general. This leads to a waste of valuable resources.

[4] ALBANIANS IN YUGOSLAVIA (Edita Tahiri)

There are 3 million Albanians in the former Yugoslavia, which represents 50% of all Albanians. If there had been no population transfers over the last hundred years, caused mainly by the 'Serbian National Programme', this figure would be twice as much. Because of Serbian population transfer policy, implemented solely for military and political reasons, one-third of Albanians live in the diaspora.

Problems for Albania were created by the Berlin Conference in 1878, whereby 10,000 sq km was given to Serbia and 5000 sq km went to Montenegro. There is documentary evidence that, on this occasion, 350,000 Albanians were expelled from their houses. Then there was the 1912 Ambassadors' Conference in London. By international treaty, Serbia and Montenegro were permitted to legally invade 65,000 sq km of Albanian territory. Over 500,000 Albanians emigrated to Turkey and other Balkan states. After the creation of Yugoslavia by the Treaty of Versailles in 1919, Albanians were subjected to Garasanin's so-called 'Serbian national programme'. Between 1919-1941, on the basis of mutual agreements between Turkey and Yugoslavia, 300,000 Albanians were deported to Turkey. During the post World War Two period there has been a Yugoslavian/Turkish agreement that Albanians should not be allowed to continue to exist and their right of self-determination extinguished. This is still the policy of Serbia which has placed Kosovo under state terror. Ethnic Albanians are subjected to police repression and a campaign aimed at repopulating Kosovo with Serbs. It is estimated that 500,000 ethnic Albanians have emigrated to the West.

[5] ARMENIA (Ashot Nazarian)

The experience of Armenia was that 2 million were killed in 1915. Then there was the Sovietisation of Russian Caucasus which had had such dreadful effects on the Armenian population. Now, there are practically no Armenians. They are being 'exported' from Nagorno-Karabakh.

UNPO must help. It could collaborate with the UN and other organizations to create conditions to stop the practice whereby states have the ability to deprive people of the use of their territory.

[6] ASSYRIA (Daniel Crisby and John Nimrod)

A scale, or numbers, shouldn't be put on the tragedy caused by population transfer; it is the intensity of the event not numbers which counts.

The Assyrians are celebrating 6742 years of history in 1992. From a population of over 40 million, massacres and annihilation have reduced this figure to around 3 million. There are 1.5 million Assyrians in Iraq and another 1.5 million globally, the remnant of an ancient civilization. Arabs are a part of Assyria, and Assyrians are not just a 'Christian minority' as they are usually characterized. Assyria has all the ingredients of a nation. A people with customs, traditions and a history; the first written language; contributions to civilization, including the first library; the first nation to accept Christianity; and a people with territorial rights who are the natives of the land known as Iraq.

The population transfer which affected the Assyrians is different from that affecting other peoples. Whereas governments are usually the sole cause of population transfer policies, international politics has been critical in the Assyrian case. During World War I, there was an Assyrian Exodus from Turkey to Baghdad and Northern Iraq via Iran and Russia. Two-thirds of the population was lost during this forced displacement. The League of Nations was charged, after the war, to find a comprehensive solution to the Assyrian national question. It did not and the present plight of the Assyrian people is a direct result of that failure. It left the Assyrians at the mercy of Iraq which has deliberately proceeded to eliminate the Assyrian identity by population transfer policies, such as:

- forced displacements of hundreds of thousands of Assyrians - burning and destroying of Assyrian census records
- closing of Assyrian schools to eliminate their language
- closing of churches and deportation of the Assyrian Patriarch from Iraq - rewriting of the Iraq constitution to remove Assyrian recognition
- denial of the right to assemble and organize as an ethnic entity

- political persecution and forced membership of the Baath Party as a condition for employment, education and security.

The Turkish government has forced more than 150,000 Assyrians to flee from the province of Turabdin. Meantime, the global media and world attention concentrates on the Kurds and Shiites, and ignores the plight of the Assyrians and the Turkomans in Iraq. The UN has been similarly ineffective in protecting the rights of nations and small peoples.

The Assyrian Nation believes that it has a unique case in respect of the population transfer issue. It requests this matter to be discussed not only by UNPO, but also by the UN and other international bodies.

[7] BOUGAINVILLE (Mike Forster)

Population transfer is a threat to the security of the region and is used as a means of subjugation. It has contributed to the uprising of the people on Bougainville against the government of Papua New Guinea (PNG).

Bougainville - traditionally part of the Solomon Islands - is a society based on a strong network of local villages and traditional justice. So far, there have been 3 periods of population transfer as regards Bougainville. A fourth is looming.

First, after the 1899 German-UK Agreement whereby Bougainville was separated from the other Solomon Islands. Bougainville remained under German control and the Solomons - just twenty miles away with whom the Bougainvillians share so much culturally - went to Britain. Second, after World War 1, the League of Nations placed the German territories under a Mandate and they were administered by Australia. Papua New Guinean laborers came in to work on the Australian owned plantations as indentured contract workers for two years and at the mine at Panguna. Third, after Papua New Guinea obtained its independence in 1975 Bougainville was handed to it as a neo-colony. The Westminster-system of government, which assures Bougainville only four members in the parliament means that Bougainvillians can never seriously influence the PNG government. Under the freedom of movement clause in the Constitution, there was an influx of people from Papua New Guinea. They established villages, service companies and became the majority of laborers at the Panguna mine. At the last local elections, Papua New Guinea manipulated the situation to get non-Bougainvillians into government. The police were also pro-Papua New Guinea, protecting PNG gangs operating in the towns and rural areas raiding shops, plantations, village stores and entire villages. The 'wantok', or one language system protected them from police prosecution.

Papua New Guinea withdrew in 1990 after fighting between the Bougainville Republican Army and the PNG defence forces. Since 1989, though, Papua New Guinea has maintained a blockade of the islands using gunships. 8,000 out of a total population of 160,000 have died as a result of a lack of medical supplies and facilities. 10,000 children have not been immunized. Education and commerce have ceased. In 1989 Papua New Guinea invaded Buka. It is presently planning a reinvasion of Bougainville as the agreement of January 1991, which would have provided for a multi-national peace keeping force to permit a democratic solution to be found, has broken down.

Population transfer is being used as a weapon of subjugation in many parts of the region: in West Papua, New Caledonia, East Timor, Fiji, Aceh/Sumatra, and the South Moluccas. It constitutes a threat to the region's security. The right to self-determination of a people must transcend the context set by the settlements of past wars and the ex-colonial boundaries and include the right to secession and retrocession. Often, the problem of population transfer is caused by the very powers that now control the UN. Thus, it is vital

that the new member states network to support the efforts of UNPO and other NGOs, regionally and globally to prevail on the UN machine to prevent future population transfers.

[8] CHECHENIA (S Ibragimov)

The problem of population transfer is acute for the people of Chechen, who have never used force against any other peoples or fought on foreign territory. There has been a 90% loss of population and the remainder continues to struggle to be independent. The Soviet government tried to break people by force and economic blockade. There is a question mark still hanging over its recognition as a sovereign republic.

This is a crucial moment in the life of the oppressed peoples in the colonial system of the former Soviet Union's empire. UNPO can still do something in this area before violence breaks out and help Chechen achieve sovereign recognition.

[9] CHITTAGONG HILL TRACTS (Chandra Roy)

The Chittagong Hill Tracts are in Bangladesh, homeland to 13 ethnic tribes. In 1947 at the time of the partition of India, Bengalis were 2% in the Chittagong Hill Tracts of East Pakistan (Bangladesh). Because of the influx of 400,000 - 500,000 settlers brought in by government policy, we are afraid that we, the original inhabitants, (numbering about 600,000) will become 2% of the population in the Chittagong Hill Tracts. The Chittagong Hill Tracts is incapable of supporting such large numbers of people. It is not very rich in natural resources especially since over 40% of cultivable land was submerged in 1960 when the Kaptai dam was built. 100,000 hill people were displaced and many (40-60,000) fled to India where they live today, stateless. About 33% of the Bangladesh army is stationed in the Chittagong Hill Tracts - about 50,000 soldiers. The ethnic people of the Chittagong Hill Tracts are forced into cluster villages which serve two purposes (a) to clear the land for the Bengali settlers and (b) for the purposes of control and monitoring the movement and activities of the hill people. They need passes to move from one area to another and there are strict limitations imposed on supplies of food and medicine. This is to prevent any of the essential commodities reaching the freedom fighters, the Suti Behini (which is the armed wing of the Jana Samliti Sanghati (JSS) the popular people's movement).

As regards solutions to this problem, the general point to be made is that the settlers should go home. Then, specifically

- There should be an immediate demilitarization of the Chittagong Hill Tracts
- An end to the transmigration of the Bengali settlers into the Chittagong Hill Tracts (busloads are still moving into the Chittagong Hill Tracts from the plains)
- Bengali settlers should be returned to the plains and rehabilitated there. The government gave incentives to bring the plainsmen up to the Chittagong Hill Tracts so they can do the same to encourage a return - especially since many settlers have expressed a desire to do so.
- There should be a restitution of lands to their rightful owners.
- A UN Special Rapporteur should be established to monitor the human rights situation in the Chittagong Hill Tracts.
- Those who fled to India since 1976 as a result of the atrocities committed by the armed forces in the Chittagong Hill Tracts with the active participation of the settlers should be safely returned.
- Chittagong Hill Tracts self-determination should be exercised.

[10] CRIMEA (T Uliazov)



Crimean Tatars have suffered at least since 1773. In recent history, in 1944, the Crimean Tatar Nation was deported to Siberia and the Urals where the climate was unfavorable. 42-46% of the population was lost. 130,000 Crimean Tatars succeeded in returning to the Crimea, but are oppressed and suffer discrimination. Many still remain in the diaspora. A new Crimean Parliament has been created and a special session of Crimean Tatars held, and documents produced. However, up to now it has not been officially recognized. UNPO can help to obtain recognition of the Crimean government.

[11] EAST TURKESTAN (Hamit Hamrayev and Anvar Hajiyev)

It is necessary to distinguish between voluntary and forced population transfer. In cases of population transfer into the territory of an indigenous people repatriation should be carried out without reference to existing law. Any form of population transfer which leads to extermination should be considered a crime.

Settlers came to Khazakhstan to explore new lands; in that sense the population transfer was voluntary. But, this can lead to the disappearance of a people. Khazakhs are now a minority in their own land and because they have been deprived of the right to self-determination they can't solve their problems.

After the invasion by the Chinese Communist regime in 1949, the Uyghur people are in a bad shape. The territory of the Uyghur homeland makes up 1/6 of the Peoples Republic of China (PCR), which the Chinese want because it is rich in minerals. There have been two different kinds of population transfer in East Turkestan: (i) indigenous Uyghurs were taken out of cities on the Soviet-Chinese border and (ii) according to the Chinese, it is planned to increase the population of East Turkestan (which contains 7.2 million Uyghurs) to 100,000,000 by 2010 through the transfer of Chinese people. At present, two train-loads are arriving daily. In 1949, Chinese in East Turkestan constituted 3 % of the population. Now, the majority of inhabitants of East Turkestan are Chinese and in Urumqui 90% of the population are Chinese. Birth control measures have been instituted. Uyghurs are not allowed more than two children per family, on pain of sanction. In addition, displacement has occurred because of the nuclear testing at Lake Lop Nor.

Responsibility must rest with the Chinese authorities which have planned the population transfer to East Turkestan. Repatriation or exiling of settlers is desirable but the problem is the mechanism of its realization. It is not practical for the settlers to leave the country as there is a system of fixed living place in China which restricts movement internally. The return of the indigenous peoples to their native lands is impossible because all lands are settled by Chinese settlers; giving indigenous peoples special lands isn't applicable either.

The authority of international institutions must be invoked to stop further migration. It is most important to stop new settlers arriving in the territories. More attention from the international community needs to be directed at East Turkestan and the other similar cases of Mongolia and Tibet to make people aware of the situation and to bring pressure to bear on the Chinese to stop their plans for the future which is causing ethno-genocide.

[12] ESTONIA (Tunne Kelam, Juri Adams and Mart Laar)

It is important to understand how the system of population transfer works in order to learn how to avoid it. Thus, the population transfer process should be unmasked. Whether it operates in terms of economic necessity or cultural exchange, population transfer constitutes genocide.

Estonia is a good example of a country which has suffered from population transfer. During the Soviet occupation, it lost one quarter of its population; the number of Estonians has today not reached its pre 1939 level. In the case of Estonia, population transfer was achieved

through the twin mechanisms of economic necessity and cultural exchange. Transfers occurred in two phases. First, there was the transfer of Estonians to Siberia; the first deportations took place in 1941, followed by others in 1945 and 1949. The process was quite simple: first the man was arrested, then the mother and children were deported. Second, there were transfers from the Soviet Union to Estonia. Factories were built with Soviet money and raw materials; so Soviet labor came in: between 1945 and 1950, 200,000 colonists came to Estonia, making up 20% of the population. These people changed the character of the areas around the factories up to so many kilometres as regards the language and the infrastructure. Another strand in population transfer was the setting up of Soviet army bases; the soldiers brought their families. The Soviets built special areas for the officers and their families, which were built as closed societies and it is not known how many people are actually living there. The influx of the army is critical: if the army goes so will their family members. Actually so closed are these societies that it has just come to light that there are two nuclear reactors. Conditions for the colonists are better; 70% of non-Estonians live in new homes compared to 50% of Estonians. There are demographic differences too; the colonists are predominately of child-bearing age and so include only few old people which produces pressure on schooling. The net effect is to make locals a minority in their own land.

The Estonian response involves drafting a new constitution which will be a framework for working out solutions - which of course cannot be guaranteed. This includes (a) A chapter on rights which will be applicable to all living in Estonia. There will be particular rights for citizens, such as the right to vote in general elections (all inhabitants will be permitted to vote in local elections) and also the obligation to serve in the armed forces. The only official language will be Estonian and all official business must be conducted in that language. Minorities will be granted language rights for education, culture and local administration where they are in the majority. But a special provision will ensure that any kind of education possible in Estonia must be available in the Estonian language; (b) because many Estonians have been scattered throughout the world, following the events during World War 2, the draft constitution guarantees to these people and their descendants Estonian citizenship. This is to establish the principle of the Estonian state as the homeland of all Estonians all over the world. This will be an enforceable right, so that if it is unjustifiably restricted recourse can be had to the courts. Any Estonian has the unquestionable right to repatriation or resettlement. (c) The principles of cultural autonomy will be re-established, as it existed before World War 2. Any national minority who wishes to form an autonomous entity can register, on a voluntary basis, all persons belonging to that minority. Such bodies will have the right to form national parliaments and be eligible for a share of the State's expenditure on education and culture. The national body will have the right to tax its members and the revenue can be used for educational or cultural needs. Before World War 2 Jews, Germans and Swedes were eligible; now perhaps the list will include Ukrainians, Russians and Tatars.

[13] GREEKS ALBANIA Menelaos Tzelios)

The case of the Greek minority in Albania is a text-book example of the practice of population transfer. The Albanian government policy has as its central purpose, the undermining of the homogeneity of the 400, strong Greek population in Albania and its assimilation within the Albanian population. Two techniques are involved, direct and indirect. The latter is of critical importance and deserving of the Conference's full attention because of its subtle impact on vulnerable populations. The Hoxha regime used direct force against ethnic Greeks; the population was terrorized by systematic harassment, intimidation, beatings and long prison sentences. In addition, constructive or indirect force is used. This takes the form of incentives provided to induce Greeks to move away from their ancestral lands and to relocate in the Northern part of the country. This 'encouragement' has been

especially effective in a totalitarian regime where the state controls the opportunities for education and employment.

Now, in the post Hoxha period, two phenomena are particularly worrying: the encouragement of the formation of bandit groups which terrorize the Greek minority in Northern Epirus and the siphoning off of aid which is donated by the Greek government and Greek-American organizations. Much of the aid is never received by its intended recipients and this has resulted in around 50,000 ethnic Greeks being coerced (to evade famine conditions) fleeing to neighboring Greece.

UNPO should become the Represented Nations and Peoples Organization and compete with the UN. It is crucial that the international community respond to the consequences of the blatantly unlawful practice of population transfer that is effected in a number of subtle and not-so-subtle ways.

[14] IRAQI TURKMEN (Shaheen Nakeeb)

The Turkmens are the third largest ethnic nationality in Iraq. All major cities and towns in Iraq are inhabited by Turkmens that have been transferred or forcibly resettled by the government. There have been expulsions and the forcible transfer of peoples from their homes and villages and resettling them in remote, useless areas of South Iraq. For the last thirty-three years the Iraqi government has been systematically working to downplay the numbers of Turkmens in Iraq by distorting census returns and publishing false figures in regard to Turkmens' ethnic background. Turkmens have suffered human rights violations all through this century. They were subjected to savage massacres in 1924, 1937, 1946 and 1959. Thousands were killed, imprisoned or transferred by force. During the Iran-Iraq war, numerous villages in the Turkmen region were eradicated and the inhabitants expelled, forcefully transferred and scattered all over Iraq. Saddam Hussein's army savagely killed thousands of innocent Turkmens - and Kurds - in Northern Iraq during 1991.

[15] KURDISTAN (Latif Rashid)

Many nations and groups suffer because of the phenomenon of population transfer. But, rather than criticizing, it is better to learn from the past and put forward constructive ideas for solutions so that such problems will not arise in the future.

Population transfer is carried out by unrepresentative governments, dictatorships and totalitarian regimes for political ends. It constitutes a breach of the 1983 UNGA Indigenous Peoples Rights resolution which calls states for the recognition of the right to 'maintain, within areas where they live, their traditional economic structure and way of life'; it is also a breach of Article 13 of the Universal Declaration of Human Rights. When talking about population transfer, two groups are involved: those who originally inhabited the territory and those who have settled there. It must be acknowledged that, in some way, the settlers should be held accountable.

The history of the Kurds stands as an example of the consequences of population transfer of a people. They have dwelt in Kurdistan for four thousand years, which is an area of some 500, sq kms, the size of France, straddling Turkey, Iran, Iraq and Syria. Other Kurds are dispersed throughout various other areas, to make up a total of between 25-30 million people: the largest nation in the world denied statehood or political recognition.

The first large-scale population transfer of the Kurds started under the Ottomans during the reign of Sultan Sulaiman the Magnificent; Kurdish tribes were resettled along the border to protect the empire from the Persian threat. Around 1596, the Persian 'ShahAbbas' began a widespread population transfer campaign ordering the removal of 55,000 Kurdish families to Khorsan. Approximately 250 years ago, the Ottomans carried out programmes of depopulation; large numbers of Kurds were removed and replaced by Turkish tribes. At the end of the nineteenth century, the Turkish government transferred the Kurdish 'Hamawand' tribe from Chanchamal to Tripoli. During World War 1, in the winter of 1916-17, the Turkish

authorities removed 700,000 Kurds to Anatolia after the massacre of the Armenians. In 1930, Stalin began removing Kurdish communities to various different republics throughout the Soviet Union. In 1932 and 1934, Turkish laws were passed enabling the forcible resettlement of the Kurdish population. In 1987/88, the Turkish government announced plans to deport 50,000 villagers from 3,192 villages. In Iraq, a programme of forced Arabization has been implemented since 1963. After the 1975 Algiers agreement between Iran and Iraq, the Iraqi government deported hundreds of thousands of Kurds to the south of the country or to the 'autonomous region' allocated by Baghdad. The biggest campaign waged against the Kurdish nation has been by the Baath regime and Saddam Hussein involving displacement, evacuation, the destruction of villages, forced resettlement and murder. For example, more than 5,000 Kurdish villages and 30 district towns in northern Iraq have been destroyed by Saddam Hussein's army in a deliberate policy to terrorize the Kurdish population and to force them to leave this area.

It is necessary to take practical steps to remedy injustices and to compensate all those who have suffered from population transfer. Specifically, there should be a comprehensive investigation of population transfer by NGOs; compensation for the sufferers; international protection to prevent further forced population transfer. The UN should monitor the implementation of human rights in all areas where forced population transfers are threatened. Additionally, a letter should be addressed to the World Bank presenting the opinions of victims of population transfer which arise because of development projects (which generally only take financial and technical considerations into account). Given the centrality of the right to self-determination, it would also help if the experts at the Conference could give a definition of this right.

[1] LATVIA (Olgerts Dzenitis)

Those transferring to another territory should not be referred to as 'settlers' but as 'colonizers'. Western journalists try to be 'objective' and 'impartial' to present the points of view of both the aggressor and the besieged. But, as they are not on an equal footing, they should not be treated equally.

Latvian independence is only partial because the Soviet army and Soviet citizens remain on Latvian soil. This poses the problem of how to treat such a 'minority'.

The Conference should pass a Resolution requesting the governments of those states which have recognized the independence of the Baltic states to urge that the occupying troops be withdrawn from the Baltic states; should express deep concern about the complete destruction of the demographic balance in Latvia (and the part destruction in Estonia) caused by the criminal implantation of settlers from the Soviet Union; and should request the governments of the Nordic, West European countries, the USA and Canada to promote, politically and economically, the return of settlers from the Baltics to their ethnic homelands.

[17] MARI (S Sanukov)

Population transfer has different causes. Problems persist for Mari. Two in particular are the colonization by Russians, causing 40% of territory to be lost and the demographic composition of the Mari to be changed, and the resettlement of the army.

Indigenous peoples must be protected by the common laws of the world on the basis of global human rights. They must be protected from forceful removal. Population re-transfer is negative, but it is necessary in order to save a population from dying out. However, it should be done in a civilized manner.

[18] SOUTH MOLUCCAS (Otto Matulesy)

The transmigration from Indonesia issue in South Moluccas is coupled with that of deforestation which poses a threat to the water supply and affects agricultural cultivation. Licences for deforestation are awarded to non-South Moluccan companies. Despite their

protests, South Moluccans are not included when consideration is being given to whom to award the licences.

Commenting on the Acheh situation, only the optimistic would look to law to rectify the problem. The reason is that laws can only be used to the advantage of the strong and the victims are weak at this point. Laws are made by those who are living in a situation that allows for the creation of such laws and the victims are denied this opportunity. Making law is restricted to the strongest party ie, the colonizer. The perceptions of the victims and 'the experts' (and one may ask, who or what is an expert?) therefore differ; consensus is not always an 'honest gain'.

These people are the victims of illegal activity by government so the solution to the problem lies in the goodwill and hands of the colonizing government which is responsible (Indonesia). Any other proposals in the discussion are idealistic. The impact on the settlers should be limited and the problem of colonial transfer can only be addressed after the liberation of the colonized people. When the problem is a question of colonial transfer, the only solution is the liberation of the colonized. Even a political solution isn't viable. The dilemma is that the solution to one problem - liberation - will bring another problem in its wake - repatriation.

The longer the UN ignores the continuing problems of colonization, the worse the problem will get. The whole issue of population transfer must be brought to the UN and stress laid on the point that the longer the righteous claims of the colonized are ignored, the more difficult it will be to find a solution to the problem of settlers.

[19] TIBET (Lodi Gyari)

Victims have an important contribution to make to the development of international law. Experts have knowledge, but it can be too legalistic. There cannot be equality of rights for the colonized and the colonizers. Treating the settlers on an equal footing is inappropriate. Population transfer concerns its victims and the world in general. The UN resolution on population transfer has benefited us all. Estonia and smaller governments must become the moral leaders on behalf of those seeking their right of self-determination.

The Chinese regard population transfer into Tibet as 'civilizing' a 'backward' culture and economy. It has been going on since the 1950s, although its nature has changed.

It is a growing problem. For three decades from 1950 -1980 the transfer was a centrally planned and coordinated strategy. Initially, it was composed of the invading army, many of whom remain. Road builders and workers also came at this time, followed by the cadres and administrators who came in the 1960s. These were responsible for the forced collectivization process. Economic activity in relation to forestry and the extraction of mineral resources brought in further Chinese. Generally, during these decades, relocation was by administrative assignment. In 1980, this centralized, unilateral system was replaced by a more flexible one and in 1983 the contract employment system was implemented nationwide. Whereas, under Mao, the westward population transfer was forced, today it is both centrally and locally induced by development, subsidies and incentives. Incentive packages include higher wages, lengthier vacations, better housing and medical care and preferential opportunities for children's education; second child entitlement; 'temporary altitude allowance: These incentives aggravate the discrepancy between the standard of living of the locals and the Chinese.

Several broad categories of Chinese are in Tibet: the cadres and the administrators; economic technicians and managers; laborers; personnel providing services to the other groups; families of Chinese in Tibet; and the military, police and other security members.

The Chinese claim that the influx of immigrants is modernizing and civilizing is colonialist and racist. On the contrary, the Chinese presence results in significant disruptions in the

traditional cultural and economic pattern of Tibet and can also cause inferiority complexes which is harmful to the mental and social development of Tibetan children.

What lies behind this population transfer? There are several reasons: a genocidal motive; making the territory politically stable; relieving congested lowland areas; and the exploitation of natural resources. There is also the proposition that no population transfer is going on, simply the desire to help the Tibetans or the natural integration process with the rest of China. A combination of all these elements have been and are at work. The current large scale population transfer can have a genocidal effect and/or genocidal intentions, although it is a different phenomenon from the threats to the survival of Tibetans in the 1950s and 60s. Political motives to 'stabilize' Tibet and prevent 'splittism' have always been a prominent factor in maintaining and increasing the Chinese population in Tibet.

Strategies to combat these problems depend on good, reliable information. The problem posed by the influx is not that the people entering Tibet are Chinese but that they are a colonialist and occupying force; overall they are part of a process that endangers the survival of the Tibetan identity.

The UN is a political not a moral arena so one shouldn't place too much reliance on coming up with solutions through it. However it is opening up so it cannot be ignored in the overall search for a range of answers. Members of UNPO - since it was formed as a mechanism for collective support - are asked to support the resolution on Tibet at the Commission on Human Rights. As a general principle, those moved into an area in pursuance of an occupation policy should be forced to move out. Most occupiers only remain because of economic incentives given to them as deliberate government policy. So, incentives should be offered to induce them to move out. UNPO should be urged not to adopt the laws and conventions of those who have been the oppressors. There should be a consensus that any resolution of the situation does not take the victimizers into account. Any Declaration, even if it takes account of legalities, must reflect what the members of UNPO (a collective support mechanism) want.

[20) WEST PAPUA Viktor Kasiepo)  
The issues of population transfer, human rights and the right to self-determination (in a national as well as an international context) are all interconnected. Everyone deserves to benefit from the Universal Declaration of Human Rights. Those born in the territory of settlers deserve to be treated fairly. There are many different situations involving population transfer. For example, a state is over-populated so people are transferred; in other situations there is a form of voluntary migration. But, it should be borne in mind that the immigrants of today are the indigenous of tomorrow.

Consideration should be given to seeking solutions without the UN system which has been relied on too much. Multilateral or bilateral agreements between governments should be looked at as well as regional arrangements. There needs to be more cooperation at all levels. Further, the issue should be approached by addressing financial institutions and development projects which can cause population transfer. Often, such projects only take the human rights dimension into account after financial considerations have been considered. Funding from economic institutions should not, though, push human rights into being a secondary consideration. Other lines of action should be: that UNPO submit a paper on this topic to the 1993 World Conference on Human Rights; more effort should be made to work with governments and through them to reach those governments causing population transfer problems; and governments should be asked to support - morally, financially and diplomatically - those peoples present at this meeting.

Indonesia is made up of Java with 110 million inhabitants and 70 million spread over 3000 islands. Java is a military dictatorship with no regard for democracy or human rights. The roots of population transfer in the area stem from the fact that Java is perceived to be too crowded therefore there is population transfer to the outer islands; this has led to a policy on

family planning. But if numbers decrease sufficiently, the West Papuans will be killed off. Family planning must be national. In addition, population transfer has been funded by projects financed by the World Bank; tourism and its associated exploitation is also a problem.

[21] ZANZIBAR (Yusuf Salim)

Population transfer is a complex problem so the solutions to it will be complex.

Zanzibar is still struggling for self-determination, following the formation of the Union between Zanzibar and Tanganyika on 26 April 1964. This Union was established in an arbitrary way without consulting either peoples. Population transfer of Zanzibaris has been a consequence. It takes different forms: direct, indirect, qualitative and quantitative. It is carried out secretly, openly, constantly or periodically. Soon after the 1964 revolution a section of the Zanzibar Revolutionary Council deported, conservatively, 15% of the country's population. Mainland Tanzania benefited most from the exodus of Zanzibaris as most of them supplied cheap labor. The mainland country encouraged this trend which brought further economic and social ruin on Zanzibar. In 1968, Zanzibari-Commorians were forced to naturalize; many emigrated which again benefited mainland Tanzania by providing cheap manpower and reducing the indigenous population on the island. Between 1972-1984, 6,000 troops were dispatched from the mainland to contain Zanzibari nationalism; following this, a steady flow of Zanzibari officers were sent to the mainland as were ordinary soldiers. Ultimately they retired from the army serving thereby the mainland's interests. Meantime, further military personnel came from Tanzania, and by now there are an estimated 30,000 security personnel in Zanzibar, the majority from the mainland. Zanzibarian dissatisfaction with the Union is leading to demands for a referendum. So, since the late 1980s, there has been a policy by the ruling party and the government to upset the population balance so that Zanzibaris become a minority in their own country. From 1988, about 100 mainlanders per day have applied for naturalization in Zanzibar. Opposition to the 1990 general/Presidential elections produced more population transfer as the authorities, in their attempt to hide how unpopular they were, decided to ship huge numbers of people from the mainland. In March 1991, there was a second Bill before the Tanzanian parliament enabling the government to transfer any Zanzibari troublemaker.

Because of the complexity of the problems surrounding population transfer, a UNPO working group should be set up through which experts can suggest solutions to the problems. These fall into various categories: political; juridical; economic; human rights; cultural; social; regional; religious; historical; and those comprising race, nationality and ethnicity. More generally it should be realized that the democratization process can be an important contributor to the solution. Democratic states are more open to investigation of the facts and to criticism. Whilst it is good to see government representatives sitting around the conference table, these countries must help in the solution to this problem. What is important would be to influence those states assisting countries which actually are responsible for oppressing other peoples and nations through population transfer policies. Population transfer affecting Zanzibaris must be stopped because of its inhuman nature. They propose that all those countries abusing fundamental human rights including the right to live freely and peacefully should be isolated and aid be withheld; Zanzibaris should be given the right of deciding the fate of the Union through a referendum that would be supervised by the UN and UNPO; Tanzania should have an unconditional multiparty system allowing Zanzibar all the rights of a sovereign state; and the Tanzanian government should finance the travelling expenses of all those Zanzibaris who were forced to leave their country against their will.

COMMENTS FROM OBSERVERS, GOVERNMENTS, NGOs, AND EXP

[1] Sharon Venne (The Cree Nation)

Situations involving population transfers are a major problem. They entail immigration into the indigenous areas and destroy the environment in an effort to create an unreal standard of living.

Canada is one of the most colonized areas on earth, having been occupied for some 500 years. Of twelve distinct linguistic groups only three remained viable: Cree, Dene, and Inuit. The others are on the verge of extinction. Canada is an illegal state which shouldn't be venerated. It purports to be democratic, but democracy has been used against the Cree. In 1963, Canada made the Cree Canadian citizens, but this was against the will of the people who, as indigenous, were better than that and didn't want the voting and other rights of Canadians which just meant lowering the Cree to the status of the guests. As to the point that democracies sustain the free flow of information, but that depends on having money. The Canadian form of development exploits resources and leads to environmental destruction. Multinationals should not be allowed on indigenous lands as they are there to exploit the natural resources. Cree people have chosen not to have aspects of modern life, such as running water and electricity because they cost in environmental terms. A traditional community doesn't think in terms of what is going to benefit me or my children, but what will the impact of actions today be in seven generations' time?

Several points need to be addressed: indigenous peoples must have their right of self-determination recognized. The neo-colonists require such peoples to prove that they have this right, but why should the indigenous bear the onus? They have the right ipso facto to self-determination. The indigenous view is that the rights of the individual can only be protected when the rights of the group are recognized. The UN Decolonization Committee needs to be opened up to indigenous peoples to bring about the decolonization of the Americas and to review the doctrine of state succession. However, as the UN legitimizes Canada, and Canada has caused genocide, one might wonder about using UN processes at all.

[2] Mr Istvan Sandor Foreign Ministry of Hungary

There might be a point of overlap between what was being considered at this conference and the considerations within CDMG of the Council of Europe (the Committee of Experts on European Migration Flows), which was studying the problem of population movements. What is the difference between population transfer and migration? Perhaps the 'Vienna Group Information System' could assist. In any case, it would be desirable to incorporate the issue of population transfer into considerations of migration flows as transfer may be the root cause of migratory flows.

[3] Mr Witold Spirydowicz Foreign Ministry of Poland, Warsaw

It is instructive to compare Finland and Estonia. Both had become independent in comparable circumstances, but after 50 years of foreign occupation and population transfer into the latter each country is now dramatically different. Poland too had been the victim of mass population transfer decided upon by Stalin and Hitler.

Poland had lost half of its pre-war territory and Polish people had to move westwards. At the same time, Germans living in Silesia, East Prussia etc, were forced to abandon their homelands.

However, a few months ago, a 'good neighborhood' treaty was signed between Poland and Germany confirming the existing borders and containing guarantees for the minority rights of the German minority in Poland. This Treaty could serve as a model of peaceful co-operation and tolerance and respect for the international standards concerning minority rights. It should serve as an example to others.

[4] (Jan Sienkiewicz)



The emergence of Baltic independence does not necessarily mean democracy for all. The situation for the Polish minority is alarming because of the revival of nationalistic intolerance and discrimination.

UNPO's mission should be to challenge the discrimination that such an ethnic minority confronts. The situation could be solved peacefully if the help of the international community and the lobbying power of organizations such as UNPO were forthcoming.

[5] Mr Said Saleh Somalia

Somalia is on the brink of disappearing after 32 years of independence. The situation is an alarming, chaotic hell. Many people have been internally displaced and seek asylum elsewhere. In an eight week period, 20,000 had been killed or wounded. 25,000 people were in danger. The civil war was the direct result of the displacement of large numbers of people as a result of the mass population transfer policies pursued by a dictatorial regime which was supported by other states and had been kept in power for 21 years. The situation in Somalia was a major catastrophe caused by population transfer. Peace and stability were required. UN should condemn the unprovoked use of all forms of violence by any group which caused mass population transfers and address the Somali problem in all its respects. UN bodies must offer help after studying the problem. All had a moral duty to facilitate non-violent means of resolving the problems to preserve human dignity.

[6] Christina Bloch (Minority Rights Group)

The Conference should support the UN Draft Declaration on the Rights of Minorities. Minorities should have had an input into the drafting process, but at least the draft was a step forward on present international standards. A gap still exists between the standards applied to 'minorities' compared to 'peoples: How, for example, can the right to (internal) self-determination be applied to minorities?

[7] Reed Brody (International Commission of Jurists)

The conference represents an element in the process of creating new international law. The location of the conference offers a chance to find out first hand how the Baltic states are coping with drafting new nationality laws which address the issue of how Russians in these countries could become citizens. To say that the Russians 'should go home' raised Havel's question: 'what does 'home' mean? : Most societies are multi-ethnic and you can't cure human rights violations by further human rights violations, so population transfers can't be cured by further population transfers. Settlers or colonists must be treated with humanity.

[8] Mr. Kasanov (A Russian in Estonia)

There are two distinct problems linked with the issue of population transfer: the human rights problems of those people who are transferred and the human rights problems of the indigenous population into whose territory the settlers come. It is dangerous to mix these problems up, and it is better to distinguish them and keep them apart.

As regards the Baltics - it is also important to differentiate between the situation of those Russians who were in Estonia before the Soviet occupation and those who came afterwards. In this sense, there are 'legal' and 'illegal' citizens.

Who should bear the responsibility for which policy? If someone has been transferred by the Soviet state then that person is only partly responsible as the Soviet state is more properly responsible for the policy and its effects. Those responsible for the genocide in Estonia must be brought to account.

[9] Hon Justice Michael Kirby CMG

Comparatively little analysis or description of the phenomenon of mass population transfer has occurred in the context of international law. It has taken the rapid decomposition of the

USSR to present the issue to the international community in its full starkness. The only sure way to resolve the tests posed to humanity's respect for basic principle is to find solutions in strict observance of the rule of law and of the basic norms of human rights as developed by the international community. The issue comprises a number of topics over which there are varying degrees of agreement: what should the definition of 'population transfer' be? What should the conditions for free internal movement of people within the borders of a state be since the misuse of that right may cloak forced population transfers? Should the problem be resolved using the mechanisms of democracy or would democracy have to be redefined for this purpose lest what had not been legitimately achieved by armed annexation may be so by the ballot box? How far back should the temporal line be drawn in deciding who was and who was not a legitimate resident in a particular area? How should the issue of population re-transfer be handled; should all or any persons be subjected to it? Positively, we should support the International Law Commission's draft Code of Crimes against the Peace and Security of Mankind; protocols to elaborate already existing conventions such as the Genocide Convention; encourage the moral and financial support of government seeking to resolve these problems peacefully; and the establishment of a new peaceful international mechanism for defining the promise of a people's right to self-determination where it is disputed. This last echoes the call made by the International Meeting of Experts of UNESCO on the Rights of Peoples (Budapest 1991) to establish a UN Special Rapporteur for Peoples' and Minority Rights with particular reference to the right of self-determination.

[10] Christa Meindersma UNPO

The issue of population transfer has been brought forward continuously by affected peoples as the greatest threat to their very survival, but there exists no effective mechanism for dealing adequately with the human rights violations inherent in this practice. No serious consideration, moreover, has been given to the legality of the implementation of population transfer policies as such. We should not aim to develop guidelines for carrying out population transfer, thereby uncritically accepting it, without analyzing the legality of the issue itself.

The Resolutions already passed by the UN Sub-Commission recognize, inter alia, that population transfer is discriminatory, such movements are induced by governments, it may threaten a distinct people's cultural or national identity, and can be a significant factor in causing ethnic unrest and conflict.

Several issues need to be adequately clarified: (a) definition: we must clarify what we mean when we use the term 'population transfer', which has two different aspects, the implantation of settlers and the removal of people. Essential characteristics are the absence of free and informed consent, the state's intention behind the movement, and the fact that the movement affects peoples and nations. The movement is induced or planned by governments or forms part of a politically motivated larger government operation aimed at a distinct people.

But, as many different fact situations are involved, where do we draw the line? Do we include, under this term displacement - especially internal displacement, forced removals or resettlements resulting from development programs, deportation, villagization or movements which are consequential upon national disasters? Population transfer can be one aspect of an overall involuntary movement.

In defining the term, we must also ask the question: what does not constitute population transfer? It should be distinguished, for example, from refugee situations (refugees move across international borders while population transfer mostly takes place within the borders of a single state). It should also be formally distinguished from forced evictions, which usually arises because of the attractive qualities of the evicted area of land.

(b) does population transfer in itself constitute a violation of human rights? Removed people, as well as settlers themselves, may be affected in human rights terms by population transfer;

certain rights may be affected by the practice of population transfer itself whilst certain other rights may be affected by its effects; a distinction should be made between the individual rights of the settlers and the collective rights of the original inhabitants or removed people. For example, implications of the rights to culture and land rights should be explored.

Various human rights issues must be noted. Population transfer may endanger the physical existence of a group or lead to a culturally distinct people losing its identity. Thus, it may constitute genocide or ethnocide. It violates the right to self-determination; of importance and relevance in this context is Article 49 of the Fourth Geneva Convention. Other universally recognized human rights are compromised by population transfer: the right to freedom of movement, the right to choose one's residence, the right to an adequate standard of living, the right to security of person, the right to freedom from discrimination and the right to development.

The Conference should formulate the precise human rights implications of population transfer and discern whether or not present international law offers sufficient protection and effective remedies or whether it need reinterpreted and changed. No general 'right not to be subjected to population transfer' exists. But it is unacceptable that people are pushed and shoved around solely on the basis of their origin; and we should not use past cases of population transfer to justify new practices of what could be termed 'reverse population transfer':

Adequate legal standards need to be developed to address and outlaw the practice of population transfer and to hold governments accountable for their actions under international law. We need arguments which prove that it is a violation of human rights and, indeed, illegal under international law. We should also take into account other initiatives currently underway in the UN: such as that by RIC against forced eviction and the initiative concerning internal displacement.

The following should be aimed for:

- (a) a comprehensive and acceptable definition
- (b) clarification of the human rights impacts and legality of population transfer
- (c) practical recommendations for solutions to problems caused by it
- (d) a strategy for a coordinated international action at the UN and elsewhere to eliminate population transfer as an acceptable policy option open to governments

[11] Claire Palley Member UN Sub-Commission on Prevention of Discrimination and Protection of Minorities, Oxford/Cyprus

Population transfer is in need of study as the topic is of crucial significance. It causes threats to peace and is often in breach of human rights, humanitarian treaties and major principles of customary law. Population transfers have in common the large-scale movement of groups of people. But, beyond that it is difficult to invoke one single legal principle to deal with all such movements because of the differing circumstances in which they may occur. For example, did the population transfer occur in aggressive war? Under belligerent occupation? In internal non-international armed conflict? In time of peace for genuine order public or public interest purposes? Across national boundaries or internal to the state? With unlawful intention? By way of expulsion and/or by implantation of settlers? Or in such a way that there is a consistent pattern of gross violations of internationally recognized rights?

The rapid development of international law makes it difficult to pronounce with certainty on the legal consequences of population transfers. First, there is the question of inter-temporal law: which century's laws is to be applied to determine the validity of title to territory? Second, another major uncertainty is the responsibility of states for crimes against the peace and crimes against humanity and the scope of such crimes. Attention should be paid in this regard to the International Law Commission's draft Code on Crimes against the Peace and

Security of Mankind and its work on the criminal liability of states under the topic 'State responsibility. Such uncertainties will remain until there is international agreement on the consequences of international crimes and delicts; but it should be noted that the Special Rapporteur has already indicated limits on countermeasures. On the other hand, there are strong arguments against permitting the legalization of the stay of unlawfully implanted settlers. Settlers, as aliens, will have no automatic right to remain in the new/revived state, and state discretion will have to be exercised concerning their stay or exclusion. Various tentative submissions can be made: historic population transfers, in general, should not be subject to invalidation - certainly not after the relevant state has become a UN member; population transfers effected since 1939 in the course of war or belligerent occupation are illegal; in the case of non-international armed conflicts, population transfers will only be unlawful (as the law now stands) if the state is a Party to Additional Protocol I or the transfer is contrary to international customary law; certain conditions must be met with regard to those who have been settled unlawfully eg, they must be treated with humanity, dealt with without arbitrariness, not be discriminated against, treated individually under any discretion exercisable under the new/revived states' immigration law, be granted asylum if necessary, and not be made stateless; in dealing with the outcome of transfers, it must be always be a background consideration that where the transfer is unlawful, grave international crimes have been committed. Accordingly, deportees/refugees rights of return should be inviolable; per contra, the special conditions of the entry and stay of any settlers must always be borne in mind. Finally, every encouragement should be given to governments to support the ILC draft Code on Crimes against Peace and the Security of Mankind; to the ILC to finalize its draft Articles on State Responsibility; to the UN to initiate action to draft a Declaration on the Principles of International Law, including Human Rights Law, Applicable in Armed Conflicts whether within or Between States with the ultimate objective of a Convention being derived from such a Declaration; and to the UN Sub-Commission on Human Rights to keep the matter under consideration and to authorize an extensive study of the questions involved in population transfers. In that context, it might be appropriate for there to be two Special Rapporteurs one concentrating on the criminal and human rights aspects of the subject, the other on the environmental and developmental aspects. Their work should be coordinated and inter-related.

[12] Joseph Schechla (Settlements Watch)

A strategy for the resolution of problems caused by mass population transfer can be suggested based on the study of a number of cases. The central proposal is that legal and public information strategies focus on two international conventions: the Convention on the Elimination of all forms of Discrimination and the International Convention on the Prevention and Punishment of the Crime of Genocide. States consistently discriminate on the basis of race, ethnicity, religion. It is part of a consistent practice whose intent can be inferred from state ideology. A frequent feature of such ideologies includes the state's self-definition which coincides with a particular ethnic group. However, most states around the world contain peoples which do not share the state's official self-definition, and these peoples share common conditions which are now being collectively articulated.

The practice of population transfer and its consequences have ancient roots. It was long known as official policy in Ancient Egypt and in Mesopotamia. In the 'Age of Discovery', population transfer was raised to the level of a sacrament in the minds of the Europeans who invaded the Western hemisphere during the 15th century; a century before the first English settlers arrived in 'the New World', they made use of the ideological justifications of Spanish clergy and legal scholars for their own population transfer and dispossession of the indigenous population of Ireland. Today, the average citizen in the dominant societies of the



The challenge is to create a world where the racist principle is not allowed to rule and respect for others and self-control can predominate. International law should be seen as a political process forged in a context wherein colonialism and racism are the rule, not the exception.

[14] Klaus Carsten Pedersen (Danish Foreign Policy Society)

We could learn something, perhaps from the situation of Germans in Denmark. The Danish-German question arises in the narrow base of Jutland where the two peoples have met and mixed for more than a thousand years. In modern times, the minorities issue has been solved by the passage of two parallel, unilateral government declarations, the Bonn-Copenhagen Declarations of March 1955. This form of solution was chosen because Denmark opposed a bilateral treaty giving a large and powerful neighbor the right of oversight over the internal affairs of a small democratic country. Why has it worked? The key elements are: a democratic political culture with respect for individual civil rights; good relations between the two national 'fatherlands', including a border settlement which is considered 'fair' by both sides; a constructive, positive process focussing on common interests, the present and the future, and unilateral constructive steps; to have outsiders mediate, apply pressure or present a common threat; and to issue declarations and sign treaties but only if backed up by actual political and economic practice. The key is to build confidence.

[15] Alfred-Maurice De Zayas

UN Centre for Human Rights

Mass population transfer affects the basic human rights of the settlers, those removed and the original inhabitants. It is inherently discriminatory, a breach of the Genocide Convention and of Article 49 of the Geneva Convention and it destroys groups as such. Population transfers are incompatible with generally accepted contemporary human rights standards. Ms. Christi Mbonu's study did not deal with the wider issues. Any such transfer necessarily violates norms of the Universal Declaration of Human Rights, major international human rights treaties, and general principles of international case law as decided at Nuremberg. Population transfer is incompatible with the right to self-determination which is based upon the developing right to the homeland. It is an anachronism to think that population transfer can be lawful under international law which protects minorities, as witnessed by the recent, very important adoption of the Draft Declaration on the Rights of Minorities by the UN Commission on Human Rights. Victims of mass population transfer should be able to avail themselves of a right to return, but it should not be used as a justification for expelling the present generation of settlers. A Working Group should be set up and its conclusions brought before the Commission on Human Rights. It could propose a Draft Convention on the Prevention of the Crime of Mass Expulsion and be addressed to the 1993 World Conference on Human Rights.

The challenge is to create a world where the racist principle is not allowed to rule and respect for others and self-control can predominate. International law should be seen as a political process forged in a context wherein colonialism and racism are the rule, not the exception.

## **Section Four**

### **RECOMMENDATIONS OF THE UNPO CONFERENCE WORKING GROUPS**

The UNPO Conference established two working groups. One Working Group considered general strategies UNPO and its Members could follow within the UN system and the other Working Group considered the legal and human rights aspects of population transfer. The following are their conclusions and recommendations.

*/1/ Working Group on Strategies within the UN system*

- support should be given to the adoption of the Declaration of the Rights of Minorities at the 1992 Commission on Human Rights
- in coordination with friendly governments and NGOs, the possibility of introducing a supportive procedural resolution at the next session of the Commission should be explored
- the appointment of a Special Rapporteur on the question of the human rights aspects of population transfer (including the implantation of settlers and settlement) should be proposed
- UNPO should submit materials on this topic prior to the Sub-Commission's meeting in August 1992; reports and documentation should be sent to the members of the Sub-Commission in response to its resolution 1991/28
- the issue should be brought before the Preparatory Committee for the 1993 World Conference on Human Rights in connection with rights to self-determination and genocide; environment and development; and discrimination
- in coordination with UNPO members, information relevant to the examination of states' reports should be forwarded to the CERD Committee and the Human Rights Committee
- UNPO should encourage CERD to issue relevant advice to the World Conference on Environment and Development 1992 Preparatory Committee
- the issue of population transfer should be included in the work of the Committee on Economic, Social and Cultural Rights; the topic should be incorporated in the General Comment on the Right to Culture
- the possibilities of an Optional Protocol to the ICCPR prohibiting collective expulsions should be explored
- ensure that the prohibition of compulsory population transfers in Article 21 of the Draft Code on Crimes against the Peace and Security of Mankind is further defined and maintained as a grave international crime under universal jurisdiction
- governments should be encouraged to submit their comments on the Draft of the International Law Commission as soon as possible to the Secretary-General and to specifically focus on the crime of mass expulsions
- encourage the International Law Commission to finish the draft statute on the International Criminal Court and to submit it to the General Assembly for adoption
- recommends UNPO to seek consultative status to facilitate its access to UN bodies
- explore possibilities of cooperating with the Council of Europe's CDMG, in particular the sub-committee investigating east/west migratory flows
- explore the possibilities of cooperating with ORCI which provides information to the Secretary-General, as an early warning system to avoid potential conflict
- explore relations with the International Organisation for Migration
- cooperate in and support efforts to adopt country-specific resolutions in the UN Commission and Sub-Commission
- propose the adoption of a Protocol to the Statute of the International Court of Justice conferring criminal jurisdiction on the ICJ
- encourage and assist UNPO members to make use of the following UN machinery to address issues arising from population transfer:
  - 1503 Complaint Procedure of the Sub-Commission
  - Optional Protocol of the ICCPR
  - Complaint procedures under Article 20/22 of the CAT
  - Complaint procedure under Article 14 of CERD

*[21 Working Group on questions of Law and Human Rights*

- compulsory population transfers and the settlement of colonizers in occupied territories are incompatible with international law, democratic standards and generally accepted human rights standards applicable in peace, war and 'threshold' situations. The implantation of peoples within a State's boundaries into the homelands of other ethnic or religious groups

without their informed consent violates the human rights of the population indigenous to that area.

Such practices violate fundamental individual and collective rights insofar as incompatible with international law and numerous international conventions currently in force:

*A: Conventional Law*

In peacetime, compulsory population transfers violate numerous provisions of inter alia

- International Covenant on Civil and Political Rights (eg Articles 1,6,7,9,12,13,14,17,26, and 27)
- International Covenant on Economic, Social and Cultural Rights
- International Convention on the Elimination of all forms of Racial Discrimination
- Convention on the Prevention and Punishment of the Crime of Genocide
- European Convention on Human Rights and Fundamental Freedoms especially Protocol Four, which prohibits collective expulsions
- American Convention on Human Rights
- African Convention on Human and People's Rights

In wartime, compulsory population transfers violate

- Hague Regulations annexed to Hague Convention IV of 1907 respecting the Laws and Customs of War on Land (Articles 42-56 which define and limit the rights of a belligerent occupant)
- Geneva Conventions of 1949 and Additional Protocols in particular Article 49 of Convention IV
- In 'threshold' situations (a public emergency not amounting to an armed conflict)
- non-derogable rights under ICCPR
- Turku Declaration on Minimum Humanitarian Standards submitted to the 43rd session of the UN Sub-Commission (Articles 3 (2 a and b) and 7)

*B: International case law:*

Population transfers constitute a crime against humanity as defined in the London Charter of the Nuremberg Trials. They violate international case-law as found in the judgment of the International Military Tribunal at Nuremberg. This condemned expulsions carried out by the Nazis as war-crimes and crimes against humanity. The Nuremberg Principles were adopted by the UN General Assembly in Resolution 95(I) of December 1946. Such transfers have been deemed by the International Law Commission an international crime under universal jurisdiction and to constitute a form of cultural, and often physical, genocide.

*C. General Principles of Law and Customary International Law:*

- self-determination is binding international law: compulsory population transfers would necessarily violate this right
- right to the homeland: even if this right has not been formulated expressis verbis in international conventions, it is a prerequisite to the exercise of the right of self-determination since a population cannot exercise its right to self-determination if it is expelled from its homeland
- right to life, to security of the person, to humane treatment, to property, privacy and family life
- principle of equality and non-discrimination
- population transfers can be deemed compatible with international law only in exceptional cases eg temporary evacuations motivated solely by considerations of protection of civilians in time of armed conflict or repatriation of implanted settlers out of formerly occupied territories



- the whole direction of the development of international law is towards internationalism, interdependence, non-discrimination, tolerance and respect for minority rights. Compulsory population transfers are not a viable solution to minority problems and must be seen as an anachronism

- instead of resorting to such transfers to eliminate minority problems, states should respect and promote minority rights as laid down in the Draft Declaration on the Rights of Minorities of the UN Commission on Human Rights and in other relevant instruments

- persons subjected to compulsory population transfer have a right to return to their homelands and are entitled to restitution wherever possible and, where this fails, to compensation.

The right to return to the homeland is based in particular on GA Resolution 194 (111) of 11 December 1948 with respect to the Palestinian people, which has been repeatedly affirmed by the GA and the Commission on Human Rights. The right to compensation is envisaged in studies of the UN Sub-Commission. Settlers or colonizers in formerly occupied territories should, in principle, return to their countries of origin. Any repatriation, however, should be decided upon on a case-by-case basis and be carried out with all due regard for human rights standards bearing in mind, inter alia, the place of birth, family situation, and duration of stay in the host country. In addition, consideration should be given to the options of asylum or possibility of refugee or immigrant status. Voluntary repatriation schemes and incentives should be encouraged, as well as possibilities for resettlement in third countries. Military personnel and other agents of occupying governments should be repatriated as a matter of priority.

The issue of compulsory population transfers should be taken up by the 1993 World Conference on Human Rights.

- further standard setting should be envisaged

- EITHER a Protocol to ICCPR OR a Convention on the Prevention and Punishment of the Crime of Population Expulsions

- EITHER a Protocol to ICCPR OR a Convention against Ethnicide

- EITHER a Protocol to *ICCPR* OR a Convention on the Rights of Minorities (a special Working Group of the UN Commission on Human Rights has adopted, on second reading, a Declaration on the Rights of Minorities)

- crime of compulsory population transfer as international crime under universal jurisdiction ( Article 21 of the Draft Code of Crimes against Peace and Security of Mankind of the ILC)

- as regards implementation, consideration should be given to:

- monitoring through the UN or regional commissions

- setting up an early-warning and/or rapid deployment humanitarian force

- humanitarian intervention on the basis of Security Council Resolution similar to Resolution 688 of 5 April 1991 concerning the Kurds in Iraq

- establishment of an International Court of Human Rights and an International Criminal Court

## **Appendices**

### APPENDIX 1

UNPO Resolution: QUESTION OF HUMAN RIGHTS OF PEOPLES AND NATIONS SUBJECT TO POPULATION TRANSFER [A121199112]

(see following pages)

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The Hague, 4-6 August 1991 Item 18 (2) of the agenda

QUESTION OF HUMAN RIGHTS OF PEOPLES AND NATIONS SUBJECT TO POPULATION TRANSFER

THE UNREPRESENTED PEOPLES AND NATIONS ORGANIZATION,

Whereas population transfer has affected and continues to affect numerous peoples and nations throughout the world,

Considering that population transfer, including the removal of people and the implantation of settlers, through its practice and effects constitutes a violation of human rights of the removed people, the original inhabitants and settlers, as well as international law,

Deeply concerned that population transfer is often carried out with government involvement and without the free and informed consent of the people being transferred or the people into whose territory they are being moved,

Aware that population transfer constitutes part of a larger policy towards specific ethnic, racial or religious groups, and may be motivated by strategic, military and political reasons, aimed at effective control over and assimilation of peoples and nations, and at changing the demographic composition of the country,

Recognizing that the removal of people may constitute a crime against humanity,

Recalling article 49 of the Fourth Geneva Convention which states that "The occupying power shall not deport or transfer parts of its own civilian population into the territory it occupies", which, mindful of the Convention's broad application, relates to population transfer during and after armed conflicts until a political settlement has been reached,

Gravely concerned that original inhabitants and nations into whose territory settlers are being moved or peoples who are being displaced are threatened with genocide,

Noting with deep concern that population transfer contributes to the disappearance of distinct characteristics of a people and threatens the disappearance of a people's or nations' identity,

Recalling the fundamental right to self-determination, appertaining to all peoples and nations, enshrined in the Charter of the United Nations, the Covenant on Economic, Social and Cultural Rights, the Covenant on Civil and Political Rights, the UNPO Charter and many other international instruments, which is the right of peoples to freely determine without external interference, their political status and to pursue their economic, social and cultural development and which is a prerequisite of the enjoyment of all other human rights and freedoms,

Also recalling that every State has the duty to promote, through joint and separate action, the realization of the principle of equal rights and self-determination of peoples, in accordance with the provisions of the Charter, and to render assistance to the United Nations in carrying out the responsibilities entrusted to it by the Charter regarding the implementation of the principle in order to promote friendly relations and cooperation among States; and to bring a speedy end to colonialism, having regard to the freely expressed will of the peoples concerned; and bearing in mind that subjection of peoples to alien subjugation, domination and exploitation constitutes a violation of the principle, as well as a denial of fundamental human rights, and is contrary to the Charter of the United Nations.

Disturbed that the practice of population transfer constitutes a violation of the right to self-determination, including its most fundamental aspect, the right to exist as a people,

Conscious that population transfer in its application is often discriminatory and that it inherently leads to systematic and widespread discrimination,

Convinced that population transfer affects a number of human rights, such as the right to life, liberty, and security of person; the right to be free from arbitrary interference with one's privacy, family or home; the right of freedom of movement and to choose one's - residence; the right to be free from inhuman or degrading treatment; the right to an adequate standard of living; the right of peoples to enjoy and utilize fully and freely their natural wealth and resources; etc,

Also convinced that population transfer infringes on the economic, social and cultural rights of the affected peoples,

Welcoming the serious attention given to the issue of population transfer and the adoption of resolution 1990/17 by the Sub-Commission on the Prevention of Discrimination and Protection of Minorities on 30th August 1990,

Noting with interest that the implantation of settlers and the displacement of people received explicit mention in various other resolutions adopted by the Sub-Commission in 1990 and previously,

Therefore,

1. Expresses its deep concern about the continuing practice of population transfer as part of government policy towards many nations and peoples, and the serious human rights implications of this practice,

2. Urges governments to stop the practice of population transfer and to respect the fundamental rights and freedoms of peoples and nations, including the right to self-determination,

3. Requests the Secretary-General of UNPO and its members to encourage international institutions and bodies, including the UN Sub-commission on Prevention of Discrimination and Protection of Minorities, the UN Commission on Human Rights and other UN bodies to undertake a detailed study and investigation of the social aspects and human rights dimensions of population transfer, to adopt specific resolutions concerning this practice and to include reference to this practice in resolutions and decisions concerning countries where population transfers and forced relocations take place.

Second General Assembly 5 August 1991

## APPENDIX 2

Written statements and papers available from UNPO Secretariat:

- ABKHAZIA: Suggestions for the final resolution
- ACHEH/SUMATRA: 'Victim of Indonesian population transfer'
- ASSYRIA: Conference presentation
- BOUGANVILLE: 'The Renewed Threat of Population Transfer by Papua New Guinea on the People of Bouganville'
- CHECHEN REPUBLIC: Letter from General Dudaev
- CHITTAGONG HILL TRACTS: Conference presentation
- GREEK MINORITY IN ALBANIA: Report submitted to the Conference
- IRAQI TURKMEN: 'Tragic Human Rights of the Iraqi Turkmen'
- KOSOVO: Conference presentation
- KURDISTAN: Conference presentation
- LATVIA: Draft resolution
- TIBET: 'Population Transfer into Tibet'
- ZANZIBAR: Population Transfer in relation to Zanzibar
- GOVERNMENT OF POLAND: Conference statement
- DANISH FOREIGN POLICY SOCIETY: 'The Danish-German Minorities Question'
- Christa Meindersma: Introductory remarks to the first session

- Kirby, M: 'Population Transfer and the Right to Self-Determination - Differences and Agreement'
- Palley, C: 'Population Transfer and International Law'
- Schechla, J: 'Ethnocratic State Ideology as a Factor in Population Transfer: The Historical Continuum'
- Goebel, C : 'Population Transfer', UNPO discussion papers  
APP 3 Conference Communiqué (see following pages)

COMMUNIQUE

REFLECTING THE SPIRIT of the Unrepresented Nations and Peoples Organization International Conference on the "HUMAN RIGHTS DIMENSIONS OF POPULATION TRANSFER" held in Tallinn, Estonia on January 11 to 13, 1992.

1. U. N. P.O.'s international conference on the "Human Rights Dimensions of Population Transfer" held in Tallinn, Estonia on January 11-13, 1992 which brought together delegations of UNPO members from Abkhazia, Aborigines, Acheh, Albanians in Yugoslavia, Armenia, Assyria, Bougainville, Chittagong Hill Tracts, Chechenskaya, Crimea, East Turkestan, Estonia, Greeks in Albania, Irald Turkoman, Kurdistan, Latvia, Marl, South Molukkas, Tibet, West Papua, and Zanzibar; participation of the Cree Nation, the Polish Minority in Lithuania and Somalia; experts from the United Nations Human Rights Centre and the United Nations Sub-Commission for the Prevention of Discrimination and Protection of Minorities; the International Commission of Jurists, Minority Rights Group, Settlement Watch, Human Rights Advocates; and other independent experts to address the practice and consequences of population transfer, to consider ways to prevent the practice and to redress the harmful consequences thereof.
2. The conference is encouraged by the presence of representatives of the Danish, Estonian, French, Hungarian, Dutch, Norwegian, Polish, and Swedish governments which took part in the proceedings.
3. The conference specifically considered the population transfer of Bengalis into the Chittagong Hill Tracts by the Bangladesh government; of Chinese into Tibet; East Turkestan and Inner Mongolia by the Chinese government; of Javanese to the South Molukkas; West Papua, Acheh/Sumatra and East Timor by the Indonesian government; of Greeks in Albania by the Albanian government; of Turkoman in Iraq by the Iraqi government; Albanians in Yugoslavia by the Serbian authorities; Lithuanians into Polish areas of Lithuania; Israeli settlers into occupied territories by the Israeli government; of Kurds by the Turkish, Iranian, Iraqi and Soviet governments; of Assyrians by the government of Iraq and Turkey; of Russians to Estonia, Latvia, Lithuania, Mari, Komi, Georgia, Abkhazia, Chechenskaya, of Armenians, especially in Nakhichevan, and of Tatars from Crimea by the Soviet government; of non-indigenous peoples to the Americas; of Turks to the occupied part of Cypress by the Turkish government; of Europeans to Australia and of Aborigines within the continent by the Australian government; of Somalians throughout Somalia and across borders by the Somalian authorities into and out of Zanzibar; and the threat of population transfer of Papua New Guineans into Bougainville.
4. The conference condemns in the strongest terms the practice of population transfer, a practice which should be considered a crime against humanity which violates fundamental human rights of individuals and peoples, including the right to self-determination. It endorses UNPO General Assembly Resolution A/2/1991/2 (attached) and UN Human Rights Sub-Commission res. C/CN.4/Sub.2/1991/38 (available through UNPO, The Hague).

5. The conference is concerned about the need to redress situations resulting from population transfer and/or to compensate victims of the practice so as to end the suffering of those victims, but is mindful of the need to do so in humane and just manner.

6. The conference stresses the magnitude and extreme urgency of the problems caused by population transfer and of the exacerbation of those problems the longer they are ignored, and expresses grave concern at the past lack of action or effectiveness thereof with respect to this question by the United Nations and other international organizations.

7. The conference calls on governments, international organizations, corporations, and non-governmental organizations to cease all practices which promote, implement, encourage or result in population transfer and to take measures to compensate victims of population transfer and/or redress situations where humanely possible.

#### THE CONFERENCE RECOMMENDS

1. To persuade the World Bank, United Nations Development Program, regional and other international organizations, governments and corporations not to fund or implement activities which promote or result in violation of human rights by population transfer;

2. To document, compile and publish information on population transfer in order to raise the awareness of the seriousness and magnitude of the issue and to provide a tool for action against the practice of population transfer;

3. To use the 1993 Berlin World Conference on Human Rights as a means of focusing world attention on the problem of population transfer;

4. To consider the usefulness of a new treaty instrument and international machinery to prevent the crime of mass expulsions and other forms of population transfer, to compensate its victims and to punish states and individuals responsible for it;

5. To mobilize governments, non-governmental organizations, and individuals to address the question of population transfer and to pursue the issue actively in appropriate United Nations bodies;

6. To actively promote the recognition of and the realization of the right of peoples and nations to self-determination which is fundamental to resolving the question of population transfer;

7. To endorse the proposal of the Latvian delegation to hold a conference on decolonization, including the completion of decolonization of the Baltic states.

8. To appeal to governments and funding agencies to assist in these efforts with financial support.

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