

WORLD INDIGENOUS - HANDBOOK

THE PERMANENT FORUM
ON INDIGENOUS ISSUES



THE PERMANENT FORUM ON INDIGENOUS ISSUES

Lola García-Alix

IWGIA
Copenhagen 2003

THE PERMANENT FORUM ON INDIGENOUS ISSUES

Author: Lola García-Alix

Copyright: The author and IWGIA
(International Work Group for Indigenous Affairs)

Translations: Mario Di Lucci and Elaine Bolton

**Cover
and layout:** Jorge Monrás

Print: Eks-Skolens Trykkeri aps
Copenhagen, Denmark

ISBN: 87-90730-75-5
ISSN: 0105-4503

Acknowledgements:

This handbook has been published with the financial support of the World Bank, the Norwegian Development Cooperation Agency, the Danish Ministry of Foreign Affairs and the Swiss Ministry of Foreign Affairs.

The content of the manual does not necessarily express the opinion of the donors.



INTERNATIONAL WORK GROUP FOR INDIGENOUS AFFAIRS

Classensgade 11 E, DK-2100 - Copenhagen, Denmark
Tel: (+45) 35 27 05 00 - Fax: (+45) 35 27 05 07
E-mail: iwgia@iwgia.org - website: www.iwgia.org

CONTENTS

Preface	6
CHAPTER I	
The United Nations	8
Organisational Chart	16
CHAPTER II	
The United Nations System	18
CHAPTER III	
The United Nations and Human Rights	36
Organisational Chart	44
CHAPTER IV	
Indigenous Peoples and the Permanent Forum	46
CHAPTER V	
The process of establishing the Permanent Forum	56
CHAPTER VI	
Establishment of the Permanent Forum	62
Organisational Chart showing position of the Permanent Forum	68
CHAPTER VII	
The Permanent Forum on Indigenous Issues	70
CHAPTER VIII	
Practical details	86
Annexes	
The ECOSOC resolution	98
Joint declaration of the indigenous representatives	101
IWGIA and the Permanent Forum on Indigenous Issues	103

PREFACE

With the establishment of the Permanent Forum on Indigenous Issues in 2000 and the inaugural meeting held in May 2002, the United Nations has taken the first step towards putting the goal of the UN Decade of the World's Indigenous Peoples 1995-2004 into practice, outlined by the UN as the strengthening of international cooperation for the solution of the problems faced by indigenous peoples.

The establishment of the Permanent Forum undoubtedly marks an historic milestone but it also marks the beginning of a long process that will require great efforts on the part of all those involved to ensure that the Permanent Forum is able to fulfil its role successfully within the United Nations system.

The Permanent Forum is the first body within the UN system in which indigenous peoples are represented with the same status as governmental representatives. Although neither ideal nor perfect, the indigenous peoples of the world have - with the greatest of efforts - gained an institutional platform that can be used by international organisations to coordinate efforts aimed at improving indigenous peoples' living conditions. The first obstacle has therefore been overcome but there still remain many obstacles ahead. Members of the Forum, governments, indigenous peoples' representatives and NGOs are faced with the challenge of establishing and developing working procedures for the Permanent Forum that will enable it to put good ideas into practice and implement its broad mandate in the best possible way.

It is clear that the process, which requires that the Permanent Forum move from theory to action, from good intentions to concrete results that are of benefit to indigenous peoples, will be a long and difficult one. The firm and coordinated support of all those involved in the process will be essential if the process is to move forward successfully, and if the Permanent Forum is to be capable of responding to the expectations of the indigenous peo-

ples. It is now up to members of the Forum, indigenous peoples, governments, and NGOs to make some of the dreams come true. The success of the Permanent Forum will not only depend on the individual members of the Forum but also on the competence, credibility and legitimacy of those wishing to have an impact on its work.

The Permanent Forum is mandated to coordinate activities between the various UN bodies and agencies and it will provide expert advice and make recommendations to ECOSOC. How will this be done? What are the possibilities and limitations? To what extent do the UN agencies address indigenous issues and what is the potential for enhancing the position of such issues?

The aim of this handbook is to help those wanting to find a path through the UN system in relation to indigenous issues. There are two important issues, or pitfalls, to bear in mind.

The first is that the Permanent Forum is a focal point for discussion and coordination, and will hopefully develop as a dynamic instigator and initiator of projects and activities relating to indigenous peoples. However - and this is absolutely essential - the work to be done and the means to be raised are located in the many bodies and agencies under or associated with the UN and not in the Permanent Forum. Those who think that participation in the meetings of the Permanent Forum is an end in itself or sufficient are labouring under a misapprehension. This is reflected in this handbook, which gives due regard to the position of indigenous peoples and issues in the work of a number of UN agencies.

The second issue is the connection between the Permanent Forum and the local conditions under which indigenous peoples live. As with all other UN institutions, nothing will come out of the Permanent Forum discussions unless there is someone to put things into practice. Health issues must, for example, be brought home to the country offices of the World Health Organisation

(WHO); issues that involve the World Bank must be raised with the local offices or local World Bank-funded projects. How this is to be organised is a key issue, along with the question of how to bring local issues to the knowledge of the international head offices of the agencies and how to use the Permanent Forum in this process.

This handbook should facilitate the efforts of those wanting to have a brief overview of the structure of the UN and the role that indigenous people have or could potentially have. The handbook also tries to clarify the position of the members of the Permanent Forum vis-à-vis governments, agencies and NGOs.

The members of the Permanent Forum are expected to be experts, appointed in their individual capacity. They are not, or should not be, appointed only because of their political position or status. In fact, none of the indigenous members 'represent' a local or regional constituency – they must see themselves as speaking on behalf of all the indigenous peoples of the world. Nevertheless, each member of the Forum must be accepted by indigenous peoples (the indigenous members) and governments (government-appointed members) as legitimate experts. Otherwise they will not be listened to. For the indigenous members, therefore, they must ensure and maintain broad consultation with indigenous organisations. To fulfil such aims, regional consultative meetings have been held prior to and since the establishment of the Forum and these are dealt with in this handbook.

Such regional meetings are also conducive to dialogue between members of the Forum and specialised indigenous NGOs. The members of the Forum depend upon researchers and other experts to investigate issues that are being dealt with by the Forum, as does the Secretariat of the Permanent Forum.

The Permanent Forum is unique within the United Nations in that it is the only forum in which indigenous peoples have gained seats as equals alongside government-appointed members. Indigenous Peoples have

taken with them and extended the tradition of involvement and openness of the Working Group on Indigenous Populations (under the Commission on Human Rights), up to the level of just below the Economic and Social Council (ECOSOC). To this must be added the fact that the Forum's mandate is broader than – and different from – that of any other UN body dealing with indigenous peoples' rights. The question is whether it is realistic for indigenous peoples to be able to have an impact at that level. Will they be listened to?

A major challenge for indigenous peoples will be, firstly, to bring the UN bodies and related agencies into the Permanent Forum and, secondly, to gain credibility within the system in order to play the advisory role stated in the mandate given by ECOSOC. The intention is to give the Forum a status such that all these institutions have to bring issues relevant to indigenous peoples and communities into this arena. In this case, indigenous peoples will be listened to. One condition for this will be that these institutions gain from seeking the expert advice of the Forum, its members, observers and Secretariat.

The Forum should promote, encourage and advise governments and international agencies on how to develop standards for dealing with indigenous peoples.

Another challenge is for the Forum to reach out to indigenous communities from the Amazon to the Philippine Cordilleras, from the Arctic to Aotearoa.

This handbook deals with the history, the establishment and the structure of the Permanent Forum. The mandate of the Permanent Forum is broad and is not restricted to human rights issues. This means it is a new phenomenon in the UN system. This is thoroughly dealt with in a number of the chapters. There are some things the Permanent Forum can do and others that cannot be dealt with, and there are rules and regulations as to how to behave. This and other practical information is extremely important and dealt with in a separate chapter.



THE UNITED NATIONS

CHAPTER I



THE LEAGUE OF NATIONS WAS THE FORERUNNER TO THE UNITED NATIONS

The League of Nations was established immediately after the First World War. Its first meeting took place in Geneva in 1920 with the participation of 42 States, 26 of which were non-European. A total of 63 States belonged to this organisation during its twenty-five years of existence.

The basic aim of the League was two-fold: firstly, it sought to maintain peace through collective action. For this, conflicts between States would be referred to the League's Council for arbitration and conciliation. Its members undertook to defend each other from aggression. Secondly, the League wished to promote international cooperation on economic and social affairs.

At the end of the 1930s, and with the outbreak of the Second World War, it became clear that the League had failed in its main objective of maintaining peace and so the members decided to dissolve the organisation.

The League of Nations held its last meeting in 1945, in which year it was replaced by the United Nations Organisation (UNO).

THE UNITED NATIONS

The United Nations was officially created on 24 October 1945, when the “Charter of the United Nations” was ratified by its first 51 member States. Now, every year on that date, United Nations Day is celebrated throughout the world. With the recent inclusion of Switzerland and East Timor in September 2002, the number of member States of the United Nations has now risen to 191.

The United Nations is an organisation of sovereign States. The States voluntarily join this organisation with the aims of promoting world peace through international co-operation, supporting economic and social progress and promoting respect for human rights.

fulfil the obligations they have contracted via the Charter, including that of promoting respect for human rights and cooperating with the United Nations and other nations to achieve this aim. However, the Charter does not set out specific rights, nor the way in which these must be applied by member States.

The United Nations serves as a centre for harmonizing and coordinating international efforts to resolve the problems facing humanity but it is not a world government, nor does it establish laws. However, the Organisation provides the means necessary to find peaceful solutions to international conflicts and to formulate policy on issues affecting all humankind. In the United Nations, all member

**THE UNITED NATIONS IS ONLY FORMED OF COUNTRIES
RECOGNISED AS SOVEREIGN STATES**

**INDIGENOUS PEOPLES AND NATIONS LIVING WITHIN THE STATES ARE NOT
REPRESENTED, AND ARE NOT MEMBERS OF THE UN**

When governments decide to become members of the Organisation they accept the obligations contained in the Charter of the United Nations,¹ and undertake to fulfil the obligations therein established.

The Charter of the United Nations is an international treaty that establishes the fundamental principles of international relations. It has the status of international legislation as it is a treaty and thus binding on all States signing it. For this reason, all the member States of the United Nations must

States, big or small, rich or poor, with different political points of view and social systems, have both a voice and a vote.

It is important to remember that, being made up of sovereign and independent States, the UN is not a homogeneous and independent organisation, so decisions on any UN initiative or activity depend on the will of the member States to accept it, finance it and undertake it. On issues of peace maintenance and international policy, particularly, a complex and frequently slow negotiation process is re-

quired to reach a consensus among all States that takes into account national sovereignty and international needs.

The purposes are:

- To maintain international peace and security.
- To develop friendly relations, respect, tolerance and cooperation between nations, based on respect for the principles of equal rights and the self-determination of peoples.
- To promote respect for human rights and fundamental freedoms without distinction.
- To ensure the economic and social progress of all peoples through international cooperation.
- To be a centre for harmonising the actions of nations in the attainment of these common ends.

The Charter establishes the basic purposes and principles of the United Nations:

The principles are:

- All member States are sovereign equals.
- All member States must obey the Charter.
- Countries must try to resolve their differences through peaceful means.
- Countries must avoid the threat or use of force.
- The UN cannot intervene in the internal affairs of any country.
- The countries must try to help the United Nations.

STRUCTURE OF THE UNITED NATIONS

Part from establishing the general principles and purposes previously mentioned, the Charter of the United Nations also establishes the basic structure of the organisation.

The Charter establishes six principal organs: the General Assembly, the Security Council, the Trusteeship Council, the International Court of Justice, the Secretariat and the Economic and Social Council. In turn, these organs can create other bodies to assist them on specific issues, and these are known as the subsidiary organs.

In addition, the UN has a system of affiliated organisations, which comprises nine-

teen specialized agencies and various programmes and funds. These affiliated organisations have their own budgets and governing bodies, establish their own rules and guidelines and provide technical assistance and other types of practical aid in virtually all spheres of economic and social activity.

The United Nations and its affiliated organisations make up what is known as the United Nations System, the main aim of which is to promote respect for human rights, protect the environment, fight disease and reduce poverty.

PRINCIPAL ORGANS

BRIEF DESCRIPTION OF THE PRINCIPAL ORGANS OF THE UNITED NATIONS AND THEIR SUBSIDIARY ORGANS:

THE GENERAL ASSEMBLY

The General Assembly is made up of representatives of all the member States of the United Nations and is a kind of “parliament of nations” that meets to consider the most pressing world problems. Each member State has a vote. Decisions on important issues, such as international peace and security, the admission of new members or the UN budget are adopted by a two-thirds majority. Other issues are decided by a simple majority. In recent years, there have been special efforts to get decisions adopted by consensus instead of through a formal voting procedure.

curity Council or a majority of member States request it.

The General Assembly is a body made up exclusively of member States. Only they have a voice and a vote in the Assembly’s deliberations. Some bodies with observer status may, at the prior invitation of the President of the Assembly, speak before the plenary General Assembly.

One of the subsidiary organs of the General Assembly of most relevance to indigenous

In the opening ceremony of the International Year of Indigenous Populations held in New York in 1993, indigenous leaders were invited by the Secretary-General to speak before a plenary session of the General Assembly.

The General Assembly has established a number of committees and commissions to study specific issues and present reports and recommendations to the plenary General Assembly.

The General Assembly has its permanent headquarters in New York and meets once a year between September and December. The General Assembly may also hold an extraordinary session if the Se-

oples is the “Third Committee”. This committee considers all social, humanitarian and cultural issues before presenting them to the General Assembly.

THE SECURITY COUNCIL

The Charter of the United Nations gives the Security Council the crucial responsibility of maintaining international peace and security. It can meet at any time when

peace between States is threatened. It is established in the Charter that all member States are obliged to comply with decisions of the Council.

The Council is made up of 15 members, 5 are permanent members: China, USA, United Kingdom, France and Russia. The other 10 are chosen by the General Assembly for a two-year period.

The Council can adopt measures to ensure its decisions are complied with. It is the only UN organ that can impose economic sanctions or order an arms embargo. On some occasions, the Council has authorised member States to employ “all means necessary”,

including joint military measures, to ensure fulfilment of its decisions.

The Security Council also recommends its candidate for the post of Secretary-General to the General Assembly and proposes the admission of new members to the United Nations.

THE TRUSTEESHIP COUNCIL

The Trusteeship Council was set up to supervise the administration of colonial territories under the protection of other member States. The main aim of this system was to lead these territories progressively towards the development of self-government and independence.

The aims of this organ have been fulfilled and, at this current time, all territories under its supervision have achieved self-government or independence, either as separate States or via their union with independent neighbouring countries.

THE INTERNATIONAL COURT OF JUSTICE

The International Court of Justice is the main legal organ of the UN. It settles legal disputes between States and gives advisory opinions on any legal issues pre-

sented to it by the different principal organs of the United Nations. The Court only considers legal disputes between States.

THE SECRETARIAT

The Secretariat is responsible for the day-to-day running of the United Nations, and is made up of international civil servants who work in offices throughout the world. The Secretariat provides services to the other principal organs of the UN and administers the programmes and policies they formulate.

The staff of the Secretariat are only accountable for their activities to the United Nations and receive instructions from no governments or authorities outside the organisation. At the same time, the member States undertake to respect the exclusively international nature of the role of the Secretary-General and his

staff and agree not to attempt to influence this.

Head of the Secretariat is the Secretary-General, who is appointed by the General Assembly on the recommendation of the Security Council for a renewable period of five years. Mr. Kofi Annan from Ghana is currently UN Secretary-General.

The Secretary-General is the international representation of the values and moral authority of the United Nations, and one of his most important tasks is the use of his “good offices”, that is, the adoption of measures, in public or private, based on his independence, impartiality and integrity, in order to avoid the commencement, increase or extension of international conflicts.

“...One in 20 members of the human family are members of indigenous communities. I have no doubt that, as new members of the United Nations family, you will make an immense contribution to the Organisation’s mission of peace and progress. On behalf of the United Nations family, I want to pledge our strong support to your cause and concerns.”

Kofi Annan, Secretary-General of the United Nations
Closing Speech of the 1st session of the Permanent Forum on Indigenous Issues

THE ECONOMIC AND SOCIAL COUNCIL

Under the general authority of the General Assembly, the Economic and Social Council (ECOSOC) coordinates the economic and social work of the United Nations and the United Nations System.

ECOSOC is a principal organ of the UN that examines international issues of an economic or social nature and regulatory formulates recommendations, undertaking an essential role in encouraging international development cooperation.

The Economic and Social Council is made up of 54 member States, chosen by the General Assembly for a three-year period. It meets twice per year, although it can also hold extraordinary sessions should this be deemed necessary. During its meetings, the Council

considers reports from all its subsidiary organs on issues of an economic, social and humanitarian nature.

The subsidiary organs meet regularly and present their reports and recommendations to ECOSOC meetings.

For example, the Permanent Forum will advise ECOSOC on all issues related to indigenous peoples. Other organs advise the Council on issues of human rights, social development, the situation of women, crime prevention, drugs or environmental protection. Five Regional Commissions promote economic development and cooperation in their respective regions.

THE SUBSIDIARY ORGANS OF THE ECONOMIC AND SOCIAL COUNCIL

As previously explained, the Economic and Social Council can establish whatever subsidiary organs it may require to fulfil its mandate on economic and social issues and the promotion of human rights.

ECOSOC has different kinds of subsidiary organs, such as:

GOVERNMENTAL BODIES

- **Nine Functional Commissions**, which are the Statistical Commission, the Commission on Population and Development, the Commission on Social Development, the Commission on Human Rights, the Commission on the Status of Women, the Commission on Narcotic Drugs, the Commission on Crime Prevention and Criminal Justice, the Commission on Science and Technology for Development and the Commission on Sustainable Development.

Of the nine functional commissions, only the Commission on Human Rights considers specific issues on the rights of indigenous peoples. In any case, it is important to remember that the work of the other commissions, such as for example, the Commission on Sustainable Development, the Commission on Social Development and the Commission on the Status of Women, etc., also considers issues of vital importance to indigenous peoples.

- **Four standing committees or commissions**, which are the Committee for Programme and Coordination, the Commission on Human Settlements, the Committee on Non-governmental Organisations

and the Committee on Negotiations with Intergovernmental Agencies. Both the functional commissions and the standing committees and commissions are purely governmental bodies, which means that only governments can be members and only members have voting rights. The States that are not members of these organs can participate in the deliberations as observers.

- **Five regional commissions**, which are the Economic Commission for Africa (Addis Ababa, Ethiopia); the Economic and Social Commission for Asia and the Pacific; the Economic Commission for Europe (Geneva, Switzerland); the Economic Commission for Latin America and the Caribbean, and the Economic and Social Commission for Western Asia.

The regional commissions deal with thematic issues in the different regions. Their aim is to contribute to economic development, coordinate actions aimed at the promotion of the different regions, strengthen economic relations of countries within and between regions and promote social development.

Like the functional commissions and permanent committees, these bodies are exclusively governmental.

EXPERT BODIES

ECOSOC can establish thematic expert bodies. The members of these bodies are experts with recognised competence on the relevant issue. These experts act independently and serve in their own personal capacity, not as State representatives.

The expert bodies deal with issues such as development policy, natural resources and economic, social and cultural rights, or international cooperation on the transportation of dangerous goods.

In July 2000, ECOSOC established the Permanent Forum on Indigenous Issues as an expert body of ECOSOC.

These subsidiary organs of ECOSOC may, in turn, establish other subsidiary organs, which, in turn, advise on specific issues or questions within their mandate.

For example, the Sub-commission on the Promotion and Protection of Human Rights is a subsidiary organ of the Commission on Human Rights which, in turn, is a subsidiary organ of ECOSOC.

ECOSOC and Non-governmental Organisations

According to the Charter of the United Nations, the Economic and Social Council can hold consultations with non-governmental organisations (NGOs) interested in the issues that are within ECOSOC's remit. The Council recognises that these organisations often have special experience or technical knowledge of use to the work of the Council and so they should have an opportunity to express their opinions.

In order to be able to collaborate officially with the United Nations, interested NGOs need to be recognised by ECOSOC as having consultative status. To obtain this recognition, the organisation must send a request to ECOSOC's Committee on Non-governmental Organisations. This committee is made up of 19 member States of the United Nations, and it meets every year. At these meetings, the

committee considers the requests received. The Committee then recommends to ECOSOC a number of organisations to be granted consultative status. The final decision is taken by an ECOSOC meeting.

The non-governmental organisations recognised as having consultative status can send observers to the public meetings of ECOSOC and its subsidiary organs, give its opinion in writing on issues related to the work of the Council and, on prior request, present oral interventions at meetings of the Council or its subsidiary organs. In addition, they can consult the United Nations Secretariat on issues of mutual interest.

There are currently 2,143 NGOs recognised as having consultative status with the Economic and Social Council (ECOSOC), and they are classified into three categories.

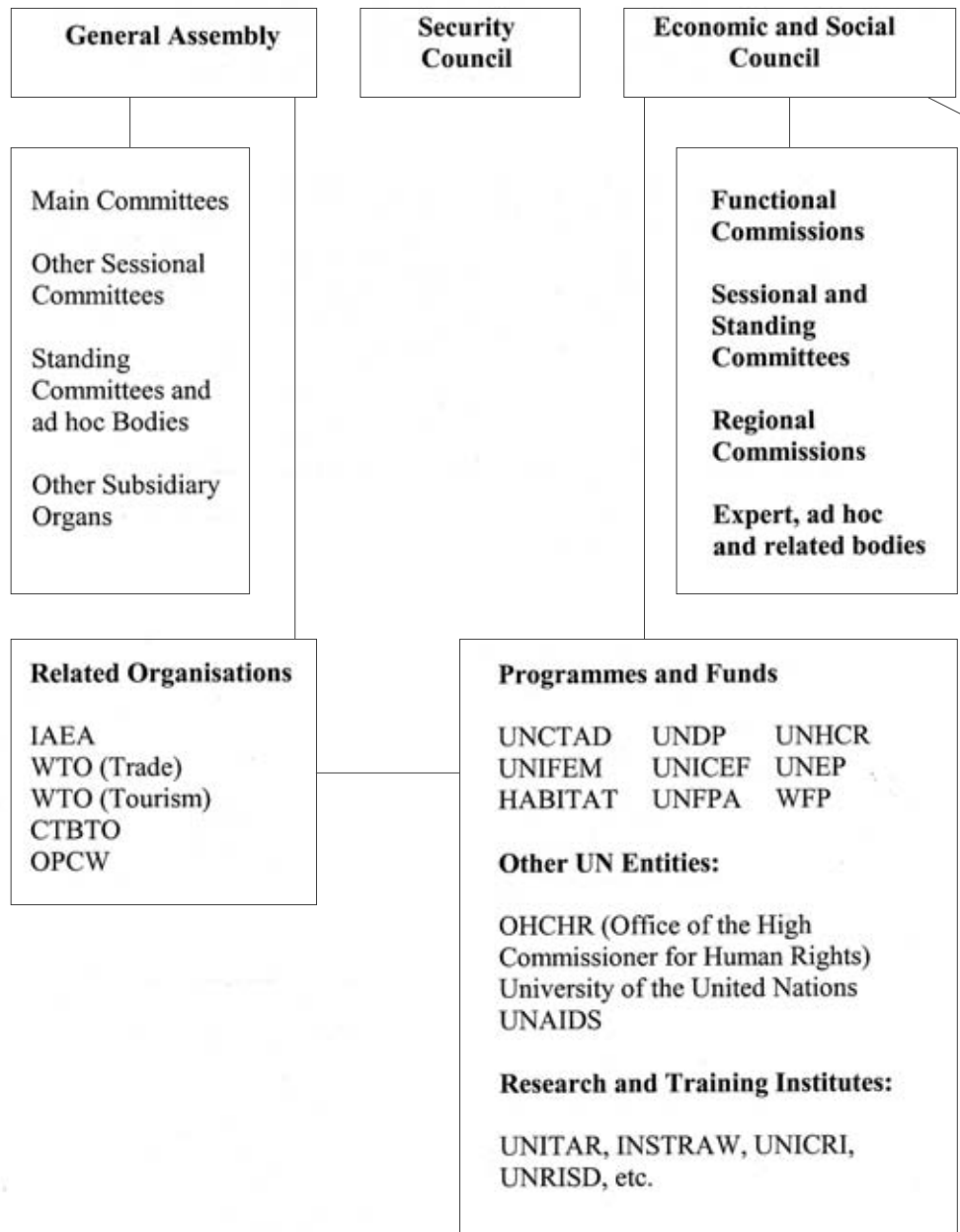
- **General category:** granted to organisations involved in most of the Council's activities.
- **Special category:** granted to organisations with particular competence in concrete areas of the Council's activity.
- **Roster category:** granted to organisations that may occasionally make contributions to the work of the Council, its subsidiary organs or other organs of the United Nations.

At this moment, approximately twenty indigenous organisations are recognised as having consultative status with ECOSOC.

Note

- 1 The Charter of the United Nations can be found at <http://www.un.org/Overview/Charter/contents.html>

SIMPLIFIED CHART OF THE UNITED NATIONS SYSTEM



**International
Court of Justice**

**Trusteeship
Council**

Secretariat

Specialized Agencies

ILO
FAO
UNESCO
WHO
World Bank Group
International Monetary
Fund
WIPO
IFAD
UNIDO

Office of the Secretary
General

Office of Internal Oversight
Services

Office of Legal Affairs;

Department of Political
Affairs

Department for Disarmament;

Department for Peacekeeping
Operations

Office for the Coordination of
Humanitarian Affairs

Department of Economic and
Social Affairs

Department of General

Assembly and Conference
Management;

Department of Public
Information

Department of Management;

UN Office at Geneva
UN Office at Vienna
UN Office at Nairobi



THE UNITED NATIONS SYSTEM

CHAPTER II



The United Nations system¹ is made up of the Secretariat of the United Nations, the United Nations Programmes and Funds, and the specialized agencies.

These bodies have their own budgets and governing bodies, their own regulations and guidelines, and provide technical assistance and other practical support in almost all areas of economic and social activity.

The Programmes and Funds are part of the United Nations, and the specialized agencies are linked to the United Nations via cooperation agreements and are autonomous bodies created by means of inter-governmental agreements. Some of the specialized agencies are of special relevance to indigenous peoples.

SPECIALIZED AGENCIES AND BODIES OF THE UNITED NATIONS OF GREATEST RELEVANCE TO INDIGENOUS PEOPLES

INTERNATIONAL LABOUR ORGANISATION (ILO)

The International Labour Organisation was created in 1919 by means of the Treaty of Versailles. When the United Nations was established in 1946, the ILO was the first specialized agency associated with the UN, with special responsibility for work and social issues. The ILO currently has 175 member States.

Its tasks include promoting social justice for workers and formulating international policies and programmes to contribute to improving their living and working conditions. It prepares international labour standards, which serve as guidelines for authorities in implementing these policies, and undertakes training and education programmes in order to contribute to continuing these efforts.

In addition, it approves conventions and recommendations establishing international labour standards in areas such as freedom of association, salaries, quotas and conditions of work, severance compensation, social security, holidays, industrial safety, employment agencies and work place inspections. Through its technical cooperation programmes, its experts help in human resource planning, professional training, management techniques, employment policies, occupational health and safety, social security systems, cooperatives and small-scale craft industries.

More information can be found at:
www.ilo.org

THE INTERNATIONAL LABOUR ORGANISATION AND INDIGENOUS PEOPLES

The ILO was the first international organisation to consider indigenous issues. The ILO began its work on indigenous peoples in the 1930s, when the organisation began to pay particular attention to the situation of the people then known as “native workers”. In 1953, the ILO published a study on indigenous peoples. In 1957, it adopted Convention No. 107 and Recommendation No. 104 concerning the protection and integration of indigenous and tribal populations. Due to the paternalistic and assimilationist attitude of this convention, in 1989 the International Labour Conference approved a revised version, which is Con-

vention No. 169 concerning indigenous and tribal peoples.

Convention No. 169 is of great significance to indigenous peoples, as it was the result of great efforts on the part of the international indigenous movement and, although for many indigenous organisations it is still incomplete, it has turned many indigenous demands into legal rights. It is the only current International Treaty to consider the problems of indigenous peoples in a comprehensive manner.

Like any international convention, Convention No. 169 is of a binding nature,

which means that the text is a legal requirement for those States ratifying it. The ILO has established mechanisms by which to monitor treaty implementation. Once a country has ratified the Convention, it must send reports to the ILO on how it is being implemented. These reports must include information on the situation of indigenous peoples, both in legislative and practical terms.

To date (February 2002), the countries having ratified Convention No. 169 are

Argentina, Bolivia, Colombia, Costa Rica, Denmark, Ecuador, Fiji, Guatemala, Honduras, Mexico, Holland, Norway, Paraguay and Peru.

The ILO also has two technical cooperation programmes specifically designed for indigenous peoples: the INDISCO programme and the Project to Promote ILO Policy on Indigenous and Tribal Peoples. Both programmes work with indigenous organisations, NGOs and also governments.

THE WORLD BANK GROUP

Established in 1944, the World Bank is made up of five affiliated institutions.¹ Its principle mission is to combat poverty in order to obtain lasting results and to help people to help themselves and the environment in which they live by providing resources and knowledge, creating capacity and forging associations in the public and private sectors.

The owners of the World Bank are more than 181 countries, represented by a Board of Governors and Executive Directors whose headquarters are in Washington DC. The member countries are shareholders with a power of final decision within the World Bank. The Bank has offices in more than 100 countries, employing more than 10,000 people.

The World Bank is a main provider of development assistance. The Bank's clients are States to which the institution grants loans. The Bank operates in close cooperation with the International Monetary Fund (IMF),

which is an inter-governmental organisation with 171 members. This institution seeks to promote international cooperation around international monetary affairs and to facilitate trade through production capacity.

The structural adjustment programmes promoted by the Bank have been strongly criticized by indigenous peoples and others because they did not take into account the social costs and their impact on the poorest sectors of the population. The impact of these programmes to indigenous peoples is that they often risk losing their lands and territories.

During the 1990s, the Bank launched various reform processes, which included greater funding for environmental projects and poverty reduction programmes. The Bank then began to pay more attention to the demands of the civil society and to put greater energy into the search for participatory policies and transparent loans.

In practice, implementation of the social and environmental reforms promised by the Bank has been much slower than expected and so there are ongoing debates and pressure on the Bank to ensure that it:

- Fulfils and implements the new regulations and widens the package of reforms;
- Implements more effective dissemination policies, such as the translation of documents into local languages and their dissemination through Public Information Centres within the countries;

Recognises the right to informed participation in order to promote an open dialogue on development problems, real participation in funding processes and joint evaluation mechanisms of programmes and projects.

Note

- 1 The International Bank for Reconstruction and Development, the International Finance Corporation, the International Development Association, and the International Centre for Settlement of Investment Disputes and the Multilateral Investment Guarantee Agency.

THE WORLD BANK AND INDIGENOUS PEOPLES

The impact of the World Bank's projects and programmes on indigenous peoples has been the object of controversy in recent decades.

In response to severe international criticism of the destructive impact of its projects on indigenous peoples during the 1960s and 70s, the World Bank adopted its first policy on "tribal" peoples in 1982, known as Operational Manual Statement 2.34 (OMS 2.34). This policy requires World Bank staff to include measures to protect the territorial rights, health and cultural integrity of indigenous peoples and to ensure that those peoples affected by projects participate in their planning and implementation. However, in practice, the policy made little contribution to reform within the Bank. The Bank's projects therefore continued to have serious negative impacts on indigenous peoples throughout the 1980s.

For this reason, and to improve implementation of their policies on indigenous peoples, in 1991 the World Bank revised its

policy on Indigenous Peoples and produced Operational Directive 4.20 (OD4.20).

This Operational Directive attempts to ensure that Bank staff takes positive action to protect indigenous rights: guaranteeing land ownership and rights to resources; mitigating the negative impacts of development projects; guaranteeing their participation; and ensuring they share in the benefits. Importantly, the policy contains provisions for the rejection of projects whose negative impacts cannot be adequately improved or whose borrowers have not presented appropriate plans in terms of complying with the policy.

In spite of weaknesses in this Operational Directive, indigenous peoples consider that this policy could help safeguard the rights of indigenous communities affected by World Bank projects, provided that it is adequately implemented.

During the mid-1990s, the Bank began a further review of OD4.20 and other pro-

tection policies as part of a “conversion” process at all levels of the Bank, with the aim of standardising and clarifying operational directives for staff and borrowers. According to the Bank, this review was necessary to improve the quality of fulfilment of protection provisions. For their part, indigenous peoples expressed a fear that the true reason was to minimise the obligatory rules and limit the cover of the political provisions, and they stated that any new policy should strengthen the existing one, particularly with regard to its provisions on land and resource security.

In 2000, the Bank published the preliminary policy document. In spite of the Bank’s declarations that there had been no dilution of the regulations with regard to OD4.20, indigenous peoples and NGOs stated that this document was weaker than existing policy, primarily because it contained no obligatory provisions to protect indigenous peoples’ land rights, it did not recognise the right to prior and informed consent, it did not prohibit forced resettlement, it lacked indigenous monitoring and supervision requirements of the Bank’s operations and it had not been extended to cover structural adjustment loans.

For more information see: www.worldbank.org

WORLD INTELLECTUAL PROPERTY ORGANISATION (WIPO)

The World Intellectual Property Organisation (WIPO) was established with the primary tasks of preserving and increasing respect for intellectual property throughout the world and promoting industrial and cultural development by stimulating creative activity and technology transfer.

Intellectual property comprises two areas: industrial property related to inventions and

other patents on inventions, registered brand trademarks, designs, names etc., and copyright and other rights linked to literary, musical and artistic works, films, performances, interpretations and phonograms.

It disseminates information and maintains an international register and encourages other forms of administrative cooperation between member States.

WIPO AND THE INDIGENOUS PEOPLES

WIPO’s recognition of the fact that the issue of protecting indigenous peoples’ heritage falls within its mandate has opened the path to important opportunities for indigenous peoples.

In 1992, the Working Group on Indigenous Populations and WIPO organised a technical conference on Indigenous Peoples. The participants recommended that the United Nations should produce

more effective measures to protect indigenous peoples' intellectual and cultural property rights.

In 1998, WIPO launched a new programme of activities to examine current and future possibilities for protecting traditional knowledge, genetic resources and folklore. During 1989 and 1990, WIPO held a series of consultations with indigenous peoples and produced the first systematic study on their needs and expectations in terms of intellectual property issues among the owners of traditional

knowledge and folkloric expressions. On the basis of these studies, WIPO decided to set up an inter-governmental committee on intellectual property, genetic resources, traditional knowledge and folklore. The aim of this committee is to promote a consensus around the knowledge and resources that need to be protected.

This Inter-governmental Committee of WIPO has met on three occasions and a small number of organisations have participated in the debates.

For more information see: www.wipo.org

THE WORLD TRADE ORGANISATION (WTO)

The World Trade Organisation (WTO), established in 1995, provides a legal and institutional framework for the multilateral trading system. The WTO is the successor to the 1947 General Agreement on Tariffs and Trade (GATT).

Its main objective is to secure the liberalisation of world trade for economic growth and development.

Its functions are:

- to implement the 29 multi- and plurilateral trade agreements that constitute the WTO;
- to act as a forum for multilateral trade negotiations;
- to resolve trade disputes, and to examine national trade policies.

The WTO covers not only trade in goods but also in services and trade-related aspects of intellectual property, which may

include areas as diverse as agriculture, textiles, government procurement, and rules of origin.

The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) is one of the 29 agreements in the founding Final Act of WTO. It requires State patent protection mechanisms for all fields of invention, although State members may also exclude inventions from patentability if necessary to prevent commercial exploitation, to protect public order, morality, human, animal or plant life or health, safeguard production, or avoid prejudice to the environment. However, this latter option is considered to require alternative protection by way of developing an effective *sui generis* system.

The Council for Trade-Related Aspects of Intellectual Property Rights (TRIPs Council) monitors the TRIPs Agreement, which provides protection for different kinds of intellectual property rights, including patents.

TRIPs also sets out transition arrangements and enforcement obligations for members.

The Committee on Trade and the Environment is the WTO body that explores such issues as: the relationship between provisions of multilateral environmental and WTO agreements; interfacing sustainable development, environment and trade; the

impact of environmental measures on market access; trade in domestically prohibited goods; transparency in trade-related environmental measures; TRIPs; and traditional knowledge. It also co-operates with the Union for the Protection of New Varieties of Plants (UPOV) and FAO Commission on Plant Genetic Resources and publishes a bulletin.

INDIGENOUS PEOPLES AND THE WTO

...."We believe that the whole philosophy underpinning the WTO Agreements and the principles and policies it promotes contradict our core values, spirituality and worldviews, as well as our concepts and practices of development, trade and environmental protection. Therefore, we challenge the WTO to redefine its principles and practices toward a 'sustainable communities' paradigm, and to recognize and allow for the continuation of other worldviews and models of development. Indigenous peoples, undoubtedly, are the ones most adversely affected by globalization and by the WTO Agreements. However, we believe that it is also us who can offer viable alternatives to the dominant economic growth, export-oriented development model. Our sustainable lifestyles and cultures, traditional knowledge, cosmologies, spirituality, values of collectivity, reciprocity, respect and reverence for Mother Earth, are crucial in the search for a transformed society where justice, equity, and sustainability will prevail."

Indigenous Peoples Seattle Declaration
Third Ministerial Meeting of the World
Trade Organisation
30 November – 3 December 1999

In December 1999, in relation to the Third Ministerial Meeting of the World Trade

Organisation, held in Seattle, indigenous peoples produced what was known as the Seattle Declaration. In this, indigenous peoples stated that trade liberalisation and export-led development, which are the basic principles on which policies promoted by the WTO are based, were creating extremely negative impacts on the lives of indigenous peoples.

In their opinion, the WTO agreements were undermining their right to self-determination, their sovereignty as peoples, the constructive treaties and agreements that indigenous peoples had negotiated with the States in which they lived.

In this important declaration, indigenous peoples describe the serious impacts of these agreements on their communities and ask the WTO to consider this problem urgently, demanding that:

- An urgent social and environmental justice analysis be undertaken to look into the cumulative effects of these Agreements on indigenous peoples.
- A review of the Agreements be undertaken to address the inequities and imbalances that adversely affect indigenous peoples.

The Declaration also includes a large number of concrete proposals in relation to the Agreement on Agriculture, service and investment liberalization and the TRIPS Agreement.

The Declaration can be found at:
[http:// www.itpcentre.org/legislation/english/wto99.htm](http://www.itpcentre.org/legislation/english/wto99.htm)

For more information see: www.wto.org

WORLD HEALTH ORGANISATION (WHO)

The World Health Organisation has been in existence since 7 April 1948 with the primary aim of achieving the highest possible level of health for the world's population.

The WHO focuses mainly on primary health care, through education on prevailing health problems, food supply and adequate nutrition, clean water and sanitation, mother and child health, family planning, immunisations, prevention of local diseases and provision of essential medicines.

It also helps countries to strengthen their health systems by establishing infrastructure, promoting investment in human resources, encouraging the necessary research for the development of appropriate technology and undertaking programmes to eradicate the main illnesses affecting children, with particular focus on tropical diseases.

For more information, see: www.who.org

THE WHO AND INDIGENOUS PEOPLES

Over recent years, the WHO has given greater attention to projects aimed at indigenous peoples and has promoted important initiatives to discuss the issue with indigenous organisations.

In 1998, the WHO organised a Forum on Indigenous Peoples and Health in collaboration with the Working Group on Indigenous Populations.

In this Forum, Dr. Gro Harlem Brundtland, Director-General of the WHO, said

"...WHO will play a role to ensure that the billion and a half people who have been excluded from economic development and the

health 'revolution' of the 20th century are lifted from poverty and ensured healthy lives in the 21st. Redressing the plight of indigenous peoples is an integral part of this agenda."

The recommendations of this Forum were that:

- Indigenous peoples and their perspective on health should penetrate the policy-making process.
- The existing expertise and experience of voluntary organisations should be built upon, and their role enhanced by involving them in monitoring programmes and initiatives.

- New communication technology, although held in suspicion, could be used in positive ways, e.g., to exchange ideas and points of view and to develop energy.

The 51st World Health Assembly, bearing in mind the recommendations of the Forum on Indigenous Peoples and Health, urged members:

“To develop and implement national plans of action or programmes on indigenous people’s health, in close cooperation with indigenous peoples, with the aim of:

- *guaranteeing indigenous peoples access to health services;*
- *supporting the involvement of indigenous representatives in WHO meetings;*
- *ensuring that health services are culturally sensitive to indigenous peoples; respecting, preserving and maintaining the knowledge of traditional healing and medicine in close cooperation with indigenous peoples; ensuring the active participation of indigenous peoples in identifying their health needs and appropriate research to formulate strategies to improve their health situation and its future direction.”*

UNITED NATIONS PROGRAMMES AND FUNDS

In addition to the specialised agencies there are also a number of United Nations Programmes and Funds. Some of these are important to indigenous peoples, others have to date only to a very limited extent or not at all dealt with indigenous issues.

UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANISATION (UNESCO)

The UN Educational, Scientific and Cultural Organisation was created on 4 November 1946 with the aim of contributing to world peace and security through education, science and culture.

UNESCO gives priority to the attainment of a basic education adapted to the actual needs of peoples. It collaborates in the training of teachers, educational planners and administrators and encourages the building of schools and provision of the necessary equipment with which to run them.

In terms of cultural activities, this institution seeks to safeguard cultural heritage by stimulating creation and creativity and conserving cultural organisations and oral traditions, as well as promoting books and reading.

In terms of information, UNESCO promotes the free circulation of ideas via audio-visual media, encourages the freedom of the press and the independence, pluralism and diversity of the media.

For more information, see: www.unesco.org

UNESCO AND INDIGENOUS PEOPLES

UNESCO has paid particular attention to the need to protect the cultural heritage and intellectual property of indigenous peoples. In cooperation with the World Intellectual Property Organisation (WIPO), UNESCO produced the “Model Treaty on the Protection of Expressions of Folklore against Illicit Exploitation”. This Model Treaty recognises that indigenous peoples are the traditional owners of artistic heritage, including folklore,

music and dance, created within indigenous territories and passed down through the generations.

In addition, in recent years, some of UNESCO’s programmes have taken into account the importance of indigenous peoples’ cultural heritage and have supported many programmes in educational and cultural spheres.

UNITED NATIONS DEVELOPMENT PROGRAMME (UNDP)

This programme is the most important source of multilateral development cooperation. It is financed with funds from the voluntary contributions of member States every year. It was established in 1965 by merging two of the United Nations technical cooperation programmes.

UNDP has a network of 115 offices, which receive support from more than 30 regional and international organisations which, in turn, collaborate with 152 of the world’s governments to promote improved living con-

ditions, fair economic growth, ecologically sound agricultural development, forestry, soil improvements, water supply, environmental health, energy, urban development, education, health and housing.

It collaborates with non-governmental organisations to encourage a spirit of entrepreneurship as a factor in self-sufficient and sustainable development, and promotes economic and social development to address the needs of the poorest sectors of the population, in particular.

THE UNDP AND INDIGENOUS PEOPLES

In recent years, the UNDP has paid far greater attention to activities on behalf of indigenous peoples and many of its small grant programmes and programmes of a regional and national nature have given special consideration to indigenous peoples.

The general objective of UNDP’s association and cooperation with indigenous peoples is to include indigenous perspectives and development concepts within UNDP programmes and to ensure that the concerns and interests of indigenous peoples are reflected in the organisation’s activities.

In 2001, the UNDP published the document “UNDP and Indigenous Peoples: A Policy of Engagement”.³ This important document has the aim of providing UNDP staff with a framework for estab-

lishing sustainable collaboration with indigenous peoples. It highlights the main guiding principles of their relations with indigenous peoples.

For more information, see: www.undp.org

UNITED NATIONS ENVIRONMENT PROGRAMME (UNEP)

This programme was created in 1972 following the UN Environment Conference. Its headquarters are in Nairobi, Kenya.

It serves as a catalyst for the activities of governments, scientific communities and non-governmental organisations through the formulation and implementation of projects related to environmental issues, such as the atmosphere, climate change, the depletion of the ozone layer, water resources, oceans, coastal zones, deforestation, desertification, health and biotechnology, among others.

UNEP projects are financed by interested governments and international organisations and have enabled the participation of more than 30,000 scientists and technicians in 142 countries in projects coordinated through the Global Environment Monitoring System, which comprises some 25 networks, each with an associated database.

For more information see:
www.unep.org

UNEP AND INDIGENOUS PEOPLES

Since the Earth Summit in 1992, UNEP has taken responsibility for promoting the States' recognition of the traditional methods and knowledge of indigenous peoples, and ensuring that indigenous peoples gain a share of the economic and trade benefits deriving from the use of these traditional methods and knowledge.

UNEP also collaborates with indigenous and local communities on implementing and evaluating the activities that are being carried out in support of the Convention on Biological Diversity.

UNEP has undertaken an international evaluation of biodiversity, with the in-

volvement of indigenous peoples. In this research, the following were identified as the primary causes of a loss of biodiversity: degradation or total loss of habitat, excessive exploitation of biological resources, contamination, the introduction of non-native (outside or exotic) species and climate change. The general conclusion of this important report was that the forests, marine and coastal areas and agricultural ecosystems and internal waterways were the most threatened.

In relation to this international evaluation, UNEP carried out various investigations into the “human values of biodiversity”, in which it considered the

traditional, religious and cultural values related to biological diversity. This research highlighted the interdependence between indigenous peoples and their environment.

UNEP also addresses the promotion and protection of indigenous rights in accordance with international environmental standards.

UNITED NATIONS CHILDREN'S FUND (UNICEF)

The United Nations Children's Fund has been responsible for supervising the survival, protection and development of children since it was set up by the General Assembly in 1946.

UNICEF defends the rights of children and women and addresses their needs the world over. Its activities are guided by the UN Convention on the Rights of the Child (CRC). This Convention defines and expresses the civil, political, social, economic and cultural rights of all children. It also states the obligations of governments and families, of the international community and local communities, to ensure that all children have the possibility of personal development.

Within the framework of this Convention, UNICEF addresses such issues as child labour, land mines, sexual exploitation, child trafficking, and indigenous women and children. One of UNICEF's tasks is to promote

ratification of this Convention by the States and to establish international standards to protect children the world over.

UNICEF also implements programmes in the areas of health, nutrition, education, water and sanitation, the environment, women in development countries and other spheres of importance to children. It focuses on training the community in areas of obstetrics and childcare, these programmes being undertaken in collaboration with the World Health Organisation.

It is also responsible for establishing programmes of promotion and development education and channels funds from industrialised countries to provide humanitarian assistance to children in the developing world in order to address the problems facing them: extreme poverty, poor health, lack of schooling, discrimination, psychological trauma, physical and sexual exploitation and abuse.

UNICEF AND INDIGENOUS PEOPLES

Article 30 of the Convention on the Rights of the Child recognises the right of indigenous children to enjoy their culture, religion and language.

In 1991, the Executive Board of UNICEF approved a resolution giving UNICEF a mandate to improve the way in which its projects help indigenous children to en-

joy their rights as recognised by the Convention. For this reason, over the last few years, the organisation has developed various programmes aimed specifically at improving the living conditions of indigenous communities. Of these, the PROANDES programme (Programme of Basic Services for the Andean Region) can be mentioned, which is being implemented in the poorest areas of Bolivia, Colombia, Ecuador, Peru and Venezuela, where many

indigenous peoples live, and the sustainable development projects for children in the Amazon basin, the main aim of which is to improve the living conditions of indigenous women and children.

Indigenous children in various countries also benefit from UNICEF's programmes on issues such as child labour, education, health and child sexual exploitation.

For more information see: www.unicef.org

UNITED NATIONS INSTITUTE FOR TRAINING AND RESEARCH (UNITAR)

UNITAR was established in 1965 as an autonomous body of the United Nations with the aim of helping the UN achieve its main objectives in terms of maintaining international peace and security and promoting economic and social development.

UNITAR is financed through the voluntary contributions of member States, inter-govern-

mental organisations, private foundations and other non-governmental sources that sponsor the Institute's training programmes.

It organises grants and regional refresher courses in international law and, at the request of the member States, it provides advisory services to diplomacy institutes in developing countries.

UNICEF AND INDIGENOUS PEOPLES

In recent years, UNITAR has organised various international and regional training courses to strengthen the capacity of indigenous peoples in the areas of conflict resolution and the promotion of peace processes.

In May 2002, UNITAR organised a special seminar on the United Nations System for the recently appointed members of the Permanent Forum on Indigenous Issues.

For more information see: www.unitar.org

INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT (IFAD)

The idea to create the International Fund for Agricultural Development arose during the World Conference on Food, held in 1974. IFAD's Governing Council came into force on 30 November 1977 with the principle aim of mobilising resources to improve the food production and nutrition of low income groups in developing countries.

IFAD provides loans, generally under highly favourable conditions. It is concerned not only with increasing agricultural production but also improving employment, nutrition and income distribution prospects at local level, since for every dollar contributed in support of its projects, IFAD has managed to mobilise two more from other external donors.

IFAD AND INDIGENOUS PEOPLES

Over the last few years, IFAD (the International Fund for Agricultural Development) has expanded its initiatives in support of indigenous peoples and has developed region-specific strategies for indigenous peoples. The Fund has specifically focused on indigenous peoples as beneficiaries of its interventions because of their poverty and need for social justice in Latin America and a large part of Asia, and has channelled a significant proportion of its loans and grants to supporting indigenous peoples.

However, according to IFAD's preliminary discussion document, "Valuing Di-

versity in Sustainable Development", the Fund's special interest in supporting these groups does not stem only from issues of poverty reduction, social justice and humanitarian concerns, but also because it has been amply demonstrated that national economies and society as a whole stand to gain from ending the marginalization of these groups and because indigenous peoples' value systems are such that indigenous peoples play a crucial role in the stewardship of natural resources and biodiversity.

For more information see: www.fida.org

UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANISATION (UNIDO)

The United Nations Industrial Development Organisation (UNIDO) was established by the General Assembly in 1966 as the body responsible for promoting and accelerating the industrialisation of developing

countries. Its status as a specialized agency was achieved in 1979 but it only became a fully autonomous body on 1 January 1986.

For more information see: www.unido.org

UNITED NATIONS FOOD AND AGRICULTURE ORGANISATION (FAO)

Given that one of the UN's objectives is that of eliminating hunger, the UN Food and Agriculture Organisation was established on 16 October 1945.

From its headquarters in Rome, Italy, the FAO formulates programmes to raise nutritional levels and living conditions, and improve the efficiency of the production, preparation, marketing and distribution of food and agricultural and livestock products from farms, forests and fisheries, promoting rural development and improvement. The FAO pre-

pares developing countries to face up to emergency food situations and, where necessary, provides emergency aid. It promotes agricultural investment, improved agricultural production, livestock rearing and technology transfer to developing countries. It also encourages natural resource conservation, stimulating the development of fishing, fish farming and sources of renewable energy.

For more information, see: www.fao.org

UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (UNCTAD)

UNCTAD became a permanent organ of the General Assembly following the First United Nations Conference on Trade and Development held in Geneva, Switzerland in 1964. Geneva is also where it currently has its

headquarters. Among its tasks is that of promoting international trade, in particular for developing countries, with a view to speeding up their economic growth.

In recent years, the UNCTAD Secretariat has been collaborating with the Secretariat of the Convention on Biological Diversity around the issue of the economics of biodiversity conservation.

UNCTAD is promoting the use of economic instruments and incentives to ensure that environmental resources are conserved and used in an ecologically sustainable way.

UNCTAD has adopted a "Biotrade Initiative", which is designed to provide the global community with information on how to develop the world's biodiversity responsibly.

It is important that indigenous organisations monitor this initiative on Biotrade closely, along with the activities being developed by its Secretariat.

For more information see: www.unctad.org

OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR)

The Office of the United Nations High Commissioner for Refugees was established in 1951 to protect refugees and promote lasting solutions to their problems. Its basic role is that of providing international protection to refugees who, by definition, do not enjoy the protection of their country of origin.

UNHCR ensures that refugees are provided with asylum, and that they obtain a favourable status in their country of exile. The fundamental element of international protection is the generally accepted principle of prohi-

bition of rejection, by virtue of which the forcible expulsion or repatriation of a person to their country of origin or former place of residence is prohibited.

It must also ensure that people with refugee status are protected from rejection, illegal detention or expulsion; have the right to work, education and assistance, along with the right to intellectual and industrial property; access to the courts and freedom of movement.

For more information see: www.unhcr.ch

UNITED NATIONS UNIVERSITY (UNU)

The United Nations University was established in 1973 following approval of its Charter by the General Assembly and, since 1975, it has functioned as an autonomous body of the United Nations with its headquarters in Tokyo, Japan. Its activities are aimed at promoting cooperation between international and scientific experts to contribute to resolving urgent problems.

Although it is called a university, the UNU has no students, nor teaching body nor premises for university teaching. The UNU considers problems by means of international networks of academic and research institutes, including its own research and training centres.

UNITED NATIONS HUMAN SETTLEMENTS PROGRAMME (HABITAT)

This was established in 1978 in Nairobi, Kenya, with the aim of promoting the good development of human settlements through measures aimed at improving the housing of the poorest of the world's population.

The centre provides technical cooperation to government programmes, undertakes research, organises expert meetings, practical courses and training seminars, in addition to publishing technical courses.

Habitat develops and implements national and international policies and programmes on human settlements, urban and regional planning, housing construction and the establishment of infrastructure in rural and urban areas, low cost construction techniques and methods for water supply.

For more information see:
www.habitat.org

UNITED NATIONS VOLUNTEERS (UNV)

This programme, largely administered and financed by the UNDP, sends more than 2,000 specialists and workers to provide services in over 100 countries, mostly in the developing world.

These people work on development and emergency aid programmes being implemented by governments with the support of the UNDP

and the UN's specialized agencies or in programmes implemented by the volunteers themselves on behalf of governments.

The UN volunteers support local organisations promoting self-sufficiency through community participation

For more information see: www.unv.org

UNITED NATIONS DEVELOPMENT FUND FOR WOMEN (UNIFEM)

This was established by the General Assembly in 1976 and became UNIFEM in 1985.

This body provides direct support to women's projects aimed at promoting their inclusion in the planning of important development programmes and projects.

Although it has a small budget, coming primarily from international non-governmental

organisations and private donors, along with voluntary donations from more than 100 institutions, UNIFEM has improved the condition of women in America, Africa, Asia, the Pacific and Caribbean by offering access to credit, training and technology to more than 550 projects.

For more information see: www.unifem.undp.org

WORLD FOOD PROGRAMME (WFP)

The WFP was established in 1963 and is the only multilateral body providing food assistance in the developing world. It provides a quarter of all international food

aid, as well as producing regulations for the purchase and transport of an even larger share of the food aid provided by different countries.

UNITED NATIONS POPULATION FUND (UNFPA)

What was, in 1967, a trust fund offering technical assistance to reduce the high demographic trends of the 1960s became, two years later, the largest provider of assistance on population issues to developing countries.

The role of the United Nations Population Fund is to promote international-level training to address population and family planning needs. It also promotes an understanding of population factors, such as demo-

graphic growth, fertility, mortality, age structure, spatial distribution and migration.

UNFPA helps governments draw up population projects and programmes and provides financial assistance for their implementation. 50% of the Fund's resources is aimed at issues related to mother and child,

health and family planning. The other 50% is devoted to information and training activities, data analysis and research in terms of demographic and socio-economic relationships, and evaluating policies and programmes to improve the situation of women.

For more information see: www.unfpa.org

Notes

- 1 <http://www.unsystem.org/en/>
- 2 The International Bank for Reconstruction and Development, the International Finance Corporation, the International Development Association, the International Centre for Settlement of Investment Disputes and the Multilateral Investment Guarantee Agency.
- 3 This document can be found at <http://www.undp.org/policy/docs/policynotes/IP%20Policy%20English.pdf>





THE THE UNITED NATIONS AND HUMAN RIGHTS

CHAPTER III



**BEFORE THE UN BEGAN TO CONSIDER THE ISSUE OF HUMAN RIGHTS,
THIS WAS CONSIDERED TO BE THE EXCLUSIVE AFFAIR
OF THE DIFFERENT STATES**

Since its formation, the organisation has given special priority to the promotion and protection of human rights. Article 1 (3) of the 1945 Charter of the United Nations defines one of its main objectives as the “promotion and encouragement of respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion”.

When looking at the work of the United Nations in the area of human rights, it is important to note the existence of two different types of body: those based on the Charter of the United Nations and those based on the Treaty system.

BODIES BASED ON THE CHARTER OF THE UNITED NATIONS

The Charter entrusts the United Nations with the task of creating bodies responsible for examining and addressing human rights issues and formulating new standards.

In the area of human rights, the most important organ based on the Charter of the United Nations is the Commission on Human Rights. This is the main organ of the United Nations devoted to protecting and promot-

ing human rights. Its task is to give overall political direction, study problems related to human rights, develop and codify new international standards and ensure observance of human rights, in addition to examining the situation of those rights in any part of the world and reviewing information coming from States and non-governmental organisations.

THE COMMISSION ON HUMAN RIGHTS

The Commission on Human Rights is a governmental body made up of 53 member States chosen by ECOSOC for a three-year period. All other member States who are not represented on the Commission participate in its work as observers. The Commission meets once per year, for six weeks, usually during March and April in Geneva but, where necessary, its members may also call extraordinary meetings.

NGOs that have consultative status with ECOSOC can also participate and present written and oral interventions to the Commission on any issue related to human rights.

The Commission has two main functions: one is the promotion of human rights, which is of a preventive nature and the other is the protection of human rights, which is of a corrective nature.

The following are among the Commission's activities in terms of promoting human rights:

- Coordination of the human rights activities of the United Nations System
- Formulation of international standards on human rights (Declarations, Covenants, Conventions)
- Preparation of studies and reports on human rights

In 1996, the Commission decided to include a new subject, entitled "Indigenous Issues", within its programme, in order to give particular attention to the problems of indigenous peoples. Since then, under the agenda point known as "Indigenous Issues", the Commission has considered reports and resolutions from the Working Group established to consider the Draft Declaration on the Rights of Indigenous Peoples, the Working Group on Indigenous Populations, the Permanent Forum on Indigenous Issues and the International Decade of the World's Indigenous People.

Many indigenous organisations participate actively in the Commission's sessions, presenting oral and written interventions under this agenda point.

It is important to remember that the Commission is not an international tribunal and so does not have the capacity to judge or punish government behaviour in the area of human rights. In spite of this limitation, the Commission's activities in the area of human rights protection are:

SPECIALIZED MECHANISMS

The establishment of specialized mechanisms to study issues of particular importance, and to investigate cases of complaints. For this, the Commission has the power to create other subsidiary organs or mechanisms, such as the appointment of experts, special rapporteurs or the establishment of working groups.

The Special Rapporteurs and Working Groups, which come under the Special Procedure system, have a mandate to raise matters of specific human rights violations, provided they are within their remit, with the relevant governments. NGOs, individuals, victims, families, prisoners (basically anyone) can present complaints to the specific Special Rapporteur. The Special Rapporteur intervenes with governments, sometimes sending the response received from the Government to the plaintiffs for their subsequent intervention, and this intervention is reflected in the report the Special Rapporteur presents to the Commission on Human Rights. Rapporteurs are clearly a real barometer by which to judge the human rights situation of any country.

At its 57th Session (2001), the Commission on Human Rights decided to appoint a Special Rapporteur on the Situation of the Human Rights and Fundamental Freedoms of Indigenous Peoples for a three-year period. The President subsequently appointed Mr. Rodolfo Stavenhagen, Mexican academic and researcher, a specialist in indigenous rights, as Special Rapporteur.

Consideration of individual complaints on human rights violations. These complaints are confidentially considered by the Commission under a procedure known as "the 1503 procedure".¹

This procedure is the oldest of the UN's human rights mechanisms. It was established in accordance with an ECOSOC resolution, adopted in 1971. It deals with systematic violations of human rights. Information/complaints received are dealt with confidentially. Under existing procedures, the Sub-Com-

mission has a Working Group on Communications to consider demands corresponding to the 1503 procedure. The Working Group on Communications sends serious cases to the Working Group on Situations, under the Commission on Human Rights. Reports are not published. When the Working Group on Situations meets, during the meeting of the Commission on Human Rights, the sessions are held behind closed doors.

In recent years, the number of indigenous organisations and individuals using the 1503 procedure to present complaints of violations of their basic human rights have increased considerably.

SUBSIDIARY ORGANS AND MECHANISMS OF THE COMMISSION ON HUMAN RIGHTS

Sub-Commission on the Promotion and Protection of Human Rights

Until 1999, when ECOSOC decided to change the name of this body, the official name of the Subcommission was Sub-Commission on Prevention of Discrimination and Protection of Minorities.

The Sub-Commission is the main subsidiary organ of the Commission on Human Rights. It was established by the Commission at its first session, in 1947, under the authority of the Economic and Social Council.

The Sub-Commission meets annually in Geneva and is made up of 26 members acting in an individual capacity. It initially devoted its time to issues of discrimination and minorities, vulnerable groups and contemporary forms of slavery but it has now widened its sphere of action, developing legal standards and making recommendations to the Commission.

The Sub-Commission is made up of 26 experts exercising their roles in a personal capacity and who are chosen by the Commission from expert applications presented by the States, bearing in mind the criterion of a fair geographic distribution.

Its tasks are:

- To carry out studies, particularly in the light of the Universal Declaration of Human Rights, and to make recommendations to the Commission on the prevention of all kinds of discrimination in relation to human rights and fundamental freedoms and the protection of racial, religious and linguistic minorities;
- To undertake any other task entrusted to it by the Council or the Commission.

The Sub-Commission has its own subsidiary organs², including the Working Group on Indigenous Populations, established in 1982 and which is made up of five members of the Sub-Commission.

The Sub-Commission has a specific point on its work agenda to consider “Discrimination against Indigenous Peoples”. Under this agenda point, the Sub-Commission examines the annual reports of the Working Group on Indigenous Populations and the reports from the Special Rapporteurs on this matter. The Sub-Commission was the first UN body to officially abandon the expression “indigenous populations” in favour of “indigenous peoples” in 1988.

BODIES BASED ON THE TREATY SYSTEM

Among the greatest achievements of the United Nations is that of having established a body of international human rights legislation along with the necessary mechanisms for their promotion and protection. For the first time in history, there is a universal code of human rights that all nations can sign and to which all peoples can aspire.

The bodies based on the Treaty System have been created by virtue of legally binding human rights treaties. The main role of these organs is to monitor application of the treaties on the part of governments that have ratified and thus agreed to be party to them.

THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

On its creation in 1946, the United Nations began the initial task of classifying and then codifying human rights, in order to take them beyond the sphere of morality and enshrine them in binding legislation.

At its first work session, the Commission on Human Rights began to prepare the documents aimed at formulating, defining and protecting the basic human rights and freedoms of all human beings. This process gave rise to the formulation of the Universal Declaration of Human Rights, which was approved by the General Assembly in 1948. This declaration proclaims a long list of all fundamental rights and freedoms accorded to all human beings by the international community. Its main aim was to provide individuals with a series of rights and mechanisms that could defend them during future atrocities and violations such as those committed during the Second World War.

No-one doubts that the Declaration is a fundamental document in the history of humanity and international relations. However, it must be remembered that it was a product of a particular moment in time and of the cultural concepts that wrote it. With time, and the changing events on the international scene, a multitude of aspects have arisen that the declaration at that time did not take into account, either because they had not yet arisen or because the world organisation as it was then did not envisage them.

Indigenous peoples consider the protection provided by the Universal Declaration as it stands is insufficient because it ignores collective rights, essential to their survival as distinct communities. The effectiveness of the current instruments for the promotion and protection of human rights falls far short of considering the realities of indigenous peoples, simply because they were not considered at the time of its writing.

THE INTERNATIONAL COVENANTS

Due to the non-binding nature of the Declaration of Human Rights, in 1951 the General Assembly considered that, in order to be able to implement the Universal Declaration, two Covenants needed to be drawn up: one on civil and political rights, and the other on economic, social and cultural rights. Both covenants express the general provisions established by the Declaration in terms of specific rights and are of a binding nature, which means that States having agreed to be “party” to them are legally required to comply with them. The covenants also indicate the measures States need to take to make these rights effective and establish an obligation on those having ratified these International Conventions to report regularly on implementation. The majority of the world’s countries are party to these covenants, which makes supervision of their human rights practices possible.

The General Assembly adopted the International Covenant on Civil and Political Rights³ and the International Covenant on Economic, Social and Cultural Rights in 1966, but they did not enter into force until 1976, when a sufficient number of governments had agreed to ratify them.

The main difference between the two covenants is that they have different implementation measures: immediate for the first and gradual for the second. In any case, the two covenants are considered inseparable and interdependent.

The two covenants, together with the Universal Declaration of Human Rights, form the International Bill of Human Rights.

The United Nations subsequently adopted and brought into force a series of other human rights treaties to grant greater protection to particularly vulnerable groups or against atrocities. These treaties are:

- The International Convention on the Elimination of all Forms of Racial Discrimination (1969).
- The International Convention on the Elimination of all Forms of Discrimination against Women (1979).
- The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984).
- The Convention on the Rights of the Child (1989).

- The International Convention for the Protection of the Rights of all Migrant Workers and their Families, which is the most recent of these treaties, adopted by the United Nations in 1990. However, it has not yet entered into force as it has not been ratified by the necessary number of governments.

Treaty monitoring bodies

The implementation of all these international human rights treaties is supervised by the committees or “treaty monitoring bodies”. The legal basis for the establishment of most of the treaty bodies can be found in the treaties themselves or was given by the Economic and Social Council.⁴

These treaty monitoring bodies are made up of independent experts with recognised skills in the area of human rights, who are chosen by the States parties

The roles of these committees are:

- To consider the periodic reports submitted by the States on how they are implementing the obligations they have assumed by ratifying the treaty.
- To receive and consider individual communications.⁵
- To consider communications on the part of States party to the Treaty regarding the failure of other States to fulfil their obligations as signatories to the Treaty.⁶
- To make general recommendations and comments.
- To inform the General Assembly of their activities.

Some of the treaty bodies have contributed substantially to the progressive development of indigenous rights through a general interpretation of the application of the human rights conventions and, in their reports and recommendations, they have recognised and protected the collective rights of indigenous peoples.

Both the Committee for the Elimination of all Forms of Racial Discrimination (CERD) and the Human Rights Committee have been used by a relatively small number of indigenous people and organisations, with very favourable results in terms of recognition of their rights. Unfortunately, for the vast majority of indigenous organisations, the procedures of these treaty bodies are not well-known. However, there is no doubt that the mechanisms are of vital importance and of great potential to advancing the recognition of indigenous peoples as subjects under international law.

List of international treaties and their corresponding treaty bodies

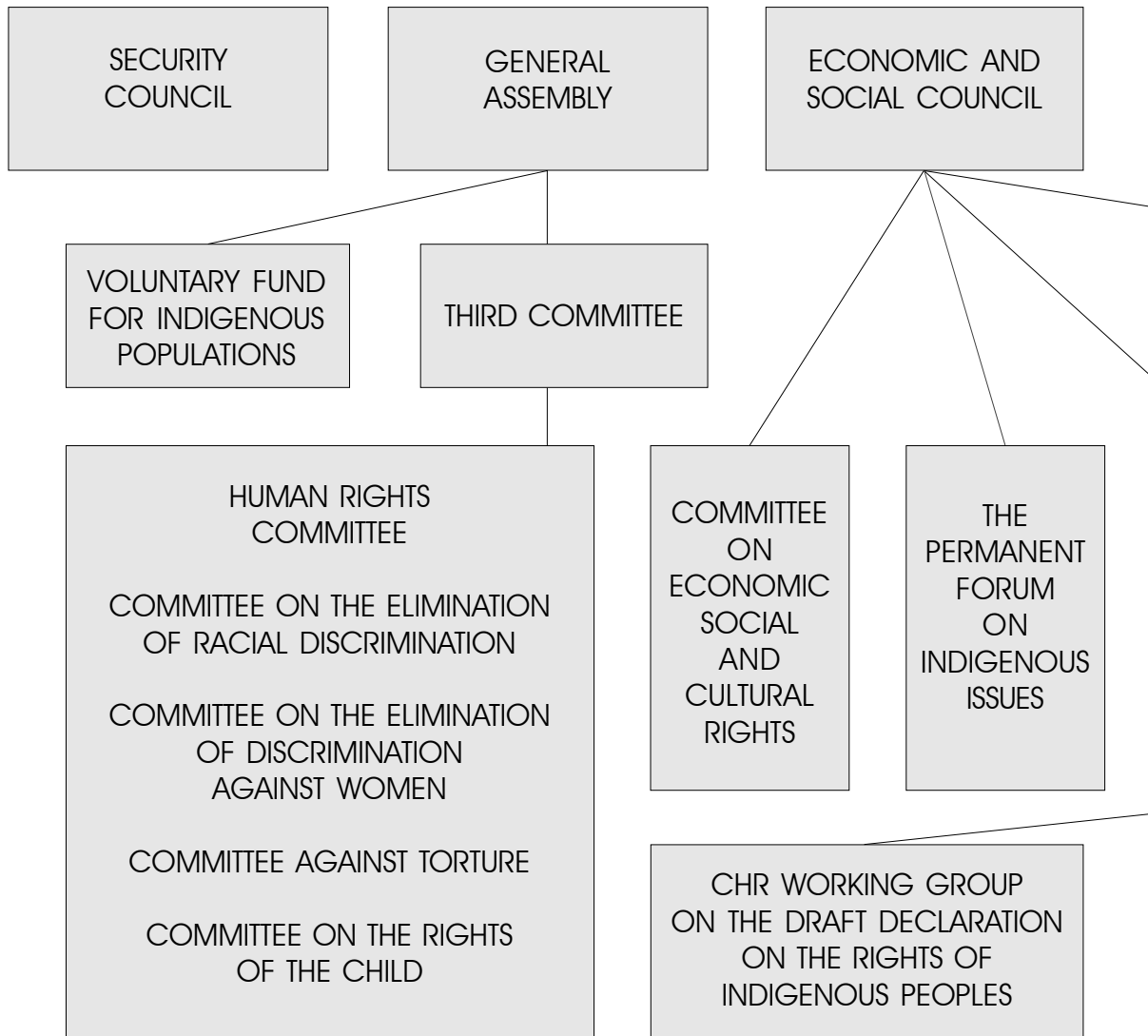
International Treaty	Treaty Body
International Covenant on Civil and Political Rights	Human Rights Committee
International Covenant on Economic, Social and Cultural Rights	Committee on Economic, Social and Cultural Rights
Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment	Committee against Torture
International Convention on the Elimination of all Forms of Racial Discrimination	Committee on the Elimination of Racial Discrimination
Convention on the Rights of the Child	Committee on the Rights of the Child
International Convention on the Elimination of all Forms of Discrimination against Women	Committee on the Elimination of Discrimination against Women

To obtain more detailed information on the human rights bodies and mechanisms, see the Office of the High Commissioner for Human Rights web site at: www.unhchr.ch

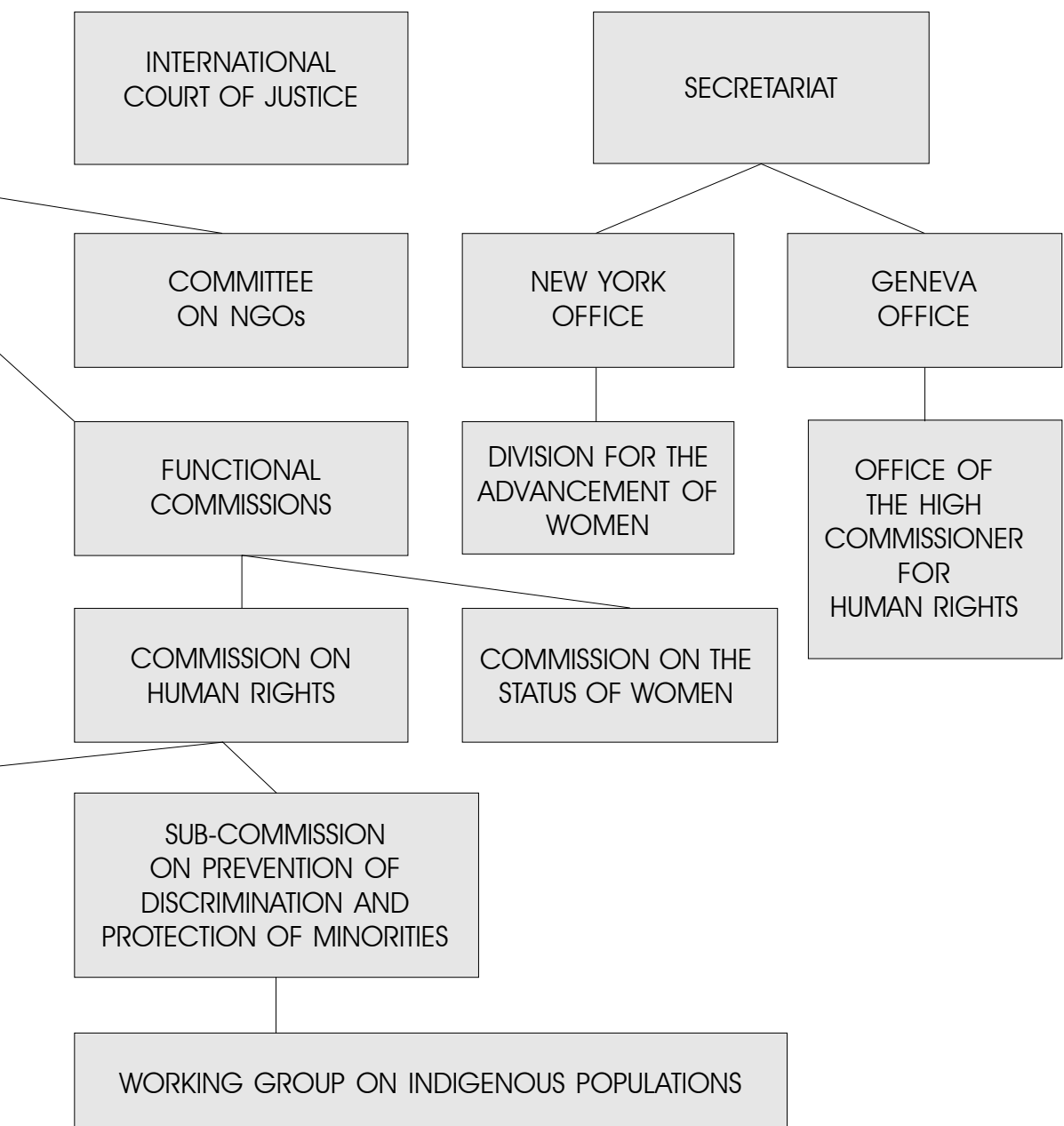
Notes


- For more information on the Commission's different mechanisms for presenting complaints to the organs of the Commission on Human Rights, see IWGIA document no. 21 *Human Rights and Indigenous Peoples: a Handbook on the United Nations System* by Florencia Roulet.
- The Sub-Commission currently has four working group meetings prior to each session: the Working Group on Communications (which examines all the complaints received along with the government responses and selects communications that reveal a clear and proven pattern of persistent violations of human rights and fundamental freedoms to be presented to the Sub-Commission; the Working Group on Contemporary Forms of Slavery; the Working Group on Indigenous Populations; and the Working Group on Minorities.
- The "International Covenant on Civil and Political Rights" also has an "Optional Protocol to the International Covenant on Civil and Political Rights", of 16 December 1966, which empowers the Human Rights Committee to receive and consider communications from individuals allegedly the victims of violations of any of the rights stated in the Covenant. It also has a "Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty", of 15 December 1989.
- In the case of the International Covenant on Economic, Social and Cultural Rights, the body monitoring its implementation, the Committee on Economic, Social and Cultural Rights, was established by a subsequent resolution of the Economic and Social Council.
- The Optional Protocol to the International Covenant on Civil and Political Rights, the International Convention on the Elimination of all Forms of Racial Discrimination and the Convention against Torture establish the right of individuals to present special communications to these committees.
- This procedure has never been used by any State in the treaty monitoring bodies.

UN HUMAN RIGHTS SYSTEM AND



INDIGENOUS PEOPLES





INDIGENOUS PEOPLES AND THE UNITED NATIONS

CHAPTER IV



THE BEGINNING

The first existing record of a request for indigenous participation in an inter-governmental institution was in the 1920s, when an Iroquois indigenous leader travelled to Geneva to inform the League of Nations (the forerunner to the United Nations) of the situation of the indigenous peoples of Canada and to request its mediation in their long-running conflict with their government.

Following the creation of the United Nations in 1946, there were a number of attempts to get the organisation to consider the situation of indigenous peoples. One initiative worthy of mention was a proposal made by the Bolivian government in 1948 to create a sub-commission to study the social problems of aboriginal peoples. Unfortunately this initiative, too, failed to gain support within the system and 20 years were to pass before the situation of indigenous peoples was once more formally considered by the United Nations.



In 1923, Deskaheh, leader and spokesperson for the Council of the Iroquois Confederation of Canada, travelled to Geneva to present his longstanding dispute with the Canadian government to the League of Nations. Deskaheh's stay in Geneva attracted considerable attention and, after many months of hard lobbying work, the Iroquois leader gained the support of a number of governments, including Holland and Japan, to present his case to the League of Nations. Unfortunately, despite all his efforts, the League of Nations decided not to consider his case, arguing that the demands presented by Deskaheh related to Canada's internal affairs, thus falling outside the competence of the League of Nations. The Canadian government did not allow Deskaheh to return to Canada after his trip to Geneva.

BACKGROUND

In the late 1960s and early 1970s, indigenous movements arose in a large number of countries in response to the systematic violations of their most basic rights and the discriminatory and assimilationist policies prevailing at the time. During the course of this struggle, a process of indigenous organisation was developing at local, national and regional level, out of which arose an incipient international indigenous lobby. This lobby called upon the international commu-

nity and, particularly, the human rights bodies of the United Nations, to consider their situation and take appropriate measures to protect their basic rights.

This incipient international indigenous lobby had the support of a small number of non-governmental organisations and some independent experts and managed to get the Sub-Commission on Prevention of Discrimination and Protection of Minorities¹ to be-

gin to formally consider the situation of indigenous peoples. In 1972, the Economic and Social Council authorised the Sub-Commis-

sion on Prevention of Discrimination to undertake a special study on discrimination against indigenous peoples.

STUDY ON DISCRIMINATION AGAINST INDIGENOUS PEOPLES

On the basis of this decision, the Sub-Commission appointed one of its members, Mr. Jose Martinez Cobo from Ecuador, as Special Rapporteur to undertake this study on discrimination against indigenous populations. This study was carried out between 1972 and 1984.²

While the Sub-Commission was preparing the study on discrimination against indigenous peoples, one event of great importance in the formation of an international indigenous movement occurred in Geneva. This was the **“NGO Conference on Discrimination of Indigenous Populations in America”**, which took place in Geneva in 1977.

The Study undertaken by Martinez Cobo begins with a working definition of who indigenous peoples are and considers an extremely wide spectrum of issues, such as indigenous identity, culture, legal systems, health, housing, education, language etc. Its conclusions clearly reflect the fact that the conditions in which the world’s indigenous peoples live are conducive to discrimination with regard to all the different issues considered by the Rapporteur. It concludes with a series of proposals and recommendations.



This event was attended by more than 100 indigenous representatives from the whole Western hemisphere, some non-governmental organisations and a small number of governments.

The conference produced one of the first international indigenous documents, entitled a “Draft Declaration of Principles for the Defence of the Indigenous Nations and Peoples of the Western Hemisphere”.³ Among the most important recommendations of this conference was the establishment of a working group of the UN Sub-Commission on Prevention and Discrimination of Minorities to consider the situation of indigenous peoples.

But perhaps one of the most important results of this conference was the establishment of a model for coordination between the different indigenous peoples of the world in terms of formulating their demands, one that has been used and developed by indigenous peoples at subsequent international meetings.

Because of this conference, a small number of indigenous NGOs managed to obtain consultative status with the Economic and Social Council, and the representatives of these indigenous organisations began formally to participate, gradually and in increasing numbers, in the human rights bodies of the United Nations.

THE WORKING GROUP ON INDIGENOUS POPULATIONS

In 1981, bearing in mind the recommendation of the 1977 Conference and the reports regularly presented by the Rapporteur, Martinez Cobo, in his study on Discrimination, the Sub-Commission recommended that

the Commission on Human Rights should establish a Working Group on Indigenous Populations. A year later, in 1982, ECOSOC authorised the Sub-Commission to create this working group as a subsidiary organ to the Sub-Commission on Prevention of Discrimination and Protection of Minorities. Since then, this Working Group has met annually in Geneva, normally during the last week of July.

In addition to facilitating and encouraging dialogue between governments and indigenous peoples, the Working Group has two main tasks:

- To review events relating to the promotion and protection of the human rights and fundamental freedoms of indigenous peoples. To analyse this material and send its report to the Sub-Commission.

For this, the Working Group receives and analyses oral and written information presented to it by indigenous organisa-



Dr. Erica Irene Daes, former chairperson of the Working Group on Indigenous Populations

tions, governments, specialized agencies and other UN organs.

- To give particular attention to changes in international standards relating to the human rights of indigenous peoples.

It should be noted that the Working Group's mandate does not authorise it to examine concrete complaints of alleged human rights violations with the aim of formulating recommendations or adopting decisions on concrete cases or countries.

As a subsidiary organ of the Sub-Commission, the Working Group on Indigenous Populations is located at the lowest level of the hierarchy of UN human rights bodies. Its recommendations have to be considered and accepted first by its superior body, the Sub-Commission, then by the Commission on Human Rights and ECOSOC, before reaching the General Assembly.



The Working Group is made up of five independent expert members of the Sub-Commission – one from each of the world's geopolitical regions.

The current members of the Working Group (July 2002) are:

Mr. M.A. Martínez from Cuba
(President)
Mr. Yokota from Japan
Ms. Motoc from Romania
Ms. Hamson from Great Britain
Mr. Guisse from Senegal

The Working Group on Indigenous Populations established flexible rules of procedure from the start, enabling all those interested and, more particularly, the representatives of indigenous communities and organisations to participate in the deliberations of the Working Group.

This procedure of open participation, unprecedented in UN bodies, was key to consolidating the Working Group as a focal point for UN activity on indigenous peoples. Since then, and over the last twenty years, thousands of indigenous representatives have attended the meetings of the Working Group to make known their situation, their aspirations and their demands.

No more than 50 people attended its first session, held in Geneva in 1982. Since then, the number of participants has gradually increased, spectacularly so during the 1990s. In recent meetings, more than 800 participants have been recorded, thus making it one of the largest UN fora on human rights.

The indigenous peoples' organisations that every year attend the Working Group meetings also take the opportunity of their trip to Geneva to hold indigenous meetings before and during the Working Group meetings. The aim of these indigenous meetings is to discuss common problems, draw up strategies for their participation in international organisations and determine joint positions.

The Working Group has produced some important studies, for example:

- Study on treaties, agreements and other constructive agreements between States and indigenous populations⁴ produced by the current Chair of the Working Group, Mr. Miguel Alfonso Martínez.
- Study on the cultural and intellectual property of indigenous peoples⁵ produced by the person who was, for 12 consecutive years, chair of the Working Group, Dr. Erica Daes.
- Study on Indigenous Peoples and their Relationship to Land⁶ also written by Dr. Daes.

But the most significant achievement of the Working Group has been the formulation and adoption of the Draft Declaration on the Rights of Indigenous Peoples.

In 1985, the Working Group decided to begin work on formulating a draft Declaration on the Rights of Indigenous Peoples. For almost a decade, the Working Group devoted a large part of its time to drafting this text, in which representatives of indigenous peoples, government delegations and experts on the subject participated very actively.

The final text was adopted by the Working Group in 1993 and then in 1994 by its superior body, the Sub-Commission on the Promotion and Protection of Human Rights. In 1995, following formal procedures, the Commission on Human Rights considered the text submitted by the Sub-Commission and decided to establish an Inter-sessional Working Group with a mandate to consider the text presented and draw up a draft Declaration for its consideration and adoption by the UN General Assembly.

The Working Group on Indigenous Populations has been the main forum for indigenous peoples from all parts of the world to discuss all kinds of international issues. This is no less true in relation to the Permanent Forum although the process of establishing this institution took place outside the Working Group.

THE DRAFT DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

The Draft Declaration is a long and complex document with a preamble and 45 articles, divided into nine sections.

The text recognises the wide range of basic human rights and fundamental freedoms of indigenous peoples. Among these are the right to unrestricted self-determination, an inalienable collective right to the ownership, use and control of lands, territories and other natural resources, their rights in terms of

maintaining and developing their own political, religious, cultural and educational institutions along with the protection of their cultural and intellectual property. The Declaration highlights the requirement for prior and informed consultation, participation and consent in activities of any kind that impact on indigenous peoples, their property or territories. It also establishes the requirement for fair and adequate compensation for violation of the rights recognised in

the declaration and establishes guarantees against ethnocide and genocide.

Article 3 of the Draft Declaration on the Rights of Indigenous Peoples

“Indigenous people have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.”

The Draft Declaration also provides for fair and mutually acceptable procedures to resolve conflicts between indigenous peoples and States, including procedures such as negotiations, mediation, arbitration, national courts and international and regional mechanisms for denouncing and examining human rights violations.

The Declaration notes that the rights mentioned within it form minimum standards for the survival and well-being of the world’s indigenous peoples.

THE WORKING GROUP OF THE COMMISSION ON HUMAN RIGHTS ON THE DRAFT DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

As noted previously in this chapter, the text adopted by the Sub-Commission in 1994 was subsequently considered by the Commission on Human Rights. The Commission then decided⁷ to establish an open-ended Working Group that would meet between sessions to examine the text presented by the Sub-Commission and draw up a draft Declaration to be examined and approved by the General Assembly within the framework of the International Decade of the World’s Indigenous People (1995-2004). This resolution also established a special procedure so that indigenous representatives could participate in the debates of this Working Group, whose members are member States of the Commission on Human Rights.

Since its establishment in 1995, this Working Group has met annually and has so far held eight meetings. Unfortunately, after almost eight years, very little progress has been made and the discussions between governments and the indigenous representatives seem to be at a deadlock. So far, only two articles, 5 and 43, have been adopted, both



Mr. Luis Chávez (Peru), president of the Working Group of the Commission on Human Rights for the Declaration on the Rights of Indigenous Peoples

directly related to recognising the individual rights of indigenous peoples.

In spite of the fact that a majority of governments claim that they have no great problems with the general principles of the declaration drawn up by the Working Group on Indigenous Populations, the reality is that a large number of them continue to have serious problems with the original text and are opposed to explicit recognition of the collective rights of indigenous peoples, particu-

larly the right to self-determination, as stated in Article 3 of the Declaration.

At this precise moment, the adoption of a Declaration that responds to indigenous demands seems very far off, despite being one of the main objectives of the International Decade of the World's Indigenous People, which ends in 2004.

THE SPECIAL RAPPORTEUR ON THE SITUATION OF THE HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS OF INDIGENOUS PEOPLES

In 2001, the UN Commission on Human Rights decided to appoint a Rapporteur on the Situation of the Human Rights of Indigenous Peoples. Later that same year, the Chair of the Commission on Human Rights appointed Dr. Rodolfo Stavenhagen, Mexican lecturer and researcher, a specialist on indigenous rights, as Special Rapporteur for a three-year period.

The appointment of the Special Rapporteur is another great achievement on the part of indigenous peoples in their already long struggle to gain protection and recognition of their fundamental rights from the UN system.

The Special Rapporteur's mandate is:

- To gather information and communications from all relevant sources – including governments and indigenous peoples, communities and organisations – on violations of the human rights and fundamental freedoms of indigenous peoples.
- To formulate recommendations and proposals on measures and activities to prevent and remedy violations of the basic human rights and fundamental freedoms of indigenous peoples.

- To work in close contact with other special rapporteurs, special representatives, working groups and independent experts of the Commission on Human Rights and the Sub-Commission on the Promotion and Protection of Human Rights.

The work of the Special Rapporteur includes missions to gather information and communication with governments on allegations of violations of the human rights of indigenous peoples.

In his first report, presented to the Commission on Human Rights in April 2002, Dr. Stavenhagen introduced a general overview of the main human rights issues facing indigenous peoples and set out a work agenda for his future activities.

This first report of the Special Rapporteur⁸ can be found on the web site of the Office of the High Commissioner for Human Rights: <http://www.unhchr.ch/indigenous/rapporteur.htm>

The Rapporteur will present his second report to the Commission on Human Rights in April 2003.

WORLD CONFERENCES

Since the early 1990s, the UN has organised a series of world conferences or summits.

Among the objectives of these conferences are:

- To mobilise national and local governments and non-governmental organisations (NGOs) around action on serious global issues.
- To serve as an international forum in which proposals can be discussed with the aim of establishing a consensus between nations on issues of particular relevance to the international community.
- To establish processes in which governments can make concrete commitments to solving the problems raised.
- To establish international standards and guidelines for national policies.

The participation and contribution of civil society, in debates both on the official and unofficial processes of these conferences, has turned these events into real “global fora” that have played a key role in guiding the work of the United Nations.

Indigenous peoples have participated actively in these international events and have made substantial progress in terms of recognition of their rights.

The United Nations Conference on Environment and Development held in Rio de Janeiro (Brazil) in 1992 represented an extremely important step forward for indigenous peoples in their relationship with the United Nations. Here, the international community recognised that indigenous peoples and their communities play a crucial role in environmental management and development. In

addition, the need to recognise, promote and strengthen the role of indigenous peoples and their communities in national and international activities aimed at ecologically sound and sustainable development was highlighted.

A large number of the legal instruments approved by this conference recognise the fundamental role of indigenous peoples in the management and use of the environment. Chapter 26 of the programme of action adopted by the Conference (Agenda 21) was devoted to indigenous peoples.

Another result of this world conference was the signing of the Convention on Biological Diversity, which includes provisions specifically concerning indigenous peoples.

On the basis of this conference, subsequent high-level conferences, such as on Population and Development in 1994, Social Development in 1995, the Fourth World Conference on Women in 1995 and the United Nations Conference on Human Settlements (Habitat II) in 1996 have all formulated recommendations on indigenous peoples.

Indigenous peoples held a parallel meeting in which hundreds of indigenous representatives participated and in which they adopted their own declaration on the environment and development, known as the Kari-Oka Declaration.

The World Conference on Human Rights held in Vienna in 1993 was attended by a large number of indigenous representatives with very important results. The Conference recognised the responsibility of all member States of the United Nations to respect the

human rights and fundamental freedoms of indigenous peoples. Among the recommendations from this Conference to the General Assembly were the proclamation of the Dec-

ade for indigenous peoples and the establishment of a Permanent Forum for indigenous peoples.

THE INTERNATIONAL YEAR AND DECADE OF THE WORLD'S INDIGENOUS PEOPLE

In December 1992, the General Assembly proclaimed 1993 as the "International Year of the World's Indigenous People". At the end of that same year, the General Assembly, on the recommendation of the World Conference on Human Rights, proclaimed the "International Decade of the World's Indigenous People" (1995-2004) and decided that the theme of the Decade would be "Indigenous People: partnership in action".

The aim of the Decade is to strengthen international cooperation as regards solving the problems faced by indigenous peoples in terms of human rights, the environment, development, health, culture and education.

The programme of activities approved by the General Assembly to achieve the Decade's concrete objectives includes the approval of the draft Declaration on the Rights of Indigenous Peoples and the establishment of a Permanent Forum on Indigenous Issues within the UN system.

In July 2000, when ECOSOC established the Permanent Forum, the United Nations took an historic step on behalf of the international community in terms of recognising indigenous peoples, thus fulfilling one of the objectives of the Decade. Unfortunately, the

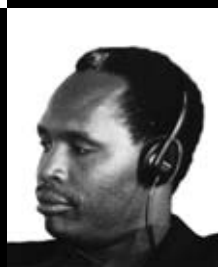
other main objective, that of adopting a Universal Declaration on the Rights of Indigenous Peoples, still seems very far from becoming a reality, and there is little hope that, in the short period of time remaining before the end of the Decade, indigenous peoples will be able to have an instrument as important as a Universal Declaration protecting and promoting their fundamental rights, so vital to their survival and their future.

Notes

- 1 Now called the Sub-Commission on the Promotion and Protection of Human Rights, which is the main subsidiary organ of the Commission on Human Rights. It is made up of 26 individual experts appointed by their respective governments. It is a non-governmental advisory body.
- 2 United Nations document: E/CN.4/Sub2/1986/7
- 3 This declaration is included in United Nations document E/CN.4/Sub.2/476/Add.5, Annex 4 (1981).
- 4 UN Document: E/CN.4/sub.2/1999/21
UN Document: E/CN.4/sub.2/1999/21
- 5 Published in 1993
- 6 UN Document: E/CN.4/sub.2/2001/21
- 7 Resolution of the Commission on Human Rights 1995/32, 3 March 1995
- 8 E/CN.4/2002/97 and E/CN.4/2002/97 Add1



CHAPTER V



THE PROCESS OF ESTABLISHING A PERMANENT FORUM

Discussions on the establishment of a Permanent Forum on Indigenous Issues within the UN system lasted almost a decade, the process being – at times – an excessively formal one, tedious for some, long and difficult for others. But there is no question that, over the course of these ten years of discussions, what originally seemed no more than a Utopia gradually turned into reality.

The idea of a Permanent Forum to consider issues specific to indigenous peoples within the United Nations system is closely linked to the development of an international indigenous movement and to the progressive impact indigenous peoples have achieved within the Human Rights bodies of the United Nations over the last three decades.

The establishment of a body such as the Permanent Forum on Indigenous Issues represents an historic milestone in the indigenous struggle of the last few decades in terms of gaining a position within the international community and being able to draw attention to their problems and demands with regard to issues that are of direct concern to their future and their survival as peoples.

"The UN didn't recognise us. Our issues didn't even appear on their agenda. We didn't exist. We knocked on the door of the UN in 1977 and they scarcely moved. For many years, it seemed as if very little was happening. But now, when we look back, we can see how far we have come."



Chief Oren Lyons
Haudenosaunee Confederation

THE IDEA OF A PERMANENT FORUM

Although the idea of establishing a new body focussing on indigenous people's issues within the UN system can be found in various indigenous and UN documents, it was not until the Vienna World Conference on Human Rights in 1993 that this possibility was officially considered within the UN agenda.

The Declaration and Programme of Action of this World Conference on Human Rights recommended that the General Assembly should consider the establishment of a Permanent Forum. That same year, when the General Assembly adopted the programme of activities for the International Decade of

the World's Indigenous People (1995-2004), it identified the establishment of a Permanent Forum and the adoption of a Declaration on the Rights of Indigenous Peoples as the two main objectives of the Decade.

From then on, the issue of establishing a Permanent Forum on Indigenous Issues within the UN began to receive official consideration and thus began a long process of discussion and negotiation between governments and representatives of indigenous organisations to define the nature and specify the powers of this possible new UN body.

THE DISCUSSION PROCESS

In 1995 and 1997, the first expert seminars were organised, the first in Copenhagen, Denmark and the second in Santiago de Chile.

The first seminar on the possible establishment of a Permanent Forum for Indigenous

Peoples took place in Copenhagen in June 1995, under the auspices of the Danish government and the autonomous government of Greenland.

THE FIRST SEMINAR

This initial seminar provided the first ever opportunity for official dialogue between indigenous representatives and governments on the possibility of establishing a new body within the UN system specifically focussing on indigenous issues. In addition, the participants discussed the main issues relating to establishment of this new body such as its mandate, structure, participation, etc.

In general terms, the majority of participants were agreed that the possible Forum should have a wide mandate and equal membership between government and indigenous representatives, but the only real consensus that was reached at this seminar was concerning the need to evaluate existing UN mechanisms, procedures and programmes on indigenous peoples to see how far they could be effectively used before continuing to discuss the establishment of a Forum.

STATEMENT OF MISSION FOR THE PERMANENT FORUM

Presented by indigenous participants at the First Seminar on the possible establishment of a Permanent Forum for Indigenous Peoples

The Permanent Forum should:

- Be able to make clear decisions and intervene effectively on an urgent basis on behalf of indigenous peoples throughout the world;
- Be involved in and coordinate action for the resolution of conflicts affecting the indigenous peoples in any way;
- Oversee the implementation and monitor the effectiveness of international and regional instruments and programmes affecting indigenous peoples;
- Monitor and advise on the implementation and effectiveness of actions of the United Nation's bodies and Member States in relation to indigenous peoples;
- Provide indigenous peoples with a high-level and public forum to participate in decisions and consider a wide range of matters affecting indigenous peoples in areas of development, environment, culture, education, economics, social, intellectual property, trade with particular emphasis on traditional and innovative systems;
- Eliminate racism and discrimination against indigenous peoples;
- Promote and advance world acceptance and understanding of all peoples.

THE SECOND SEMINAR

The second seminar was held in June 1997, in Santiago de Chile. This second seminar was very significant, as it helped considerably in defining the nature of the Forum more clearly and in broadening the consensus on the main issues, such as the need for this

new body to be placed at a high level within the UN structure, preferably reporting to the Economic and Social Council (ECOSOC), the need for it to have a wide mandate, equal membership between governments and indigenous peoples and an open participation procedure.

This seminar also identified some of the specific roles that the Forum could play, such as:

- Contributing to conflict resolution,
- Coordinating UN activities on indigenous peoples,
- Undertaking impact evaluations of activities and policies related to indigenous peoples,
- Disseminating information on the situation and needs of indigenous peoples.

These proposals, which had previously been considered very sceptically by a large number of governments, were now accepted by the vast majority in Chile.

The seminar recommended that the Commission on Human Rights should refer the issue of the establishment of a Permanent Forum to ECOSOC for consideration and for its establishment as soon as possible.

THE REVIEW OF THE EXISTING MECHANISMS, PROCEDURES AND PROGRAMMES WITHIN THE UNITED NATIONS CONCERNING INDIGENOUS PEOPLES ¹

Following the recommendations of the first seminar that was held in Copenhagen, the General Assembly requested the Secretary-General to produce a review of the existing mechanisms, procedures and programmes within the United Nations concerning indigenous people”

This report, produced by the Secretary-General and presented to the General Assembly in 1996, was decisive in terms of continuing the official UN discussions on the possible establishment of a Permanent Forum and gave a great boost to the debate at a time when the idea was only supported by a limited number of governments.

The conclusions of this study indicated that, in spite of the growing interest in and concern for indigenous issues among the different organisations and departments of the UN, particularly the Human Rights bodies, it was clear that there were many weaknesses and inconsistencies within the UN system with regard to indigenous issues.

Of these weaknesses, the Secretary-General noted that:

- There were no internationally accepted guidelines on indigenous rights.
- There were no permanent mechanisms guaranteeing a regular exchange of information between the concerned and interested parties (governments/ UN agencies and indigenous peoples), in spite of the fact that UN agencies were increasingly implementing and planning programmes and projects for indigenous peoples.
- There were no adequate mechanisms within the UN system that made the effective participation of indigenous peoples possible in the work of the UN.

The Secretary-General’s report clearly highlighted the current lack of appropriate mechanisms for the effective participation of indigenous peoples within the United Nations system and the need to establish an integrative and coordinating mechanism for indigenous peoples within the UN.

THE INDIGENOUS CONFERENCES

The indigenous organisations who were actively involved in the official discussion process initiated their own parallel regional processes for information, discussion and strategic development around the establishment of the Permanent Forum. Five international indigenous conferences were held in Temuco (Chile), Kuna Yala (Panama), Indore (India), Arusha (Tanzania) and Chiang Mai (Thailand). The indigenous declarations resulting from these conferences, and the Arctic Indigenous Peoples' Declaration on the establishment of a Permanent

Forum, had a decisive impact on the way the official debates and meetings progressed, and were included as official documentation of the UN meetings and as annexes to some of the UN official reports.²

The indigenous conferences formulated and developed the main issues in terms of what indigenous people felt should be the characteristics of this new body, achieving a significant impact in this regard and interacting constructively with the extremely formal UN process.

THE COMMISSION ON HUMAN RIGHTS AND THE "AD HOC" WORKING GROUP

In 1998, on the basis of the recommendations of the seminars organised in Copenhagen and Santiago de Chile, the Commission on Human Rights adopted a resolution³ that paved the way for a new stage in the process of establishing the Permanent Forum. This resolution decided to establish an Ad Hoc Working Group to formulate and consider proposals for the possible establishment of a Permanent Forum.

The Ad Hoc Working Group met for the first time in 1999, and the most significant progress made at this session was that it consolidated the idea of establishing a Permanent Forum and made headway in terms

of discussions around basic issues such as its mandate, level and composition.

In 1999, based on the results of this first session of the Ad Hoc Working Group, the Commission on Human Rights decided to renew the Group's mandate so that it could conclude its work and present concrete proposals to the Commission regarding establishment of this new body. This second and last meeting of the Ad Hoc Working Group was held in February 2000, and managed to achieve a long-awaited consensus around issues fundamental to the establishment of the Permanent Forum for Indigenous Peoples.

THE ESTABLISHMENT OF THE UN PERMANENT FORUM ON INDIGENOUS ISSUES

On the basis of the agreements reached at the 2nd meeting of the Ad Hoc Working Group, the Danish government sponsored a resolution on the establishment of the Permanent Forum on Indigenous Issues at the 56th session of the UN Commission on Human Rights. On 27 April 2001, the

Commission decided to adopt a resolution⁴ in which it recommended to ECOSOC the establishment of a Permanent Forum on Indigenous Issues.

In July 2000, the UN Economic and Social Council considered the resolution of the UN

Commission on Human Rights and adopted, by general consensus, the establishment of a Permanent Forum on Indigenous Issues – an unprecedented event in the international community. Finally, the General Assembly endorsed ECOSOC's decision at its Millennium Session in December 2000, and the Permanent Forum on Indigenous Issues became officially established within the United Nations system.

However, before being able to hold its first session, issues of vital importance to indigenous peoples still had to be decided, such as the process for nominating its members and the financing of this new body. These two issues were to be the main focus of indigenous peoples' attention during 2001.

In the process that resulted in the establishment of the Permanent Forum there were often opposing viewpoints that seemed impossible to reconcile. Very often the cleavage was between indigenous peoples and some

governments on one side and on the other side governments that wanted to limit the scope of the Permanent Forum mandate on the other. But there were also diverging viewpoints within the indigenous group, the indigenous caucus. Some of these divergences related to the strategy to be followed, others to the problem of creating legitimacy or representativity between indigenous communities and the indigenous representation in the Permanent Forum. Such problems were transferred to the process ahead.

Notes

- 1 UN/GA Doc: A/51/493 of October 1996.
- 2 The declarations of these indigenous conferences are published in IWGIA document 91, *The Permanent Forum for Indigenous Peoples – The Struggle for a New Partnership*.
- 3 Resolution of the Commission on Human Rights 1998/20 of 9 April 1998.
- 4 Resolution of the Commission on Human Rights 2000/87 of 28 April 2000.



ESTABLISHING THE PERMANENT FORUM

CHAPTER VI



The challenge to ensure adequate implementation of the ECOSOC resolution and to enable the recently established Permanent Forum to hold its first session did not end with the official establishment of the Permanent Forum.

The two most important challenges facing the indigenous organisations following the establishment of the Permanent Forum were:

- To ensure indigenous control over the nomination of the eight indigenous experts;
- To achieve allocation of the necessary financial resources from the UN system to enable the creation of a Secretariat for the Permanent Forum, staffed by qualified indigenous people.



THE NOMINATION PROCEDURE

Throughout the whole discussion process leading up to establishment of the Permanent Forum, and even more so after its official establishment, one of the main demands of the indigenous organisations was that they should have control over the process for nominating the eight indigenous “experts”. Although the resolution refers to the nominations being made on the basis of broad consultation between the President of ECOSOC and the indigenous organisations, it specifies no criteria by which to define what is meant by “broad consultation”.

For this reason, the indigenous organisations placed great emphasis on the fact that the best, indeed only, way of ensuring “broad consultation with indigenous organisations”, as established in the resolution, would be by holding regional consultation processes, organised by the indigenous peoples themselves, in order to identify the most appropriate indigenous candidates.

During 2001, the indigenous organisations held various meetings with the Vice-President of ECOSOC and the High Commissioner for Human Rights, Mary Robinson, in which they stated that unless the indigenous peoples had the possibility of recommending their own candidates, through the widest possible regional indigenous consultations, there would be a risk that some governments would attempt to control or influence the nomination process for indigenous candidates. This would quite clearly be without the participation or consent of indigenous peoples and would be contrary to the spirit in which the Permanent Forum was established.

In spite of a lack of official funding to support this process of regional indigenous consultation, those organisations that had been most active in the process of establishing the Permanent Forum set up regional committees to organise regional consultations for the nomination of indigenous candidates.

Regional consultations for the nomination of candidates from Asia, Central America, South America, Russia, the Pacific and the Arctic were held during the second half of 2001.

The organisational processes to achieve these consultations were frequently long and, in some cases, controversial, but they undoubtedly represented the first major effort of the indigenous organisations to achieve a consensus around nominating their own “experts” and thus guaranteeing the necessary legitimacy of the eight indigenous members of the Permanent Forum. This was, of course, only the beginning and these processes will need to be improved and perfected on future occasions, but the whole experience established an extremely constructive precedent in the search for appropriate procedures by which to choose the indigenous “experts”.

In addition to the candidates nominated by the regional consultations, the office of the High Commissioner received approximately fifteen further individual nominations for candidates from a number of indigenous organisations.

THE DECISIONS TAKEN BY ECOSOC TO ENABLE THE FIRST SESSION OF THE PERMANENT FORUM TO TAKE PLACE

The ECOSOC meeting, held in Geneva in July 2001, once more considered the issue of the Permanent Forum on Indigenous Issues and took decisions on some of the points outstanding so that the first session of the Permanent Forum could be held:

- The first session of the Forum would take place in the UN headquarters in New York from 13 to 24 May 2002.
- The regional distribution of experts nominated by the governments would correspond to the five regional groups operating within the UN system, a system of rotation being established between the regions for the three remaining places.
- The choice of the 8 indigenous experts would be announced by the President of ECOSOC no later than 15 December 2001.
- ECOSOC requested that, when considering the 2002-2003 budget, the General Assembly should allocate financial resources that would ensure the good running of the Permanent Forum, such as to reflect its broad mandate.

The ECOSOC meeting took place at the same time as the 19th Session of the Working Group on Indigenous Populations and so the indigenous caucus, meeting in Geneva, decided to ask ECOSOC if they could make an intervention on the agenda point devoted to the Permanent Forum. This request was accepted by ECOSOC and, on behalf of the indigenous caucus, two indigenous representatives spoke to the plenary session. They once more highlighted how important it was that the nomination process for the indigenous experts should take into account the recommendations of the indigenous regional consultations and that the Permanent Forum should have its own secretariat and the necessary financial resources to fulfil its mandate. They also spoke for a continuation of the Working Group on Indigenous Populations.

THE OFFICIAL NOMINATION OF THE 16 MEMBERS OF THE PERMANENT FORUM

Finally, at the end of December 2001, the President of ECOSOC made known the names of the members of the Permanent Forum,

eight of them nominated by the member governments of ECOSOC and eight indigenous experts nominated by the President himself.

The experts nominated by the Governments

- Ms. Qin Xiaomei from China¹
- Mr. Marcos Matias Alonso from Mexico
- Ms. Otilia Lux Garcia de Coti from Guatemala
- Mr. Wayne Lord from Canada
- Ms. Ida Nicolaisen from Denmark

- Mr. Yuri A. Boitchenko from the Russian Federation
- Ms. Njuma Ekundanayo from the Democratic Republic of Congo
- Mr. Yuji Iwasawa from Japan

The indigenous experts nominated by the President of ECOSOC

- Mr. Antonio Jacanamijoy from Colombia
- Mr. Ayitegau Kouevi from Togo
- Mr. Willie Littlechild from Canada
- Mr. Ole Henrik Magga from Norway
- Ms. Zinaida Strogalschikova from the Russian Federation
- Mr. Parshuram Tamang from Nepal
- Ms. Mililani Trask from Hawaii (United States of America)
- Mr. Fortunato Turpo Choquehuanca from Peru

The President of ECOSOC did not appoint all the candidates nominated by the indigenous regional consultations but, of the eight indigenous experts appointed, it is significant that six were nominations made by the regional consultations. This is, in fact, significant recognition on the part of ECOSOC of indigenous peoples' internal processes, and a great achievement in the process of recognising the indigenous peoples' right to identify the indigenous expert members of the Permanent Forum through their own consultation processes.

THE FIRST SESSION OF THE PERMANENT FORUM

The first session of the Permanent Forum on Indigenous Issues took place at the UN headquarters in New York from 13 to 24 May 2002.

More than 600 people participated in this historic event, including more than 300 indigenous representatives, State delegations, UN bodies and agencies.

At its first session, the expert members of the Permanent Forum chose Ole Henrik Magga (a Saami from Norway) to be President for the first year. Four Vice-Presidents were also

elected: Antonio Jacanamijoy (Colombia), Njuma Ekundanayo (Democratic Republic of Congo), Parshuram Tamang (Nepal) and Mililani Trask (USA). Willie Littlechild (Canada) was elected as the Permanent Forum's rapporteur.

There were two main issues on the agenda of this first session:

- The general declarations of observers
- A review of the activities of the UN system,



Under the agenda point “General Declarations”, the Permanent Forum heard State and indigenous delegates speak on a wide variety of issues. Some of the declarations from indigenous representatives were of a general nature, presenting a wide range of issues relating to the difficulties and discrimination faced by indigenous communities and peoples, whilst others made specific recommendations to the members of the Permanent Forum.

The discussions on a review of the activities of the UN system focused on the following issues: economic and social development, environment, health, education and culture, and human rights.

A large number of UN specialised agencies and other bodies were invited by the President of the Permanent Forum to present their work and programmes in relation to indigenous peoples. There were interventions, among others, from the World Bank, UNDP, ILO, UN-Habitat, UNEP and the Secretariat of the Convention on Biological Diversity, the UN Population Fund, UNICEF, WHO, UNESCO and OHCHR. These interventions were followed by a brief “dialogue” of questions and answers between the members of the Permanent Forum and the representatives of the UN agencies and bodies, which gave rise to a constructive dialogue on how to strengthen the UN agencies’ programmes in relation to indigenous peoples.

One of the issues that was repeatedly raised by indigenous representatives and members of the Permanent Forum was the need for the Forum to have its own Secretariat, adequately financed out of the regular budget of the United Nations. This secretariat, according to the interventions made, should be directly linked to the ECOSOC Secretariat and not to the Office of the High Commissioner for Human Rights. The main argu-



*Mr. Ole Henrik Magga, president of the Permanent Forum
- May 2002*

ment given for this was that the Permanent Forum has a mandate to deal with issues not only related to human rights but also economic and social development, the environment, health, education and culture. The majority of indigenous interventions indicated a desire to see a Secretariat made up of a team of indigenous professionals.

The lack of financial resources for the Forum, both for activities and for the running of its own secretariat, made it quite difficult for this first session to draw up a real plan of work. Until then, the only budget granted by the UN to the Forum was that which was strictly necessary for holding the first and second sessions.

Priority issues identified by the Permanent Forum at its first session

The following are some of the priority issues that can be found in the meeting’s report:

- The need for an adequately constituted and financed Secretariat, linked directly to the ECOSOC Secretariat.
- The need to gather information within the UN system in order to promote coordination of its work on issues directly affecting indigenous peoples.

- The need for strengthened communication with other UN bodies.
- The gathering of information on indigenous organisations. In this regard, the reports of the Permanent Forum recommend that a UN publication be produced every three years on the status of the world's indigenous peoples.
- The need for indigenous children's and young people's issues to be a central issue, separate and permanent, in the agenda and work plan of the Permanent Forum.

Indigenous rights in the areas of, among others, health, intellectual property, human rights and genetic resources also received special consideration from the Permanent Forum. Access to education systems and language learning were also the object of special consideration, along with conservation of the environments upon which indigenous peoples' lives depend.

The Forum also urged the countries to ratify a number of international instruments such

as International Labour Organisation (ILO) Convention 169 and encouraged the states to adopt the UN Draft Declaration on the Rights of Indigenous Peoples before the end of the Decade.

With regard to the location and date of its next session, the Forum recommended that ECOSOC decide to hold it once more at the UN headquarters in New York during the period April-May 2003.

After two weeks of deliberations, the first session of the Permanent Forum came to an end with a declaration from the UN Secretary-General. In his speech, Mr. Annan began by welcoming the indigenous peoples into "the family of the United Nations" and said to all indigenous peoples of the world, "You have a home in the United Nations". The indigenous peoples, he said, have hopes, rights and aspirations that could and must be addressed by the Organisation, as well as knowledge and skills that could help the international community in its goals of development and peace.

THE AFTERMATH

The efforts of the indigenous peoples, and particularly the members of the Permanent Forum, to ensure that this new body will, like other UN bodies, have its own secretariat with which to implement its mandate adequately, have borne fruit. In December 2002, the General Assembly took a decision to request that the Secretary-General establish a secretariat within the Department of Economic and Social Affairs (DESA) to assist the Permanent Forum in fulfilling its mandate and financing the implementation of recommendations made by the Forum through the Economic and Social Council.

With this decision, the United Nations system has taken another decisive step towards enabling the Forum to fulfil the role it has been given, enabling it to develop its working procedures and thus begin to implement its wide mandate.

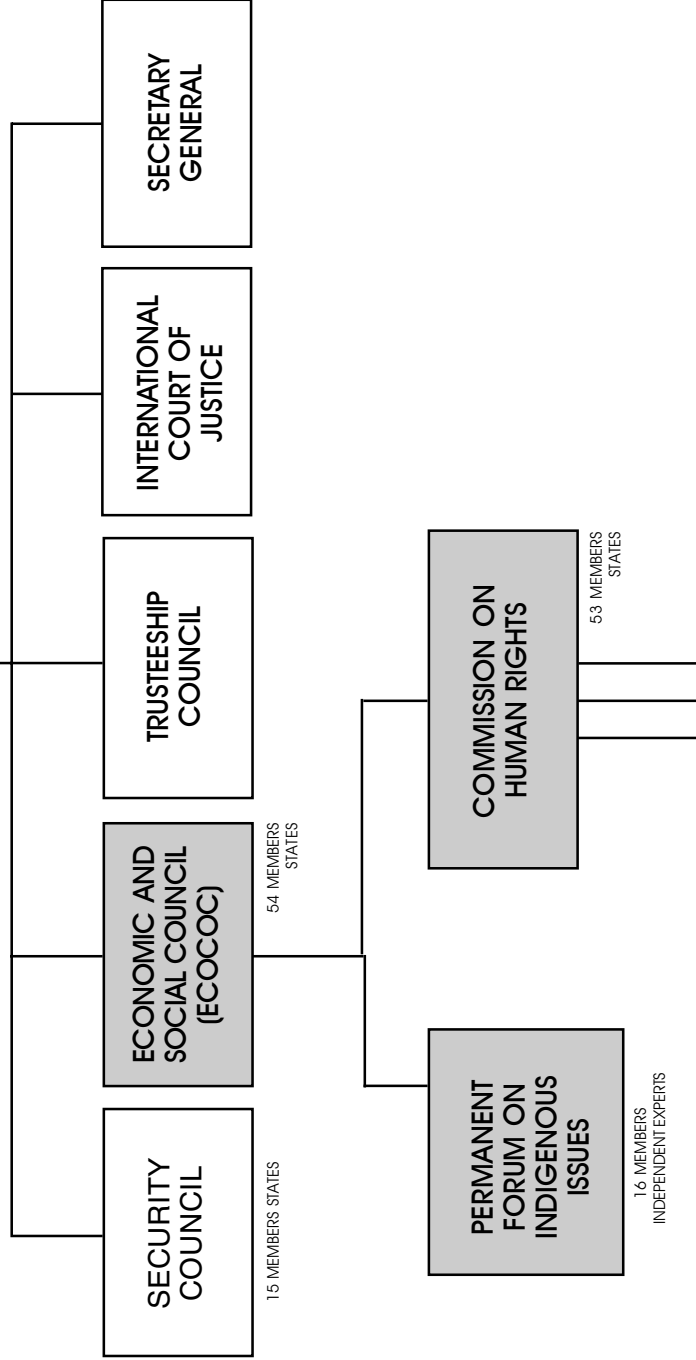
Note

- 1 As of December 2001, there was one remaining expert to be nominated, from the Asia regional group. In October 2002, ECOSOC confirmed the nomination of Qin Xiaomei from China as member of the Permanent Forum.

SUGGESTIONS FOR PLACING THE PERMANENT FORUM IN THE UN SYSTEM

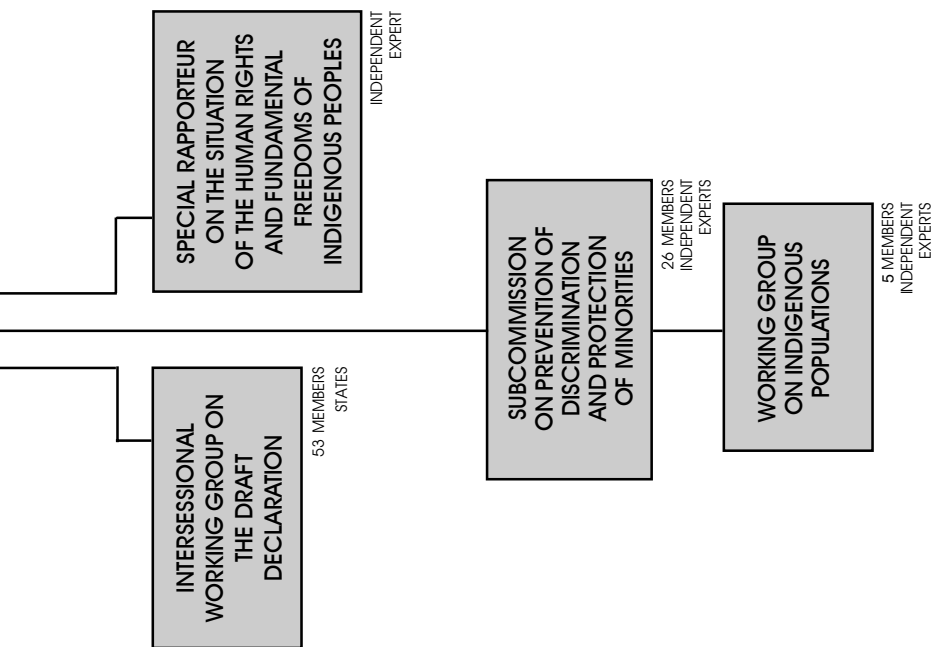
191 MEMBER STATES (2002)

GENERAL
ASSEMBLY



INTERGOVERNMENTAL LEVEL

EXPERTS LEVEL





CHAPTER VII



On 28 July 2000, the Economic and Social Council (ECOSOC) of the United Nations took an historic decision when it adopted a resolution to establish a “Permanent Forum on Indigenous Issues”.

This decision marked a fundamental milestone in the indigenous struggle of the past decades to gain a position within the international community. The new body is unique in several ways, perhaps most importantly in its parity composition. For the first time in the history of indigenous peoples, they will be on an equal footing with members nominated by the States in a permanent UN body.

THE NAME

The name Forum came into use as a generic name to identify a possible new body within the United Nations system that could consider all issues related to indigenous peoples.

Over the course of the seven years of discussions, the name “Forum” has come to be considered the most appropriate, given its meaning of an assembly in which all participants can meet to discuss issues of mutual interest. This term also encapsulates the indigenous request that this possible new body should be of an open nature, one in which all indigenous organisations, communities or nations who wished to do so could participate.

Another reason for using this generic name was because it left the issue of its position within the United Nations system and its role open. It is important to bear in mind that the usual names of United Nations bodies, such as committees, commissions, working groups etc., are often defined in relation to their position and mandate.

Over the course of the seven years of discussions on establishment of the Permanent Forum, the term “Forum” gradually gained strength and was finally accepted by all as an appropriate name, in line with the unique nature of this new body.

The name Permanent signifies that it is not a temporary body, set up to fulfil its mandate within an established period of time. Some bodies and mechanisms of the United Nations are established to play a particular role within a certain, limited, period of time and they depend upon their superior body to renew their mandate (or not) once the period for which they were established has come to an end.

The debate on whether to include the term “indigenous peoples” in the name of the new body was one of the most heated, taking place during the final discussions held on establishment of the Permanent Forum.

Over the course of the last three decades, indigenous peoples have defended their right to be recognised as “peoples” at all international fora, and have repeatedly argued against the use of such expressions as “populations” or “people”. These expressions limit their rights as a distinct group and, as such, their legitimate right to self-determination as recognised in the United Nations Charter and the International Human Rights covenants. For this reason, indigenous peoples were unanimous in defending the inclusion of the expression “indigenous peoples” in the name of this new body, whatever its final name was to be.

For their part, the governments decided on an ambiguous name without any connotations of a legal nature, the “Permanent Forum on Indigenous Issues”, a term which is also used by the Commission on Human Rights for the agenda point in which it considers issues related to indigenous peoples. The governments thus avoided entering into a discussion on the interpretation of the concept of “peoples” and their consequent right to self-determination.

For the representatives of the indigenous organisations, the failure to include the expression “indigenous peoples” was one of the battles lost during the process to establish the Forum.

Some of the governments who resolutely supported the establishment of the Permanent Forum argued that the inclusion of the

word “peoples” in the name would have been opposed by a large majority of government delegations, thus impeding the establishment of the Forum on the part of the Commission on Human Rights and ECOSOC. In any case, it is important to remember that failure to include this term in the Permanent Forum’s name will not prevent the indig-

enous representatives from continuing their struggle for recognition of the term “peoples” as a symbol of their rights. Governments also argued that since the Permanent Forum should not only focus upon indigenous peoples as such but deal with the relationships between indigenous peoples and governments “issues” was a convenient term.

THE PERMANENT FORUM WITHIN THE UNITED NATIONS

The Permanent Forum is a subsidiary organ of the Economic and Social Council. As was explained in the first chapter of this handbook, the Economic and Social Council is the main United Nations organ supervising and coordinating the UN’s economic and social activities. It deals with promoting standards of living, full employment and economic and social progress; identifying solutions to health, economic and social problems at an international level; facilitating cooperation on a cultural and educational level; and encouraging universal respect for human rights and fundamental freedoms.

It coordinates the work of the 9 functional commissions and 5 regional commissions of the United Nations, plus its 14 special-

ized agencies and 11 Funds and Programmes. In addition, it issues policy recommendations for the United Nations and member States. The scope of the Economic and Social Council covers more than 70% of the human and financial resources of the whole United Nations system.

The problems with which indigenous peoples are currently confronted relate to all aspects of the work of the United Nations, and so the Permanent Forum, as a subsidiary organ of ECOSOC, is placed at a sufficiently high level within the United Nations organisational chart to give it the possibility of having a maximum impact on all work undertaken by the organisation and its associated bodies, and of being able to fulfil its broad mandate.

MANDATE AND FUNCTIONS

The mandate of the Permanent Forum is to examine indigenous issues within the context of ECOSOC’s mandate in terms of economic and social development, culture, the environment, education, health and human rights.

This mandate offers the Permanent Forum an opportunity to undertake concrete actions, ensuring that the work of the United Nations system as a whole benefits the world’s indigenous peoples.

Both through its placement within the system and its broad mandate, this new body has the possibility of being a visible and politically influential platform that will give indigenous peoples the possibility of establishing direct dialogue with the member States and organisations of the United Nations system, and of sharing specialist knowledge and issues of interest in order to improve the standard of living of the world's indigenous peoples.

The three main functions ECOSOC has entrusted to it are the following:

- To provide specialist advice and to make recommendations on indigenous issues to the Council, and to the programmes, funds and bodies of the United Nations, through ECOSOC.
- To publicise activities related to indigenous issues and promote their integration and coordination within the United Nations system.
- To prepare and disseminate information on indigenous issues. The Forum must inform indigenous peoples of its activities and facilitate information, experience and other resources of the United Nations system to indigenous peoples.

The main objective of the Permanent Forum is thus to influence and watch over the interests of indigenous peoples throughout the whole United Nations system. For this reason, the Permanent Forum will need to promote the practical implementation of indigenous rights and encourage the organisation's programmes to improve the quality of support they provide to the benefit of

indigenous peoples. In addition, it will need to ensure that indigenous peoples receive the necessary information enabling them to have a more direct impact on the United Nations programmes and to participate in the design and benefits of those projects being implemented by the UN that affect them directly.

For this reason, it is extremely important to bear in mind that the Forum's mandate is of an operational nature. Its creation responds to the need to move from a framework of discussion on the content and interpretation of indigenous rights to a context of more practical operation, such as the use of the United Nations resources in improving the living conditions of the world's indigenous peoples.

The Forum's operational nature is particularly important if you consider that a large proportion of the funding for the United Nations' operational programmes is directed at regions in which indigenous peoples live. A great number of these projects and programmes directly affect indigenous peoples and, in many cases, have unfortunately had, and continue to have, a negative impact on indigenous peoples' lives. In the words of Ted Moses (Grand Chief of the Grand Council of the Crees), the Permanent Forum has the task of making the United Nations "work" for the world's indigenous peoples.

The Forum will also need to raise the awareness of the United Nations system around the specific issues and problems of indigenous peoples, and act as a focal point within the UN system to promote and strengthen indigenous peoples' participation in those international issues that affect them directly.

As part of its wide mandate, the Forum must inform indigenous peoples around the world of its activities and facilitate information on resources the UN system could offer indigenous peoples to improve their quality of life.

Of the many activities already included in the Permanent Forum's work programme during its first session are:

- To improve coordination between the UN bodies and specialized agencies and indigenous peoples.
- To improve the participation of indigenous peoples in the processes of planning and implementation of programmes, along with the implementation of projects affecting indigenous peoples on the part of UN bodies.
- To strengthen the system for evaluating projects implemented by the UN system in order to ensure that indigenous peoples are respected and benefited in these projects.
- To develop plans, policies and programmes to ensure indigenous participation.
- To invite the UN specialized agencies and programmes to present reports on their activities in relation to indigenous peoples.

- To invite indigenous peoples, governments and experts in the field to give their points of view and possible recommendations in terms of contributing to respect for indigenous rights and promoting the development and improvement of indigenous peoples' living conditions.

One of the greatest differences between the Permanent Forum's mandate and that of the Human Rights bodies is that it is able to have a direct impact on international organisations working on social and economic issues, which are largely the ones that have a direct impact on the life and well-being of the world's indigenous peoples.

For this reason, it is particularly important to note that the debate on and consideration of the human rights of indigenous peoples, along with information and complaints of any violations of their fundamental rights, must continue to be considered by the Commission on Human Rights and its subsidiary organs: indigenous organisations will therefore need to continue using the human rights mechanisms to promote the recognition and protection of their fundamental rights.

COMPOSITION OF THE PERMANENT FORUM

The Permanent Forum is made up of 16 experts acting in an individual capacity as independent experts on indigenous issues.

The fact that the Permanent Forum is composed of experts and not representatives is a circumstance that has given rise to great controversy.

The reason for the Forum's composition becomes clear once you realise that there are only two criteria that exist for membership of a United Nations body.

1. That of being a member representing a member State.

2. That of being a member as an individual expert acting on the basis of their professional qualifications.

The first criterion for membership – a member representing a member State – is that used in the governmental bodies, such as, for example, ECOSOC and its Functional Commissions (the Commission on Human Rights, Commission on Sustainable Development, etc).

The individuals representing States in governmental bodies are not formally participating as themselves, only on behalf of the State to which they belong. State representatives act in their status as diplomats, and represent and defend the interests of the State. In this they receive instructions from the State they represent and these guide their actions as members of the relevant body.

The second criterion is that which is used in the expert bodies, such as the Human Rights Committee¹, the Committee on the Elimination of Racial Discrimination, etc.

These bodies are made up of individuals acting in their own personal capacity as experts. The member experts of the UN bodies must have proven experience in dealing with the issues considered by the body in question. They act in an individual capacity and do not receive instructions from States. Their professional qualifications are their only guide in their actions as members of these bodies, which means that their action is independent.

In this respect, it is important to recall that the United Nations is an association of sovereign States and the indigenous peoples/organisations/nations that live within those States are not members of the United Nations. To acknowledge that indigenous members should have the status of representa-

tive of a body of a governmental nature within the United Nations at the same level as representatives of the member States would imply UN recognition of the State sovereignty of indigenous peoples' organisations.

For this reason, the only possible option within the UN structure that could be used for the composition of the Permanent Forum was its establishment as an expert body, in which all its members, regardless of whether they were appointed by governments or through indigenous consultations, would hold their position on the basis of their professional experience and qualifications in this area. For this reason, and as independent experts, none of the members of the Permanent Forum receive instructions as to how to act, either from the States or from a particular indigenous organisation/People/Nation.²

All members of the Permanent Forum are experts with proven experience of indigenous issues and they must serve the international community according to their personal professional qualities. Each and every member has an obligation to defend and promote the world's indigenous peoples as a whole within the UN system.

The issue of representativity or independence of the Forum's members, and particularly those eight members nominated through consultations with indigenous organisations, was the object of long and controversial discussions throughout the negotiation process to establish the Permanent Forum. Two of the concerns raised by the indigenous organisations in relation to the Permanent Forum members' status of individual expert were:

- The responsibility towards the indigenous peoples and their institutions of those indigenous members appointed

through consultation with indigenous organisations.

- The authority and significance of a UN body whose members are chosen according to their individual abilities.

With regard to the issue of responsibility, one indigenous demand related to the representativity of the indigenous members. It has previously been explained why it was not possible to put indigenous peoples' representativity on a level with that of the States within the UN system. But, in addition, there is another important aspect to bear in mind, which is the limited number of indigenous experts – eight – that make up the Permanent Forum. This limited number of members in itself makes the formal representation of each and every one of the world's indigenous peoples and organisations impossible.

These difficulties of representation are also applicable to the members nominated by the

States, as the eight experts nominated by the governments also do not represent the diversity of interests of all the States.

In any case, and although the indigenous experts do not formally represent all of the world's indigenous peoples, they have an ethical and moral obligation to do their best to represent the interests and needs of the world's indigenous peoples as a whole.

With regard to the authority and significance of the Permanent Forum within the UN system, it is important to bear in mind that its status as an expert body does not mean that its effectiveness and impact will be compromised. There are many examples of other UN bodies, such as for example, the Human Rights Committee, the Committee on the Elimination of Racial Discrimination, etc. that widely demonstrate the authority and impact of expert bodies.

APPOINTMENT OF THE MEMBERS

The Permanent Forum has a parity composition. Of its sixteen experts, eight are chosen by governments and eight are indigenous experts appointed by the President of ECOSOC. In this, the President must enter into broad consultations with indigenous peoples with the aim of receiving nominations for candidates.

When we talk of the nomination process for candidates to a UN body such as the Permanent Forum, we must remember the great challenge this type of process represents for indigenous organisations and communities. This is due primarily to the fact that the indigenous organisations and communities do not have the international organisational

structures, formal procedures or financial resources that the States in the inter-governmental bodies have with which to nominate their candidates.

For this reason, the issue of who should be chosen as the eight indigenous experts and who should choose them was one of the greatest challenges for indigenous peoples in terms of establishing the Permanent Forum.

One of the fundamental demands of indigenous peoples was their participation on an equal footing with the governments in the Permanent Forum and thus their right to nominate the eight indigenous members. For this, the appointment of the eight indigenous

experts would have to take place with the direct participation of the indigenous organisations, this participation being the only way of guaranteeing the legitimacy of the indigenous experts and, indeed, the parity composition of the Permanent Forum.

The resolution picks up on this demand of indigenous peoples and refers specifically to the fact that the appointments for the eight indigenous experts must be made on the basis of broad consultations on the part of the President of ECOSOC with the indigenous organisations. Unfortunately, the resolution specifies no kind of criteria by which to define what is understood by "broad consultations" with indigenous organisations.

Since the establishment of the Permanent Forum in July 2000, the representatives of the indigenous organisations have repeatedly stated that the most appropriate procedure to ensure broad consultation, taking into account the principles of transparency, representativity and equality of opportunities for all indigenous peoples expressed in the resolution, would be to hold broad regional consultations organised by the indigenous organisations themselves.

These regional consultations would be the best way of guaranteeing the legitimacy of the indigenous experts and would ensure the true parity composition of this new body. On the other hand, if the indigenous peoples had no possibility of organising their own consultation processes for proposing the candidates they considered to be most appropriate, there would be a risk that many governments and agents external to indigenous peoples would propose or appoint the indigenous representatives. This would not only delegitimise the composition of the Permanent Forum itself but would also be contrary to the spirit in which the Permanent Forum was established.

Another particularly important aspect noted by the representatives of the indigenous peoples was that these regional processes would be the only way of ensuring that the Permanent Forum could be closely linked to the indigenous organisations and communities. Without this link, the Forum would run the risk of becoming just another structure, isolated from the indigenous reality.

As described in the previous chapters, which give an overview of the historic process that led to the creation of the Permanent Forum, the Forum was established through a unique process in which, for the first time, the indigenous organisations themselves, alongside the official UN discussion process, established procedures for indigenous information and discussion at regional level.³

During 2001, the indigenous organisations once again established regional consultation processes with the aim of sharing criteria and making proposals for candidates for the first appointments of the eight indigenous experts.

In spite of the difficulty of organising these processes, the majority of regions made great efforts to be able to hold regional consultations and out of these came different candidates whose nominations were sent to the President of ECOSOC for his consideration. It is important to note that six of the eight experts appointed by the President in December 2001 were nominations made during the indigenous regional consultations. This is, in fact, very important recognition on the part of the United Nations of the internal processes of indigenous peoples and a great achievement in the process of recognising the right of indigenous peoples to identify the indigenous expert members of the Permanent Forum through their own consultation processes.

THE GEOGRAPHICAL REGIONS

The resolution establishes that the geographic distribution of the world's indigenous peoples must be taken into account, along with transparency, representativity and equality of opportunities for all indigenous peoples.

Governments

The regional distribution of the 8 members appointed by the governments is based on the 5 regional groups operating within the UN system, by means of one member for each of the following groups:

- Group of Asian countries
- Group of African countries
- Group of countries of the Western block: USA, Australia, Canada, New Zealand and Europe
- Group of countries of the Eastern block: Countries in the former USSR, and Eastern European countries
- Group of countries of Latin America and the Caribbean

In addition, a rotation process will be established between the groups for the three remaining seats.

For the first period of the Permanent Forum, the governments decided that the additional rotational seats should go to the regional

groups of Latin America and the Caribbean, the Western Group and Asia, which would each have two members.

Indigenous peoples

According to the proposals of the indigenous organisations themselves for indigenous experts, the regional distribution of the eight indigenous experts will be based on 7 geo-cultural regions:

- Asia
- Africa
- The Arctic
- Central and South America and the Caribbean
- North America
- The Pacific
- Former USSR and Eastern Europe

The one remaining place will rotate between three large regions: Asia, Africa and Central/South America and the Caribbean. The additional rotating place would, for this first period of work of the Permanent Forum, go to Central/South America and the Caribbean.

According to the indigenous organisations, these seven regions reflect the geo-cultural distribution of the world's indigenous peoples in the most appropriate way.

THE 16 MEMBERS OF THE PERMANENT FORUM ON INDIGENOUS ISSUES

In December 2001, the President of ECOSOC published the list of 16 experts appointed as members of the Permanent Forum. The 16

members have been appointed for a period of three years (2002-2004) with the possibility of re-election or re-appointment.

The experts appointed by the governments were:

- Ms. Otilia Lux Garcia de Coti (Guatemala)
- Mr. Marcos Matias Alonso (Mexico)
- Mr. Wayne Lord (Canada)
- Ms. Ida Nicolaisen (Denmark)
- Mr. Yuri A. Boitchenko (Russian Federation)
- Ms. Njuma Ekundanayo (Democratic Republic of Congo)
- Mr. Yuji Iwasawa (Japan)
- Ms. Qin Xiaomei (China)⁴

The indigenous experts appointed by the President of ECOSOC were:

- Mr. Antonio Jacanamijoy (Colombia),
- Mr. Ayitegau Kouevi (Togo),
- Mr. Willie Littlechild (Canada),
- Mr. Ole Henrik Magga (Norway),
- Ms. Zinaida Strogalschikova (Russian Federation)
- Mr. Parshuram Tamang (Nepal),
- Ms. Mililani Trask (Pacific – Hawaii)
- Mr. Fortunato Turpo Choquehuanca (Peru).

At the first session of the Permanent Forum, its members elected Ole Henrik Magga (indigenous Saami expert, nominated by the Arctic indigenous peoples) as President for one year. The President will be the Permanent Forum's official representative between annual meetings.

PARTICIPATION

One of the fundamental demands of indigenous peoples in relation to establishing the Permanent Forum was the principle of full participation on the part of indigenous organisations and communities in the Permanent Forum's debates. To ensure this principle of full participation, the Forum will need to apply the same open model of participation as used in the Working Group on Indigenous Populations, thus offering maximum opportunity to indigenous peoples to contribute to the deliberations and work of the Permanent Forum.

The specific resolution clearly specifies this principle of open participation when it states that, "...States, United Nations bodies and organs, intergovernmental organizations and non-governmental organizations in consultative status with the Council may participate as observers; organizations of indigenous

people may equally participate as observers in accordance with the procedures which have been applied in the Working Group on Indigenous Populations of the Subcommission on the Promotion and Protection of Human Rights".

The Working Group on Indigenous Populations was pioneering in institutionalizing a new model of open participation, recognising the right of indigenous peoples' organisations to participate in the debates, regardless of whether the indigenous organisations held consultative status with ECOSOC or not.⁵

The model of open participation established by the resolution is thus a great achievement, if you consider the level at which the Permanent Forum is placed within the UN structure. There is no doubt that this achievement

is the result of the struggle that indigenous representatives have maintained over the last thirty years to achieve recognition of their right to participate as key players in the UN debates on issues that directly affect them.⁶ The model of open participation thus recog-

nises the right of indigenous peoples to participate as the legitimate representatives of the indigenous organisations and peoples and not only as NGOs.

WORKING PROCEDURES

The Permanent Forum determines its own working methods on the basis of work regulations established for the subsidiary organs of the Council. The resolution indicates that decisions will be taken on the principle of consensus.

Over the last few years, a large number of UN bodies have been trying, as far as possible, to avoid moving to voting procedures as they prefer to take decisions on the ba-

sis of a consensus between all their members.

Whilst indigenous peoples supported the fact that the Forum should be governed by the principle of consensus, they felt it should not exclude the right of members to vote should this be necessary. The reason was their fear that, on occasions, the principle of consensus could be used as a power of veto by some members.

LOCATION OF MEETINGS

The Permanent Forum meets once per year for ten working days.

The resolution notes that the Permanent Forum can meet at the UN headquarters in New York, the UN office at Geneva or any place that the Forum may consider appropriate.

ECOSOC itself and some of its subsidiary organs alternate their meetings between the New York and Geneva offices. The resolution also notes the possibility of holding the Forum's meetings in other places that members may consider appropriate. This is largely in response to a proposal from the indig-

enous organisations during the discussions to establish the Permanent Forum to consider holding meetings in other countries in which indigenous peoples live, in order to bring its work closer to the reality of the world's indigenous peoples.

The first session of the Permanent Forum took place in the UN headquarters in New York (USA) in May 2002. In the report of this session, the Permanent Forum recommended that its second session should again be held at the UN offices in New York.

THE SECRETARIAT OF THE PERMANENT FORUM

As we saw in the previous chapter, the establishment of a Secretariat to provide technical and administrative services to the Permanent Forum so that it can implement its programme of activities has been one of the main demands of indigenous peoples over the last few years.

Indigenous peoples argued time and again that, like other UN bodies, the Permanent Forum should have its own Secretariat and adequate funding to be able to carry out its

work. They upheld that, as a subsidiary organ of ECOSOC, the Secretariat should be located within ECOSOC's Department of Economic and Social Affairs. In addition, the staff of this Secretariat should be professionals with proven experience in indigenous issues and, preferably, indigenous professionals.

In its first report, the Permanent Forum itself recommended that ECOSOC should urgently establish a Secretariat for the Forum.

DRAFT DECISION I

ESTABLISHMENT OF THE SECRETARIAT OF THE PERMANENT FORUM ON INDIGENOUS ISSUES

The Economic and Social Council decides that the secretariat of the Permanent Forum on Indigenous Issues shall be established as a matter of urgency and that, given the broad mandate of the Forum, the secretariat shall be located in New York and shall be attached to the secretariat of the Council. The secretariat will be designated as the secretariat of the Permanent Forum on Indigenous Issues, and will comprise five Professional and two administrative staff, with due consideration being given to qualified indigenous persons. The secretariat will assist the members of the Forum in fulfilling its mandate by imple-

menting the approved programme of activities, including the organization of meetings; undertaking research projects and preparing the annual report to the Council; raising awareness and promoting the integration and coordination of activities relating to indigenous issues within the United Nations system; and preparing and disseminating information on indigenous issues. Those activities are to be funded from the regular budget.

** Report from the 1st session of the UN Permanent Forum on Indigenous Issues. E/CN.19/2002/3/Rev.1*

Following the recommendations made by the Permanent Forum to ECOSOC, in December 2002, the General Assembly decided to ask the Secretary-General to establish a Secretariat within the Department of Economic

and Social Affairs (DESA) to assist the Permanent Forum on Indigenous Issues and with the aim of enabling this body to carry out its mandate.

The General Assembly also asked the Secretary-General to establish a Voluntary Fund for the Forum with the aim of funding implementation of the recommendations made by the Forum through the Economic and Social Council.

Following the recommendations of the General Assembly, the Vice Secretary-General of the United Nations for Economic and Social Affairs finally established, in February 2003, the Secretariat of the Permanent Forum on Indigenous Issues as a dependent office within the Division for Social Policy and Development of DESA.

It is the Secretariat's job to provide technical and administrative assistance to the Permanent Forum on Indigenous Issues in order to enable it to implement its mandate.

In addition, the Secretariat will administer the Voluntary Fund for the Permanent Forum and will coordinate the activities of the work programme of the Permanent Forum.

The Secretariat is in the process of establishing its offices and communication networks and already has a web site. It will be responsible for organising the second session of the Permanent Forum, to be held in New York from 12 to 23 May.

With the Secretary-General's establishment of the Permanent Forum's own Secretariat, the United Nations has re-affirmed its commitment to indigenous peoples and to the Permanent Forum and has taken a hugely important step towards ensuring that this new body enjoys the conditions necessary to fulfil its role within the system.

FINANCING THE PERMANENT FORUM

The Permanent Forum will be financed from resources available from the regular budget of the United Nations and its specialized agencies. In December 2002, the

General Assembly established a fund for voluntary contributions for the Permanent Forum, which will be administered by the Secretariat.

RELATIONS TO OTHER UN BODIES

In the resolution that established the Permanent Forum, it is noted that, five years after its creation, ECOSOC – in the light of experience gained – should carry out an evaluation of the way the Permanent Forum is working, including the method for selecting its members.

In addition, the resolution also notes that, after the Permanent Forum has been established and has held its first period of annual sessions, ECOSOC should examine all

the mechanisms, procedures and programmes existing within the United Nations in relation to indigenous issues, including the Working Group on Indigenous Populations, with the aim of rationalising activities, avoiding duplication and juxtaposition, and promoting efficiency.

It is important to note that this paragraph of the resolution refers to one of the most controversial issues, and one which is still pending a decision, that is, the relationship and

coordination of activities between the Permanent Forum and the Working Group on Indigenous Populations.

What implications does establishment of the Permanent Forum have for the future of the Working Group on Indigenous Populations?

The mandate of the Permanent Forum clearly reflects that its establishment does not have the aim of replacing the Working Group on Indigenous Populations, nor any of the bodies that currently consider the human rights of indigenous peoples.

The Working Group on Indigenous Populations has been and continues to be the only UN body with the specific mandate of formulating international standards on the rights of indigenous peoples. Moreover, it is a particularly important institutional space through which indigenous peoples can have access to human rights-related bodies, and where indigenous peoples can inform the international community of violations of their rights, and it is the only one devoted specifically to protecting and promoting those rights.

The mandate of the Permanent Forum on Indigenous Issues is very different: it is to advise the Economic and Social Council, and other UN programmes and agencies linked to it, on aspects related to economic and social development, culture, the environment, education, health and human rights. In addition, the Forum will be responsible for encouraging awareness raising and promoting the integration and coordination of activities related to indigenous issues within the United Nations, along with formulating and disseminating information on such issues.

Both bodies are clearly different in terms of mandate, their place within the UN system,

composition and ways of working. They will both need to carry out their activities in a complementary and mutually supportive way, with the aim of promoting the interests of indigenous peoples and strengthening their participation in the achievement of the UN's aims: to maintain peace, promote and protect human rights and sustainable development.

In spite of this, some governments have insisted that the Working Group will have no reason for existing once the Permanent Forum has been established. They base their argument on a duplication of roles and the need to rationalise the use of the UN's financial resources. For their part, indigenous representatives have defended the fact that establishment of the Permanent Forum should not and does not signify a threat or alternative to any of the existing bodies dealing with the rights of indigenous peoples, and particularly not to the Working Group on Indigenous Populations.

It is important to note that, in the United Nations system, there are many examples of bodies that consider the same thematic issue in different ways. For example, on the issue of women, the UN has a number of different bodies focussing specifically on this issue, such as the Commission on the Status of Women, the Committee on the Convention for Elimination of all Forms of Discrimination against Women and UNIFEM (the United Nations Development Fund for Women).

Notes

- 1 The Human Rights Committee is a quasi-judicial body that has a mandate to supervise the States' fulfilment of the International Covenant on Civil and Political Rights. It is also the tribunal that judges demands according to the Optional Protocol. It is made up of members acting in their own personal capacity.

- 2 During the negotiation process for establishment of the Permanent Forum, some States proposed that the Forum should be an inter-governmental body, made up solely of government delegations. These delegations would be formed of one government representative and one indigenous. Delegation members would be nominated by the State they represent. This option was categorically rejected by the indigenous peoples, given that this model would impede the independence of the indigenous representatives. Both their nomination and their actions would depend largely on the instructions of the States they were representing.
- 3 For more detailed information on the indigenous regional conferences held and the indigenous declarations of these conferences, please see the IWGIA document *The Permanent Forum for Indigenous Peoples: The Struggle for a New Partnership*, Copenhagen 1999. The text of this book can also be viewed on IWGIA's web site: <http://www.iwgia.org>
- 4 In December, ECOSOC postponed nomination of one of the experts, from the Asia Regional group. In October 2002, ECOSOC appointed Qin Xiaomei from China, who had been proposed by the group of Asian governments, as member of the Permanent Forum.
- 5 Non-governmental organisations can be acknowledged as maintaining a relationship with the United Nations and carrying out a task of

common interest by obtaining consultative status granted by the Economic and Social Council (ECOSOC). This status is based on article 71 of the United Nations Charter and ECOSOC resolution 1996/31. The rights and privileges outlined in detail in this resolution authorise such organisations to contribute to the work programmes and objectives of the United Nations, acting in the capacity of technical experts, advisors and consultants to governments and the Secretariat. Non-governmental organisations with consultative status can attend meetings, make oral interventions and written declarations on issues included on the ECOSOC agenda and in the various subsidiary bodies.

For more information, please see: <http://www.un.org/sc/ong/oncosoc.htm#7>

- 6 Recognition on the part of the UN system of the right of indigenous peoples to participate in discussions on issues directly related to their fundamental rights is also reflected in the special participation procedure established by the Commission on Human Rights, to ensure that indigenous organisations without consultative status with ECOSOC could participate in the debates of the Inter-Sessional Working Group of the Commission established to consider the draft Declaration on the Rights of Indigenous Peoples.







PRACTICAL PRACTICAL ISSUES

CHAPTER VIII



This chapter attempts to answer some of the questions most frequently asked by indigenous organisations interested in participating in the sessions of the Permanent Forum and understanding in more detail how the meetings of this body take place.

The information is based on the rules of procedure and organisation of work that were applied to the first meeting of the Permanent Forum, held in New York from 13 to 24 May 2002.

WHEN AND WHERE

The 16 members of the Permanent Forum on Indigenous Issues officially meet once a year for two weeks (10 working days).

The first meeting took place in the United Nations headquarters in New York, and this is where it is also planned to hold the second meeting, from 12 to 23 May 2003.

As a subsidiary organ of ECOSOC, the Permanent Forum on Indigenous Issues organises its work according to the Rules of Procedure established for Subsidiary Organs of ECOSOC.

THE ORGANISERS

The Permanent Forum has its own Secretariat, established by the Secretary-General following recommendation from the General Assembly.

This Secretariat has its offices in the UN headquarters in New York and is situated within the UN Department of Economic and Social Affairs.

The Secretariat is responsible for providing technical and administrative services to the Permanent Forum and is thus in charge of organising its sessions.

Secretariat of the Permanent Forum on Indigenous Issues

Department of Economic and Social Affairs

DC2-1772

United Nations Headquarters

New York, NY 10017, USA

Tel: + 1 917 367 5100

Fax: + 1 212 963 3062

Email:

indigenousspermanentforum@un.org

Web site: <http://www.un.org/esa/socdev/pfii/>

MEMBERS AND OBSERVERS

All those attending the sessions of the Permanent Forum participate as observers, with the exception of the 16 members.

Members: These are the 16 appointed experts. They are the only ones who have a right to take the relevant decisions, by means of a consensus or a vote.

Observers: This means all participants in the annual meetings of the Permanent Forum who are not members of the Permanent

Forum, such as representatives of governments, UN agencies and bodies, indigenous organisations or communities, non-governmental organisations (NGOs) and professionals and representatives of specialist organisations.

All observers, without distinction, can present oral or written interventions on all agenda points. In their interventions, observers can provide information, comments, proposals, etc. to be considered by the Forum's members.

The rules of procedure established for the participation of observers are the same as those applying to the Working Group on Indigenous Populations.

Participation will be open and the following can attend Permanent Forum sessions:

- Representatives of government delegations;
- Representatives of UN agencies and bodies;
- Representatives of indigenous organisations, peoples and communities;
- Representatives of non-governmental organisations (NGOs) with or without consultative status with ECOSOC;
- Representatives of specialist organisations, experts or other interested people.

REGISTRATION

All participants have to register to be able to attend the Forum's meetings. Registration and accreditation of participants is the responsibility of the Secretariat of the Permanent Forum.

The Secretariat has prepared a registration form. All people and organisations interested in participating will need to fill out this form and send it to the Secretariat at least one month prior to the start of the Permanent Forum's session.

The registration form can be obtained from the Permanent Forum's web site or by sending your request directly to the Secretariat by post or fax. Once you have returned your registration form, the Secretariat will ac-

knowledge its receipt and confirm in writing that you have been registered to attend the meeting.

This confirmation letter from the Secretariat is very important for all those requiring visas to enter the country where the meeting is being held. This document, together with an official identity document (passport) will also be necessary in order to register officially on arrival at the meeting and obtain the official pass. This official pass, including personal details and a photo of the participant, is a security requirement for entry into all UN offices.

STATEMENTS

Organisations that have consultative status with ECOSOC will also be able to send written statements. These statements will be available to all the meeting's participants.

There are a number of conditions that need to be borne in mind by those interested in sending in written statements.

- They must be written in one of the six official languages of the United Nations (Spanish, English, Chinese, Russian, Arabic or French);
- They must be sent in sufficient time for them to be considered and then translated prior to their distribution. This should normally be a minimum of three months in advance;

- The statement must be no more than 2,000 words long.

For any further information regarding participation in the meetings of the Permanent

Forum, or sending in written statements, you should contact the Secretariat.

MEETING PROCEDURES

According to normal procedure, the meetings are opened by an official representative from the United Nations system. Being a subsidiary organ of ECOSOC, the normal procedure is that the President/Vice-President of that body should give an inaugural speech and announce the meeting officially open.

The official UN representative makes an inaugural speech in which she/he presents some issues of particular relevance that are to be considered during the session. It is also normal procedure to invite other relevant figures from within the UN system to present an opening speech, for example, a representative of the Secretary-General.

THE BUREAU

The Bureau is the governing body of the meeting. It comprises the president of the Permanent Forum, a rapporteur and a number of vice-presidents, to be decided by the members of the Forum themselves.

After the opening speech, and once the session has been officially inaugurated by the relevant people, the President/Vice-President of ECOSOC (or their representative) will invite the members of the Permanent Forum to give their nominations for the members of the Bureau.

The role of the President during the meeting is to chair the debates throughout the whole

period of sessions, rule on any disagreement regarding working procedures and coordinate with the Secretariat with regard to all practical details relating to the meeting's proceedings.

The role of the Rapporteur is to assist the President in the control and supervision of the report that will be drawn up by the Secretariat during the meeting.

The vice-presidents and rapporteur can also chair the meeting in the absence of the President. The President and/or rapporteur (in his absence) will be responsible for presenting the report to ECOSOC.

The normal procedure is that the members come to an agreement on the composition of the Bureau prior to the official opening of the meeting, in order to avoid wasting valuable time on issues of formal procedure.

A representative from the Secretariat of the Permanent Forum will sit alongside the President as Secretary, assisting the President on issues of procedure and documentation.

The members of the Bureau are elected for one year, with the possibility of re-election. The elected President will also be the Permanent Forum's official representative between sessions.

At its first session, the Permanent Forum on Indigenous Issues elected a President, a Rapporteur and four Vice-Presidents

President: Mr. Ole Henrik Magga (Norway)

Rapporteur: Mr. Willie Littlechild (Canada)

Vice-Presidents:

Ms. Njuma Ekundanayo (Democratic Republic of Congo)

Mr. Parshuram Tamang (Nepal)

Mr. Antonio Jacanamijoy (Colombia)

Ms. Mililani Trask (Hawaii, USA)

The composition of the Permanent Forum's committee has to reflect the parity composition of this body (equal numbers of govern-

ment-nominated experts and indigenous experts) and both groups must be represented on it.

THE AGENDA

After the official opening and the election of the Bureau, the ECOSOC representative will invite the newly elected President and Rapporteur to approach the podium and take the chair.

Normally, the president elect gives a speech in which she/he indicates some of the fundamental issues and priorities to be considered during the session.

The President's speech is then followed by adoption of the work agenda.

The agenda is defined according to the Permanent Forum's mandate and the issues proposed by the members of the Forum, along with urgent issues they have identified as important for consideration at that session. The proposed agenda, along with the documentation necessary for each agenda point, is available to all participants at the start of the meeting.

The work agenda can include various private meetings among the Permanent Forum members during the period of sessions. The aim of these private meetings is to discuss the progress of the meeting and prepare decisions and recommendations to be included in the report. In order, for example, to promote the dialogue between the Forum and the observers, the Forum can also declare some of the meetings as informal without minutes being taken.

Following the formal procedures only members of the Permanent Forum can make proposals or changes to the work agenda. However, during the first session of the Permanent Forum, some indigenous interventions recommended that the Permanent Forum should allow indigenous organisations to send informal proposals in relation to the work agenda prior to the opening session.

MEETING LANGUAGES

All official sessions of the Permanent Forum have simultaneous interpretation into the six official languages of the United Nations, that is, English, Spanish, French, Russian, Arabic and Chinese.

All oral interventions, either from members of the Permanent Forum or from observers participating in the meeting, can be made in any of the six official languages and will, in turn, be interpreted into the other five languages.

For operational reasons and, in practical terms, due to the impossibility of making all official work documents prepared during the meeting available to the participants in all six languages, the UN bodies operate primarily around two working languages during their sessions.

In the case of the Permanent Forum, the languages during the work sessions are English and Spanish. All official documents prepared during the meeting will be available in these two languages at least 24 hours prior to their discussion. All written proposals and information addressed to the President during the session must be in one of these two working languages.

In relation to the issue of working languages, the representatives of indigenous peoples have, on numerous occasions, insisted that the Secretariat should, wherever possible, consider translating some of the most important documents into French and Russian, in order to facilitate the participation and contribution of indigenous organisations speaking these languages as opposed to English or Spanish.

PRESENTATION OF INTERVENTIONS

During the Permanent Forum sessions, all members of the Permanent Forum and observers (representatives of indigenous organisations, government delegations, UN agencies and bodies, NGOs etc.) can make oral interventions in order to express their points of view and recommendations on agenda points.

Members of the Permanent Forum may speak at any time and as often as they wish on any agenda point, and they have priority over observers.

Those observers interested in presenting an intervention will need to register on a list prepared by the Secretariat for each agenda

point. The Secretariat's representative will inform all participants of where they can register to present interventions. The Secretariat will draw up a registration list for interventions, which will remain open until the start of the debate on that specific point.

Observers will be called upon by the President to present their intervention and will do so in the order in which the speakers were registered. The person responsible for the list of interventions will inform the speaker as to when she/he can expect to be called to speak. It is important to bear in mind that this information is only approximate, as it is very possible that the intervention may be earlier or later than this, depending on the

course of the debate. It is therefore very important that participants registered on the list of speakers should pay attention to the progress of the interventions and the order of speakers, in order to ensure that they are in the hall when called upon by the President to present their speech.

Should they be absent when called upon to speak and if the list of interventions for this agenda point has already closed, they will lose the chance of making their speech.

Depending on the number of speakers registered, the President will decide how many minutes are available for each speaker to present their intervention. This normally varies between a maximum of 5 to 10 minutes. If there is not enough time, the President may reduce the number of minutes available for observers' interventions.

PREPARING AN INTERVENTION

It is recommended that those participants who have requested to speak should have their speech prepared in advance and should ensure that it is in line with the allotted time. If the speaker fails to respect the number of minutes given and the intervention exceeds the permitted time, the President can interrupt the intervention and ask the speaker to stop.

It is particularly important that indigenous representatives presenting interventions during the sessions of the Permanent Forum bear in mind the mandate and role of the Permanent Forum.

Interventions should take into account the fact that the Permanent Forum was not established to substitute any of the other subsidiary organs or mechanisms of the Commission on Human Rights, such as the Working Group on Indigenous Populations, or the Working Group of the Commission on Human Rights on the Draft Declaration on the Rights of Indigenous Peoples or the Special Rapporteur.

The Permanent Forum is a subsidiary organ of ECOSOC, which coordinates all the economic and social programmes of the United Nations system. The Forum was created to discuss the use of United Nations resources in improving the living conditions of indigenous peoples. For this reason, the participants must bear in mind that debates on the content and legal interpretation of indigenous rights, along with specific complaints of human rights violations on the part of States, must continue to be considered by the subsidiary organs and mechanisms established by the Commission on Human Rights with this mandate and not by this Permanent Forum.

Interventions must therefore be in line with the mandate of the Permanent Forum and the specific issues on the agenda.

In their interventions, representatives of the indigenous organisations will have the opportunity of providing information, giving their points of view and making recommendations as to how to promote and improve

the work of the United Nations. In this respect, it is particularly important that indigenous organisations' interventions provide concrete information and proposals to the Permanent Forum in order to:

- Improve the coordination of the UN specialized agencies and bodies in relation to indigenous peoples;
- Advise the specialized agencies and other bodies within the UN system on formulation of policies and work programmes;
- Promote the participation of indigenous peoples in the planning and implementation of UN projects affecting indigenous communities;
- Evaluate UN projects to ensure that they respect indigenous rights and benefit indigenous peoples;
- Increase indigenous participation in the work of the United Nations in general.

OTHER ACTIVITIES

Over the course of the two weeks of Permanent Forum sessions, a number of parallel events are held such as, for example, seminars, round tables, presentations etc. These events normally take place during the two-hour lunch break (1pm to 3pm) or following the afternoon sessions. These events are normally organised by the UN agencies, indigenous organisations and NGOs in order to discuss and share points of view, or take a deeper look at specific issues of particular relevance to indigenous peoples in relation to the activities of the Permanent Forum. The parallel events also offer the participants and panellists an opportunity to network and establish contacts with other indigenous organisations, and official or unofficial institutions that have an interest in that particular issue or area of work.

During the first session of the Permanent Forum, various UN agencies and bodies, such as the Office of the High Commissioner for Human Rights, the International Labour Organisation, Habitat, UNDP etc., organised round tables at which they shared information and discussed their work programmes with indigenous organisations and interested NGOs.

THE INDIGENOUS CAUCUS

As has been the norm over the last 20 years in other international meetings in which indigenous peoples participate, the indigenous organisations hold their own meetings during the Permanent Forum meetings, in what is known as the "indigenous caucus". This indigenous caucus is a strictly indigenous assembly, in which all representatives from indigenous organisations who are participating in the official meeting can take part.

The indigenous caucus normally holds a preparatory meeting, which takes place during the week-end prior to the start of the official session. Subsequently, over the two weeks of official sessions of the Permanent Forum, the indigenous caucus continues to meet regularly.

Some of the objectives of these meetings are:

- to share information of interest to indigenous organisations participating in the sessions of the Permanent Forum;
- to discuss and reach an agreement on indigenous strategies;

- to formulate joint declarations from the indigenous caucus on issues considered of particular importance.

As the only forum where a significant and concerned number of indigenous peoples are present, the indigenous caucus has always played an important role for indigenous peoples to discuss issues, strate-

gies and to reach common understandings. Whenever unanimous decisions have been taken by the indigenous caucus it is being listened to by governments. This is in spite of the fact that the indigenous caucus has no official status neither within the UN system nor within the indigenous world.

THE REPORT OF THE PERMANENT FORUM

During the meetings of the Permanent Forum, the Secretariat is responsible for writing the narrative report of the Permanent Forum sessions, under the supervision of the President and the Rapporteur.

The decisions and recommendations to be included in the report will be discussed and prepared by members of the Permanent Forum in the private meetings held during the period of sessions. In formulating their recommendations, the members take into account recommendations made by observers during the debates on the different agenda points.

Only members of the Permanent Forum have the power to decide on the content and official adoption of the report. In principle, they do not have to consult the observers prior to its official adoption. However, during their first session, the members of the Permanent Forum decided to consult the observers formally and review the content of the report during their last working session.

This consultation procedure offers observers an opportunity to make comments and suggestions on the report prior to its formal adoption by the members of the Permanent Forum and ensures a greater participation of the observers in the content of the report.

THE PERMANENT FORUM AND ECOSOC

The official report of the sessions of the Permanent Forum is presented directly to ECOSOC and contains recommendations for actions by ECOSOC. The recommendations include internal decisions on the organisation and work programme of the Forum, along with requests to other UN agen-

cies and bodies, including ECOSOC, in terms of implementing administrative actions in relation to their policies and work programmes.

The United Nations has recently established strict rules with regard to the length of re-

ports. For this reason, and in order to be more effective, the report is a concise document which, in addition to providing a narrative description of the course of the sessions, contains very specific proposals that are drawn up as provisional decisions for consideration by the higher level organs, such as ECOSOC.

The report is distributed to the relevant organs, funds, programmes and bodies of the United Nations as a way, among other things, of encouraging dialogue on indigenous issues within the United Nations system.

FUNDING TO PARTICIPATE IN PERMANENT FORUM MEETINGS

There are a number of institutions that provide financial assistance for indigenous

organisations to attend the meetings of the Permanent Forum.

UNITED NATIONS VOLUNTARY FUND FOR INDIGENOUS POPULATIONS

Following a decision of the General Assembly, in December 2001, the Voluntary Fund for Indigenous Populations now funds the participation of representatives

from indigenous organisations and communities in meetings on the Permanent Forum on Indigenous Issues.

The Voluntary Fund for Indigenous Populations was established by the General Assembly in 1985 with the aim of funding the participation of indigenous representatives of indigenous communities and organisations in the deliberations of the Working Group on Indigenous Populations. Since 1995, the Fund has also financed the participation of indigenous representatives in the sessions of the Working Group established by the Commission to consider the draft declaration on the rights of indigenous peoples.

The Fund finances the cost of air ticket, accommodation and expenses during their stay in New York for representatives selected from among the requests received by the Fund.

The Voluntary Fund receives voluntary contributions from governments, organisations and public and private bodies.

For more information on the Voluntary Fund for Indigenous Populations and to obtain an application form, please contact:

Voluntary Fund for Indigenous Populations

Ms. Eulàlia Ortadó,
PW 2-041, Office of the High Commissioner for Human Rights
United Nations CH-1211
Geneva 10, Switzerland
Tel. (41-22) 917 9145, 917 9266, 917 9164
Fax (41-22) 917 9017.
Email: eortado-rosich.hchr@unog.ch
Web page: <http://www.unhchr.ch/html/menu2/9/vfindige.htm>

THE HUMAN RIGHTS FUND FOR INDIGENOUS PEOPLES

This Fund was established in 1985 by five European NGOs¹ with the aim of funding the participation of indigenous representatives in the Working Group on Indigenous Populations. Over the course of the last twenty years, the Fund has extended its funding to additionally cover indigenous participation in other UN meetings, such as the Commission on Human Rights, the Working Group on the draft Declaration on the Rights of Indigenous Peoples and the sessions of the Permanent Forum.

The Fund covers the cost of tickets, accommodation and expenses for the chosen indigenous representatives.

The Human Rights Fund coordinates the support granted to indigenous organisations with the aim of ensuring that the greatest number of indigenous representatives participate in the meetings and also to avoid double funding.

The Fund also contributes financially to the costs of interpreting for the indigenous caucus in its parallel meetings.

For more information on the Human Rights Fund for Indigenous Peoples, please contact:

Human Rights Fund for Indigenous Peoples

c/o IWGIA
Classensgade 11E
DK 2100 Copenhagen
Denmark
Tel: (45) 35 27 05 00
Fax (45) 35 27 05 07
Email: lga@iwgia.org

THE WORLD COUNCIL OF CHURCHES

Through its indigenous programme, the World Council of Churches also provides financial support to cover some of the

costs of indigenous participation in the meetings of the Permanent Forum.

For more information, please contact:

World Council of Churches

Eugenio Poma
150 Route de Ferney
P.O. Box 2100
1211 Geneva 2
Switzerland
Email: epa@wcc-coe.org

Note

- 1 The five member organisation of the Human Rights Fund are:
- Anti-Slavery International (ASI) based in the United Kingdom,
 - the International Work Group for Indigenous Affairs (IWGIA) based in Copenhagen, Denmark,

- the Coordinating Group on Indigenous Affairs (KWIA) based in Belgium,
- the Dutch Centre for Indigenous Peoples (NCIV) based in Holland and
- the Society for Threatened Peoples based in Germany.



ANNEX I

ECONOMIC AND SOCIAL COUNCIL RESOLUTION 2000/22

ESTABLISHMENT OF A PERMANENT FORUM ON INDIGENOUS ISSUES

The Economic and Social Council

Recalling the provision contained in the final document of the World Conference on Human Rights, held in Vienna in June 1993, according to which the establishment of a permanent forum for indigenous people within the United Nations system should be considered, A/CONF.157/24, (Part I), chap. III, sect. II.B, para. 32.

Recalling also that consideration of the establishment of a permanent forum is recognized as one of the important objectives of the programme of activities for the International Decade of the World's Indigenous People, General Assembly resolution 50/157, annex.

Noting the two workshops on the subject held under the auspices of the Commission on Human Rights in Copenhagen in 1995 and in Santiago in 1997, see E/CN.4/Sub.2/AC.4/1995/7 and E/CN.4/1998/11 and Add.1-3.

Recalling the report of the Secretary-General entitled "Review of the existing mechanisms, procedures, and programmes within the United Nations concerning indigenous people", A/51/493. and noting in particular the striking absence of a mechanism to ensure coordination and regular exchange of information among interested parties – Governments, the United Nations and indigenous people – on an ongoing basis,

Taking into account the deliberations of the Working Group on a permanent forum for indigenous people, see E/CN.4/1999/83 and E/CN.4/2000/86. Established pursuant to Commission on Human Rights resolutions 1998/20 of 9 April 1998 see Official Records of the Economic and Social Council, 1998, Supplement No. 3 (E/1998/23), chap. II, sect. A. and 1999/52 of 27 April 1999 Ibid., 1999, Supplement No. 3 (E/1999/23), chap. II, sect. A. To consider the estab-

lishment of a permanent forum and to submit concrete proposals to that effect, as well as the consideration given to the subject at the fifty-sixth session of the Commission,

Wishing to finalize this project during the International Decade of the World's Indigenous People as one means of furthering the objectives of the Decade in partnership between Governments and indigenous people,

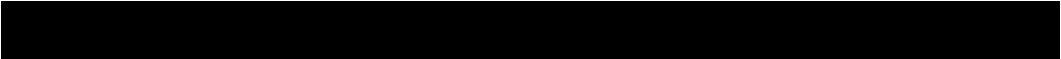
Stressing that the establishment of the permanent forum should lead to careful consideration of the future of the Working Group on Indigenous Populations of the Subcommission on the Promotion and Protection of Human Rights,

Bearing in mind the common resolve to promote peace and prosperity in accordance with the Charter of the United Nations, and recalling the functions and powers of the Council in that respect as contained in the Charter,

1. Decides to establish as a subsidiary organ of the Council a permanent forum on indigenous issues, consisting of sixteen members, eight members to be nominated by Governments and elected by the Council, and eight members to be appointed by the President of the Council following formal consultation with the Bureau and the regional groups through their coordinators, on the basis of broad consultations with indigenous organizations, taking into account the diversity and geographical distribution of the indigenous people of the world as well as the principles of transparency, representativity and equal opportunity for all indigenous people, including internal processes, when appropriate, and local

indigenous consultation processes, with all members serving in their personal capacity as independent experts on indigenous issues for a period of three years with the possibility of re-election or re-appointment for one further period; States, United Nations bodies and organs, intergovernmental organizations and non-governmental organizations in consultative status with the Council may participate as observers; organizations of indigenous people may equally participate as observers in accordance with the procedures which have been applied in the Working Group on Indigenous Populations of the Subcommission on the Promotion and Protection of Human Rights;

2. Also decides that the Permanent Forum on Indigenous Issues shall serve as an advisory body to the Council with a mandate to discuss indigenous issues within the mandate of the Council relating to economic and social development, culture, the environment, education, health and human rights; in so doing the Permanent Forum shall:
 - a) Provide expert advice and recommendations on indigenous issues to the Council, as well as to programmes, funds and agencies of the United Nations, through the Council;
 - b) Raise awareness and promote the integration and coordination of activities relating to indigenous issues within the United Nations system;
 - c) Prepare and disseminate information on indigenous issues;
3. Further decides that the Permanent Forum shall apply the rules of procedure established for subsidiary organs of the



Council as applicable, unless otherwise decided by the Council; the principle of consensus shall govern the work of the Permanent Forum;

4. Decides that the Permanent Forum shall hold an annual session of ten working days at the United Nations Office at Geneva or at United Nations Headquarters or at such other place as the Permanent Forum may decide in accordance with existing financial rules and regulations of the United Nations;
5. Also decides that the Permanent Forum shall submit an annual report to the Council on its activities, including any recommendations for approval; the report shall be distributed to the relevant United Nations organs, funds, programmes and agencies as a means, inter alia, of furthering the dialogue on indigenous issues within the United Nations system;
6. Further decides that the financing of the Permanent Forum shall be provided

from within existing resources through the regular budget of the United Nations and its specialized agencies and through such voluntary contributions as may be donated;

7. Decides that, five years after its establishment, an evaluation of the functioning of the Permanent Forum, including the method for selection of its members, shall be carried out by the Council in the light of the experience gained;
8. Also decides, once the Permanent Forum has been established and has held its first annual session, to review, without prejudging any outcome, all existing mechanisms, procedures and programmes within the United Nations concerning indigenous issues, including the Working Group on Indigenous Populations, with a view to rationalizing activities, avoiding duplication and overlap and promoting effectiveness.

45th plenary meeting
28 July 2000

ANNEX II

JOINT STATEMENT FROM INDIGENOUS PEOPLES' REPRESENTATIVES PRESENT AT THE ECOSOC SUBSTANTIVE SESSION 2000

New York, 27 July 2000

Seven years have passed since the 1993 World Conference on Human Rights in Vienna recommended the establishment of a Permanent Forum for Indigenous Peoples. Within this period the General Assembly twice recommended its creation and several dialogues took place between governments and Indigenous Peoples on the establishment of the permanent forum. On the 28th of April 2000 the Commission on Human Rights in its 56th Session adopted Resolution E/CN.4/RES/2000/87 on the Establishment of a Permanent Forum on Indigenous Issues.

The creation of a Permanent Forum was further supported by more than 130 Governments present at the recently concluded 24th Special Session of the General Assembly entitled "World Summit for Social Development and Beyond: Achieving Social Development for all In a Globalizing World".

21ter. Encourage the ongoing work on a draft declaration on the rights of indigenous people, with the aim of achieving completion prior to the conclusion of the International Decade on the World's Indigenous People in 2004 and support the establishment of a

United Nations permanent forum to discuss indigenous issues within the mandate of the Economic and Social Council relating to economic and social development, culture, the environment, education, health and human rights. (Paragraph 21ter of Final Outcome Document)

Although the Commission Resolution does not fully capture the aspirations of Indigenous Peoples, as it is a compromised document reached between States themselves, we do feel that it does approach the promise of a direct voice for indigenous peoples within the United Nations system. We believe that the adoption of the Resolution reflects the willingness of States to build a new partnership with Indigenous Peoples.

The establishment of a Permanent Forum is a historical and urgent step which can help bring forth peace, justice, and sustainable development amongst all peoples of the world. We, Indigenous Peoples at this ECOSOC Session strongly urge the Members of the ECOSOC to adopt the Commission on Human Rights Resolution E/CN.4/RES/2000/87.

Signed: 27 July 2000, UN Headquarters, New York

- | | |
|--------------------------|---------------------------------------|
| • Lars Anders Baer | - Saami Council |
| • John Henriksen | - Saami Council |
| • Alberto Saldamando | - International Indian Treaty Council |
| • Carol Kalafatic | - International Indian Treaty Council |
| • Tonya Gonella Frichner | - American Indian Law Alliance |
| • Mercedes Pierre | - American Indian Law Alliance |

- Marcial Arias
 - Tarcila Rivera Zea
 - Esther Camac
 - Lucy Mullenkei
 - Naomi Kipuri
 - Oren R. Lyons
 - Darwin Hill
 - Hjalmar Dahl
 - Rodion Sulyandziga
 - Ratnaker Bhengra
 - Suhas Chakma
 - Victoria Tauli-Corpuz
 - Aucan Huilcaman
 - Cecil Le Fleur
 - Wilton Littlechild
- Asociacion Napguana
 - Chirapaq (Centro de Culturas Indígenas del Perú)
 - Asociación Ixacavaa de Desarrollo e Información Indígena
 - African Indigenous Women's Organization
 - Arid Lands Institute
 - Haudenosaunee Confederacy
 - Haudenosaunee Confederacy
 - Inuit Circumpolar Conference
 - RAIPON
(Russian Association of Indigenous Peoples of the North)
 - JOHAR
 - Asian Indigenous and Tribal Peoples' Network
 - TEBTEBBA / Asian Indigenous Women's Network
 - Consejo de Todas las Tierras
 - IPACC
(Indigenous Peoples' of Africa Coordinating Committee)
 - Indigenous Organization for Resource Development
(IORD)

Supported by:

- Jens Dahl
 - Simonetta Baldelli
- International Workgroup for Indigenous Affairs (IWGIA)
 - League for the Rights and Liberation of Peoples

The establishment of the Permanent Forum on Indigenous Issues was of special significance for IWGIA as we have been one of the very few non-indigenous NGOs that, from the very beginning of the negotiation process leading to the establishment of the Forum, expressed their commitment to the establishment of this new UN body.

The Permanent Forum was established during the course of a unique process that relayed the various regional indigenous discussions to the UN meetings in Geneva. Throughout this process, IWGIA supported indigenous people both technically and financially to organise international indigenous gatherings aimed at sharing information and preparing common proposals for consideration in the official UN discussions on establishment of the Forum.

The result of these gatherings was a common indigenous strategy on the establishment of a new UN organ dealing solely with indigenous issues. This indigenous strategy clearly strengthened indigenous positions and views throughout the process and had a clear impact on the negotiation process that took place in the UN meetings, finally leading to the establishment of a Permanent Forum that largely responded to the demands of indigenous peoples.

After the official establishment of the Forum in 2000, IWGIA continued supporting indigenous people to organise indigenous regional consultations aimed at nominating the indigenous experts to the Permanent Forum on Indigenous Issues. These regional processes led to recommendations being made for the eight indigenous expert members of the Permanent Forum. When appointing the eight indigenous expert members of

the Permanent Forum, the ECOSOC President by and large endorsed the legitimacy of a unique tradition, thus incorporating the indigenous regional processes into the UN decision-making system.

One of IWGIA's main priorities with regard to the Forum has been to disseminate information about the Permanent Forum on Indigenous Issues through our publications. In recent years, IWGIA's yearbook *The Indigenous World* has included a report on recent developments on the issue.

Furthermore, in 1998 IWGIA published the book *The Permanent Forum for Indigenous Peoples – the struggle for a new partnership*. In this book IWGIA compiled the most important documents produced in the process of negotiations on the establishment of the Permanent Forum. The book was widely distributed among indigenous peoples and interested parties, and it became one of the most relevant working tools in the official debate that led to the establishment of the Forum. Demand for the book has been so great that it is currently out of print.

Now that the Forum has been established and the first session has been held, IWGIA intends to continue to give special priority to raising awareness and understanding of the new UN Permanent Forum among indigenous peoples. With this in mind, IWGIA has now published this *Handbook on the Permanent Forum on Indigenous Issues*. The aim of this publication is to provide some basic information that will provide indigenous readers with a better understanding of the main characteristics of the new UN Permanent Forum on Indigenous Issues.

The Permanent Forum has been IWGIA's main focus of attention over the past few years and will continue to be so in the years ahead. The UN Permanent Forum on Indigenous Issues faces a challenging time if it is to fulfil its role successfully within the UN

system. The fragile structure of the Forum is still under enormous pressure and it will require great support from all interested parties: governments, indigenous peoples, UN agencies and NGOs.
