

Distr.
RESTRICTED

E/CN.4/AC.47/2000/CRP.6
21 February 2000

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-sixth session

Open-ended inter-sessional ad hoc working group
on a permanent forum for indigenous people
Geneva, 14 - 23 February 2000

Draft report of the working group on its second session

Chairman-Rapporteur: Mr. Petter Wille (Norway)

CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
Introduction		
I. ORGANIZATION OF THE SESSION		
A. Opening and duration of the session		
B. Election of the Chairperson-Rapporteur		
C. Participation		
D. Documentation		
E. Adoption of the agenda		
F. Organization of work		
II. GENERAL DEBATE		
III. PROPOSALS FOR THE POSSIBLE ESTABLISHMENT OF A PERMANENT FORUM FOR INDIGENOUS PEOPLE		
A. Mandate and terms of reference for the activities to be undertaken by the forum		

CONTENTS (continued)

	<u>Paragraphs</u>	<u>Page</u>
B. Membership/Participation		
C. Financial and secretariat implications		
D. The United Nations body to which the proposed forum would report		
E. Location of forum		
F. Name of forum		
G. Other matters		
IV. ADOPTION OF THE REPORT		

Introduction

1. In its resolution 1999/52 of 27 April 1999, the Commission on Human Rights decided to re-establish the open-ended inter-sessional ad hoc working group established in accordance with resolution 1998/20 to meet for eight working days prior to the fifty-sixth session of the Commission, and requested the working group to submit, with a view to completing its task, one or more concrete proposals on the establishment of a permanent forum for consideration by the Commission at that session. This decision was endorsed by the Economic and Social Council in its decision 1999/242 of 27 July 1999.

2. The Commission invited the Chairperson-Rapporteur of the 1999 working group, Mr. Richard van Rijssen, to submit a working paper to the Member States and other participants in the ad hoc working group containing suggestions and possible alternatives on all aspects of this matter, based on the result of the debate of the previous session and further informal consultations, in preparation for the next session of the ad hoc working group. The report by the Chairperson-Rapporteur is contained in document E/CN.4/AC.47/2000/2. The Commission on Human Rights requested the ad hoc working group to take into account in its work any comments received from Governments, United Nations organizations and bodies, specialized agencies, organizations representing indigenous people and the Working Group on Indigenous Populations, as well as such ideas as the United Nations High Commissioner for Human Rights, in her role as Coordinator for the Decade, may wish to present to the Ad Hoc Working Group on a permanent forum for indigenous people.

I. ORGANIZATION OF THE SESSION

A. Opening and duration of the session

3. The working group held plenary meetings during the period 14 - 23 February 2000. A total of people attended these meetings, including representatives of Governments, specialized agencies, regional bodies and indigenous and non-governmental organizations.

4. The second session of the working group was opened by the High Commissioner for Human Rights, Ms. Mary Robinson. The High Commissioner

said that the General Assembly in its resolution 50/157, adopting the Programme of Activities for the International Decade of the World's Indigenous People, identified as one of its main objectives the establishment of a forum for indigenous people. The High Commissioner said she proposed to use the term indigenous peoples whenever possible. She referred to the developments relating to the proposed permanent forum. The High Commissioner believed that there was growing consensus about the need to establish a permanent forum and a momentum to bring such a forum into existence in the near future. She noted that indigenous peoples are deeply committed to the eventual creation of the forum. She said that the idea of a high-level forum including indigenous representatives as members is new and largely unprecedented in the United Nations system. Finally, the High Commissioner urged indigenous delegations to play a full part in the preparations for the World Conference against Racism that will take place in South Africa in August 2001.

B. Election of the Chairperson-Rapporteur

5. At its first meeting, the working group elected by acclamation, Mr. Petter Wille (Norway) as its Chairperson-Rapporteur.

C. Participation

6. The following States members of the Commission on Human Rights were represented: Argentina, Bangladesh, Brazil, Canada, China, Chile, Colombia, Cuba, Ecuador, France, Germany, Guatemala, India, Indonesia, Japan, Mexico, Morocco, Nepal, Norway, Peru, Portugal, Spain, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela.

7. The following States, non-members of the Commission, were represented by observers: Angola, Australia, Belarus, Belgium, Costa Rica, Denmark, Egypt, Estonia, Finland, Israel, Jordan, Kenya, Lithuania, Malaysia, Netherlands, New-Zealand, Panama, Pakistan, Paraguay, Sweden, Uruguay.

8. The following non-member States were represented by observers: Holy See and Switzerland.

9. The following United Nations bodies and specialized agencies were represented by observers: International Labour Office, United Nations

Educational, Scientific and Cultural Organization.

10. The following indigenous and non-governmental organizations in consultive status with the Economic and Social Council were represented by observers:

Indigenous organizations: Aboriginal and Torres Strait Islander commission, Consejo India de Sud America, Grand Council of the Crees (Eeyou Istchee), Indian Movement "Tupaj Amaru", International Indian Treaty Council, International Organization of Indigenous Resources Development, Inuit Circumpolar Conference, National Aboriginal and Torres Strait Islanders Legal Services Secretariat, Saami Council.

Non-governmental organizations: Academic Council on the United Nations system, Commission of the Churches on International Affairs of the World Council of Churches, International Council of Nurses, International Movement Against All Forms of Discrimination and Racism, International Peace Bureau, International Service for Human Rights, International Work Group for Indigenous Affairs, Pax Romana, Society for Threatened Peoples, South Asia Human Rights Documentation Centre,

11. The following organizations of indigenous people accredited in accordance with Commission on Human Rights resolution 1995/32 were represented by observers:

Ainu Association of Hokkaido, American Indian Law Alliance, Asociacion Napguana, Assembly of First Nations, Association of Indigenous Peoples of the North, Siberia and Far East, Association Nouvelle pour la Culture et des Arts Populaires, Aukin Wallmapu Ngulam-Consejo de Todas las Tierras, Black Hills Teton Sioux Nation, Comision Juridica de los Pueblos de Integracion Tawantinsuyana, Comision Juridica para el Autodesarrollo de los Pueblos Originarios Andinos, Confederacion Regional de Comunidades Mapuche, Cordillera Peoples Alliance, Federacion de Ayllus del Sur-Oruro, Finno-Ugric Peoples' Consultative Committee, Indian Confederation of Indigenous and Tribal Peoples, International Alliance of Indigenous and Tribal peoples of the Tropical Forests, Lumad Mindanaw Peoples Federation, Mejlis of Crimean Tatar people, Movimiento Revolucionario Tupaq Katari de Liberacion, Na Koa Ikaika O Ka Lahui Hawaii, Nepal Indigenous Peoples' Development and

Information Service Centre, Organization for Survival of the Illaikipiak Indigenous Maasai Group, Taller de Historia Oral Andina, Te Kawau Maro.

D. Documentation

12. The working group had before it the following documents:

Provisional agenda (E/CN.4/AC.47/2000/1);

Working paper on the consultations held by the Chairperson-Rapporteur of the first meeting of the open-ended inter-sessional ad hoc working group on a permanent forum for indigenous people submitted pursuant to Commission on Human Rights resolution 1999/52 (E/CN.4/AC.47/2000/2);

Information received from non-governmental organizations (E/CN.4/AC.47/2000/3);

Recommendations of the indigenous caucus on the establishment of the permanent forum for indigenous peoples in the United Nations system (E/CN.4/AC.47/2000/CRP.1);

The establishment of a United Nations permanent forum: the positions of indigenous peoples, compiled by topic (E/CN.4/AC.47/2000/CRP.2);

Proposal of the Government of Mexico for the establishment of a permanent forum for indigenous people (E/CN.4/AC.47/2000/CRP.3);

Recommendations of the International Conference on the United Nations permanent forum for indigenous peoples, Chiang Mai, Thailand, 28 - 31 January 2000 (E/CN.4/AC.47/2000/CRP.4);

Proposal of the Government of Spain (E/CN.4/AC.47/2000/CRP.5);

List of attendance (E/CN.4/AC.47/2000/MISC.1)

13. The following background documents were made available to the working group:

Report of the open-ended inter-sessional ad hoc working group on a permanent forum for indigenous people in the United Nations system (E/CN.4/1999/83);

Commission on Human Rights resolution 1999/52, entitled "A permanent forum for indigenous people in the United Nations system";

Report of the Secretary-General: Programme of Activities of the International Decade of the World's Indigenous People (A/54/487).

E. Adoption of the agenda

14. The working group adopted its agenda, as contained in document E/CN.4/AC.47/2000/1, at its 1st meeting, on 14 February 2000.

F. Organization of work

15. At its 1st meeting, the Chairperson-Rapporteur said that the report of last year's session of the working group (E/CN.4/AC.47/1999/83) as well as the report of the previous Chairperson-Rapporteur, Mr. Richard van Rijssen (the Netherlands) with the proposals for the establishment of a permanent forum for indigenous people (E/CN.4/AC.47/2000/2) would serve as a basis for the work of the second session of the working group.

16. He recalled that the Commission on Human Rights, in resolution 1999/52, requested the working group to submit, with a view to completing its task, one or more concrete proposals on the establishment of a permanent forum for consideration by the Commission at its fifty-sixth session.

17. On the proposal of the Chairperson-Rapporteur, the working group decided, in order to speed up the drafting process, to continue its work in a combination of formal and informal sessions. It was also decided to appoint a governmental representative and an indigenous representative as facilitators for the subitems under item 4, as follows:

a. Mandate and terms of reference for the activities to be undertaken by the forum

Governmental facilitator: Mexico

Indigenous facilitators: Mr. Willy Littlechild and Mr. Juan León

- b. Membership
Governmental facilitator: New Zealand
Indigenous facilitator: Ms. Victoria Tauli-Corpuz

- c. Financial and secretariat implications
Governmental facilitator: Sweden
Indigenous facilitator: Ms. Mililani Trask

- d. The United Nations body to which the proposed forum would report
Governmental facilitator: Argentina
Indigenous facilitator: Mr. Marcial Arias

- e. Location of forum
Governmental facilitator: Japan
Indigenous facilitator: Ms. Victoria Tauli-Corpuz

- f. Name of forum
Governmental facilitator: Japan
Indigenous facilitators: Ms. Lucy Mullenkei and Mr. Willy Littlechild

- g. Other matters
Governmental facilitator: Japan
Indigenous facilitators: Ms. Lucy Mullenkei and Mr. Willy Littlechild

II. GENERAL DEBATE

18. A number of governmental and indigenous representatives made general statements in support of the establishment of a permanent forum for indigenous peoples within the United Nations.

19. The working group observed a minute of silence to honour the memory of Chief Ed Burnstick, who had made an important contribution to further the cause of his people.

20. On behalf of the indigenous caucus recommendations were submitted to the working group to serve as a basis for its work. The recommendations related to: the establishment of the permanent forum for indigenous peoples, mandate, membership and nomination for the core group,

participation of observers in the open assembly, the placement of the permanent forum in the United Nations system, voting, the name of the forum, number of members, rules of procedure, terms, finance, location of the permanent forum and secretariat. These recommendations were made available as a conference room paper (E/CN.4/AC.47/2000/CRP.1).

21. Many governmental representatives expressed their full support for the establishment of a permanent forum for indigenous people and stated that they were determined to work in an open and constructive spirit. Many governmental representatives said they hoped it would be possible to reach an agreement so that the forum could be established before the end of the International Decade of the World's Indigenous People. The importance of reaching consensus on one single proposal to be presented before the fifty-sixth session of the Commission on Human Rights was highlighted. It was stated that the proposals of the previous Chairperson-Rapporteur, Mr. Richard van Rijssen (E/CN.4/AC.47/2000/2), and the recommendations of the indigenous caucus on the establishment of a permanent forum for indigenous people served as an important basis for the work of the working group.

22. Some governmental representatives said that there was a need to proceed with circumspection so that the end result would be welcomed by all participants. Reference was made by these governmental representatives to the statement of the Asian Group during the previous session of the working group.

III. PROPOSALS FOR THE POSSIBLE ESTABLISHMENT OF A PERMANENT FORUM FOR INDIGENOUS PEOPLE

23. At the 9th meeting, on 18 February 2000, the following joint facilitators' papers were presented before the working group for consideration.

A. Mandate and terms of reference for the activities to be undertaken by the forum

24. The representative of Mexico introduced the joint facilitators' paper on the mandate and terms of reference for the activities to be undertaken by the forum. He highlighted that the purpose of the paper was to help to find a common denominator as a basis for agreement. However, in this process other

more difficult points arose. The task of the facilitators was to look at both aspects. He was convinced that the paper would be a basis for a further constructive dialogue between governments and indigenous representatives. The paper reads as follows:

"To examine all the issues of indigenous Peoples [*inter alia*] [concerning]: [civil], [political], economic, social, cultural, education, human rights, health, environment, development, [Treaties, Agreements and other constructive arrangements], women, youth, children, [and other rights related to indigenous Peoples];

To [review] [analyse] and promote a coherent policy, guidelines and a better coordination of the plans, programs, instruments and activities related to the Indigenous Peoples in the United Nations system;

As an advisory body to provide technical support services on the issues of indigenous Peoples for members of the United Nations and, on request, UN bodies, programs, specialized agencies and indigenous Peoples. It will provide advisory support to governments that request it, especially for the elaboration of programs and projects related to indigenous Peoples.

To conduct studies, research, and issue reports on all those things related to its mandate; if required it will convene independent experts and establish ad hoc working groups in specialized fields of study;

To make recommendations to ECOSOC on indigenous issues;

To recommend ECOSOC to [consider] convene[ing] international conferences, [and] to prepare draft standards [and to create working groups] on the issues of Indigenous Peoples;

To consult with Indigenous Peoples organizations, governments and non-governmental organizations concerned with matters falling within its competence;

To disseminate information on the concerns and needs of the indigenous Peoples, and on the approach of the United Nations system to indigenous Peoples;

To promote the rationalization, adaptation, strengthening and streamlining of the activities of the United Nations system in the field of Indigenous Peoples;

Issues that deserve to be discussed and debated

1. The indigenous Caucus wishes the following paragraphs to be incorporated:
 - As the mandate for the Permanent Forum is one of the most important aspects of the establishment of a Permanent Forum for Indigenous Peoples, and as this unique body will be within the United Nations system, it is recommended that the mandate be modeled on Articles 62 and 63 of the Charter of the United Nations.
 - The Permanent Forum will have a broad mandate, *inter alia*:
 - To promote peace and prosperity in accordance with the Charter of the United Nations, by developing friendly relations among nations, and peoples based on respect for the principle of equal rights;¹
 - To make recommendations to the ECOSOC, General Assembly, other UN bodies and specialized agencies on urgent problems requiring immediate attention with regard to Indigenous peoples and to develop proposals to give effect to such recommendations;²
2. The governmental co-facilitator informed the indigenous co-facilitator that there are delegations that prefer the term indigenous "issues" rather than indigenous "Peoples" in the text of the mandate. The indigenous co-facilitator equally informed the governmental co-facilitator that they prefer the term Indigenous "Peoples" rather than indigenous "issues", noting HCHR Mary Robinson's opening statement.

Final recommendations

Explore the possibility of including the reference to articles 62 and 63 of

¹Declaration on the Rights of Peoples to Peace.

²"Urgent problems" used in Sub-Commission establishment.

the Charter in the Preamble.

Explore the possibility of introducing a reference to peace and prosperity and friendly relations among nations and peoples in the Preamble."

B. Membership/Participation

25. The representative of the indigenous caucus, Ms. Victoria Tauli-Corpuz, introduced the joint facilitators' paper on membership and participation. She emphasized that the role of the facilitators was to provide raw material for further consideration by the Chair. The paper reads as follows:

"1. Membership of the Permanent Forum

- (a) The Permanent Forum should consist of an equal number of indigenous and governmental members.
- (b) The membership of the Permanent Forum should reflect the geographical distribution of indigenous people throughout the world in an equitable manner.
- (c) The Permanent Forum should comprise experts serving in a personal capacity.

Note: other options have been formally tabled by Spain (E/CN.4/AC.47/2000/CRP.5) and Mexico (E/CN.4/AC.47/2000/CRP.3), as appended.

- (d) The number of members of the Permanent Forum should be between 18 and 30.

1. Participation of observers

- (a) All indigenous representatives/organizations should be able to participate as observers in meetings of the Permanent Forum, in accordance with established ECOSOC rules of procedure.
- (b) States, specialized agencies and non-indigenous NGOs with

consultative status can participate in meetings of the Permanent Forum as observers.

2. Selection of members of the Permanent Forum

- (a) Government and indigenous members of the Permanent Forum should be selected in accordance with their respective criteria and procedures.

Option 1:

- (b) Indigenous and government members should be appointed by the Chair of the parent body, upon consultation with governments and indigenous peoples' organizations and representatives respectively;

Option 2:

- (b) Government members of the Permanent Forum should be elected by member states

3. Term

Members of the Permanent Forum shall serve for three years, with the possibility of serving for another term.

4. Rules of Procedure (relating to membership and participation)

- (a) The Permanent Forum should, to the greatest extent possible, operate on the basis of consensus.
- (b) The Permanent Forum may also take decisions by voting, by:

Option 1:

either a two-thirds majority

Option 2:

by a majority of both the government and indigenous members

- (c) The Permanent Forum can develop its own rules of procedures to establish its relationship with indigenous organizations, in accordance with ECOSOC rules of procedure.

Issues requiring further consideration

- (i) Proposal by Spain
- (ii) Proposal by Mexico
- (iii) Modalities for selection of indigenous members of the Permanent Forum

(The indigenous caucus is currently discussing the manner of selection of indigenous members and the number of geographical regions. Once this is agreed, the number of members (1.d) of the Permanent Forum will be able to be more precisely determined. This should address issues of legitimacy and representativeness)."

C. Financial and secretariat implications

26. The representative of the indigenous caucus, Ms. Mililani Trask, introduced the joint facilitators' paper on financial and secretariat implications. She said that the facilitators identified general categories that needed further clarification. The paper reads as follows:

"The following criteria should be taken into account:

- the mandate of the body:
 - fora for discussion
 - issue recommendations on policy and co-ordination system-wide
 - advisory services/technical co-operation/projects/programmes
 - standard setting
 - possibility of retaining consultants

- the membership:
 - number of members 20-30
 - the nature of the members: experts/advisors
 - the travel costs

- the Secretariat:
 - the establishment of a separate secretariat-unit/section
 - absorption capacity by United Nations secretariat
 - drawing on the High Commissioner for Human Rights
 - drawing on other parts of the United Nations secretariat e.g. DESA

- the location of the Permanent Forum:
 - New York
 - Geneva
 - alternate meetings between New York and Geneva

- holdings of meetings:
 - annually, semestrial at Head Quarters
 - possibility of holding regional meetings
 - inter-sessional meetings of the bureau

- the length of meetings:
 - 1 or 2 weeks

- conference services:
 - documentation
 - translation/interpretation
 - summary records/verbatim (rule 38 of ECOSOCs Rules of Procedure)

- sources of finance:
 - United Nations regular budget
 - Voluntary contributions
 - a mix of regular budget and voluntary contributions
 - possibility of contributions from UN-agencies and funds and programmes

- other considerations:
 - tentative estimates of costs of the different locations have been requested from Secretariat
 - should the Commission on Human Rights endorse the recommendations of the working group on a Permanent Forum, a PBI should be submitted to ECOSOC (rule 31 p.3 of ECOSOC's

Rules of Procedure). The decision of ECOSOC and its financial implications is then forwarded for final decision to the General Assembly

- some delegations stated that additional resources should be given to the OHCHR if it were to service the Permanent Forum
- some delegations said that the costs of the Permanent Forum should be absorbed- within existing resources- by the OHCHR and/or the United Nations regular budget
- some delegations informed that documentation costs at this juncture were covered by voluntary contributions
- some delegations wished to see a review of the existing voluntary funds for the Indigenous Peoples-decade and travel costs."

D. The United Nations body to which the
proposed forum would report

27. On behalf of the facilitators, the representative of Argentina stated that the permanent forum should be a subsidiary body of ECOSOC. He underlined that all the other related aspects needed to be discussed.

E. Location of forum

28. The representative of Japan introduced the joint facilitators' paper on the location and name of the forum. He said that there was no consensus on the location of the forum, but that there were two options: Geneva and New York.

F. Name of forum

Two options were introduced:

"Permanent Forum for Indigenous Peoples"

and

" Permanent Forum on Indigenous Issues"

All the Indigenous representatives have a strong preference for the inclusion of Indigenous Peoples.

There is still no consensus among the Governments on the name of the Permanent Forum."

- 17 -

G. Other matters

29. The representative of Denmark suggested that it might be useful to include a review clause in the final proposal, allowing the working methods of the forum be reviewed in the light of experience.

Distr.

RESTRICTED

E/CN.4/AC.47/2000/CRP.7

23 February 2000

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Fifty-sixth session

Open-ended inter-sessional ad hoc working group
on a permanent forum for indigenous people
Geneva, 14 - 23 February 2000

Draft report of the working group on its second session

Chairman-Rapporteur: Mr. Petter Wille (Norway)

Other matters (continued)

30. At the 14th meeting, on 21st February 2000 the President of the Parliament of Panama, Mr. Enrique Garrido Arosemena, addressed the working group. He stated that it was the first time that the position of President of Parliament was occupied by an indigenous person. He believed it was necessary and urgent to establish such an important forum within the United Nations system in order to meet the needs of indigenous peoples. He hoped that the forum would have a broad mandate which would enable it to touch upon all indigenous issues. He expressed the support of his Government for the immediate creation of the permanent forum for indigenous peoples.

31. At the 16th meeting, on 22 February 2000, Mr. Giuliano Comba, representative of the Administration Section of the Office of the High

Commissioner for Human Rights, made a statement on the financial implications of the establishment of the permanent forum. He provided further clarifications on the budgetary implications of different aspects of the forum in response to questions raised by the participants of the working group.

32. Some Governments said that there was a relation between the financial implications and the establishment of the permanent forum, while other Governmental representatives expressed the view that financial criteria should not be the only deciding factor for the creation of the forum.

33. Several Governments and indigenous representatives stated that financial constraints should not be placed above other, substantive issues regarding the establishment of the permanent forum.

34. Certain Governmental representatives said that funding for the permanent forum could be achieved by abolishing the Working Group on Indigenous Populations.

V. PARTICIPATION OF INDIGENOUS PEOPLE IN THE WORK OF THE UNITED NATIONS SYSTEM, INCLUDING THE ROLE AND FUNCTION OF THE WORKING GROUP ON INDIGENOUS POPULATIONS.

VI. FOLLOW-UP

35. At the 16th meeting, on 22 February 2000, a general discussion on the above-mentioned topics was held. The Chairperson-Rapporteur said that he did not want a long discussion on these items as the future role of the Working Group on Indigenous Populations was not part of the mandate of the meeting and any follow-up would depend upon the results of the discussions on the permanent forum.

36. Some Governments and indigenous representatives stated that it was not within the mandate of this working group to take a decision on the future of the Working Group on Indigenous Populations.

37. Other Governments stated that the linkage between the permanent forum and the Working Group on Indigenous Populations, needed to be considered. Concern was expressed about possible duplication of mandates and

activities.

38. Several Governments said that the Working Group on Indigenous Populations had played a valuable role over the years in providing a forum for dialogue and exchange of views and information on issues of importance for indigenous peoples. However, it was considered that the permanent forum, when established, would provide a focal point for review of, and dialogue on, indigenous issues and that the Working Group would not be needed.

39. In this respect one Government said that the standard-setting activities within the mandate of the Working Group on Indigenous Populations were completed in 1994 with the completion of the draft declaration. It was said that the other part of the mandate of the Working Group, the review of developments, should be merged with the permanent forum.

40. Some other Governmental and many indigenous representatives said that the standard setting activities of the Working Group on Indigenous Populations had not been finalized yet and that many issues remained under discussion, such as: land, heritage and intellectual property. It was emphasized that it was important to have an appropriate transition from the Working Group to the permanent forum. It was essential that mandates would not be lost.

41. Many indigenous representatives stated that the establishment of the permanent forum should not result in the abolition of the Working Group on Indigenous Populations.

42. Some participants said that the mandates of the permanent forum and the Working Group on Indigenous Populations were very different. It was emphasized that the two bodies could and should co-exist, even if it would be only for the first five years of the existence of the permanent forum. One Government representative referred to the proposal to have a review clause for the permanent forum and suggested suspending the sessions of the Working Group on Indigenous Populations until the first review of the permanent forum.