



Centre de Documentation, de Recherche et d'Information des Peuples Autochtones
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EDITORIAL

Marked as it was by the submission of the final report on the Study on Treaties, the meeting of the World Intellectual Property Organization's Roundtable (WIPO), and the many events which took place simultaneously in between official meetings, the 17th session of the WGIP took a rather busy turn.

The much-awaited final report on the Study on Treaties was a source of satisfaction to some, of bitterness to others. The recognition of the international character of the treaties originally concluded between European States and sovereign Indian Nations was of paramount importance to the First Nations. In this respect, the Special Rapporteur clearly concluded that the First Nations had unilaterally been stripped of the attributes of sovereignty through acts which lacked any legal basis. The question of treaties stood at the very beginning of the process leading to the setting up of the WGIP. At the 1974 Conference of Mobridge (South Dakota), the Elders of 98 First Nations decided to bring this issue into the international arena, an initiative which resulted in the holding of the NGO Conferences of 1977 and 1981.

On the other hand, the Peoples of Asia and Africa were greatly disappointed at being assimilated to minorities. This distinction has far-reaching implications, since what is at stake is the recognition of their collective rights: as long as minority rights are tackled from the point of view of individual rights, the debate will remain open. Thus, while that type of delimitation may be considered to be appropriate in the framework of this Study, it is questionable whether it can be generalized.

WIPO's first Roundtable was a ground-breaking event, revealing for the first time this organization's official interest in the intellectual property of Indigenous Peoples. The Indigenous Peoples countered the concepts of innovation and individual creativity by referring to the rights arising both from tradition and innovation, as well as, of course, creative community endeavour.

As the Indigenous representatives had not been consulted beforehand, the announcement of the decision to hold the 1999 WGIP session in Paris burst like a bombshell. The representatives argued that it had taken them years to build up a network of solidarity with the local authorities and the population, many of whom offer them hospitality during their stay. They expressed concern that the services provided in Geneva by, among others, the World Council of Churches, doCip, Incomindios and Mandat International, would not be available to them in Paris. They further pointed out that they came to Geneva not only to attend the meetings of WGIP but also those of the Sub-Commission and the classes at Summer University, as well as to report to the Committees on the implementation of the different Conventions on Human Rights, to ILO, to WHO, and to other bodies of the UN system. In addition to these practical considerations, there is also a basic fear that the indigenous struggles at the international level might be turned into an issue relating to culture or even folklore, disregarding the fact that it is an issue relating to human rights.

This concern is all the more justified as the above-mentioned decision, as well as the (too) numerous events arranged in parallel with the official meetings, side-tracked the extremely important debate on standard-setting activities in the field of mining and energy companies. An excessive dispersion of efforts as observed during last summer may in the long run be harmful to the promotion of the fundamental rights of Indigenous Peoples.

Working Group on Indigenous Peoples



16th session: 27 - 31 July 1998

Review of Developments pertaining to the Promotion and Protection of Human Rights and Fundamental Freedoms of Indigenous Peoples

General Statements (item 4)

The right wing political orientation of the new Australian government was at the core of all Aboriginal organizations' statements of that country. These mainly referred to prospects of extinguishing native titles and

limited access of native title holders to pastoral leases, thus diminishing rights provided by two High Court decisions (Mabo1992, Wik 1996); step back in the protection of indigenous heritage and culture; budget cuts in indigenous programmes and organizations (**ATSIC, NSWALC, NSWAECC, ILC**). Laws must address the collective nature of indigenous rights (**NSWAECC**). As Torres Strait Islanders, they assert their rights as a separate race of indigenous people in Australia on the basis of differences in language, customs, traditions and heritage; they have statutory recognition in the 1989 Aboriginal and Torres Strait Islander Commission Act, but have limited economic development opportunities, and lack infrastructure and social services (**NSTSI**). New Court's decision on the Crocker Island is a step forward for the recognition of indigenous rights but fails to recognize indigenous economic rights (**NSWALC**). Torres Strait Islanders have strengthened their autonomy and improved their standard of living. Were pleased that the moratorium on mining and drilling of Torres Strait seabed was extended by the Australian and Papua New Guinea governments (**TSRA**). **NAILSS** recommended that the government draft and enact legislation dealing with indigenous organizations with a view to building confidence of indigenous communities to establish such organizations. As for Norfolk Islanders, they were granted a limited form of self-government by Australia in 1979, but every law passed by the Legislative Assembly can be overturned by the Commonwealth of Australia (**ANI**).

In Aotearoa (NZ), Maori tribes, such as the Pirirakau people, are marginalized to the point of extinction. Money settlements cannot compensate for the loss of land and the Resource Management Act continues the colonization of their land (**NI**). On the occasion of the hundredth anniversary of the annexation of Hawai'i, the Declaration of Hawaiian National Integrity and Affirmation reasserted the right of the Hawaiians to self-determination. Protested against consultation on the Draft Declaration held by the U.S. State Department. Proposed the creation of a U.S. Advisory Committee on Indigenous Rights (**KLH**).

Preliminary hearings of the Sovereign Alaska Indigenous Nations Tribunal has found that the IPs of Alaska have an international status, which has never been settled. In May 1998, the Alaska Conference of Tribes in Anchorage declared the right of IPs of Alaska to self-determination (**TTEC**). Abusive exploitation of natural resources by the governments of Quebec and Newfoundland/Labrador on Innu territory represents a real threat to the environment, and cultural and social integrity of the Innu people. Investment for nickel exploitation and second largest hydroelectric power project without their consent requires urgent settlement of land rights and protection of land rights (**ICN**). **IOIRD** informed about a publication "The Rights Path - Alberta" on indigenous rights. An Indigenous Human Rights Commission has been established in their territories.

ANIPA reported on the deadlocked peace process, political negotiations and mediation. Referred to High Commissioner for Human Rights' proposals: reduce military presence, set up a UN office for the protection of human rights in south-east Mexican states, renew dialogue and negotiations both at local and international levels. Extended invitation to High Commissioner on Human Rights to visit Mexico and urged the Sub-Commission to take action against systematic human rights violations against IPs. Appealed to the UN for mediation in the Chiapas conflict. **CNMIM** referred to women's situation in Mexico: illiteracy, death at giving birth due to poor health services, and impossibility to own land. Concerned about the fragile peace process in Guatemala and the atmosphere of terror prevailing among the population, **COPMAGUA** made some recommendations to the government, such as the approval of constitutional reforms set forth by the Mayan people, the repeal of colonialist laws, investigations of cases of extra-judicial executions, and assessment of peace process with all concerned parties. Asked the WGIP and the UN to keep monitoring the peace process and human rights, and establish mechanisms for the protection of IPs' rights. **FRM** further stated the necessity to continue the negotiation and consultation process between Guatemalan civil society segments, IPs and the government for enforcement of the Peace Agreement.

IPs of French Guyana claimed the right to be recognized according to international law. Appealed to France to adapt its law on the environment, legally recognize their political authorities, ratify ILO Convention 169, establish a code for the control of forest resources, and cease all mining activities (**FOAG**). Land demarcation is seen as a "life conquest". Continued violence against indigenous brothers and the fact that Brazil's policy is not reflecting IPs' interests and needs were areas of concern. Main challenges are land, education, capacity-building, preventive health (AIDS), cultural development along with economic development (**CI-MCI**). Non-enforcement of law, slowness of justice, impunity and racism are the main reasons for the increase of violations against IPs, such as murders due to land disputes and abuse by authorities. Present law aims at integration of IPs; distinction between acculturated and non-acculturated Indians threatens their existence as distinct peoples (**COIAB**). In Peru, water is plundered from indigenous areas with the government's authorization, causing drought and deaths. The case was denounced as a violation of ILO Convention 169, International Covenant on Civil and Political

Rights and domestic law (**CAA**). **CISA** presented Bolivian Altiplano's social organization and its main concept, the *ayllu*, a way of life based on equality and fraternity. In Chile, although Law 19.253 recognizes physical and cultural existence of IPs, their fundamental rights are denied. Over 21 transnational logging corporations occupy Mapuche territory and impact on diversity. The right to restitution of land is not recognized, The construction of two highways which will affect 10,000 Mapuche and hydroelectric project continues despite their opposition (**CTTM**). The impact of oil company YPF activities on two Mapuche communities resulted in poisoning ground water with heavy metals. The government has sold 110 hectares of Mapuche territory to YPF and Petrobrás to build a gas pipeline to Brazil. IPs are then prohibited to access their land and have no land titles to legally defend themselves. The Kolla people are involved in a legal dispute concerning another gas pipeline to Chile (**COM**). In Argentina, despite the 1994 constitutional reform which enabled IPs to recover their land, there are still some problems with the land titles process. Profound changes in the UN policies and political will of States are needed along with proper mobilization of IPs. Perpetrators of human rights violations in Latin America must be immediately condemned (**FICI**). The WGIP could draft various standard-setting legal instruments such as a legal framework for the protection of IPs' cultural and intellectual heritage (**IMTA**).

NPMHR requested Prime Minister of India to withhold forthcoming imposed elections in Naga areas and extend cease-fire period. Despite the Agreement signed between the Naga people and the government of India on 1 August 1997, human rights abuses were perpetrated during the cease-fire (**NSCN**). Manipur, in North Eastern India, is the home of 30 indigenous peoples and nations, who suffer from continuing oppression and the escalating conflict between the Indian State and armed indigenous nationalities. Large-scale development and environment conservation programmes are carried out without the informed consent of concerned IPs (**CORE**). Millions of indigenous people have been displaced by development projects without rehabilitation. Forest Act does not recognize land rights within the forests. Land is transferred to non-indigenous people in the form of lease and mortgage (**AICFA**). **JOHAR** welcomed proposal by BJP (Hindu Nationalist Party) in power on decentralization and autonomy. No progress has been made regarding indigenous self-government. For **ICITPI**, the overall perception of human rights violations is an important development.

JPL urged the government of Bangladesh to implement the Peace Accord of December 1997 between the government and Jana Samhati Samiti (JSS) in the Chittagong Hill Tracts (CHT), as well as donor countries and funding agencies to take into account Jumma people's views regarding development in CHT. For **CHTSC**, the Peace Accord is a step forward in achieving Jumma people's rights despite non-implementation. Violations are still commonplace. **PCG** further stated that the government is not allowing JSS to establish a regional council in CHT as provided for in the Peace Accord. The government continues developing settlements projects and none of the military basis has been dismantled. 20,000 Jumma returnees are not recognized as refugees and have no access to their own land.

The most significant development was the nuclear tests carried out by Pakistan and the subsequent imposition of emergency rule. Sindhi people live in extreme poverty. The 32 dams planned on the Indus river will lead to an ecological disaster. There are widespread violations of civil, political, economic, cultural and social rights (see E/CN.4/1994/NGO/56) (**WSC**). In Burma, hundreds of thousand of people have been forcibly relocated and 700 Shan killed over the last 12 months. Forced labour is widespread (**MUL**). The ethnic cleaning war and genocide against Hmong people in Laos is still going on, including forced displacement and detention (**LHRC**). The Indigenous Peoples Rights Act of 1997 was rejected by the IPs of the Philippines for representing a danger of privatizing indigenous land and resources, and for creating a super body appointed by the President to represent seven million IPs in all negotiations. Urged the WGIP to have a meeting in Asia (**CIPLRC**). **CPA** rejected the law for Creation of the Cordillera Autonomous Region and government programmes undermining indigenous socio-political systems. In Japan, Hokkaido Ex-Aborigine Protection Act on common property land was replaced by a new act (individual refunding) without consultation of IPs (**ANC**). **DIPRO** reported on the situation in Bhutan inhabited by three major ethnic groups. The population is oppressed and lives in servitude and terror. Nearly one sixth of the population are refugees in Nepal. After a demographic decrease, the Circassian people of Caucasus have become a scattered nation living in three republics. Representation, bad economic situation, and return of expatriated people (Russia), no self-identification and prohibition of use of native language (Turkey) are their main problems (**ICO**).

In Africa, IPs' lands were colonized by those who now control the governments of the nations built over their dispossessions. IPs are marginalized within domestic political structures and international structures such as the UN. The International Decade must produce a Permanent Forum for IPs for the advancement of their fundamental rights and protection of their cultural identities (**MDA**). In Morocco, people are not allowed to give

their children indigenous first names, cultural demonstrations are prohibited. Funds allotted by the European Community to Amazigh development are misappropriated (**JNP**). The Amazigh population, estimated at 40 million, is victim of a policy of despoliation, particularly regarding the use of their language. Arabization law in Algeria excludes the Amazigh language. There is repression in Lybia and a genocidal policy in Niger and Mali (**CMA**). Nuba identity and cultural heritage are facing extinction. Draft Declaration Articles 3, 11, 24 are therefore of significant importance. Villages of Central Sudan are bombarded by Sudanese Arabs. There are many refugees, women raped, children abducted as consequences of the war. Called for immediate implementation of protection measures for Nuba and other IPs in Southern Sudan by the UN. (**NPS**). The Khoi-Khoi people questioned the sincerity of their government' intentions with regard to the allocation of funds for the promotion, development and protection of their culture (**CCHDC**).

SCBD informed that COP5 will take place in Nairobi in May 2000. **WIPO** presented its new programme of activities, such as the roundtable relating to the use of IPs' intellectual property system, within the new Global Intellectual Property Issues Division. **ILO** reported on urgent cases dealt with by ILO's supervisory bodies with regard to Convention 107 (Argentina, Bangladesh, Brazil, India) and Convention 169 (Mexico, Peru and Bolivia examined for non-observance); technical cooperation financed by DANIDA with emphasis on Asia and Southern Africa; project work in South and Central America; ILO-INDISCO Programme to encourage creation of indigenous cooperatives and self-help association; poverty alleviation and democratization, as well as other projects. **UNHCR** presented a discussion paper on UNHCR activities relevant to IPs.

Governments

Australia supports IPs' economic development through the Aboriginal and Torres Strait Islander Commercial Development Corporation. Has taken measures to get separated family members back together. Seeks reform legislation to provide for the protection of indigenous cultural heritage. Native Title Amendment Act of 1998 is meant to restore certainty to native title. **New Zealand** has two key objectives: address socio-economic disparities between Maori and non-Maori, and reach settlements to breaches of Treaty of Waitangi, such as a multi-million settlement agreement including land and fisheries rights. An agency has been created to promote health and education among Maori. **Canada** produced *Gathering Strength - Canada's Aboriginal Action Plan* as a response to the Royal Commission on Aboriginal Peoples, aimed at renewing partnership, strengthening Aboriginal governance -such as the creation of Nunavut as a third territory in the North-, designing a new fiscal relationship, supporting strong and healthy communities. Reported on the welfare reform, the accord with several Mi'kmaq and Maliseet First Nations.

Guatemala referred to the 1995 Indigenous Agreement adopted within the peace process framework, which recognizes IPs' identity and languages. Is committed to take steps to eradicate marginalization and discrimination. Established three Commissions: on indigenous languages, sacred sites, and education reform. **Brazil's** constitution granted "original rights" to IPs who traditionally occupy land. 54 per cent of the land has been demarcated and 800 gold miners have been expelled from Yanomami lands. Mentioned a National Programme on Human Rights for IPs' sustainable development. **Venezuela** admitted to lack of coordination in government administration for indigenous issues. Together with the Indigenous Parliament, have designed a plan of action for identification, land tenure, health and education.

Myanmar stated that the 135 national races are all indigenous. All major armed groups have given up the armed struggle. Regional development projects are carried out in cooperation with UN agencies. Underscored need to implement alternative programmes for poppy cultivation with UNDCP and the international community. Designated self-administrative areas to national races.

Education and Language (item 5)



Ms Daes, Chairperson of WGIP recognized the importance of language, education for IPs. Past government assimilation policies left tragic inheritance for IPs. Loss of language tied to loss of cultural identity is threatening IPs' survival. **UNESCO** supported objectives of IPs' Decade. Highlighted projects: World Atlas of Languages, preserving language diversity; LINGUALIN, LINGUAPAX, promoting language education, fostering peace.

Cited possibility of hosting 1999 UNWGIP in Paris. **UNESCO ETXEA**, Basque Country, Spain noted close cooperation with UNESCO in preparing world-wide language report. Report, out in 2001, will provide objective information on all existing languages, based on investigations, studies, etc. and include protective methods. **Ms Daes** expressed gratitude to UNESCO for their statement. Parts of it will be included in the WG's final report. Looked forward to cooperation with UNESCO. **Terralingua** support linguistic diversity, connections between linguistic, cultural, biological diversity. Inextricable link between language, culture, land for IPs. Support linguistic, cultural human rights, along with land, resource rights according to self-determination. **CIIDPI** pointed out that at Decade mid-term, still no IPs' Declaration. Highlighted organization's developments including automatic database, Internet accessible, and called for more support of indigenous communication. **EI** cited their key focus issues regarding IPs and education: education as an assimilation tool; right to self-determination in education; development of indigenous curriculum; examining government responsibility for indigenous education; awareness-raising.

IAD provides aboriginal-run, managed adult-education. In 1994, government gave 1/3 of capital development funds to them but, for the last three years, the Northern Government prevented them from receiving these. **FIAEP** aims to provide aboriginal education, not education for Aboriginal people. Indigenous education occurs when real power over process is had. Commissioner recommended government's full support of aboriginal education. **NSWRC** highlighted committee formed addressing issues of IPs' education and language. Wanted their report later attached to upcoming UNESCO conference document. At national, global levels indigenous education has been assimilatory. **ILC** noted that the majority of aboriginal children are not involved in Northern Territory secondary education, resulting in social problems. Wanted regional schools in remote areas and teachers trained for secondary level. **SNAICC** was concerned over children not being brought up by own families and in juvenile institutes. Their services address children's needs, concerned with their families, focus on bringing stolen ones home. **NSWALC** highlighted funding cutbacks to aboriginal education and assimilation. Reminded of aboriginal forced child removal between 1910-1970. Cited loss of ties to indigenous communities, identity and culture as results. **NSWTFU** stated that Torres Strait Islanders are 20 years behind in education. Reported on recent racist attacks and expulsions of Aboriginal people from schools. Pointed out strategy of assimilation through mainstreaming indigenous affairs. **NSWAECG** see education as fundamental reconciliation tool. Prior to Reconciliation Convention, reconciliation was a people's movement resulting from "stolen generations report". Called for mandatory aboriginal studies. **ATSIC** stated how essential reconciliation is. Support local community projects. Stated that there is a lack of job training. Referred to Aboriginal Study Assistance Scheme providing higher education assistance. **NSTSIO** cited education as essential for IPs' economic development and for creating equity for them in mainstream society. Stressed the importance of education addressing their specific needs. **UIHEC** pointed to new government policies undermining IPs' efforts in this area. Difficulties in maintaining momentum towards equal, culturally appropriate educational opportunities. Gave example of indigenous doctor students being sabotaged into discontinuing.

TKM stated that government measures are not sufficient to implement educational programmes for IPs. Government is party to Convention on the Rights of the Child, but does not respect indigenous children's rights. **MET** pointed to lack of funding for and government restrictions on educational programmes and lack of schools. Maori are being failed by ethnocentric education. Called for alternatives. **NI** noted that their Nation has many education initiatives, but implementation is difficult. Education should encompass whole culture. Called for ownership, control of education. Tribunal report on language states regression of Maori language. **ANI** stated that their language is the most identifiable cultural aspect, but is being lost to English. Highlighted school Norfolk studies programme and that this is the most important tool for promoting tradition. **KLH** noted that language has been recognized since 1978. IPs lowest numbers in education system. Described their holistic immersion programme, overshadowed by a government regulated curriculum lacking cultural relevance. **MMFHR** referred to statement by UN Secretary-General to Decolonization Committee, February 1998, and to inevitable political, economic democratic reform in Indonesia. Still no adequate admission to proper education and positions. **TF** stated that government claims financial lack regarding indigenous education. Governments should take responsibility. Wants to explore privatized education. In Phillipines, education heavily influenced by World Bank's loans. **AAJ** pointed to colonization, discrimination reasons youth cannot have higher education. In 1997, new government law called for society in which Ainu can enjoy their culture, but mainly finances Japanese studying Ainu.

AIPPC stated that languages of Northwest India are being extinct. Government enforces their own languages. Lack of education exposed them to repressive methods of Indian government. **AAAKM** stated that despite

constitution's guarantee to impart education in indigenous language, it hardly occurs. IPs are forced to learn regional State language. Most education does not cater to their needs. **NWU** noted education given to indigenous children is often contradictory as different language, cultural references alienate them from their indigenous society. Pointed to political, ideological de-culturization. **PDF** hopes schools in indigenous areas be allowed to educate in own native language. Public examinations are being held in non-native languages and therefore IPs cannot take part. **AICFA** stated present education implemented in indigenous areas destroy elder's influence, dismantle traditional territory relationships, demolish sustainable production, cause community alienation and destabilization. Important to recognize this form of colonization. **JOHAR** stated that government requires that education be in mother tongue until 7 or 8 class. As of 1956, required education of primary school children in mother tongue. Requested government's support. **CASS** noted lack of progress in education for IPs, especially in acquiring teachers. Hindi is enforced for adult education. Indigenous languages can only be implemented if cultural, political autonomy is achieved.

IJP stated that 1960's housing policy assimilated IPs by allowing settlers onto their territories. Primary education in their native language never occurred. Reminded that government had signed ILO Convention 169. **CHTSC** stated that, as there are no provisions for indigenous education, the threat that indigenous culture will become extinct exists. Cited distance to schools, lack of measures to protect indigenous rights to schooling, discrimination problems. **WSC** explained that the original, indecipherable Sindhi language today has many foreign influences. However, this language is not taught, although historically valued. Present day language remained national language until creation of Pakistan. **TNNHMQ** stated process of colonization included replacement of indigenous language by dominant one. Government policies, specifically English requirements, made indigenous languages obsolete. Wants them to regain their status. **KKRUA** highlighted citizen's right to education. 70 per cent of children do not complete secondary school. Nepali, English are taught in schools, Sanskrit is compulsory. Indigenous languages are recognized national languages but this lacks enforcement. **CNF** stated Chin people are denied possibility of establishing own system of education. Chin language is on the brink of extinction, as are their culture, traditions. Military have been closing schools and universities. **CHRO** stated that official language is Burmese and indigenous languages are ignored. Students are not allowed to speak Chin. Chin literature, culture and traditions are forbidden. Chin songs are censored and the Chin Bible is illegal.

AIPY explained that indigenous languages are disappearing because of industrial development taking place on their territories. Ethnic and cultural schools have shut down, but many of these were used for assimilation. **Chukchi People** highlighted that at kindergarten level they are taught their own language. At secondary level, cultural and traditional elements are added. Work is being done on Eskimo language, books. Indigenous educators are returning to community. **CPPE** stated that indigenous language is disappearing due to Russian authorities' failure at defence of language, rehabilitation measures. Authorities claim economic difficulties. Stressed the need for quotas for IPs' participation in society. **Chor People** stated that 1930's saw elimination of cultural references. They have made revival attempts for language and traditions, but funds are lacking. Chor language is taught as 2nd language in education system. Called for government support. **RAIPN** noted that government cannot fund new educational system for improving teaching. Cited problems of assimilation and delinquency. High cost of transport to education is also a problem. **SC** stated that Sami made some progress in developing education systems based on communities' own culture, needs. Sami college established in Norway 1989, but possibilities in national universities are limited.

KRCC stated that community averted assimilation of children by mainstream schools. Created their own schools and curriculum, while maintaining academic level for acceptance into further education. Indigenous language is used and taught. **ECN** noted this item's importance. Explained how their writing system developed, that their students are learning Salavics. Their nation wants language recognition. **ICN** designed education policies aimed at giving IPs control of community schools, developed education programmes. In Quebec and Labrador, the Council was not able to make laws on IPs' education. **IOIRD** stated importance of language, education for Four Cree Nations of Hobbema. "Education Rights of Minorities: Hague Recommendation", ILO Convention 169, OAS IPs' rights declaration, all now require political will to enforce. **AFN** pointed out that their children leave schools without adequate, proper knowledge. The government is not improving education for IPs. Believe education fundamental tool for IPs future responsibilities. **TFN** highlighted First Nations Special Education Policy. Provisions for special needs are not given by government. Effective education enables a person to contribute to the community and function in Canadian society. **TTEC** described how IPs were prevented from voting by requiring English literacy, backed by fines, imprisonment. Cited educational advancement resolution passed by UN General Assembly. Gave problematic history under USA. **SCN** stated

that indigenous students often cannot continue education for lack of funding. Wants Supreme Court of Canada to recognize legitimacy of indigenous historical documentation and to fund First Nations education system. **CSB** has responsibility for all levels of education services. Absolutely necessary for schools serving IPs to be fully controlled by them. IPs' institutions should be protected by treaties, State laws. **LH** emphasized inseparability of language from education, as education was in native language. Pointed to the Christian denominations' destruction of their language, the forced abandonment by students of their language. **CIWRI** pointed to need for culturally relevant curriculum within Alberta Province, in public schools and for separate school system for indigenous children. Indigenous education is based on example, actions, shared activities.

UCIW cited 56 different languages in Mexico. Asked for UNESCO to make direct contact with IPs, finance educational programmes. Called on State to strengthen education, including creating universal linguistics, indigenous textbooks. **EMDH** stated that bilingual education is the greatest challenge to IPs. National schools are alien to indigenous culture and are used for assimilation. When IPs' rights to education are ignored, indigenous rights are violated. **MJK** cited community as education base. Tales, stories, myths important. In many indigenous communities children are not encouraged to actively participate. Government takes advantage of ignorant people by taking loans on them. **COIAB** cited problems of integration, discrimination, prevention of practising native languages. Described attempts at setting-up bilingual education. Constitution and other legislation recognize indigenous language and education systems. **CI-MCI** stated that IPs are fighting to promote policies on the right to education, establish schools as set out in the constitution. Called for respect for indigenous languages and resources for education. **FOAG** cited forms of school policy: denial of education as minorities or assimilation into schools of dominant society. France is claiming only one spoken language on their territory: French. **RIAP** pointed to two independent World Bank reports. Believes poverty of IPs leaves them unable to exercise their constitutional rights. **CTTM** pointed out that IPs' training, education were developed by individual groups without interference from each other, only dominant government insists on imposing their educational system on IPs. **FAM** explained that indigenous languages are not used in State-financed schools. Indigenous usually only understand, but do not speak their language. Education reform has resources, but no inter-cultural programmes. Called for real action. **AIRA** cited historical connection between power, education and language. Example: keeping IPs uneducated to ensure cheap labour resource. Rights to language, culture are included in both international law and most South American legislation. **IQJ** supports bilingual education. Spirituality, language, respect for their elders and their Quechua/Inka economic system emphasized as important to them. **CCFL** stressed the need for bilingual IPs' education. Argentinian law on indigenous education does not meet needs. Need qualified teachers, adequate materials. IPs should take charge of education themselves. **INAI** reminded that their countries' constitution provided for IPs' rights to use bilingual education. Argentina also set-up National Institute for Indigenous Peoples engaged in development of education with excellent results. **IQJ** stated that the Quechua language is used by federation of four indigenous regions, province of Jujuy, in Argentina. Language is essential for personal definition of cultural identity. **IMTA** called for States recognition of exercise of collective, individual rights to full, free education in indigenous languages. Reminded of colonization in education. Referred to extreme poverty, especially affecting children. **CENAQ** called on government to guarantee IPs' rights. Education should include full IPs' participation. Integration attempted assimilation but indigenous communities are now working against this process, recovering their culture, traditions, languages. **PAQ** stated that they are fighting a civil war. Since Spanish colonization they are discriminated against. Appealed for multi-ethnic education and IPs' participation in education planning. **ACP** sang in indigenous language to highlight the importance of singing for passing on customs, traditions. Denounced religious offensive the Catholic Church has waged against IPs and emphasized their resistance to it. **ORMI** established a successful teaching programme for women supported by Spain. Cited migration as threat to indigenous societies. The educational system is in crisis as 35 per cent of school-age children are undernourished. **CCIC/TPMIP** cited high illiteracy rate among their peoples, especially women. Called for appropriate measures by enhancing bilingual education. Stated that IPs do not benefit from government educational facilities.

FAJI pointed to drama in Algeria, indicative of their political practices. Enslaving attitudes continue in Sub-Saharan. Local authorities base their institutions on caste methods, strengthening local chieftains. **FNACA** noted that Amazigh is widely spoken. Arabic is the sole official language of constitution. Cited problems of recognition, promotion of their language, and Algerian acceptance of its cultural diversity. Noted that problems appear in upper-level education as ideological, religious contents prevail. Neither teachers or students are encouraged to take initiative; compliance is encouraged. Amazigh language is repressed. Their organization has introduced training programmes with mixed results. **MCB** called attention to spokesperson's murder. Threat of

extinction of indigenous language, culture. Arabic is alienating schoolchildren from indigenous culture. Algeria has ratified Human Rights Charter, which protects indigenous language, with no effect. **GKT/GT** explained handicaps due to their division into different States, always minorities. Referred to detailed information on education system. Promotion of language can only come through self-determination at grass-roots level.

MDA stated deprivation of education as worst human rights abuse. Education is a fundamental need and important development tool. Lower level education must be priority. A people's language communicates traditional values. **OSILIGI** pointed out that enrolment of the children in current education system is declining. Girls are under-enrolled due to early marriages, female genital mutilation and parents' fear of losing them to culture-less society. **PIDPP** explained that deprivation of their own languages is being caused by programmes of social assimilation. Although some attempted language preservation, many indigenous illiterate. Highlighted the plight of Pygmies. **ADBR** stated that Batwa language is mainly used by nomadic Pygmies. The Pygmies are being chased from the forest and there is a risk that they and their language will disappear. They experience discrimination and the women sexual violence. **APB** explained country's conflict affecting education. Only 20 per cent of children survive. Once children reach school age, lack of means prevents their attendance. They either learn a trade or become street children. **GNCSA** cited destruction of Khosian culture by missionary religious education. Called on establishment of indigenous First Nation Council having power to rectify land restitution claims, language, education decay and cultural affairs. **SD** noted that of the three San languages spoken in South Africa, only one is written. Pointed out importance of keeping the orthographies of these written languages the same. **CCHDC** explained that Afrikaans developed from Dutch but is indigenous. Called for right to development and recognition of language. IPs should take charge of their own education curriculum. **WIMSA** provides assistance in fields of education, training. Explained that San have limited access to schooling, often feel pressure of more aggressive, dominant ethnic groups and endure prejudice. **KCC** recognized government's efforts to support, promote indigenous languages, but implementation by education institutions problematic. Called for research on indigenous language and other funding, support. Suggested cooperation with South Africa. **RBC** stated that since independence, government developed central education system ignoring indigenous needs. Traditional Leaders Council members were denied further political election. Constitution guaranteed right to indigenous languages, but was denied in reality. **CSC** reminded of expulsion by British government from the Chagos Archipelago to the Seychelles and Mauritius. Asked for help with return to homelands and also for education programmes geared towards this return.

Governments

Australia highlighted Aboriginal Education Programme, addressing all aspects of education, training. Four themes: IPs' involvement in decision-making, equality of access, equity of participation, outcome. Pointed out funding and consultation mechanisms. **New Zealand** cited education reforms of 1989 which provided Maori-language immersion schools. Looking for more teachers. Stated that Maori language is also part of adult education. Bilingualism is becoming more important. **United States** recognizes IPs' rights. Highlighted investment of \$17.2 million in bilingual education for indigenous children, support of indigenous teachers, grants for indigenous media, TV. Acknowledged importance of indigenous languages. **Canada** explained Mi'kmaq Education Act, transfers government jurisdiction to nine Nova Scotia First Nations. Their Aboriginal Languages Initiative supports preservation of languages. Grant aid to both language and education programmes. **Mexico** reiterated respect for IPs. Efforts being made for bilingual education. President presented Congress with proposal concerning IPs' rights, including basic autonomy laws. Regrets conflict between IPs and the State. **Costa Rica** stated that legislative assembly will debate on autonomous educational development of IPs. Referred to draft law on IPs bilingual instruction. Set-up national programme for indigenous education is giving priority to culture, environment and tradition. **Chile** is interested in policy plan linking development, culture, generating inter-cultural relations. Is designing cultural policies supporting cultural identity and effective responses to IPs' education needs. Political constitution, other legislation support bilingual education. **United Kingdom** referred to Mauritius' statement that Chagos Archipelago is a sovereign territory of Mauritius. Stated that this territory is part of the British Indian Ocean Territories, under United Kingdom sovereignty. **Finland** guarantees right to speak Sami. Stated day care should be in mother tongue, but local reluctance in implementation. Task of Sami government to protect their culture, assist in translating at public hearings. **Norway** stated that Sami legacy must be preserved by introduction of their history, culture into schools. Council for Sami Education had major role in new curriculum. Multiculturalism found in basic schools. **Mauritius** denied having IPs, but have a multicultural society. Basic education is free. Noted that individual languages should be preserved. Condemned IPs forced removal from Chagos and informed about British willingness to return them when no longer needed for defence

purposes.

Health (item 6)



WHO Resolution (WHA51.24) in May urged Member States to develop and implement national plans of action or programmes on IPs' health, requested Director General of WHO to promote the inclusion of indigenous health in the work programme at the country, regional and global level. Director General issued a report on the International Decade (A51/22) highlighting WHO's activities focusing on the health of IPs. WHO will shortly be publishing a document on the health of IPs by an indigenous health professional (**WHO**). **CIH** has initiated an open dialogue with UN specialized agencies, governments and NGOs. Is processing a comprehensive bibliography and compiling statistics and policies on indigenous health. Has submitted a proposal for funding. Among the difficulties met are: no appropriate institutional status, no access to information, and financial constraints. Concerned that no comprehensive programme for action in health has emerged during the International Decade and that inter-agency cooperation has not improved. Health issues should be a permanent item on WGIP agenda. **ICNs** informed about the seminar on indigenous women, health care and knowledge concerning traditional medicine held last year in Amsterdam.

Considering the poor health conditions of Aboriginal people -shorter life expectancy, higher infant and maternal mortality, higher rates of chronic and infectious diseases and injury than non-Aboriginal Australians-, **NACCHO** called for equal access for equal needs. Health services are socially sensitive, being financed by the community. The difficulties met are isolation in case of emergency, monitoring, access and control of traditional resources (**ANI**). Chronic health problems are the result of social problems such as unemployment, alcohol and drug abuse, family violence, due to separation from ancestral heritage (**MNA**). **AILA** was concerned about the growing incidence of HIV/AIDS infection in Native American communities among youth. Urged Indigenous Health Committee to include this issue in its work and further urged the WG to support the appointment of a Special Rapporteur on HIV/AIDS. **LPSGE** voiced concern about the poor health condition of indigenous prisoners in the USA, especially about the critical state of Mr Peltier's health, the longest held North American political prisoner. High rates of diabetes among IPs in Canada were addressed in a report (1991) (**IOIRD**). In Peru, indigenous women from remote areas were deeply concerned about the health programme implemented by the government to prevent women from having children resulting in the death of several women (**TPMIP**). In Nepal, many health problems are due to environmental degradation, deforestation, mining and development activities. **KRLLC** called on the government to adopt and implement health policies taking due account of IPs. Khakas people are badly affected by the economic hardships in Russia: infant mortality, suicide, alcoholism, drug addiction and infectious diseases are increasing (**CKP**). In Kenya, IPs' health problems -such as HIV/AIDS, tuberculosis, malaria, typhoid- are related to dispossession and alienation from their traditional lands, as well as limited access to health services (**OSILIGI**).

Governments

Australia informed that measures had been taken for specific health problems among Aboriginal people, such as blindness and influenza. Funds allocated to this area increased by 44 per cent in three years. **New Zealand** mentioned the creation of an agency to promote health and education among the Maori. **Canada** pointed out the development of an Aboriginal Health Institute. **Venezuela**, together with the Indigenous Parliament, had designed a plan of action for health. **Brazil** referred to a plan to be launched aiming at the prevention and treatment of HIV/AIDS.

Standard-setting Activities (item 7)



Documents: Human genome diversity research and indigenous peoples - E/CN.4/Sub.2/AC.4/1998/4; Compilation of general recommendations from human rights treaty bodies referring to indigenous peoples - E/CN.4/Sub.2/AC.4/1998/5 and Information received from indigenous organizations -

E/CN.4/Sub.2/AC.4/1998/9.

At the request of indigenous participants formulated during the 1997 WGIP, the panel considered possible guidelines or codes of conduct for private-sector mining and energy concerns carrying out activities on indigenous lands.

The broad scale of damages caused by mining, oil extraction and hydroelectric projects on environment and on indigenous communities in breach of their fundamental rights was illustrated as follows: Philippines- practice of WMC and Rio Tinto below acceptable standards (**PIPL**; general **TF**); the systematic deprivation of natural resources of Aymara peoples, mainly water, minerals and means of subsistence (**CAPAJ**); Argentina/ Kolla communities: Norandino project of gas pipeline crossing zone of Puna Jujena, rivers and forest where 60 per cent of endangered species of birds live, breaking fragile ecological balance by dividing the vegetation and destroying of agricultural and pastoral grounds (**CCFL**); Adivasi, India: displacements without compensation, pollution on large scale (**APNI**); flooding of large areas of agricultural, hunting and fishing grounds (**WCD**); inequitable sharing of costs and benefits (**WCD**), the latter going to private sector with no respect for contribution of IPs to creation of ecosystems (**CAPAJ**); dispossession of lands and exploitation of IPs' knowledge, traditional medicine, music and art for commercial use (**WCC**); exploration in connection with concession for copper production granted to Canadian company in Cerro Colorado, Panama: construction of roads, pollution and destruction of tropical forests, deforestation and desertification (**CEALP**); insufficient standards for fishing and logging companies (**Solomon Islands**); policy of forced removal or relocation implemented in Arizona since 1977; partitioning of territories primarily based on "cost-effectiveness" for exploitable aquifers and coal deposits; disruption of ancient balance between environment and indigenous cultural practices (**SDN**); Australia: concession for uranium deposit located in world heritage listed Kakadu National Park (**NSXXI**).

Different legislative measures taken by governments tend to promote private investment to the detriment of IPs' rights: policy of delivering mineral leases upon Indian reservations by the US Interior Department's BIA and BIA controlled tribal governments (**SDN**); delivery of mining concessions with no respect for IPs' economic rights and life-style (**CAPAJ**). After years of lobby by mining companies and pressure by the World Bank, the UNDP and other international agencies, the Philippines liberalized in 1995 its mining laws in order to attract more foreign investment, the land offered up without consent to foreign companies being mainly indigenous land (**PIPL**; see also counter-statement by government of **Philippines**). The right of negotiation recognized under the 1993 Native Title Act is challenged by recent amendments adopted by the Federal Government of Australia (**ATSIC**, **NSXXI**), disregarding the obligations contracted under Convention on the Elimination of Racial Discrimination (see CERD, 18.8.98; **FAIRA** written statement).

For the above mentioned reasons, nearly all delegates stressed the need to elaborate guidelines or codes of conduct on the basis of a true partnership (**WCC**, **WCD**, **Solomon Islands**, **LCN**) and recognition of IPs right to determine their future (**LCN**). Being aware of globalization of economy and major impact of transnational corporations on the parliaments of State parties to treaties of Free Trade as Mercosur, **CTTM** questioned the effectiveness of elaborating guidelines in this sector and proposed to focus standard-setting activities on protection of intellectual property. Many delegates underscored the importance of adopting without delay the Draft Declaration as universal international legal instrument protecting IPs fundamental rights (**MCTP**, **CPA**, **CAPAJ**, **WCC**), expressing their concerns about the slow process of adoption (**CPA**) due to a lack of political willingness to accept minimal standards (**CTTM**). **ILRC** called attention to the real danger that without substantial involvement of IPs, the present draft of the American Declaration of the Rights of IPs will be weakened by certain States and then used to limit the UN standards. **IOIRD** recommended WGIP to urge all governments to adopt the Draft Declaration, in particular Part VI and Art. 3 and 31 to confirm IPs' right to self-determination and ownership of land and natural resources. Asked to maintain this agenda item for next year's session of WGIP.

ICN presented a set of guidelines providing for recognition of the IPs' priority rights to land and resources (rights to subsoil: **CEALP**), their right to freely determine their social and economic development, the duty to inform and get prior consent of IPs (**CEALP**) before any activities are started in indigenous areas, adoption of strict environmental protection practices in consultation with IPs, respect for cultural and spiritual sites. Recommended to extend guidelines to public corporations. Additional recommendations referred to monitoring of projects (**LCN**), administration of benefits, restoration of the environment, indemnities (**CEALP**); independent fact-finding visits, moratorium to dam projects, inclusion of cultural criteria in environmental

impact assessments, facilitation of dialogue between IPs and governments, financiers and the private sector (**WCD**); review by Law of the Sea Convention Secretariat of the cultural and legal rights of IPs with regard to their rights to use seas and waterways (**NAILSS**); clarification of jurisdiction within Europe for actions in third countries (**EP**).

LCN informed about yearly updated hot spots list issued by Global Indigenous Mining Consultation which works on developing an international indigenous network to share information on mining activities. Asked to review the final documents of WCC sponsored global consultation on mining filed with WGIP members in July 1996.

Alfonso Martínez noted need of adopting international standards in this field and of involving IPs in negotiations according to the 1993 Vienna Declaration.

Two statements referred to the issue of tourism (**CPA**: Report of Workshop on Tourism and Indigenous Peoples held in Geneva on 28 July 1998; **ISGST**).

Study on Treaties (item 8)



Special Rapporteur, Professor **Miguel Alfonso Martínez** presented the Final Report of the Study on Treaties, agreements and other constructive arrangements between States and indigenous populations (unedited version, available in English only), initiated in 1987 and entrusted to him by the ECOSOC in 1989. The study is divided into four chapters. Chapter I deals with four main topics: the process of selecting cases relevant to this study; treaties and treaty-making concepts as to how consensus documents were reached; history and evolution of the relationship between indigenous and non-indigenous sectors within multi-sector communities; definition and differentiation between the categories of "indigenous peoples" and "minorities". Chapter II offers view points with respect to three juridical situations - treaties, agreements and other constructive arrangements, no specific bilateral legal instruments- focusing on individual case studies selected for review in consideration of their institutional development. Chapter III describes the overall process of domestication of indigenous issues, how a relationship between international subjects evolved into a relationship governed by domestic law. Chapter IV contains conclusions and recommendations in order to develop a constructive, forward-looking approach. In his presentation, the Special Rapporteur highlighted following points: He bore the entire responsibility for this study which is meant to serve for producing a constructive discussion (25-28). He opposed to be prisoner of existing terminology and to adopt a narrow definition of "treaty" and "treaty-making" in order not to preclude innovative approaches for a new settlement of the relations between IPs and States (56-58). Attention has been paid to non-eurocentric historiography of treaties and agreements in second progress report. He stressed the need to establish a clear-cut distinction between IPs and national or ethnic minorities on considerations exposed in paragraphs 72 to 90, referring in particular to situations in Afro-Asian context resulting from the process of decolonization. Underscored that the problem of land is the core issue of the Indian question: "The special concrete relationship whereby land is identified as the source of life itself, both spiritual and material, very different from the notion the non-indigenous have of the land as real estate." Said the problem was ultimately ethical and mankind stood in a moral debt to IPs, regardless of the legal form employed to justify an ancestral history of discrimination. This had been recognized by the former Prime Minister of Australia, by the Canadian Government and by the Catholic Church. He was categorical on the fact that IPs have a right to self-determination. The contradiction between the exercise of this right and the right and duty of the States to territorial integrity should be resolved by peaceful means, preferably by means of negotiation created by the States in order to reach mutually agreed, more secure relationships. Pleaded in favor of the establishment of national mechanism of reconciliation and subsidiary of an international mechanism of settlement of disputes, which could be addressed after exhaustion of existing national remedies and provided the acceptance of this jurisdiction by the State concerned. Stressed the importance of confidence-building in order to eliminate the explosive potential which characterize the overwhelming majority of relations between the indigenous sectors of society and non-indigenous societies.

A great number of participants congratulated Mr. Alfonso Martínez on the completion of the final report and the work he had accomplished. The representatives of IPs which had the visit of the Special Rapporteur in their territory (**CTTM** Mapuche Chile, **LCN** Lubicon Cree Nations; **IOIRD**: Treaty 6 / Four Nations of Hobemma,

Cree, Canada; **COPMAGUA** Maya, Guatemala) expressed their deep gratitude to him for having come and listen to the Elders.

Given the fact that the final report was delivered only on 27 July in its English, unedited version, many delegates felt it premature to make definitive statements at that stage (**AIPP, MDA, CTTM, COPMAGUA**). **CTTM** formally recommended to report the discussion of that document to the next session of the WGIP, a proposal that was supported by **PCN, TSNTC, LCN, IITC, KLH, PNN** and **CSN**. A prevailing opinion was that the conclusions and recommendations had first to be brought back and submitted to the indigenous communities and to the Elders for full review (**PNN, IITC, IOIRD, LCN, KLH**). **Judge Guissé** said that as far as the document was concerned, it would be extremely hard to make a final report out of it, for too many questions remained yet unanswered. Requested with all members of the WGIP an addendum to be established. Some delegates too asked for further assessments and subsequent information to be included in the final report: **CSN, GHRG** on Greenland Home Rule, **TTEC** on Alaska, **United States** on General Assembly Resolution 1469 (1959) referring to the withdrawal of Hawai'i from the list of non-self-governing territories.

The general discussion focused on three issues:

1. general comments on the conclusions;
2. implementation of the recommendations and
3. debate on the distinction between IPs and minorities.

1. The utmost relevance of this study for IPs from the Americas, specially of the Northern Hemisphere, clearly appeared in the subsequent statements. Considered historical in content and contemporary in nature (**CSN**), the treaty study was welcomed as a substantial contribution to the standard setting activities of the WGIP and to the process of approval of the Draft Declaration (**GCC**).

Most delegates referred to the recognition of the international status of the treaties, which were signed on a nation to nation basis (**IOIRD, TSNTC, LCN, CSN, PCN, PNN**). **LCN** welcomed the fact that the Study acknowledge that their treaties were not domestic contracts, but treaties like other treaties without qualification. **CSN** presented a treaty belt or "wampum", a document joined to the written version of the Canandaigua Treaty of 1794 signed with George Washington, which guaranteed and protected lands, future welfare and contained a conflict resolution mechanism on a nation to nation level. The Haudenosaunee interpretation of said treaty was recorded through the wampum and documented the collective memory of the ancestors. The importance of respecting the oral evidence of the Elders and the Indian understanding with regard to the original spirit and intent - a position supported by the final report - was mentioned by different delegates (**IOIRD, PNN, LCN, CSN**).

The process by which Nation-States divested IPs of their sovereign attributes and rights, particularly land rights, was broadly condemned (**TSNTC, IOIRD, PNN**). Two delegations focused their statement on ongoing policies of the government of Canada: **PCN** stated that coercion (224) and duress (307) were still relevant to the Picimikamak Cree Nation and the federal government's policy today. Submitted a document giving testimony of the breach of the Northern Flood Agreement ratified in 1978 for protection of Cree rights, environment and wildlife. **GCC** expressed concerns with regards to the issue of extinguishment, asking to include into the final report the fact that Canada required extinguishment of native titles as precondition to treaty negotiation. Stated that a new type of unilateral abrogation was taking place through the practice of so-called treaty implementation agreements, which in fact extinguished obligations contained in the original treaty.

COPMAGUA noted that the Study established the capacity of IPs to negotiate with States and showed that dialogue and negotiation were the guarantee for harmonious coexistence, putting an end to discrimination and exclusion of IPs which in their country were the majority.

KLH noted that the Special Rapporteur endorsed the reinscription of Hawai'i on the list of non-self-governing territories.

GHRG regretted the lack of references to legal texts in section B "Other constructive Arrangements", with potentially far reaching consequences for some parties. Said that 127 to 130 dealing with an assessment of the Greenland Home Rule Government were rather inaccurate.

With reference to the Alaska Nation Claims Settlement Act of 1971 and to the Treaty of Cession of 1867

between Czarist Russia and the United States, **TTEC** highlighted 224 of the final report relating to coercion.

2. Workshops: **IITC** proposed to organize a workshop (**ITS**, **IOIRD**) or seminar on the implementation of this study and to associate the Study on land rights prepared by Ms. Daes in the discussion. **IOIRD** urged the WGIP to consider recommending that one of the workshops be in the Treaty 6 territory (supported by **ITS**) and referred to the intervention presented at the Commission on Human Rights calling for a meaningful follow-up, for a committee of experts meeting and for a Global Conference on the Treaty Study. In the same sense, **TSNTC** recommended that the WGIP and UN convene a Conference of experts in order to formulate specific strategies for the implementation of the conclusions and recommendations of the Study.

Independent jurisdiction: **ITS** stressed the importance of establishing a special jurisdiction independent from existing non-indigenous governmental structures. **IOIRD** stated that treaty violations must be dealt with in an independent tribunal with authority to sanction. **GCC** welcomed the recommendations, in particular those for more effective mechanism of conflict resolution on national level. However, where they were absent or ineffective, recourse to international sources of adjudication must be available. **CSN** suggested with reference to the international adjudication mechanism (318), the world Court at the Hague to be the international forum to address claims relating to treaties.

Furthermore, **TSNTC** recommended that the WGDC approve paragraph 37 without change or further delay and that the WGIP and the Special Rapporteur support the independent actions of the IPs to judicially and diplomatically enforce these treaties, seeking a guarantee of the human rights that underlie their sacred agreements. **GCC** gave full support to the recommendation for an international registry of treaties between IPs and states.

3. Judge Guissé noted that by looking deeper, IPs did in fact exist on the African continent, as for example the Batwa in Rwanda. The exercise of sovereignty over natural resources should be in common accord with the peoples living on the lands. The distinction between IPs and minorities was very important; their specific rights being essential for the future of the world. **AIPP** expressed concerns about the position taken in the Study with regards to Asia and Africa, for it excluded many IPs from the application of the Draft Declaration. Said the blanket exclusion of Asian and African peoples would be morally, historically and legally wrong. **MDA** formally rejected the conclusions of the Study relating to IPs of Africa and Asia, aiming at excluding these peoples from the WGIP. Underlined that solidarity in the IPs movement was of utmost value. **KRCC** agreed with the definition of IPs contained in the final report, arguing that the indigenous-exogenous dichotomy did for instance not apply to Bangladesh although there were some ethnic groups of tribal origin differing from mainstream population. Pointed out that the WGIP had the clear mandate to deal with indigenous issues and therefore, extraneous issues such as tribal questions tended to sidetrack the deliberations of the WGIP. **Bangladesh** stated that the Study opened a wide spectrum in dealing with indigenous issues in all countries. **RBC** stated that all the relevant documents relating to the 1884 Treaty with the Emperor of Germany had been submitted in due time to the Special Rapporteur. Strongly rejected the opinion expressed in the report that if ethnic groups or peoples were discriminated against, it was not a problem of collective rights, but had to be dealt with in the realm of individual minority rights. Said it would be unfair to consolidate the rights of a particular group of IPs to the detriment of others. **Alfonso Martínez, Special Rapporteur** referred to the comments made by Judge Guissé and said that the question of minorities and indigenous issues required collective consideration and subsequent debate.

Indigenous Peoples and their Relationship to Land (item 9)



Ms Daes decided to postpone the discussion on her progress report (E/CN.4/Sub.2/1998/15) until WGIP next session for technical reasons. Her report will be sent again to governments and NGOs for their comments.

FAIRA, LCN, IOIRD addressed the issue of extinguishment. **ITFS** considered the failure of the State to recognize indigenous rights to lands, territories and resources as the most fundamental and widespread problem. Multinational corporations represent another threat. For **CTTM**, the strengthening of the concept of relations to ancestral land would be an innovation to international law.

Permanent Forum (item 10)



According to WGIP expert, **Mr Alfonso Martínez**, future discussions on the PF should include the idea that the PF replace the WGIP. Was concerned about the lack of clarity and definition of key aspects. An advisory body would be the best option. Participation -limited or open- would depend on the nature of the body. Funding would come from voluntary contributions or from the UN ordinary budget which would be most appropriate. **UNPO** was in favour of a PF where IPs would be active participants in the decision-making process on issues related directly to their daily life, fundamental freedoms and future. The WGIP must continue setting standards and assessing IPs' human rights. The PF should be financed by UN budget. The Draft Declaration establishes an adequate legal basis for the agenda of the PF. For **UA**, the PF, in conjunction with the WGIP, is necessary in order to hold governments accountable for treaty and human rights violations.

As a comprehensive decision-making body, the PF should be free to discuss all cultural, civil, political, social, economic, human rights, health, development, education and environmental issues. The definition of IPs should no longer be used as an excuse to delay its establishment. (**MIL**). It is the right moment for exploring possibilities of setting up the PF at a high level, within the framework of the UN reform process. Full and effective participation of concerned people was required (**CTTM**). Competence should not be limited to human rights and WGIP should continue as a part of the Sub-Commission. **ILRC** also requested a high level (along with **RCS**), including a significant number of UN State-members and indigenous representatives as members with full and direct participation of IPs. So did **AN**, who proposed an equal number of IPs and government representatives (between five and ten) on an equal footing (also **APNI**). The PF should be able to intervene in all issues affecting IPs. WGIP is also necessary for standard-setting and protection of IPs' human rights. **APNI** pointed out that the administrative structure must allow easy and direct access. The PF must be able to make very strong resolutions for action. As for **RCS**, the mandate should encompass political, social and civil rights. The PF should deal with standard-setting, among other issues. **LCN** had questions about the funding, representation of IPs, plan of action of the work, and role of States governments.

NAILSS reiterated its proposal that a First Permanent Forum session be held in Sydney in 2000. **LHRC** advocated for the establishment of an independent High Commissioner for IPs to promote human rights (civil, social, cultural, economic, political) and the right to self-determination, in order to investigate and stop human rights violations. For **CIIDPI**, the PF is viable only if western democracies recognize their anacronism. States' fear to lose parts of their territory is ridiculous given transnational corporations' power.

Governments

Denmark's (on behalf of **Estonia, Finland, Iceland, Norway, Sweden, Greenland Home Rule Government, Nordic Saami Parliaments**) proposals are contained in document E/CN.4/Sub.2/1995/7 and E/CN.4/1998/11 and addenda. Emphasized importance of consultations among IPs for preparation for ad hoc working group on the PF in February.

International Decade (item 11)



Ms Daes asked delegates to appeal to their governments for funds. **Mr Alfonso Martínez** required an updated document with all accounts for next year. **IOIRD/WIN** (E/CN.4/Sub.2/AC.4/1998/CRP.2) requested that the WIN Games be recognized as an official UN Decade activity. **CIIDPI** referred to the first workshop of indigenous journalists held in Madrid last January (report E/CN.4/Sub.2/AC.4/1998/6). Suggested that the 2000 WGIP highlight the theme of communications, information and documentation. **LHRC** proposed that IPs publish an international report, handbooks and an encyclopaedia on IPs to better inform the international community. **SGC** supported the recommendation made by 1995 WGIP calling for "an expert meeting on problems arising from nuclear testing and dumping on IPs" as an activity of the Decade. **APNI** demanded an immediate and comprehensive programme for a hundred threatened indigenous groups. **ETA** supported

resolutions on preservation of cultural heritage. Very little has been done by the Russian Federation for the Decade. As for Australia, **NAILSS** pointed out that funding for the ATSIC Committee established to undertake activities of the Decade has been drastically reduced. In a joint statement, European NGOs voiced concern about transferring the 1999 WGIP to Paris.

Governments

Norway (on behalf of **Nordic countries, Greenland Home Rule Government, Saami Parliaments**) suggested that a one-day technical meeting be held immediately prior to the 17th session of the WGIP in order to undertake the mid-term review and suggest possible changes to the programme of action of the Decade. As a donor country for the Voluntary Fund, **Japan** questioned the financial balance of the Fund ; had already asked for transparency last year. **Estonia** assured that their direct contribution to both VF would arrive soon. Reported on domestic programmes for Uralic IPs. Hoped that the next session of the WG on the Draft Declaration will make a breakthrough and adopt more than two articles.

Other Matters (item 12)



IOIRD presented a draft resolution by the Indigenous Caucus on the recognition and protection of indigenous intellectual property rights; a summary report of the First Roundtable will be presented to WIPO, including indigenous conclusions and recommendations, and to WGIP for inclusion in its report. **AN** requested that other mechanisms than the Voluntary Funds be found to guarantee participation of IPs in international conferences. **SC** issued a report on cultural policies and cultural rights on the occasion of the Intergovernmental Conference on Cultural Policies for Development organized by UNESCO (E/CN.4/Sub.2/AC.4/1998/8).

List of abbreviations



| | |
|--------|---|
| AAAKM | Arravalli Adarsha Adivasi Khedut Mandal (India) |
| AAJ | Ainu Association of Japan |
| ACP | Asociacion Cultural Pachatusan (Peru) |
| ADBR | Association pour le développement global des Batwa du Rwanda |
| AFN | Assembly of First Nations (Canada) |
| AICFA | All India Coordinating Forum of the Adivasi/Indigenous Peoples |
| AILA | American Indian Law Alliance (USA) |
| AIN | Ainu International Network (Japan) |
| AIPP | Asia Indigenous Peoples Pact |
| AIPPC | Asian Indigenous Peoples' Peace Campaign |
| AIPY | Association of Indigenous Peoples of Yakutia (Russian Fed.) |
| AIRA | Asociación Indígena de la República Argentina |
| AN | Asociación Napguana (Panama) |
| ANC | Ainu National Congress (Japan) |
| ANI | Association of Norfolk Islanders |
| ANIPA | Asamblea Nacional Indígena Plural por la Autonomía (Mexico) |
| APB | Association for the Promotion of Batwa (Rwanda) |
| APNI | Adivasi Peoples Network International (India) |
| ATSIC | Aboriginal and Torres Strait Islander Commission (Australia) |
| CAA | Comunidad Aymara Ancomarca (Peru) |
| CAPAJ | Comisión Jurídica para el Autodesarrollo de los Pueblos Originarios Andinos (Peru) |
| CASS | Chottanagapur Adivasi Sewa Samiti (India) |
| CCFL | Centro Cultural Flor de Lirio (Argentina) |
| CCHDC | Cape Cultural Heritage Development Council (South Africa) |
| CCIC | Centro de Culturas Indias, Chiparaq (Peru) |
| CEALP | Centro de Asistencia Legal Popular (Panama) |
| CENAQ | Consejo Educativo de la Nación Quechua (Bolivia) |
| CHRO | Chin Human Rights Organization (Burma) |
| CHTSC | Chittagong Hill Tracts Students Council (Bangladesh) |
| CIH | Committee on Indigenous Health |
| CIIDPI | Centro Internacional de Información y Documentación de los Pueblos Indígenas, (Basque Country, Spain) |

| | |
|----------|---|
| CI-MCI | Comité Intertribal-Memoria y Ciencia Indígena (Brazil) |
| CIPLRC | Cordillera Indigenous Peoples Legal Resource Center (Philippines) |
| CISA | Consejo Indio de Sud América |
| CIWRI | Canadian Indigenous Women's Resource Institute |
| CKP | Council of Khakhas Peoples (Russian Fed.) |
| CMA | Congrès mondial amazigh (North Africa) |
| CNF | Chin National Front (Burma) |
| CNMIM | Coordinadora Nacional de Mujeres Indígenas de México |
| COIAB | Coordinación de las Organizaciones Indígenas de la Amazonía Brasileña |
| COM | Coordinación de Organizaciones Mapuche (Argentina) |
| COPMAGUA | Coordinación del Pueblo Maya de Guatemala |
| CORE | Centre for Organisation Research and Education (India) |
| CPA | Cordillera Peoples Alliance (Philippines) |
| CPPE | The Chukchi Peoples of Pewek "Enerkyi" (Russian Fed.) |
| CSB | Cree School Board (Canada) |
| CSC | Comité social des Chagossiens (Mauritius) |
| CSN | Confederacy of Six Nations, Haudenosaunee: Mohawk, Oneida, Onondaga, Cayuga, Seneca, Tuscorora (USA) |
| CTTM | Consejo de Todas Tierras Mapuche (Chile) |
| DIPRO | Druk Indigenous People's Rights Organisation (Bhutan) |
| ECN | Ermineskin Cree Nation (Canada) |
| EI | Education International (Australia) |
| EMDH | Escuela Maya de Derechos Humanos (Guatemala) |
| EP | European Parliament (Rapporteur on a European Code of Conduct for European Enterprises) |
| ETA | Eiene Til, Altai (Russian Fed.) |
| FAIRA | Foundation for Aboriginal and Islander Research Action (Australia) |
| FAJI | (Algeria) |
| FAM | Federación Aymara-Marka (Chile) |
| FIAEP | Federation of Independent Aboriginal Education Providers, Ltd. (Australia) |
| FICI | Federación Indígena y Campesina de Imbabura (Ecuador) |
| FNACA | Fédération nationale des associations culturelles amazigh (Algeria) |
| FOAG | Fédération des organisations amérindiennes de Guyane |
| FRM | Fundación Rigoberta Menchú (Guatemala) |
| GCC | Grand Council of the Crees (Eeyou Istchee) (Canada) |
| GHRG | Greenland Home Rule Government |
| GKT/GT | Groupe Kel Tamacheq/Groupe Touareg (Mali, Niger) |
| GNCSA | Griqua National Conference of South Africa |
| IAD | Institute for Aboriginal Development (Australia) |
| ICITPI | Indian Confederation of Indigenous and Tribal Peoples of India |
| ICN | Innu Council of Nitassinan (Canada) |
| ICNs | Indigenous Council in the Netherlands |
| ICO | International Circassian Organisation (Russian Fed.) |
| IITC | International Indian Treaty Council |
| IJP | Indigenous Jumma People of Chittagong Hill Tracts (Bangladesh) |
| ILC | Indigenous Law Centre (Australia) |
| ILRC | Indian Law Resource Center (USA) |
| IMTA | Indian Movement "Tupaj Amaru" (Switzerland/Bolivia) |
| INAI | Instituto Nacional de Asuntos Indígenas (Argentina) |
| IOIRD | International Organization of Indigenous Resource Development; (joint statement on item 8: IOIRD, Ermineskin Cree Nation, Samson Cree Nation, Montana Cree Nation, Louis Bull Cree Nation, Four Cree Nations of Hobemma, student delegation from Maskwachees Cultural College and University of Alberta) (Canada) |
| IQJ | Instituto Quechua Jujuyanta (Argentina) |
| ISGST | International Support Group on Sustainable Tourism |
| ITFS | International Treaty Four Secretariat (Canada) |
| ITS | International Treaty Secretariat |
| JNP | Jeunesse nationale populaire (Morocco) |
| JOHAR | Jharkhandis Organisation for Human Rights (India) |
| JPL | Jumma Peoples Link (Bangladesh) |
| KCC | Khoekhoegowab Curriculum Committee (Namibia) |
| KKRU | Kirat Koyu Rais' Uplifting Association (Nepal) |
| KLH | Ka Lahui Hawai'i (USA) |
| KRCC | Kanien'kehaka Raotitiohkwa Cultural Center (Canada) |
| KRLLC | Kirat Rai Language and Literacy Council (Nepal) |
| LCN | Lubicon Cree Nations (Deh Cho First Nations, Joseph Bighead Cree, Valley River First Nation, Akaitcho Territory Government and Hupacasath First Nation) |
| LH | League of the Haudenosaunee (USA) |
| LHRC | Lao Human Rights Council (USA/Laos) |
| LPSGE | Leonard Peltier Support Group Europe |
| MCB | Mouvement culturel berbère (Algeria) |
| MCTP | Mejlis of Crimean Tatar People (Russian Fed.) |
| MDA | Maa Development Association (Kenya) / IPs of Africa Coordinate Committee |

| | |
|---------|---|
| MET | Te Kaupapa O Te Matauranga Mo Te Iwi Maori, The Maori Education Trust (Aotearoa, NZ) |
| MIL | Mapuche International Link |
| MJK | Movimiento de la Juventud Kuna (Panama) |
| MMFHR | Mena Muria Foundation Human Rights Moluccas (Netherlands) |
| MNA | Metis Nation of Alberta (Canada) |
| MUL | Mon Unity League (Burma) |
| NACCHO | National Aboriginal Community Controlled Health Organisation (Australia) |
| NAILSS | National Aboriginal and Torres Strait Islanders Legal Service Secretariat (Australia) |
| NI | Ngaiterangi Iwi (Aotearoa, NZ) |
| NPMHR | Naga Peoples Movement for Human Rights (India) |
| NPS | Nuba People of Sudan |
| NSCN | National Socialist Council of Nagaland (India) |
| NSTSIO | National Secretariat of Torres Strait Islander Organisations (Australia) |
| NSWAECG | New South Wales Aboriginal Education Consultative Group Inc. (Australia) |
| NSWALC | New South Wales Aboriginal Land Council (Australia) |
| NSWRC | New South Wales Reconciliation Committee (Australia) |
| NSWTFU | New South Wales Teachers Federation Union (Australia) |
| NSXXI | North-South XXI |
| NWU | Naga Women's Union (India) |
| ORMI | Organización Regional de la Mujer Indígena (Peru) |
| OSILIGI | Organization for Survival of Illaikiapiak Indigenous Maasai Group Initiatives (Kenya) |
| PAQ | Pueblo Aymara del Qullasuyu (Switzerland/Bolivia) |
| PCG | Peace Campaign Group (Bangladesh) |
| PCN | Pimicikamak North-Cree Nation (Canada) |
| PDF | Peoples' Democratic Front (India) |
| PIDPP | Programme d'intégration et de développement du peuple pygmée (D. R. Congo) |
| PIPL | Philippine Indigenous Peoples Links |
| PNN | Paul Nakoda Nation and Elder Joe Potts, Alexis Nakoda Nation (Canada) |
| RAIPN | Russian Association of Indigenous Peoples of the North (Russian Fed.) |
| RBC | Rehoboth Baster Community (Belgium/Namibia) |
| RCS | Russia Chor of Siberia (Russian Fed.) |
| RIAP | Red Internacional de Apoyo al Pueblo Pehuenche y Representante de Mapu Domuche Nehuen (Chile) |
| SC | Sami Council (Norway) |
| SCBD | Secretariat of the Convention on Biological Diversity |
| SCN | Samson Cree Nation (Canada) |
| SD | San Delegation (South Africa) |
| SDN | Sovereign Dineh Nations, Big Mountain (USA) |
| SGC | Shimin Gaikou Centre (Japan) |
| SNAICC | Secretariat of National Aboriginal and Islander Child Care (Australia) |
| TF | Tebtebba Foundation (Phillipines) |
| TFN | Treaty First Nations of Canada |
| TKM | Te Kawau Maro (Aotearoa, NZ) |
| TNNHMQ | Tanzeen Nasle Nau Hazara Mughal Quetta (Pakistan) |
| TPMIP | Taller Permanente de Mujeres Indígenas del Perú |
| TSNTC | Teton Sioux Nation Treaty Council (USA) |
| TSRA | Torres Strait Regional Authority (Australia) |
| TTEC | Tununak Traditional Elders Council (USA) |
| UA | University of Alberta (Canada) |
| UCIW | Unión de Comunidades Indígenas Wixaritari de México |
| UIHEC | Umuliko Indigenous Higher Education Centre (Australia) |
| WCC | World Council of Churches |
| WCD | World Commission on Dams |
| WIMSA | Working Group on Indigenous Minorities in Southern Africa (Namibia) |
| WIN | World Indigenous Nations |
| WSC | World Sindhi Congress (United Kingdom/Pakistan) |

Sub-Commission on Prevention of Discrimination and Protection of Minorities



50th session: 3 to 28 August 1998

Resolutions and decisions concerning Indigenous Peoples

(UN documents E/CN.4/Sub.2/1998/L.11/Add.1 and Add.3)

Study on Indigenous Land Rights

Resolution 1998/21

The Sub-Commission:

- requests the Secretary-General to transmit as soon as possible the progress report on the working paper on IPs and their relationship to land, together with the preliminary working paper on the same topic (E/CN.4/Sub.2/1997/17 and Corr.1), to governments, IPs and intergovernmental and non-governmental organizations for their comments;
- requests the Special Rapporteur to prepare her final working paper on the basis of the comments and information received from governments, IPs and others and to submit it to the WGIP at its 17th session and to the Sub-Commission at its 51st session;
- recommends that the CHR approve Sub-Commission's request to the Secretary-General to provide the Special Rapporteur with all the assistance necessary to enable her to complete her final working paper.

International Decade of the World's Indigenous Peoples

Resolution 1998/22

The Sub-Commission:

- recommends that the celebration of the International Day be held on the first day of the 17th session of the WGIP in order to ensure as great a participation of IPs as possible;
- welcomes the decision by the GA in its resolution 52/108 of 12 December 1997 to appoint the UNHCHR as Coordinator for the International Decade;
- recommends that the Coordinator for the Decade consider holding a special fund-raising meeting with interested permanent missions and the members of the Advisory Group, as well as the appointment of qualified staff, including indigenous persons, to assist with the work of the Office of the HCHR relating to the indigenous programme;
- urges governments and intergovernmental and non-governmental organizations to contribute to the Voluntary Fund for the Decade, and invites indigenous organizations to do likewise;
- also recommends that attention continue to be given to improving the extent of the participation of IPs in planning and implementing the activities of the Decade;
- further recommends that in accordance with GA resolution 50/157 of 21 December 1995, the draft UN declaration on the rights of IPs be adopted as early as possible during the International Decade;
- welcomes CHR resolution 1998/20 in which the Commission decided to establish an open-ended inter-sessional ad hoc working group on the permanent forum for IPs in the UN system;
- recommends that the permanent forum be established as soon as possible in the course of the Decade with functions that do not duplicate those already conferred on the WGIP, financed through the regular UN budget and securing full participation of all interested IPs;
- expresses its appreciation to the government of Spain for hosting the Workshop of Indigenous Journalists in January 1998 and encourages the HCHR to consider organizing a follow-up workshop;
- recommends that the CHR request the ECOSOC to authorize the Office of the HCHR to organize a three-day technical meeting immediately prior to the 17th session of the WGIP in order to undertake the mid-point review of the Decade and emphasizes the importance of ensuring the largest possible indigenous participation at the technical meeting.

Working Group on Indigenous Populations

Resolution 1998/23

The Sub-Commission:

- requests the Secretary-General to transmit the report of the WG on its 16th session to the UNHCHR, indigenous organizations, governments and intergovernmental and non-governmental organizations concerned, as well as to all thematic rapporteurs, special representatives, independent experts and working groups;
- requests that the report be made available to the CHR at its 51st session;
- recommends that the WG cooperate as a body of experts in any conceptual clarifications or analysis, which might assist the working group on the draft declaration;
- welcomes the invitation from UNESCO offering to host the 17th session of the WGIP at the organization's headquarters in Paris;
- endorses the decision taken by the WG, in view of the concerns expressed by a number of indigenous organizations, not to take a final decision on the invitation until it receives information at its 17th session on the results of the consultations with their communities on this issue;
- recommends that the WGIP, at its 17th session adopt as the principal theme "indigenous peoples and their relationship to land";
- takes note of the WG's decision to request Mr. Alfonso Martínez to submit to its 18th session a preliminary working paper on possible principles and guidelines for private sector energy and mining concerns that may affect indigenous lands;
- requests the CHR to invite governments, intergovernmental organizations and indigenous and non-governmental organizations to provide information on the principal theme, to the WG at its 17th session;
- requests the High Commissioner to encourage studies with respect to the rights to food and adequate nutrition of IPs as they relate to their access to land, cultural heritage and health and, as appropriate, to call for an international workshop on the theme with a view to evaluating the present access to adequate food and the nutritional status of IPs and contributing to practical measures to improve the situation;
- requests the Secretary-General to prepare an annotated agenda for the 17th session of the WG;
- requests the CHR to request the ECOSOC to authorize the WG to meet for five working days prior to the 51st session of the Sub-Commission.

Study on Treaties, Agreements and Other Constructive Arrangements between States and Indigenous Peoples

Resolution 1998/107

The Sub-Commission decided to request the Special Rapporteur to submit, not later than 31 March 1999, a new version of his final report, including any revisions that might be introduced to the present unedited English version of that document, and to request the Secretary-General to give the Special Rapporteur all necessary facilities to secure the completion of this task, in particular the distribution of his final report in all working languages to the WG and the Sub-Commission in time for their respective 1999 sessions.

Developments in the Situation of Mexico

Resolution 1998/4

The Sub-Commission:

- requests the Mexican authorities to ensure full respect for the international instruments to which Mexico is party and, to this end, to attach the highest priority: (a) on the one hand, to combating the impunity of perpetrators of serious human rights violations, especially those suffered by numerous members of the indigenous populations; (b) on the other hand, to promoting the action of human rights defenders and guaranteeing their safety;
- appeals to the signatories of the San Andrés accords to resume the process favouring dialogue;
- requests the CHR, in the interest of prevention, to consider at its next session the developments in the human rights situation in Mexico and decides, should the Commission be unable to do so, to continue the consideration of these developments at its 51st session, under the same agenda item.

Indigenous Peoples and Wetlands



The Seventh Conference of the Parties (COP 7) to the Convention on Wetlands of International Importance Especially as Waterfowl Habitat (the Ramsar Convention), taking place in Costa Rica in May 1999, will have as its central theme "*People and Wetlands: The Vital Link*".

Various activities are taking place on the road to COP 7, on the specific issue of indigenous peoples' role in wetland management. A substantial input from the indigenous movement is expected on this at COP 7.

In late July 1998, at the XVI Session of the WGIP, the Legal Commission for Self-development of Andean Aboriginal Peoples (Comision Jurídica Para el Autodesarrollo de Los Pueblos Originarios Andinos - CAPAJ) from Peru organized a Workshop on Indigenous Peoples and Wetlands, with the support of WWF and the Ramsar Convention Bureau; recommendations from that meeting will be taken forward to the COP 7 and related processes. Essentially, the meeting stressed the fact that indigenous peoples linked to wetlands, despite their ancestral care for these ecosystems as fundamental sources of life, are now threatened everywhere because wetlands are impacted on by many development activities and powerful interests; thus, the meeting saw the future of the world's wetlands as inextricably linked to the role of indigenous peoples as their natural stewards.

In September 1998, two important meetings will be also held on similar topics. In Australia, the Centre for Tropical Wetlands Management is convening a meeting on Wise Use of Wetlands by Indigenous People in Northern Australia. The meeting will document the range of uses made of wetlands by indigenous people in Northern Australia, record the significance of those uses for maintaining traditional lifestyles and culture, identify potential threats to important values and the maintenance of local management practice, consider options for expanding the use of wetlands owned or managed by indigenous people for subsistence or commercial purposes, analyze interactions between new and traditional uses and practices, as well as ways of minimizing conflicts among these, and discuss protocols for dealing with indigenous knowledge.

The Ramsar Bureau in turn will hold a Workshop on Awareness, Education and Understanding Leading to Action, at its seat in Gland, Switzerland, with the purpose of assisting the Convention on Wetlands to become a more active and effective player in promoting the conservation and wise use of wetlands, through particularly strengthening partnerships for awareness raising, community education, and local people empowerment - including indigenous peoples. A summary of these deliberations will be presented at the COP 7 as part of Technical Session III on "*Involving local people at all levels*".

In Dakar, Senegal, November 1998, at the Second Conference on Wetlands and Development, a workshop will be held on Strategies for Wise Use of Wetlands, focusing basically on options for collaborative management of wetlands with indigenous and local peoples. Recommendations from this event, coordinated by WWF, will be also forwarded to COP 7.

The PEMASKY programme of the Kuna people of Panama is convening a Conference in Kuna Yala, in November 1998, on Indigenous Peoples and Protected Areas; although the focus is broader than wetlands, a specific session will be held on the topic of strategies for wetland management by indigenous peoples in Central America. It is expected that the meeting will present recommendations to COP 7 on considering such strategies in future action plans for wetland conservation worldwide.

Immediately prior to COP 7, a Session of the Global Biodiversity Forum will discuss Indigenous and Local Communities' Participation in Wetland Management, with a view to producing specific recommendations for COP 7, based on direct dialogue with Parties' representatives. The Sessions is being organized by the Indigenous Peoples Biodiversity Network (IPBN), WWF, and IUCN.

Ramsar Convention's COP 6 recommended in 1996 that contracting parties "make specific efforts to encourage active and informed participation of local and indigenous people at Ramsar listed sites and other wetlands and their catchments, and their direct involvement, through appropriate mechanisms, in wetland management". Following this recommendation, IUCN, in collaboration with WWF, the Kushiro Wetlands Centre and Caddo Lake Institute, developed draft Guidelines on the matter, which were widely discussed with indigenous

organizations. The final version of this document will be a key input to COP 7 discussions on *the Vital Link*.

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News



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Study on Treaties

Your comments on the Study on Treaties may still be sent to the Special Rapporteur, Mr Alfonso Martínez, until **31 March 1999**, at the following address:

UNDP Cuba
Calle 18 No. 110 (Entre 1ra y 3ra)
Miramar, Playa,
Ciudad de La Habana, Cuba.
Tel. +53-7 33 15 12/33 15 14
Fax: +53-7 33 15 16

As an unedited English version, the Study has not been translated. In order to have it available to Spanish-speaking representatives, two independent translators have issued an informal Spanish version, with the help of doCip, to be sent together with *Informativo (Update)*.



Roundtable on Intellectual Property and Indigenous Peoples at the World Intellectual Property Organization

(22 - 24 July 1998)

About 60 indigenous representatives took part in the exchange of views with WIPO and State representatives

concerning the protection of traditional knowledge, innovations and culture. WIPO meant to enable indigenous groups and local communities to participate fully and effectively in the debates, as well as raise experts' and government representatives' awareness about Indigenous Peoples' needs and expectations on the matter. Two WIPO's speakers explained how indigenous rights could be integrated into the existing protection system and the indigenous representatives expressed their own concept of these rights.

The following persons made a statement:

- Mr. Castelo, Deputy Director General of WIPO: *Opening address.*
- Ms. Erica I. Daes, Chairperson of WGIP : *Opening remarks.*
- Mr. Lars Anders Baer, Vice President of the Sami Council, Chairperson of the Roundtable: *Opening address.*
- Mr. Richard Owens, Director of the Global Intellectual Property Issues Division of WIPO: *Introduction to Copyright and Neighbouring Rights.*
- Ms. Yolanda Huerta Casado, Legal Officer, Legal and Constitutional Matters Section, WIPO: *Introduction to Patents, Utility Models, Industrial Designs, Geographical Indications and Trademarks.*
- Ms Aroha Mead, Manager, Heritage and Indigenous Issues Unit, Te Puni Kokiri, Ministry of Maori Development, Wellington, New Zealand; Mr. Lars Anders Baer, vice-president of the Sami Council (Sweden); Mr. Atencio López, President of Napguana Association (Panama); Mr. Mongale Wally Serote, Deputy and President of the Parliamentary Commission on Arts, Culture, Languages, Sciences and Technique (South Africa); Mr. Jocelyn Thérèse, FOAG (French Guyana) on behalf of COICA: *Initiatives for the Protection of Holders of Traditional Knowledge, Indigenous Peoples and Local Communities.*
- Furthermore, other indigenous participants expressed their opinion on the topics under discussion.

Focused on concepts of individual innovation and creation within a time limit (20, 30 or 50 years), the present protection system hardly corresponds with the indigenous concept of these rights, which are based as much on tradition as on innovation. Therefore, there rights cannot be limited in time; neither do they relate to individual creators, as creativity is a community issue.

For this first meeting, WIPO had set rules, which were questioned by the Indigenous representatives: debates could not be recorded and no final resolution could be issued. As for State representatives, they were invited to listen rather than take the floor. The indigenous delegates regretted these rules and pointed out that a report and a resolution should have been produced considering the importance of the Roundtable.

Statements are available in English, French, Spanish and Russian at:

WIPO

34, chemin des Colombettes

1211 Geneva, Switzerland

Tel.: 41.22.338-9111

fax: 41.22.733-5428

e-mail: wipo.mail@wipo.int

web site: <http://www.wipo.org>



Calendar of Events

According to the Office of the High Commissioner for Human Rights the following meetings are scheduled to take place in Geneva:

25-27 November 1998

Workshop on Indigenous Peoples' Heritage

By Ms Erica I. Daes

30 November to 11 December 1998

Working Group on the Declaration of the Rights of Indigenous Peoples (WGCD)

The date has been postponed so that it does not coincide with the General Assembly session taking place in New York. No information concerning the proceedings is available yet. We assume that informal meetings will take

place and that the less contentious articles will be discussed.

15-19 February 1999

Meeting on the establishment of a Permanent Forum for the Indigenous Peoples

22 March to 30 April 1999

Commission on Human Rights

The provisional agenda will appear two months in advance

Other meetings still are to be confirmed:

Spring 1999

Meeting on Higher Education

Scheduled to take place in Costa Rica.

September 1999

Meeting on Indigenous Journalism

Possibly in the USA.

Acknowledgments



Contributors to this issue

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