

New Agenda Item 8: The Future of the UN WGIP  
WGIP 31 July --3 August 2006

governance for narrow illegitimate political gains

## New Agenda Item 8: The Future of the UN WGIP

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Honorable chairman and members of the  
Working Group, dear Indigenous brothers and  
sisters,

### Worsening framework conditions of the UN Human Rights regime

As discussed by the experts Martinez and Hampson current **framework conditions of the UN Human Rights regime have worsened**. This was done under the pretext of reforming, it. There is a need for thematic initiatives we have discussed under item 5b.

We see a general degradation of UN. I recall that early in June Mr. Mark Malloch Brown, the Deputy Secretary General, criticized the USA for withholding support from the UN, encouraging the UN's harshest detractors and **undermining the world organisation**. Attacks on the Human Rights regime are hardly surprising in times of blackmailing against the UN system, imposing Western or rich country dominance against the South, by stop-and-go of funding by the rich 4. NAM called it a bluff. We see it as scandalous wrecking of global

### Some points on Dr. Hampson's paper of recommendation by WGIP to Sub2

Point A3, Advise on recent developments, includes a call for a more dynamic way in dealing with current developments. including, interactive exchanges. This is hardly done as we saw ill the deliberations on item 4. Unreasonable time restriction in regards to reports on the current situation of IPs are an affront to those indigenous brothers and sisters who came a long way from their remote areas to Geneva, possibly using resources of their organization for the purpose, only to be told that they have 3 minutes to report on developments in the past year. This seems entirely inappropriate. The session of the WGIP must have 5 working days and they must be utilized to the full. Under the chairmanship of Mme Daes we often had meeting into the night. Going back to the hotel at 6 pm is not a human rights. The expert, if the WGIP and its experts are really interested to receive advice on recent developments for those people who know it best, must be prepared to listen to the delegates and allow reasonable time to this, to make the exchange meaningful.

Point A4, page 2 on action oriented studies of specific issues affecting IPs. The list of issues which require further study excludes some of the most relevant issues. Completely missing from the list are again the issues of conflict preventive measures and mechanism to be urgently studies and developed, as well as the studies on the modalities and form of the practical implementation of the inherent right to self-determination of indigenous peoples, we have discussed here under agenda item 5b.

Point on standard-setting, page 2 to 3 is well taken. There is a need for drafting codes and guideleines relevant in practice different framework conditions of indigenous peoples existencial situations have to be reflected. Many if not **most indigenous peoples do not live under conditions of the rule of law being**

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**respected by the states** on which territory they live since times immemorial.

First and foremost, **studies, codes and guidelines must address different realistic framework situations** which might be marked by threats or even violent acts against IPs. Unfortunately this is precisely the situation very many if not a majority of the IPs in the South are confronted with. Guidelines that ignore this are basically only applicable to a situation earmarked by the prevalence of the rule of law and a general respect for most basic human rights. Hence, they are not applicable to any situation earmarked by breaches of civilized behaviours by states and its agencies, a situation of aggressive behavior or even situation of lawlessness and attacks against IPs.

Second, the main problem of any such guidelines is its implementation. It is therefore rather surprising to find formulations, I quote, "to provide sufficient flexibility for national authorities" in implementing protection, as found in the guidelines in regards to the cultural heritage of IPs. This seems inappropriate.

### **Future of WGIP-Wrecking the largest human rights conference?**

This working group is representing today the largest human rights conference-apart from world conferences on this matter. Two years ago we were allowed to use the main hall of the former League of Nations, the largest and most magnificent hall the UN can offer in Geneva. This was a far cry from the first conference in 1983, when this workgroup consisted of three dozen people who met in a room beside the cafeteria in the old building.

Today the workgroup assembles some seven hundred (sometimes up to one thousand) participants and it has long become an institution within the UN system. It is the only one that is engaged in standard-setting in regards to the rights of indigenous peoples and

in hearing, reports from all over the world about the plight of indigenous peoples and the state of affairs regarding particular thematic issues. Situation reports - more often than not - amount to reports on problems in the indigenous territories, ranging from lack of services, underdevelopment to economic, social and political discrimination or worse, attacks, outright wars being launched against indigenous peoples or even genocidal killings, as in Darfur and Iraq today and a few years ago in the great Congo -launched by outsiders, militias or settlers vs. indigenous peoples. These serious crimes are being committed under conditions of silence or even the participation of the army and other state agencies in several places all over the world.

### **WGIP became one of the most prominent institutions of conflict prevention**

it was under agenda items 4, review of developments, and 5, standard-setting that this workgroup became itself one of the most **prominent** institutions of conflict prevention and occasionally even of conflict resolution. The expert character of the WGIP was further enhanced by a large number of studies and thematic reports being produced by members of this working group as well as workshops, seminars and conferences being organized on various indigenous peoples' issues and the protection of their rights. A list of it was provided by the Secretariat on 30 June 2006 in Annex 1 of the UN document with ID number F/CN.4/Sub.2/Ac.4/?006/CPR. 1 you can find in the back of the hall.

### **Bringing the truth out**

States feel disturbed if crimes committed against indigenous peoples living on their territory become known to the outside world and are being reported to the world's only institution of global governance, the United Nations System. The very act of making human rights violations known to the outside world\_ and to the UN as the largest community of states in particular\_ has conflict preventive force and can save lives or improve the condition of indigenous peoples. Violations are

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being reported and communicated within the LAN system. Its organizations and bodies may take action, be it the General Assembly as the originally supreme decision making body (which has been partly subverted by the Security Council against the UN Charter), be it organizations within the UN system such as the International Labour Organization, ILO, which has elaborated its own convention 169 on indigenous peoples issues, be it the UN's refugee organization UNHCR, be it the body concerned with development, the UNDP or the World Bank, etc.

As for the recommendations formulated by Dr. Hampson I do support all of them, especially the 5<sup>th</sup> point. As for the 7<sup>th</sup> point I do not understand what is exactly meant by a wider human rights advisory expert body.

#### Standard-setting activities

The workgroup's standard-setting activities had and have a structural conflict preventive impact that materializes in many different ways. This impact is hard to measure but beyond doubt these activities play a vital role in the amelioration of framework conditions for the survival of indigenous peoples; this has its impacts especially in the domains of international relations, politics and international law.

#### **World parliament of the indigenous nations and peoples**

To take an example: despite its name – which became an understatement in itself – this workgroup developed into a **kind of world parliament of the indigenous nations and peoples**. not exactly doing what parliaments do. making laws. but producing something which came very close to it, most prominently so the UN Draft Declaration on the Rights of Indigenous Peoples.

This draft has been adopted by the Sub-Commission 2 but not by the Commission. It was subsequently taken away from us, given to a newly constituted working group and watered down in many ways. A lame version of the document we have once been drafting here, in

years of hard work during an additional week which was dedicated solely to the production of this important document, has not been adopted by the newly constituted Human Rights Council. Even before that the draft declaration has had a tremendous impact on lawmaking the world over, which is, of course. again hard to measure.

This was one of the success stories of UN WGIP. To tell it negatively. it becomes harder for governments and multinational corporations to ignore the rights of indigenous peoples. Meanwhile, many states and specially in Latin America and to a lesser degree in a few other settler colonies have beautified their constitutions. Under the influence of the draft declaration these states have recognized some rights of indigenous peoples under their jurisdiction. Unfortunately, and very often so, the wording of those beautified constitutions has not been made a reality.

One of the most valuable institutions for conflict prevention on a global scale

I would suggest that this workgroup has developed into one of the most valuable institutions for conflict prevention on a global scale. It is definitely one of the most effective and cheapest such institutions measured in cost-benefit terms. This workgroup may cost the UN system some 100,000s US dollars annually. incl. monies of the Voluntary Fund for Indigenous Peoples. All of it can be regarded as quote-unquote peanuts compared to what other institutions consume, not to talk about what the UN spends on hot conflicts or in containing them, with its 18 Peace Keeping Operations – much cheaper than the Iraq war.

It seems utterly unreasonable to wreck an institution which has been performing so well as this one and which gained prestige and status far beyond all expectations.

Honorable chairman and experts, dear indigenous friends, we shall never leave the WGIP without a major fight.