

UN PERMANENT FORUM ON INDIGENOUS ISSUES

Established in 2000, the Permanent Forum on Indigenous Issues is an advisory body to the UN Economic and Social Council (ECOSOC) and is composed of 16 independent experts. Eight are nominated by governments and eight by indigenous peoples. It addresses indigenous issues in the areas of economic and social development, environment, health, human rights, culture and education. In 2008, the Forum expanded its mandate to include the responsibility to “promote respect for and full application of the Declaration and to follow up the effectiveness of the Declaration”. According to its mandate, the Permanent Forum provides expert advice to ECOSOC and to UN programmes, funds and agencies; raises awareness about indigenous issues; and promotes the integration and coordination of activities relating to indigenous issues within the UN system.¹

Preparatory work

In 2010, the pre-sessional meeting of the Permanent Forum took place on 17 and 18 March, on the shores of Lake Titicaca and in the city of La Paz, at the invitation of the Bolivian government. The annual pre-sessional meetings allow the members of the Permanent Forum to prepare for the annual sessions of the Permanent Forum.

9th session of the UN Permanent Forum on Indigenous Issues – 19-30 April 2010

The 9th session opened on 19 April in New York to a surprise announcement from the New Zealand government that it had reversed its position on the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and would support it. The

estimated 1,500 participants, including indigenous representatives, NGOs, states and UN agencies welcomed the news with a standing ovation. The next day, the United States announced that it would begin consultations with indigenous peoples to review its position on the Declaration. This means that all four states that voted against the adoption of the Declaration in the General Assembly in 2007 now either support it or are actively reviewing their position; several others have yet to express a view.²

Special theme: Development with culture and identity

The special theme of the 9th session was *Indigenous peoples: Development with culture and identity; articles 3 and 32 of the United Nations Declaration on the Rights of Indigenous Peoples*. A great number of participants spoke on the issue and, on the basis of these inputs, the Permanent Forum adopted 29 recommendations related specifically to the theme. The recommendations reflect the fact that it is fundamental for indigenous peoples to preserve and develop their cultures and ways of life. Development for indigenous peoples is therefore closely linked to many aspects of their lives, from education and indigenous languages, to health, to respect for traditional knowledge and traditional ways of living. Indigenous peoples' visions of well-being and development need to be heard by states, and indigenous peoples themselves must participate effectively in development processes.

It was encouraging that over 20 states took part in the discussion on the special theme.

Human rights

Human rights continues to be a major issue at each Forum session and this year was no exception. The Forum held a dialogue with Prof. James Anaya, the Special Rapporteur on the rights of indigenous peoples (SR), as well as with Janine Lasimbang, the Chairperson of the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP). During this dialogue, Mr. Anaya and Ms. Lasimbang discussed the work of their respective mandates over the past year.

In his response to the increasing state support for the UNDRIP, the SR welcomed Australia and New Zealand's endorsement of the Declaration but sent a pointed message to Canada and the US. He advised that any future statements of support should "be informed by the spirit and objectives of the Declaration" as well as the practical challenges facing indigenous peoples". This, in turn, prompted the Forum to recommend that Canada and the US "work in good faith with indigenous peoples for the unqualified endorsement and full implementation" of the Declaration.³

The SR also emphasized the importance of indigenous peoples' self determination in relation to the theme of development with culture and identity. In this regard, he said that "the right to development is a right of all peoples, including indigenous peoples". He also voiced concern at "mega-projects" that were aimed at developing the state as a whole but which actually have negative impacts on indigenous peoples. There was no adequate way for indigenous people to participate in their design or implementation. Moreover, to reduce indigenous peoples' social and economic disadvantages, efforts had to include those to advance their self-determination. He further stressed that respect for indigenous peoples' rights to self-determination in the development process was a matter of basic human dignity.⁴

Regional focus on North America

This year's regional focus on North America discussed identifying issues, challenges and positive measures of cooperation that could improve the situation of indigenous peoples in the region. At the conclusion of the panel discussion on North America, the Permanent Forum adopted a statement and recommendations on issues such as education, land rights, violence against women, health, environment, etc.

One of the highlights of the discussion on North America was the announcement from the United States that it would start a process of examining its position on the UNDRIP. A similar statement was made by Canada in March.

Half-day session on indigenous peoples and forests

A panel took place, made up of Permanent Forum members, the Director of the Secretariat of the UN Forum on Forests, indigenous experts and the representa-

tive of Brazil. Amongst the issues raised were the fact that conservation initiatives frequently lead to the displacement of indigenous communities due to the misconception that the only way to conserve forests is to remove all humans from them. Indigenous peoples' sustainable management of their forests was also discussed, as well as the need for governments to recognise indigenous peoples' right to manage their own lands. The Forum adopted some general recommendations on forests and indigenous peoples that will be submitted to the UN Forum on Forests in early 2011. The year 2011 is the International Year of Forests. Given the importance of forests for indigenous peoples, the Forum decided to hold an international expert meeting in January that year on this topic.

New method of work: follow-up to country visits

A significant new approach evident in this session was the follow-up discussion on the Forum's country visits to Bolivia and Paraguay to investigate forced labour and servitude among the Guaraní people of the Chaco region.⁵

The effectiveness of these visits was increased by the inclusion of the relevant UN country teams, as well as specialised UN organisations such as the International Labour Organisation and the Office of the High Commissioner for Human Rights. Each visit resulted in a report from the Forum that included comprehensive recommendations for both states and UN agencies. Both Bolivia and Paraguay submitted responses, which were included in the documentation for the 9th session.⁶

During the 9th session, the Forum developed a follow-up mechanism that took the form of an in-depth dialogue involving Forum members, representatives of each state, members of the respective UN country teams and indigenous peoples from the affected communities.

The challenge for the Forum is to remain engaged with all parties in Bolivia and Paraguay to ensure follow up and practical progress in the goals that the Permanent Forum as well as the governments of Bolivia and Paraguay have committed to. This is not only a challenge in political terms but also represents a significant time and resource challenge for the Forum, which has an expanding work load and a very limited budget.

However, if tangible results are achieved, it may well prove to be an effective way of directly engaging more states and UN country teams in the work of the Forum.

The potential for the Forum to produce more targeted and concrete recommendations as a result of this approach has been welcomed by indigenous peoples and a range of UN agencies. It remains to be seen how eager states will be to invite the Forum to undertake country visits. However, in an encouraging sign, the Forum has already undertaken a third visit following an invitation from Colombia, and this will be the topic of an in-depth dialogue at its next session.

Cooperation with UN Treaty bodies

For the first time, the Forum directed a number of detailed and concrete recommendations to the UN treaty bodies.

These recommendations are intended to draw states' attention to their treaty obligations in respect of indigenous peoples' human rights (as set out in the UNDRIP), and the fact they should be reporting on these matters under the treaties. This could prove an effective means of countering the misperception that the UNDRIP is "aspirational", rather than much of it being grounded in binding international human rights obligations.

For example, the Human Rights Committee, which oversees the implementation of the International Covenant on Civil and Political Rights (ICCPR), was asked by the Forum to "require" State parties to report on how they are giving effect to indigenous peoples' right to self-determination under Article 1 of the ICCPR and Article 3 of the UNDRIP.

The Forum also asked that states "consult and cooperate" with indigenous peoples when drafting their reports. Further, the Human Rights Committee was encouraged to update a range of its general comments that pre-date the adoption of the UNDRIP, such as General Comment No. 12 on the right to self-determination.

The Forum also made itself available to "work closely" with the treaty bodies to assist them in operationalising the UNDRIP, and issued a standing invitation to several of them to participate in future sessions.

Given the role of the treaty bodies in developing jurisprudence and interpreting international human rights law, this direct cooperation between the two entities could be mutually beneficial.

It would allow for the sharing of perspectives, experiences and best practices. Together with the Forum's more established practice of encouraging UN agencies and, more recently, UN country teams to use the UNDRIP to inform their work with indigenous peoples, this cooperation with the treaty bodies could add an important new dimension to the goal of tackling the implementation gap.

Future work

Forum members are increasingly undertaking research projects on a range of complex problems that confront indigenous communities. For this session, there were ten such reports on issues ranging from the doctrine of discovery to indigenous peoples and corporations, and the impact of the global economic crisis on indigenous communities. The consideration of these reports took up much of the second week of the session. Given the complexity of the problems they address, each of these issues will be the subject of a further report at the next session. In addition, the Permanent Forum decided to commission six new studies for the 10th session, among them the elaboration of a study on the implementation of the Chittagong Hill Tracts Accord of 1997.

The 10th session of the Forum will be held in New York from 16 to 27 May 2011. It will review recommendations from previous sessions related to the following themes: economic and social development; environment; and free, prior and informed consent.

The half-day discussion will be on indigenous peoples' right to water. The regional focus will be on the situation of indigenous peoples in Latin America and the Caribbean. Looking further ahead, the special theme for the 11th session in 2012 will be "The Doctrine of Discovery: its enduring impact on indigenous peoples and the right to redress for past conquests (articles 28 and 37 of the Declaration)".

Elections of Permanent Forum members for the 2011-2013 term

On 28 April 2010, the Economic and Social Council (ECOSOC) held elections for its subsidiary bodies, including the Permanent Forum. On that occasion, the Council elected the eight members nominated by governments and the President of ECOSOC announced his appointment of the eight members nominated by in-

indigenous peoples' organizations, who will all serve as members of the Permanent Forum for the 2011-2013 term.

The 8 indigenous experts nominated by the President of ECOSOC were:

Alvaro Esteban Pop from Guatemala
Anna Naikanchina from the Russian Federation
Dalee Sambo Dorough from the United States
Edward John from Canada
Mirna Cunningham from Nicaragua
Paul Kanyinke Sena from Kenya
Raja Devashish Roy from Bangladesh
Saul Vicente Vazquez from Mexico

The 8 elected members nominated by governments were:

Eva Biaudet from Finland
Helen Kaljulata from Estonia
Megan Davis from Australia
Mirian Masaquiza from Ecuador
Paimaneh Hasteh from Iran
Simon W. M'Viboudoulou from the Congo
Valmaine Toki from New Zealand
Andrei Nikiforov from the Russian Federation

Notes

- 1 More information is available from the Forum's website: http://www.un.org/esa/socdev/unpfii/en/session_ninth.html
- 2 Australia, Canada, New Zealand and the US voted against the Declaration. Eleven states abstained but, of these, Colombia and Samoa have since come out in support of the Declaration. Azerbaijan, Bangladesh, Bhutan, Burundi, Georgia, Kenya, Nigeria, Russian Federation and Ukraine have not revised their positions.
- 3 See also the articles on the US and Canada in this volume.
- 4 The Special Rapporteur's Statement is available at: <http://www.un.org/esa/socdev/unpfii/documents/statement%20by%20SR.pdf>

- 5 The Forum members who visited both Bolivia and Paraguay were the Forum Chairperson, Ms Victoria Tauli-Corpuz, and members Mr Lars Anders-Baer, Mr Bartolomé Clavero and Mr Carlos Mamani. They were assisted by two officials from the DESA and accompanied by a range of representatives from UN agencies working in Bolivia, Paraguay and Peru.
- 6 All documentation for the Forum's 9th session is available at: http://www.un.org/esa/socdev/unpfii/en/session_ninth.html

Lola García-Alix has been IWGIA's Executive Director since June 2007. She is a sociologist by training and has worked for IWGIA since 1990, where she has also served as coordinator of the human rights' programme and deputy director.