

23 May 2007



Economic and Social Council

HR/4924

United Nations

Department of Public Information • News and Media Division • New York

Permanent Forum on Indigenous Issues
Sixth Session
13th Meeting (PM)

INDIGENOUS FORUM DISCUSSES IMPLEMENTATION OF FOURTH SESSION'S RECOMMENDATIONS,

POSSIBLE STUDY ON PROPER PROTECTION OF TRADITIONAL KNOWLEDGE

The expert members of the Permanent Forum on Indigenous Issues met this afternoon to discuss their future work, including ways to ensure more effective implementation of earlier recommendations, and proposals on a new questionnaire designed to streamline its report submission process. They also considered a concept paper outlining the parameters of a study on the extent to which customary laws should be reflected in national and international standards addressing traditional knowledge.

Opening the discussions, Willie Littlechild, expert from Canada and Special Rapporteur on recommendations of the previous sessions, introduced a report on analysis and state of implementation of the recommendations of the Permanent Forum at its fourth session (document E/C.19/2007/5), which noted that, following that 2004 session, the Forum had made some 140 recommendations, mainly addressed to the wider United Nations system, regional intergovernmental organizations, indigenous peoples' organizations and Governments.

He said that some 14 of those recommendations had since been completed, and 33 were in the process of being implemented. An additional set of recommendations had arisen from the international expert workshops on specific issues following the decisions of the Forum, including four such meetings on data collection; free, prior and informed consent; the Millennium Development Goals; and the Convention on Biological Diversity's regime on access and benefit-sharing. Many recommendations, especially those requiring short- and medium-term time frames, had been implemented. Some activities, however, had not been fully reported, he added.

Highlighting some of the report's conclusions, he said that the role played by the Inter-Agency Support Group, which now included 30 intergovernmental entities among its members, had contributed positively to the work of the Forum. The Group's substantial contributions in elaborating and disseminating more widely the issues being discussed had helped further the implementation of recommendations.

He also said that it had been observed that there was still some resistance to suggestions that three or more United Nations bodies should work together on joint projects in specific areas so that more positive experiences in terms of complementarity and building synergies could be seen. That would ensure that indigenous peoples were not overlooked owing to turf wars between development agencies. Finally, he encouraged more Governments to submit recommendations, and encouraged indigenous people's organizations to also engage in monitoring implementation of the Forum's recommendations.

Michael Dodson, expert from Australia and Special Rapporteur charged with preparing a concept paper on the scope of a study that would investigate to what extent customary laws should be reflected in

international and national standards addressing the issue of indigenous traditional knowledge, presented his relevant report (document E/C.19/2007/10). He said that, while international, regional and national documents provided some protection for indigenous traditional knowledge, they did not adequately address the concerns of indigenous peoples. Governmental bodies' efforts to prevent misappropriation and misuse of indigenous traditional knowledge, though well-intentioned, were insufficient. "Significantly, the fundamental question still remains; how can indigenous traditional knowledge be properly protected," he said.

Noting the important role being played by the World Intellectual Property Organization (WIPO), he said, however, that WIPO's pre-eminent role had meant that the debate had taken place primarily within the parameters of intellectual property law. And while that had, at times, provided protection of creators of certain works in the areas of literature, dance or art, for the most part intellectual property law failed to protect indigenous rights and interests because "Western constructs of intellectual property focus on individual knowledge and creativity, rather than on communal trans-generational knowledge".

He stressed that, if the Forum were to commission a study on the protection of traditional knowledge, it must recognize some initial challenges posed by the variety of terminology used in the area. Among others, terms such as "indigenous knowledge", "traditional knowledge", and "indigenous heritage" were often used interchangeably. Providing a comprehensive definition of traditional knowledge was a difficult task and one that had questionable benefits. If such knowledge was to be recognized and protected by providing a framework within which customary laws, as they related to traditional knowledge, could operate, it might be in the best interests of indigenous peoples to leave the term undefined, he said.

Finally, he noted that, in constructing a study that aimed to address the continued failure to protect traditional knowledge, the Forum should be cognizant of the process. Developing an appropriate process on how the issue should be addressed would assist in working towards a successful outcome. Further, it was time to recognize that indigenous traditional knowledge was not simply an intellectual property issue. Nor was it simply a human rights issue, a trade issue or an amalgamation of those issues. The proper protection of indigenous traditional knowledge was an indigenous issue and indigenous peoples should be central to the process.

Forum expert Parshuram Tamang of Nepal next presented a special report on developing a questionnaire to enhance the reporting of intergovernmental organizations to the Permanent Forum (document E/C.19/2007/11), which contained an annexed questionnaire, viewed as a "work in progress" and meant to serve as a practical tool to facilitate the provision of information by agencies that would improve dialogue with the Forum and be useful to other agencies, Governments, the Forum itself, and indigenous peoples groups.

Also today the Forum heard a presentation by Nadir Bekirov from the Office of the United Nations High Commissioner for Human Rights, on behalf of the Board of Trustees of the United Nations Voluntary Fund for Indigenous Populations. He said the Fund had been created in 1985 to assist representatives of indigenous communities and organizations to participate in deliberations of the Working Group on Indigenous Populations. That mandate had been expanded twice to help those peoples' also participate in deliberations of the working group on the Draft Declaration on the Rights of Indigenous Peoples and of the Forum.

The Fund had given indigenous peoples a voice by providing them with the opportunity to raise their issues internationally, participate in meetings and contribute to deliberations with their first-hand experiences, he said. Beneficiaries had pointed out that their presence at United Nations meetings had helped, in some cases, to solve issues directly with Government delegations and prevent conflicts. The growing number of requests and limited funding presented the Board with tough choices, he continued, pointing out that, at its last session, the Board had to turn down 75 per cent of those peoples wishing to attend sessions of the Forum and the working group. Expressing hope that indigenous peoples would be included in the new human rights expert body being considered by the Human Rights Council, he said the Board also welcomed the adoption by the Council of the Declaration.

When indigenous peoples' groups weighed in, several speakers touched on the importance of addressing the negative impacts of climate change. Representatives of the Arctic Caucus, North American Indigenous Caucus and Khmer Kampuchea Krom Federation went as far as requesting that the issue be included as a special theme for the Forum's next session, while the representative of the International Indigenous Caucus on Water underscored that respect for, and implementation of, traditional laws would provide a solution to climate change.

The representative of the Pacific Caucus, delivering a statement endorsed by the Asia Caucus and Arctic Caucus, said the Forum had the distinct role of coordinating participation of all interested parties for the protection of traditional knowledge. The role of customary law to international law needed to be understood and better defined for the creation of sui generis regimes, she said, recommending, among other things, that the Forum develop a strategy to provide guidance on the theme of traditional knowledge; commission a study on sui generis protection of traditional knowledge; cooperate with universities and research bodies; and recommend that the Convention on Biological Diversity hold an indigenous peoples expert workshop to foster technical advice sharing.

The representative of the Indigenous Youth Caucus said young people were an invaluable part of sustaining indigenous culture. She asked all United Nations bodies, non-governmental organizations, the Forum and other actors to provide adequate resources to support the full participation of indigenous youth in all future work. She said the Forum could facilitate that by providing language training programmes and pairing all Forum experts with at least one indigenous youth apprentice.

Robby Romero, of Native Children's Survival, drew attention to a lawsuit he filed against Aveda, a global beauty and skincare manufacturing giant, for its use of the word "indigenous" on certain products. Prior to his filing the suit, indigenous peoples had protested the abuse of trademark, but the product continued to be sold with the "indigenous" tag. Since corporations often circumvented indigenous peoples' right to free, prior and informed consent, he encouraged the Forum to monitor non-governmental organizations using their Economic and Social Council status to provide corporations access to indigenous intellectual property. Moreover, he urged the Forum, with the Office of the United Nations High Commissioner for Human Rights, the World Intellectual Property Organization and the Special Rapporteur to develop guidelines on business activities with indigenous peoples.

The Forum will meet again at 10 a.m. Thursday, 24 May, to continue its discussion.

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