

# NEW YORK MONITOR

International Service for Human Rights



Human Rights Monitor Series

## NEW YORK UPDATE PERMANENT FORUM ON INDIGENOUS ISSUES 7<sup>TH</sup> SESSION 21 APRIL – 2 MAY 2008

### A FRESH APPROACH: FORUM REVISES MANDATE TO SPUR IMPLEMENTATION OF THE UN DECLARATION OF INDIGENOUS PEOPLES

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#### Overview

With the historic adoption of the United Nations (UN) Declaration on the Rights of Indigenous Peoples (the Declaration),<sup>1</sup> the 7<sup>th</sup> session of the UN Permanent Forum on Indigenous Issues (the Forum) was conferred a new mandate. Consideration of how best to give effect to its new responsibility to promote and follow up on the effective implementation of the Declaration dominated both the formal and informal aspects of the session, as well as the recommendations it generated.

<sup>1</sup> The Declaration on the Rights of Indigenous Peoples was adopted by the General Assembly on 13 September 2007 under GA Resolution 61/295. For more information see <http://www2.ohchr.org/english/issues/indigenous/declaration.htm>

The Forum's adoption of the Declaration as the legal framework for its future work, and its decision to recast its agenda and methods of work in light of the adoption of the Declaration, provide an indication of the commitment it has to wholeheartedly take up its new responsibility. Recognising that it is at an important crossroads in its evolution, the Forum also decided to hold a three-day expert meeting to give further consideration to the implementation of its new mandate. The recommendations from this meeting will be reported to the Forum's next session in 2009, indicating that further initiatives or actions will be taken in the coming years to assist in the implementation of the Declaration.

### **The Forum's approach to its new mandate<sup>2</sup>**

Rather than casting itself as the sole overseer of the Declaration, the Forum made it very clear that it is committed to working in partnership with States, UN agencies and indigenous peoples to create an 'enabling environment' that delivers 'practical results on the ground.'<sup>3</sup> Given the consensual nature of the process that created the Declaration, the Chairperson, Ms Vicki Tauli-Corpuz, made a point of encouraging others not to underestimate the power of dialogue and ongoing engagement, and identified this as one of the strengths of the Forum's mandate. At the same time, she acknowledged the limitations of the mandate of the Forum, particularly its inability to substantively deal with allegations of human rights violations. To address this, she emphasised the importance of building on the Forums' partnership with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, Mr Rodolfo Stavenhagen, and flagged the Forum's desire to develop a similar collaborative relationship with the new expert mechanism on the rights of indigenous peoples.<sup>4</sup> In addition, the Forum identified new opportunities to promote States' compliance with the minimum standards set out in the Declaration, such as the Human Rights Council's new universal periodic review mechanism (discussed below).

Prior to this session, there were a number of suggestions from prominent indigenous peoples about how the Forum should approach its new mandate. These included the recommendation from the Forum's own Special Rapporteurs tasked with exploring this question, that it establish its own 'Chamber' on the Declaration that would provide it with the 'capacity to discharge its new mandate under the Declaration.'<sup>5</sup> Another suggestion from a former Forum member was that it undertake a technical review of the Declaration to 'enhance the understanding of persons and parties interfacing with indigenous peoples.'<sup>6</sup>

However, the Forum decided to take its time in formulating precisely what initiatives it would put in place to assist in implementing its broad new mandate under the Declaration. It agreed to hold a three-day international expert group meeting on implementation of the Declaration, and submit the report of this meeting to its next session.<sup>7</sup> The Forum also agreed to make a number of significant procedural and substantive changes to its agenda and methods of work that will change the way it operates in future.

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<sup>2</sup> The Forum's new mandate is drawn from article 42 of the Declaration which provides that 'The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialised agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.'

<sup>3</sup> See para.132 of the 'advance unedited version' of the report of the 7<sup>th</sup> session, available at [http://www.un.org/esa/socdev/unpfii/documents/UNPFII\\_7session\\_report\\_advance.pdf](http://www.un.org/esa/socdev/unpfii/documents/UNPFII_7session_report_advance.pdf)

<sup>4</sup> The expert mechanism was established by Human Rights Council *Resolution 6/36* of 14 December 2007, effectively replacing the Working Group on Indigenous Populations that was set up under the former Commission on Human Rights. The Human Rights Council will appoint the expert mechanism's five expert members during its 8<sup>th</sup> session in June 2008, and the expert mechanism's first meeting is scheduled for October 2008 in Geneva.

<sup>5</sup> See para.39. of E/C.19/2008/2, 19 December 2007, available at [http://www.un.org/esa/socdev/unpfii/documents/E\\_C19\\_2008\\_2.pdf](http://www.un.org/esa/socdev/unpfii/documents/E_C19_2008_2.pdf)

<sup>6</sup> This draft intervention was prepared by Ms Mililani Trask and circulated amongst the Pacific Indigenous Caucus. The intention of the review was to link the Declaration to other human rights standard setting instruments, the work of the UN treaty bodies and relevant international jurisprudence on indigenous peoples.

<sup>7</sup> Note this was one of three draft decisions of the Forum which is yet to be approved by its parent body, the Economic and Social Council (ECOSOC).

## **Changes to the Forum's agenda and methods of work to promote implementation of the Declaration**

To demonstrate the significance the Forum places on its new mandate under article 42 of the Declaration, it made a number of far-reaching decisions to restructure its agenda and develop new methods of engaging others in its work.<sup>8</sup> These changes are also designed to promote the implementation of and follow up on the Forum's own recommendations. The Forum decided to:

1. adopt the Declaration as the Forum's legal framework;<sup>9</sup>
2. make implementation of the Declaration one of the Forum's mandated areas;<sup>10</sup>
3. create a new sub-agenda item on human rights entitled 'implementation of the Declaration';<sup>11</sup>
4. integrate the Declaration into its own recommendations on its seven mandated areas, as well as recommendations regarding its work under the 'special theme' and its 'ongoing priorities and themes';
5. create a new agenda item which allows for a 'comprehensive dialogue with six UN agencies and funds'; and
6. make each even calendar year a 'policy year' (where a 'special theme' is discussed), and each odd calendar year a 'review year' (where the implementation of the Forum's past recommendations on specific themes is reviewed).<sup>12</sup>

## **Changes to promote more effective engagement with UN agencies**

Like the Forum, the adoption of the Declaration has significant implications for UN agencies and funds. Along with the Forum, they are mandated under article 42 to promote respect for and full implementation of the Declaration, and follow up on its effectiveness. In addition, they take on specific responsibilities under article 41 to ensure that indigenous peoples benefit from 'financial cooperation and technical assistance', and are able to participate on issues that affect them.<sup>13</sup>

With this in mind, one of the Forum's key strategies to operationalise the rights contained in the Declaration is its decision to invite six UN agencies and funds to report to each session on their work with indigenous peoples. This should allow the Forum to more closely examine the reports of the six agencies prior to its next session, and then engage each agency in a two hour interactive dialogue under this new agenda item. All other UN agencies and funds working with indigenous peoples will still be encouraged to submit reports on their work to implement the Declaration, but these reports will not be subject to the same depth of analysis and dialogue with the Forum.

This approach has the potential to ensure that *all* relevant UN agencies and funds actively participate in the work of the Forum and improve their accountability to indigenous peoples. Some agencies, such as the International Labour Organisation (ILO) have performed well in this regard; others, such as the World Health

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<sup>8</sup> The draft agenda is contained in draft decision III in the advance unedited version of the report of the 7<sup>th</sup> session, p.2-3. The Forum has recommended that its parent body, the UN Economic and Social Council (ECOSOC), adopt its three draft decisions.

<sup>9</sup> See para.131 of the 'advance unedited version' of the report of the 7<sup>th</sup> session.

<sup>10</sup> The initial mandate of the Forum covered six mandated areas: economic and social development, environment, health, education, culture, and human rights. Implementation of the Declaration is now the seventh mandated area.

<sup>11</sup> Agenda item 4 will deal with human rights and will now have two sub-items: 4(a) implementation of the Declaration; and 4(b) Dialogue with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and other special rapporteurs.

<sup>12</sup> For example, in 2009 the Forum will review the themes of economic and social development, indigenous women and the Second International Decade of the World's Indigenous People. In 2010, it will consider the special theme of 'indigenous peoples' development with culture and identity: articles 2 and 23 of the UN Declaration on the Rights of Indigenous Peoples'.

<sup>13</sup> Article 41 provides that UN specialised agencies 'contribute to the full implementation of the Declaration through the mobilisation of financial cooperation and technical assistance, and by ensuring the participation of indigenous peoples on issues affecting them.'

Organisation (WHO), are yet to submit a report to the Forum about their work with indigenous peoples. This emphasis on fostering an ongoing dialogue with UN agencies has the potential to:

- identify best practice models that could be adapted for use by other UN agencies and States to expand the implementation of the Declaration;
- expose implementation gaps and adverse impacts that need to be addressed or avoided;
- enable Forum members and indigenous peoples to directly communicate with senior UN agency staff;
- encourage UN agencies to take a comprehensive and systematic approach to improving indigenous peoples' enjoyment of their human rights as set out in the Declaration; and
- by example, draw more States into more substantive engagement with the Forum and its participants.

The recommendations from this session reflect the Forum's view that UN agencies can and must work more effectively with indigenous peoples. This need for improvement applies at the international level, but more particularly the Forum is concerned by the implementation gap at the country level, where UN agencies are developing policies and implementing programs that directly impact on indigenous peoples, which do not always advance indigenous peoples' rights.

The Forum heard similar concerns from the out-going Special Rapporteur on indigenous peoples. He commented on the lack of coordination amongst UN agencies at the country level, and the need for the Forum and the Special Rapporteur to help build the capacity within UN agencies so that the rights of indigenous peoples are mainstreamed throughout the work of the UN. On a positive note, the Special Rapporteur pointed out that the adoption of the Declaration provides a new opportunity for the kind of collaboration that is needed between the UN system, its agencies, States and indigenous peoples. Further, given the Forum's unique mandate to foster an ongoing dialogue across the UN system on indigenous issues, he remarked on its 'privileged position' to facilitate this mainstreaming process.

To improve UN agencies' compliance with the Declaration, the Forum adopted recommendations to:

- request UN agencies to review their policies and programs to comply with the Declaration and ensure respect for indigenous peoples' right to self-determination and the right to exercise their 'free, prior and informed consent' in relation to all decisions about their lands or territories and other resources;
- encourage all UN agencies to join the Inter Agency Support Group (IASG),<sup>14</sup> particularly those whose work is especially relevant to the rights and well-being of indigenous peoples, such as the WHO;
- recommend that the Office of the High Commissioner for Human Rights (OHCHR) and other relevant UN agencies establish specific units for indigenous peoples' issues to contribute to the implementation of the Declaration;
- invite UN agencies to use the indicators of indigenous well-being, poverty and sustainability (that have been developed by the UN system and indigenous peoples) as a guide when implementing programs that directly or indirectly impact on indigenous peoples;<sup>15</sup>
- urge UN resident coordinators' offices to engage with indigenous peoples' organisations and representatives and ensure their participation and consultation in policy dialogues at the country level; and
- encourage the UN Development Program (UNDP) to integrate indigenous peoples' issues into the global, regional, national and local human development reports, and involve indigenous experts in the preparation of these reports to guarantee that indigenous issues are mainstreamed in them.

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<sup>14</sup> The IASG was established to support and promote the mandate of the Forum within the UN system. Its mandate was later expanded to include support indigenous related mandates throughout the inter-governmental system. It allows the UN system and other intergovernmental organizations to analyse recommendations made by the Forum with a view to facilitating comprehensive and coordinated responses to the UNPFII. The IASG is currently chaired by UNESCO and has 31 member agencies. Further information is available at <http://www.un.org/esa/socdev/unpfii/en/iasg.html>

<sup>15</sup> See para.63 of the 'advance unedited report' of the 7<sup>th</sup> session.

## **Need for indigenous input into the universal periodic review mechanism**

The Special Rapporteur commented during his interactive dialogue with the Forum that the new universal periodic review (UPR) mechanism of the Human Rights Council (the Council) provides ‘a key opportunity to take into account the rights of indigenous peoples in light of the Declaration and other international instruments’. However OHCHR and a number of indigenous peoples’ organisations drew the Forum’s attention to the fact that for various reasons, indigenous peoples did not make a significant contribution to the first session of the new UPR mechanism.<sup>16</sup> Some indigenous peoples’ organisations felt this was a missed opportunity to promote the implementation of the Declaration and to improve the accountability of States to indigenous peoples within their borders. These comments and suggested action to address them prompted the Forum to make the following recommendations to enhance indigenous input into the UPR mechanism in future:

- States should include representatives of indigenous peoples in the national consultation process for the preparation of national reports to be submitted to the Council for the UPR;
- Human Rights Council should include the UN Declaration as a normative basis for the UPR; and
- OHCHR, the UN Institute for Training and Research (UNITAR) and other relevant UN agencies should provide the necessary information and training on the UPR process for and with indigenous peoples.

## **Declaration's impact on the dynamics and recommendations of the 7<sup>th</sup> session**

The Declaration brought an atmosphere of celebration to the opening meeting of the Forum. This was the first occasion where Forum members, indigenous peoples, UN agencies and States were gathered together since the General Assembly’s adoption of the Declaration on 13 September 2007. To mark the significance of the achievement, a solemn invocation was led by Chief Shenandoah of the Onondaga Nation<sup>17</sup> to pay tribute to all who had contributed to the long struggle for a Declaration and recognition of indigenous rights at the international level. This was followed by a stirring address by Bolivia’s Head of State, President Evo Morales,<sup>18</sup> who emphasised the need for other governments to embrace the Declaration, adopt it in their domestic legislation, and learn from indigenous peoples about how to save Mother Earth.

Discussion of the Declaration and how to make it a ‘living document’<sup>19</sup> prevailed throughout this session and most of the 60 related side-events.<sup>20</sup> Under a range of agenda items, indigenous peoples’ organisations took advantage of the opportunity to pose questions to States that drew on elements of the Declaration, particularly the right of indigenous peoples to ‘free prior and informed consent’ regarding decisions over the use of their

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<sup>16</sup> The International Work Group on Indigenous Affairs (IWGIA) undertook an analysis of the reports submitted to the first UPR session. This revealed indigenous peoples live in eight of the 16 States up for review, yet there was ‘hardly any mention’ of indigenous peoples in the reports that were submitted for review, including the NGO report compiled by OHCHR, to which indigenous peoples can make direct contributions.

<sup>17</sup> The people of the Onondaga Nation are the traditional owners of much of New York State. Tracy L. Shenandoah is the Chief of the Chief of Councils of the Onondaga Nation.

<sup>18</sup> This address was the first occasion a Head of State has attended the Forum.

<sup>19</sup> This was a challenge thrown out to the international community by the UN Secretary-General, Ban Ki-moon, when he addressed the opening meeting of the 7<sup>th</sup> session of the Forum by video-link.

<sup>20</sup> Many of the side-events provided an opportunity for participants to begin a closer examination of how the Declaration can assist in addressing both long-standing and emerging challenges to indigenous peoples’ enjoyment of their rights. The theme of climate change dominated the schedule, but other significant themes were ‘free, prior and informed consent’; engagement with the private sector; working with local government; biodiversity conservation and traditional knowledge; and protecting indigenous languages.

lands and resources.<sup>21</sup> Members of the Forum posed equally pointed questions to UN agencies and individual States, calling on them to rethink their approach to indigenous peoples in light of the adoption of the Declaration.

This direct engagement amongst Forum members and participants made for a more free-flowing, if at times heated, exchange of views. It suggested that the adoption of the Declaration has given indigenous peoples a confidence boost in their interaction with States, UN agencies and intergovernmental bodies. These developments bode well for the Forum to become an important mechanism for indigenous peoples to hold these organs more publicly accountable to their obligations under the Declaration, and to the indigenous peoples who are impacted by their decisions.

However, towards the end of the session, comments from the Indonesian Government provided a sobering reminder that there are limits to the tenor of comments from indigenous peoples that some States will tolerate. Indonesia expressed concern at the politicisation of the Forum by some indigenous peoples' organisations that appeared to support 'separatist movements', warning that allowing such comments 'undermines the credibility of the Forum because it moves away from the UN Charter'. Indonesia further warned that if left unchecked, such comments 'may erode the involvement of States [in the work of the Forum] and undermine its ability to implement the goals of the Second Decade.'<sup>22</sup>

The Chairperson was quick to advise that all registered indigenous peoples' organisations had speaking rights at the Forum's meetings, and in recognition of the right of self-determination and the right to self-identify as indigenous, the Forum was not in a position to sanction particular speakers. Rather she made the point that the Declaration provides the framework for respectful dialogue and for resolving any disputes in such a way that there is no need for indigenous peoples to resort to secession or seek independence. She expressed the hope that all participants would take advantage of the opportunity to engage in a constructive dialogue with States, and although it was inevitable that some political questions would arise in the course of these discussions, dialogue was the most effective mechanism to address whatever marginalisation indigenous peoples perceived. This exchange between the Government of Indonesia and the Chairperson provided an indication of how the Declaration can be used in future to deal with disputes and to resolve tensions to ensure the Forum remains a venue for constructive and inclusive dialogue.

The urgency to achieve the full implementation of the Declaration was particularly evident in the Forum's consideration of the special theme of climate change.<sup>23</sup> Prefacing its 31 carefully crafted recommendations on climate change was the statement that the Declaration 'should serve as a key and binding framework in the formulation of plans for development and should be considered fundamental in all processes related to climate change at the local, national, regional and global levels.' Further, all recommendations 'must be implemented in accordance with the principles and rules of the Declaration,' such as the right to 'free, prior and informed consent,' amongst others. The recommendations are directed at some of the most high-level inter-governmental institutions tasked with coordinating the global response to climate change,<sup>24</sup> and indicate that the Forum is not afraid to apportion responsibility for action to the most senior international institutions. It looks set to be particularly vigilant in relation to the requirement that these institutions effectively involve indigenous peoples in the design and implementation of policies and programs that will impact on them.

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<sup>21</sup> The Arctic Caucus was particularly strong in this respect, asking very direct questions of the Canadian, Danish, Finnish, Norwegian, Russian, Swedish and United States (US) representatives. Several participants representing the Hmong people and the Khmer Kampuchea-Krom Federation expressed their frustration at the ongoing denial of their indigenous status by their respective governments, eliciting critical responses from the Laotian and Vietnamese representatives respectively.

<sup>22</sup> The Indonesian representative was referring to the representatives of the Hmong people, as well as Papuans and Khmer people, who had addressed the 7<sup>th</sup> session of the Forum. Representatives of the Basque people also addressed the Forum several times.

<sup>23</sup> The full title of the special theme for the 7<sup>th</sup> session was 'Climate change, biocultural diversity and livelihoods: the stewardship role of indigenous peoples and new challenges'. For further information on this agenda item, see ISHR's *New York Monitor* on the 7<sup>th</sup> session of the Forum regarding the special session on climate change, available at [www.ishr.ch](http://www.ishr.ch)

<sup>24</sup> Specific recommendations address the UN Framework Convention on Climate Change (UNFCCC) and the Inter-governmental Panel on Climate Change. See paras.30 and 34 of the 'advance unedited version' of the report of the 7<sup>th</sup> session.

## **The universal application of the Declaration**

The significance of the adoption of the Declaration and the extent of its application were discussed by both the outgoing and incoming Special Rapporteur for the situation of human rights and fundamental freedoms of indigenous peoples. The outgoing Special Rapporteur, Rodolfo Stavenhagen, affirmed the status of the Declaration as ‘part of the normative framework’ that *all* States and other ‘authors of development’ must comply with. He expressed the hope that the adoption of the Declaration will ‘trigger new and innovative forms of dialogue’ between States (as duty bearers) and indigenous peoples (as rights holders), and that this in turn will help to address the implementation gap that exists between law and practice when it comes to indigenous peoples’ enjoyment of their human rights.

The incoming Special Rapporteur, James Anya, pointed out that during the negotiations in the lead up to the adoption of the Declaration, ‘not one State’ had rejected outright the core provisions of the Declaration. Rather, a minority of States had concerns about the practical application of a few key provisions, such as those relating to self-determination, land and natural resources. These comments gave weight to those of other human rights experts who have predicted that with time, there will be universal support for the Declaration.

Through its recommendations the Forum made it clear that it regards the Declaration as ‘the most universal, comprehensive and fundamental instrument on indigenous peoples’ rights’. As such, it emphasised that *everyone* has a responsibility to ‘promote the Declaration and apply it in their policies and programs’. In addition to States and the UN system, this responsibility extends to NGOs, academics, the media, the private sector and indigenous peoples. Particular responsibilities extend to national human rights institutions and regional human rights bodies, like the African Commission on Human and Peoples’ Rights, to ensure that appropriate domestic application of the Declaration occurs.

To assist States in meeting their extensive responsibilities under the Declaration, the Forum ‘encouraged all States’ to provide it with ‘substantive information on measures taken to implement the Declaration.’ The Forum’s intention here is to identify and raise awareness about better practice examples of States’ implementation of the Declaration, and to do so through an inclusive and constructive dialogue with States, the UN system and indigenous organisations. Although the Forum has always encouraged States to engage with it in this way, it is keen to see more States take up the invitation and benefit from engagement with it following the adoption of the Declaration.

For indigenous peoples’ organisations from Australia, Canada, New Zealand and the United States (US), the Forum provided a valuable opportunity to publicly call on their governments to reconsider their opposition to the Declaration.<sup>25</sup> In anticipation of such calls, the Australian Government was among the first States to address the Forum, indicating it is currently conducting domestic consultations with a view to reviewing its position on the Declaration, opening up the possibility that it may join with international consensus in support of the Declaration. Despite the recent adoption of a motion in support of the Declaration by the Canadian House of Commons,<sup>26</sup> the Government of Canada did not indicate any change to its opposition to the Declaration when responding to a question from the Arctic Indigenous Caucus on this point. This prompted the Pacific Caucus and the Assembly of First Nations to call on members of the Western and Others Group (WEOG)<sup>27</sup> to seriously consider whether Canada’s bid to renew its seat on the Human Rights Council should

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<sup>25</sup> These four States were the only members of the General Assembly to vote against the adoption of the Declaration in September 2007. Eleven States abstained and 143 voted in favour of the adoption of the Declaration.

<sup>26</sup> On 8 April 2008, the House of Commons of Canada passed a motion calling on the Canadian Government to ‘endorse the United Nations Declaration on the Rights of Indigenous Peoples adopted by the UN General Assembly on 13 September, 2007 and that the Parliament and Government of Canada fully implement the standards contained therein.’ The motion was adopted by a majority of Members of Parliament, however members of the Conservative party voted against it.

<sup>27</sup> WEOG is an unofficial voting bloc of some 27 members: all the West European States, and the ‘others’, including Australia, Canada, New Zealand and the United States.

be supported, implying that Canada's sustained opposition to the Declaration renders it unfit to serve on the world's principal human rights body.

In an effort to sway the US and other States that did not support the adoption of the Declaration, several indigenous speakers referred to the recent concluding observations from the Committee on the Elimination of Racial Discrimination. The Committee indirectly noted the view of the US, which holds that its vote against the Declaration means it has no legal application in the US, but went on to recommend that the US use the Declaration to interpret its obligations under other human rights instruments.<sup>28</sup> However neither the US nor the New Zealand Governments indicated any shift in their positions in relation to the Declaration.

To help achieve universal application of the Declaration, the Forum recommended that 'Pacific States' (an indirect way of referring to Australia, Canada, New Zealand and the US) endorse and implement the Declaration. This is likely to be an ongoing topic of discussion at future sessions of the Forum until universal endorsement of the Declaration is achieved.

### Looking Forward

The Forum's recommendations from the 7<sup>th</sup> session map out an extensive consultative and research agenda that will help to flesh out how the Declaration can be applied to address a range of challenges to indigenous peoples' enjoyment of their rights. Over the year ahead, the Forum and other experts will undertake the following initiatives:

- a three day expert meeting on the implementation of article 42 of the Declaration;
- a study to determine whether climate change policies and projects adhere to the standards in the Declaration, which will feed into the Forum's development of a draft declaration of action on climate change and indigenous peoples;
- a paper on the principles in the Declaration and ILO Conventions 169 and 107 that relate to indigenous land tenure and management arrangements to assist indigenous peoples, States and UN agencies in negotiations on these matters; and
- a study identifying the actions of transnational corporations (TNCs) which may breach the inherent rights detailed in the Declaration.<sup>29</sup>

Looking further ahead, the Forum's next session will take place in New York from 18 to 29 May 2009, and will be the first to implement its new agenda. Although it will not consider a special theme, this session will review the implementation of the Forum's previous recommendations in relation to three themes: economic and social development; indigenous women; and the Second International Decade of the World's Indigenous People. It will also include a half-day discussion on the Arctic, and feature the first of the Forum's 'comprehensive dialogues' with six UN agencies.

The Forum's 9<sup>th</sup> session in 2010 will be the next opportunity for consideration of a special theme, which will be 'Indigenous Peoples' development with culture and identity: Articles 3 and 23 of the UN Declaration on the Rights of Indigenous Peoples'. This choice of theme, particularly the way in which specific articles from the Declaration will be used to frame the both the discussions and the eventual recommendations, provides an indication of how the Forum intends to breathe life into the Declaration and assist others to do the same. The

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<sup>28</sup> The Committee recommended that 'the declaration be used as a guide to interpret the State party's obligations under the Convention [on the Elimination of All Forms of Racial Discrimination] relating to indigenous peoples'. See Concluding Observations of the Committee on the Elimination of Racial Discrimination, UN document CERD/C/USA/CO/6, February 2008, para. 29, available at <http://www1.umn.edu/humanrts/CERDConcludingComments2008.pdf>

<sup>29</sup> This will be prepared by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises. See para.135 of the 'advance unedited version' of the report of the 7<sup>th</sup> session.

9<sup>th</sup> session will also hold a half-day discussion on North America as well as a half-day discussion on indigenous peoples and forests.

The Forum has also called for the text of the Declaration to be made available in indigenous languages as an ongoing project to assist in raising awareness amongst indigenous peoples about their rights and the obligations that States and others have under the Declaration. Not only does this initiative give effect to the right of indigenous peoples to use and revitalise their own languages, it may also help some indigenous peoples in their struggle to prevent the disappearance of their languages, and the valuable traditional knowledge and practices that are passed onto future generations through these languages. Given that the Forum estimates that 90 percent of the world's languages will become extinct in the next 100 years, this is an urgent and resource-intensive undertaking, and it has called on upon States, UN agencies, indigenous peoples and others to help.

## Background

The UN Permanent Forum on Indigenous Issues (the Forum) was established as a subsidiary organ of the UN Economic and Social Council (ECOSOC) on 28 July 2000. The fact that the Forum was established at such a senior level within the UN system is a testament to the concerted lobbying efforts of indigenous peoples over many years. Its creation is also one of the most significant achievements of the first International Decade for the World's Indigenous people (1994–2004).

The Forum is made up of 16 members, each appointed for a three year term. Eight members are nominated by governments and elected by ECOSOC, and eight are appointed by the President of ECOSOC following consultations with indigenous peoples' organisations. This makes the Forum unique within the UN system because it is the only body of the ECOSOC whose members are not solely determined by States.

The functions of the Forum are to:

- provide expert advice and recommendations on Indigenous issues to ECOSOC, as well as to programmes, funds and agencies of the United Nations, through ECOSOC;
- raise awareness and promote the integration and coordination of activities relating to indigenous issues within the United Nations system; and
- prepare and disseminate information on indigenous issues.

The Forum meets in New York once every year for two weeks, usually in May. Indigenous peoples' organisations are welcome to attend and participate in the meetings of the Forum, along with States, UN agencies and subsidiary bodies, inter-governmental organisations and non-governmental organisations in consultative status with ECOSOC. Although they are classed as observers and have no voting rights, all participants have speaking rights during the Forum's meetings. This offers indigenous peoples unprecedented scope to contribute to the programming and policy directions of the agencies of the United Nations, and to hold UN agencies and States accountable for their performance on indigenous issues. This may mean that with time, the Forum helps to mainstream indigenous peoples' rights throughout the work of the UN system.

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