



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/Sub.2/AC.4/2003/4
12 June 2003

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Sub-Commission on the Promotion and
Protection of Human Rights
Working Group on Indigenous Populations
Twenty-first session
21-25 July 2003
Item 5 of the provisional agenda

STANDARD-SETTING

**List with commentaries of possible studies to be undertaken by members
of the Working Group in the immediate and near future, submitted by
Miguel Alfonso Martínez**

1. In its resolution 2002/21, the Sub-Commission on the Promotion and Protection of Human Rights invited Mr. Alfonso Martínez to prepare a list with commentaries on possible studies to be undertaken by members of the Working Group on Indigenous Populations in the immediate and near future, to be submitted to the twenty-first session of the Working Group. The list contained in the present document includes the proposals recorded in the reports of the Working Group at its fifteenth to twentieth sessions (1997-2002), as well as those received directly by the Office of the High Commissioner for Human Rights.
2. The author is of the opinion that priority should be given to the undertaking of studies on the following general issues:
 - (a) Obstacles to the promotion, actual implementation and effective protection of the rights of indigenous peoples, including their human rights;

(b) The impact of the process of globalization (including the activities of transnational corporations) on the lives of indigenous peoples;

(c) Actual performance of existing national and international monitoring mechanisms in matters relating to the promotion, implementation and protection of indigenous peoples' rights;

(d) Ways and means of establishing or further developing effective national mechanisms of conflict prevention and conflict resolution on issues or actual situations affecting indigenous peoples.

Proposals/recommendations recorded in the reports of the Working Group on Indigenous Populations (WGIP), 1997-2002

Proposal/recommendation	Suggested by	Commentary
A study/analysis of the impact of globalization and the activities of transnational corporations and international financial institutions, including the World Bank, on the rights of indigenous peoples	Mr. Yokota, twentieth session (2002) (E/CN.4/Sub.2/2002/24, para. 68)	
Working paper on indigenous peoples' relationship with natural resource, energy and mining companies	WGIP in 2002 (ibid., para. 88) (Mr. Alfonso Martínez)	The report was originally requested in 1997. It was then requested for 2004. It should take into account the conclusions and recommendations of the workshop on indigenous peoples, private sector natural resource, energy and mining companies and human rights held in Geneva in 2001, as well as the work being carried out by the Sub-Commission's sessional working group on the working methods and activities of transnational corporations
Working paper on indigenous peoples and globalization	WGIP in 2002 (ibid., para. 94) Sub-Commission resolution 2002/21 (para. 7 (b)) (Mr. Guissé).	This paper should serve as a framework for the discussion of the main theme of the twenty-first session.

Proposal/recommendation	Suggested by	Commentary
Working paper on the possible elaboration of draft guidelines relating to transnational corporations whose activities affect indigenous communities	WGIP in 2002 (ibid., para. 89) Sub-Commission resolution 2002/21 (para. 7 (a)) (Mr. Yokota)	The Working Group requested Mr. Yokota to put particular emphasis on elements that would contribute to a better consultative process, equitable benefit-sharing and conflict resolution.
A list of standard-setting activities that might be developed by WGIP at its future sessions	WGIP in 2002 (ibid., para. 96) and Sub-Commission resolution 2002/21 (para. 7 (c)) (Ms. Motoc)	
Working paper containing commentaries on the most important provisions of the draft United Nations declaration on the rights of indigenous peoples	WGIP in 2002 (ibid., para. 97) Sub-Commission resolution 2002/21 (para. 7 (d)) (Ms. Hampson)	Note paragraph 4 of Sub-Commission resolution 2002/21
A list of possible new studies to be undertaken by members of the Working Group in the immediate and medium-term future	WGIP in 2002 (ibid., para. 98) Sub-Commission resolution 2002/21 (para. 7 (e)) (Mr. Alfonso Martínez)	
Study on the relationship between development and indigenous peoples	Ms. Motoc, nineteenth session (2001) (E/CN.4/Sub.2/2001/17, para. 24)	
Study by the Chairperson-Rapporteur on permanent sovereignty over natural resources	Indian Law Resource Centre (ibid., para. 107) and WGIP in 2001 (ibid., para. 169) (Ms. Daes)	Ms. Daes was appointed to undertake a study on permanent sovereignty over natural resources by the Commission on Human Rights in its decision 2003/110. A recommendation to that effect has been submitted by the Commission to the Economic and Social Council at its substantive session, 2003

Proposal/recommendation	Suggested by	Commentary
Study on the health effects of corporate hog farming in indigenous communities	Lakota Nation in 2001 (ibid., para. 136)	
Working paper on the consequences of biotechnology on indigenous peoples	Ms. Motoc and WGIP in 2001 (ibid., para. 168)	
Study on indigenous youth and children	Statement on behalf of the indigenous peoples of Manipur and north-east India, eighteenth session (2000) (E/CN.4/Sub.2/2000/24, para. 91)	
Studies in relation to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance: the historical origins of racism; racism as a consequence of globalization; the international financial system and the concentration of wealth in the hands of transnational corporations	An indigenous representative in 2000 (ibid., para. 183)	The indigenous caucus was invited by the Sub-Commission in its resolution 2002/21 (para. 17) to present a working paper on appropriate action that might be undertaken by the Working Group as a follow-up to the World Conference to WGIP in 2003
Comprehensive study on indigenous peoples and natural resource companies	WGIP in 2000 (ibid., para. 209)	The objective is to develop model processes for the protection of indigenous peoples' cultural, social, economic and environmental rights
Study on customary law and regulatory systems that apply to the protection of traditional knowledge, innovation and creativity among indigenous peoples and local communities	WIPO, seventeenth session (1999) (E/CN.4/Sub.2/1999/19, para. 29)	

Proposal/recommendation	Suggested by	Commentary
Sociocultural impact studies, in the context of energy projects	Indigenous representatives in 1999 (ibid., para. 125)	The representative suggested that sociocultural impact studies should be integrated into environmental impact assessments
Analysis of the relationship between indigenous peoples and the law enforcement authorities, prosecutors, defence lawyers and the law courts	Indigenous representatives in 1999 (ibid., para. 122)	
Review of the status of the treaties between indigenous people and States	An indigenous representative, fifteenth session (1997) (E/CN.4/Sub.2/1997/14, para. 89)	This proposal was advanced before the submission of the final report on the study undertaken on this matter by the Special Rapporteur, Mr. Alfonso Martínez. The indigenous representative stated that the "review" was to determine whether those treaties were intended to be domestic arrangements or binding agreements

Proposals received by OHCHR

Proposal	Suggested by	Commentary
Report on the primary obstacles to the promotion and protection of the human rights of indigenous peoples	Recommendation received from the indigenous caucus at the twentieth session of WGIP (2002)	The report would look at four or five of the most significant obstacles as well as at the inadequacy of the human rights complaint procedure for indigenous peoples' needs

Proposal	Suggested by	Commentary
Report on all existing or developing standards affecting indigenous peoples with a review of implementation procedures to examine how they are effectively protecting the rights of indigenous peoples	Idem.	The report should show how existing standards deviate from actual and effective remedies for indigenous peoples and should include recommendations for universal application and consistent remedy. The focus should be on the actual functioning of national mechanisms, as well as of treaty bodies and other international monitoring mechanisms and procedures
Study on the impact of transnational corporations affecting indigenous peoples on their lands and territories, in conjunction with the work done by the Sub-Commission	Idem.	
Study on the violations of the rights and the situations of indigenous children and youth	Idem.	This study should be carried out in accordance with article 45 of the Convention on the Rights of the Child and in collaboration with the Committee on the Rights of the Child, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and UNICEF
Study on the policies of United Nations agencies and their impacts to determine whether they are in compliance with existing human rights standards	Idem.	
Study on self-determination as a means of both resolving and preventing conflicts	Idem.	This study should be complementary to the work done on this matter by UNESCO

Proposal	Suggested by	Commentary
Study on positive and negative outcomes of “ethno-development” projects with respect to indigenous rights and their impact on the micro and macro levels	Idem.	According to the indigenous caucus, this study will allow the setting of standards regarding indigenous participation in the decision-making process
Study on the precise meaning of “free, prior and informed consent”	Mililani Trask, indigenous expert, member of the Permanent Forum on Indigenous Issues, in a letter of 2002	
Study on the precise meaning of “protections for indigenous intellectual property and traditional knowledge”	Idem.	
Study on the impact of globalization on indigenous peoples	Idem.	
Indigenous peoples’ networks worldwide and opportunities to build their respective capacities in their region, as well as partnerships between them	Patrice Bigombre Logo, Research and Action Center for Sustainable Development in Central Africa, Cameroon, in an e-mail of March 2003	
Indigenous peoples and natural resource management in Central Africa	Idem.	
