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COMMISSION ON HUMAN RIGHTS  
Sub-Commission on the Promotion  
and Protection of Human Rights  
Fifty-sixth session  
Agenda item 5 (b)

**PREVENTION OF DISCRIMINATION**

**PREVENTION OF DISCRIMINATION AND PROTECTION  
OF INDIGENOUS PEOPLES**

**Mr. Alfonso Martínez, Mr. Guissé, Ms. Hampson, Ms. Motoc  
and Mr. Yokota: draft resolution**

**2004/... Working Group on Indigenous Populations**

*The Sub-Commission on the Promotion and Protection of Human Rights,*

*Reaffirming* the urgent need to recognize, promote and protect more effectively the rights of indigenous peoples, including their human rights and fundamental freedoms,

*Mindful* of the relevant recommendations adopted by the World Conference on Human Rights in 1993, in particular those contained in Part I, paragraph 20, and Part II, paragraphs 28 to 32, of the Vienna Declaration and Programme of Action,

*Mindful also* of the relevant recommendations adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in 2001,

*Recalling* Economic and Social Council resolution 1982/34 of 7 May 1982, in which the Council authorized the Sub-Commission to establish annually a working group on indigenous populations,

*Taking note with deep appreciation* of the report of the Working Group on Indigenous Populations on its twenty-second session (E/CN.4/Sub.2/2004/28) and, in particular, of its conclusions and recommendations,

*Welcoming* the ample discussions in the Working Group during its twenty-second session under its twofold mandate: the review of developments pertaining to the promotion and protection of human rights and fundamental freedoms of indigenous people, including the main theme, "Indigenous peoples and conflict resolution", and standard-setting, as well as on cooperation with other United Nations bodies in the sphere of indigenous issues,

*Deeply concerned* at the still-visible sequels of the colonial era that continue to adversely affect the living conditions of indigenous peoples in various parts of the world,

*Recalling* Commission on Human Rights resolution 1993/30 of 5 March 1993, in which the Commission recommended to all thematic rapporteurs, special representatives, independent experts and working groups to pay special attention, within the framework of their mandates, to the situation of indigenous people,

*Taking note* of Commission on Human Rights resolutions 2004/57 and 2004/58 of 20 April 2004 and Economic and Social Council decision 2004/... of 22 July 2004,

*Recalling* its resolution 2003/29 of 14 August 2003,

1. *Expresses its deep appreciation* to all members of the Working Group on Indigenous Populations for the important and constructive work accomplished during its twenty-second session and for the new working methods introduced with the purpose of facilitating a more interactive dialogue during its annual sessions;

2. *Requests* the Secretary-General to transmit the report of the Working Group on its twenty-second session (E/CN.4/Sub.2/2004/28) to the United Nations High Commissioner for Human Rights, indigenous organizations, Governments and intergovernmental and

non-governmental organizations concerned, as well as to treaty bodies and all thematic rapporteurs, special representatives, independent experts and working groups existing as special procedures under the authority of the Commission;

3. *Reiterates its invitation* to the treaty bodies and all thematic special procedures to advise the Working Group on how they take into account, in their work and in accordance with their respective mandates, the promotion and protection of indigenous peoples' rights and in this context, further invites them to take duly into account paragraphs 3 and 4 of Commission on Human Rights resolution 2004/58 of 20 April 2004;

4. *Requests* that the report of the Working Group on its twenty-second session be made available to the Commission on Human Rights at its sixty-first session;

5. *Reiterates its recommendation* that the Working Group, upon request, cooperate as a body of experts in any conceptual clarification or analysis that might assist the open-ended intersessional working group established by the Commission in its resolution 1995/32 of 3 March 1995 to complete as soon as possible the final version of the draft United Nations declaration on the rights of indigenous peoples;

6. *Decides* that the Working Group at its twenty-third session shall adopt as the principal theme "Indigenous peoples and the international and domestic protection of traditional knowledge", as agreed upon by the Working Group (E/CN.4/Sub.2/2004/28, para. 137), and that the Office of the United Nations High Commissioner for Human Rights shall invite all relevant organizations and departments of the United Nations system, in particular the United Nations Educational, Scientific and Cultural Organization and the World Intellectual Property Organization, to provide information on this subject and, if possible, to participate actively in the debates on this matter at the Working Group;

7. *Requests* the Working Group to review at its twenty-third session the revised draft principles and guidelines on the heritage of indigenous people elaborated by Ms. Erica-Irene Daes (E/CN.4/1995/26, annex);

8. *Invites* the members of the Working Group to prepare the following working papers and commentaries for submission to its twenty-third session:

(a) Mr. Yozo Yokota: in cooperation with the Saami Council, an expanded working paper containing substantive proposals on the draft principles and guidelines related to indigenous peoples' heritage;

(b) Ms. Antoanella-Iulia Motoc: in cooperation with the Tebtebba Foundation and any other indigenous source interested in the issue of the principle of free, prior and informed consent and ready to make a contribution to its analysis in the Working Group, a paper offering guidelines to govern the practice of implementation of said principles;

(c) Ms. Françoise Hampson: an additional working paper developing further the information and the ideas contained in her first paper on the human rights implications especially for indigenous populations, of the disappearance of States for environmental reasons (E/CN.4/Sub.2/AC.4/2004/CRP.1), taking into account the discussion on this matter during the Working Group's twenty-second session; this paper should also be submitted to the Sub-Commission's fifty-seventh session, as requested by the Commission in its decision 2004/122 of 21 April 2004;

(d) Mr. Miguel Alfonso Martínez: an additional working paper on the issue of indigenous peoples and conflict prevention and resolution, with particular emphasis on conflicts between indigenous traditional sources of authority and State-designated institutions and representatives and on the positive role that may be played by domestic and international third parties in brokering a dialogue for the peaceful resolution of conflicts affecting indigenous peoples;

9. *Decides*, in view of the discussions that will take place under the principal theme of its twenty-third session, to invite the Office of the High Commissioner for Human Rights to organize, as a matter of priority, in consultation with the Chairperson-Rapporteur of the Working Group, a second workshop on indigenous peoples, mining and other private sector companies and human rights with a view to preparing guidelines based on respect for the cultures and traditions of these communities and the principle of free, prior and informed consent;

10. *Endorses* the recommendations of the Working Group to request the Office of the High Commissioner to organize, if possible in 2005, a workshop on indigenous peoples and conflict resolution and prevention, as well as a seminar on specific possible ways and means to implement treaties, agreements and other constructive arrangements between States and indigenous peoples, preferably to be held in 2006, on lands of the peoples parties to Treaty 6 in Canada, in accordance with the invitation extended by them during the twenty-second session and already formally accepted by the Working Group (E/CN.4/Sub.2/2004/28, para. 118);

11. *Decides* that the Working Group's agenda for its twenty-third session would be as follows: 1. Election of officers; 2. Adoption of the agenda; 3. Organization of work; 4. Review of developments: (a) General debate; (b) Principal theme: "Indigenous peoples and the protection of traditional knowledge"; (c) Indigenous peoples and conflict prevention and resolution; 5. Standard-setting: (a) Legal commentary on the concept of free, prior and informed consent; (b) Review of draft principles and guidelines on the protection of the heritage of indigenous peoples; 6. Other matters: (a) International Decade of the World's Indigenous People; (b) Cooperation with United Nations bodies; (c) Follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance; (d) The human rights situation of States and territories threatened with extinction for environmental reasons; (e) State of the Voluntary Funds; (f) The draft United Nations declaration on the rights of indigenous peoples (update); 7. Presentation of elements for the conclusions and recommendations; 8. Adoption of the report;

12. *Invites* the Office of the High Commissioner for Human Rights, after consultation with the Chairperson-Rapporteur, to inform participants at the twenty-third session of the Working Group about the organization of issues under the item "Review of developments" in advance of the session in order to facilitate a more active dialogue among the various participants;

13. *Reiterates* its recommendation that the Commission on Human Rights, in view of the adoption of Economic and Social Council resolution 2002/28 of 25 July 2002 which permits indigenous organizations to participate in the work of the Permanent Forum on Indigenous Issues on the same basis as the Working Group on Indigenous Populations, adopt a similar procedure

for participation in the working group established in accordance with Commission resolution 1995/32, in order to ensure consistency in matters relating to the participation of indigenous peoples in the work of the United Nations affecting them;

14. *Requests* the Chairperson-Rapporteur to present the report of the Working Group on its twenty-second session to the upcoming session of the Board of Trustees of the United Nations Voluntary Fund for Indigenous Populations, without financial implications, and to inform the Board of the Working Group's agenda for its next session, so that the Board can bear this in mind when it meets;

15. *Appeals* to all Governments, organizations, including non-governmental organizations and indigenous groups, and other potential donors in a position to do so to contribute generously to the United Nations Voluntary Fund for Indigenous Populations in order to assist representatives of indigenous communities and organizations to participate in the deliberations of the Working Group and the open-ended intersessional working group on the draft United Nations declaration on the rights of indigenous peoples;

16. *Requests* the Secretary-General to prepare an annotated agenda for the twenty-third session of the Working Group on the basis of paragraph 11 of the present resolution;

17. *Reiterates* its view that the Economic and Social Council, in reviewing all United Nations mechanisms relating to indigenous peoples, should take into account the fact that the mandates of the Working Group, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and the Permanent Forum on Indigenous Issues are distinct and complementary and requests the Commission, in the light of the ongoing cooperation of these three mechanisms, to endorse this view;

18. *Requests* the Commission on Human Rights to endorse the participation for one week of the Chairperson-Rapporteur of the Working Group at the fourth session of the Permanent Forum on Indigenous Issues, as recommended by the Working Group (E/CN.4/2004/28, para. 125), to enable him to present the report of the Working Group on its twenty-second session, and to recommend to the Economic and Social Council that it approve such participation;

19. *Also requests* the Commission on Human Rights to request the Economic and Social Council to authorize the Working Group on Indigenous Populations to meet for five working days prior to the fifty-seventh session of the Sub-Commission in 2005;

20. *Recommends* to the Commission on Human Rights the following draft decision for adoption:

“The Commission on Human Rights, taking note of resolution 2004/... of ... August 2004 of the Sub-Commission on the Promotion and Protection of Human Rights, endorses the Sub-Commission’s request that the Economic and Social Council authorize the Working Group on Indigenous Populations to meet for five working days prior to the fifty-seventh session of the Sub-Commission in 2005.”

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