The Birth of the UN Permanent Forum on Indigenous Issues

By Victoria Tauli-Corpuz

The only bodies in the United Nations which directly address indigenous peoples are the UN Working Group on Indigenous Populations (UNWGIP) and the Commission on Human Rights Open Ended Intersessional Working Group to Elaborate on a Draft Declaration on the Rights of Indigenous People (WGDD). The Sub-Commission on the Prevention of Discrimination and Protection of Minorities adopted the UNWGIP Draft Declaration on the Rights of Indigenous People in 1993, but this cannot be considered a universal standard as it has not yet been adopted by the UN General Assembly. The only legally binding instruments relating to indigenous peoples are the International Labor Organization's (ILO) 1957 Convention No.1071 and the 1989 Convention No. 169.

Various high-level conferences held in the last decade, such as the UN Conference on Environment and Development (UNCED) and the World Conference on Human Rights (CHR), among others, had sections or paragraphs pertaining to indigenous peoples. But because of the increasing threats to the very existence of indigenous peoples, these bodies, conventions, and paragraphs are hardly adequate to address the severity of the problem. The mandates and powers of the existing bodies are too limited. And the coordination between the different United Nations bodies, conventions, high-level conferences, and programmes, is very poor, to say the least.

This situation is a far cry from what women have achieved within the United Nations. First they got their International Year of Women and then an International Decade. Now they already have a Convention on the Elimination of Discrimination against Women (CEDAW), a Commission on the Status of Women (CSW), a Division for the Advancement of Women (DAW) and a UN Development Fund for Women (UNIFEM), among others. Every ten years they have a World Conference on Women.

For almost two decades now, indigenous peoples have been clamoring that a UN body be created with adequate mandate and powers. Gross violations of the individual and collective rights of indigenous peoples are worsening each day. If the international community does not act decisively to address this situation, the possibility of the continued existence of the small populations of indigenous peoples will greatly diminish.


On the basis of the CHR resolution, the Economic and Social Council (ECOSOC) developed
and adopted Resolution 2000/22 of 28 July 2000, which established the Permanent Forum on Indigenous Issues. The adoption of this historic Resolution is the result of many years of work by indigenous peoples with the help of advocates and governments friendly and sympathetic to the cause of indigenous peoples. I was with the few indigenous persons who were present during this ECOSOC Session to keep a close watch on developments and to provide support to the governments who sponsored the resolution.

Paragraph 1 of this Resolution states that the Economic and Social Council:

1. Decides to establish as a subsidiary organ of the Council a permanent forum on indigenous issues, consisting of sixteen members, eight members to be nominated by Governments and elected by the Council, and eight members to be appointed by the President of the Council following formal consultation with the Bureau and the regional groups through their coordinators, on the basis of broad consultations with indigenous organizations, taking into account the diversity and geographical distribution of the indigenous people of the world as well as the principles of transparency, representativity and equal opportunity for all indigenous people, including internal processes, when appropriate, and local indigenous consultation processes, with all members serving in their personal capacity as independent experts on indigenous issues for a period of three years with the possibility of re-election or reappointment for one further period; States, United Nations bodies and organs, intergovernmental organizations and non-governmental organizations in consultative status with the Council may participate as observers; organizations of indigenous people may equally participate as observers in accordance with the procedures which have been applied in the Working Group on Indigenous Populations of the Sub-commission on the Promotion and Protection of Human Rights;

This resolution further stipulates:

2. … that the Permanent Forum on Indigenous Issues shall serve as an advisory body to the Council with a mandate to discuss indigenous issues within the mandate of the Council relating to economic and social development, culture, the environment, education, health and human rights; in so doing the Permanent Forum shall:

(a) Provide expert advice and recommendations on indigenous issues to the Council, as well as to programmes, funds and agencies of the United Nations, through the Council;
(b) Raise awareness and promote the integration and coordination of activities relating to indigenous issues within the United Nations system;
(c) Prepare and disseminate information on indigenous issues.

Basically what paragraph 1 of the Resolution provides for are:

- The ECOSOC will establish a subsidiary organ to be called the Permanent Forum on Indigenous Issues.
- This will be composed of 16 members; 8 members to be chosen by the governments and elected by the ECOSOC and the other 8 members to be appointed by the ECOSOC President from nominations coming from consultations of indigenous organizations.
- These members will serve in their personal capacities as independent experts for a
period of three years with a possible reappointment for another three years.

- States, UN bodies and organs, intergovernmental organizations and non-governmental organizations with consultative status can participate as observers in the sessions of the Permanent Forum.
- Indigenous peoples can participate as observers in accordance with the same procedures used by the UNWGIP.

Is this what indigenous peoples wanted when they first set their minds to push for a body in the United Nations with a broader mandate and bigger powers? What are the implications of these developments for indigenous peoples? How should they organize themselves to become key actors in organizing and running this body? What is required to enable this body to be effective? This article will look back into the history of the creation of the Permanent Forum and highlight some key issues which indigenous peoples should deal with in relation to the creation and work of this body.

**From Nuuk to Chimaltenango and Vienna**

In the late 1980s the idea of a permanent forum for indigenous peoples in the UN was already being floated by indigenous peoples themselves. This was done in and outside of the halls of the UN where the UN Working Group on Indigenous Populations held yearly meetings. It was further discussed during the UN Human Rights Experts Seminar on the Experience of Countries in the Operation of Schemes of Internal Self-Government for Indigenous Peoples held in September 1991 in Nuuk, Greenland. Several indigenous peoples including myself were at this seminar, and we were convinced of the need for a more comprehensive UN mechanism to address our issues.

At that meeting, the inadequacies of the UN system to promote and protect indigenous peoples' rights surfaced. Don Augusto Willemsen Diaz, who was there, presented his own views on how the UN should address indigenous peoples' issues. He introduced the idea of creating a more permanent UN body that would have more power in terms of promoting and protecting indigenous peoples' rights.

This was where the word 'permanent' cropped up. One conclusion of this meeting was:

"...the question of the rights of indigenous peoples and the protection thereof should be dealt with on a permanent basis within the United Nations."

In October 1992 during the First International Indigenous Summit convened by Rigoberta Menchu Tum in Chimaltenango, Guatemala, the term 'permanent forum' took shape. The summit was called to assess where we, indigenous peoples, were in terms of having our rights recognized as well as what ways should be taken to move forward. The next year the International Year of the World's Indigenous Peoples was to be declared and soon after, the Decade. Thus, it was crucial for indigenous peoples to be more pro-active in shaping these events.

Several indigenous leaders from all parts of the world were present at this summit. The gathering discussed the reports and analyses on the various lobbying and advocacy efforts done by indigenous peoples in the United Nations. They recognized that while the UN
Working Group on Indigenous Peoples had done a tremendous job, it had limitations. The continuing violation of indigenous peoples' rights the world over needs a more comprehensive response on the part of the international community and governments. The summit also acknowledged that indigenous peoples' issues are not just limited to the realm of human rights. Issues on environment, development, culture, education, and health are equally important. The UN Conference on Environment and Development, in which indigenous peoples participated actively, had just finished in June of that same year.

The summit recognized that indigenous peoples tried to influence the various UN bodies that dealt with this wide range of issues. In the desire to cover these numerous meetings, they had been spreading themselves thinly. The key area where their energies should be spent more is in strengthening indigenous communities, nations and organizations. Thus, being sidetracked by UN meetings could have serious implications for their work on the ground.

This summit also observed that the programs and policies of the different UN bodies are not necessarily consistent in terms of promoting indigenous rights and welfare. Obviously, there is a need to have a coordinating mechanism within the UN to ensure that its various agencies, programs, and policies reinforce each other in the area of promoting the rights of indigenous peoples. Equally needed are better coordinating mechanisms between the UN and indigenous peoples. The capacities of indigenous peoples should also be built further to enable them to influence and monitor developments in other UN bodies and agencies.

The prevailing realities and identified needs indeed pointed to the urgent need to create a UN body on indigenous peoples that would go beyond the level of the WGIP and the CHR. At that meeting there was unity that there should be a permanent forum in the UN to address in an integrated fashion the civil and political rights of indigenous peoples along with their economic, social and cultural rights. This forum would also allow for more access and meaningful participation of indigenous peoples in the UN system. And to be able to address indigenous peoples' issues comprehensively, it would have to be located at the higher rungs of the UN hierarchy and have adequate resources and political support.

This Permanent Forum was envisioned to be a key outcome of the International Decade of the World's Indigenous Peoples (1995-2004). 1993 as the International Year of the World's Indigenous Peoples was to be used as the springboard for propagating the idea. The World Conference on Human Rights held in Vienna in June 1993 was seen as the most appropriate body to recommend the creation of a Permanent Forum, as it would be graced by more than one hundred Heads of States and recommendations coming from it would have a significant impact.

A group of indigenous peoples, who attended this conference, worked actively outside and within the official meetings. A few of them were government delegates such as Henriette Rasmussen who was then the Minister of Social Affairs and Employment of the Greenland Home Rule Government. A member of the Danish delegation, she presented an intervention which called upon the Conference to "support the notion of a permanent advisory body of indigenous peoples, as well as the notion of a permanent office."

From this presentation indigenous peoples helped craft the wording of the recommendation that was presented and subsequently adopted. This recommendation declared:
(32) The World Conference recommends that the General Assembly proclaim an international Decade of the World's Indigenous People, to begin from January 1994, including action-oriented programmes, to be decided upon in partnership with indigenous people. An appropriate Voluntary Trust Fund should be set up for this purpose. In the framework of such a Decade, the establishment of a permanent forum for indigenous people in the United Nations should be considered.

The efforts and strategizing indigenous peoples did paid off. With this recommendation, the cornerstone for the permanent forum was laid down.

**Seven Years from Conception to Birth**

The wheels then started to grind slowly to make this recommendation a reality. The UN General Assembly came up with Resolution 48/163 of 21 December 1993, which proclaimed the International Decade of the World's Indigenous People, and requested the Commission on Human Rights to give 'priority consideration' to the establishment of a permanent forum for indigenous people within the United Nations system. On this cue the CHR adopted Resolution 1994/28, of 4 March 1994, which requested the WGIP to prioritize the discussion of this forum in its twelfth session.

The WGIP experts subsequently included the permanent forum in the agenda of its twelfth session held in July 1994. Madame Erica Irene Daes, the Chairperson-Rapporteur, prepared a comprehensive paper which outlined the major points to be discussed in considering the establishment of a permanent forum for indigenous people. The recommendation that came out of the 12th session was for the holding of further consultations on the permanent forum. On 23 December 1994, the UN General Assembly endorsed the recommendation in Resolution 49/214, and on 3 March 1995, the CHR adopted Resolution 1995/30 which called for the convening of a workshop on the possible establishment of a permanent forum for indigenous people.

**First Workshop on the Possible Establishment of a Permanent Forum**

Since the Danish government took up the cudgels for the realization of this goal, it hosted the first workshop. Held in Copenhagen in June 1995, an equal number of indigenous peoples' representatives and governments (21 from each bloc), with two independent experts, took part. This meeting was quite difficult because some Asian government representatives again brought up the need to have the term "indigenous peoples" defined. But the workshop was very significant because it set the framework that would guide future discussions on the permanent forum. The agenda revolved around the following points, which generally served as the agenda for the subsequent meetings:

a. Scope of the permanent forum;

b. United Nations body to which proposed forum would report and its relationship with the United Nations;

c. Mandate and terms of reference;

d. Activities to be undertaken by the forum;

e. Membership;

f. Participation of indigenous peoples;
g. Relationship with the WGIP;
h. Financial and secretarial implications;
i. Other matters such as location of the forum.

Many participants also agreed that the permanent forum should:

- Play a coordinating role on all activities related to indigenous peoples within the UN system;
- Provide guidance and advice to interested parties;
- Disseminate information on the conditions and needs of indigenous peoples;
- Promote understanding among peoples.

Indigenous participants at this workshop presented a statement of mission for the Permanent Forum which declared that this body should:

a. Be able to make clear decisions and intervene effectively on an urgent basis on behalf of indigenous peoples throughout the world;
b. Be involved in and coordinate action for the resolution of conflicts affecting the indigenous peoples in any way;
c. Oversee the implementation and monitor the effectiveness of international and regional instruments and programmes affecting indigenous peoples;
d. Monitor and advise on the implementation and effectiveness of actions of the United Nation's bodies and Member States in relation to indigenous peoples;
e. Provide indigenous peoples with a high-level and public forum to participate in decisions and consider a wide range of matters affecting indigenous peoples in areas of development, environment, culture, education, economics, social, intellectual property, trade with particular emphasis on traditional and innovative systems;
f. Eliminate racism and discrimination against indigenous peoples;
g. Promote and advance world acceptance and understanding of all peoples.

Amid all these discussions on the Permanent Forum, the workshop also raised concern on the inadequate knowledge on the UN programs relating to indigenous peoples.

**Secretary General's Review of Existing Mechanisms, Procedures and Programmes within the United Nations Concerning Indigenous Peoples**

By 1995, the 47th Session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities reiterated that the mandate of the permanent forum should be broad enough to include not only human rights but development, environment, culture and health. It further recommended that this be established in the early part of the International Decade for the World's Indigenous People, and that another workshop be held to further discuss the permanent forum.

The permanent forum had by then become a hot topic for discussion especially among indigenous peoples, and one question which always cropped up was the real extent of UN work with indigenous peoples. Indigenous peoples felt that since one of the possible mandates of this body is coordination, it may be useful to make an assessment of what the UN bodies were doing in relation to indigenous peoples. This was also raised during the First
Workshop in Copenhagen. The proposal stemmed from an observation that available information on the current activities of the UN system relevant to indigenous peoples was insufficient. It was deemed wise to have such information available before diving deep into the discussion of a permanent forum.

In response to this concern the UN General Assembly in its 50th Session passed Resolution 50/157 of 21 December 1995 which states:

That the Secretary General undertake a review, in close consultation with Governments and taking into account views of indigenous peoples, of the existing mechanisms, procedures and programmes within the United Nations concerning indigenous peoples, and report to the General Assembly at its fifty-first session in 1996.

This resolution also recommended that the UN Centre for Human Rights consider the convening of a second workshop on the possible establishment of a permanent forum for indigenous peoples.

The General Assembly also adopted a Programme of Activities for the International Decade of the World's Indigenous People which reiterated that an objective of the Decade is to ensure that recommendations on indigenous peoples from all high-level conferences would be implemented. The recommendation of the World Conference on Human Rights for the establishment of a permanent forum for indigenous peoples thus became integral to the international decade's programme of activities.

The Secretary General subsequently conducted the review, some of whose conclusions were:

• On the positive side, it may be suggested that the efforts by the United Nations and certain of its organs - the Sub-Commission on Prevention of Discrimination and Protection of Minorities and Commission of Human Rights, in particular - and initiatives by the General Assembly itself, namely the decisions to proclaim an International Year of the World's Indigenous People and now an International Decade, have contributed to the generation of widespread public interest in the issue of indigenous people, renewed national commitment to improving the conditions of these peoples, and international initiatives to support these activities.

• On the other hand, there are apparent lacunae and inconsistencies within the United Nations system on this issue. For example, there are no internationally accepted guidelines on the rights of indigenous peoples. Although which ensure regular exchange of information between the ILO's Convention No 169 is used as reference by certain United Nations bodies and is a framework for governmental policy in the ten countries which have ratified to date. The draft declaration currently being reviewed by the Commission on Human Rights will become universal only when it is adopted by the General Assembly. Only the World Bank has elaborated operational guidelines on indigenous peoples. Nonetheless, among the United Nations agencies, as has been noted, there are wide divergences in approach and level of involvement. Some United Nations meetings, even those dealing directly with indigenous matters, offer relatively open participation; others are almost completely closed off to indigenous organizations. Above all, there are virtually no mechanisms in the United Nations organizations which give the nominated representative of indigenous organizations or peoples an opportunity to provide expert advice or take part in decision-making.
• The fact that there are now a number of indigenous-related programmes and projects being implemented and planned by the United Nations agencies only underlines the striking absence of a mechanism to ensure regular exchange of information among the concerned and interested parties (underscoring ours), Governments, the United Nations system and indigenous people - on an ongoing basis. Measures should be made to avoid duplication and strengthen cooperation and consistency of approach and to ensure cost-effectiveness of programmes of the UN concerning indigenous peoples.

These conclusions further strengthened the recommendation for the setting up of a permanent forum for indigenous peoples.

First International Indigenous Peoples' Conference for the Creation of a Permanent Forum

While the official UN processes were going on, the indigenous peoples held their own. The CHR resolution 1997/30 of April 11, 1997 called for the convening of a Second Workshop on a Permanent Forum for Indigenous People which the government of Chile offered to host. Indigenous peoples decided to hold a preparatory conference before this workshop. A Chile-based indigenous peoples' organization, Aukin Wallmapu Ngulam, hosted the conference dubbed the "First International Indigenous Peoples' Conference for the Preparation for a Permanent Forum". Held in Temuco, Chile on 6 to 9 May 1997, the conference called for the following:

1. In accordance with the principle of dialogue between Governments and peoples we call for the rapid establishment of the permanent forum at the highest possible level;

2. The indigenous peoples have the right to full and effective participation in the permanent forum on an equal footing with Governments. It is also important that the United Nations agencies, non-government organizations and independent experts should have the opportunity to take part in the discussions of the permanent forum when the parties so require.

3. The mandate of the permanent forum should be sufficiently broad and cover all areas which concern the indigenous peoples of the world, including cultural, civil, political, social, and economic rights, health, women, children, development, education, the environment, territories, human rights, the resolution of conflicts and the coordination of activities within the United Nations agencies in which indigenous peoples are involved.

The Temuco Declaration was adopted and brought to the Second Workshop which was held in Santiago, Chile from 30 June to 2 July 1997. This Declaration was annexed to the official report of the Santiago Workshop.

Second Workshop in Santiago, Chile

The agenda for the second workshop was generally patterned after the Copenhagen Workshop. However, the first item dealt with the Secretary-General's review of the existing
mechanism, procedures and programmes, which was formally presented and generated a lively debate. The workshop’s task was again to discuss the process for the establishment of the permanent forum but this time with concrete proposals to be submitted to the UN Economic and Social Council for action.

The workshop reaffirmed the broad mandate spelled out in the first workshop and the Temuco conference. It also affirmed that the permanent forum should be a subsidiary organ of the ECOSOC, being the principal organ for supervising economic and social activities of the UN system on human rights, the environment, development, health, culture and other issues. As the mandate will cover all these areas it was appropriate that the forum be directly under the ECOSOC. The second workshop also identified some specific activities which the future permanent forum could do. Among these are:

- Contribute to the resolution of conflicts;
- Oversee and coordinate UN activities relating to indigenous peoples;
- Mobilize expertise on indigenous issues;
- Carry out impact assessments of UN activities and policies relating to indigenous peoples;
- Disseminate information on conditions and needs of indigenous peoples and on the implementation and realization of international standards relating to indigenous peoples' human rights as well as hear their complaints.

A few government representatives registered their opposition which mainly revolved around two issues: firstly, the suggestion that conflict resolution be included in the mandate, and secondly, the issue of equal participation of indigenous peoples with government representatives. One of them said that his government could not support a forum within the United Nations system where indigenous peoples were granted the same legal status as Member States. Others expressed the view that conflict resolution should not be part of the mandate of the permanent forum as this lies with the UN Security Council.

The Second Workshop also discussed the legal framework for the forum. There were those who noted that the Declaration on the Rights of Indigenous Peoples, once adopted, would be the legal basis for the activities of the forum. However, since this has yet to be adopted, there were those who felt that this might unnecessarily tie down the forum to the Declaration; thus, the proposal to start with existing instruments as the basis.

**Second International Indigenous Peoples' Conference**

Held in Ukupseni, Kuna Yala, Panama from 4-6 March 1998, the Second International Indigenous Peoples’ Conference once more built upon the Temuco Declaration. However, since this came after the Second Workshop, it dealt with the various clusters in greater detail. For instance, it clearly defined what the mandate of the permanent forum should be:

- The promotion of peace and prosperity for indigenous peoples;
- All matters relating to indigenous peoples;
- Coordination within the United Nations system of activities relating to indigenous peoples;
- Guidance and advice to States, specialized agencies and other relevant bodies;
Dissemination of information on the conditions and needs of indigenous peoples;
Promotion of understanding between peoples with a view to facilitating the prevention and peaceful settlement of disputes;
Formulation of all recommendations on any issue affecting indigenous peoples;
Compliance with existing national and international norms;
Issuing of proposals for harmonizing norms or laws with international law in the area of indigenous issues.

Open-ended Intersessional ad hoc Working Group on a Permanent Forum for Indigenous People

The Danish government and the Greenland Home Rule Government, in close consultation with indigenous peoples, worked for a resolution which pushed further the gains in this area. At the Fifty Fourth Session of the Commission on Human Rights, a resolution sponsored by 29 Governments was passed on 9 April 1998. Among others, it states that the CHR is:

4. ..[t]o establish an open-ended inter-sessional ad hoc working group, from within existing United Nations resources, to elaborate and consider further proposals for the possible establishment of a permanent forum for indigenous people within the United Nations system.

This working group met in Geneva from 15 to 19 February attended by both indigenous peoples and government representatives. The sessions were highly charged as there were wide divergences on the procedure for and modalities of a permanent forum. Everybody agreed, however, that the "building blocks for a future consensus" were put in place.

At this workshop, one difficult area was again the issue of conflict resolution. Indigenous peoples were quite firm that this should be part of the mandate of the forum. Mr. Richard van Rijssens of the Permanent Mission of the Government of Netherlands, who was the chairperson-rapporteur of the working group, said in his report:

...Both for procedural and for substantive reasons, most, if not all governmental representatives, opposed this view. The procedural point made - such a mandate would contradict the Charter of the United Nations (Chapters V1 and VII) - leads to the conclusion that this step cannot be taken without the involvement (and agreement) of the major policy making bodies of the United Nations. As this would inevitably delay the process of establishing the permanent forum and could even risk ending it, such a step should not be considered at present.

A debate also ensued over the nature of the permanent forum -- whether it will be an advisory body or a policy-making body. Indigenous peoples want it to be the latter. Again governments objected to this because policy decisions the forum may take could have repercussions in other areas of work within the UN as well as financial consequences which are outside the forum's capacity to decide. There are bodies like the ECOSOC and the Fifth Committee where indigenous peoples do not have a presence. However, a compromise was reached and Recommendation V was formulated which states:

a) The permanent forum should be established as an advisory body on indigenous issues;
b) The parent body (bodies) should not make decisions with regard to indigenous issues
without requesting the advice of the forum;

c) The permanent forum can give advice on all questions within the mandate of the ECOSOC that have a direct or indirect relationship with indigenous issues;

d) Decisions with regard to the substance - i.e. advice given to the parent body (bodies) shall be taken without a vote.

e) The forum can make decisions with regard to its own procedure by simple or two-thirds majority.

Since the composition of the forum is envisioned to be a mix of indigenous peoples and governments, its sui generis character is gaining more acceptance. It is going to be the first UN body to have a mixed membership not only of Member States but also of non-state actors such as indigenous peoples. Thus, the proposal for the forum to become a functional commission under the ECOSOC is not feasible. An outstanding matter that should be dealt with in the future will be the nature of the link of this body with other subordinate bodies under the ECOSOC. At present the only thing that can be agreed on is that the permanent forum ‘exercise its advisory role either directly or indirectly,’ i.e. through any of the other subsidiary bodies of the ECOSOC. (Recommendation V1. c)

The debate over the name of the forum was so emotional, as expected, because of the longstanding disagreement between governments and indigenous peoples over the use of "s" in the phrase indigenous peoples. This remains one of the most controversial issues because of the implications of the use of the letter 's'. In the end it was agreed that it be called "The Permanent Forum on Indigenous Issues" in keeping with the CHR's use of this name in the agenda item on 'indigenous issues'. This seems like a defeat for the indigenous peoples because they had been consistent in asserting the use of the term indigenous peoples. However, the desire to have the forum established as soon as possible gained upper hand. The thinking is that in due time the name could be changed.

Another difficult issue is how the permanent forum will be funded. Some diplomats, particularly the U.S. government representative, consistently used the lack of UN funds to block the establishment of a permanent forum. The logical proposal is that this be funded from the regular UN budget and not from voluntary funds. The discussion on this matter is also being linked to where the forum and the secretariat should be located. Many indigenous peoples would like the secretariat to be based in New York, being the base of many of the ECOSOC bodies. This would also serve to distance the secretariat from the Commission on Human Rights, which so far has had the monopoly over indigenous peoples’ issues. If the forum's mandate has to go beyond human rights, then the chances that it becomes so, in practice, would be greater if it is located in New York. Besides there is a feeling that the office of the High Commissioner on Human Rights has not really and adequately put indigenous peoples' concerns high on its priority. The Indigenous Project Team, which among other things coordinates indigenous issues within the High Commissioner's office, has been inadequately staffed and funded to undertake the numerous tasks placed before it. Furthermore, if the vision is to have the forum staffed mainly by indigenous persons, it might be wiser to move away from the shadow of the Indigenous Project Team.

The report of the Chairperson-Rapporteur of the ad hoc working group, however, contains a paragraph that supports the position of those who are for Geneva as the base of the secretariat. It reads:
47. In order not to create extra travel costs (for the secretariat) and with a view to limiting the maximum extent possible, the costs of extra personnel, it would be advisable to organize meetings of the forum and the assembly at the United Nations Office at Geneva. The Indigenous Project Team, which is responsible for organizing WGIP and the Commission's two working groups on indigenous issues, and for coordinating indigenous issues within the office of the High Commissioner for Human Rights, and which has considerable experience in United Nations system-wide cooperation on this question, would be very well placed to service the assembly and the forum, so that there should be no need to establish a wholly new secretariat. Obviously, an increase in personnel in this small part of the secretariat should be envisaged.

This is a view which is not popularly shared by many indigenous peoples. Firstly, it is important to allow indigenous peoples to become key players not only in the forum but also in the secretariat which will service the forum. In the UN system, the creativity and capacity of the secretariat to undertake the preparations, research, networking, etc. to implement the decisions reached is most crucial. If indigenous peoples are given the chance to do the staff work, they will meet the tremendous challenges demanded with vigour and passion, as this means life and death for their own peoples. Indigenous peoples are not putting into question the capacity and dedication of the Indigenous Project Team. However, the above-cited paragraph, which is obviously a move to entrench the IPT as the secretariat of the forum, is uncalled for. It undermines the bid of indigenous peoples to be the key players in the secretariat. It is also clearly biased for locating the permanent forum in Geneva.

In the end, since certain Member States objected to the Conclusions and Recommendations of the ad hoc working group, the Chairman-Rapporteur proposed that these could not be adopted.

**Second Session of the Open-Ended Intersessional ad hoc Working Group**

On the basis of the report of Mr. Van Rijssens, the CHR adopted Resolution l999/52 of 27 April 1999 which decided to re-establish the ad hoc working group to meet for eight working days prior to the 56th Session of the CHR. This second session was held from 14 to 23 February 2000, with Mr. Peter Wille of Norway elected as Chairperson-Rapporteur. The former chairperson was reassigned outside of Geneva. In this second working group session, consensus was finally reached on the 'elements of a permanent forum.'

The discussions were more focused, since the task of this working group was to present to the Commission on Human Rights one or more concrete proposals on the establishment of a permanent forum. Still the controversial issues cropped up again and again in the discussions. The indigenous peoples prepared a caucus paper agreed upon over a weekend preparatory meeting, which built upon the discussions held in Copenhagen in early January 2001. Indigenous peoples also had to discipline themselves not to replay the issues that could not be resolved in this meeting. The caucus exerted great effort to come up with united positions on the various elements, resulting in a set of recommendations, which were released as Conference Paper 1 (CRP 1). CRP1 was used by the ad hoc working group as a basis or aid for the discussions.

On the forum's mandate, the whole working group agreed that this should be broad, but no common agreement could be reached on what "broad" entails. What was clear is that the
mandate goes beyond human rights and that dispute or conflict resolution cannot be written as part of the mandate. In order that the discussions could move forward, the indigenous participants did not push very hard on this issue. But it is clear that if the permanent forum does its work well, it will inevitably contribute to the resolution of conflicts.

The discussion on membership size was long. The indigenous caucus initially recommended thirty members -- 15 from governments and 15 from indigenous peoples; the governments gave a range of 20-30 members. No consensus was reached on this too. What was agreed upon is that in terms of geographical distribution, the UN traditional division of five regions cannot be used because this is inappropriate for indigenous peoples. The indigenous participants proposed their own geographical division and the number of members to be drawn from each region, ending up with a total of 17 persons.

Indigenous peoples and governments also diverged on where the forum should be based - Geneva or New York. As expected, Switzerland pushed for Geneva and got the support of France, Argentina, Japan and the Netherlands.

There was further a need to clarify the use of terms in relation to the nature of the permanent forum. The Danish delegation clarified once and for all that the permanent forum is to be a subsidiary body under ECOSOC with advisory functions. Its expert nature would be reflected in the fact that its members will serve in their individual capacities. They can not serve as representatives of either indigenous peoples or governments because this would unnecessarily politicize the basis for decision making.

After all the debates, the Tebtebba representative volunteered to sum up the points which everybody agreed to, and these were the following:

- That the permanent forum will be established;
- That it would be a subsidiary body of the Economic and Social Council;
- That there would be an equal number of indigenous and governmental members;
- That these members will be selected under each group's own criteria and processes.

**Resolutions 2000/87 of the CHR and 2000/22 of the ECOSOC**

On the basis of the report of this ad hoc Working Group, the Commission on Human Rights in its 56th Session adopted Resolution 2000/87 of 27 April 2000. This resolution declared the establishment of the Permanent Forum on Indigenous Issues as a subsidiary body of the Economic and Social Council.

As was mentioned at the beginning of this paper, the ECOSOC adopted by consensus on 28 July 2000 Resolution 2000/22 which supported the CHR Resolution and established the Permanent Forum. Indigenous peoples, who were in New York at the time, were overwhelmed by this decision. It was seen as a victory after almost a decade of agonizing debates between indigenous peoples and UN Member States, and also among indigenous peoples.

Now the ball is in the courts of governments and indigenous peoples to select the members to be nominated to the Permanent Forum.
Recent Moves of the Office of the High Commissioner on Human Rights

Just last 26 February the High Commissioner on Human Rights sent a letter to indigenous organizations, and her opening sentence was:

It is with pleasure that I write to draw your attention to the Economic and Social Council resolution 2000/22 of 28 July 2000 establishing the Permanent Forum on Indigenous Issues and to inform you that the **Secretary-General has designated the Office of the High Commissioner for Human Rights as the lead agency for the implementation of the resolution.** (emphasis ours)

She reiterated the contents of the resolution and ended her letter saying:

I should like to invite indigenous organizations to hold consultations in order to nominate indigenous candidates for membership to the Permanent Forum. In considering possible candidates, you are encouraged to take into account the principles of equitable geographic distribution and gender balance. In addition to the names of your candidates, you may wish to provide background information on the nominations for consideration by the President of the Council. I would also invite you to provide my office with any other information or comments on the Permanent Forum.

The deadline she set for the nominations is October 1, 2001.

This will no doubt set off again a series of discussions among indigenous peoples. The selection process is going to be the major concern for these coming months. It is now up to indigenous peoples to proceed with this process with maturity, transparency and inclusive mechanisms.