

Permanent Forum

On the second day of the Treaty Gathering, the morning mostly involved a discussion of the Permanent Forum on Indigenous Issues at the United Nations. This is a new forum for Indigenous nations and peoples, at a higher level of the United Nations than the Working Group. In addition, it will have the power to make recommendations to the United Nations on issues of concern to Indigenous peoples. However, the most important aspect of this new forum will be the direct involvement of Indigenous peoples on the Forum. Tonya Gonnella Frichner and Willie Little Child gave excellent presentations on the history and structure this Forum would take and how it can affect our work. Ms. Frichner explained that as Indigenous sovereign nations, we are a part of the family of nations and that for many years Indigenous peoples had carried this reminder into international arenas.

- In 1977, Native American leaders from North and South America, including the Lakota and Haudenosaunee, went to Geneva to talk about treaties and land issues.
- As a result, in 1982, the Working Group on Indigenous Populations was formed.
- In 1993, the United Nations declared the International Year of Indigenous Peoples.
- In 1994, the United Nations declared the International Decade of Indigenous Peoples.
- In 1995, the Working Group completed its draft of the Declaration on the Rights of Indigenous Peoples.
- In 1999, Professor Miguel Alfonso Martinez presented his Final Report on the Study on Treaties, Agreements and Other Constructive Arrangements Between States and Indigenous Populations.
- In 2000, the Permanent Forum on the Indigenous Issues was created.

There is slow, but steady progress being made on behalf of Indigenous peoples. Ms. Frichner explained that the Permanent Forum will consist of sixteen "experts" on Indigenous issues. Technically, the members of the Forum will be appointed by the President of ECOSOC (Economic and Social Council of the United Nations) in consultation with nation states and Indigenous nations, peoples and organizations. Eight of those individuals will be from member nations of the United Nations and eight will be Indigenous peoples from a break down of geographic regions which attempt to be sensitive to cultural considerations. North America will be one of the regions. Please see Attachment 2 for a more comprehensive description of the Permanent Forum and its place within the United Nations system.

Indigenous NGOs, along with Indigenous nations and organizations, are playing a role in the selection of the representatives to the Permanent Forum from their regions. The eight representatives from the different Indigenous regions will serve on the Permanent Forum for a period of three years with the possibility of being reselected for an additional three year term. Specific criteria for service on the Permanent Forum have not been developed. However, some of the points that have been discussed in consultations with Indigenous participants in international forums include that the candidate.

- 1) Reside within his/her territory;
- 2) Speak his/her Native language
- 3) Practice the traditions of his/her Indigenous nation
- 4) Have some experience in international advocacy and the United Nations

The consultations with the Permanent Forum will take place annually for ten working days. The initial issues that the Permanent Forum will address will probably include health, environment, social issues and human rights. With respect to the enforceability of the Permanent Forum's decisions, they will be recommended to ECOSOC and then through ECOSOC to the General Assembly. The eventual goal is to develop a system whereby recommendations will go directly from the Permanent Forum to the General Assembly. Despite the fact that states often argue that the rules of international law are not enforceable, Mr. Littlechild stated that courts in member nations are increasingly applying international law. This is, of course, good for our case.

Willie Littlechild then spoke about his background and work at the United Nations. This is particularly relevant because Mr. Littlechild has been supported by many Native nations and communities as the North American representative on the Permanent Forum. After pursuing an athletic career, he decided to become a lawyer in order to help his people. He has been practicing international law since 1977. He was also the first treaty Indian ever elected to Parliament in Canada which he says *"I did in order to learn how they think and how they run a country so that I could more effectively help my people."*

Mr. Littlechild then explained the United Nations systems and some of its hierarchy. He also drew a diagram showing the levels within the United Nations. Please refer to Attachment 2 which contains a copy of the chart. Mr. Littlechild also explained that Non-Governmental Organizations (NGOs) at the United Nations have played an active role within the United Nations process. There are different levels of NGOs which determine the level of participation of the NGO within the UN system. The American Indian Law Alliance, for example, is an NGO in consultative status with ECOSOC.

Mr. Littlechild also discussed some of the concerns surrounding the creation of the Permanent Forum. For example, its mandate is to address economic and social issues which, under strict interpretation, could exclude concerns about self-determination, land or resources. However, on the other hand, one could successfully argue that all issues facing Indigenous nations and peoples are related to social and economic issues. For example, separating social issues from issues concerning Indigenous territories would be impossible, especially in an Indigenous world view. Another problem that Mr. Littlechild pointed out is that there is an even number of members to the Permanent Forum (16) and that there is no mechanism for breaking a tie in a voting situation. Decisions are supposed to be reached by consensus which has its advantages but it also gives obstinate states a kind of veto power in that they could block consensus. These are some of the issues that will have to be worked out during the evolution of the Permanent Forum. Its first meeting is scheduled to take place during the Spring of 2002. Nominations

for regional representatives are to be received by the United Nations High Commissioner for Human Rights by October 2001.

Many of the issues and concerns around the creation of the Permanent Forum have been discussed, over the past several years, in the Indigenous Caucus at the United Nations. The Indigenous Caucus is an informal assembly of Indigenous nations, organizations and peoples that participate in international level advocacy. The Teton Sioux Nation Treaty Council has, for many years, been a respected member of the caucus and its leaders are often consulted when difficult issues arise or there is serious disagreement between the members of the caucus. This is also true with many of the other treaty nations from North America including the Haudenosaunee, and the representatives of nations from Treaty Six and Treaty Four and the Assembly of First Nations in Canada. Mr. Littlechild stated that the Indigenous Caucus is informal, but a very effective tool in international advocacy. However, no similar "caucus" exists solely for North America. The treaty gatherings of the Teton Sioux Nation Treaty Council are one of the few assemblies of a variety of Native nations from North America. Mr. Littlechild would like to see these gatherings grow into an ever-more inclusive range of Native nations. Formalizing this process would be very advantageous to our efforts on an international level and the Teton Sioux Nation Treaty Council, with the help of the American Indian Law Alliance, is committed to this process.

The future of the Working Group on Indigenous Populations was also discussed at the Black Hills Treaty Gathering. Although the United States wants the Working Group eliminated, the Indigenous Caucus has unanimously disagreed with this position. The mandates are different and the work of the Working Group needs to be continued. Part of the work of the Working Group is to set "standards" by which nation states should interact with Indigenous nations and peoples. Although "standards" do not necessarily have the force of international law, they do provide a powerful tool in the arsenal of weapons that Indigenous peoples can use in our advocacy at the international level, as well as providing a means of applying international pressure against oppressive nations like the United States and Canada. Mr. Littlechild stated that he believes one of the reasons that some states are so adamant about eliminating the Working Group is because of its successes over the years in defining the rights of Indigenous peoples. In many cases too, the issue is one of finance, with some member nations (again, primarily the United States) saying it is too expensive to have two forums for Indigenous issues.

In response to a question concerning the role of the newly appointed Special Rapporteur on Indigenous Human Rights issues, Mr. Littlechild stated that the Special Rapporteur is an independent expert that can be used to move our issues forward. He has a three year mandate and can be contacted with respect to specific human rights' violations. Please note that the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people can be reached at the following address:

Mr. Rodolfo Stavenhagen
UNOG-OHCHR
CH-12, Geneva 10
Switzerland
011-41-22-917-9359 phone
011-41-22-917-9010 fax
email: jwoo.hchr@unog.ch

The Teton Sioux Nation Treaty Council will prepare documentation to submit to the Special Rapporteur relating to the human rights violations arising from the abuse of treaty rights. However, other Native American organizations and communities with specific complaints are encouraged to contact him.

Tonya Gonnella Frichner was then asked how traditional Indigenous governments fit within the United Nations structure. Ms. Frichner, as a citizen of the Onondaga Nation (which does not have an IRA government on its territory) carries a passport issued by the Haudenosaunee and does not travel on an American credentials. It is a definite act of sovereignty. Ms. Frichner explained that the traditional

council that governs her people do not consider themselves a NON-governmental organization and therefore will not apply for NGO status. Therefore they participate, in certain instances, under the wing of other NGOs, such as the American Indian Law Alliance, which is not a government but an organization established to support traditional Native American governments. This is also true with the Tetuwan Oyate, Teton Sioux Nation Treaty Council. However, the Working Group has had an open door policy and the Haudenosaunee and Lakota participate under our own defined status as sovereign nations. This is also true with the Working Group on the Draft Declaration and will be applied to consultations with the Permanent Forum on Indigenous Issues. The Vice-President of ECOSOC has also indicated that there might be an avenue for traditional Native governments to participate as nations. Mr. Littlechild added that tribal council governments could not participate as NGOs since they are incorporated under a federal system. This would be a contradiction. In the case of his organization, which is also an NGO like the American Indian Law Alliance, traditional chiefs of Native nations sit on their board of directors. In the case of the American Indian Law Alliance, we take our direction and plan our strategy in consultation with our elders and traditional leadership, thereby ensuring that as an NGO we represent the interests of traditional Indigenous governments.



The elders from several of the reservation believed that the presentation of the World Court "brief" was a significant event for the people and its launch was an historic event, not only for the Lakota Nation, but for Indigenous nations around the world. Again, the Lakota Nation is, through prayer and with the help of the pipe, leading the charge to preserve our homeland and protect the future of our people and our brothers and sisters from around the world.



Tony Black Feather at work in his office

We also had very positive feedback and support from the people at Pine Ridge who have established the international "embassy" for Indigenous peoples, desiring a return to the exercise of sovereignty and recognition of international human rights. This movement at Pine Ridge will be very significant to our future efforts and the mutual support and encouragement we can provide to each other will be a source of strength and effective advocacy. Ellen Wright's presence from Lower Brule was also very important. She had been active in the Treaty Council for many years under the tutelage of our common relation, Chief Garfield Grass Rope, who unfortunately passed away a few years ago. Ellen Wright has been active at Lower Brule reestablishing the Brave Heart



Women's Society. The societies can be an important aspect of the revitalized traditional government and the Brave Heart Women's Society was very significant in that, traditionally, it supported the battles of our people, sometimes in active combat. Of course, today, that combat occurs in the forums of international advocacy.

This development, as well as the activities at Pine Ridge in reestablishing the traditional tiyospayes, give real meaning and force to traditional government. They are acts of sovereignty. Joann Tall expressed it succinctly when she told us that traditional government was very simple. It is and was the tiyospayes; extended families and communities that operated in concert under chiefs and headsmen with each of the societies fulfilling its assigned role. As already mentioned, the presence of the Tokalas (young men responsible for security and seeing to the needs of the people – we had about twelve of them from George Tall's tiyospaye) at the Gathering evidenced this growing movement. Again, we like to believe we are playing a small part in encouraging our people in this direction by providing them with the support on an international level that will ultimately be a part of our success as a nation.

This report is respectfully submitted to give you an idea of some of the things we believe result from our international advocacy in general and the Gathering more specifically. Thank you again to all of the participants and sponsors. Wopila. Mitakuye Oyasin

"Relatives and friends, we have come a long way but there is a long journey for us still ahead. Where we go and the nature of that journey is up to us, the Indigenous delegates, the Working Group and the sense of justice and freedom that lies behind the United Nations...We Indigenous peoples will continue to follow the road that was shown to us by our ancestors. Our hopes and prayers for international justice are to fulfill the dreams and visions of their spirits."⁹

Tony Black Feather
Spokesman

Kent Lebsock
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Tetuwon Oyate/Teton Sioux Nation Treaty Council