

Sheet 6 – The Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples

The Mandate of the SRIP (Commission on Human Rights, Resolution 2001/57)

- To gather, request, receive and exchange information and communications from all relevant sources, including Governments, indigenous people themselves and their communities and organizations, on violations of their human rights and fundamental freedoms;
- To formulate recommendations and proposals on appropriate measures and activities to prevent and remedy violations of the human rights and fundamental freedoms of indigenous people;
- To work in close relation with other special rapporteurs, special representatives, working groups and independent experts of the Commission on Human Rights and of the Sub-Commission on the Promotion and Protection of Human Rights, taking into account the request of the Commission contained in resolution 1993/30;

What has the SRIP actually done?

1. Thematic research

- The impact of development projects on the human rights and fundamental freedoms of indigenous communities;
- Evaluation of the implementation of recent legislation at the national level related to the rights of indigenous peoples;
- Human rights issues for indigenous people in the realm of administration of justice, including, where relevant, the relationship between positive and customary (non-written) legal systems;
- Cultural rights of indigenous peoples as reflected in bilingual and intercultural education, as well as the preservation and development of their own cultural heritage;
- Human rights issues - particularly economic and social rights - regarding indigenous children, especially girls, in different settings such as migration, trafficking of women and girls, violent conflicts, the informal economy, etc.;
- Participation of indigenous peoples in decision-making processes, autonomic arrangements, governance and policy-making, with special regard to the full implementation of civil and political rights;
- Old and new forms of discrimination against indigenous people within a gender perspective, in the light of the Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, as well as measures and remedies undertaken to combat discrimination and implement the human rights and fundamental freedoms of indigenous peoples.

2. Country visits

A crucial component of the Commission's expert mandate is on-site country visits in order to open constructive dialogue with the Government, indigenous communities,

and other relevant organizations, and report to the UN on the situation of indigenous peoples. Country visits are an excellent way of analysing and understanding in situ the situation of indigenous peoples in the light of every possible circumstance and represent also an important tool to raise awareness in the international community.

In 2002, the Special Rapporteur undertook country visits to Guatemala and the Philippines. In 2003 he visited Mexico and Chile). In March and May 2004, respectively, the Special Rapporteur visited Colombia and Canada. In 2005, he visited South Africa and New Zealand and in 2006 he visited Ecuador and Kenya. Reports of these visits are all available on the OHCHR web site.

3. Communications

The Special Rapporteur receives a large number of communications providing him with information about allegations of violations of the human rights and fundamental freedoms of indigenous peoples. The main sources for these communications are non-governmental organizations, indigenous organizations, intergovernmental organizations and United Nations procedures concerned with the protection of human rights.

He analyses such information and decides whether or not to take action. Given the difficulty in assessing the degree of credibility of any particular allegation, great care must be exercised in the evaluation of every communication and sources are therefore urged to include all relevant documentation and evidence in support of the allegation.

In the case of violations of the rights of individuals, full information should include:

- *full name of the victim,*
- *clear name of the community at risk when applicable,*
- *age,*
- *place of residence or origin, profession, marital status etc and*
- *the precise circumstances of the incident such as date, place, description of how the event occurred etc.*

When the victims of alleged violations are communities or members of distinct collectivities (tribal communities, families etc), full information should include social and cultural context, references to public policies and specific circumstances under which the alleged violation occurred, as well as the characteristics of the group and when, if applicable, the nature of the human rights gap and the demands of the people concerned.

The main type of communications sent by the Special Rapporteur are "urgent appeals" in cases of imminent danger of violations of the human rights of individuals, or even entire indigenous communities. He also transmits "allegation letters" to Governments on cases of less urgent character. Over the past two years, the Commission's expert has strengthened the coordination with other human rights special mechanism and participated in joint communications with other special mechanisms of the Commission. Follow-up of the cases in which his intervention has been required is a matter of particular concern to the Special Rapporteur and therefore, a third type of communication is also under consideration in the form of follow-up letters on earlier communications.

As a general rule, both urgent appeals and letters of allegation remain confidential until published in the annual report of the Special Rapporteur to the Commission on Human Rights. A summary of such communications and the replies received from the concerned Government are formally included in the first addendum to the Special Rapporteur's annual report to the Commission.

4. Follow-up activities

In all his thematic and country visit reports, Mr. Stavenhagen includes recommendations that he considers important for the advancement of the promotion and protection of indigenous people's rights. Although mainly addressed to Governments, some are also addressed to United Nations agencies and programmes, indigenous peoples' organizations and civil society and academic institutions. In this context, the Special Rapporteur has initiated a monitoring process of the implementation of the recommendations included in his reports, with a view to preparing a comprehensive study on the best practices in the implementation of the recommendations, as requested by the Commission in resolution 2005/51.

In preparation of this study, the Special Rapporteur will request specific information from Governments, civil society organizations and agencies and programmes of the United Nation system. He also takes the opportunity of his participation in seminars and meetings organized by indigenous people organizations and academic institutions to discuss effective methods for the implementation of recommendations and its monitoring. Although general information is of great interest, the most useful information for the preparation of this specific study relates to concrete actions carried out pursuant to the Special Rapporteur's reports or to put into practice specific recommendations included in his reports. Mr. Stavenhagen has prepared a progress report that provides an overview of the main recommendations, as well as information on current activities for the preparation of the study (E.CN.4/2006/78/Add.4), including some follow-up visits to certain countries.