



**Economic and Social  
Council**

Distr.  
GENERAL

E/CN.4/Sub.2/2005/28  
16 June 2005

Original: ENGLISH

---

COMMISSION ON HUMAN RIGHTS  
Sub-Commission on the Promotion and  
Protection of Human Rights  
Fifty-seventh session  
Item 5 (b) of the provisional agenda

**PREVENTION OF DISCRIMINATION**

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

**Expanded working paper by Françoise Hampson on the human rights  
situation of indigenous peoples in States and other territories threatened  
with extinction for environmental reasons\***

---

\* The annexes are being circulated as received, in the language of submission only.

## **Summary**

This working paper refines, clarifies and updates the conference room paper considered in 2004 with regard to the human rights aspects of the problem of States that will disappear for environmental reasons. It explains the issues to be addressed by the questionnaire approved by the Commission and invites the Sub-Commission to request the Commission to appoint a Rapporteur. It indicates what would be the focus of the three reports.

### **I. INTRODUCTION**

1. Following discussion of the issue at the twenty-first session of the Working Group on Indigenous Populations (see E/CN.4/Sub.2/2003/22) and during the fifty-fourth session of the Sub-Commission, the Sub-Commission adopted resolution 2003/24.
2. The Commission, in decision 2004/122 decided “urgently to call upon the Sub-Commission on the Promotion and Protection of Human Rights to prepare a report on the legal implications of the disappearance of States for environmental reasons, including the implications for the human rights of their residents, with particular reference to the rights of indigenous people”.
3. Françoise Hampson produced a working paper (E/CN.4/Sub.2/AC.4/2004/CRP.1) which was discussed at the twenty-second session of the Working Group on Indigenous Populations and the fifty-fifth session of the Sub-Commission. In resolution E/CN.4/Sub.2/2004/10, the Sub-Commission requested the Commission, inter alia, for the authority to send out a questionnaire. In decision 2005/112, the Commission approved the Sub-Commission’s request. Ms. Hampson was also requested to submit an expanded working paper to the Sub-Commission at its fifty-seventh session. The present document is submitted in accordance with that request.
4. In the time available since the adoption of the Commission’s decision, it has not been possible to formulate and distribute the questionnaire. It is hoped that that will be done before the end of August 2005.

### **II. THE ISSUE**

5. Certain States face the likelihood of the disappearance of the whole or a significant part of their surface area for environmental reasons. This report does not inquire into the cause of such disappearance but takes it as a fact. There will come a point at which life is not sustainable in those States. The need for the evacuation of such States gives rise to a variety of human rights issues. Whilst the previous discussions have focused principally on rising sea levels and salt water entering freshwater aquifers, it is clear that that is not the only environmental threat facing these vulnerable populations. The tsunami in December 2004 exposed the vulnerability to tidal waves.<sup>1</sup> The questionnaire will seek to establish what type of environmental threats face different populations. At first sight, they could include volcanoes, earthquakes, tidal waves and rising sea levels. Whilst the actual occurrence of the first three is unpredictable, the fact of vulnerability already exists. In the case of rising sea levels, the danger is not from an event but

from a process. That process is already under way in the case of certain States. The eventual need for the population to move is not merely predictable but inevitable, unless the process is halted or reversed. What may be unpredictable is the time frame within which decisions have to be taken.

6. Three different kinds of situation, all of which relate to environmental degradation, need to be distinguished. There is first the problem of environmental damage caused to the land of indigenous peoples, with an impact on the enjoyment of their land rights and with implications for a wide variety of their personal rights. As defined, that issue concerns exclusively indigenous peoples and could be addressed by the Permanent Forum on Indigenous Issues and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people. Indeed, in his report to the sixty-first session of the Commission (E/CN.4/2005/88), Mr. Stavenhagen addressed this issue and recommended that “participatory scientific research be promoted in this area (with special attention paid to vulnerable environments such as the Arctic, the forests of the far North, tropical forests and high mountain areas)” (para. 92).

7. The second situation is where life is no longer sustainable on the land of a particular indigenous group, requiring that they move and/or be given different or additional land within the same State. If such a situation currently exists or is likely to exist soon, the situation could form the basis of a joint visit and/or study by the Special Rapporteur and the Representative of the Secretary-General on the human rights of internally displaced persons.

8. The third situation, the one with which this report is concerned, regards the population of sovereign States. It is not a question of their being able to move within the State. They will not become internally displaced persons. Nor will they become refugees, in the sense of the 1951 Convention on the Status of Refugees. That treaty does not recognize as refugees persons who have to leave their country for reasons relating to the environment. In certain circumstances, they may be regarded as indigenous peoples but, following their displacement, they will not be indigenous in relation to receiving countries. It is not clear that they come within the mandate of any existing special procedure and yet they face the prospect of complete disruption to their lives and livelihood.

9. Affected States fall into three categories:

(a) States which will totally disappear;

(b) States a significant proportion of whose territory will disappear, leaving only such territory as will be unable to support the existing population. This may arise where what will remain will not be of a size to support the existing population and/or where what remains is not of a nature to support the existing population;

(c) States a significant proportion of whose territory will disappear, with serious implications for the existing population.

One of the goals of the questionnaire will be to establish which are the affected States.

10. Certain territories whose populations may be similarly affected appear not to be sovereign States. They may be colonies, some other form of non-self-governing territory or States in free association with another State. Insofar as the inhabitants of the territories in question are citizens of a sovereign State independent of the territory, that State would appear to have the responsibility to secure the protection of the rights of that population. A second goal of the questionnaire will be to establish which States have such a relationship with one or more territories threatened with disappearance and whether they acknowledge a responsibility to secure the future of the population of those territories. Prima facie, such an acknowledgement would take the population group outside the scope of this study. If, however, it emerges that the people concerned are to be regarded as an indigenous group, it will be necessary to determine whether the State acknowledges that they have that identity and how it would propose to deal with that dimension of the situation.

### III. LEGAL IMPLICATIONS OF THE SITUATION

11. Whilst States Members of the United Nations are used to addressing issues of State succession, it would appear that the extinction of a State, without there being a successor is unprecedented.<sup>2</sup> In the case of State succession, one State may become several or several States may become one. In addition, part of the territory may be detached from one State and joined to another State. Any form of State succession gives rise to a variety of legal questions. In some cases, populations have been forcibly transferred.<sup>3</sup> In others, the population remains in place but experiences a change of citizenship or runs the risk of becoming stateless.<sup>4</sup> In certain recent cases, people previously belonging to a majority population have found themselves new minorities in the newly created State.<sup>5</sup> In recent cases of State succession, citizenship and other status issues have been addressed by putting pressure on the successor State to make it possible, in practice, for long-term residents to acquire citizenship or equivalent rights.<sup>6</sup>

12. In the case of those States which are likely to disappear for environmental reasons, there would appear to be no successor State on whom obligations can be imposed and eventually the predecessor State will no longer be in existence.

13. The disappearance of States for environmental reasons will give rise to a variety of legal questions, not all of which relate specifically to human rights. The first difficulty is when determining a State counts as having disappeared: at the point when the population can only survive by leaving, even if parts of the territory remain above water, or only when the entire territory is submerged? Will the State simply cease to exist or will some form of recognition of non-existence, at least on the part of the United Nations, be required?<sup>7</sup> Will the same principle apply in relation to all international organizations of which the State in question is a member? Who determines whether a territory should be considered as having disappeared for environmental reasons?

14. The following examples merely illustrate the issues which may arise:

- Who, if anyone, will assume responsibility for any national debt?

- What will be the status of what were internal or territorial waters or an exclusive economic zone, particularly in the light of article 121.3 of the United Nations Convention on the Law of the Sea?
- Who will assume responsibility for marking hazards to navigation in a barely submerged State?
- What will be the status of citizens and of legal persons registered or incorporated in such territories?
- What will be the status of diplomatic representatives of the State outside the territory of the State at the time of its disappearance?

15. A study by the Sub-Commission can only address the human rights implications of the situation for the populations concerned. The other issues will need to be examined elsewhere.

#### **IV. HUMAN RIGHTS OF THE AFFECTED POPULATIONS**

16. There are a variety of concerns affecting the populations of such States, including citizenship rights, rights relating to forced relocation, rights in the admitting State and, currently, rights in relation to their State of origin.

##### **A. Citizenship rights**

17. It is difficult to see how citizenship can retain any meaning when the State itself has ceased to exist. Is citizenship simply an issue of individual right, or does it have a collective dimension? Does it include, for example, a right to live together with other citizens? Does the population of a State have a right to remain a collectivity? If so, what are the implications for a State willing to admit at least some members of the group? If the citizens of a State which has ceased to exist are relocated to one State, do they become a national minority? Is it possible to belong to a nation which has ceased to exist? Where they formed an indigenous group in the State of origin, can they still be regarded as an indigenous group in the receiving State, even though they are anything but indigenous to it? Can they remain citizens of their State of origin? Are they entitled to some form of government-in-exile? Could such governments exist indefinitely, or only for so long as there were citizens whom they could, in some sense, represent? Would they have to be prohibited from allowing transmission of such "citizenship"? Does such a population group have any claim to a territory of its own to replace the territory it has lost? Presumably any such claim would be against the international community as a whole, rather than against a particular State. States at risk of disappearing for environmental reasons tend to be geographically closest to States which cannot reasonably be held solely responsible for the environmental factors giving rise to the disappearance of the State.<sup>8</sup> There would appear to be no moral or legal reason for assuming that the closest State should assume the entirety of the burden of resettlement. How, if at all, are any of these questions affected by the possibly indigenous character of some of the affected populations?

18. If the possibly indigenous character of some of the affected populations is thought to make a difference to their entitlements, it may become necessary to define “indigenous”.<sup>9</sup> In certain contexts, the term has historically been used to identify populations which were there first, in contrast to those who came later. If such a limited definition were used, many of the affected populations would probably not be regarded as indigenous. If the term can be used to describe those who were there first, where none have come later, some of the people affected would appear to be indigenous.<sup>10</sup> They may be able to rely on self-identification as indigenous peoples.

19. In view of the significance of self-identification, the questionnaire will need to seek to establish whether or not the affected populations regard themselves as indigenous.

### **B. Rights relating to forced relocation**

20. What rights, if any, do the affected populations have vis-à-vis other States? A status analogous to refugee status would not appear to be adequate. The people affected need more than a right to claim environmental asylum. They need a right to be granted it. Any State that might be willing to admit hundreds or even a few thousand may well be reluctant to accept entry entitlement as of right or to accept the entitlement of some, if that is thought to imply the entitlement of all.

### **C. Rights in the receiving State**

21. What rights will such people have within the receiving State? Will they be entitled to insist on living in community? Do they have any claim to land on which to live in community? Can those individuals who do not wish to live in community claim freedom of movement within the receiving State, even whilst others claim the right to live in community? Are they entitled to receive the same support, in kind and in services, as is provided to refugees? Are they entitled to claim citizenship? There may be a need for a fast-track procedure to claim citizenship. If not, is the receiving State at least required to issue such people with documentation, including travel documents? Some of the issues identified at paragraph 17 supra involve claims against receiving States.

### **D. Rights in relation to their own States**

22. At first sight, the easiest question to address is the issue of the rights of the affected populations vis-à-vis their own States. It is not clear, however, what that entails in this situation. Where there is action which their States could take to mitigate or delay the harm, there may be a human rights issue. The previous lack of a tsunami early-warning system in the Indian Ocean may be an example of such an issue. Such a system already exists for States in or bordering on the Pacific Ocean. So far as forced relocation is concerned, the people are not yet victims and, when they do become victims, it will not be on account of an act or omission on the part of their own State. The current issue is the need for international representations to be made, solutions to be found and plans put in place, preferably in consultation with the people who will be affected. Those concerns may be understood as being included within the right to development, but they extend beyond the traditional scope of that notion.<sup>11</sup>

### **E. Which are the affected States?**

23. There does not appear to be any agreed list of the affected States. An examination of sources such as The World Factbook does not resolve the question. Whilst the entry for each territory gives the maximum elevation, that cannot determine the question. First, just because the maximum elevation is low does not necessarily mean that the territory is at risk of being submerged by rising water levels. The experience of rising water levels does not appear to be being experienced evenly, all over the globe.<sup>12</sup> Second, just because the territory contains high ground does not mean that it will be capable of sustaining its population, should it lose what is at present a coastal area in which the population lives.<sup>13</sup> This is one of the reasons why the questionnaire is so important. It will need to seek to identify vulnerability by reference to the need for population movement outside national territory. In some cases, an island or group of islands may be able to absorb the likely displacement of population. In other cases, such displacement might make life unsustainable for the population as a whole but sustainable for the current population. In that case, the displaced population would need to leave the territory but the current population could continue to live in what remains of the territory. In other cases, the entire population may need to move. It will therefore be necessary to obtain information with regard to the number who will need to be displaced and the degree of vulnerability.<sup>14</sup>

24. A certain number of territories with a maximum elevation of below 100 metres appear to be territories with no indigenous population, on which there are small military garrisons and/or meteorological observers and/or scientists.<sup>15</sup> A larger number of such territories appear to be in free association with a sovereign State or non-self-governing territories.<sup>16</sup> Paragraph 10 above explains how the questionnaire will be designed to address the problems in such territories. Whilst the primary responsibility may be thought to attach to that State, at least in the case of non-self-governing territories, particular issues may arise which may be distinct from individual citizenship rights.

25. The States most likely to be affected would seem to be:

Tuvalu: highest point 5 m; population 11,468;

Nauru: highest point 61 m; population 12,809;

Kiribati: highest point 81 m; population 100,798;

Maldives: highest point 2.4 m; population 339,330;

Bahamas: highest point 63 m; population 299,697.

26. The States most likely to be affected are principally in the Pacific Ocean but also include States in the Indian Ocean and the Caribbean. The States listed in paragraph 25 are all islands or groups of islands. One State which will not disappear but which risks losing a significant proportion of its surface area for environmental reasons is Bangladesh.

27. The total population of the States identified in paragraph 25 is under half a million. For reasons indicated in paragraph 17, there would seem to be no reason, in law or morality, why the closest States should shoulder the whole of the burden. It should also be borne in mind that one such State, New Zealand, already has responsibilities for the populations of territories in free association with it, many of whose territories are likely to disappear for environmental reasons.

#### **F. What is currently being done about the problem?**

28. The issue of sustainable development is being addressed. The Declaration of Barbados was adopted in 1994, in the context of the Global Conference on the Sustainable Development of Small Island Developing States.<sup>17</sup> The Conference does not, however, appear to be addressing the problem of States which will completely disappear for environmental reasons and does not seem to be addressing the rights of affected populations. There is a reference to the possibility of small island developing States (SIDS) potentially becoming uninhabitable, but the provisions of the Declaration are all directed at promoting sustainability.<sup>18</sup>

29. The United Nations Environment Programme has developed Assistance in the Implementation of the Barbados Programme of Action for the Sustainable Development of Small Island Developing States (SIDS).<sup>19</sup> Again, the focus is on sustainability and not on what happens when it is determined that the situation of a particular State is unsustainable. In January 2005, there occurred the follow-up meeting to the Barbados Declaration (Barbados + 10) in Mauritius. It appears that there were no discussion in official sessions of the need to provide for the displacement of the population of certain States.<sup>20</sup>

30. The otherwise impressive Mauritius Strategy for the Further Implementation of the Programme of Action for the Sustainable Development of Small Island Developing States (A/CONF.207/CRP.7, 13 January 2005) acknowledges that climate change and rising sea levels may threaten the very existence of some small island developing States, but its proposals in that regard only address the mitigation of the environmental threats and do not address the need for population displacement.<sup>21</sup> Whilst recognizing the vulnerability of small island developing States, there is nothing in the Mauritius Declaration<sup>22</sup> on the need for population movement.

31. There are also regional and subregional groupings such as the Pacific Islands Forum. That particular body deals with a wider range of issues encompassing good governance and regional cooperation. Its vision statement makes express reference to the quality of people's lives and respect for indigenous and other values, customs and traditions.<sup>23</sup> There is no specific reference, however, to the situation of member States which disappear for environmental reasons.

32. It is striking that such representations as have already been made appear to have been made bilaterally, rather than through a regional or international framework. The Government of Tuvalu has warned that it may need to evacuate the islands within the coming



decades. New Zealand has agreed to admit an annual quota.<sup>24</sup> Australia is reported as having refused to do so.<sup>25</sup> It is reported that the Government of Tuvalu has sought to institute legal proceedings against the United States of America and Australia for failing to control global warming.<sup>26</sup>

33. Other States are making arrangements within the territory available to them and planning on relocating people from islands which may disappear to other islands. It is not clear that such relocation is sustainable in very vulnerable environments.<sup>27</sup>

34. Many of the territories and States likely to disappear for environmental reasons are members of the Commonwealth. Over half of the members of the Commonwealth are small States. Whilst the Commonwealth has undertaken a variety of initiatives with regard to small States, including ones relating to their vulnerabilities, nothing on its web site suggests that it has, at the level of the organization, addressed the problem of the relocation of citizens of States which disappear for environmental reasons. Contact has been established with a member of the Commonwealth Secretariat and Ms. Hampson hopes to have discussions with members of that organization, both with regard to identifying what measures are needed and also with regard to the best way of proceeding to maximize the participation of all interested parties in the process.

#### **G. Next steps**

35. Within the next few months, Ms. Hampson, in consultation with NGOs, academic experts and the staff of the Office of the United Nations High Commissioner for Human Rights, will draft and send out a questionnaire covering the ground indicated in this working paper.<sup>28</sup> To that end, she hopes to organize a meeting with interested persons during the twenty-third session of the Working Group on Indigenous Populations and, if necessary, during the fifty-sixth session of the Sub-Commission.

36. Within the next few months, Ms. Hampson hopes to organize a meeting with members of the Commonwealth Secretariat, as indicated in paragraph 34.

37. The issue appears to be a serious problem for a very limited number of States. The situation is, at least in the case of Tuvalu, urgent. Little appears to be known about the question outside the affected States. The first task appears to be the obtaining of accurate and specific data on the nature, scale and imminence of the problem. This may be one of those situations in which the concern may be better addressed as a humanitarian issue, rather than as a matter of legal right. It nevertheless has legal ramifications, particularly with regard to the relationship between the displaced population and a receiving State. Previous experience relating to displaced indigenous populations suggests that, if handled badly, the consequences can be disastrous both for the displaced population and the host community. It is to be hoped that by addressing the issue in advance of the crisis and by seeking to ensure the greatest possible participation of the affected populations, some of those difficulties can be avoided.

38. In view of the time lag between the request for a study and its authorization by the Commission, it is suggested that the Sub-Commission request the appointment of a Special Rapporteur this session. If approved, the first report of the Special Rapporteur would be made to

the fifty-eighth session of the Sub-Commission. By that time, the results of the questionnaire should be available. The first report would analyse the results of the questionnaire. Subject to what emerges from the questionnaire, a second report could report on the views of the affected populations and interested States and international organizations with regard to possible solutions and consider the implications of the current situation. The final report would suggest possible solutions and possible ways of achieving them.

### Notes

<sup>1</sup> “Aid for vulnerable islands declines”, *The Guardian*, 10 January 2005, p. 14.

<sup>2</sup> The past 15 years have focused an unusual degree of attention on the problem: M. Koskenniemi, *State Succession: Codification Tested Against the Facts*, Nijhoff, 2000.

<sup>3</sup> Most such transfers, not to be confused with “ethnic cleansing”, have occurred after conflict: e.g. the Treaty of Lausanne and the exchange of Greek and Turkish populations. More recently, they have attracted considerable criticism, e.g. expulsion of the Sudeten Germans from Czechoslovakia after the Second World War.

<sup>4</sup> Whilst there is a Convention on the Reduction of Statelessness, which entered into force on 13 December, 1975, it has not received widespread attention. Problems of actual or potential statelessness arose in the Baltic States following the dissolution of the Soviet Union, and following the dissolution of Czechoslovakia.

<sup>5</sup> E.g. ethnic Russians in the Baltic States.

<sup>6</sup> E.g. initiatives of the Organization for Security and Cooperation in Europe High Commissioner on National Minorities in the Baltic States.

<sup>7</sup> There have been cases where one authority replaced another as the recognized accredited representative to the United Nations, but there does not seem to be a precedent for a State ceasing to be represented and being replaced by no other authority.

<sup>8</sup> The majority of States at risk of disappearing are in the South Pacific, the Indian Ocean or the Caribbean; see further below.

<sup>9</sup> See generally, ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, art. 1; working paper on the concept of “indigenous people” by the former Chairperson-Rapporteur of the Working Group on Indigenous Populations, Erica-Irene A. Daes (E/CN.4/Sub.2/AC.4/1996/2 and Add.1); working paper on the relationship and distinction between the rights of persons belonging to minorities and those of indigenous peoples by Erica-Irene Daes and Asbjørn Eide (E/CN.4/Sub.2/2000/10). In the case of colonies, the concept of the indigenous population is relatively easy to apply. In the case of former colonies which have become independent and which are inhabited principally by the “original” inhabitants of the territory, it may be necessary to rely on self-identification.

Self-identification is recognized in both regional and international documents on indigenous populations. I should like to thank Claire Morclette for research on the concept of an indigenous population.

<sup>10</sup> For example, it might appear strange to regard the native population of Fiji as indigenous, simply because persons of Indian origin settled there later, but not to regard the native population of Kiribati as indigenous because no one else has settled there.

<sup>11</sup> At the Small Island Developing States (SIDS) meetings in Mauritius in January 2005, the focus was on sustainable development in its traditional sense. Enele Sopoaga from Tuvalu, who was present at that meeting, was interviewed by C. Bryson Hull. He appeared to be frustrated that issues such as the disappearance under water of land where he had played as a boy and the pollution of freshwater aquifers were not being addressed; report of interview on file with author of this report. Even within the context of a SIDS meeting, the affected populations appear to find it difficult to make their voices heard.

<sup>12</sup> For example, on the basis of elevation alone one might have expected the Maldives to be more badly affected by the tsunami. The islands appear to have been protected from that particular danger on account of a submarine trench to the east of the islands, which reduced the impact of the waves.

<sup>13</sup> This is likely to be a problem both in the case of single island territories and also island groups. The Federated States of Micronesia, for example, include mountainous islands and low coral atolls.

<sup>14</sup> The degree of vulnerability is a product of the scale of the risk (proportion of population-sustaining land or proportion of the population affected) and the imminence of the risk.

<sup>15</sup> E.g. Johnston Atoll, Europa Island, Glorioso Islands. In order to ensure consistency of the information, the source used for information about highest points and populations was The World Factbook, published by the United States Central Intelligence Agency (CIA) (<http://www.cia.gov/cia/publications/factbook/geos/io.html>).

<sup>16</sup> E.g. Cook Islands, free association with New Zealand - there may be a problem in the northern group; the Marshall Islands, free association with the United States of America, highest point 10 m; population 57,738; Tokelau, self-administering territory of New Zealand, high point 5 m, population 1,405; Niue, free association with New Zealand high point 68 m, population 2,156; Cocos (Keeling) Islands, dependency of Australia, high point 5 m, population 629; Bermuda, British Overseas Territory, high point 76 m, population 64,935; Turks and Caicos Islands, British Overseas Territory, high point 49 m, population 19,956; Cayman Islands, British Overseas Territory, high point 43 m, population 43,103.

<sup>17</sup> Declaration of Barbados (A/CONF.167/9, Chap. I, annex I, (<http://islands.unep.ch/dbardecl.htm>)). The preamble refers to the "Rio Declaration on Environment and Development, Agenda 21, and the Non-legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and

Sustainable Development of All Types of Forests, which were adopted by the nations of the world at the United Nations Conference on Environment and Development on 14 June 1992, as well as in the United Nations Framework Convention on Climate Change and the Convention on Biological Diversity” (footnotes omitted).

<sup>18</sup> Ibid., Part One, III.2.

<sup>19</sup> [www.gpa.unep.org/sids/documents/UNEP-SIDS2004.pdf](http://www.gpa.unep.org/sids/documents/UNEP-SIDS2004.pdf), September 2003.

<sup>20</sup> I should like to thank Bob Last of the Permanent Mission of the United Kingdom of Great Britain and Northern Ireland to the United Nations Office at Geneva for the provision of information regarding the SIDS meeting; see also note 11.

<sup>21</sup> A/CONF. 207/11, Chap. I, resolution 1, annex II, paras. 16-18. The report of the Secretary-General, on progress in the implementation of the Barbados Programme of Action, (E/CN.17/2004/8, 11 March 2004) not only refers to threats to the existence of certain States but identifies some of them by name; para. 35. The report refers to regional initiatives to address the problem of climate change in paragraphs 36-38 but does not address the need for population movement.

<sup>22</sup> A/CONF.20/11, Chap. I, resolution 1, annex I.

<sup>23</sup> Pacific Islands Forum Secretariat Vision Statement (<http://www.forumsec.org.fj/Home.htm>).

<sup>24</sup> It has been reported that this is, in fact, of little assistance, since New Zealand treats the islanders in the same way as the population of places with which it is in free association. In order to be admitted to New Zealand, it is said that a person has to qualify for admission and will then be admitted within the quota. It appears that very few of the islanders in fact qualify for admission. They therefore cannot take up the quota. This is one of the issues which the questionnaire and study would seek to clarify.

<sup>25</sup> <http://www.wordiq.com/definition/Tuvalu#Geography>; [http://www.tai.org.au/MediaReleases\\_Files/MediaReleases/MRShunTuvalu101001.htm](http://www.tai.org.au/MediaReleases_Files/MediaReleases/MRShunTuvalu101001.htm).

<sup>26</sup> [http://www.janeresture.com/oceania\\_warming1/](http://www.janeresture.com/oceania_warming1/); <http://ourworld.compuserve.com/homepages/tvchoice/tvc99x.htm>; for a fascinating account of the recent history of Tuvalu, see G. A. Finin, *Small is Viable: the Global Ebbs and Flows of a Pacific Atoll Nation*, East-West Center Working Papers, No. 15 April 2002 at <http://www.eastwestcenter.org/stored/pdfs/PIDPwp015.pdf>.

<sup>27</sup> [http://www.janeresture.com/oceania\\_warming1/](http://www.janeresture.com/oceania_warming1/).

<sup>28</sup> Fruitful cooperation has already been established with the Hawaii Institute of Human Rights (HIHR) and Joshua Cooper. An indication of the activities of HIHR in the past year in relation to potentially disappearing States in the Pacific Region is provided at annex II.

**Annex I**

**UNITED NATIONS OFFICE OF THE HIGH REPRESENTATIVE FOR  
THE LEAST DEVELOPED COUNTRIES, LANDLOCKED DEVELOPING  
COUNTRIES AND SMALL ISLAND DEVELOPING STATES**

(<http://www.un.org/special-rep/ohrlls/sid/list.ht>)

**List of Small Island Developing States  
(United Nations Members)**

- |                                    |                                      |
|------------------------------------|--------------------------------------|
| 1. Antigua and Barbuda             | 20. Mauritius                        |
| 2. Bahamas                         | 21. Nauru                            |
| 3. Barbados                        | 22. Palau                            |
| 4. Belize                          | 23. Papua New Guinea                 |
| 5. Cape Verde*                     | 24. Samoa*                           |
| 6. Comoros*                        | 25. Sao Tome and Principe*           |
| 7. Cuba                            | 26. Singapore                        |
| 8. Dominica                        | 27. Saint Kitts and Nevis            |
| 9. Dominican Republic              | 28. Saint Lucia                      |
| 10. Fiji                           | 29. Saint Vincent and the Grenadines |
| 11. Grenada                        | 30. Seychelles                       |
| 12. Guinea-Bissau*                 | 31. Solomon Islands*                 |
| 13. Guyana                         | 32. Suriname                         |
| 14. Haiti*                         | 33. Timor-Leste*                     |
| 15. Jamaica                        | 34. Tonga                            |
| 16. Kiribati*                      | 35. Trinidad and Tobago              |
| 17. Maldives*                      | 36. Tuvalu*                          |
| 18. Marshall Islands               | 37. Vanuatu*                         |
| 19. Federated States of Micronesia |                                      |

**List of Small Island Developing States**

**(Non-United Nations Members/Associate Members  
of the Regional Commissions)**

- |                                      |                          |
|--------------------------------------|--------------------------|
| 1. American Samoa                    | 8. Guam                  |
| 2. Anguilla                          | 9. Montserrat            |
| 3. Aruba                             | 10. Netherlands Antilles |
| 4. British Virgin Islands            | 11. New Caledonia        |
| 5. Commonwealth of Northern Marianas | 12. Niue                 |
| 6. Cook Islands                      | 13. Puerto Rico          |
| 7. French Polynesia                  | 14. U.S. Virgin Islands  |

---

\* Also least developed countries.

## **Annex II**

### **ACTIVITIES OF THE HAWAII INSTITUTE FOR HUMAN RIGHTS IN THE PAST YEAR IN RELATION TO POTENTIALLY DISAPPEARING STATES IN THE PACIFIC REGION**

**Source: e-mail from Joshua Cooper**

In Summer 2004, at the request of United Nations Sub-Commission Expert, HIHR became a nexus for human rights advocacy in area of disappearing states specifically the human rights of indigenous peoples in relation to extreme environmental conditions such as disappearance of states.

HIHR also met with Hampson to coordinate possible after United Nations Sub-Commission collaboration with HIHR to serve as nexus for information gathering and impetus for actions such as conferences and coordination of NGOs, Governments and United Nations specialized agencies.

HIHR continued on path prescribed as result of consultations between expert and HIHR. Before returning to Hawaii, HIHR engaged in European tour to meet with possible partners for future collaboration. HIHR met with OHCHR legal officer for the Pacific region in Geneva and provided background on this agenda item and offered possible next steps. HIHR also contacted Greenpeace while in the Netherlands to make connection with proven leaders in the field of environmental protection. Also, began to research existing legal precedents and current legal strategies in public international law in the library of the International Court of Justice. Also, met with UNESCO officials focusing on science understanding of the phenomenon of climate change and culture focusing on the loss of diversity due to looming environmental catastrophe.

Upon returning to Hawaii, HIHR continued communication with United Nations human rights bodies as well as specific specialized agencies. HIHR also began an effort to pursue potential alliances with university research agencies, departments and programs along with global and grassroots NGOs with expertise, experience and eagerness to assist in establishing mechanisms to raise awareness of important, interconnected issues and also create a coalition to coordinate effective actions of direct action and diplomacy to protect the human rights of indigenous peoples and promote the protection of the planet.

HIHR attended lectures, arranged extended meetings to explore potential links with academic and advocacy efforts and asked for input to pursue the United Nations agenda item in create collaboration.

During the Fall semester, HIHR met with the East West Center Pacific Island Development Program to discuss the Pacific Island Forum possibilities based on experience with the regional body. Also, EWC PIDP agreed to coordinate in future meetings of the Pacific Island Conference of Leaders specific meetings with delegates in Hawaii. Also, met with Globalization Research Center to identify links in research in the region. HIHR was able to

build on the phone calls and email communication to begin a comprehensive conversation on cooperation with Center of Excellence in Disaster Management and Humanitarian Assistance. HIHR also met with NGOs such as United Nations Association-Hawaii, Nuclear Free and Independent Pacific to link together in areas of work such as Decade of Water and comparing conditions with people of Marshall Islands in relation to relocation.

HIHR also met with PEACESAT to examine the potential to communicate in the region via the university telecommunication system to schedule a virtual conference to connect the peoples of the Pacific.

HIHR was also fortunate to assess the activities at end of year with Tuvalu leadership directly at the United Nations in New York. At the meeting, HIHR explained the right of self-determination to be protected and promoted through the United Nations human rights mechanisms. Meeting concluded with plans for future collaboration to coordinate a human rights campaign together. Tuvalu will work to coordinate regional meetings in the Pacific in Hawaii and Fiji but firmly believes a meeting in Tuvalu would be the optimal choice for such a meeting. Tuvalu mission to the United Nations also is in agreement on its leadership to travel to speak at proposed various United Nations bodies.

HIHR co-sponsored a speaking tour of Indigenous Peoples of the Pacific with Gwich'in and Maori to speak on imminent issues of drilling for oil and biocolonialism through genetic modification of indigenous organisms. HIHR met with Gwich'in to verify global warming in the Arctic and to pledge continued communication on environmental concerns. Also, met with Maori to explore possible strategies with New Zealand government on Tuvalu.

In the Spring, HIHR continued to coordinate efforts among university programmes, humanitarian associations and traditional NGOs to raise awareness about the human rights issue in the Pacific.

HIHR was able to meet with key staff to advance beyond the initial ideas to begin to construct coordinated activities together and to identify next steps in solidarity.

HIHR met with East West Center Pacific Island Development Program again to discuss the working paper written on Tuvalu in 2002. The meeting explored possible future papers updating the situation in Tuvalu relating to environmental conditions. Also, discuss future panel at East West Center.

HIHR also contacted a professor authoring a book focusing on global warming and the potential impact on Hawaii. HIHR coordinates a presentation on global warming based on United Nations Report on Climate Change for Earth Day 2005 commemorating 35th anniversary. The presentation is aimed at mobilizing Hawaii citizens to understand the impact of sea level rise in our community to relate to experience facing Tuvalu today.

HIHR also met with the director of the University of Hawaii Center for Pacific Island Studies. The meeting focused on a future conference to be cosponsored together on the UH campus or another potential campus in the region. Discussion also focused on next steps including submission of proposal for co-sponsorship of the conference.

HIHR also met with Center of Excellence in Disaster Management and Humanitarian Assistance to follow-up on Fall meeting. Center expert expressed the areas of expertise that are capable of being coordinated. Consensus was arrived to prepare a proposal for collaboration in the region together.

HIHR participated in the International Conference on Environmental, Cultural, Economic and Social Sustainability at the East West Center. HIHR presented a research paper examining the issue of human rights of indigenous peoples in the Pacific in relation to extreme environmental conditions focusing on the right of self-determination.

HIHR coordinated first ever Human Rights Day at Hawaii State Capitol bringing together environment, women and children, peace and justice and core human rights NGOs. HIHR held initial consultations for cooperation in possible local legislation and awareness raising events in Hawaii and the region.

HIHR plans next steps at start of April to see what is possible for upcoming Summer and to build on the efforts over the previous year. HIHR will understand the challenges due to funding but also recommit to working with people of Tuvalu and those involved to coordinate as creatively and comprehensively as possible to protect and promote human rights.

For Earth Day 2005 Hawaii, HIHR will coordinate a week of activities with island states as a focus. There will be a three day conference on Maui with keynote speakers who founded Greenpeace. Cooper will speak twice focusing on Tuvalu. There will also be a film festival featuring a film focusing on global warming impact on Tuvalu. On Oahu one-day conference, the core content of the conference will be Sinking States. The main speaker is Rick Ziegler who authored a book describing what Waikiki will look like due to global warming. Cooper believes people will understand the Tuvalu situation after hearing what could happen in Hawaii. Cooper will also deliver a talk on possibility to be part of movement in the Pacific to Save Tuvalu.

### **Possible plans for upcoming months**

#### **12 May - Disappearing State Meeting, New York**

Cooper is discussing with Tuvalu to have a talk with Pacific Forum at United Nations in New York

#### **26 May - Morning Meeting, New York**

Cooper is discussing with Tuvalu to have a panel with Pacific Forum Group at United Nations in NYC

#### **16-27 May - United Nations Permanent Forum on Indigenous Issues**

Coordinate Parallel Session during United Nations PFII with United Nations Specialized Agencies speaking about possible coordination and action



**19 May - Peaceful Protest, New York**

Possible peaceful direct action effort "Today our Island Tomorrow Might Be Your Island"

**9 June - Tuvalu Hawaii across Pacific**

University of Hawaii/Hawaii Institute for Human Rights 6th Summer Seminar  
Cooper will speak about Tuvalu and Right of Self-Determination

**15 July - Geneva Specialized Agencies Gathering**

On a Special Meeting Prior to the United Nations WGIP, half-day discussion on possibilities to protect and promote the human rights of indigenous peoples with United Nations Specialized Agencies based in Geneva

**19-21 July - United Nations WGIP Parallel Event**

Coordinate Parallel Session during United Nations WGIP with indigenous peoples, United Nations members and HCHR legal officers during one afternoon parallel session

**4-5 August - United Nations Sub-Commission on the Promotion and Protection of Human Rights**

Coordinate Parallel Session during United Nations Sub-Commission with NGOs, indigenous peoples, and HCHR legal officers during one afternoon parallel session. Possibly bring Tuvalu leadership

**13-14 August - The Hague**

Work with NGOs to have a panel at the Unrepresented Nations and Peoples Organization weekend event on International Law to focus on potential avenues for indigenous peoples at the international legal bodies

**September-December**

Coordinate regional conference via PEACESAT to link indigenous peoples through telecommunication

Host conference in Hawaii with various University of Hawaii departments focusing on Pacific, Human Rights and Environment

Have a Follow up Pacific Forum Group and Pacific Oasis meeting in New York with Tuvalu Officials

Plan Spring Meeting in Fiji and Tuvalu and possibly Caribbean depending on resources.

-----