

## **The Challenges of Implementing the UN Declaration on the Rights of Indigenous Peoples**

**Presented at the Indigenous Peoples' Summit in Ainu Mosir 2008  
July 1-4,2008  
Hokkaido, Japan**

Victoria Tauli-Corpuz  
Chair, UN Permanent Forum on Indigenous Issues

### **Introduction**

On behalf of the UN Permanent Forum on Indigenous Issues and my organizations, Tebtebba and the Asian Indigenous Women's Network I would like to thank the Steering Committee of the "Indigenous Peoples Summit in Ainu Mosir 2008" for inviting me to be in this historic gathering. I am very happy to be here with you today because I would like to believe that this gathering is partly a result of the participation of the Ainu at the 2007 session of the Permanent Forum. You informed the plenary that the G8 2008 meeting will be held here in Hokkaido, your ancestral territory. As the Chair of the Permanent Forum I suggested that you should think of organizing an event for indigenous peoples around this time. I congratulate you for being able to organize this Summit and for bringing us from all over the world.

Before I proceed let me first pay my respects to the Ainu, the traditional owners of this land we are standing on. Thank you for hosting us for this historic event. I would also like to congratulate you for your successful struggle to get the Japanese government's recognition that you are indigenous peoples. You should be proud of yourselves for this achievement and indigenous peoples' the world over are celebrating this success with you. We thank the Japanese government for going this far. I remember that in the negotiations for the adoption of the UN Declaration on the Rights of Indigenous Peoples, the Japanese delegation was one of those countries who were very concerned about Article 3 ( the right of self-determination) and were insistent on integrating a safeguard clause saying that the right allows for the violation of national sovereignty and territorial integrity of states. In spite of this concern, however, they ended up voting for the adoption of the UNDRIP. So we should thank your government for its vote for the Declaration.

This is the first time that indigenous peoples in Asia are able to organize an event in relation to the G8 meetings. As we all know the G8 is composed of the richest and most powerful countries in the world today and it is in these annual meetings that they decide on issues which will have tremendous impacts not only on indigenous peoples and the rest of the world but also on the earth. The themes which the G8 will address are the following;

- world economy focusing on rising oil prices and the stabilization of the financial market;
- environment and climate change with focus on the process to create an effective framework of the Climate Change Convention beyond 2012;
- development and Africa;
- the global food crisis; and
- peacebuilding.

In the letter of invitation you sent to me you requested me to "emphasize the connection between indigenous peoples' rights and aspirations and the harmful practices of environmental destruction

and rampant development being led by the industrialized world, represented by the G8 countries. You also mentioned that one objective of this event is to come up with a “submission of an Indigenous Peoples' Appeal to G8 Leaders and the Japanese Government, linking indigenous peoples' concerns with the responsibilities of industrial nations and multinational corporations”.

What I would like to do today is to discuss how the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) can be one of the frameworks to solve some of the themes or issues which the G8 is going to address. I will first walk you through the gains we, indigenous peoples, achieved in our work at the global level. Then I will discuss what we have been doing in the Permanent Forum to address the themes being addressed by the G8. This part will touch on how the implementation of the UNDRIP can be the solution to some of these problems. I will conclude with a few recommendations of the ways forward for us, indigenous peoples.

## **Gains Achieved by the International Indigenous Peoples' Movement**

### **UN Declaration on the Rights of Indigenous Peoples (UNDRIP)**

The recent adoption of the United Nations Declaration on the Rights of Indigenous Peoples is a historical landmark which came about because of the work of the international indigenous peoples' movement. Our struggles for our basic human rights, at the local and national levels pushed the United Nations to start looking into our issues. Because we cannot obtain justice and redress to the numerous problems we faced within our own countries we sought for other venues to raise our complaints and to seek redress. These attempts started as early as 1923 when the Cayuga Nation in Canada sent Chief Deskaheh to the League of Nations to report on the violations of the Canadian government of the treaties they signed with them. In 1925 the Maori of Aotearoa (New Zealand) sent W.T. Ratana to also raise the violations of the New Zealand government of the Treaty of Waitangi. They were not received by the League of Nations. This did not stop the indigenous peoples from bringing their complaints before the international community. In the late 1960s indigenous peoples became more organized and started sending more delegations to the United Nations.

The indigenous peoples of the Americas were the ones who influenced the United Nations to do a study on the situation of discrimination against them. The UN appointed Martinez-Cobo as the special rapporteur for this study in 1972 and his final report came out in the mid-1980s. One of the recommendations from the Martinez-Cobo report is the setting up of the UN Working Group on Indigenous Populations (UNWGIP). This body was set up in 1982. Its mandate was to develop international standards on the rights of indigenous peoples and to listen to developments in indigenous peoples' communities. When the UNWGIP was established the participation of indigenous peoples expanded to now include those coming from Asia, Africa, Russia and other countries from Eastern Europe and the Pacific. Its existence ended in 2006 and it will be replaced by the Expert Mechanism on the Rights of Indigenous Peoples which will have its first meeting in the last quarter of this year.

The UNWGIP drafted the Draft Declaration on the Rights of Indigenous Peoples and finished this process in 1992. The Draft was adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities and was submitted to the Commission on Human Rights. The CHR subsequently established an inter-governmental body, the Working Group on the Draft Declaration to negotiate on the Draft. This body negotiated the final version of the Draft between 1995 to 2006 until it got adopted by the Human Rights Council (the successor of the Commission on Human Rights) in 23 June 2006. As many of you know by now, this HRC final version was revised by the UN General Assembly. The 61<sup>st</sup> Session of the UN General Assembly adopted the UN Declaration on the Rights of Indigenous Peoples on 13 September 2007.

The UN Declaration on the Rights of Indigenous Peoples sets the international minimum standards for the protection, respect and fulfillment of the rights of indigenous peoples. While it is a declaration and is therefore not legally binding as Conventions are, many of the articles are actually legally binding as these are lifted from the Convention on Civil and Political Rights and the Convention on Economic, Social and Cultural Rights. The Declaration does not set new international standards on human rights. It merely interprets International Human Rights Law as it applies to the specific situations of indigenous peoples as distinct peoples.

### **UN Permanent Forum on Indigenous Issues**

Before the International Year of the World's Indigenous People ended in 1992, several indigenous leaders, including myself, met in Guatemala and decided that we need to have another mechanism within the United Nations which will address our issues. At the UN World Conference on Human Rights in 1993 we lobbied for a resolution on a Programme of Action of the International Decade of the World's Indigenous Peoples (1995-2004) which included the establishment of the Permanent Forum on Indigenous Peoples. Our persistence in lobbying the Commission on Human Rights and the Economic and Social Council paid off as the UN General Assembly decided in a resolution in 2000 that the Permanent Forum on Indigenous Issues be established. This was another major gain of the world's indigenous peoples as there is a body located higher up in the UN hierarchy to deal with indigenous peoples. The Permanent Forum has the following mandate;

- 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
- raise awareness and promote the integration and coordination of activities related to indigenous issues within the UN system
- prepare and disseminate information on indigenous issues

With the adoption of the UN Declaration on the Rights of Indigenous Peoples, the Permanent Forum was given another mandate under Article 42 of the Declaration. This states;

“The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.”

The Forum held 7 sessions to date and before each session it also held international expert group meetings (EGM). These EGMs tackled various issues ranging from disaggregation of data on indigenous peoples; free, prior and informed consent; indigenous peoples and the private sector; millenium development goals; climate change; traditional knowledge and indigenous languages. The special themes it adopted ranged from indigenous women; indigenous youth; millenium development goals; lands, territories and resources; and climate change.

To help the Forum in implementing its mandate the various UN agencies, programmes and funds organized the Inter-Agency Support Group on Indigenous Issues (IASG). To date this formation is composed of more than 30 entities which does not just include the UN bodies and agencies but also other intergovernmental bodies like the European Commission, the Inter-American Development Bank, the Asian Development Bank, the International Organization on Migration (IOM), among others. The UN Development Group (UNDG) which is a body composed of UN agencies and bodies mandated to do work on economic, social and cultural development, recently came up with their UNDG Guidelines on Indigenous Peoples Issues. This is a guideline which should be used at

the country level and global level by the members of the UNDG in the work they are doing that concerns indigenous peoples.

### **UN Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples**

Another mechanism which indigenous peoples lobbied for at the Commission on Human Rights is the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people. This was established in 2001 and the first countries which the Special Rapporteur visited in 2002 was Guatemala and the Philippines. Professor Rodolfo Stavenhagen, the first Rapporteur, was able to visit more countries after that so he made his mission reports on the country visits he did. He also developed thematic papers on development and indigenous peoples, the administration of justice, implementation gap in the protection, respect and fulfillment of indigenous peoples' rights, among others.

In Asia, while he was only able to officially visit the Philippines, he did visit the Ainu in Japan and he also went to Nepal. With the facilitation of my organization, Tebtebba, we were able to organize an Asia-wide consultation with him and he prepared a report of this consultation which he presented at the 2007 Session of the Permanent Forum during the half-day session on Asia. He also presented this report at the December 2007 session of the Human Rights Council. From what I gathered many Asian governments were not happy with this report. However, the Asian indigenous peoples are very grateful to him for doing this and raising the issues of Asian indigenous peoples before the international community. His term ended in April 30, 2008 and he is now replaced by Professor James Anaya, who is a lawyer and an indigenous person, himself.

### **International Decade of the World's Indigenous People and the Second International Decade of the World's Indigenous People**

During the International Decade of the World's Indigenous Peoples (1995-2004) several donor bodies, both bilateral and multilateral, and the UNDP, adopted some policies on indigenous peoples which they used as guides in their work. Some of these are the following:

- the World Bank Operational Directive 4.20 on Indigenous Peoples (1991, replaced by O.P./B.P. 4.10 in 2006)
- Asian Development Bank Policy on Indigenous Peoples (1998, presently under revision)
- Denmark Strategy for Danish Support to Indigenous Peoples (1994)
- UK- Guidance on Ethnicity, Ethnic Minorities and Indigenous Peoples (1995)
- Spain – Strategy for Co-operation with Indigenous Peoples in Latin America (1997)
- UNDP Principles of Engagement with Indigenous Peoples (2001)

Before the International Year of the World's Indigenous People ended in 2004, indigenous peoples lobbied for the declaration of a Second International Decade. This was passed by the UN General Assembly in 2003 and in 2004 the GA adopted Resolution A/59/174 which contains the Second International Decade of the World's Indigenous People Programme of Action.

During this whole period indigenous peoples, the world over, either strengthened their existing organizations and networks or established new networks which can bring them together to act as a united force in claiming for their entitlements. The list of regional and thematic networks of indigenous peoples are too many to be included in this paper. I will mention just a few of the key informal and formal networks set up. When the Declaration was being negotiated there is a global caucus of indigenous peoples which meets regularly to discuss strategies and actions to take. Alongside with this are regional caucuses which meet also to decide on common positions. At the

Convention on Biological Diversity there is a formation called the International Indigenous Biodiversity Forum which also meets to plan and discuss common positions and strategies for lobbying.

In spite of the weak implementation of States and the UN System of the goals and programme of the International Decade of the World's Indigenous People, indigenous peoples achieved significant advances especially in setting up and strengthening their own organizations and networks. These are now the formations which are actively engaged in strengthening the indigenous peoples' movements at the various levels.

The Second International Decade of the World's Indigenous Peoples' Programme of Action was influenced by indigenous peoples who contributed ideas on what this should contain. Its objectives are the following;

- Promote non-discrimination and inclusion of indigenous peoples in the design, implementation and evaluation of international, regional and national processes regarding laws, policies, resources, programmes and projects;
- Promote full and effective participation of indigenous peoples in decisions which directly or indirectly affect their lifestyles, traditional lands and territories, their cultural integrity as indigenous peoples with collective rights or any other aspect of their lives, considering the principle of free, prior and informed consent;
- Redefine development policies that depart from a vision of equity and that are culturally appropriate, including respect for the cultural and linguistic diversity of indigenous peoples;
- Adopt targeted policies, programmes, projects and budgets for the development of indigenous peoples, including concrete benchmarks, and particular emphasis on indigenous women, children and youth;
- Developing strong monitoring mechanisms and enhancing accountability at the international, regional and particularly the national level, regarding the implementation of legal, policy and operational frameworks for the protection of indigenous peoples and the improvement of their lives.

The proposal on how these objectives could be achieved is through the setting up of tripartite bodies at the national level which will implement this programme. This will be composed of indigenous peoples' representatives and representatives of governments and intergovernmental bodies. As you can see the objectives of the Second Decade are geared towards strengthening the capacities of indigenous peoples to implement their own visions and perspectives of development.

### **Expert Mechanism on Indigenous Peoples' Rights**

When the UN Working Group on Indigenous Populations ended its existence in 2006 efforts were exerted in ensuring that there will still be a body on indigenous peoples within the Human Rights Council. Some governments feel that with the establishment of the Permanent Forum there is no need for such a body. However, indigenous peoples are of the view that the more bodies there are within the UN system dealing with indigenous peoples, the better it will be for us.

Besides, with the adoption of the UN Declaration on the Rights of Indigenous Peoples, the Human Rights Council should play a role in ensuring that it also gets implemented within its ambit. The Human Rights Council is located now in same level as the ECOSOC which is the parent body of the Permanent Forum. Thus, for indigenous peoples, it would be much better if there is another subsidiary body under the HRC on indigenous peoples.

With the lobby launched by indigenous peoples at the HRC, the Expert Mechanism on Indigenous

Peoples' Rights was adopted in 14 December 2007. The mandate of this body is to “ provide the Council with thematic expertise on the rights of indigenous peoples in the manner and form requested by the Council”.

## **G8 Themes and Indigenous Peoples**

Let me now address the G8 themes and how these relate to indigenous peoples. The themes that the G8 will address are all interrelated. They want to address the world situation which is faced with an impending economic depression, unstable financial markets, rising oil prices, a global food crisis, climate change, intractable conflicts and Africa.

As far as I am concerned these problem the G8 want to address are direct results of how they have imposed imperialism and neoliberal economics all over the world. This is the model which regards economic growth and the market as its holy cows. In spite of the fact that we have witnessed limitless growth and jobless growth over the past years, economic growth has been and remains the primary economic goal of all countries. Globalization is nothing else but the desire of the richest and most powerful countries of the world to harmonize the international and national economic systems to fit in within the neoliberal economic and political framework. One of the assumptions which underpin maximum economic growth is that nature, which is the very basis of life on earth, is inexhaustible. What humanity needs to do is to engineer nature and the physical world to its advantage. This maximum growth model is clearly unsustainable and is in fact the root cause of many of the problems which the G8 wants to address. Unfortunately, this G8 Hokkaido Toyako Summit still regards more economic growth as the solution. They are also proposing mainly technological fixes or solutions to problems which should be solved through radical restructuring of the prevailing economic, political and socio-cultural systems.

For us, indigenous peoples, we want to maintain a harmonious relationship with nature and we regard all living creatures as our relations. So we do not seek to control or dominate nature and our relationship with nature and others is guided by natural law. This is why we fought against colonialism and now we are fighting against neoliberalism. We know for a fact that governments which have adopted the neoliberal framework will aggressively pursue the further extraction of the world's last remaining natural resources found in our own territories. They will also try to undermine human rights laws, such as the UNDRIP, if they see these as obstacles to their access to our lands, territories and resources and to our traditional knowledge.

Clearly there is no intention to limit growth in spite of the fact that the carrying capacity of the earth to absorb the wastes generated by this economic system is now heavily compromised. Climate change is a clear evidence of the way the earth is losing its capacity to absorb the pollution of the atmosphere. The Montreal Protocol and the UN Framework Convention on Climate Change (UNFCCC) and its Kyoto Protocol are attempts of the international community to lower greenhouse gas emissions. But as we have witnessed in the negotiations in the UNFCCC, the rich governments composing the G8 have not yet come to a united position to do all they can to reduce drastically their emissions. These are the same countries who have contributed 60 percent of the world's emissions since the industrial revolution. To be fair, Germany and Japan are doing more than the others. However, they are still mainly relying on flexible market-based approaches such as emissions trading, clean development mechanism and joint implementation as contained in the Kyoto Protocol.

During the 7<sup>th</sup> Session of the Permanent Forum we dealt with climate change as a special theme. I and my former colleague, Aqaluuk Lynge prepared a special report on climate change mitigation measures and its impact on indigenous peoples traditional livelihoods and their stewardship role on

biological and cultural diversity. You can see this reproduced in the booklet prepared for this Summit. In this paper we showed how mitigation measures under the Kyoto Protocol are further undermining the rights of indigenous peoples' to their lands, territories and resources, their traditional livelihoods and their capacities to further nurture biological and cultural diversity.

One example which we cited is the expansion of biofuel monocrop production (e.g. oil palm, soya, corn, sugar cane, jatropha, etc.) which is causing massive land grabs of indigenous peoples' lands and forests. As early as 2006 our indigenous counterparts from Indonesia already spoke about how oil palm plantations in Sumatra and Kalimantan are displacing them from their lands and destroying their traditional livelihoods. They claim that jatropha otherwise known as the petroleum nut can be grown in degraded lands. In India what they classify as wastelands or degraded lands are actually lands of the indigenous peoples. These are lands which are in fallow, in between intercropping periods.

Biofuel production to produce ethanol for cars is one of the causes of the food crisis facing the world today. Instead of doing agriculture to produce food to feed the world, the poorer countries are shifting towards biofuel production because there are incentives given by the rich countries to them to do this. A report has stated that the ethanol (from corn) that will fill up a full tank of an SUV (big four wheel-drives) comes from the corn which can feed a person for one year. Since most of the Third World countries are relegated to produce goods which can be exported to satisfy the needs of the rich countries, shifting away from food production to biofuel production makes sense. The G8 countries are not interested to make the developing countries more self-reliant in terms of producing goods and services to primarily serve their own citizens. The interest of the G8 is to maintain their former colonies as sources of cheap raw materials and cheap labour and as a market for them to dump their cheap, highly subsidized agricultural products.

The global food crisis is clearly a result of such an economic and development model which promotes large scale chemical intensive agriculture which favors agribusinesses and further concentration of huge tracts of lands in fewer hands. The International Assessment of Agriculture Technology and Science Development (IAASTD) which was recently released has shown that small-scale farming is more productive than large-scale industrial chemical farming. Indigenous peoples can attest to this because most of our traditional livelihoods are small-scale and we have survived through generations with these livelihoods. Yet the findings of the IAASTD has not been disseminated widely used even by the FAO which is supposed to champion the results of this research. Monsanto and Syngenta, the seed companies, who were part of the making of this report, walked out in the final stage because they are not in agreement with these findings.

Another finding is that there is much more food produced in the world today than there has ever been in history. However, food distribution is highly inequitable. Most of the food now is in the hands of transnational corporations and hoarders who are causing the rise of food prices. Even if there is more than enough food in the world if the people cannot afford to buy this then more people will still be hungry. Speculation on food prices is another cause of the crisis but this is not even going to be addressed by the G8.

The practice of rich countries providing agricultural subsidies to their large-scale farmers to produce corn, cotton, poultry, pigs and cows which are then exported to the Third World at prices cheaper than what is produced by farmers in the poor countries still continues. This is why the negotiations in the WTO keeps stalling because this issue has not yet been resolved to the satisfaction of the developing countries. This is one reason why there is a global food crisis. Many developing countries who used to export food are now net food-importing countries. My country, the Philippines, is a prime example of this. We used to export rice to other countries. Now we are begging countries like Thailand and Vietnam to sell rice to us. What we get, instead, is the Long

Ben rice from the United States which is sold to us.

The FAO (Food and Agriculture Organization) just held a “High Level Meeting on World Food Security and the Challenges of Climate Change and Bioenergy” in the first week of June this year. I participated in this High Level meeting but I was very disappointed with its results because there was no clear position on the need to ensure that biofuel production should not be undertaken at the expense of food production and of violating the basic rights of indigenous peoples to their lands, territories and resources.

Other mitigation measures like the establishment of carbon offsets is also used now to justify the further appropriation of indigenous peoples' lands. Carbon sinks is a part of the Clean Development Mechanism under the Kyoto Protocol where rich countries or corporations who want to meet their emissions targets can pay poorer countries or communities to establish sinks which will absorb their emissions. There are several cases in Africa, Latin America and in Asia where carbon sinks in the form of eucalyptus plantations were set up in indigenous peoples' territories which led to their displacement.

Another measure is the building of more large-scale hydroelectric dams and the now, even nuclear power plants which are considered renewable energy resources. We all know very well how dams have caused the forced displacement of indigenous peoples in many parts of the world. So will see a replication of these experiences again. Coal is going to be a major energy source so there are technologies being developed under what is now known as carbon capture and storage (CCS) which will capture the carbon emissions from the coal power plants and inject these under the ocean. They are also developing what they call clean coal. All these means that extraction of coal and uranium from our territories will become more relentless because of these developments and because of the depletion of oil.

Reduced emissions from deforestation and degradation (REDD) of tropical and sub-tropical forests is another mitigation measure which was just adopted at the Bali Conference of Parties last year. The Intergovernmental Panel on Climate Change (IPCC) has determined that 25 percent of the global emissions are coming from deforestation and degradation of forest lands. There are now many countries committing lots of money for REDD. Norway, for instance, at the last COP of the CBD in Bonn, announced that it will contribute EU 600 million each year for the next 6 years for REDD. The World Bank launched its Forest Carbon Partnership Facility (FPCF) last year in Bali and got several countries (e.g. Norway, Germany, Switzerland, Japan, UK, Netherlands, Denmark) to commit funds for this. This is going to be part of REDD and emissions trading schemes.

The Permanent Forum has expressed its concern about REDD and in its final report for the 7<sup>th</sup> Session it called on indigenous peoples to use the renewed interests on forests to further pursue their struggles to get governments to recognize their ownership of the forests and the resources found in these forests. We called on the governments and the international community to ensure that the rights of indigenous peoples as contained in the Declaration should be the main framework to guide any program or policy related to their forests, including REDD. We recognized that REDD as presently designed is not acceptable to most indigenous peoples and this should be redesigned with the effective participation of indigenous peoples and with their free, prior and informed consent.

The economic growth model does not factor in as costs the depletion of nature, environmental pollution, non-market based contributions such as women's domestic work and indigenous peoples' subsistence production as well as the earth's ecosystem services. Now, with REDD there is a recognition of the environmental services that the forests contribute in lowering carbon dioxide emissions. However, it is not clear how indigenous peoples will directly benefit from the payment for these environmental services from their forests. From what we can see, there will even be more

centralized, top down management of forests by the governments because they would like to be the main beneficiaries. With the classification of such forests as carbon forests, they will further restrict the access of indigenous peoples to the forests and their practice of forest-related traditional livelihoods.

This obsession with limitless economic growth has also led to the fast depletion of the earth's oil and gas reserves. Scientists who had been studying this already warned several years back that the oil supply is going to peak so the world has to seriously think of how it will shape a post-carbon society. Many governments did not take this seriously. It is only now that the oil prices have risen dramatically that governments and the private sector are pushed to do research and development of renewable alternative energy sources.

It was also assumed that if economic growth is achieved this will trickle down to the poorest of the poor, Economic growth does not translate into sustainable development nor does it lead to a more equitable distribution of wealth. The world's economy has grown 18 times from 1900 to 2000 reaching around \$66 trillion in 2006. However, it is within this hundred-year period that the world has gone through the worst environmental degradation and persistent widespread poverty and economic inequality. 2.5 billion people or 40 percent of the world's population who live with \$2 a day in the midst of tremendous global economic wealth is scandalous. The UNDP has reported that in 2006 the combined income of the world's richest 500 persons is about the same as the income of the world's poorest 416 million people. The UN University also did a study which showed that in 2000 the richest 2 percent of adults globally owned more than 50 percent of the world's household assets while the poorest 50 percent owned only 1 percent. Such gross inequality can only be the result of an economic system which is ill-structured to concentrate even more wealth into the hands of a few individuals, banks and corporations. and not to address the basic needs and welfare of the majority who are poor.

Modern day globalization has further exacerbated this imbalance. Liberalization, deregulation and privatization, the mantras of globalization, have curtailed the role of the State to provide public services. These have led towards expanding even further the freedom of the market and multinational corporations. The private sector is deemed as more superior and efficient than government so public utilities and services end up being privatized making access of the poor to these even more difficult. In the name of efficiency, common public goods are auctioned off to the rich who can afford to pay and it does not matter if 40 percent are wallowing in poverty.

For us, indigenous peoples, economic growth and globalization are synonymous to more aggressive mineral extraction, more deforestation by legal and illegal loggers, expansion of chemical-intensive monocropping agriculture, extraction of oil and gas, and the building of more large-scale hydro-electric dams. Such actions have led to egregious violations of our right to self-determination and our right to our lands and resources, to more poverty and exclusion and to widespread environmental degradation.

### **Implementing the UN Declaration on the Rights of Indigenous Peoples**

So how does all these relate to the implementation of the UN Declaration on the Rights of Indigenous Peoples?

The work towards the adoption of the UNDRIP was a very challenging endeavour especially because we are in the era of globalization in which the role of the state and intergovernmental organizations like the UN are being undermined by the market and the private sector. There were many skeptics saying that in this day and age it would be impossible to get the Declaration adopted.

For one thing, the Declaration acknowledges our inherent rights indigenous peoples to our lands, territories and resources and also our right to self-determination of which free, prior and informed consent is an integral element. With our tenacity and persistence, however, we succeeded in getting the Declaration adopted. The international indigenous peoples movement has shown its capacity to influence global processes and, therefore, from now on we should never underestimate our capacity to change policies not only at the national level but also at the global level. In spite of the efforts of Canada, the US, Australia and New Zealand to derail the adoption of the Declaration, we managed to bring the other States to vote in our favour. In this case we managed to divide the G8 between themselves. The EU became one of the champions of our Declaration even if they had to go against their usual allies, the 4 countries I mentioned earlier.

The more difficult challenge now is how to get the UNDRIP implemented. We know that even the existing legally binding human rights conventions are hardly implemented by most UN member-states. This reality should not dishearten us because we did not fight for the adoption of this Declaration only to have it remain in paper. Therefore, we need to collectively discern, discuss and enter into dialogues with various actors on how best to implement the UNDRIP. On our own, we can already start disseminating it widely through the use of multimedia and popular awareness raising methods. In Asia, we just finished an Asia-wide workshop-seminar where we discussed how we can implement the Declaration. This was co-organized by us, Tebtebba and the Asian Indigenous Women's Network, the Cordillera Peoples' Alliance and the Asia Indigenous Peoples' Pact and it was held in the Philippines. We invited not only indigenous representatives from the region but also representatives of UN agencies and bodies, the European Commission, the academe and NGOs who are supporters of indigenous peoples.

One of the issues raised by the Canadian delegation when the UNDRIP was adopted in New York was that it should be understood that the UN Declaration cannot be considered international customary law. However, immediately after the Declaration was adopted there were several developments which took place which are already indicating that the Declaration is already becoming international customary law. On Oct. 18, 2007 the Supreme Court of Belize ruled on Claim No. 171/172 of 2007 between Maya Villages of Santa Cruz and Conejo versus the Atty. General of Belize and Minister of Natural Resource and Environment. The Supreme Court ruling affirmed rights of Maya to their traditional lands and resources. The Chief Justice cited the UN Declaration on the Rights of Indigenous Peoples and called on the Govt. of Belize not to disregard this as it voted for the adoption of this.

In November 8, 2007, Evo Morales Ayma, the President of Bolivia convinced the Parliament to make the UNDRIP a national law. It was adopted in full and it is called the National Law on Indigenous Peoples. A few months ago a ruling was made by the Inter-American Court on Human Rights on a case filed by indigenous peoples of Suriname against the government. This ruling, likewise, cited the UNDRIP in the decision made in favor of the indigenous peoples. There is no doubt that these developments, along with similar ones in the future, will establish the UNDRIP as international customary law.

The Permanent Forum on Indigenous Issues has already agreed in its 7<sup>th</sup> Session which just ended in May 2, 2008, that the UNDRIP will be the major framework which will guide its work. Similarly, a United Nations Development Group (UNDG) Guidelines on Indigenous Peoples which was just released the first quarter of this year, acknowledged that the UNDRIP is a framework for the implementation of the guidelines. The UNDG is composed of all the various UN programmes, bodies and agencies which are doing development work. The UNDG Guidelines which they agreed upon will be crucial in guiding their work as far as these relate to indigenous peoples.

Indigenous peoples who were present at the 9<sup>th</sup> Conference of Parties of the Convention on

Biological Diversity, which was held in the last two weeks of May 2008, succeeded in putting the UNDRIP in several of the decisions of the various working groups such as the Working Group on Article 8j, 10 c and other related provisions; the Working Group on Protected Areas, the decisions on Agrobiodiversity and Marine and Coastal Diversity, among others. While the phrase used says “noting the adoption of the UN Declaration on the Rights of Indigenous Peoples”, this can go a long way in influencing the implementation of the Convention at the national level.

In the face of this picture, the importance of implementing the UN Declaration on the Rights of Indigenous Peoples becomes even more crucial for the survival not only of indigenous peoples but of the earth. If the implementation of the Declaration means that we are able to implement our self-determined development, we will continue to practice our low-carbon traditional livelihoods, strengthen our ways of nurturing biological and cultural diversity and our harmonious relationship with nature, protects our rights to our lands and resources, then there is a big chance that positive major changes in caring for the earth and living beings can come about. We have already contributed significantly in mitigating climate change through our resistance against oil, gas and coal extraction, our successful struggles to save our forests from being cut and by living sustainable lifeways. We will contribute even more to making this world sustainable if the world protects, respects and fulfills our rights as contained in the UNDRIP.

### **Recommendations for the G8**

In closing I would like to highlight some points which we should raise before the G8 meeting.

- We should propose to the G8 that they implement the UNDRIP. This Declaration applies even for those States who did not vote for its adoption. It is now an international human rights instrument and it forms part of international human rights law. The ones who voted against it cannot say that they will not implement it because they will be going against an instrument which has been adopted by the highest body of the UN, the General Assembly. Specifically, for the countries who voted against it, we call on them to consider changing their positions. Australia might go towards this direction after it apologized for the “Stolen Generations” and maybe there is a chance that Canada will also do this after its recent apology for the residential schools.
- While the Declaration is not legally binding because it is not a Convention, many of its articles are legally binding because these are taken from the existing legally binding agreements like the Convention on Civil and Political Rights and the Convention on Economic, Social and Cultural Rights, Convention on the Elimination of all forms of Racism and Discrimination, among others. All of the G8 countries have ratified these Conventions and it behooves them to comply with their obligations to these Conventions. This Declaration does not establish new rights. It just interprets how international human rights law is applied to indigenous peoples as distinct peoples and as collectives.
- On climate change, we propose to the G8 that they support the recommendations which emerged from the 7<sup>th</sup> Session of the UN Permanent Forum on Indigenous Issues. In particular these are the recommendations to ensure the effective participation of indigenous peoples in the forthcoming negotiations of the UNFCCC. We proposed that a Working Group on Local Adaptation and Mitigation Measures of Indigenous Peoples be established within the UNFCCC. We also proposed that REDD be redesigned to integrate respect for the rights of indigenous peoples as contained in the UNDRIP.
- On the food crisis, we should propose that the rights of indigenous peoples to subsistence, as well as their right to food and to determine their development priorities should be respected.

This means that their traditional livelihoods and their control and access to their sources of subsistence such as their forests, grazing lands, waters, biodiversity, among others, should be protected. There should be an end to the dumping of cheap agricultural products from the rich countries into indigenous peoples' communities and the subsidies of the rich countries to their big farmers should also be stopped. Indigenous peoples have called for a moratorium on biofuel production and the use of genetically modified seeds in their territories. Speculative activities on food prices should be strongly regulated. Furthermore, there should be a mechanism to bring those involved in food hoarding to justice. This is a criminal act and it violates the basic right to food.

- Extraction of minerals whether these be coal, uranium, and oil and gas should not take place unless and until the free, prior and informed consent of indigenous peoples is obtained. Compulsory measures to make corporations more accountable should be put in place. The UN Declaration on the Rights of Indigenous Peoples should be the framework that will guide corporations when they operate in indigenous peoples' territories.

## Conclusion

In closing, I would just like to reiterate that the UN Declaration on the Rights of Indigenous Peoples should be the framework which should guide the G8 in everything they do which have direct impacts on indigenous peoples. Even if some of the members have not adopted this, they are not exempted from implementing it. Indigenous peoples are committed to make this Declaration a living document and a standard by which to measure the behaviour of states and the society-at-large in relation to indigenous peoples.

As climate change, the global food crisis, financial instability and the present day conflicts are mainly caused by the economic and political structures perpetuated by the G8 at the national level and the global level, the burden of correcting these problems should fall on their shoulders. But knowing fully well that they will not carry out measures that will affect their economic and political interests, indigenous peoples and civil society organizations should be vigilant in exerting pressure on the G8. At the same time indigenous peoples must continue to strengthen further their traditional livelihoods, enrich their cultural diversity and use of the languages and enhance the use of their traditional knowledge to further nurture biological diversity and maintain a low-carbon or carbon-neutral societies.

The implementation of the Declaration will not only benefit indigenous peoples but will also benefit the earth and the rest of the world. If we are allowed to continue practicing our sustainable ways of caring for the earth and caring for our relatives, not only human beings, but also plants, animals and all other living things, then this will redound to the benefit of everybody. If we are able to continue speaking our languages and practicing our diverse cultures, then the world's cultural heritage will be enriched. If our diverse economic, cultural, spiritual, social and political systems can co-exist with other dominant systems then we can bequeath to our children and our children's children a more diverse and exciting world.

Thank you very much.

Contacts:

Victoria Tauli-Corpuz

email: [vicky@tebtebba.org](mailto:vicky@tebtebba.org) or [vtcorpuz2006@yahoo.com](mailto:vtcorpuz2006@yahoo.com)

website: [www.un.org/esa/socdev/unpfii](http://www.un.org/esa/socdev/unpfii) and [www.tebtebba.org](http://www.tebtebba.org)