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Permanent Forum on Indigenous Issues

Fifth session

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Special theme: Millennium Development Goals and indigenous peoples

And Ongoing priorities and themes: human rights

Information received from non-governmental organizations

Indian Law Resource Center, VIVAT International

Note by the Secretariat

In its report on its fourth session, held from 16 to 27 May 2005, the Permanent Forum on Indigenous Issues (UNFPII) identified proposals, objectives, recommendations and areas of possible future action and recommended that States, organizations of the United Nations system and intergovernmental organizations, indigenous peoples and non-governmental organizations assist in their realization. Information received in this regard from non-governmental organizations is contained in the present document.

Written Submission of the Indian Law Resource Center

NGO with Special Consultative Status

1. The Millennium Development Goals (MDGs) are derived from the Millennium Declaration of 2000, which recognizes and reaffirms human rights treaties. This implies that States cannot achieve the MDGs while disregarding human rights principles, including the principle of non-discrimination.ⁱ In the case of indigenous peoples, upholding human rights norms and principles is critical due to the negative impact many development policies and practices have on indigenous peoples' lands and livelihoods. The UNPFII and the Inter-Agency Support Group on Indigenous Peoples have specifically noted that efforts to meet MDGs could have harmful effects on indigenous peoples, such as the acceleration of the loss of lands and natural resources on which their livelihoods depend or their displacement from those lands.ⁱⁱ

2. Indigenous lands and resources are particularly vulnerable to unjust taking or loss because of an enormous disparity in wealth and power between most indigenous peoples and the economic interests that seek to use, exploit, or expropriate indigenous lands and resources.ⁱⁱⁱ These economic interests include States, private corporations and banks, and International Financial Institutions (IFIs). IFIs pose specific threats to indigenous peoples' rights and

ⁱ *Newsletter -The ILO and Indigenous and Tribal Peoples*. April 2005

ⁱⁱ E/C.19/2005/2.

ⁱⁱⁱ Coulter, Robert T, Indian Law Resource Center. *Indigenous Land and Resource Rights: Implementation and*

interests because they finance many large infrastructure or extractive industry projects within indigenous lands and territories. Although such projects have had devastating impacts on indigenous peoples in the past, the World Bank, Inter-American Development Bank, and other IFIs are once again pushing for a revitalization of large industrial and infrastructure projects. The World Bank, in particular, decided in 2003 to embark on what it calls a “high-risk/high reward” strategy. It lifted its ban on the financing of commercial logging operations in rainforests, announced its renewed support of contentious large dams, and is considering support for massive oil, gas, and mining projects in high risk environments.^{iv} The World Bank and other IFIs are financing such projects without any explicit legal responsibilities to uphold human rights norms despite the great dangers they pose to the environment and the well-being of indigenous peoples and other affected communities.

3. As it has been pointed out, on various occasions, IFIs have been complicit in human rights violations when they finance governments and or corporations that directly engage in human rights abuses.^v The Chad-Cameroon pipeline project is a notorious example. This project, one of the largest private-sector investment ones in Africa, transports oil from the Doba oil fields in southern Chad to a Cameroonian Atlantic port. The IFC’s pre-lending assessment did not take into account the potential human rights impact of the framework of legal agreements, known as host government agreements, signed between the Exxon-Mobil-led consortium and the governments of Chad and

Monitoring. HR/GENEVA/IP/SEM/2006/BP.2

^{iv} Friends of the Earth, Environmental Defense Fund and International Rivers Network. *Gambling with Peoples Lives-What the World Bank’s new “High-Risk/High Reward” Strategy Means for the Poor and the Environment.* September 2003.

^v Amnesty International. *Contracting out of Human Rights-The Chad-Cameroon Pipeline Project.* September

Cameroon. These agreements are designed to reduce the financial and political risks posed to foreign investors by sudden changes in national laws. Such agreements create an incentive to weaken national laws and human rights protection by requiring countries to pay large penalties if they interrupt the operation for any reason. Amnesty International has noted that the perverse incentives created by such agreements and endorsed by the IFIs that provide financing, undermine the human rights obligations of the states and the responsibilities of the companies involved.

4. Many IFIs also undermine the human rights of indigenous peoples by actively promoting agreements or joint-venture partnerships with third parties who ignore the rights of local communities when implementing IFI-financed projects. Large conservation organizations, for example, have recently come under scrutiny for their increased reliance on funding from bilateral and multilateral finance agencies. It has been noted that the new joint-ventures, co-operative agreements, and partnerships they form with corporations and multilateral finance agencies have resulted in growing conflicts of interest and a disturbing neglect of the indigenous peoples whose land conservation organizations are in the business to protect.^{vi} Specifically, it has often led to disagreement over establishment of protected natural areas and biological corridors; eviction and internal displacement of indigenous peoples; traditional uses of the land being declared “illegal” resulting in prosecution of the inhabitants by government authorities or private security forces; partnering of conservation organizations with multinational corporations- particularly in the businesses of gas and oil, pharmaceuticals and mining- that are directly involved in pillaging and

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^{vi} Chapin, Mac. *A Challenge to Conservationists*. World Watch Magazine. November/December 2004.

destroying forest areas owned by indigenous peoples.^{vii} Even where indigenous peoples are provided with “co-management” opportunities, they often become permanently indentured as park rangers, porters, waiters, harvesters, eco-tour guides; under this model it has been noted that “‘conservation’ edges ever closer to ‘development’, while native communities are assimilated into the lowest ranks of national cultures.”^{viii}

5. Given the influence that IFIs exert on borrower countries, the scale of the joint-ventures they establish with corporations and banks and conservation organizations, and the magnitude of the impact of their activities, the human rights responsibilities of IFIs should be addressed by the UNPFII and other UN bodies. The UNPFII should acquire research and monitoring functions in order to promote implementation of and respect for indigenous land and resource rights, and to address the manner in which the policies and practices of IFIs -and their partners and clients- adversely affect those rights.

Specific Recommendations:

6. The recognition of indigenous peoples as distinct peoples and the respect for their human rights, rights to lands and territories and sustainable use of natural resources are crucial for achieving sustainable development and for poverty eradication.^{ix} The UNPFII should assume a constructive role regarding problems pertaining to indigenous peoples’ rights to lands, territories and resources, with specific attention to indigenous peoples’ right to permanent sovereignty over natural resources. The Secretariat should

^{vii} Ibid pg. 18.

^{viii} Dowie, Mark. *Conservation Refugees*. Orion Magazine. November/December 2005. www.oriononline.org

^{ix} E/C.19/2005/9.

specifically work with the OHCHR and other UN bodies to follow-up on the recommendations included in the reports written by Special Rapporteur Erica Daes ^x, as well as the recommendations of the Expert Seminar on Indigenous Peoples' Permanent Sovereignty over Natural Resources and on Their Relationship to Land ^{xi}.

7. As a follow-up to the meetings the UNPFII held with the World Bank and IFIs in November 2005, the UNPFII should continue to hold regular dialogues with IFIs to alter the implementation of their policies and activities to ensure stronger protection for indigenous peoples' land and resources rights, including free prior informed consent, and to prevent forced relocation. Such dialogues should also promote a general adherence of IFIs to international human rights norms. Similarly, the UNPFII should regularly dialogue with conservation organizations- especially those implementing IFI-finance activities.

8. The UNPFII should initiate to research, gather information, and compile case studies which demonstrate the systematic manner in which IFIs may lead to human rights abuses on indigenous land and territories. Such a study will be necessary to make a case for stronger compliance with international human rights norms on the part of IFIs.

^x E/CN.4/Sub.2/2001/21, (E/CN.4/Sub.2/2004/30 and Add.1).

^{xi} See <http://www.ohchr.org/english/issues/indigenous/sovereignty.htm>.

9. The UNPFII should promote the need for new human rights standards that apply directly to Multilateral Development Banks and other IFIs within the standard-setting body of the new Human Rights Council. Such standards are needed because these Banks operate with no applicable law. New standards should be drafted to address clearly the specific activities and decisions of these Banks that constitute, result in, or lead to violations of human rights, especially in relation to indigenous peoples.

10. The UNFPII should assume a constructive role to monitor against intrusion, other forms of penetration, and infringement upon indigenous land rights by States, corporations, and IFIs. To prevent such intrusions and other human rights abuses, there is a need for established and well funded mechanisms for negotiation and agreement between the state and indigenous peoples, between IFIs and indigenous peoples, and between conservation groups and indigenous peoples to implement indigenous land and resource rights.

11. In the face of threats from multiple economic interests, it is critical that indigenous peoples be provided with international technical assistance and cooperation on negotiation and conflict resolution from human rights perspective. The UNFPII should help establish such mechanisms to provide technical assistance to indigenous peoples.

Information from VIVAT International

NGO with Consultative Status

1. The indigenous peoples are bearing the brunt of injustice and poverty most of their lives. With the Fon, Adja, Yoruba, Somba and Bariba of Benin in Africa, to the Mamanwas and Igorots of the Philippines in Asia, VIVAT International has journeyed with indigenous peoples in their struggle for a just, decent and dignified life. Indigenous Peoples in many regions of the world continue to face a future of uncertainty. Unfortunately, the plight of the indigenous peoples has been largely ignored.

2. The indigenous peoples belong to the invisible sector of society. They are rarely mentioned, much less consulted on national decisions made even if those decisions directly affect them. Even statistics ignore them! We therefore support all efforts to make them visible, foremost of which is acknowledging their free, prior and informed consent on matters that directly concern them. If the Millennium Development Goals are to be achieved, we must start with the indigenous peoples, as the theme suggests. Thus, redefining the Millennium Development Goals is matter of integrating indigenous peoples' concerns into the MDGs' rubric. We must not ignore them but rather learn from them.

3. Our experience tells us indigenous peoples can be models for sustainable development, alternative governance and communal living that is centered on the family. They are promoters of Integrity of Creation: respect for nature, lasting relationships with each other and creation,

promotion of life, unity in the midst of diversity and self determination. And yet, we seldom take note of them and learn from them.

4. Integration is not the same as assimilation. Integration is based on human rights, respect for and openness to diversity. Assimilation leads to uniformity, where there is little room for cultural diversity. Victoria Tauli Corpuz, Chairperson of the United Nations Permanent Forum on Indigenous Issues, advocated in her speech on *Indigenous peoples and the Millennium Development Goals* “more in-depth discussions and dialogues among indigenous peoples and between them and governments, intergovernmental bodies and the broader society to develop further their perspectives and recommendations on indigenous development paradigms. These should further develop and popularize concepts such as ‘ethno-development,’ ‘life-projects,’ ‘development with identity, and so forth. Such processes will elaborate further on how to address the structural causes of indigenous poverty.” Hearing their voices can give the world a new impetus for a just and sustainable development.

5. The following issues are crucial in order to achieve the MDGs by 2015. The international community and the governments need to pay urgent attention to them. They are:

- Lack of access to basic services like clean water, shelter, land, education, medicine and good governance.
- Continuing historical, structural, cultural prejudice and political neglect.

- Militarization of the areas where indigenous people live, resulting in displacement and making them internal refugees.
- Displacements and violation of human rights caused by operations of large industries, which by extracting resources by open pit mining and dams destroy the environment, which in most cases is the home of indigenous peoples.
- Indigenous peoples in many countries have no right to own land and are not allowed to develop their own language, culture and traditions.
- Indigenous workers are not only poorly educated for formal employment, they also experience poor health, perpetuating the 'cycle of poverty'.

6. Therefore we urge all governments and international bodies to:

- **Heed to the words of the International Expert Group which said: “We reaffirm our commitment to continue making progress in the advancement of the human rights of the world’s indigenous peoples at the local, national, regional and international levels, including through consultation and collaboration with them, and to present for adoption a final draft United Nations declaration on the rights of indigenous peoples as soon as possible.” (International Expert Group Meeting on the Millennium Development Goals, Indigenous Participation and Good Governance New York, 11-13 January 2006 60/1 2005, *World Summit Outcome*, paragraph 127, p 29).**

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- **Institute a genuine dialogue process with indigenous peoples living in their territory. As Victoria Tauli Corpuz stated: “The assertions of indigenous peoples that their cultures, governance and economic systems, and identities and their rights to be distinct should be respected and considered in nation-building was a clarion call for some governments to take a second look at how they have regarded indigenous peoples found within their national borders”. (In Larger Freedom: The Challenge of Partnerships from Indigenous Peoples’ Perspectives, Presented at the 58th Annual DPI/NGO Conference, United Nations, New York, 7-9 Sept. 2005, p.3)**
 - **Implement promises made at the 2005 World Summit, especially the MDGs of providing food, and start with our indigenous brothers and sisters.**
 - **Support UN efforts to make our indigenous brothers and sisters visible and heard internationally through the Permanent Forum on Indigenous Issues.**