

UNITED NATIONS WORKING GROUP ON INDIGENOUS POPULATIONS
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Agenda Item 6 Standard-Setting on the Rights of Indigenous Peoples

**Statement by Joji Carino,
Tebtebba Foundation and Philippine Indigenous Peoples Links**



Mr. Chairman,

1. The start of the New Millenium has not been auspicious for Indigenous Peoples. Economic, trade and financial globalisation is hastening the incorporation of indigenous peoples into an highly unequal global order, where universal human rights are under threat, and indigenous peoples rights, are not yet fully recognised and upheld by many States. Unequal globalisation is undermining the advances made in Indigenous peoples' rights in international human rights law in the past 20 years, which have been won through Indigenous advocacy in international fora; through the decisions of international human rights bodies; through recognition and codification of Indigenous rights in international instruments presently under consideration by the United Nations and Organization of American States; through incorporation of Indigenous rights into conservation, environmental and development-related instruments and policies; and through incorporation of these rights into domestic law and practice; and through domestic judicial decisions.
2. This evolution of juridical thought and practice on indigenous peoples rights which has attained the status of customary international law, is best captured in the UN Draft Declaration on the Rights of Indigenous Peoples, which recognises the following fundamental rights to indigenous peoples' survival and well-being:
 - a) The right to self-determination;
 - b) The recognition of indigenous peoples as collectivities;
 - c) Inalienable rights to territories, lands and resources;
 - d) Prior consent before development takes place on indigenous lands;
 - e) Control over any development initiatives on indigenous lands;
 - f) Respect for indigenous culture and intellectual property;
 - g) Recognition of indigenous peoples' own institutions.
3. This pioneering work in the human rights arena is not well understood and integrated into other multilateral negotiations on the environment, economics, finance, and trade. In these policy arenas, discussions do not start from a human rights framework and operate with different underlying principles which on the main, fail to recognize the fundamental rights of indigenous peoples. For example, the WSSD Programme of action, continues to have the following sentence as bracketed text:

"Peace, security, stability, [**human rights and cultural diversity**] are essential for achieving sustainable development and ensuring that sustainable development benefits all."

As such, these multilateral negotiations can be potentially dangerous and harmful to indigenous communities, unless oriented progressively to secure rather than weaken indigenous rights and social justice, and ecological renewal.

The huge gap that still exists between the articulation of universal human rights standards and state acceptance and practice defines the space still to be bridged through continuous elaboration of standards on the rights of indigenous peoples, by the appropriate UN bodies such as the UNWGIP, and through effective mobilisation and political advocacy by indigenous organizations.

4. In the past ten years after the Rio Conference and in the preparatory meetings for the World Summit on Sustainable Development (WSSD), indigenous peoples have had a difficult struggle with State governments in the ongoing multilateral environmental negotiations such as the Convention on Biological Diversity, with their intent to
 - a) Limit or take out the term 'self-determination';
 - b) Remove the 's' from peoples to recognise only individuals;
 - c) Restrict recognition to limited aspects of land rights;
 - d) Promote 'consultation' not 'consent' prior to development;
 - e) Promote 'participation' without 'control' in development;
 - f) Allow for the commodification of intellectual property;
 - g) Recognise only those institutions chosen by the state.
5. This is in stark contrast to the openness shown by Governments to the private sector and transnational corporations, which are given every privilege and benefit in exploiting the lands and resources of indigenous peoples, even in the absence of basic regulatory frameworks about their conduct with respect to human rights.
6. In the economic, financial and trade negotiations, under the auspices of the World Trade Organisation, the World Bank, the International Monetary Fund, and more recently the World Intellectual Property Rights Organisation, indigenous peoples have very limited political space to make our voices heard about policies that have enormous impacts on our lives.
7. This is the reason why indigenous peoples organisations have been gravely concerned about the World Bank's ongoing revisions of various "safeguard policies" on indigenous peoples, involuntary resettlement, forestry, and others which fall short of existing and emerging international human rights standards, and fail to safeguard the rights of indigenous peoples in the development process.
8. Mr. Chairman, I would like to recommend to the UNWGIP, to organise a Technical Seminar on the theme of "Globalisation and Indigenous Peoples", and to include in its standard-setting activities over the next years, a consideration of key policy recommendations arising from the environmental, trade and sustainable development arenas, which undermine the rights and fundamental freedoms of indigenous peoples.

Thank you, Mr. Chairman for allowing me to speak.