

Permanent Forum on Indigenous Issues
Second Session, Tuesday, May 20, 2003
Item 4(d) Human Rights
RE: WORLD BANK and HUMAN RIGHTS

Endorsed by Dewan Adata Papua, ARADIKES – Costa Rica; Tetebba Foundation, Indian Law Resource Center, Saami Council, IPACC (Africa), Tamaynut (Morocco), Alianza Mundial de Pueblos Indígenas y tribales de los Bosques Tropicales, the Amazon Alliance, and the Asian Indigenous and Tribal Peoples Network, OGIEK Rural Integral Projects (ORIP) – Kenya, Taungya, National Indigenous Peoples' Coordination Committee - Bangladesh

Presented by: Viktor Kaisiepo, Indigenous Chair of the October 2002 World Bank Round Table

The Permanent Forum

- 1) *recommends* that the World Bank host a legal round table with the assistance and participation of indigenous peoples, the Office of the High Commissioner on Human Rights, and the members of the Permanent Forum, in order to examine the responsibilities and obligations of the Bank with respect to international human rights law; particularly the evolution of human rights standards and jurisprudence with regard to the collective rights of indigenous peoples;
- 2) *recommends* that the World Bank consider the findings and conclusions of this legal round table in its final revision of its Indigenous Peoples Policy;
- 3) *recommends* that the World Bank make public the most recent revision of the Indigenous Peoples Policy at least 90 days prior to submission to the Bank's board of directors and in doing so, provide an explanation to indigenous peoples and the Permanent Forum regarding those changes that have and have not been made to the last version as a result of the suggestions made by indigenous peoples..
- 4) *strongly advises* the World Bank not to forward the revised policy to the board for adoption unless it fully respects the rights of indigenous peoples as affirmed by international law including: the collective rights of indigenous peoples to their lands and territories, the right to be free from involuntary settlement, the right to prior, free, and informed consent; the right to self-identification, and the right to measures to mitigate adverse impacts.
- 5) *recommends* that the World Bank establish, in consultation with indigenous peoples, a permanent mechanism for dialogue with indigenous peoples regarding the implementation of its indigenous peoples policy and the development and implementation of the Bank's project.

Esteemed members of the Permanent Forum, the Secretariat, state members, agency delegates, and indigenous sisters and brothers: together the indigenous nations and organizations throughout the world who have collaborated in this statement come before you today to address our growing concern about the continued failure of the World Bank to fully acknowledge its responsibility to respect and comply with the human rights of indigenous peoples as recognized under international law. Because of this failure, indigenous peoples have continued to be excluded from meaningful participation in the development and implementation of Bank projects, have continued to experience adverse and irreversible impacts from these projects, and have continued to be excluded from receiving the full and culturally appropriate benefits of Bank-sponsored projects undertaken within their lands and territories.

Mr. Chair, indigenous peoples appreciate the Bank's efforts over the past year to speak with indigenous peoples about its process to revise the existing Indigenous Peoples Policy – including the high level round table discussion that took place last October 2002 with Bank staff and indigenous representatives previously selected by indigenous peoples around the world. We encourage the continuation of such dialogues in order to increase indigenous involvement and participation in Bank activities and harmonize the Bank's work with the aspirations and rights of indigenous peoples.

Nevertheless, these exchanges have not resulted in an acknowledgment by the Bank of its responsibilities and obligations under international law. The Bank can no longer invoke the so-called "constraints" of its Articles of Agreement to relieve itself of dealing with political and civil rights of indigenous peoples, because such a position conflicts with the Bank's own practices. Unrestrained by its Articles of Agreement, over the years the Bank has made serious progress in advancing human rights, including, but not limited to, child labor rights and right of women to be free from discrimination. Both these rights are of a political and civil nature and both of these rights lack protections in the domestic laws of some countries despite their clear recognition and protection under international law. Still, the Bank has taken a leading role in ensuring that such rights are fully respected in the development and implementation of its projects. Indigenous peoples' rights should be treated no differently.

Indigenous peoples are troubled by the Bank's failure to respect and protect their most fundamental rights both in its existing projects and its process of revising the Bank's indigenous peoples policy.

Mr. Chair, as I have suggested, this issue of the Bank's compliance with international law has played a key role in the ongoing discussions that surround the Bank's current revision of its existing indigenous peoples policy. This revision process began in 1999, and since its inception, indigenous peoples have expressed concern about the manner in which consultations have been carried out as well as the failure of the revised draft to properly respect and reflect indigenous peoples rights under international law. The revised policy does not currently have the broad support of indigenous peoples due to its failure to sufficiently protect and recognize many key rights, including but not limited to: the collective rights of indigenous peoples to their lands and territories, the right to be free from involuntary settlement, the right to prior, free, and informed consent; the right to self-identification, and the right to measures to mitigate adverse impacts. A policy that does not fully address such issues should not be forwarded to the board for adoption.

During the October 2002 roundtable discussion with the Bank, indigenous peoples' representatives highlighted the insufficiencies of the revised policy, suggested revisions, and encouraged the Bank to examine further the issue of its responsibilities with respect to international law. As a result of that meeting, the Bank committed itself to making the new version available to indigenous peoples prior to submission to the Board and with an explanation of those changes that were made and not made. At this meeting the Bank also expressed its willingness to host a legal roundtable to discuss and explore further the Bank's responsibilities with respect to international law.

With this in mind and for the reasons expressed above, we would request that the Permanent Forum make the following recommendations to ECOSOC in its report:

(see recommendations list at the front of this statement).

These are our recommendations Mr. Chair. We trust that with the support of the Permanent Forum, indigenous peoples, together with Bank staff, can overcome these matters in the near

future and establishes a continuing working relationship that will benefit indigenous peoples as well as all peoples of the world. *