

# OF UN AND INDIGENOUS PEOPLES

**Martin Khor**

Indigenous peoples world-wide celebrated 13 September as the day the United Nations General Assembly adopted a Declaration recognising their rights to land, other resources and the protection of their cultures.

On that day the Assembly passed the United Nations Declaration on the Rights of Indigenous Peoples, after a long and often emotional series of meetings and negotiations lasting almost 25 years.

It was a political victory for the world's 370 million indigenous peoples. 144 countries voted for the Declaration. Only four countries (the United States, Canada, Australia and New Zealand) voted against, while 11 abstained.

The Declaration sets out the individual and collective rights of indigenous peoples, calls for the maintenance and strengthening of their cultural identities, and emphasizes their right to pursue development in keeping with their own needs and aspirations.

It also prohibits discrimination against indigenous peoples and promotes their full and effective participation in all matters that concern them.

The Declaration had been adopted in June 2006 by the Human Rights Council, but a vote at the General Assembly was deferred last year at the request of African countries which wanted to re-examine certain parts. After another year of intense negotiations, and a few changes to the text, an overwhelming majority of countries voted in favour of the Declaration.

"It's a triumph for indigenous peoples around the world," said UN Secretary-General Ban Ki-moon. "This marks a historic moment when member states and indigenous peoples reconciled with their painful histories."

"The importance of this document for indigenous peoples and for the human rights agenda, cannot be underestimated," said General Assembly President Sheikha Haya Rashed Al Khalifa.

She warned that indigenous peoples still faced marginalisation, extreme poverty and other human rights violations. They were often dragged into conflicts and land disputes that threatened their way of life and very survival and suffered from a lack of access to health care and education.

UN High Commissioner for Human Rights Louise Arbour said that the Declaration has been "a long time coming. But the hard work and perseverance of indigenous peoples and their friends and supporters in the international community has finally borne fruit in the most comprehensive statement to date of indigenous peoples' rights."

Leaders of indigenous peoples were joyous. Speaking at the General Assembly after the adoption, Victoria Tauli-Corpuz, Chair of the UN Permanent Forum on Indigenous Issues, said: "This day will forever be etched in our memories as a significant gain in our peoples' long struggle for our rights."

She said the Declaration sets the minimum international standards for the protection and promotion of indigenous peoples' rights. "Therefore, existing and future laws, policies, and programs on indigenous peoples will have to be redesigned and shaped to be consistent with this standard."

She added the challenge had just begun. "We foresee that there will be great difficulties in implementing this Declaration because of lack of political will on the part of the governments, lack of resources and because of the vested interests of the rich and powerful.

“Effective implementation of the Declaration will be the test of commitment of States and the whole international community to protect, respect and fulfill indigenous peoples collective and individual human rights.”

She called on governments, the UN, indigenous peoples and civil society to “rise to the historic task before us and make the UN Declaration a living document.”

The few countries voting against the Declaration said they could not support it because of concerns over provisions on self-determination, land and resources rights and, among others, language giving indigenous peoples a right of veto over national legislation and State management of resources.

Many indigenous leaders were disappointed and unhappy with these countries. Arthur Manuel, a leader of Canada’s indigenous peoples, told IPS news agency: “The entire wealth of the United States, Canada, and other so-called modern states is built on the poverty and human rights violations of their indigenous peoples.” He criticised the four countries for their hypocrisy.

The Declaration affirmed that indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind. It recognised the urgent need to respect and promote the inherent rights of indigenous peoples, especially their rights to their lands, territories and resources, and called for respect for indigenous knowledge, cultures and traditional practices.

Among the key provisions are:

Indigenous peoples have the right of self-determination and the right to autonomy or self-government in matters relating to their internal and local affairs.

States shall provide effective mechanisms to prevent and redress any action which deprives indigenous people of their integrity as distinct peoples, or of their cultural values or ethnic identities; or any action dispossessing them of their lands, territories or resources; or any forced population transfer.

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation.

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights.

Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or used and States shall give legal recognition and protection to these, with due respect to their customs, traditions and land tenure systems.

Indigenous peoples have the right to redress for the lands, territories and resources which they have traditionally owned, occupied or used, and which have been confiscated, taken, occupied, used or damaged without their consent.

Indigenous peoples have the right to maintain, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions and their intellectual property over these and States shall take effective measures to recognise and protect the exercise of these rights.

Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources. States shall consult with the indigenous peoples to obtain their consent prior to the approval of any project affecting their lands or territories and other resources.

States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

Indigenous peoples have the right to have access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other

parties, as well as to effective remedies for all infringements of their individual and collective rights. □□□

*—Third World Network Features*