

Permanent Forum on Indigenous Issues
Eleventh session
New York, 7-18 May 2012

Agenda Item 6: Discussion on the rights of indigenous peoples to food and food sovereignty

Joint Statement of Grand Council of the Crees (Eeyou Istchee), Union of British Columbia Indian Chiefs (UBCIC); Canadian Friends Service Committee (Quakers); Indigenous World Association, Treaty Four First Nations, Nishnawbe Aski Nation, Haudenosaunee of Kanehsatake, First Peoples Human Rights Coalition

There is a critical need to safeguard the land and resource rights of Indigenous peoples globally. Customary rights to lands and resources are affirmed in international human rights law. The absence of such legal recognition and recording of such rights within States has led to dispossession and other human rights violations.

These challenges are being addressed within the Food and Agriculture Organization (FAO). It is therefore highly regrettable that the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* are not a positive contribution. These Guidelines were endorsed on 11 May 2012 by the FAO's Committee on World Food Security (CFS).

In April 2012, a Joint Submission supported by 38 Indigenous and human rights organizations globally was presented to the FAO, outlining concerns with the Voluntary Guidelines. The Secretariat of the CFS did not respond to the diverse concerns raised. It only indicated there had been an open, inclusive and collaborative process and Indigenous peoples "were well represented at all sessions of the Open Ended Working Group".

The Objectives of the Guidelines seek to "improve governance of tenure of land, fisheries and forests" and to do so "for the benefit of all". Yet the Guidelines, as approved, appear to significantly lower international standards and unjustly favour States to the detriment of Indigenous peoples. Major concerns include, *inter alia*:

- **Ignoring** Indigenous peoples' rights to self-determination and subsistence – which rights are particularly relevant to food security and related governance matters
- **Devaluing** the legal status of the *UN Declaration on the Rights of Indigenous Peoples* and undermining Indigenous rights and related State obligations
- **Unjustly altering** the legal concept of "free, prior and informed consent" so as to give "due regard for particular positions and understandings of individual States".
- **Segregating** Indigenous land and resource tenure rights from human rights, contrary to international law

- **Subjugating** Indigenous peoples and rights, in a manner that may increase State domination and control
- **Presuming** that "all" tenure rights will as a rule be limited by the rights of others, as well as "by the measures taken by States necessary for public purposes"
- **Failing** to make the essential link to water and water security, in addressing "food security".

The 2012 Guidelines do not constitute a principled and balanced instrument. They are incompatible with FAO's own progressive policies relating to Indigenous peoples and their human rights.

According to the Guidelines, States are not *required* to do anything to improve land and resource tenure rights relating to Indigenous peoples. Reliance on voluntary measures is so extreme that even existing international and national State obligations are couched in discretionary terms.

Within the FAO and other international organizations, Indigenous peoples have no effective means of safeguarding their human rights and the *UN Declaration on the Rights of Indigenous Peoples*. The extent to which States are prejudicing Indigenous peoples' human rights and disrespecting related State obligations is reaching crisis levels.

In its 2011 report, the Permanent Forum raised discrimination concerns relating to the *Nagoya Protocol* on access and benefit sharing arising from the use of genetic resources. This year, the Forum heard repeated criticisms regarding the unjust and inequitable procedures and positions being taken by States within the World Intellectual Property Organization (WIPO). In regard to world climate change talks under the UN Framework Convention on Climate Change (UNFCCC), condemnations continue concerning, *inter alia*, the marginalized role of Indigenous peoples and the undemocratic nature of existing procedures.

In these and other international forums and processes, Indigenous peoples' human rights and the *UN Declaration* are being increasingly undermined.

We recommend that the Permanent Forum on Indigenous Issues (PFII):

1. *Request* the Food and Agriculture Organization to evaluate the diverse substantive and procedural concerns raised by Indigenous and other organizations, in regard to the 2012 *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*. In view of its principled and independent mandate, the FAO Evaluation Service appears well-suited to carry out this vital responsibility.
2. *Undertake* a comprehensive study on possible compliance mechanisms to address serious violations of the rule of law by States at the international level, in relation to Indigenous peoples' human rights and related interests. Such mechanisms would necessarily examine State violations, in a manner that is fully consistent with the *United Nations Declaration on the Rights of Indigenous Peoples* and other international human rights standards and law.