How the UN Declaration on the Rights of Indigenous Peoples Got Adopted

By Victoria Tauli-Corpuz

When the UN Declaration on the Rights of Indigenous Peoples was adopted on 13 September 2007, indigenous peoples who were present at the General Assembly Hall of the UN were ecstatic and very emotional. There could have been no better time to be at the UN Headquarters in New York than this day. More than two decades of work were put by us on this which makes it almost impossible to believe that we finally got the Declaration. But we did.

With the historic adoption of this Declaration which has been drafted and negotiated between independent experts, States and us, indigenous peoples, we deemed it important to disseminate this immediately. In the Philippines, we tried our best to get the Declaration translated into three major Philippine languages - Filipino, Cebuano and Ilocano - since it will not be appreciated very much by our indigenous sisters and brothers if it is just in English.

This article, on the other hand, will present a historical background of work of indigenous peoples within the UN and an account of how this Declaration finally got adopted before the 61st Session of the UN General Assembly ended.

The beginnings of indigenous peoples engagement with the international community

The first attempt of indigenous peoples to reach out to the international community started as early as 1923 with the attempt of Chief Deskaheh, the speaker of the Council of the Iroquois Confederacy, to get the League of Nations to address the Iroquois’ dispute with Canada. This was followed in 1925 by W.T. Ratana, a Maori leader, who wanted to bring the violations against the Waitangi Treaty by New Zealand. They were not given an audience by the League but the fact that they sought this was already an assertion that indigenous peoples are subjects of international law. With the establishment of the United Nations in 1945 and with human rights being one of the key foundational elements of its Charter, the justification for indigenous peoples’ engagement with the UN was strengthened.

The International Labour Organization was the first multilateral body which managed to adopt a Convention addressing indigenous peoples. This was Convention No. 107 Concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries which was adopted in June 26, 1957. Unfortunately, this took a paternalistic and assimilationist approach. Its solution to the indigenous problematique was to integrate indigenous peoples into the dominant society and within the dominant development model. To rectify this, the ILO, with pressure from indigenous peoples, proceeded to revise this and in 1989 it adopted the ILO Convention 169 Concerning Indigenous and Tribal Peoples in Independent Countries. This has been ratified by 20 countries, most of which are in Latin America with only two in Asia-Pacific.

ILO Convention No. 169 has already been used in several cases or complaints filed by indigenous peoples against their governments before the Inter-American Court of Human Rights, the Human Rights Committee and the Committee on the Elimination of Discrimination. In the Philippines, the campaign to get this ratified by the government continues. Spain and Nepal are the countries which just ratified this in 2007.
The Martinez Cobo Study and the International Conference on Discrimination Against Indigenous Peoples in the Americas

Meanwhile, indigenous peoples started working on the UN to address their issues. In 1971, the UN Economic and Social Council authorized the UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities to undertake a study on the “Problem of Discrimination Against Indigenous Populations.” The Special Rapporteur, Mr. Martinez Cobo, came up with a series of partial reports between 1981-83 and the final paper which contains the Conclusions and Recommendations was released in 1986. This report, popularly known as the Martinez Cobo Study, became the major UN reference document on indigenous peoples.

On 20-23 September 1977, the NGO Subcommittee on Racism, Racial Discrimination, Apartheid, and Decolonization held the “International NGO Conference on Discrimination Against Indigenous Populations in the Americas” at the Palais des Nations in Geneva. Around 400 persons participated of which 100 of these were delegates of 60 indigenous nations and peoples coming from 15 countries in the Americas. Observers from 38 member states of the UN took part, as well as UN agencies like the UNESCO and the ILO. This was the first major event which took place in the UN with a massive participation of indigenous peoples. This conference came up with a Declaration which called on the UN to set up a body which will address the violations of indigenous peoples’ rights. This echoes a recommendation made by the Martinez Cobo study.

The UN Working Group on Indigenous Populations (UNWGIP)

The UN Working Group on Indigenous Populations (UNWGIP) was established in 1982 and held its yearly session until 2006. This is an expert body which consists of five independent experts, none of which are indigenous. Year by year the number of indigenous representatives participating in this body increased and at its peak, the number reached 600. This body was mandated to review developments concerning indigenous peoples and to work towards the development of international standards on indigenous peoples’ rights. Since then, indigenous representatives occupied this space and actively participated in drafting the UN Declaration on the Rights of Indigenous Peoples. The WGIP provided the opportunity for us, indigenous peoples, to come together not just to make statements at the Working Group but to consolidate our own movement at the global level.

From Asia, the first indigenous peoples represented in 1982 were the Igorots of the Cordillera Region in the Philippines and the Jummas of the Chittagong Hill Tracts in Bangladesh. The Igorot who participated in 1982 was Joji Carino. After the Cordillera Peoples’ Alliance was established in 1983, it participated in most of the sessions. Personally, my participation was in different capacities. First as a representative of the Cordillera Women’s Education and Resource Center, then as the Chairperson of the Cordillera Peoples’ Alliance and finally as a representative of Tebtebba.

It was in 1985 when the UNWGIP decided to work on a “Draft Declaration on Indigenous Rights.” In the process of drafting the Declaration, substantial dialogues between us, the
experts and the states took place. This became the global forum where we discussed extensively our worldviews, justified why our rights to our ancestral lands, territories and resources should be respected, that we as distinct peoples have the right of self-determination, and why free, prior and informed consent has to be part of the Declaration, among others.

There were several Chair-Rapporteurs of the WGIP, but the one who stayed on the longest when the draft was being made, was Madame Erica-Irene Daes. The drafting finished in 1993 and was submitted to the UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities. The Draft consisted of 19 preambular paragraphs and 45 operative articles. This body adopted the Draft in 1994 and submitted it to the Commission on Human Rights.

UN Working Group on the Draft Declaration

Since the WGIP is not an intergovernmental body but is just an expert body, the Draft it made has to be negotiated between governments before this can be finalized as a text that is agreed upon by States. Thus, the Commission on Human Rights set up the “Working Group established in accordance with Commission on Human Rights resolution 1995/32 of 3 March 1995” to further elaborate and negotiate the Draft. Since the name of this Working Group was too long, we called it the Working Group on the Draft Declaration (WGDD). This Open-ended Intersessional Working Group had its first session from 20 November to 1 December 1995 and completed its work at its 12th Session in February 3, 2006. The first Chair-Rapporteur was Ambassador Jose Uruttia of the Government of Peru. He only stayed for the 1995 session and Luis Enrique Chavez Basgoitia, also from the Government of Peru, took over.

When this body first met in 1995, it had to work out its procedures. The first issue it discussed was whether indigenous representatives were allowed to have a voice in the meetings. The initial view of the States was “No” because this was now an intergovernmental process. We rejected this view and walked out of the process with the threat not to come back unless they agreed that we have an equal voice as the governments. The Indigenous Caucus made a statement saying that any Declaration on the Rights of Indigenous Peoples which would come out of the UN will only have legitimacy if we, who are the subjects of the rights, were part of the drafting process. The States who were members of the UN Commission on Human Rights met and agreed that they would let us have a voice in the negotiations. So in all the sessions, we were allowed to speak in equal terms as the States.

When the negotiations started, the indigenous caucus position was that we would only push for the original draft as adopted by the Sub-commission. So year in and year out, we went to the meetings and asserted that the original paragraphs should be adopted and we gave the justification why this was so in each article being discussed. In November 1997, two article were provisionally adopted. These were Article 5 (indigenous individual has the right to a nationality) and 43 (all rights and freedoms are equally guaranteed to male and female individuals). As these referred to individual rights, there was no controversy.

The pace was so slow as indigenous representatives kept asserting the “no change” stance, which meant that the WGDD could only adopt the Sub-Commission text. The States,
on the other hand, started raising issues with the original text. For instance, the US refused to accept the term “indigenous peoples” without qualifying this by saying the use of the term “cannot be construed as having any implications as to rights under international law.” This is language from the ILO Convention 169 and also the Durban Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Most of the articles were unacceptable to some States as these referred to collective rights which they thought were against International Human Rights Law which are basically about individual rights. Thus, they questioned whether we had the right to self-determination (Article 3), whether our rights to lands territories and resources were part of our right of self-determination, among others. One of their fears was that with the right of self-determination, indigenous peoples can justify secession which would damage State Sovereignty and Territorial Integrity. We questioned the validity of their positions using existing international human rights law.

Proposals for Changes in the Draft

By 2002, eight years after the WGDD started its work, some friendly governments led by Norway came up with a proposal to include a reference on territorial integrity which comes from the 1970 Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations. This can allay the fears of States. Some governments were comfortable with this proposal while others were not. Indigenous representatives had divided views. Some were of the view that by accepting this, we were already going against the “no change” position of the Caucus.

Others thought that if we would not move to accommodate some changes, the negotiations would come to an end and we would lose our chance of getting a UN Declaration on our rights.

We were also made aware that the Commission on Human Rights could not continue to support a process which does not seem to have prospects of ending with an outcome. In fact, in 2000, the CHR made a decision (2000/19) which set five years as the specific time-frame for a working group to finish its task. The WGDD had been going on for eight years already, so we had to work harder to come up with agreements.

By this time, some of us in the caucus decided that a “no change” position was untenable and so we had to show some flexibility. Since the only position put forward had been a global caucus position, the regions asserted that they would like to also present their own positions. The Arctic and Asia indigenous peoples’ caucuses came out to say they can consider some changes as long as these would not undermine the most fundamental rights such as self-determination and rights to land, territories and resources. With the regions becoming the center of decision-making, the global caucus was not anymore used by some indigenous representatives to impose the “no change” position.

During the 61st Session of the Commission on Human Rights, the International Indian Treaty Council initiated a process to call for a recess of the WGDD. Without consulting the regional caucuses, it sent a letter to the President of the Commission on Human Rights, Ambassador Makarin Wibisono (Indonesia), dated March 15, 2005 asking the Commission to adopt the Sub-Commission Text and if this was not possible, then they would support the
CHR to call for a pause or recess in this process in order to take effective steps that would make the chances of success much greater. This recess will provide the Commission on Human Rights, beginning at this session, with the opportunity to establish, in full consultation with Indigenous Peoples,...

I was present at the Session where the IITC was pushing for this, although they did not inform me of what they were up to. I found it unacceptable that a major step such as this was being taken by a group of indigenous persons without bringing it to the attention of the other regions. If it was presented before the indigenous caucus during the previous WGDD and there was a chance to discuss it, then this would have been a different story. I thought this was political suicide for indigenous peoples as many governments who were against the Declaration would jump on this and support it. So I sent out an alert to other indigenous colleague and, together with the Saami Council led by Mattias Ahren, mobilized to get other views from indigenous peoples in other parts of the world. The result of this was a joint letter addressed to the President of the CHR stating that what was sent by the IITC was just one view. Many other indigenous peoples’ organizations from other parts of the world do not agree that a recess should be called because this would bring a lot of uncertainty on the future of the Declaration. This was distributed widely to all the governments. The IITC tried to get a State to sponsor a resolution on this but they did not succeed. Several organizations, like the Grand Council of the Crees and the Inuit Circumpolar Conference, sent their joint letter to the President of the CHR protesting against this proposal. In the end, the proposal was killed.

Human Rights Council Adopts the Declaration

Between 2003 to 2005, there were already movements towards revisions in some articles. In 2006, the Commission on Human Rights ended its existence and was replaced by the Human Rights Council. The WGDD held its 11th and last session in December 2005 and it requested for an extension in 2006 so it could complete its work. The Chairman came up with a draft which we would be working on when we come back the next year. The last day of the WGDD-extended 11th session was February 3, 2006. There was still no complete agreement on the full text but most of the articles were more or less acceptable to most States and indigenous representatives. The Chairman was then asked to complete the text and have this circulated before it was brought before the First Session of the Human Rights Council.

To prepare the ground for a favorable vote at the Human Rights Council, indigenous representatives started lobbying states during the 2006 session of the UN Permanent Forum on Indigenous Issues (UNPFII) which was held the last two weeks of May. I was already the Chair of the Forum by that time and we came up with a strong recommendation that the Human Rights Council and the UN General Assembly, during its 61st session, adopt the Declaration. The Human Rights Council had 47 member states so we had to lobby each and everyone of these states.

During the Human Rights Council, we were very apprehensive on which way the votes
would go. The States in which we had confidence that will deliver the yes votes were those from Latin America and the European Union. We were not sure about Asia and Africa. The burden of lobbying States from the regions rested with the regional caucuses. So in Asia, we tried our best to talk with the governments. The Philippines, whom I was expecting to vote “yes” abstained in spite of our efforts to convince them.

On 29 June 2006, the Declaration, through Human Rights Council Resolution 2006/2, was adopted through a vote: 30 voted yes, 2 voted against (Canada and Russia) and 12 abstained. This was the first major victory for us.

For this we expressed our thanks first to indigenous peoples, of course, because we did not lose hope that this would happen one day. We also thanked the governments who voted “yes” and those who played key roles in convincing other governments to vote “yes.” Among these were Peru, Mexico, Guatemala, Norway and Denmark. The Chair of the 1st Session of the Human Rights Council was Ambassador Luis de Alba of the Government of Mexico. His government sponsored a meeting in Patzcuaro, Michoacan, Mexico in September 2005 which brought governments and indigenous peoples together to bridge their differences. This was through the work of Xothchil Galvez, the head of the National Commission on Indigenous Peoples’ Development of Mexico. She is an indigenous person. Through the whole HRC session, she was also there lobbying other governments to vote “yes.” We also thanked Luis Enrique Chavez, the Chairman-Rapporteur, who was able to bring the WGDD to a successful conclusion with a text on the Declaration. Finally, we thanked the support NGOs like the International Work Group for Indigenous Affairs (IWGIA) which accompanied us in this whole journey.

**Back to the Philippines**

When I came back from the HRC session, Tebtebba together with other organizations of indigenous peoples, held an activity to celebrate the International Day of the World’s Indigenous Peoples. This was held from 7-9 August 2006 at the SEAMEO-INNOTECH in Diliman, Quezon City, Philippines. We invited representative of indigenous peoples’ organizations from all over the country, representatives of government agencies, NGOs, the UN and other multilateral bodies such as the European Union and the Asian Development Bank and members of Congress. I told the story on how the Declaration was adopted by the HRC and discussed the contents of the Declaration. We also shared the Second Decade of the World’s Indigenous Peoples Programme of Action. The abstention of the Philippine government was decried by the indigenous participants. A strong request was put before the government agencies and the members of Congress to push the government to vote “yes” when the Declaration is put for adoption by the General Assembly.

On August 9, the Chair of the Philippine Commission on Human Rights (CHR), Honorable Purificacion Quisumbing invited me to meet with government agencies whom she invited. She was present at the HRC shortly before the Declaration was adopted and promised me that when we were back home, she would organize a meeting with the various government agencies to discuss the Declaration. This meeting was attended by the members of the Commission on Human Rights, representatives of the Department of Foreign Affairs (Section on the UN and Other International Organizations), Office of the Solicitor General
(OSG), National Commission on Indigenous Peoples (NCIP), among others. The OSG, which penned the legal opinion on why the Philippines should abstain, explained their position. The Department of Foreign Affairs also spoke up. Chair Quisumbing demolished the arguments made by the OSG and all the Commissioners spoke up to say that the Philippine Government should vote for its adoption at the General Assembly.

In the meantime, the National Commission on Indigenous Peoples prepared an *en banc* resolution asking the Philippine Government to adopt the Declaration. This was presented to me as the Chair of the Permanent Forum at the gathering we organized. According to the then Chair of the NCIP, Janette Cansing Serrano, they were going to work on this. A few months later, there was a budget hearing in Congress for the NCIP. Just before their turn came, the Department of Foreign Affairs budget was being heard. She invited several Party-List representatives, Rafael Mariano and Riza Hontiveros, to question the DFA on why they abstained during the adoption of the Declaration in Geneva. They asked them to explain why their budget should be approved when they were going against a Declaration which was consistent with the Indigenous Peoples’ Rights Act (IPRA), a legislation passed by the Philippine Congress. A short recess was called and the DFA had a caucus among themselves. They came back and committed that they would vote “yes” when the Declaration would come up for adoption at the General Assembly. Serrano reported this to me so I got assured that there would be no problems during the GA, as far as the Philippines was concerned.

**61st Session of the General Assembly: September – December 2006 session**

The HRC-adopted Declaration was brought before the 61st Session of the General Assembly, in particular, in its September to December 2006 session. The Global Indigenous Caucus held strategy meetings to discuss the lobbying activities. There were apprehensions about the fact that this would be brought before the Third Committee (Social, Humanitarian and Cultural Committee) of the General Assembly. This was the Committee which could reopen the Declaration and amend it. The Human Rights Council wanted the resolution on the adoption of the Declaration to immediately go to the Plenary without passing through the Third Committee. In the end, this was still brought to the Committee.

The date for the discussion of the Declaration was set for November 28, 2006. There was news that the Africans were not happy with the Declaration and that they might table an amendment to the resolution of Peru and other co-sponsors calling for the adoption of the Declaration. They claimed that it was the first time for most of them to see the Declaration so they needed time to discuss this among themselves and also in the capitals. This made the co-sponsoring governments and the indigenous caucus worried. Indigenous representatives tried to get to the African governments to talk with them but they were not interested. They had the view that this was a negotiation between member-states of the UN and not between them and non-state actors.

Before November came, some of us paid visits to the Permanent Missions of Asian governments like that of China, the Philippines and Indonesia to ask how they would respond to the African position. It was obvious to us that if Africa will, indeed, table a resolution it would be difficult for Asian countries to oppose them. We were advised that we should work hard to clarify with the Africans their doubts and encourage them to support the
In a document dated October 31, 2006, the government of Peru and a number of co-sponsors tabled a draft resolution A/C.3/61/L.18. This resolution called on the General Assembly to adopt the UN Declaration on the Rights of Indigenous Peoples, as adopted by the Human Rights Council on June 29, 2006. This was formally introduced at the 37th meeting of the Third Committee on November 2.

Then on November 28 at the 53rd meeting of the Third Committee, Peru - again with the same co-sponsors but with Albania, Andorra and Malta joining - introduced an amended version of the earlier draft resolution (A/C.3/61/L.18/Rev.1). This contained some changes to accommodate some of the concerns of the African Group of States.

Deferral of the Adoption of the Declaration

In spite of this, though, Namibia, on behalf of the Group of African States still presented an amendment to the amendment (resolution A/C.3/61/L.57 - Peru’s resolution.). This was to “defer consideration and action on the United Nations Declaration on the Rights of Indigenous Peoples to allow time for further consultations.” Peru then withdrew its resolution. Then at the 57th Meeting on December 3, the Chairman of the Committee presented the Draft Resolution to be presented to the General Assembly which reads;

Draft resolution II

Working group of the Commission on Human Rights to elaborate a draft declaration in accordance with paragraph 5 of General Assembly resolution 49/214 of 23 December 1994

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, in particular the principles of self-determination of peoples, respect for the territorial integrity of States and good faith regarding the fulfillment of the obligations assumed by States in accordance with the Charter, Taking note of the recommendation of the Human Rights Council contained in its resolution 1/2 of 29 June 2006,1 by which the Council adopted the text of the United Nations Declaration on the Rights of Indigenous Peoples, Recognizing that the situation of indigenous peoples varies from country to country and from region to region,

1. Expresses its appreciation to the Working Group of the Commission on Human Rights for the work done in the elaboration of a draft declaration on the rights of indigenous peoples,
2. Decides to defer consideration and action on the United Nations Declaration on the Rights of Indigenous Peoples to allow time for further consultations thereon;
3. Also decides to conclude its consideration of the Declaration, as contained in the
annex to the present resolution, before the end of its sixty-first session.

The Africa group also released a Draft *Aide-Memoire* in November 9 which contained their concerns with the Declaration and this included, among others, definitions of indigenous peoples; self-determination; rights to lands, territories and resources; establishment of distinct political and economic institutions; and national unity and territorial integrity. On the basis of these concerns, they proposed that a deferment on action on the Declaration for one year be taken to allow time for these to be addressed.

On November 28, 2006, the draft Namibia Resolution to defer the adoption was passed through a vote at the Third Committee. Eightytwo (82) voted “yes,” 67 voted “no” and 25 abstained.

This was a terrible day for indigenous peoples. This was not what we expected at all. We thought that because this was one of the two standard-setting instruments adopted by the Human Rights Council in its First Session, the General Assembly would adopt it without much fanfare. We could not imagine that the General Assembly would behave this way.

Obviously, we were wrong with our projection. The various regions came up with statements condemning the Africa States for their action. As Chair of the Permanent Forum, I also came up with a statement during the International Human Rights Day, December 10, stating that there was nothing to be celebrated because the General Assembly failed in its responsibility to recognize indigenous peoples’ rights when it deferred the adoption of the Declaration.

Those who voted with the Africans from Southeast Asia were Brunei, Indonesia, Myanmar, Singapore and Thailand. Indonesia behaved strangely because it voted “yes” at the HRC but voted with the Africans for the deferral. This time, the Philippines abstained.

**Role of the African Commission on Human and Peoples’ Rights**

The co-sponsoring governments for the adoption and the indigenous peoples had to recover from this defeat and start picking up the pieces again. As the resolution of Namibia still says that the Declaration should still be adopted before the end of the 61st Session of the GA which was on September 17, 2007, there was still time to repair this damage and still attain the objective of getting the Declaration adopted. One of the things which should be done was to change the position of the African Group of States. While there might be a possibility to win the votes if we worked hard on those who abstained on the Namibian Amendment, this was going to be a high risk proposition.

The Africans were able to get the Assembly of Heads of State and Government of the African Union to concur with the resolution passed at the GA. Because of this, the African Commission on Human and Peoples’ Rights (ACHPR) prepared an Advisory Opinion which responded to the concerns raised in the Aide-Memoire of 9 November 2006. This was given to the governments with the hope that this would allay some of the concerns raised and will help lead towards the adoption of the Declaration. This was the result of the work of the African Commission Working Group of Experts on Indigenous Populations/Communities. This Working Group had done a study on the concept of indigenous populations in the
African Continent and the report on this was adopted by the ACHPR in its 34th Ordinary Session in November 2003.

The ACHPR advisory opinion tackled the concerns one by one. I will not go into all of these but just to give an example, this is what it said on the concern on the lack of definition of indigenous populations:

*From the studies carried out on this issue and the decisions it has made on this matter, the ACHPR is of the view that a definition is not necessary or useful as there is no universally agreed definition of the term and no single definition can capture the characteristics of indigenous populations. Rather, it is much more relevant and constructive to try to bring out the main characteristics allowing the identification of the indigenous populations and communities in Africa.*

Inspite of this, the Africa Group prepared their amendments which they released in May 2007. There were around 36 changes which would effectively mangle the whole Declaration. Indigenous peoples condemned these as discriminatory. There was not much movement between January to May except for this.

The African Indigenous Peoples’ Caucus decided that the Experts of the African Commission Working Group on Indigenous Populations, together with a few indigenous representatives should go to New York to lobby the African delegations based there. With the support of IWGIA, this trip materialized on April 28 – May 4, 2007. They were able to visit many Permanent Missions of the African countries and a roundtable was also held where they had a discussion with African and other governments.

**6th Session of the Permanent Forum on Indigenous Issues**

Before the 6th Session of the Permanent Forum in May 2007, there were some regions which held their preparatory meetings for the session. Asia was one of these which held their meeting in Cambodia in April 2007. In this meeting, we discussed the situation regarding the Declaration and tasked each of the representatives from all the countries who attended to do their share of the work in terms of lobbying their governments. We specifically made a resolution addressing the President of Indonesia as AMAN, the National Federation of Indigenous Peoples’ Organizations in that country, would hold their General Assembly. They would like to present their own resolution and the regional resolution to the President. Among the countries singled out for special attention were Indonesia and Thailand because they voted “yes” to the Namibia Amendment. Laos, Cambodia and Vietnam were also included as they were absent during the HRC adoption in Geneva.

Indigenous peoples renewed their lobbying efforts and during the 6th Session of the UN Permanent Forum on Indigenous Issues in the last two weeks of May, strategy meetings were held. The African indigenous representatives were urged to do more work with their governments so that in the next round they would vote for the Declaration. The aim was still to get the GA to adopt the UN Human Rights Council Text.
The Permanent Forum invited the President of the 61st Session of the General Assembly, Ambassador Sheikha Haya Rashed Al Khalifa (Bahrain), the President of ECOSOC, and the President of the Human Rights Council, H.E. Ambassador Luis de Alba (Mexico), to speak at the opening plenary session. This was an opportunity to get their commitments for the adoption of the Declaration before the indigenous representatives who were in the session. In my opening statement as the elected Chair for the 6th Session of the Forum, I appealed to the member states of the ECOSOC, especially to the African Group of States, to support the adoption.

Many of the indigenous representatives who intervened also said the same. Some of the States who co-sponsored the resolution for adoption at the Third Committee spoke up to say that they would do all they can to make sure that this happens. The Forum reiterated its 2006 recommendation that the Declaration be adopted before the 61st Session ends as this will be an important framework for the work of the Forum. While the Forum was meeting, the indigenous peoples continued lobbying with the governments. The Arctic representatives, for instance, met with the European Union and the Pacific caucus met with the Pacific States. There were dinners organized by the Quakers of Canada which brought the indigenous representatives and the African Group of States and the Asian States together.

Some of the regional coordinators of the Caucus met with the President of the General Assembly to express our concern about the fate of the Declaration and to impress on her that she should do all she can to ensure that this be adopted during her Presidency. If this happens, the indigenous peoples will forever remember her. She told us that since nothing has moved in relation to the informal consultations held so far, she was going to appoint a facilitator to try once more to bring together governments, informally, to agree on the changes. The Secretariat of the Forum helped set up the meeting with the President and also the press conferences where we did not only talk about the Forum issues, but also to appeal to governments to support the adoption.

**Appointment of Ambassador Davide as the Facilitator**

There were a lot of speculations on who would be appointed as the facilitator. Guatemala told us that President was considering Bahamas or Singapore. This did not look good as these countries were not interested at all in the Declaration. But it seemed nobody really liked to be in this position. By June 6, the President came out with a letter appointing Ambassador Hilario Davide of the Philippines to be the facilitator. He was instructed to conduct informal consultations and then to come back with a report on July 15.

In the meantime, the Steering Committee of the Indigenous Peoples’ Caucus requested Les Malezer, who was chairing the Global Caucus, to make provisions to stay in New York from June until the Declaration is adopted. We needed a person who can be an anchor in New York to monitor developments and to constantly speak with the States. He agreed to do this and so he based himself there by mid-June 2007. We agreed that some of us would try to be in New York for some days or weeks to be with him and to help him.

Since the facilitator was the Philippine Ambassador, as a member of the Steering Committee from Asia and from the Philippines, I scheduled some meetings with him and his
technical expert, Ivy Banzon, from the Philippine Permanent Mission. I flew to New York at the end of June to help Les Malezer. There was an information that some of the co-sponsors were asking what my position as the Chair of the Permanent Forum was and some members of the Steering Committee felt that I had to go to New York to meet with some of them. So instead of going to Salekhard, Russia where the Permanent Forum was having a meeting, I had to make a decision to reroute and fly to New York instead. Les Malezer and I met with several delegations on a one-on-one basis. We met with Mexico, Guatemala and Libya. I met with Ivy Banzon who briefed me about the results of the consultations Ambassador Davide held with various groups.

Amb. Davide met with the African group of States, then combined them with the co-sponsors and they also held meetings with Canada, Australia and New Zealand. The indigenous peoples asked that he also hold a meeting with them. Davide invited the indigenous caucus to a meeting he was holding with governments. When they were all in the room, the Russian Federation complained that non-state actors were in the room. So, as per General Assembly ruling that if a member state complains, then a decision has to be made to let these non-state actors leave. After this government meeting, Davide still met with the indigenous caucus to brief them on the situation.

I had to go to Geneva to attend the ECOSOC Functional Commissions Meeting which was scheduled July 10. The Permanent Forum on Indigenous Issues is a subsidiary body of the ECOSOC so it takes part in the meetings of the Functional Commissions. The Chair of this meeting was Ambassador Davide as he was one of the Vice-Presidents of the ECOSOC. After the ECOSOC session, I scheduled to meet with him. I and Mattias Ahren, a Saami from Sweden who is the co-coordinator for the Arctic Indigenous Peoples’ Caucus, went to meet him. He told us about his own assessment of the situation and he said that he was finishing his report to the President of the General Assembly. His conclusion was that there was no consensus that can be reached. However, he said that States cannot complain anymore that they were not heard as he spent time hearing their concerns and discussing these with them.

The situation so far was that the position of the co-sponsors was still to stick with the Human Rights Council text, that the Africans were still pushing their 36 amendments and that Canada, Australia, New Zealand, Russia, Colombia, Guyana and Surinam (we call them the Group of 7) would present their own proposal which was to reopen the discussion around several themes. So he would say in his report that this was the situation and that he would propose a way forward which was to agree on a few amendments. He posed questions which should be asked to judge whether the amendments were acceptable.

- Does it represent a genuine effort to address the various concerns?
- Does it build on, and not undermine, the efforts and achievements of the process at the Commission on Human Rights and Human Rights Council?
- Does it preserve the purpose for the Declaration for indigenous peoples?
- Will it ensure that the Declaration does not fall below existing human rights standards?

In July 16, he submitted his report to the President of the General Assembly, thus ending his role as a facilitator. The Group of 7 met with him after the submission to present their
amendments, requesting that these be included in his report. He said that his report was already submitted so he would just send these as an annex. By this time, we got the impression that the Africans no longer wanted to be seen as the bad guys so they were reaching out to the co-sponsors to see what they can work on. This was a major development in the process.

The Strategy of the Global Indigenous Caucus Steering Committee

The Global Indigenous Caucus Steering Committee continued to hold electronic discussions on what the next steps should be. We already received word that there were ongoing informal negotiations between the co-sponsors (led by Mexico, Peru and Guatemala) and the leaders of the African Group of States (Namibia and Botswana). So the developments around this was what we were closely monitoring. While the official position of the Caucus was still to push for the adoption of the Human Rights Council text, there were several of us who were open to see the amendments and to judge whether these were acceptable or not. We felt that the best chance that we would get the Declaration was to bring the Africans on board. It would be very difficult to bring the Middle East countries and the other Asian countries to support the adoption if the Africans would vote against it. To do this, we had to show good faith that we were willing to accommodate some of their amendments. But we still kept counting the possible votes we would get in case we insisted that the Human Rights Council text be adopted.

There were a few voices within the Caucus suggesting that maybe we should drop the plan to get this Declaration adopted by the General Assembly. We can just settle with the Human Rights Council version and implement it together with the 30 States who voted for it. The General Assembly can just note the existence of this Declaration and then it was up to indigenous peoples to use it as they wish. Mattias Ahren of the Saami Council wrote a long email stating his vehement disagreement with this option because there are 192 member-states of the General Assembly and only 30 voted for this in the HRC. Its legitimacy as an international instrument will be very compromised if this was the route we would take.

We were also monitoring the moves of Canada, Australia, New Zealand and Russia as they were doing their own moves to undermine the process and the Declaration. They submitted their amendments dated August 13, 2007 which were on 13 articles. Like the amendments of the African Group of States, these were totally unacceptable to the indigenous peoples caucus. One example of this was their proposal to change Article 26 (right to lands, territories and resources) to say that indigenous peoples “... may have rights to the lands, territories and resources which they have traditionally owned, occupied or used.”

The Group of 7 were not being consulted anymore by the co-sponsors as their concentration was with the Africans. We also agreed with this move as we did not see any possibility of these countries changing their position to vote against the Declaration. We still might get Guyana and Surinam as the Latin American indigenous peoples were lobbying them. The indigenous peoples from Canada went all out to condemn their government who still took the hardline position inspite of the fact that it was a minority government and the opposition in the Parliament made a stand to support the Declaration. We were not clear on what the US was doing but what we heard was that it was not actively lobbying. We
surmised that Canada was already doing the work, so why should the US bother?

We decided that most of us should be in New York by the last week of August to monitor the developments and to make recommendations to the regional caucuses based on the possible amendments which will be agreed upon by the co-sponsors and African states.

To get the involvement of NGOs based in the United States, I worked closely with the International Forum on Globalization of which I am the co-President, to work on this. The IFG organized a meeting in Washington in August where Les Malezer and I met with almost 20 representatives of international NGOs based in Washington. It was in this meeting where we planned that we would hold a rally on August 30 before the Permanent Missions of Canada, Australia and New Zealand. This was to shame them publicly for their opposition to the Declaration.

This mass demonstration, which was organized by the International Forum on Globalization, took place in August 30 and we managed to get a group of around 50 persons who went to the Canadian Permanent Mission, the New Zealand Mission - which was just in front of the UN Building - and the Australian Mission on 42nd Street. The indigenous persons and NGO representatives from these countries spoke in these rallies. A joint letter from the 13 NGOs were brought to the missions and at the Australian Mission, the Deputy Permanent Representative came down to receive the statement. Rainy Bluecloud, a young Mohawk activist who was hired by IFG, anchored this activity. Most of the indigenous representatives present in New York took part in this historic demonstration.

On 27 August 2007, the Steering Committee met for updates and to plan out what we would do while we were in New York. During this period, continuous negotiations were already taking place between Mexico, Guatemala and Peru on one hand, and the African Group of States represented by Namibia and Botswana on the other. We were being updated by Mexico, Guatemala and Peru on the developments and we set a meeting with them on August 29 to get the latest situation.

On August 30, just before the rally took place, I met Enrique Javier Ochoa Martinez, the lead Mexican negotiator, on the way to the UN. I asked him what the situation was and he said they stayed up late the night before because they could not yet come to an agreement on the Preambular Paragraph which says “Recognizing that indigenous peoples have the right on an equal basis with others freely to determine their relationships with States in a spirit of coexistence, mutual benefit and full respect.” The UK was not happy with this as they see it as recognizing that others also have collective rights. So I suggested that they strike this out as the essence of this has been said in other parts of the Declaration. He said that he would suggest this and he would inform us if they already have agreed. I assured him that the caucus would not mind this. By 2:00pm, while we were in the rally, he called up and said that they finally agreed and there was now a text which they can present to us the next day.

The Global Indigenous Peoples Steering Committee prepared a very comprehensive account of what happened in the meeting with the co-sponsor group on the 29th of August and on the 31st. This report was sent to all the regional caucuses. Instead of recounting what happened, I will quote most parts of this report as this was a report of the body I was part of.

Developments this week

“On Tuesday, August 29, the co-sponsors met with the Steering Committee to report on their negotiations with the African Group. They reported that this has been a very difficult process, but that they were now very close to an agreement, however, a few details still need to be resolved. They did not provide the Steering Committee with any of the language being discussed, and did not go into any details as to what the emerging agreement looked like. They assured us that the provisions on land, territories and resources, self-determination, free prior and informed consent and treaties remained intact but they have to agree to the insertion of a reference to state territorial integrity in the Declaration text. The co-sponsors thanked the indigenous peoples for putting a lot of pressure on the African States as this has definitely helped in bringing them to negotiate with them.

They further explained that they had no option but to enter into negotiations on the actual Declaration text as it is evident that it would be impossible to reach an agreement with the African Group if they did not consider some amendments to the Declaration text. Further, the co-sponsor group deemed it too risky to try to push the Declaration as adopted by the Human Rights Council through the General Assembly against the opposition of the African Group. To do so would seriously jeopardize the adoption of the Declaration and would ensure that very unfavorable amendments would be presented on the floor during the debate at the General Assembly. Hence, in the co-sponsor group’s assessment it was necessary to enter into text negotiations with the African Group.

The Steering Committee responded by expressing its gratitude for the co-sponsors’ efforts to reach an agreement on the Declaration. The Steering Committee further stated that it would not be in a position to comment on any agreement until they had been provided with the actual agreed text. The states responded that they would provide the Steering Committee with the agreed text as soon as a formal agreement with the African Group had been reached.

The co-sponsors further said that the momentum to have a Declaration adopted is strong at this time. An agreement between the co-sponsors and the Africa Group has to be reached in the next few days as the opposing states – predominantly Canada and New Zealand – are trying very hard to stop the coming into being of such an agreement. Pressure from the opposing states is reaching the heads of states of some of the co-sponsors. The forthcoming Asia-Pacific Economic Cooperation (APEC) meeting on 4-7 September 2007, which will be held in Australia and attended by heads of states from the CANZUS (Canada, Australia, New Zealand and the US) group will be a fertile ground for such lobbying thus, the urgency of finalizing the agreement. The opposing states demanded to be included in the negotiations and that their proposed language (see attachment) also be considered. The co-sponsors expressed the opinion that if the deliberations on the Declaration are extended beyond the General Assembly’s 61st session, it would no longer be possible to keep Canada, New Zealand et. al. – nor their proposed amendments - out of the negotiations. The outcome of such a process could only, in the co-sponsors’ opinion, be a seriously diluted Declaration.

The co-sponsor group also informed the Steering Committee that an agreement with the African Group would include a pact to jointly vote down any amendments on the floor of the General Assembly, coming from Canada, or other opposing nations.
The Chair of the Steering Committee distributed a document containing the amendments to the Declaration that he foresaw might be included in a negotiated agreement between the co-sponsor group and the African Group. Since these amendments were not confirmed, the Steering Committee decided not to distribute the document. It was considered better to wait for an official text before circulating the agreement in the regions.

Nevertheless, the Steering Committee discussed and analyzed the amendments, as foreseen and presented by the committee Chair. The Steering Committee quickly concluded that of the envisioned amendments, the one that caused the most concern was the inclusion of a reference to territorial integrity in Article 46. The committee understood that it would be nearly impossible to avoid a reference to territorial integrity in the Declaration. It is evidently too important to many African (and also Asian) states. Some committee members, however, thought that the proposal was discriminatory, and potentially could be harmful to indigenous peoples and the rights in the Declaration. Other committee members did not see any problem with the proposed language as this is standard language in most international instruments and this is balanced and safeguarded with several clauses in the various parts of the Declaration.

Given that an agreement between the co-sponsor group and the African Group was imminent, the Steering Committee recognized that it would be very difficult, probably impossible, to influence the text amendments at this stage. Some committee members thought that the language on territorial integrity, if it had to be included, should be stated in a way that was more consistent with texts that already exist in international law. The committee decided to make an attempt to craft language on territorial integrity to be handed over to Mexico for use in the final negotiations with the African Group. Two paragraphs with suggested wording along those lines were drafted to present to the co-sponsors without delay.

On the evening of August 29, the Chair of the Steering Committee together with the Chair of the Permanent Forum, and also regional member of the Steering Committee, Victoria Tauli-Corpuz met with the co-sponsors and presented the committee’s suggested wording for improvements on the language on territorial integrity.

*The Co-sponsor/Africa Agreement*

On the afternoon of August 30, the government of Mexico informed the Steering Committee that the co-sponsor group and the African Group had reached an agreement on the Declaration. On August 31 the co-sponsors met with the Steering Committee and presented the text of the negotiated agreement, which contained nine changes to the Declaration as passed by the Human Rights Council.

Committee members first expressed gratitude to the co-sponsors for all their efforts and for being able to successfully reach an agreement with the African Group. The Steering Committee stated that indigenous peoples in the seven regions would now study the agreement, and come back to the co-sponsors with their position. Since time is short, it was decided that the committee would meet with the co-sponsors after the regional consultations and report back indigenous people’s positions on the Declaration with the negotiated changes.

Responding to questions and concerns from members of the Steering Committee, the co-sponsors offered the following information about the agreement:
• In their view this is the final document. The African Group has committed to not come forward with any further request for additional amendments to the Declaration and has agreed to vote against any amendments made on the floor.

• The co-sponsors were satisfied that they had managed to reach an agreement with the African Group that includes amendments to very few of the provisions in the Declaration, in particular compared to the long list of amendments that the African Group initially wanted to see included in the Declaration. The co-sponsors further stated that they were very pleased to present an agreed Declaration that leaves all – in their opinion – the most central articles in the Human Rights Council Declaration intact. These include the articles on self-determination; lands, territories and natural resources; free, prior and informed consent; treaties; and preambular paragraphs recognizing inherent and equal rights of Indigenous peoples.

• The co-sponsors stated that even though technically speaking it is not a closed document, that in their view it would not be possible to open up the negotiated text for any further amendments without other interested parties – such as opposing states like Canada, New Zealand and the Russian Federation – also being invited to the negotiating table.

• They further stated that the agreement must be seen as an integrated whole or “package.” This means that if the co-sponsor group would go back to the African Group and attempt to re-negotiate the language on territorial integrity, the African Group would instantly respond by wanting to open up the articles on lands and natural resources for negotiation, which are unchanged from the Human Rights Council text. Hence, in the co-sponsor group’s opinion, it is not a viable option for indigenous peoples to try to further amend the agreed changes as presently drafted. Their interest now is to know whether indigenous peoples can accept the Declaration or not with the newly negotiated changes.

• They repeated what has always been the case: that the co-sponsors will not go ahead and push for adoption of a Declaration that indigenous peoples do not want. They said that this amended text should be analyzed from a political lens than from a legalistic lens.

• If a Declaration that enjoys the support of the African Group is presented to the UN General Assembly, the co-sponsor group is certain that the vast majority of Asian, Eastern European and Caribbean states will also support the Declaration. Western Europe and Latin America’s votes have already been secured. If the indigenous peoples of the world support the adoption of the Declaration as agreed to by the co-sponsors and the African Group, the co-sponsors believe it will be adopted by the UN General Assembly with overwhelming majority. (Currently there are 67 co-sponsors plus the 53 countries of the African Group which adds up to 120 votes. This is a clear majority as there are a total of 192 members of the General Assembly).

Discussions regarding changes to Article 46 and “territorial integrity”

The co-sponsors were well aware that many indigenous peoples have argued for many years against the inclusion of a provision upholding state territorial integrity in the Declaration. They explained that they understood that this might be the most difficult provision for indigenous peoples to accept in the newly negotiated text. They also once again expressed that an agreement with the African Group would not be possible without this
Members of the Steering Committee again asked the co-sponsors why their suggested wording on territorial integrity had not been included in the final agreed changes. The co-sponsor group responded that it was not possible to include the language on territorial integrity submitted by the Steering Committee, because it would have led to the African Group insisting on opening up the land and resource articles for changes. They were also asked if the opening phrase of Article 46 which says “Nothing in this Declaration may be interpreted as implying...” would affect all the rights in Declaration. The co-sponsors said that in existing international law, territorial integrity is clearly tied to the exercise of the right to self-determination and therefore would not be construed as affecting other rights. They further added that the reference to the Vienna Declaration and Programme of Action in the preamble would reaffirm this.

In further discussions, members of the Steering Committee responded to concerns expressed for indigenous peoples’ territorial integrity by affirming that in their view Article 26 left intact in fact recognizes indigenous peoples’ territorial integrity over lands they have traditionally owned and occupied. Article 37 on treaties further affirms these rights. They also agreed that the reference to the Vienna Declaration and Program of Action will be an additional safeguard clause.”

Feedback from Indigenous Peoples’ Organizations from the Regions

This letter quoted above was sent to all the members of the various regional caucuses which came with the Amended Text of the Declaration (9 changes) which highlighted the changes from the HRC Text; the Canada/New Zealand/Russia/Colombia Proposals (20 changes, Aug. 13, 2007); and the original Africa Proposed Amendments (36 changes, May 2007). These additional attachments were sent for them to compare what was finally agreed upon with the earlier proposals. The instruction was that they should send back their position not later than September 4, at 12 noon, New York time. The regional coordinators were in charge of sending out the information and receiving the responses from their regions. Then the Steering Committee would meet on Sept. 5 to consolidate the results. I prepared one for Asia, as I was the only one left again in New York after Joan Carling of the Cordillera Peoples Alliance, who stayed for the first week, had to leave. Different modes were adopted. I mainly sent this through email and asked my office in the Philippines to call those who were not responding. The North American caucus and Latin America did conference calls in addition to the emails.

The time given was short because we already knew that the Declaration would be presented before the General Assembly on 13 September 2007. By September 5, we would have to inform the co-sponsors if the indigenous caucuses agreed with the changes. Then this had to be translated into the six UN languages. All the caucuses, except the North American caucus (mainly the US groups), had a consensus that they accepted the amendments. The few indigenous organizations in the US who did not accept the changes said they would not block the consensus. All the Asia indigenous peoples’ organizations from 11 countries which I emailed replied positively that they would accept the amendments. The Steering Committee met in September 5 to get the regional reports.
The next day, 6 September, we held a press conference at the UN Press room. Those who spoke were Les Malezer, the Chair of the Global Caucus and the Co-coordinator for the Pacific, Joseph Ole Simmel the Co-coordinator for Africa and I, as the Chair of the Permanent Forum and the Co-coordinator for Asia. Before the press conference, I also consulted with my colleagues in the Permanent Forum whether they agreed with the changes in the text. Most of them emailed back saying they did; and so I stated in the press conference that it was not just the Asia Indigenous Peoples’ Organizations who supported the amended text but also most of the members of the Permanent Forum.

We met with the co-sponsors on 7 September to inform them of the consolidated position. We also looked at the draft resolution that they were going to present. This was a simple resolution saying that it takes note of the HRC adoption of the Declaration and then calling on the General Assembly to adopt the Declaration (revised version) annexed to the resolution. They assured us that the Africans would not put any amendments nor would the Canadians. It would be put to a vote but they were confident that we would get the majority.

The Historic Day, September 13, 2007

Between the 7th to the 12th of September, we spent the time preparing our regional caucus statements. I prepared the Asia Indigenous Peoples’ Regional Caucus Statement and my own statement as the Chair of the Permanent Forum. The co-sponsors suggested that I, as the Chair of the Forum, and Les Malezer should speak before the General Assembly when the Declaration is adopted. I suggested this to Elsa Stamatopoulou, the Chief of the Secretariat of the Forum. She said this was a difficult challenge because it was not the practice of the GA to allow non-state members to speak, especially if this was a UN body. Anyway, she said that she would do what she can. She wrote the General Assembly Secretariat who finally answered after a few days saying that we can speak, but only after all the governments have spoken. There would be a recess called for the formal session and the GA would go into informal session. Then Les and I can speak.

On this day there were many indigenous representatives who came from Canada and the US to witness the event. The Secretariat of the Forum arranged with the GA Secretariat that the regional coordinators and other indigenous representatives would have a seat at the main floor of the GA Hall. The others would be at the Public Gallery. Some of those involved in the drafting of the Declaration from the beginning were there. These were Professor James Anaya of the University of Arizona and Tim Coulter of the Indian Law Resource Center, among others. John Henriksen of the Saami Council was also present. He was the one who recommended at an early stage of the WGDD that a reference on territorial integrity be included as the States would never accept a Declaration without this. He was vilified by other indigenous organizations for this proposal but it turned out that he was right after all. Many Chiefs from Canada were present which included Phil Fontaine, the Grand Chief of the Assembly of First Nations.

From the side of the Philippine government, I communicated with Mr. Eugenio Insigne, the Chair of the National Commission on Indigenous Peoples in the Philippines, to ensure he would come. We spoke before I left for New York and I encouraged him to come to New York to attend the session when the Declaration would be adopted. He arrived exactly on the
morning of September 13 and he was able to enter the GA Hall just as the session was starting.

The agenda item on the Declaration was the 6th and last item for that day. However, by 11:00am, the rest of the agenda items were done, so the President opened Agenda Item 6. The Resolution was presented by Luis Enrique Chavez, the Chairman-Rapporteur of the WGDD, who was now based in the Permanent Mission of Peru in New York. He mentioned the additional co-sponsors for the resolution (A/61/L.67). The original co-sponsors were Belgium, Bolivia, Costa Rica, Cuba, Denmark, Dominican Republic, Ecuador, Estonia, Finland, Germany, Greece, Guatemala, Hungary, Latvia, Nicaragua, Peru, Portugal, Slovenia and Spain. He added the following; Andorra, Armenia, Austria, Croatia, Cyprus, Fiji Republic, Lithuania, Luxembourg, Malta, Nauru, Italy, Panama, Serbia, South Africa, Switzerland, TFYR-Macedonia.

After this, the President said that the statements in explanation of vote would be made before the vote is cast. Australia, through Robert Hill, spoke first and said that Australia was not able to participate in the negotiations of the text and was deeply disappointed that no such meeting was convened. He said Australia would vote “no.” John Mcnee of the Government of Canada followed and stated that “By voting against the text, Canada put on record its disappointment with both the substance and the process.” Rosemary Banks, the Permanent Representative of New Zealand said that “the provision on lands and resources could not be implemented in New Zealand..it was unable to support a text that included provisions that were so incompatible with its democratic processes, legislation and constitutional arrangements.” It had to vote against it. The next speaker was Robert Hagen of the United States who also said it would vote “no,” followed by Russia who surprisingly abstained from voting. Benin came next and said they would vote “yes.” Colombia, whom we were expecting to vote “no,” abstained.

When the President announced that the vote would be taken at around 12 noon, Guatemala raised its flag and asked who was calling the vote. She said it was the US, Australia and New Zealand. Surprisingly Canada did not join the group.

The Assembly then proceeded to vote and the recorded vote was 143 in favor, 4 (Australia, Canada, New Zealand and USA) against and 11 abstained. There were 34 who were absent. Thirtyeight (38) member states took the floor afterwards to explain their vote and this included the Philippines. Mr. Insigne spoke on behalf of the Philippines and said that his “[D]elegation’s expression of support was premised on the understanding that the right to self-determination shall not be construed as encouraging any action that would dismember or impair territorial integrity or political unity of a sovereign or independent State. It was also based on the understanding that land ownership and natural resources was vested in the State.”

Then I was asked by the President to read my statement as the Chair of the Forum and Les Malezer to read his statement as the Chair of the Global Indigenous Peoples’ Caucus.

For those of us who were there, this historic day will never be forgotten. What needs to be done next is to discuss how this UN Declaration on the Rights of Indigenous Peoples would be implemented to make the lives of indigenous peoples of the world a life of dignity and pride.
13 October 2007

Endnotes:


2 This was established on the basis the Economic and Social Council (ECOSOC) resolution 1982/34.


5 30 yes votes by regions were as follows: Asia (9)
   – China, Indonesia, India, Japan, Malaysia, Pakistan, Sri Lanka and South Korea: Africa (4)
   – Cameroon, Mauritius, South Africa and Zambia: European Union (7)
   – Finland, France, Germany, Netherlands, Poland, Romania, United Kingdom: Latin America and the Caribbean (7)
   – Brazil, Cuba, Ecuador, Guatemala, Mexico, Peru, Uruguay: Eastern Europe (2)
   – Azerbaijan and Czech Republic; and Switzerland also voted yes.

   Abstained:
   – Algeria, Argentina, Bahrain, Bangladesh, Ghana, Jordan, Morocco, Nigeria, the Philippines, Senegal, Tunisia, Ukraine

6 This was co-sponsored by Armenia, Bolivia, Congo, Croatia, Cuba, Democratic Republic of the Congo, Denmark, Ecuador, Estonia, Fiji, France, Greece, Guatemala, Haiti, Hungary, Latvia, Liechtenstein, Lithuania, Mexico, Panama, Paraguay, Peru, Poland, Portugal, Slovenia, Spain and the former Yugoslav Republic of Macedonia: When this was introduced in 2 November, Bosnia-Herzegovina, Cyprus and Finland joined as co-sponsors.

7 The ones who voted yes on this were 47 countries from Africa, 21 from Asia, 2 from Eastern Europe, 8 from Latin America and the Caribbean and 4 from the Western Europe and other Groups.

8 Paragraph 10 of the Advisory Opinion of the African Commission on Human and

This group was composed of the following; Dr. Albert Barume, DRC as facilitator of the group, Dr. Naomi Kipuri, Kenya, Joseph Ole Simel, Kenya, Adele Wildschut, South Africa, Liberate Nikayenzi, Burundi, Hassan id Balkassm, Morocco.

Some of the Functional Commissions of the ECOSOC include the Commission on the Status of Women, the Commission on Sustainable Development, the Commission on Statistics, Commission on Population and Development, UN Forum on Forests, Commission on Social Development.

The members of this Steering Committee were the same ones in the HRC process.

Africa
- Adele Wildschut (South Africa) and Joseph Ole Simmel (Kenya); Asia
- Vicky Tauli-Corpuz (Philippines) and Devasish Roy (Bangladesh), Joan Carling is an alternate if Devasish is not around; Arctic
- Mattias Ahren (Sweden) and Dalee Sambo (Alaska) with Hjalmar Dahl (Greenland); Latin America
- Hector Huertas (Panama), Jose Carlos Morales (Costa Rica), Azalene Kaingang (Brazil) and Adelfo Regino (Mexico); North America
- Andrea Carmen (USA) and Chief Ed John (Canada), alternate Celeste MacKay (Canada); Pacific
- Les Malezer (Australia) and Mililani Trask (Hawaii); Russia
- Mikail Todishev. The support NGOs who sat in the meetings of the Committee were Lola Alix Garcia (IWGIA), Jennifer Preston (AFSC), Miriam Anne Frank (NCIV), Marie Leger (Rights and Democracy), Paul Joffe

These were Articles 3, 4, 10, 11, 19, 26, 27, 28, 29, 30, 31, 32(2), 46.

These NGOs included the International Forum on Globalization (IFG), International Service for Human Rights, Amnesty International, Amazon Watch, Rainforest Action Network, Center for International Environmental Law (CIEL), etc.

The regional caucuses of the indigenous world is divided into seven. This is the division made by the Permanent Forum. So these are: Africa, Arctic, Asia, Eastern Europe, Latin America, North America, Pacific.

Yes: Argentina, Armenia, Austria, Bahamas, Bahrain, Barbados, Belarus, Belgium, Belize, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Cambodia, Cameroon, Cape Verde, Central African Republic, Chile, China, Comoros, Congo, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Democratic People’s Republic of Korea, Democratic Republic of the Congo, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Estonia, Finland, France, Gabon, Germany, Ghana, Greece, Guatemala, Guinea, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kuwait, Lao People’s Democratic Republic, Latvia, Lebanon, Lesotho, Liberia, Libya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritius, Mexico, Micronesia (Federated States of), Moldova, Monaco, Mongolia,
Mozambique, Myanmar, Namibia, Nepal, Netherlands, Nicaragua, Niger, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Saint Lucia, Saint Vincent and the Grenadines, San Marino, Saudi Arabia, Senegal, Serbia, Sierra Leone, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syria, Thailand, The former Yugoslav Republic of Macedonia, Timor-Leste, Trinidad and Tobago, Tunisia, Turkey, United Arab

16 Abstain: Azerbaijan, Bangladesh, Bhutan, Burundi, Colombia, Georgia, Kenya, Nigeria, Russian Federation, Samoa, Ukraine.