

Statement of the Indian Law Resource Center
Twelfth Session of the United Nations Permanent Forum on Indigenous Issues
(May 24, 2013)

Respecting Indigenous Peoples' Rights of Self-Determination and Rights to Lands, Territories and Resources within World Bank Safeguards and other Development and REDD+ Safeguards

Agenda Items: 5. Comprehensive dialogue with United Nations agencies and funds

Speaker person: Gretchen Gordon, Attorney, Indian Law Resource Center

Thank you Madam Chair.

Distinguished Colleagues and Permanent Forum Members,

I make this statement on behalf of the Indian Law Resource Center.

Today's discussion is critical for ensuring that indigenous peoples are able to enjoy the collective rights enshrined within the UN Declaration. The World Bank, regional banks, and REDD implementing agencies must respect human rights and implement the UN Declaration.

We believe these institutions have yet to understand the true collective nature and content of the rights of indigenous peoples as peoples. The World Bank's Indigenous Peoples Policy, for example, does not recognize the right of self-determination and does not fully protect indigenous peoples' collective ownership of their lands and resources. This can lead to indigenous peoples losing their lands or being forcibly removed. The Bank's REDD agency, the Forest Carbon Partnership Facility (FCPF), believes these safeguards sufficiently respect the rights of indigenous peoples. We disagree.

I would like to make five key recommendations for respecting the rights of indigenous peoples in development and REDD activities.

1) The Banks and REDD agencies must work with indigenous peoples as self-governing peoples and equal partners in development. Currently these institutions do not work through indigenous peoples' governments or acknowledge a government-to-government relationship between indigenous peoples and countries. Most critically, they do not respect indigenous peoples' decision-making authority over their lands, territories and resources.

2) The Banks and REDD agencies must respect indigenous peoples' special relationship to the land. Indigenous peoples own their land collectively, and they have permanent sovereignty over their natural resources, which is the collective right of ownership plus governmental authority to control and manage their lands and resources. The World Bank, its REDD agency the FCPF, and others are embracing vague concepts like "land tenure." But if they do not accord full respect to the collective rights of indigenous peoples, their projects will divide up communal territories and dispossess Indian peoples of their lands and resources.

3) Free, Prior, Informed Consent is not enough. We must not let development institutions whittle down the full rights of the UN Declaration to the one principle of FPIC, distorting FPIC's real meaning. The banks and REDD agencies must understand FPIC in a way that is rooted in, and in addition to, strong

protections for the fundamental rights of self-determination, collective ownership of lands and resources, the right to development, and due process of law.

4) The Banks and REDD agencies must prevent violations of human rights. The World Bank is calling human rights an “emerging issue.” We absolutely disagree with such a characterization. Indigenous peoples have been advocating for human rights in development since before colonial times. The World Bank, however, maintains a double standard - acknowledging countries’ environmental obligations, while turning a blind eye to human rights. This is no way to facilitate development. While UN-REDD recently finished its FPIC guidelines, it still does not have a guideline for assessing human rights impacts. Clearly, there is work that still needs to be done.

Without effective mechanisms for addressing complaints and harms to affected communities, the rights of the Declaration are lost. The UN Development Program still does not have a working complaint mechanism for REDD. When situations arise where indigenous peoples’ rights are affected, they have nowhere to turn. UN-REDD in Panama is one example of this, but there are more. The Chixoy Hydroelectric Project, financed by the World Bank and Inter-American Development Bank, is another devastating example. Thousands of Maya Achí Indians were forced from their lands and subjected to gross human rights violations. Thirty years later, they are still fighting for reparations. Situations like this must be prevented.

Now is the time to shape the direction of these institutions. The World Bank safeguards review and the development of REDD policies are happening now. Will these institutions treat indigenous peoples as equal partners in development and conservation, or will they treat indigenous peoples as mere stakeholders or obstacles to development? We need to raise our voices. Representatives of the World Bank and REDD agencies are here today, and they may say things that sound good. But we cannot settle for shortcuts or vague policies and strategies that aren’t binding, or that don’t address indigenous peoples’ collective rights of self-determination and ownership of lands, territories and resources. If we do, we will have given up much of what has been gained over the last thirty years.

The Indian Law Resource Center firmly believes that the collective rights of indigenous peoples embraced by the Declaration must be respected not only by States, but also by multilateral development banks and UN agencies. All development and REDD actors must live up to the Declaration's standards.

We ask the Forum to urge the banks and REDD agencies to ensure that the rights of indigenous peoples to self-determination, due process, collective ownership of lands, territories and resources, and right to development are fully respected through policies and practice grounded in the UN Declaration.

We urge the Bank in its safeguard review to address all the fundamental rights of the Declaration, not just FPIC.

We ask the Bank and UN-REDD to work with indigenous peoples as equal partners in development.

Thank you for your attention.

Attachments (also available at www.indianlaw.org):

- Center submission to Permanent Forum
- Center submission to World Bank
- Center Comments to UNDP
- Center REDD Principles
- Center Study on FPIC