

# Carry On with the Struggle

The experience of indigenous peoples in using international legal instruments to advance their case for better human rights, has lessons for fisher peoples worldwide

**D**iuxi xquídxepé laá tu, runi gurdxhitu naá rarí, ti ganda guiniénia laá tu, chupa, chonna didxa ni huayuni un, ca dxiña stíi un pur ca squidxi nuu.

Thank you very much for inviting me to participate with you, and to say a few words about the work we have done in the struggle for the rights of our indigenous peoples.

I would like to emphasize that I am not here to bother you about the situation in which our indigenous peoples are living, as this is well known to you, from their preceding speeches. Above all, I am here because governments are not, and there are

Peoples (UNDRIP), which my colleagues here have already mentioned.

For this reason, I would like to highlight a few things that could be useful for fishing communities in demanding their rights; from our experience, these have proved useful for indigenous peoples. First of all, what we indigenous peoples have done is to announce that international legal instruments exist, to which the great majority of countries are signatories. Two fundamental instruments are the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights.

As is well known, international covenants that governments have signed up to are, in international legal terms, binding on them, while this is not the case with declarations. What have we gained from these covenants? We took what is established in Article 1, something that is common to both covenants. That Article points out that “all peoples have the right to self-determination”. Note that it says “all peoples”; it does not say “governments”, it does not say “nations”, but it refers to “all peoples”, and, in international law, ‘peoples’ are not legally defined as being of first- or second-class—all peoples are equal.

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others here who are suffering quite difficult circumstances in the same way that our indigenous peoples are.

We have come to this conference to make some contribution that will help us in the struggle to secure our right to food and respect for our human rights, and to obtain recognition for our lands, our territories and our natural resources.

This was the vision that encouraged us to take our struggle to the United Nations (UN) so as to get recognition for our rights as indigenous peoples. In particular, I have been a member of the numerous groups of indigenous brothers and sisters who, for over 20 years, have been struggling in UN forums for recognition of the UN Declaration on the Rights of Indigenous

## Self-determination

As indigenous peoples, we claim the rights that are established by the two international covenants. These are the basic tenants that we use. Above all, as indigenous peoples, we claim the right to self-determination. The second paragraph of the Article from the two international covenants notes that “all people have the right to

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‘freely determine their political status’ and that ‘for their own ends, they can ‘freely dispose of their natural wealth and resources’ from their lands and territories, and in ‘no case may a people be deprived of its own means of subsistence’”.

We consider that these elements may be used by fishing communities, because they are guaranteed by international legal instruments.

As we are discussing rights in this forum, and because it is in the context of human rights, it seems that the situation needs to be clarified. We are not fighting just because human rights exist; the Universal Declaration of Human Rights (UDHR) is not a legally binding instrument (although it is now part of customary law), but the two international covenants surely are. And that is what I want to tell you—that you should not only take what is established by the UDHR and, of course, by UNDRIP, but also what is established in the two international covenants, which will allow us to get the rights of our fisher people recognized.

The other step forward we have made is with regard to the recognition of the rights to our lands, our territories and our natural resources, as established in Article 32 of UNDRIP. Why lands and territories? Because lands refer not only to those areas where people grow their food, but also, under Article 13, paragraph 2 of the International Labour Organization (ILO) Convention 169, territory signifies the “entire environment”.

What is the legal basis for this? This is established by ILO Convention 169, Part II, which deals with land, where Article 13, paragraph 2 states: “...the term ‘lands’ ...shall include the concept of territories, which covers the total environment”. Furthermore, UNDRIP, under paragraph 2 of Article 32, includes “the development, utilization or exploitation of mineral, water or other resources” as part of the “lands or territories and other resources” of indigenous peoples, requiring “free and informed consent prior to the approval of any project affecting” such. That is another one of the elements that our fisher comrades could use to demand the recognition of

their rights from governments or from multilateral institutions like the Food and Agriculture Organization of the United Nations (FAO).

But you may ask us: “What have the indigenous peoples achieved with this?” Let me give you an example. While UNDRIP was still awaiting approval by the General Assembly of the UN, but had already been adopted by the Sub-committee on Human Rights of the then UN Commission on Human Rights, using these legal instruments I am talking about, the Mismo people from the Awas-Tigni community in Nicaragua demanded from the Inter-American Court on Human Rights, that their territory be recognized. The court subsequently passed a resolution in their favour for their territory to be recognized.

This is one example, but there are others from different regions of the world where indigenous peoples have made gains with these legal instruments.

What have we achieved apart from this? From these processes, not only have we gained access to UN space, but we have also opened doors to other spaces. An example is the space within FAO, where, as indigenous peoples, we have been present, and here I would like to take the opportunity to recognize

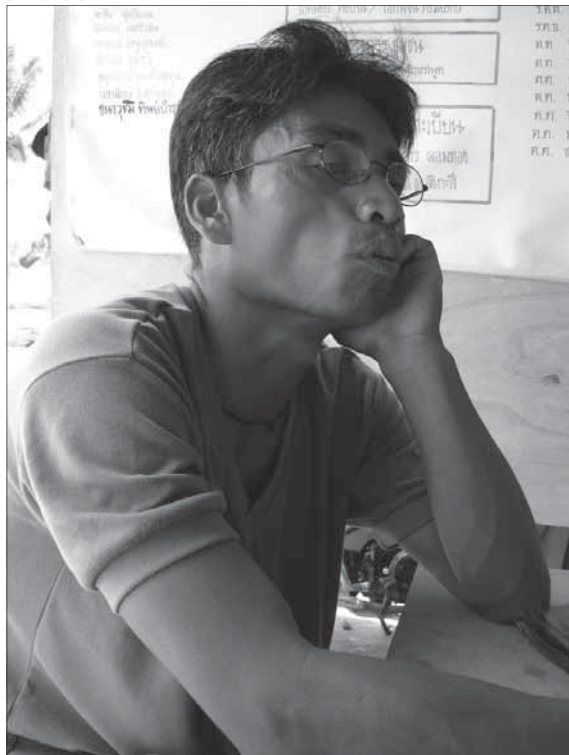
**...there are example from different regions of the world where indigenous peoples have made gains with legal instruments...**

the co-ordinating mechanism made available through the International Programme Committee for Food Sovereignty (IPC), which has succeeded in co-ordinating the participation of different social movements that are fighting for the human right to food and to secure this right for all sectors, not only campesinos, but also indigenous peoples and fishing communities.

### **Indigenous forum**

What did we manage to achieve here? You should remember that we were present in Porto Alegre, Brazil, at the International Conference on

SDF and SAN



A leader of the indigenous Moken sea gypsy community at Tung Wah, Thailand

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Agrarian Reform and Rural Development, where we organized our forum on “Land, Territory and Dignity”. You will remember what happened there: The governments of the 96 countries present at that conference signed a declaration in which they committed themselves to guarantee indigenous peoples, campesinos and also fishing communities, access to lands, territories and natural resources.

We have this document in our hands, which has been signed by all those governments. It is now time to demand the fulfillment of the promises made in that document. Here we have the opportunity to request

the authorities at FAO to take up this declaration, as something to put before its Committee on Fisheries (COFI), and for its implementation to be considered. Governments are committed to this, and that is another of the elements that our fisher comrades can, and must, demand to be fulfilled.

I would like to take this opportunity to recognize one of FAO’s allies, the International Fund for Agricultural Development (IFAD), particularly its Policy Department, which has facilitated our presence here. Thanks to them, we are talking, discussing and making contributions to this meeting; without them, it would have been much more difficult for us to have made it here to share with you our experiences.

Finally, sisters and brothers, I would like to tell you, that in order to protest, we have had to go to many places. I came here to tell you that yes, we have achieved things, that it has cost us a lot of time, a lot of effort, a great deal of work, that thousands of indigenous brothers and sisters the world over have given their lives so that we have the likes of UNDRIP. But I also want to tell our fisher brothers and sisters that we will carry on this struggle together. We reiterate that it is not only fishers,

but also we—indigenous peoples, campesinos and rural workers—who are committed to securing food for all, from our seas, our rivers and our lands.

*Diuxi xquídxepe lá tu, biché ca, ne bizaána ca*

Many thanks, sisters and brothers. 3

#### For more



[www2.ohchr.org/english/issues/indigenous/declaration.htm](http://www2.ohchr.org/english/issues/indigenous/declaration.htm)

#### **Declaration on the Rights of Indigenous Peoples**

[www2.ohchr.org/english/law/cescr.htm](http://www2.ohchr.org/english/law/cescr.htm)  
**International Covenant on Economic, Social and Cultural Rights**

[legal.icsf.net/icsflegal/ControllerServlet?handler=theme&code=viewTheme&id=13](http://legal.icsf.net/icsflegal/ControllerServlet?handler=theme&code=viewTheme&id=13)  
**Fisheries Legal Instruments: Human Rights, Food Security, Women and Development**

[www.ohchr.org/EN/Professional Interest/Pages/InternationalLaw.aspx](http://www.ohchr.org/EN/ProfessionalInterest/Pages/InternationalLaw.aspx)  
**International Human Rights Law**

[www.ilo.org/indigenous/lang--en/index.htm](http://www.ilo.org/indigenous/lang--en/index.htm)  
**Indigenous and Tribal Peoples: International Labour Organization**

[www.icarrd.org/sito.html](http://www.icarrd.org/sito.html)  
**International Conference on Agrarian Reforms and Rural Development**