



Office of the United Nations High Commission for Human Rights

Contribution of OHCHR's Indigenous Peoples and Minorities Section to the Twelfth session of the UN Permanent Forum on Indigenous Issues

20 February 2013

Summary

The present submission of the Office of the United Nations High Commissioner for Human Rights (OHCHR) is prepared in the context of the twelfth session of the United Nations Permanent Forum on Indigenous Issues. The Office draws attention to reports provided by it to the Forum at its previous sessions to inform the Secretary-General's evaluation report on the Second Decade. It also invites members of the Forum to take note of the two recent reports submitted to the Human Rights Council related to the ways and means of promoting participation at the United Nations of indigenous peoples' representatives on issues affecting them (A/HRC/21/24) and informing on relevant developments in human rights bodies and mechanisms and activities undertaken by the OHCHR that contribute to the realization of the provisions of the United Nations Declaration on the Rights of Indigenous Peoples (A/HRC/21/23). The reports by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples are contained in documents A/67/301 and A/HRC/21/47. The report of the fifth session of the Expert Mechanism on the Rights of Indigenous Peoples can be found in document A/HRC/21/52 and its study on the role of languages and culture in the promotion and protection of the rights and identity of indigenous peoples is contained in A/HRC/21/53.

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I. Introduction

The present report provides information as requested by the Forum and should be read alongside other submissions relating to indigenous peoples submitted to the Human Rights Council, in particular the recent reports of the High Commissioner and the reports of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and the Expert Mechanism on the Rights of Indigenous Peoples.

II. Recommendations addressed to the Office of the United Nations High Commissioner for Human Rights

Strengthening of capacity of indigenous peoples to invoke human rights standards

Further to the Permanent Forum recommendation 36 from its eleventh session that United Nations agencies and funds conduct and support regional and international human rights training programmes aimed at building the capacity and advocacy skills of indigenous youth. The Office continued to manage the United Nations Voluntary Fund for Indigenous Populations to support the participation of indigenous peoples' organizations in the sessions of the Permanent Forum on Indigenous Issues, the Expert Mechanism on the Rights of Indigenous Peoples, the Human Rights Council and Treaty Bodies. In September 2012, the General Assembly adopted a resolution to expand the mandate of the UN Voluntary Fund for Indigenous Populations to include support for

indigenous peoples to participate in the World Conference on Indigenous Peoples, including in the preparatory process.

The Board of Trustees held its 25th session in February 2012. In addition, the Board held three additional annual intersession meetings. In 2012, a total of 52 travel grants were awarded for representatives of indigenous communities and organizations to participate in the sessions of the Permanent Forum on Indigenous Issues, the Expert Mechanism on the Rights of Indigenous Peoples, the sessions of the Human Rights Council and its Universal Periodic Review (UPR) process, as well as sessions of the Committee on the Rights of the Child, the Committee on the Elimination of Racial Discrimination, the Committee on Economic, Social and Cultural Rights, and the Committee Against Torture. The Fund has supported the participation of a number of youth representatives in recent years including through participation in the youth caucus.

The Fund also organized in cooperation with Indigenous Peoples' Center for Documentation, Research and Information DoCip, four human rights training modules in four languages, in Geneva and New York, to increase the capacity of grantees and other indigenous representatives to effectively participate in indigenous and human rights mechanisms. Moreover, follow-up mechanisms were developed to ensure that the participation of indigenous representatives contributes to the implementation of recommendations issued by the special procedures, treaty bodies and the UPR and the national-level implementation of the Declaration on the Rights of Indigenous Peoples. Beneficiaries made substantial interventions and provided treaty bodies and other

mechanisms with concrete information that helped them to be responsive to the concerns of indigenous peoples.¹

The OHCHR Indigenous Fellowship Programme also makes an important contribution to building up community capacity to defend human rights, and is a concrete means for promoting understanding of the provisions of the Declaration on the Rights of Indigenous Peoples and other human rights standards. In 2012, the Fellowship Programme helped to build the knowledge and capacity of twenty-three indigenous representatives from the Democratic Republic of Congo, Mali, Uganda, Indonesia, India, the Philippines, New Caledonia (France), New Zealand, Bolivia, Colombia, Costa Rica, Guatemala, Panama, Peru, Venezuela, Canada and the Russian Federation through an extensive training that took place in Geneva in June-July 2012.

Trained beneficiaries learnt in theory and practice how to make use of human rights instruments and mechanisms to promote and protect the rights of their indigenous communities at the international level. The fellows in their final evaluations also very much valued the insightful interventions by UNESCO, ILO, WIPO and UNICEF, as well as by Geneva based human rights NGOs such as the Centre for Civil and Political Rights, IMADR, ISHR, UPR info, DoCip, Mandat International.

¹ The Biannual Report of the United Nations High Commissioner for Human Rights on the Status of the United Nations Voluntary Fund for Indigenous Populations (A/67/221) contains further information of the recent developments concerning the Fund.

Furthermore, the Office in Geneva welcomed a “Senior” Indigenous Fellow from Canada who undertook a four- month on-the-job training through which he contributed to the activities of the Indigenous Peoples and Minorities Section. Additionally, two indigenous fellows who had already been trained in Geneva were given the opportunity to further their knowledge by undertaking national fellowships in OHCHR field presences in the Russian Federation and Guatemala. Their active involvement and inputs to the activities of the Office in these two countries were very much appreciated and their knowledge of indigenous issues was an asset in supporting the Office’s programmes on indigenous issues.

Treaties, agreements and other constructive arrangements

Further to the Permanent Forum recommendation 123 from its Eleventh session that the United Nations system support and promote process of dialogue and consensus-building in relation to treaties, agreements and other constructive arrangements, the OHCHR organized a seminar entitled Strengthening Partnership between Indigenous Peoples and States: treaties, agreements and other constructive arrangements which took place in Geneva from 16 to 17 July 2012. The seminar was chaired by Hon. Justice Williams, former Chair of the Waitangi Tribunal in New Zealand, and benefited from the participation of experts who introduced various examples of treaties, agreements and other constructive arrangements from different regions of the world, demonstrating that this is not an issue that is relevant in only a limited number of contexts. They also made a number of recommendations aimed at enhancing the implementation of such treaties. Several members of the UN Expert Mechanism on the Rights of Indigenous

Peoples, the Permanent Forum on Indigenous Issues and the Committee on the Elimination of Racial Discrimination also highlighted the critical role of UN Mechanisms in advancing the issue further and promoting implementation.

III. Implementation of the United Nations Declaration on the Rights of Indigenous Peoples

Strengthening the capacity of UN Country Teams to integrate the rights of indigenous peoples within their programmes

OHCHR has been co-chairing the UN Indigenous Peoples Partnership (UNIPP), a new initiative through which the five participating UN agencies (OHCHR, ILO, UNDP, UNFPA and UNICEF) and indigenous experts work together to support joint initiatives, at the regional and country level, to advance the adoption and implementation of legislation and policies in line with the UN Declaration on the Rights of Indigenous Peoples and other human rights standards.

UNIPP implementation started in 2012 with six UN joint programmes in Bolivia, Cameroon, Central African Republic, Nicaragua and Republic of Congo as well as through a regional programme in Southeast Asia. While they are still in early stages of implementation, these joint programmes have already yielded results, including normative developments and improvements in dialogue between government officials and representatives of indigenous peoples. Through the significant progress made and

lessons learned from the pilot countries in 2012, UNIPP is quickly becoming a mechanism that moves the aspirations of indigenous peoples beyond the global advocacy bodies and international circles to create concrete change at the country level. A full progress report will be presented to the Forum by the UNIPP Secretariat in a separate submission.

Indigenous peoples in voluntary isolation

OHCHR issued guidelines on indigenous peoples in voluntary isolation and initial contact in the Amazon Basin and El Chaco in May 2012, following a series of consultations in the region, aimed to support formulation of national policies that are rooted in non-discrimination and other rights of indigenous peoples. Further to several high-level launching events in the region, a number of concrete initiatives are now being implemented, with OHCHR field presences and in cooperation with the authorities concerned, to promote this new tool and its practical implementation. It has already influenced decision-making processes at the national level and helped to ensure that legislation, policies and programmes related to indigenous peoples are in line with international human rights standards.

Strengthening of capacity of existing national human rights institutions (NHRIs)

OHCHR has developed guidance for National Human Rights Institutions (NHRIs) on how to advance the principles of the Declaration on the Rights of Indigenous Peoples. A draft handbook on this topic – prepared in cooperation with Asia Pacific Forum, was circulated to NHRIs in all regions in 2012 and it was “road-tested” in practice, for

example through a training workshop for NHRI officials in Namibia organised in November 2012. The process of preparing the handbook, which is to be issued in 2013, has in itself helped to strengthen NHRI engagement and initiatives focusing on human rights of indigenous peoples.

Human rights and indicators

In 2012, the OHCHR published *Human Rights Indicators: A Guide to Measurement and Implementation*.² The publication aims to assist in developing quantitative and qualitative indicators to measure progress in the implementation of international human rights norms and principles. The Guide pays attention to the situation of indigenous peoples and provides concrete examples of indicators related to the implementation of their human rights.

Human Rights bodies and mechanisms

Expert Mechanism on the Rights of Indigenous Peoples

In 2012, OHCHR provided substantial and other support to the Expert Mechanism on the Rights of Indigenous Peoples, including by organising with the Brunel Law School an Expert Seminar on Indigenous Languages and Cultures on the 8th-9th March 2012 to contribute to the study on this topic, which was submitted to the Human Rights Council in September 2012. At its 5th session in July 2012, the Expert Mechanism also

² OHCHR, *Human Rights Indicators: A Guide to Measurement and Implementation*, 2012, available at: http://www.ohchr.org/Documents/Publications/Human_rights_indicators_en.pdf

completed a report on “indigenous peoples and the right to participate in decision-making, with a focus on extractive industries” and a survey of implementation strategies to attain the goals of the United Nations Declaration on the Rights of Indigenous Peoples.

Moreover, OHCHR provided support to the members of the Expert Mechanism on the Rights of Indigenous Peoples in their inter-sessional engagement, including their contribution to the work of the African Commission on Human and Peoples Rights; UNESCO's consultation about engagement with indigenous peoples; the Forum on Business and Human Rights, and preliminary meetings associated with the organisation of the World Conference on Indigenous Peoples. Through such contributions, the Expert Mechanism helped to enhance visibility of indigenous peoples' rights in these fora, in particular their right to participate in decision-making. In the framework of the 21st session of the Human Rights Council, OHCHR also organized a panel discussion on access to justice for indigenous peoples.

The Office continues to ensure that indigenous peoples' issues are integrated in the work of the human rights mechanisms. In this vein, it briefed, for example, the Committee on the Elimination of Discrimination against Women and the Human Rights Committee, about the work of the Expert Mechanism on the Rights of Indigenous Peoples and other initiatives aimed to advance the implementation of the provisions of the UN Declaration on the Rights of Indigenous Peoples.

Treaty bodies

In 2012, various treaty bodies had the opportunity to address indigenous issues in their review of State Party reports, making observations on themes ranging from access to medical care to the need to respect the principle of free, prior and informed consent in connection with economic activities in indigenous peoples' traditional lands and territories. For example, the Committee on the Rights of Persons with Disabilities referred to indigenous persons with disabilities in the concluding observations of Argentina and Peru. The Committee on the Elimination of Racial Discrimination referred to indigenous peoples in its concluding observations on Canada, Israel, Fiji, Mexico and Vietnam. The Committee on the Rights of the Child issued concluding observations concerning indigenous children in Myanmar, Thailand and Vietnam. The Human Rights Committee raised indigenous peoples' issues in its concluding observations on Guatemala. The Committee on the Elimination of Discrimination against Women also commented on the situation of indigenous peoples in Brazil and the Republic of Congo. The Committee on Economic, Social and Cultural Rights addressed indigenous peoples' issues in the concluding observations concerning Cameroon, Ethiopia and Peru.

Universal Periodic Review

Issues concerning indigenous peoples were frequently raised in many national reports, compilations of United Nations information, summaries of stakeholders' information and recommendations made in the context of the universal periodic review. For example, recommendations with references to indigenous peoples were made in the contexts of

the reviews of Argentina, Brazil, Ecuador, Finland, Gabon, Guatemala, Indonesia, Peru and the Philippines.

Special Rapporteur on the Rights of Indigenous Peoples

OHCHR continues to support the Special Rapporteur on the rights of indigenous peoples in implementing his mandate, which includes dealing with communications and carrying out country visits. The Special Rapporteur has continued to examine recurring issues of interest and concern to indigenous peoples worldwide, most notably the issue of extractive industries affecting indigenous peoples and violence against indigenous women and girls.

In 2012, the Special Rapporteur also continued to issue public statements about situations of immediate concern. These included statements regarding protests against proposed mining and hydroelectric projects on indigenous territories in Panama; the impact of large-scale agro-industrial development projects on indigenous peoples in South-East Asia; indigenous protests over the militarization of their territories in Cauca, Colombia; concerns over a proposed land sale affecting a site of spiritual significance to indigenous peoples in South Dakota, United States; and regarding deaths in the context of indigenous protests in Totonicapán, Guatemala. He also undertook country missions to the USA from 23 April – 4 May 2012, El Salvador from 13-17 August 2012, and Namibia from 20 to 28 September 2012.

In connection with the examination of specific cases, over the past year, the Special Rapporteur sent communications on cases in Australia, Bangladesh, Bolivia

(Plurinational State of), Brazil, Canada, Chile, China, Costa Rica, Ethiopia, Finland, France, Indonesia, Panama, Peru, Philippines and the United States. Some of those communications were sent jointly with other special procedures mandate holders. The Special Rapporteur has sought to follow up on the numerous communications, in many cases issuing detailed observations with recommendations on those situations.

The Special Rapporteur also continued to contribute to the work of the Permanent Forum and the Expert Mechanism through meetings and dialogue. He held separate meetings with indigenous representatives to receive communications during the annual sessions of both the Permanent Forum and the Expert Mechanism.

Other special procedures mandate holders

During the reporting period, other special procedures mandate holders also looked into the situation of indigenous peoples within their respective mandates. Thematic mandate holders addressed the issue in various forms. For instance, the Special Rapporteur on freedom of religion or belief in his report on a visit to Paraguay (A/HRC/19/60/Add.1) encouraged the Government to pay more systematic attention to the structural vulnerability of members of indigenous peoples, especially in rural areas in the context of missionary activities. Furthermore, the Special Rapporteur on the right to food addressed indigenous peoples' issues in a number of contexts, including in the report on his visit to Mexico (A/HRC/19/59/Add.2), where he drew attention, inter alia, to the marked differences in relevant right to food indicators between indigenous and non-indigenous populations.

IV. Conclusion

During the period under review, OHCHR further strengthened its work to advance the rights of indigenous peoples at the country level and increased its efforts to give practical guidance on the content of the provisions of the United Nations Declaration on the Rights of Indigenous Peoples. The High Commissioner herself repeatedly invoked the standards of the Declaration in her dialogue with authorities and indigenous peoples. The United Nations Indigenous Partnership initiative has also prompted UN partners to come together coherently, guided by the principles set forth in the UN Declaration on the Rights of Indigenous Peoples and the ILO Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries. Many of the specific initiatives implemented by OHCHR reflected recommendations made by the Permanent Forum on Indigenous Issues on issues ranging from capacity building to the protection of the rights of indigenous peoples living in voluntary isolation.