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QUESTIONNAIRE ON ACTION TAKEN OR PLANNED IN RELATION TO INDIGENOUS PEOPLES

By e-mail of 30 November 2016, the UN Secretariat of the UN Permanent Forum on Indigenous Issues (UNPFII) has requested information on the work of the Danish Institute for Human Rights concerning indigenous peoples. The secretariat has invited the institute to complete a questionnaire on any action taken or planned by the institute related to the recommendations of the Permanent Forum on Indigenous Issues (report of the 15th session, May 2016, document E/2016/43-E/C.19/2016/11), the implementation of the UN Declaration on the Rights of Indigenous Peoples and the outcome document of the World Conference on Indigenous Peoples.

The Danish Institute for Human Rights (DIHR) is the national human rights institution of Denmark and Greenland. The institute can provide the following information, noting that themes and questions of the questionnaire are repeated in order to frame the answers accordingly.

1. Recommendations of the UN Permanent Forum on Indigenous Issues. At its 2016 session, the Permanent Forum recognized “the contributions of national human rights institutions in the promotion and protection of human rights, including the rights of indigenous peoples, and welcomed their participation in future sessions of the Forum”.

a) The theme of the 2016 session was “Indigenous peoples: conflict, peace and resolution” (paragraphs 49-64). Please provide information on how your Human Rights Institution is working on issues related to conflict, peace and resolution for indigenous peoples. Where possible,

please include information on the situation of indigenous women in your responses.

Conflict, peace and resolution for indigenous peoples

The institute has not been involved in work specifically related to conflict, peace and resolution for indigenous peoples in Denmark or Greenland as described in paragraphs 49-64 of the report of the UNPFII's 15th session, May 2016.

In 2014, the Greenlandic self-rule government, Naalakkersuisut, established a reconciliation commission. During 2015-2017, the commission is initiating activities in order to identify cultural and social challenges in society, which give rise to tensions as a result of the colonial heritage.¹ The Prime Minister of Denmark at the time (2014) announced that "we have no need for reconciliation", hence Denmark does not take part in the work of the commission.²

The situation of indigenous women

According to the Greenlandic self-rule government's official website on violence in close relations (www.brydtavsheden.gl, 'Break the silence') 62.4 percent of women over 17 years of age in Greenland have at some point during their lives been subjected to violence or to serious threats of violence. When women are subjected to violence, the perpetrator is in 65.2 percent of the cases her partner or a previous partner.

In the parallel report of the institute to the UN CEDAW-committee in 2015, submitted prior to the examination of Denmark, the institute and the Human Rights Council of Greenland, jointly recommended that Naalakkersuisut take further efforts to minimize violence against women.³ See more about our cooperation with the Human Rights Council of Greenland below.

Gender discrimination is prohibited by the Greenlandic act on equality of men and women, which established the Council of Gender Equality in Greenland.⁴ The mandate of the Council of Gender Equality in

¹ The Reconciliation Commission's website is <http://saammaatta.gl> (in Greenlandic and Danish only).

² Several media, e.g. Denmark's Broadcasting Corp. (DR), "Danmark holder sig ude af opgør om Grønlands kolonitid", 13 April 2014.

³ Danish Institute for Human Rights, parallel report to the UN Committee on the Elimination of Discrimination Against Women (CEDAW), Denmark 2015, page 16f.

⁴ Greenlandic act no. 3 of 29 November 2013 on equal treatment of men and women (*Inatsisartutlov nr. 3 af 29. november 2013 om ligestilling af mænd og kvinder*).

Greenland includes examining, on its own initiative or by request, measures relating to gender equality. The preparatory works of the act underline that the council is not obligated to consider cases referred from individuals. However, the council can decide to give advice to individuals if this is deemed relevant.⁵

b) The 2017 session will include a focus on indigenous human rights defenders. Please provide information on the work of your commission/institution in relation to indigenous human rights defenders?

The Danish Institute for Human Rights cooperates with the Human Rights Council of Greenland in order to promote and protect human rights in Greenland. The council is established by Greenlandic law as of 2013 and is composed by representatives from 15 civil society organizations and independent institutions in Greenland, including the Inuit Circumpolar Council Greenland (ICC), as well as representatives from academia and the association of attorneys-at-law and three representatives from government, municipalities and the parliamentary ombudsman in Greenland.

The council shares knowledge of the conditions in Greenland with the institute, and the institute assists the council with knowledge and training on various human rights issues.

One of the main steps in the collaboration between the institute and the council is a report on the status of human rights in Greenland. The latest report was published in November 2016. An English summary of the status report 2016 is available on-line.⁶

The report includes chapters on the following topics: Implementation of human rights (generally); Children and youth; Disability; Equal treatment; Natural resources; Fair trial and deprivation of liberty; Rule of law in the self-rule administration and municipalities; Dissemination of human rights; Education.

⁵ Preparatory works EM 2013/112 of 30 July 2013 to Greenlandic act no. 3 of 29 November 2013 on equal treatment of men and women, special remarks to section 27(1), page 34 (*Bemærkninger til forslaget, EM 2013/112, 30. juli 2013, § 27, stk. 1, s. 34*).

⁶ The report, "Menneskerettigheder i Grønland – Status 2016" (2016) is available in Danish and Greenlandic and with an English summary at: <http://menneskeret.dk/udgivelser/menneskerettigheder-groenland-status-2016>

The cooperation between the Human Rights Council of Greenland and the institute also includes parallel reporting on human rights issues to international bodies, e.g. the UN, including the treaty body system.

The Danish Institute for Human Rights also collaborates with the National Spokesperson for Children (MIO) and aims to collaborate with central Greenlandic institutions or organisations to develop information or education material on human rights.

2. Promoting and protecting indigenous peoples' rights. The UN Declaration on the Rights of Indigenous Peoples was adopted in 2007. To mark the tenth anniversary, and assess gains and achievements, please provide further information on the following:

a) What are the main activities carried out by your institution/commission at the national and/or regional level to implement the UN Declaration on the Rights of Indigenous Peoples?

As mentioned above, the institute and the Human Rights Council of Greenland published a report on the status of human rights in Greenland in November 2016.

One of the chapters considers the Greenlandic people's right to decide on the use of natural resources found in their territory in light of, inter alia, the UN Declaration on the Rights of Indigenous Peoples and the ILO 169 Convention concerning Indigenous and Tribal Peoples in Independent Countries. We recommended that the Greenlandic self-rule government, Naalakkersuisut, take measures to ensure the participation of all citizens and local communities in the decision-making process and to ensure affected citizens and local communities an effective access to a complaints mechanism in cases concerning natural resources and concession of tourist targeted activities.

The institute and the council also recommended in the report that Greenland ensure access to education for all children, including children in small villages, as well as put focus on equal treatment, including the need of a general ban on discrimination on the grounds of sex, race, ethnic origin disability, age, sexual orientation, religion, inside as well as outside the labour market.

b) What are the main constitutional, legislative and/or administrative developments taken or planned to promote and/or implement the UN Declaration on the Rights of Indigenous Peoples in your country? Has your institution/commission been involved in these processes, and if so how?

Formerly a colony, Greenland officially became a part of Denmark in 1953 in accordance with an amendment of the Danish constitution.

Home-rule was introduced in 1979. The UN Declaration on the Rights of Indigenous Peoples, articles 3-4 on self-determination, autonomy and self-government was promoted by the introduction of self-rule in 2009. With self-rule, Greenland's autonomy was strengthened and the right to self-determination of the Greenlandic people under international law was underlined. The Self-Government Act emphasises that Greenland and Denmark are equal partners.⁷ Greenland can gradually expand its self-government in a range of areas as well as eventually chose to become an independent nation.

At present, Greenland has overtaken a range of areas, among others, taxes; expropriation; education; social security; health; the labour market; the regulation of hunting; fishing; electricity, water and heating supplies; natural resources.⁸ It follows from section 1 in the Self-Government Act that Greenland has the legislative and executive power within the fields of responsibility taken over by Greenland. Accordingly, the Greenlandic parliament Inatsisartut has the legislative power while the self-rule government, Naalakkersuisut, has the executive power.⁹

Fields of responsibility not taken over by Greenland include, among others, justice and criminal law; family law; aliens law; sea environment; border control. In these areas, legislative and executive powers are with the Danish parliament and government respectively.

A few but central areas remain under the authority of Denmark, e.g. foreign relations and defence. By virtue of the Self-Government Act, Greenland can act alone in international affairs concerning fields of law completely taken over by Greenland. However, in matters concerning international organisations of which Denmark is a member, e.g. the

⁷ See the preamble in act no. 473 of 12 June 2009 on Greenland Self-Government (*Lov nr. 473 af 12. juni 2009 om Grønlands Selvstyre*).

⁸ The Prime Minister's Office "Overview of matters that are taken over by Greenland Home Rule (I and II), respectively Government of Greenland (III)" (*Oversigt over sagsområder, der er overtaget af Grønlands hjemmestyre (I og II) henholdsvis Grønlands Selvstyre (III)*) available at:

http://stm.dk/multimedia/Oversigt_sagsomr_der_241111.pdf

⁹ Act no. 473 of 12 June 2009 on Greenland Self-Government (*Lov nr. 473 af 12. juni 2009 om Grønlands Selvstyre*) section 1.

United Nations, Greenland is acting by agreement with Denmark or Denmark is including Greenland in the process.¹⁰

The courts in Greenland have the judicial power in all fields. There are four district courts with lay judges as well as the Court of Greenland and the High Court of Greenland with judicial judges. The district courts deal with all criminal cases and some civil cases. Legally complicated cases are referred to the court of Greenland as first instance. The judgements and rulings of the district courts as well as of the Court of Greenland may be appealed to the High Court of Greenland. Some judgments and rulings from the high court may, subject to permission from the Appeals Permission Board, be appealed to the Danish Supreme Court.¹¹

The Greenlandic self-rule government, Naalakkersuisut, has during the UN Universal Periodic Review (1st cycle, 2011) stated that it strongly supports the UN Declaration on the Rights of Indigenous Peoples. While acknowledging that the introduction of self-rule is an illustration of the implementation of the declaration, Naalakkersuisut wishes to implement the declaration in its day-to-day work.¹² See more below on the UPR-process and outcomes relating to indigenous peoples.

The Danish Institute for Human Rights has not been involved in the processes of introducing self-rule in Greenland.

c) Has your institution/commission been engaged in the process for the Universal Periodic Review, and the work of the special procedures and treaty bodies? If so, did this include specific reference to indigenous peoples?

Universal Periodic Review

Together with the self-rule government (Naalakkersuisut), the Human Rights Council of Greenland and the Danish Institute for Human Rights arranged a public hearing in Nuuk, Greenland, in March 2015, in order to involve the public actively in the UPR-process.

¹⁰ Act no. 473 of 12 June 2009 on Greenland Self-Government (Lov nr. 473 af 12. juni 2009 om Grønlands Selvstyre) section 11-16.

¹¹ Official website for the Greenlandic courts:

<http://www.domstol.dk/om/otherlanguages/english/thedanishjudicialsystem/greenland/Pages/default.aspx> which does not reflect a reduction from 18 to four district courts by Act no. 1388 of 23 December 2012 amending the Administration of Justice Act for Greenland.

¹² "National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1", 17 February 2011 (A/HRC/WG.6/11/DNK/1), page 17, par. 109.

Both the council and the institute also submitted stakeholder reports during Denmark's review under the UN Universal Periodic Review, UPR (2nd cycle, 2016).¹³ The institute assisted the Human Rights Council of Greenland is compiling its report, hence the institute's own report did not cover Greenland.

During the first UPR-cycle (2011), the Danish Government accepted (with no further comments) a recommendation regarding effective implementation of the UN Declaration on the Rights of Indigenous Peoples. However, another recommendation to adopt stronger remedies in order to protect minorities and indigenous people against discrimination and to ensure their access to social benefits, was rejected by the Government, which found the recommendation unclear.

As a way to follow up on the recommendations received under the UPR-cycle in 2011, the institute published a report containing an evaluation on the recommendations accepted by the Danish Government. The institute stated that the government lacked a description on what importance the government aimed to give the UN Declaration on the Rights of Indigenous Peoples in light of the self-rule arrangement for Greenland from 2009. The institute also stated that the Danish government lacked an examination of issues relating to the protection of minorities and indigenous people against discrimination and equal access to social benefits, including the discrimination of Greenlanders in Denmark.¹⁴

Special procedures, treaty bodies

As stated above, the Danish Institute for Human Rights cooperates with the Human Rights Council of Greenland in including topics on

¹³ The stakeholder report of the Human Rights Council of Greenland is available here:

http://menneskeret.dk/files/media/dokumenter/monitorering/upr/2015_06_22_dk_greenland_upr_report.pdf. The stakeholder report of the

Danish Institute for Human Rights is available here:

http://menneskeret.dk/files/media/dokumenter/monitorering/upr/dihr_upr_denmark_2015.pdf

¹⁴ Examination by the Danish Institute for Human Rights on the recommendations by the Human Rights Council of the UN (*Institut for Menneskerettigheders vurdering af Danmarks besvarelse af anbefalingerne fra FN's Menneskerettighedsråd*), September 2011. Available in Danish at:

http://menneskeret.dk/sites/menneskeret.dk/files/media/dokumenter/udgivelser/jmrs_vurdering_af_dks_besvarelse_til_unhrc.pdf

Greenland in parallel reports submitted by the institute to international agencies, including UN treaty bodies.

d) Please provide information on any activities and programmes that your institution/commission carries out or plans to that are specific to indigenous peoples.

As part of our efforts to promote a human rights-based approach to sustainable development internationally (i.e. outside of the scope of our engagement in Denmark and Greenland as described above), we will cooperate with the ILO and a consortium of indigenous organizations and NGOs specialized in the promotion of indigenous peoples' rights, on the implementation of an initiative known as the Indigenous Navigator. The Indigenous Navigator¹⁵ provides a framework and a set of tools and indicators for indigenous peoples to monitor the level of recognition and implementation of their rights in accordance with key international instruments. The institute will be working with partners associated with this project in 2017 to further develop the application of the Navigator. In particular, we will focus on highlighting the Indigenous Navigator's relevance for the 2030 Agenda for Sustainable Development.

In most countries, disaggregated data on indigenous peoples' situation are still largely missing in national statistics, wherefore indigenous peoples' needs are not reflected in major development plans and programmes, nor in the national monitoring of the human rights situation. The Indigenous Navigator has a high potential to play a role in this context, not least in light of the ongoing discussion in the sustainable development goals (SDG) follow-up process on how to include citizen-generated data in the overall SDG planning and monitoring.

While other partners in the project consortium will build the capacity of indigenous organisations in Latin America, Africa and Asia to use the Indigenous Navigator tool, the institute will consolidate and improve the tool, and develop further guidance materials for its application. In addition, we will mobilize national human rights institutions in selected countries to apply the data generated through the Indigenous Navigator, and use them in their ongoing dialogue with policy-and decision-makers, in cooperation with indigenous organizations.

e) Has your institution/commission been engaged in protecting the rights of indigenous peoples, with particular reference to their lands, territories and resources?

¹⁵ www.indigenousnavigator.org

Please see the information provided above under question 2(a).

3. Follow up to the World Conference on Indigenous Peoples. The UN organized the first World Conference on Indigenous Peoples in September 2014. At the World Conference, Member States made a number of commitments that are of relevance to human rights institutions. Please provide information on measures taken or planned by your institution to support the following:

a) To develop and implement national action plans, strategies or other measures, where relevant, to achieve the ends of the Declaration, in cooperation with indigenous peoples, through their own representative institutions;

As mentioned above, the Danish Institute for Human Rights is the national human rights institution in Greenland since May 2014. By request of the Greenlandic parliament and self-rule government, the institute shall evaluate, promote and monitor the implementation of human rights in Greenland. This work is done in cooperation with the Human Rights Council of Greenland and includes among other initiatives, parallel reporting to international bodies, consultation of public authorities in Greenland and Denmark as well as the compilation of a status report on various human rights topics.

b) To intensify efforts, in cooperation with indigenous peoples, to prevent and eliminate all forms of violence and discrimination against indigenous peoples and individuals, in particular women, children, youth, older persons and persons with disabilities, by strengthening legal, policy and institutional frameworks;

Nationally, the latest status report (November 2016) compiled by the institute and Human Rights Council of Greenland includes chapters on equal treatment, disability and children and youth. An introduction in Greenland of a general ban on discrimination on the grounds of sex, race, ethnic origin disability, age, sexual orientation, religion, inside as well as outside the labour market remains one of our key recommendations.

Internationally, the Indigenous Navigator project described above, is ultimately a strategic international intervention aimed at supporting indigenous peoples' in their dialogue with authorities, policy- and decision-makers in their countries with a view to strengthen legal, policy and institutional frameworks. In 2017-19 the Indigenous Navigator will be applied in Bolivia, Colombia, Peru, and Suriname in Latin America; in Bangladesh, Cambodia, Nepal, and the Philippines in

Asia; and Cameroun, Kenya, and the United Republic of Tanzania in Africa.

c) To establish at the national level, in conjunction with the indigenous peoples concerned, fair, independent, impartial, open and transparent processes to acknowledge, advance and adjudicate the rights of indigenous peoples pertaining to lands, territories and resources.

Please see the information provided above under question 2(a).

I apologize for the late submission of information.

Yours sincerely,

Lise Garkier Hendriksen
CHIEF LEGAL ADVISER