



Information on recent activities of the Office of the High Commissioner for Human Rights related to the rights of indigenous peoples

Contribution to the tenth session of the UN Permanent Forum on Indigenous Issues

8 April 2011

Introduction

The promotion and protection of the rights of indigenous peoples remains a key priority of the Office of the High Commissioner for Human Rights and this report highlights major developments in 2010 and 2011. Indigenous issues figure prominently in the High Commissioner's Strategic Management Plan for 2010-2011, and this year OHCHR has a dedicated theme at its annual Heads of Field Presences on countering discrimination with a focus on the protection of indigenous peoples' and minority rights. The meeting brings together OHCHR's 53 heads of field presences ranging from Human Rights Advisors to UN Country Teams, to representatives of OHCHR country and regional offices, and chiefs of human rights components within UN peacekeeping and political missions.

The UN Declaration on the Rights of Indigenous Peoples serves as OHCHR's framework for action to further the advancement and protection of indigenous peoples' rights. The main priority of the Office is to contribute to the promotion and implementation of this key instrument, along with relevant recommendations, comments and observations of UN human Rights treaty bodies, and Special Procedures. The Indigenous Peoples and Minorities Section is developing a number of initiatives to facilitate the implementation

of these instruments and recommendations of the mechanisms, with a particular focus on country and regional activities.

This report highlights a number of pertinent activities carried out by OHCHR since the ninth session of the Permanent Forum in May 2009. It also responds to the request of the Under Secretary General of the UN Department for Economic and Social Affairs to provide information on follow up to recommendations of the Permanent Forum relating to free, prior and informed consent. It is important to note, however, that this overview is by no means exhaustive, and there are a range of additional initiatives that field presences and other representatives of OHCHR have pursued to advance the implementation of the rights of indigenous peoples.

Free, Prior and Informed Consent

The Office organised a regional consultation in Managua, Nicaragua on 15 and 16 December 2010 for its field presences in the Latin America and Caribbean region to share best practices on the promotion and protection of the rights of indigenous peoples, including a focus on the issue of free, prior and informed consent. Another relevant theme at the session included processes and mechanisms for consultation with indigenous peoples. OHCHR's field presences have been involved in addressing the principle of free, prior and informed consent in various ways. This includes facilitating advisory services of the Special Rapporteur on the rights of indigenous peoples to encourage a participatory process on consultation in July 2010, at the request of the Working Party on Prior Consultation of the Ministry of Interior and Justice of Colombia. The Office has also disseminated the views of the Special Rapporteur on the topic of consultation within the context of Guatemala. It is currently involved in providing support and guidance on international standards to the Mexican Senate as it considers a draft law in Mexico on consultation with indigenous peoples.

On 9 and 10 March 2011, the Office hosted a technical expert workshop on the right to participate in decision-making for the Expert Mechanism on the Rights of Indigenous Peoples. The main objective of this workshop was to obtain substantive input from

experts on the substance of the thematic study of the Expert Mechanism on the Rights of Indigenous Peoples, mandated by Human Rights Council Resolution A/HRC/12/13. The two main agenda items were: 1) good practices of indigenous peoples' participation in decision-making; and 2) recommendations for the implementation of the right to participation with a special focus on the principle of free, prior and informed consent. The workshop report is currently being finalised and will inform the final study of the Expert Mechanism on the Rights of Indigenous Peoples, due to be completed at its July 2011 session.

United Nations-Indigenous Peoples Partnership (UNIPP)

In line with recommendation 39 of the UN Permanent Forum's Ninth session urging OHCHR, ILO and UNDP to "strengthen their collaborative framework and partnership for the promotion and implementation of indigenous peoples' rights through joint country programmes...", OHCHR has entered into a Memorandum of Understanding with ILO and UNDP, to set up a UN-Indigenous Peoples Partnership initiative. The key aim of this initiative is to facilitate the implementation of international standards on indigenous peoples, in particular the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and ILO Convention Concerning Indigenous and Tribal Peoples in Independent Countries (ILO 169). UNIPP seeks to move the aspirations of indigenous peoples beyond the global bodies and international circles to concrete change on the ground at the country level.

UNIPP is the first UN inter-agency initiative and multi-donor trust fund with a core grounding in human rights principles that align with indigenous peoples' vision of self-determination, consultation, participation, and free, prior, and informed consent. It seeks to support, primarily, joint UN country programmes which will further establish and strengthen consultative and participatory processes to implement provisions of the UN Declaration and ILO 169. UNIPP will also support regional and international work on indigenous rights, but the primary focus will remain country level programmes. Some key thematic areas for intervention will include, but are not limited to: (1) Legislative review, reform and policy support; (2) Access to land and ancestral

territories; (3) Natural resources and extractive industries;(4) Access to justice; (5) Democratic governance.

The three UN organisations are currently consulting with the three UN indigenous mandates issues to receive nominations for a Policy Board of UNIPP. Efforts are also underway to mobilize resources for the partnership and its launch. A formal launch is expected at the 10th session of the UN Permanent Forum on Indigenous Issues.

Development of indicators relating to indigenous issues

At its 8th Session in 2009, the UN Permanent Forum on Indigenous Issues (UNPFII) issued a recommendation for the Inter-Agency Support Group (IASG) to “convene an international technical expert seminar on indicators of the well-being of indigenous peoples to discuss indicators that could be used in monitoring the situation of indigenous peoples and the implementation of the United Nations Declaration on the Rights of Indigenous Peoples”.

In response to this recommendation, the Office of the High Commissioner for Human Rights (OHCHR), the International Labour Organization (ILO), and the Secretariat of the Permanent Forum on Indigenous Issues (SPFII) jointly organized a technical meeting on "Keeping track – indicators, mechanisms and data for assessing the implementation of indigenous peoples’ rights" which took place in Geneva on the 20-21 September 2010.

The aim of the technical expert meeting was to take stock of the various efforts to develop indicators and generate data on the situation of indigenous peoples, and discuss the possible main features of an integrated assessment framework, which would assist actors at local, national and international levels in their efforts to assess progress in implementing the United Nations Declaration on the Rights of Indigenous Peoples. In particular, the meeting was informed about the OHCHR conceptual and methodological framework on indicators for assessing the implementation of human rights. The

framework translates the normative contents of human rights into attributes, which are subsequently configured into *structural*, *process* and *outcome* indicators.

The key issues and conclusions adopted by the expert participants, as well as the full report of the meeting, including the list of participants, are contained in a separate report submitted to the present session of the Forum.

Indigenous peoples in voluntary isolation and initial contact

Further to the Permanent Forum's previous recommendation on convening a workshop on the situation of indigenous peoples in voluntary isolation, OHCHR is in the process of reviewing the final draft of the guidelines on indigenous peoples in voluntary isolation and initial contact. Following missions to Ecuador and Colombia and workshops in Paraguay and Brazil, the OHCHR guidelines are now undergoing final review.

Promoting the Declaration: Engagement with National Human Rights Institutions

Building on its previous work with national institutions, the Office organized a consultation in partnership with the New Zealand Human Rights Commission on "*The Operationalisation of the UN Declaration on the Rights of Indigenous Peoples by national human rights institutions*", to discuss, inter alia, the proposal by the Asia Pacific Forum of National Human Rights Institutions and OHCHR to produce a practical guide for national human rights institutions worldwide. The consultation was held in Auckland from 1-3 December 2010, and will be followed by a series of consultations to validate the content of the practical guide, which is expected to be finalized by the end of 2011.

Promoting the Declaration: Indigenous Peoples and political participation

OHCHR helped to organise an international conference from 31 October to 2 November 2010 in partnership with the Inter-Parliamentary Union (IPU) and the Government of Mexico entitled "Promoting inclusive parliaments: The representation of minorities and indigenous peoples in Parliament". The Conference concluded in Chiapas with the adoption of a « Chiapas Declaration » by the parliamentarians present. The outcome document recommends, inter alia, the collection of data on the number of

parliamentarians with minority and indigenous backgrounds. It also stressed the role of parliamentarians in following up on the implementation of recommendations from Special Rapporteurs and UN human rights treaty bodies, as well as raising awareness about the Declarations on the Rights of Indigenous Peoples, and the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. Follow up to the Chiapas Declaration will be reviewed at a subsequent conference in 2012.

The Office has also partnered with the Secretariat of the Permanent Forum, the Inter-Parliamentary Union, and UNDP to develop a handbook for parliamentarians on the UN Declaration on the Rights of Indigenous Peoples. An Advisory Board of prominent indigenous experts and parliamentarians has been set up, and the drafting process has begun.

Establishment of a regional consultative mechanism with indigenous peoples

In 2010, OHCHR's Regional Office for Central America established an Indigenous Regional Consultative Mechanism to ensure participation of indigenous peoples at all stages of the programming process on issues affecting them. This mechanism was created within the framework of the Regional Project on Indigenous Peoples (funded by Norway) which was launched by the Regional Office in 2010. It seeks to develop a regional assessment of the situation of indigenous peoples' human rights with a particular focus on indigenous women, as well as the right to consultation, participation, justice, self-determination, health and education among other areas. The assessment will be the foundation for developing a plan of action to empower indigenous communities to claim their rights.

Country engagement and implementation of rights at the national level

The Office has also continued its activities in terms of informing key actors about the work of mechanisms dealing with human rights and indigenous peoples. In her report to the Human Rights Council (A/HRC/15/34), the High Commissioner highlighted OHCHR's engagement at the country level to monitor, promote and protect the human

rights of indigenous peoples. Some key cases were highlighted, including OHCHR-Cambodia's work to monitor the impact of economic land concessions for agro-industrial purposes, such as rubber plantations, on indigenous peoples and small scale farmers. The Office has worked with selected companies to encourage them to apply human rights standards. For instance, it gave legal advice to a multinational rubber company. Prompted partly by this advice, the company conducted an extensive environmental and social impact assessment, including an analysis on how the United Nations Declaration on the Rights of Indigenous Peoples applied to its rubber plantation. The Office contributed to this assessment. Since then the company has been taking measures to mitigate the impact of its plantation on people's livelihood and land. Other companies have agreed to negotiate solutions with affected villagers, or to exclude the land used by villagers from their concessions. The High Commissioner's report also lists various technical cooperation and capacity building activities across OHCHR's country operations.

Supporting indigenous and other mandates

In addition to supporting human rights treaty bodies and the Human Rights Council's Universal Periodic Review that often touched upon issues concerning indigenous peoples, OHCHR continues to support two mandates devoted to the rights of indigenous peoples. It assists the Special Rapporteur on the rights of indigenous peoples in implementing his mandate, which includes dealing with communications and carrying out country visits. Since OHCHR's last report to the Permanent Forum, the Special Rapporteur has carried out official visits to Guatemala, New Zealand, New Caledonia. Furthermore, at a conference in Finland, he met with indigenous representatives and the authorities of Norway, Sweden and Finland to discuss key issues affecting Sami in the Sápmi region. In addition to his country visits and reports, the Special Rapporteur has also brought attention to various issue through press statements, such as the law related to free, prior and informed (consultation) and its conformance with ILO 169 in Peru, the situation of the Rapanui people of Easter Island, and support for Congo-Brazzaville's first law on indigenous peoples.

OHCHR also continues to serve as the Secretariat to the Expert Mechanism on the Rights of Indigenous Peoples. It is in the process of organizing the 4th session of the Expert Mechanism to be held in July 2011. In addition, the Office has also supported co-operation and interaction between the three UN mandates devoted to indigenous peoples. It invites, on a regular basis, representatives of different mandates to relevant meetings, and will facilitate another interaction between mandates through a coordination meeting in July 2011 in Geneva to discuss co-operation and synergies.

OHCHR also provided direct input to the work of the Permanent Forum in the run-up to the tenth session, including participation at the International Expert Group Meeting “Indigenous Peoples and Forests”, organized by the Permanent Forum from 12 - 14 January 2011 in New York.

In addition to supporting the indigenous mandates, OHCHR continues to advocate for and advance the rights of indigenous peoples through its thematic work, and provision of information on indigenous peoples’ issues to other UN Special Procedures mandates. In this regard, OHCHR would like to mention the visit of the Special Rapporteur on the situation of human rights defenders to India from 10 to 21 January 2011. In her press statement of 21 January 2011, the Special Rapporteur expressed concern about the situation of human rights defenders working for the rights tribals in India. The findings of her report will be presented to the March 2012 session of the Human Rights Council. In addition, the Independent Expert on minority issues visited Rwanda from 31 January through 7 February 2011. During the course of her visit, the Independent Expert met with a number of communities who identified themselves as Batwa. The findings of the Independent Expert’s report will also be presented to the Human Rights Council in March 2012.

Capacity-building with indigenous peoples – fellowships and funds

In order for the Declaration to yield concrete results, there is a need to build capacity and expertise at the national level. OHCHR’s indigenous fellowship programme is one important tool to build such capacity within civil society. Since April 2010, 26 fellows

received extensive training from OHCHR and its partners through the English, Spanish, French, and Russian speaking fellowship programmes. In addition to fellowship programmes in English, Spanish and Russian, OHCHR has introduced the position of a Senior Indigenous Fellow as part of its efforts to restructure and improve the programme. The first Senior Fellow is expected to join OHCHR in May 2011 for a period of three months.

OHCHR has also continued to support the participation of indigenous representatives in the Expert Mechanism on the Rights of Indigenous Peoples and in the Permanent Forum, including by servicing the Voluntary Fund on Indigenous Populations. At its twenty fourth session from 7-11 February 2011, the Board of Trustees of the Fund recommended 30 grants for representatives of indigenous communities and organizations to attend the 10th session of the Permanent Forum on Indigenous Issues, as well as 24 grants to attend the Fourth session of the Expert Mechanisms on the Rights of Indigenous Peoples. Following the enlargement of the mandate of the Fund by the General Assembly in November 2010 the Board of Trustees of the Voluntary Fund also set aside funds to enable representatives of indigenous communities and organizations to attend, for up to five days, sessions of the Human Rights Council and treaty bodies which will take place between September 2011 and March 2012.