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**Human Rights Council****Expert Mechanism on the Rights of Indigenous Peoples,  
Human Rights Bodies and Mechanisms****Report of the Expert Mechanism on the Rights of Indigenous Peoples on its Sixth Session, Geneva, 8-12 July 2013**

Chairperson-Rapporteur: International Chief Wilton Littlechild

*Summary*

The Expert Mechanism on the Rights of Indigenous Peoples held its sixth session from 8 to 12 July 2013. In addition to members of the Expert Mechanism, the participants in the session included representatives of States, indigenous peoples, United Nations bodies and specialized agencies, non-governmental organizations, national human rights institutions and academics.

The Expert Mechanism held a half-day session to discuss the World Conference on Indigenous Peoples and then moved to a discussion of follow-up to thematic studies and advice.

The Expert Mechanism's study on access to justice in the promotion and protection of the rights of indigenous peoples was considered. This included examining the impact of truth and reconciliation processes. Discussions on the United Nations Declaration on the Rights of Indigenous Peoples were also held, with a panel and interactive dialogue on the role of international, regional and national mechanisms in advancing the rights of indigenous peoples.

The Expert Mechanism adopted the proposals to be submitted to the Human Rights Council at its twenty-fourth session. In particular, it adopted the study on access to justice in the promotion and protection of the rights of indigenous peoples and the report on the summary of responses from the questionnaire seeking the views of States and of indigenous peoples on best practices with regard to possible appropriate measures and implementation strategies in order to attain the goals of the United Nations Declaration on the Rights of Indigenous Peoples.

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## I. Introduction

In its resolution 6/36, the Human Rights Council established the Expert Mechanism on the Rights of Indigenous Peoples as a subsidiary body to assist the Council in the implementation of its mandate by providing it with thematic expertise on the rights of indigenous peoples, as requested by the Council. In the resolution, the Council established that the thematic expertise would focus mainly on studies and research-based advice, and that the Expert Mechanism may suggest proposals to the Council for its consideration and approval.

## II. Adoption of studies, reports and proposals

The Expert Mechanism adopted its study and Advice on access to justice in the promotion and protection of the rights of indigenous peoples; its report on the summary of responses from the questionnaire seeking the views of States and of indigenous peoples; and the proposals set out below.

### A. Adoption of the study and Advice on access to justice in the promotion and protection of the rights of indigenous peoples

*The Expert Mechanism on the Rights of Indigenous Peoples:*

- (a) Refers to paragraph 9 of Human Rights Council resolution 21/24, in which the Council requested the Expert Mechanism to prepare a study on access to justice in the promotion and protection of the rights of indigenous peoples, and to present it to the Human Rights Council at its 24<sup>th</sup> session;
- (b) Adopts the study and Advice on access to justice in the promotion and protection of the rights of indigenous peoples;<sup>1</sup>
- (c) Authorizes the Chairperson-Rapporteur, in consultation with the other members of the Expert Mechanism, to make the necessary revisions to the study in the light of discussions carried out at its 6<sup>th</sup> session and to submit the final study to the Human Rights Council at its 24<sup>th</sup> session.

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<sup>1</sup> A/HRC/EMRIP/2013/2.

**B. Adoption of the report on the summary of responses from the questionnaire seeking the views of States and of indigenous peoples on best practices with regard to possible appropriate measures and implementation strategies in order to attain the goals of the United Nations Declaration on the Rights of Indigenous Peoples.**

*The Expert Mechanism on the Rights of Indigenous Peoples:*

(a) Refers to paragraph 8 of Human Rights Council resolution 21/24, in which the Council requested the Expert Mechanism to continue to undertake, with the assistance of the Office of the High Commissioner, the questionnaire seeking the views of States and of indigenous peoples.

(b) Adopts the report on the summary of responses from the questionnaire seeking the views of States and of indigenous peoples on best practices regarding possible appropriate measures and implementation strategies in order to attain the goals of the United Nations Declaration on the Rights of Indigenous Peoples;<sup>2</sup>

(c) Authorizes the Chairperson-Rapporteur, in consultation with the other members of the Expert Mechanism, to make the necessary revisions to the report in the light of discussions carried out at its 6<sup>th</sup> session and to submit the report to the Human Rights Council at its 24<sup>th</sup> session.

**C. Proposals**

**Proposal 1: Continuation of the Access to Justice Study**

*The Expert Mechanism on the Rights of Indigenous Peoples:*

Proposes to the Human Rights Council that it authorizes the Expert Mechanism to continue its study on the Promotion and Protection of the Rights of Indigenous Peoples, with a focus on restorative justice and Indigenous juridical systems, particularly as they relate to achieving peace and reconciliation. This will include an examination of access to justice related to Indigenous women, children and youth and persons with disabilities.

**Proposal 2: World Conference on Indigenous Peoples**

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<sup>2</sup> A/HRC/EMRIP/2013/3.

*The Expert Mechanism on the Rights of Indigenous Peoples:*

- (a) Refers to resolution 65/198 of the General Assembly, wherein the General Assembly decided to organize a high-level plenary meeting of the General Assembly in 2014, to be known as the World Conference on Indigenous Peoples, to share perspectives and best practices on the realization of the rights of indigenous peoples, including the objectives of the United Nations Declaration on the Rights of Indigenous Peoples;
- (b) Proposes to the Human Rights Council that the themes identified in the Alta Outcome Document be considered as the themes adopted for the World Conference;
- (c) Proposes to the Human Rights Council that it supports the consideration of the Alta Outcome Document in the drafting of the final outcome document of the World Conference;
- (d) Proposes to the Human Rights Council that it recommend to the President of the Sixty-Eighth Session of the General Assembly the continuation of the practice that a State representative and an Indigenous peoples' representative be appointed to conduct informal consultations. The Expert Mechanism thanks the Government of Mexico and the Sami Parliament for their involvement as co-facilitators in this regard in the preparations of the World Conference to date.
- (e) Proposes that the Human Rights Council support increased financial, technical and political support for the participation of Indigenous peoples at the World Conference. This includes urging states that have yet to financially support Indigenous preparatory activities to do so as a matter of urgency. Such preparatory activities include local and national activities aimed at raising the understanding of Indigenous peoples' issues, rights and processes leading to the World Conference. This also includes diverse forms of participation, including participation of Indigenous peoples through video. Furthermore, documentation should be provided in formats accessible to Indigenous peoples, i.e. WCAG standards.
- (f) Proposes that the Human Rights Council follow-up on their recommendation that the studies and Advice of the Expert Mechanism be considered in the process leading to the World Conference on Indigenous peoples. This includes drawing upon the Expert Mechanism's Conference Room Paper 1;
- (g) Proposes that the Human Rights Council support the equal participation of the three UN Indigenous Mechanisms in the World Conference, its preparatory and follow-up processes.
- (h) Proposes that the Human Rights Council support the full and effective participation of Indigenous peoples, including traditional leaders, Parliaments and Councils.

**Proposal 3: Implementation of the UN Declaration***The Expert Mechanism on the Rights of Indigenous Peoples:*

Proposes that the Human Rights Council urges States and Indigenous peoples to report on the measures taken to implement the rights enshrined in the UN Declaration through continuation of the Expert Mechanism's questionnaire survey.

It further proposes to the Human Rights Council that the Council requests States to establish, with the full and effective participation of Indigenous peoples, independent mechanisms to oversee and to promote the implementation of the rights contained in the UN Declaration, and that these mechanisms be mandated to oversee the implementation of recommendations made by the UN treaties bodies, Special Procedures, the Universal Periodic Review and other mechanisms related to the rights of Indigenous peoples. Such mechanisms should cooperate closely with regional and national human rights institutions.

Referring to the Expert Mechanism's "Proposal 3: Strengthening indigenous peoples' participatory rights at the United Nations as contained in its 4<sup>th</sup> Report (UN Doc. A/HRC/18/43) that states, in part,

- (c) Acknowledging the efforts taken to date, including participation in the preparation of the Secretary General's Report on Ways and Means as referenced in the Council's resolution 21/24;

Reiterates the Expert Mechanism's previous proposal that:

“Recognizes that the UN Consultative Arrangements for non-State entities can prevent indigenous peoples' governance bodies and institutions, including traditional indigenous Governments, indigenous Parliaments, assemblies and councils, from participating in decision-making processes at the United Nations, as they are not always organized as non-governmental organizations; and

Proposes that the Human Rights Council encourage the General Assembly to adopt, as a matter of urgency, appropriate permanent measures to ensure that indigenous peoples' governance bodies and institutions, including traditional indigenous Governments, indigenous parliaments, assemblies and councils, are able to participate at the United Nations as observers with, at a minimum, the same participatory rights as non-governmental organizations in consultative status with the Economic and Social Council.”

And further proposes that the Human Rights Council review the language and terminology used in UN documents pertaining to the rights of Indigenous peoples with a view to ensuring that they reflect the terminology contained in the UN Declaration on the Rights of Indigenous Peoples. In particular, it calls on the Human Rights Council to propose that the General Assembly amend the title of the UN Voluntary Fund for Indigenous Peoples and rename it “the UN Voluntary Fund for Indigenous Peoples.” It also calls on the UN and other international organizations to revisit their spelling rules with a view to using capital letters in spelling the term, “Indigenous Peoples.”

#### **Proposal 4: Post-2015 UN Development Agenda**

*The Expert Mechanism on the Rights of Indigenous Peoples:*

Proposes that the Human Rights Council support the Expert Mechanism and representatives of Indigenous peoples in their efforts to ensure that the rights of Indigenous peoples are firmly incorporated in the post-2015 UN Development Agenda, including the participation of the Expert Mechanism in related activities.

#### **Proposal 5: Universal Periodic Review**

*The Expert Mechanism on the Rights of Indigenous Peoples:*

Proposes that the Human Rights Council and Member States draw increasingly on the UN Declaration on the Rights of Indigenous Peoples and the thematic work of the Expert Mechanism in the Universal Periodic Review (UPR) process, including through references to the Declaration and related studies and Advice in recommendations made. The Expert Mechanism also proposes that in future cycles of the UPR, the UN Declaration on the Rights of Indigenous Peoples be explicitly included in the list of standards on which the UPR process is based.

### **III. Organization of the session**

#### **A. Attendance**

The Expert Mechanism on the Rights of Indigenous Peoples held its sixth session in Geneva, from 8 to 12 July 2013. The members, Ms. Jannie Lasimbang (Malaysia), International Chief Wilton Littlechild (Canada), Mr. Albert Deterville (Saint Lucia), Mr.

Alexey Tsykarev (Russian Federation) and Mr. Danfred Titus (South Africa) participated in the sixth session of the Expert Mechanism.

The participants of the sixth session of the Expert Mechanism included representatives of Member States, Indigenous peoples, United Nations organizations and programmes, national human rights institutions and non-governmental organizations (see annex I).

Mr. James Anaya, the Special Rapporteur on the Rights of Indigenous Peoples, Mr. Paul Kanyinke Sena, the Chairperson of the Permanent Forum on Indigenous Issues, and Ms. Joenia Batista de Carvalho, a member of the Board of Trustees of the United Nations Voluntary Fund for Indigenous Populations also participated in the session.

Mr. José Francisco Cali Tzay, member of the Committee on the Elimination of Racial Discrimination and Mr. Rafendi Djamin, member of the ASEAN Inter-governmental Commission for Human Rights also attended.

## **B. Documentation**

The Expert Mechanism had before it the provisional agenda (A/HRC/EMRIP/2013/1); the annotated agenda (A/HRC/EMRIP/2013/1/Add.1) as prepared by the Office of the High Commissioner for Human Rights; the study on access to justice in the promotion and protection of the rights of indigenous peoples; and its report on the summary of responses from the questionnaire seeking the views of States and of indigenous peoples.

In addition, two conference room papers were introduced during the session: a compilation of Advice from studies completed by the Expert Mechanism on the Rights of Indigenous Peoples related to the Alta Outcome Document (A/HRC/EMRIP/2013/CRP1) and the Alta Outcome Document (A/HRC/EMRIP/2013/CRP 2).

## **C. Opening of the session**

International Chief Wilton Littlechild, Chairperson of the Expert Mechanism, opened the sixth session of the Expert Mechanism and introduced the Director of the Research and Right to Development Division, Office of the High Commissioner for Human Rights, Ms. Marcia V. J. Kran, and the President of the Human Rights Council, Ambassador Remigiusz Achilles Henczel for opening remarks.

Ms. Kran called attention to the importance of the thematic study on access to justice of indigenous peoples and noted the challenges faced by indigenous peoples. Ms. Kran also highlighted that the implementation of the UN Declaration must be built on genuine and trusting partnerships between States and indigenous peoples. She underlined the importance of working together towards action oriented results of the World Conference on Indigenous Peoples to encourage concrete measures to improve the implementation of the Declaration, for example through increased national level implementation action plans and strategies. She also commented on the ways in which the Office of the High Commissioner for Human Rights assists in the implementation of the rights of indigenous peoples.

In his opening statement, the President of the Human Rights Council, Ambassador Remigiusz Achilles Henczel, noted that the studies and Advice of the Expert Mechanism have been well received by the Council and positively contributed to the efforts to further the protection of the rights of indigenous peoples. He also noted that the Council attaches high importance to the United Nations Declaration on the Rights of Indigenous Peoples. Mr. Henczel emphasized that the Council has continuously called for the participation of indigenous peoples during the preparatory process of the World Conference and for the studies and Advice of the Expert Mechanism to be considered in the preparatory process leading to the World Conference.

The Special Rapporteur on the rights of indigenous peoples noted the key role the Expert Mechanism has played in helping to make the Declaration operational. He welcomed the ongoing collaboration between these mechanisms and called for continued coordination, especially in the development of proposed joint guidelines or principles on key issues affecting indigenous peoples. He emphasized the need to focus more attention on the issue of access to justice of indigenous peoples and encouraged States to recognize indigenous customary justice system, without rigid jurisdictional boundaries.

Mr. Paul Kanyinke Sena, Chairperson of the Permanent Forum on Indigenous Issues noted the coordination between the three UN mechanisms on indigenous peoples and emphasized the overarching goal of implementing the Declaration. He provided an overview of the recommendations and studies of the 12<sup>th</sup> session of the Permanent Forum and welcomed the constructive dialogue with financial international institutions and multilateral development banks on the impact of their policies on the rights and livelihood of indigenous peoples. Mr. Sena reported the recent creation of a caucus of indigenous persons with disabilities.



## **D. Election of officers**

International Chief Littlechild invited the members of the Expert Mechanism to nominate a Chairperson-Rapporteur and Vice-Chairperson-Rapporteur for its sixth session. Ms. Jannie Lasimbang nominated International Chief Wilton Littlechild and Mr. Danfred Titus as Chairperson-Rapporteur and Vice-Chairperson respectively, who were then appointed by acclamation.

The Chairperson-Rapporteur, International Chief Wilton Littlechild, thanked the other members of the Expert Mechanism for his election. The Chairperson-Rapporteur welcomed the new members of the Expert Mechanism, Mr. Albert Deterville and Mr. Alexey Tsykarev.

The Chairperson-Rapporteur highlighted that the UN Declaration provides the foundational framework for the attainment of human rights of indigenous peoples and informs every aspect of the Expert Mechanism's work. He noted the valuable contributions of the participants of the 6<sup>th</sup> session to the work of the Expert Mechanism. The Chairperson-Rapporteur emphasized the importance of this session in providing collaborative and participatory space for dialogue between States, Indigenous peoples and other stakeholders and in this way contributing to the full realization of the rights of Indigenous Peoples as enshrined in the Declaration.

## **E. Adoption of the agenda**

The Expert Mechanism adopted the agenda and the programme of work of the sixth session.<sup>3</sup>

## **IV. The World Conference on Indigenous Peoples**

The Chairperson-Rapporteur presented a compilation of recommendations, conclusions and Advice from studies completed by the Expert Mechanism with the purpose to inform the preparations for the World Conference on Indigenous Peoples (A/HRC/EMRIP/2013/CRP 1). The sixth session introduced for the first time the Alta Outcome Document as an official UN document (A/HRC/EMRIP/2013/CRP 2), which was

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<sup>3</sup> A/HRC/EMRIP/2013/1 and A/HRC/EMRIP/2013/Add.1.

welcomed and encouraged by many participants. He noted that the Conference Room Paper is a work in progress.

Mr. Alexey Tsykarev thanked the Sami Parliament and the Government of Norway for their contributions to the Indigenous Global Preparatory Meeting in Alta, Norway. The Sami Parliament of Norway hosted this meeting and both the Sami Parliament of Norway and the government of Norway provided financial support. Mr. Tsykarev highlighted that this sixth session of the Expert Mechanism provided the first opportunity to consider further the Alta Outcome Document, which outlines four proposed themes to be discussed at the World Conference on Indigenous Peoples. The Expert Mechanism welcomes the opportunity to initiate the process of global consultations on the formation of the outcome of the World Conference. He noted that the Expert Mechanism is committed to participating in further preparatory meetings in Mexico and New York, as well as coordinating its work with other UN mechanisms, including the Human Rights Council. Mr. Tsykarev emphasized that the Expert Mechanism's studies and Advice inform the agenda and action-oriented Alta Outcome Document and that the preparatory process provides an opportunity for greater analysis and monitoring of the use of studies and Advice of the Expert Mechanism by States, UN mechanisms and Indigenous peoples. This includes an opportunity to ensure national legislation is consistent with the UN *Declaration*. Mr. Tsykarev noted that 2014 will also mark the end of the Second International Decade of the World's Indigenous Peoples and called for the establishment of a Third International Decade. He further noted that the 7<sup>th</sup> session of the Expert Mechanism may be the final opportunity to have a global dialogue on the World Conference prior to September 2014.

The Special Rapporteur on the Rights of Indigenous Peoples considered how the three indigenous mechanisms can contribute in the preparatory process for the World Conference and in the event itself. He recognized that the Alta Outcome Document is an important normative instrument and plan of action. He further noted that the Outcome Document provides an important overview of the issues that are of central concern to indigenous peoples and adds to the understanding of indigenous peoples' priorities both in terms of the content of rights and how those rights might be protected. He also encouraged other actors, including those from the United Nations system, indigenous peoples, civil society, and the private sector to apply the Alta Outcome Document.

Mr. Paul Kanyinke Sena, Chairperson of the Permanent Forum on Indigenous Issues, outlined the recommendations of the Permanent Forum related to the World

Conference contained in its 12<sup>th</sup> session report.<sup>4</sup> He noted the enhanced cooperation with the Special Rapporteur on the Rights of Indigenous Peoples and the Expert Mechanism, especially in the preparatory process leading to the World Conference and considered ways of enhancing the existing Indigenous-specific UN mechanisms going forward as part of the World Conference.

Mr. Ghazali Ohorella, Co-Chair of the Global Coordinating Group, provided an overview of the participatory process of Indigenous peoples leading to the global preparatory meeting of Indigenous peoples in Alta, Norway, and acknowledged the contributions of the Expert members of their expertise that assisted in building consensus during the meeting. He highlighted key areas of the Alta Outcome Document, including the four proposed themes, and made recommendations for the Expert Mechanism. He recommended that the themes set out in the Alta Outcome Document be the themes adopted for the World Conference, that the Alta Outcome Document be used as the basis for the final Outcome Document of the World Conference, that the Expert Mechanism recommend to the President of the sixty-eighth session of the General Assembly that a State representative and an Indigenous peoples' representative be appointed to conduct informal consultations and that the Expert Mechanism urge States who have not yet done so to financially support Indigenous peoples' participation in the World Conference, including in preparatory activities.

The Chairperson-Rapporteur referenced the work completed by the Expert Mechanism to date in terms of how it supports the Alta Outcome Document, which in turn, builds on the UN Declaration. He outlined, by example, the way in which the Expert Mechanism and others can effectively contribute to the advancement of the human rights of Indigenous peoples through collaboration leading up to the World Conference.

Participants expressed support for the Alta Outcome Document and the recommendations of the Global Coordinating Group and called on States to engage Indigenous peoples in constructive dialogue at the national level. Several Indigenous representatives made recommendations concerning the need for the full, effective and equal participation and consultation of indigenous peoples through all stages of the preparatory process, including in the development of the action-oriented outcome document of the World Conference. Participants also emphasized the need to ensure the equal participation of indigenous women, youth and persons with disabilities. Many voiced the importance of

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ensuring the availability of sufficient financial resources to enable such participation and recommended different forms of participation, including webcasting. Numerous States acknowledged the Alta Outcome Document, noting that it would be considered in preparation for the World Conference.

Ms. Jannie Lasimbang stressed the need to explore technical, financial and political support to facilitate the participation of indigenous peoples in the World Conference and urged local and national activities to be undertaken that aim to raise the understanding of indigenous peoples' issues. Such activities should focus on the proposed themes that form the Alta Outcome Document. Mr. Deterville also highlighted that the Alta Outcome Document has been introduced as an official document of the sixth session of the Expert Mechanism.

## **V. Follow-up to thematic studies and Advice**

Mr. Danfred Titus introduced the agenda item on follow-up to thematic studies and Advice by stressing that the Expert Mechanism's studies constitute authoritative interpretations of the human rights of indigenous peoples. He added that the studies and advice are grounded in binding international human rights norms as applied to indigenous peoples, including the UN Declaration. Mr. Titus noted the direct relationship between the right of self-determination and the full enjoyment of the rights of indigenous peoples.

The Expert Mechanism heard how States, indigenous peoples, national human rights institutions and other stakeholders have used the studies and Advice issued by the Expert Mechanism to further the promotion and protection of the rights of Indigenous Peoples, specifically under four thematic areas: indigenous peoples' right to education; culture and language; the right to participate in decision-making; and the right to participate in decision making with a focus on extractive industries. Participants shared good practices, lessons learned and challenges to achieve the rights of Indigenous peoples in these thematic areas. Interventions highlighted, *inter alia*, the role of UN agencies in disseminating the Expert Mechanism's studies and Advice at the country level and the importance of training government officials on indigenous peoples' rights.

Participants referenced the Expert Mechanism's study on lessons learned and challenges to achieving the right to education of indigenous peoples and highlighted a range of concerns ranging from the importance of the teaching of indigenous histories and cultures into educational institutions and curricula to the protection of educational facilities in

militarized indigenous territories. Some participants called for, *inter alia*, the establishment of adult educational institutions that focus on the maintenance, transmission and development of indigenous knowledge and for the ratification of the Convention against Discrimination in Education (UNESCO).

Innovative ways were shared to ensure access to education for Indigenous peoples with nomadic or semi-nomadic lives. Participants explained the work undertaken to develop a policy approach to indigenous education that is consistent with the guidance provided in Expert Mechanism Advice No. 1 on the rights to education of indigenous peoples.

Participants also provided updates to the study on the role of languages and culture in the promotion and protection of the rights and identity of indigenous peoples, highlighting the importance of full and effective participation of Indigenous peoples and of overcoming challenges concerning language loss. Participants encouraged the media to cover indigenous issues based on the recognition of the rights of indigenous peoples, and welcomed the efforts of communities increasing their own access to information through the development of community based media.

Some participants called for the ratification and implementation of international standards, including the ILO Convention 169, the Convention on the Protection and Promotion of Diversity of Cultural Expressions, and the International Convention for the Safe-guarding of Intangible Cultural Heritage. Participants also called for increased engagement of indigenous peoples and indigenous mechanisms in the ongoing processes related to indigenous peoples in the World Intellectual Property Organization.

Concerning the Expert Mechanism's study and Advice on Indigenous Peoples and the Right to Participate in Decision-Making, participants drew attention to lack of implementation of the rights of indigenous peoples in the context of the UNESCO World Heritage Convention, specifically on issues such as free, prior and informed consent, and encouraged the UN indigenous-specific mechanisms to take an active monitoring role on this issue.

A good practice was shared regarding implementing the Expert Mechanism's Advice No. 2 on the right to participation in decision-making of indigenous youth through the establishment of the first Youth Parliament; to support the development of future indigenous leaders; and to promote electoral participation by Indigenous youth.

Some participants also referenced the Expert Mechanism's follow-up report on indigenous peoples and the right to participate in decision making, with a focus on extractive industries. Interventions highlighted the impact of extractive industries in the lives of indigenous peoples, including negative effects on their health, lands, the environment, cultures and livelihoods. Specific negative effects of extractive industries on Indigenous women and girls and conflict between Indigenous peoples and businesses were also identified as concerns.

Some participants reaffirmed the need for states and extractive industries to implement the UN Declaration in all judicial, administrative, legislative and policy processes to respect indigenous peoples' genuine decision making authority and power over their lives. Participants discussed the importance of regional and national dialogue with governments, business enterprises, civil society organizations, and Indigenous peoples to promote understanding of the rights of Indigenous peoples in the context of extractive industries. For example, impact assessments should consider cultural impacts in addition to economic, environmental and social ones.

The Chairperson of the Permanent Forum positively referred to the World Bank initiative called "Open Contract Partnership" that aims to ensure effective disclosure and participation of indigenous peoples in all public investment concerning extractive industries. He also noted the importance of on-going collaboration between the Working Group on the Issue of Human Rights and Transitional Corporations and Other Business Enterprises, the Special Rapporteur on the Rights of Indigenous Peoples, the Permanent Forum and the Expert Mechanism to promote the effective implementation of the UN Declaration in relation to the Guiding Principles on Businesses and Human Rights. He also highlighted the importance of Indigenous peoples as entrepreneurs. 35. Ms. Jannie Lasimbang reported on the South-East Asia Meeting on Extractive Industries and Indigenous Peoples' Rights to Land and Natural Resources in Thailand organized by the UN Indigenous Peoples Partnership (UNIPP) in June 2013, where she had the opportunity to present the follow-up study and Advice on right to participation in decision-making, with a focus on extractive industries. Ms. Lasimbang recommended that businesses ensure that their employees have an understanding of the rights of Indigenous peoples, including the right to participate in decision-making. She called upon Indigenous peoples to continue to play a positive role by asserting their human rights as they relate to extractive industries, with an emphasis on forming equal partnerships with States and business enterprises to engage in sustainable development.

The Chairperson-Rapporteur referenced the study on the right to education and updated participants on a national development concerning the implementation of this right, where a Task Force was created and as a result work is currently underway on the development of an education Act. He called for the implementation of article 19 of the UN Declaration, referenced by the Task Force, which requires working together as partners.

The Chairperson-Rapporteur emphasized that the right to culture is one of the fundamental pillars of the UN Declaration and made reference to a consultation organized by the Northern Ireland Human Rights Commission in association with the University of Ulster and in cooperation with the United Nations Special Rapporteur in the field of cultural rights, in June 2013. The consultation examined how cultures in divided and post conflict societies reflected in museums, memorials and teaching of history in schoolbooks. He welcomed the reference of the Expert Mechanism's Advice No. 1 for consideration in the outcome document

The Chairperson-Rapporteur referred to the Global Compact work on guidelines focusing on free, prior and informed consent. He also complimented UNICEF and the Permanent Forum on the publication of the adolescent-friendly version of the UN Declaration.

Study on the Access to Justice in the Promotion and Protection of the Rights of Indigenous Peoples - Panel Discussion on the Recommendations of the International Expert Seminar on Access to Justice for Indigenous Peoples, including Truth and Reconciliation Processes

Mr. Titus, Vice-Chairperson, introduced the Panel Discussion on the Recommendations of the International Expert Seminar on Access to Justice for Indigenous Peoples, including Truth and Reconciliation Processes and welcomed the panelists, International Chief Littlechild, Ms. Celeste McKay, Technical Analyst for International Chief Littlechild, Ms. Ellen Walker, International Disability Alliance and Ms. June Lorenzo, Indigenous World Association and Laguna Acoma Coalition for a Safe Environment.

In its resolution 21/24, the Human Rights Council requested the Expert Mechanism to prepare a study on access to justice in the promotion and protection of the rights of indigenous peoples, and to present it to the Council at its twenty-fourth session. Accordingly, the Expert Mechanism prepared a study on this theme

(A/HRC/EMRIP/2012/2). To inform the Study, the Office of the High Commissioner for Human Rights co-organized an International Expert Seminar on Access to Justice for Indigenous Peoples, including Truth and Reconciliation Processes, along with the Institute for the Study of Human Rights, Columbia University and the International Center for Transitional Justice. It was held in New York, USA, from 27 February to 1 March 2013.

International Chief Littlechild began, focusing on the recommendations related to truth and reconciliation processes set out in the Study, which were informed by the presentations at the International Expert Seminar. This included the full and effective involvement of Indigenous peoples at all stages and that the processes be reflective of the cultures and values of Indigenous peoples. It was also recommended that the UN *Declaration be applied* to the work of Truth Commissions and that Truth Commissions address historical injustices experienced by Indigenous peoples and the contemporary effects of continued human rights violations, including against the right to self-determination.

International Chief Littlechild outlined a national example, the Truth and Reconciliation Commission of Canada. He discussed the history of Canada's residential school systems, including policies and laws related to them, as well as the impact on the lives of indigenous peoples, including thousands of deaths of children who attended the residential schools. He outlined the mandate of the Truth and Reconciliation Commission of Canada, which is a court-ordered mandate, arising from the largest class action lawsuit filed on behalf of 15,000 survivors. The mandate includes conducting research; establishing a National Research Centre to create an accurate and public historical record of the residential schools; issuing a public report with recommendations; and guiding and inspiring a process of healing and reconciliation within Indigenous families and communities and between Indigenous and non-Indigenous people in the country.

Ms. Walker presented on access to justice from the perspective of Indigenous peoples with disabilities. She presented a brief overview of the report entitled "Increasing work on the rights of indigenous persons with disabilities" by the UN Permanent Forum (E/C.19/2013/6). Ms. Walker references the particular recommendations from the Expert Mechanism's Study on Access to Justice related to Indigenous persons with disabilities. These included methodologies to collect data on Indigenous persons in detention that is disaggregated by disability and increasing the accessibility of the justice system.



Ms. Walker requested that the Expert Mechanism consider additional recommendations, including, *inter alia*, ensuring the sensitivity and accessibility of Indigenous and state justice systems (i.e. the availability of sign language, accessible premises and information available in alternative formats); and request that the Expert Mechanism and the Permanent Forum ensure websites and reports are accessible by using web accessibility standards (WCAG standards) and posting documents in Microsoft Word.

Ms. McKay informed participants about the discussion on women, youth and children during the Expert Seminar on Access to Justice, highlighting this examination within the Study and Advice on Access to Justice. She welcomed further dialogue from participants at this session on this topic, noting statements related to sexual and reproductive rights of Indigenous women in custody.

Ms. McKay highlighted the barriers to access to justice for Indigenous women, youth and children, which include multiple discrimination, structural violence, high rates of incarceration and poverty and need to involve youth in Truth and Reconciliation Commissions. Remedies highlighted included taking measures aimed at ensuring equality before the law. Concrete examples of this include gender-sensitization training of justice officers (in this case, to Indigenous women's issues in particular), increased appointment of women to the judiciary and legal reforms where access to legal mechanisms is formally prohibited for women. She urged States to work in partnership, especially with Indigenous women, to achieve equality before the law, particularly in the context of State and Indigenous judicial systems.

Ms. Lorenzo highlighted the importance of understanding access to justice is not only about righting past wrongs, but rather remedying current wrongs and to prevent future injustices. She highlighted that the peremptory norm of non-discrimination is key when addressing substantive and restorative justice.

Citing the Advice and Study on Access to Justice, Ms. Lorenzo emphasized that Indigenous peoples' understanding of access to justice is different from states. First, this must include the operations of businesses within Indigenous territories. She noted that monetary settlements do not equate with justice for Indigenous peoples. She urged the Expert Mechanism to take note of the differences in defining "justice" by States, Indigenous peoples and businesses.

Ms. Lorenzo stressed that access to justice for Indigenous peoples involves access to their cultures, territories, children, languages and ceremonies. She called for policies and laws that address access to justice for the future.

During the questions and comments from participants, concerns were expressed about achieving access to justice from extractive industries and country-based concerns.

Jannie Lasimbang referred to commissions of inquiry and transitional justice processes as one modality for increasing access to justice. These are particularly effective where Indigenous peoples participate fully. She expressed the need for organizations of Indigenous peoples to facilitate the participation of Indigenous peoples.

Alexey Tsykarev highlighted the importance of recommendations of the Advice that provide access to legal remedies for Indigenous peoples and the continuing importance of access to justice in the work of the Expert Mechanism. An Ombudsman for the rights of Indigenous peoples is a mechanism that could provide a powerful tool to increasing access to justice. He recommended that States and Indigenous peoples encourage human rights organizations to advance the implementation of Human Rights Council resolution 22/6 on the protection of human rights defenders. Mr. Tsykarev recommended continuing reference be made to the studies and Advice of the Expert Mechanism and, in particular, that the studies and Advice be referenced in States reviews under the Universal Periodic Review and Treaty Bodies.

Albert Deterville highlighted article 13 of the UN Declaration, which recognizes the right of Indigenous peoples to designate their own names, communities and territories. The preamble of the UN Declaration highlights its purpose in addressing marginalization and abuse cause by colonialism. He recommended that the Human Rights Council permit Indigenous peoples and Nations to display their names during the Expert Mechanism's sessions.

The concern about respecting national and international laws, including free, prior and informed consent of Indigenous peoples, for extractive industries operating outside of the country in which they are registered was raised by a participant.

Some States requested more information from the panelists about examples of good practices. Ms. McKay highlighted efforts for utilizing alternative justice systems to address

Indigenous women's particular needs as one example and referred participants to the plans of the Expert Mechanism and Columbia University to publish the Seminar proceedings.

Specific issues related to access to justice were raised by participants, including concerns on violence against Indigenous women; police violence and forced removal from land. Barriers to access to justice identified by participants included the lack of legal knowledge, legal services, and courts; unaffordable legal fees, procedural discrimination and lack of participation by Indigenous peoples in policy development.

Some participants identified the need for the Expert Mechanism to further examine ways to improve access to justice through increased culturally sensitive communications. It was noted that in many parts of the world, the media continues to portray Indigenous peoples in a racist manner.

One participant outlined the connection between reconciliation and the guarantee of non-recurrence as an essential element of justice. Also, it was noted that Indigenous peoples need to define what restorative justice means in relation to previous and ongoing violations with continuing impacts, and what form the processes to achieve justice in these cases should take.

Some participants underlined the importance of recognition of the legal status of Indigenous peoples. Without such status, indigenous peoples are more vulnerable to loss of territory and are less likely that have access to redress and reparations.

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

Prior to opening the discussion on the UN Declaration, the Chairperson-Rapporteur invited Ms. Joenia Batista de Carvalho, member of the Board of Trustees of the United Nations Voluntary Fund for Indigenous Populations (Voluntary Fund), to address the participants of the session.

Ms. De Carvalho welcomed the 20 beneficiaries of the Voluntary Fund and emphasized the role of the Voluntary Fund in ensuring the participation of Indigenous peoples in UN meetings. She noted that since 2012 the Voluntary Fund has supported participation of Indigenous peoples in the sessions of the Permanent Forum, the Expert Mechanism, the Human Rights Council and its Universal Periodic Review process, as well the Human Rights Committee, the Committee on the Rights of the Child, the Committee on the Elimination of Racial Discrimination, the Committee on Economic, Social and Cultural

Rights, the Committee Against Torture, the Committee on the Rights of Persons with Disabilities and the Committee on the Elimination of Discrimination against Women.

Ms. De Carvalho noted the expansion of the Fund's scope to support Indigenous peoples' participation in the World Conference and expressed concern about the financial implications on the mandate of the Voluntary Fund without increased resources to support this addition. Ms. De Carvalho expressed gratitude to the contributors to the Voluntary Fund and called on States to express their support and commitment to Indigenous Peoples worldwide by making a contribution to the Voluntary Fund.

Ms. Lasimbang noted that the Human Rights Council had requested the Expert Mechanism to continue to undertake, with the assistance of the Office of the High Commissioner for Human Rights, a questionnaire to seek the views of States and of Indigenous peoples on best practices.

Ms. Lasimbang welcomed the responses received from States and Indigenous peoples to the questionnaire. She noted with concern that only 21 responses had been received from States and that only 17 Indigenous peoples organizations have responded to the questionnaire. Ms. Lasimbang recommended that alternative methods of data collection be considered to ensure the meaningful participation of Indigenous peoples in future efforts.

Ms. Lasimbang reviewed the submissions received from States and Indigenous peoples and shared many specific examples of laws, policies and programmes cited by States and Indigenous peoples as examples of implementation of the Declaration. She further noted that overall the tenor of some responses underscores the continued tensions between States and Indigenous peoples on the best approaches to achieving the goals of the Declaration.

Ms. Lasimbang also noted that according to the results of the questionnaire no State has yet passed explicit laws requiring the Declaration to be considered when devising new laws, policies or other measures relating to Indigenous peoples and that lack of awareness of the Declaration remains one of the biggest challenges to implementing the rights of Indigenous peoples. She highlighted that there was evidence to suggest that States sometimes perceive a conflict between the recognition and implementation of the rights contained in the UN Declaration and the principle of equality. She emphasized that such a perception can be overcome by applying an analysis of substantive equality, which may require treating Indigenous peoples as distinct groups facing unique circumstances.

Ms. Lasimbang explained that some of the best practices identified were partnerships between states and Indigenous peoples, which facilitated the full and effective participation of Indigenous peoples in decision making, and noted that the responses to the

questionnaire should provide inspiration to others in devising creative strategies to implement the UN Declaration.

Ms Lasimbang noted that the responses from Indigenous peoples were mainly focused on thematic issues and their activities were often limited due to financial resources and the lack of State willingness to cooperate. She also noted that only a few Indigenous peoples who responded have strategies in place to implement the UN Declaration. She also highlighted that Indigenous peoples identified good practices that could include developing various initiatives targeting national policies, laws and regulations to be consistent with the UN Declaration. This includes strengthening the links between UN mechanisms and Indigenous peoples in proposing measures and implementations strategies to attain the goals of the UN Declaration.

Ms. Lasimbang requested the participants to provide information on whether the Expert Mechanism should continue with the questionnaire. Some participants recommended that the Human Rights Council encourage States to work with Indigenous peoples in completing the Expert Mechanism's questionnaire in a substantive manner. The questionnaire survey seeks the view of States and of Indigenous peoples on best practices. Accessing a global scope of responses is useful in this regard.

Participants underlined the importance of the Declaration as an instrument to attain the full realization of the human rights of Indigenous peoples and acknowledged the role of the Expert Mechanism in helping in the promotion of the effective implementation of the Declaration. Participants also noted that a wide gap continues to exist between the implementation of the UN Declaration and its application on the ground. Some participants expressed regret that some States continue to deny the presence of Indigenous peoples within their borders and called for the UN Declaration to be included as one of the basis for review of the Universal Periodic Review.

Specifically, participants highlighted challenges concerning the rights of Indigenous peoples to access to justice, issues related to the protection of Indigenous peoples' lands, territories and resources, the situation of human rights defenders and assassination of Indigenous leaders, the impact of climate change, violence against Indigenous women and their lack of representation in decision-making, and the marginalization of Indigenous persons with disabilities. Some participants also stressed the importance of the role of the media in the promotion of the UN Declaration.

Numerous participants and experts raised concerns about the militarization of indigenous peoples' lands, territories and resources. Participants also highlighted the impact of extractive industries and mega development projects in Indigenous lands and encouraged

stronger collaboration between the Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, the Special Rapporteur on the Rights of Indigenous Peoples, the Permanent Forum and the Expert Mechanism to promote the effective implementation of the UN Declaration, including respecting the free, prior and informed consent of Indigenous peoples and the provision of accessible grievance and redress mechanisms.

Participants emphasized that they continue to face challenges in exercising the right to self-determination and called for dialogue between States and Indigenous peoples to identify and address the barriers to the full implementation of the Declaration. Participants also encouraged the development of comprehensive national strategies that include constitutional, legislative and policy making that are developed and implemented in partnership with Indigenous peoples to attain the goals of the UN Declaration. Participants also encouraged States to apply a human-rights based approach in regards to the UN Declaration.

Participants noted that the Declaration is an essential tool in the protection and promotion of the rights of Indigenous peoples and stressed that implementation of the Declaration remains a challenge and may require new laws. Participants also recommended that follow-up to implementation of the Declaration should be completed in coordination with the United Nations system. Participants also recommended that the three Indigenous mechanisms work in close collaboration with the UN human rights treaty bodies to ensure clarity concerning the status of Indigenous Peoples is secured and clearly articulated.

States highlighted their efforts to find new ways of translating the rights set out in the UN Declaration into concrete benefits for Indigenous Peoples and shared many examples of the programmes and laws developed to implement the Declaration. States also highlighted public policies that promote the participation, consultation, self-governance, the economic development and entrepreneurship of Indigenous peoples, Indigenous cultures and the overall improvement of living standards of Indigenous peoples. States also highlighted the situation of Indigenous women and girls and their efforts to ensure the effective participation of women and girls in decision-making processes. Some States noted the Expert Mechanism's role in providing technical advice in the creation of specialized mechanisms to realize the rights enshrined in the UN Declaration.

National Human Rights Institutions highlighted their efforts to increase awareness of the UN Declaration among Indigenous communities, government agencies and Indigenous organizations, especially through advocacy, complaint handling, educational activities,

policy analysis and human rights' monitoring. NHRIs also noted their strategic role for forging better communication between the State and Indigenous peoples and advance the standards contained in the UN Declaration. NHRIs highlighted their strategies to combat the increased marginalization of Indigenous peoples with disabilities.

Mr. Tsykarev noted that the UN Declaration is widely acknowledged as containing a set of the minimum standards for the rights of Indigenous peoples and should be used as an instrument to promote constructive dialogue between States and Indigenous peoples, based on the recognition of Indigenous peoples' right to self-determination. He also highlighted the importance attached to the legal recognition of Indigenous peoples as Indigenous peoples and to develop strategies to preserve and revitalize Indigenous languages with the use of international recognized standards and methods. Mr. Tsykarev emphasised the need for policies that recognize and promote cross-border rights of Indigenous peoples and for parliamentary attention to the implementation of the UN Declaration. In particular, he mentioned a bias of States in implementing cultural rights to the exclusion of other rights.

## **VII. Interactive dialogue with the United Nations mandated mechanisms on indigenous peoples, and international, regional and national mechanisms**

Ms. Lasimbang, in her opening as the chair of the interactive dialogue, welcomed the panellists Mr. James Anaya, Special Rapporteur on the Rights of Indigenous Peoples; Mr. Kanyinke Sena, Chairperson of the Permanent Forum; Mr. Francisco Cali Tzay, member of the Committee on the Elimination of Racial Discrimination; Mr. Rafendi Djamin, ASEAN Inter-governmental Commission for Human Rights; and Mr. Michael Gooda, Australian Human Rights Commission. She expressed the hope that the interactive dialogue would prove useful to States, Indigenous peoples and other participants and that the discussion highlights and informs the critical role of different actors in advancing the application of the rights enshrined in the UN Declaration.

The Chairperson-Rapporteur discussed the implementation of the UN Declaration at the international and national levels. He explained that the Declaration is the normative framework for the work of the Expert Mechanism, including its studies and Advice. Indeed its studies are built on the foundational right of self-determination.

The Special Rapporteur on the Rights of Indigenous Peoples, Mr. James Anaya, underscored that the full implementation of the UN Declaration is a complex process that requires sustained efforts by a myriad of State and other actors. He stated that the UN Declaration calls upon States to play a central role in operationalizing the UN Declaration, including by adopting specific affirmative measures in relation to the various rights. He reminded participants that greater efforts are required by States to implement the standards of the UN Declaration and to harmonize existing laws policies and programs with those standards.

Mr. Anaya also emphasized that the UN Declaration specifically calls upon the UN system to promote respect for and the full application of the provisions of the UN Declaration and

welcomed initiatives within the various UN mechanisms and agencies to advance the rights of indigenous peoples. He also noted the importance of involvement by the private sector in implementing the UN Declaration. This is especially the case for business enterprises that develop or seek to develop natural resources on or affecting Indigenous peoples' territories. Mr. Anaya emphasized the implementation of the UN Declaration should involve Indigenous peoples, their authorities and organizations, in a spirit of cooperation with States and other relevant actors.

The Chairperson of the Permanent Forum, Mr. Paul Kayinke Sena, noted that the Permanent Forum has taken great care to integrate the UN Declarations into its recommendations. He noted with concern that the implementation of these recommendations has been impeded by a lack of resources and capacity and the non-binding nature of the recommendations of the Permanent Forum.

Mr. Sena welcomed the work of the Inter-Agency Support Group and recognized the role of the Permanent Forum in mainstreaming Indigenous peoples issues in the UN system. Mr. Sena encouraged a discussion on different approaches in promoting the implementation of the UN Declaration with the ultimately aim to promote the rights of Indigenous peoples.

Mr. Francisco Cali Tzay, member of the Committee on the Elimination of Racial Discrimination, highlighted the participation of Indigenous peoples in the making of the UN Declaration and recognized the need to promote its interpretation in harmony with other standards that concern the rights of Indigenous peoples. He highlighted that the Committee on the Elimination of Racial Discrimination, when analysing a country report, pays attention to the implementation of the rights of Indigenous peoples, particularly in relation to the scope of the Convention on the Elimination of Racial Discrimination to combat racial discrimination. He also recalled CERD's General Recommendation no. 23 on Indigenous peoples noting that, although it predates the adoption of the UN Declaration, it contains many elements covered in the UN Declaration, such as the rights of Indigenous peoples to education, health, culture, language and spirituality.

Mr. Rafendi Djamin, Commissioner of the ASEAN Inter-governmental Commission on Human Rights, commented on the complementary role of regional mechanisms and highlighted the importance of promoting a regional approach to address the rights of Indigenous peoples. Mr. Djamin welcomed the recent adoption of the ASEAN Human Rights Declaration, which although it did not specifically mention Indigenous peoples, it did recognize the rights of vulnerable and marginalized groups. Regarding the work of the ASEAN Inter-Governmental Commission for Human Rights, Mr. Djamin noted that the Commission is looking forward to seeking a common understanding about the specific needs of Indigenous peoples in that region. He also highlighted ASEAN's efforts in closing the gap of weak protection mechanisms and existing laws that have not been adequately implemented at the national level.

Mr. Michael Gooda, Commissioner of the Australian Human Rights Commission, highlighted that NHRIs are an exceptional model for advancing the recognition and protection of rights of Indigenous peoples. He emphasized the positive example of the Australian Human Rights Commission reporting directly to Parliament on an annual basis. This practice serves as a means to ensure that the exercise and enjoyment of the human rights of Indigenous peoples is promoted, advocated and advanced at every opportunity. He also noted that the Australian Human Rights Commission, in partnership with the Asia Pacific Forum and the Office of the High Commissioner for Human Rights, is producing a training toolkit for NHRIs focusing on the rights of Indigenous peoples.

Several participants sought the advice of the panel on how Indigenous peoples can collaborate with UN Indigenous-specific mechanisms to influence an increased level of participation of Indigenous peoples in future sessions. Participants also discussed strategies



to disseminate information that profiles the achievement of promoting the rights of Indigenous peoples, which may encourage greater engagement of Indigenous peoples with Indigenous-specific mechanisms and the human rights treaty bodies.

Participants highlighted the importance of engaging other actors in the session of the Expert Mechanism, such as academics, academic units, as well as the Working Group on the Issue of Human Rights and Transitional Corporations and Other Business Enterprises.. This supported by the panelists. Mr. Anaya expressed his full support for the need to invite academics to participate in the sessions of the Expert Mechanism and expressed appreciation for the support received from his academic unit, the University of Arizona Law School in supporting him to meet the demands of his mandate. The Chairperson-Rapporteur expressed his support to invite the Working Group to future sessions and the members of the Expert Mechanism should also attend the Forum on Business and Human Rights.

Several participants expressed a concern for the lack of follow up with treaty body recommendations concerning Indigenous Peoples and asked for advice on effective practices to follow up. The Chairperson-Rapporteur recalled that Indigenous peoples have a responsibility to call for the implementation of recommendations when issued by treaty bodies, especially when they reference Indigenous peoples. He highlighted that the most important call of the UN Declaration is for Indigenous Peoples and States to work together. This can in turn ensure follow-up and implementation of the recommendations of the treaty bodies.

Mr. Sena addressed participants concern regarding the dissemination of information to the local level, acknowledging the specific challenges experienced in Africa, Africa, Latin America and Asia. He supported the view that the World Conference is an opportunity to address this.

Concluding remarks by the Chairperson-Rapporteur recalled the Expert Mechanism's CRP 1 supporting the strong call for the implementation of the rights of Indigenous peoples. Indeed two themes focused on this and referenced specific preambular paragraphs and articles of the Alta outcome document.

## **VIII. Proposals to be submitted to the Human Rights Council**

The Chairperson-Rapporteur invited observers to share their recommendations regarding the Expert Mechanism's proposals to the Human Rights Council.

Participants recommended the Expert Mechanism conduct studies on: peace and security; violence against girls and women; the situation of indigenous human rights defenders; cultural heritage and sacred sites; climate change and the human rights of Indigenous peoples; land, territories and resources; traditional livelihoods; the role of women as entrepreneurs; the preservation of Indigenous cultures; Indigenous governance; the rights of Indigenous persons with disabilities; and post 2015 development agenda.

Participants also recommended the Expert Mechanism continues to undertake its study on access to justice in the promotion and protection of indigenous peoples with a focus on challenges and barriers for access to justice for women, children, youth and

disabled Indigenous peoples; peace including in peace and conflict resolution processes; lands, territories and resources; Indigenous peoples' understanding of restorative justice; non-repetition and non-recurrence; justice for historic human rights violations including those which have inter-generational and on-going impacts; the role traditional justice systems of Indigenous peoples, traditional authorities and institutions; and the role of Treaties, agreements and other constructive arrangements between States and Indigenous peoples.

Participants also recommended further interactive dialogues, further involvement of the Expert Mechanism in the preparatory process for the World Conference on Indigenous Peoples and engagement of the Expert Mechanism with the Working Group on the issue of human rights and transnational corporations and other business enterprises.

## **IX. Adoption of the reports, studies and proposals**

At its last meeting, the Expert Mechanism adopted its study on access to justice in the promotion and protection of indigenous peoples; and its report on the summary of responses from the questionnaire seeking the views of States and of indigenous peoples on best practices with regard to possible appropriate measures and implementation strategies in order to attain the goals of the United Nations Declaration on the Rights of Indigenous Peoples. All proposals were adopted by consensus by the members of the Expert Mechanism.

The members of the Expert Mechanism also adopted a provisional agenda for the seventh session of the Expert Mechanism (see annex II).



## **Annexes**

### **Annex I**

#### **List of participants**

##### **States Members of the United Nations represented by observers**

Algeria, Angola, Argentina, Australia, Austria, Bangladesh, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Denmark, Ecuador, Egypt, Ethiopia, Finland, France, Germany, Greece, Guatemala, Haiti, Honduras, India, Indonesia, Italy, Japan, Lithuania, Malaysia, Mauritania, Mauritius, Mexico, Morocco, Nepal, New Zealand, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Russian Federation, South Africa, Spain, Sri Lanka, Switzerland, Thailand, Uruguay, United Kingdom, United States of America, Venezuela, Viet Nam

##### **Non-member States represented by an observer**

Holy See, State of Palestine

##### **United Nations mandates, mechanisms, bodies and specialized agencies, funds and programmes represented by observers**

Special Rapporteur on the rights of indigenous peoples, United Nations Permanent Forum on Indigenous Issues, United Nations Development Programme, UNICEF, UNHCR

##### **Intergovernmental organizations, regional organizations and mechanisms in the field of human rights represented by observers**

European Union

##### **National human rights institutions represented by observers**

Australian Human Rights Commission, New Zealand Human Rights Commission

##### **Academic and experts on indigenous issues represented by observers of the following institutions**

Hawaii Institute for Human Rights, Leuphana University Lüneburg, Structural Analysis of Cultural Systems-Berlin, University of Manitoba, University of Deusto – Bilbao, University of Arizona

**Non-governmental organizations as well as indigenous nations, peoples and organizations represented by observers**

Adivasi Vikas Sanstha, Agenda Ciudadana por el Desarrollo y la corresponsabilidad Social; Agencia Internacional de Prensa Indígena (AIPIN); Aktionsgruppe Indiauer und Menvcheurechte; Alliansi Masyarakat Adat Nusantara; Aotearoa Indigenous Rights Trust; Assemblée des Arméniens d'Arménie Occidentale; Association Culturelle ATH KOUDHIA Amazigh Algérie; Association de peuples de Kabylie; Association "Ere-Chuy"; Association Espoir pour les Jeunes Batwa – Burundi; Association Tunfa; Association of Indigenous Peoples in the Ryukyus; Association of Russian Language Indigenous People Inhabiting Territory of Present Latvia; Asociación de Desarrollo Integral del Territorio Indígena de Cabagra; Association de femmes de Kabylie N Telawen n Tmurt N Lequbayel; Association TARTIT – Burkina Faso; Association of the Indigenous Peoples of the North, Yakoutia; Australia National Native Council; Bangladesh Indigenous Peoples Forum; Bangsa Adat Alifuru; Bororo Social Cultural and Development Association and Santa Mbororo Youth Association; Centre for Social Development; Centro de Orientacion y desarrollo integral Ngabe Bugle; Chirapaq; Comisión de Juristas Indígenas en la Republica Argentina; Comision Juridica para el Autodesarrollo de les Pueblos Originarios Andinos; Comisión Jurídica para el Autodesarrollo de los Pueblos Originarios Andinos (CAPAJ); Communaute des Potiers du Rwanda; Committee in Solidarity with Indigenous Peoples of the Americas (CSIA – Nitassinan, France); Comunicación y Dialogo con los Pueblos Indigenas en el Idioma Español; Comunidad Aborigen el Angosto Jujuy Argentina; Congres Mondial Amazigh; Congres Populaire Coutumier Kanak; Consejo de la Nacion Charrua-Conocha; Consejo Municipal Indigena Lenca de Honduras; Consejo Municipal Indígena Lenca de Masaguara Intibucá; Consejo Territorial Mapuche Mallolafken; Convention pour la Promotion et le Développement des Peuples Autochtones; Coordinadoría de Organization del Pueblo Kichwa Saraguro; COPORWA; Council of Indigenous Peoples in Today's Vietnam; DoCIP; Foundation for Gaia; Indigenous Global Coordinating Group; Global Indigenous Youth Caucus; Grand Council of the Crees; Grupo Académico de la Dra. Blohm Leuphana Universität Lüneburg; Haudenosaunee; Hawai's Institute for Human Rights; INCOMINDIOS Switzerland; Indigenous Council of Roraima - Brazil; Indigenous Peoples and Nations Coalition; Indigenous People Organisation Network; Indigenous Peoples Organisations Network of Australia; Indigenous People of the North Cultural Center; Indigenous World Association; International Work Group for Indigenous Affairs (IWGIA); Institute of Civil Activity; International Human Rights Association of American Minorities; International Indian Treaty Council; Indigenous People of Africa Coordinating Committee (IPACC); Kalipunan NG Katutubong Mamamayan NG Pilipinas; Kaurareg Aboriginal Land Trust; Kmer Kampuchea Krom Federation; Leonard Peltier Defense Offense Committee; Looking in Ontario; Movimiento Indígena y Campesino de Cotopaxi (MICC); National Aboriginal and Torres

Strait Islander Legal Services; National Congress of Australia's First Peoples; National Indian Youth Council; National Indigenous Women Federation; Native Women's Association of Canada; Native Youth Sexual Health Network; Negev Coexistence Forum; Newar National Indigenous Organisation of Nepal; New South Wales Aboriginal Land Council; North East Dialogue Forum; Ogiek People Development Program; Organisation des Nations Autochtones de Guyane; Organisation of Kaliña and Lokono Indigenous peoples of the Lower Marowijne Area (KLIM); Pacos Trust; Papua New Guinea Mining Watch Group Association Inc; Parakuiyo Pastoralists Indigenous Community Development Organization; Perm Regional Public Organisation «Wind Rose»); Programme d'Intégration et de Développement de peuple Pygmée au Kivu "PIDP SHIRIKA LA BAMBUTI"; El Pueblo Indígena Bubi de la Isla de Bioko; Pueblo Indígena Cumanasoto de la República Bolivariana de Venezuela; Réseau des peuples autochtones d'Afrique; Saami Council; The Sāmi Parliament of Norway; Santa Mbororo Youths Association; Siinak; Society for Development of Tribals; Society for Development of Tribals; Southern First Nations Secretariat; Structural Analysis of Cultural Systems; Tamaynut; Tartir; Tasglat/Tinhinanane; Tebtebba Foundation; ONG Tchichitt; Tomwo Integrated Pastoralist Development; Unidad Indígena del Pueblo Awa (UNIPA); Unissons-nous pour la promotion des Batwa (UNIPROBA); Universal Esperanto Association (UEA)-Lausanne; West Papua Interest Association; Yakutia-Nashe Mnenie; Youth Organization of Finno-ugric Peoples

## **Annex II**

### Provisional agenda of the seventh session

1. Election of officers
  2. Adoption of the agenda and organization of work
  3. World Conference on Indigenous Peoples
  4. Post 2015 Development Agenda
  5. Follow-up on thematic studies and Advice
  6. Thematic study and advice in accordance with the forthcoming resolution of the Human Rights Council
  7. United Nations Declaration on the Rights of Indigenous Peoples
  8. Proposals to be submitted to the Human Rights Council for its consideration and approval
  9. Adoption of the report
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