



General Assembly

Distr.: General
4 July 2011

Original: English

Human Rights Council

Eighteenth session

Agenda items 2 and 3

Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development

Report of the United Nations High Commissioner for Human Rights on the rights of indigenous peoples

Summary

The present report is submitted pursuant to resolutions 12/13 and 15/7 of the Human Rights Council. It contains information on relevant developments of human rights bodies and mechanisms and outlines the activities undertaken by the Office of the United Nations High Commissioner for Human Rights at Headquarters and in the field that contribute to the promotion and full application of the provisions of the United Nations Declaration on the Rights of Indigenous Peoples, and follows up on the effectiveness of the Declaration. The report covers the period from May 2010 to April 2011.

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I. Introduction

1. In its resolutions 12/13 and 15/7 concerning human rights and indigenous peoples, the Human Rights Council requested the United Nations High Commissioner for Human Rights to submit to the Council an annual report on the rights of indigenous peoples containing information on relevant developments of human rights bodies and mechanisms, and activities undertaken by the Office of the High Commissioner (OHCHR) at Headquarters and in the field that contribute to the promotion of and respect for, and the full application of, the provisions of the United Nations Declaration on the Rights of Indigenous Peoples and follow up on the effectiveness of the Declaration.

2. The present report focuses particularly on some illustrative examples of the activities and the initiatives undertaken at Headquarters and by field presences that contribute to the full application of the rights of indigenous peoples. They do not aim to offer an exhaustive overview of the work of OHCHR on indigenous peoples' rights. The report also presents an overview of the recent developments undertaken by United Nations treaty bodies, the Human Rights Council special procedures and mechanisms, including the universal periodic review. The significance of the Declaration on the Rights of Indigenous Peoples has been further reinforced by the recent endorsement of Member States that had previously voted against its adoption at the General Assembly in 2007.

II. Activities of the Office of the United Nations High Commissioner for Human Rights

3. During the period under review, OHCHR continued to work for the promotion and the full application of the United Nations Declaration on the Rights of Indigenous Peoples. These rights figure prominently in the Strategic Management Plan of the High Commissioner. The Declaration is a shared tool and framework for action in this area.

4. At the international level, OHCHR continued to service the Expert Mechanism on the Rights of Indigenous Peoples by, inter alia, supporting the preparation and organization of its annual sessions and organizing a technical workshop in 2011 to contribute to its thematic studies. OHCHR also continues to organize coordination meetings between the three United Nations mechanisms devoted to indigenous peoples, including the Expert Mechanism, the Special Rapporteur on the rights of indigenous peoples and the United Nations Permanent Forum on Indigenous Issues.

5. OHCHR continued to manage the United Nations Voluntary Fund for Indigenous Populations to support the participation of indigenous peoples' organizations in the sessions of the Expert Mechanism and the Permanent Forum. At its twenty-fourth session, from 7 to 11 February 2011, the Board of Trustees of the Fund recommended 30 grants for representatives of indigenous communities and organizations to attend the tenth session of the Permanent Forum, as well as 24 grants to attend the fourth session of the Expert Mechanism. Following the enlargement of the mandate of the Fund by the General Assembly in November 2010, the Board of Trustees of the Fund also set aside resources to enable indigenous peoples' representatives to attend, for up to five days, sessions of the Human Rights Council and the treaty bodies, which will be held between September 2011 and March 2012.

A. Thematic work: Headquarters

6. A significant development for OHCHR was the launch of the United Nations Indigenous Peoples Partnership, an initiative that will function through a multi-donor trust fund along with the International Labour Organization (ILO), the United Nations Development Programme (UNDP) and the United Nations Children's Fund (UNICEF). The Partnership was launched on 20 May 2011 at the tenth session of the Permanent Forum. The key aim of the Partnership is to facilitate implementation of the Declaration on the Rights of Indigenous Peoples and the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169) through joint United Nations country programmes with indigenous peoples and States. The Partnership will fund programmes in the areas of (a) access to justice; (b) access to land and ancestral territories; (c) legislative review and reform; (d) democratic governance and indigenous peoples' institutions; and (e) natural resources and extractive industries (conflict prevention, dispute resolution and benefit-sharing).

7. In 2011, OHCHR also dedicated a theme at its annual meeting of heads of field presences on countering discrimination with a focus on the protection of indigenous peoples' and minority rights. The meeting, held in April 2011, brought together the Office's 56 heads of field presences, and held discussions on, inter alia, strategies for addressing challenges faced by indigenous peoples in realizing their rights.

8. As part of deepening work with OHCHR field presences, the Indigenous Peoples and Minorities Section organized a regional consultation in Managua on 15 and 16 December 2010 for OHCHR 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.

9. In response to a recommendation by the Permanent Forum, OHCHR, ILO and the secretariat of the Permanent Forum jointly organized an expert meeting with the theme, "Keeping track: indicators, mechanisms and data for assessing the implementation of indigenous peoples' rights", which was held place in Geneva on 20 and 21 September 2010. At the expert meeting, participants took stock of the efforts made to develop indicators and generate data on the situation of indigenous peoples, and discussed the possible main features of an integrated assessment framework that would assist actors at local, national and international levels.

10. Further to another recommendation by the Permanent Forum to convene 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 after a series of consultations in Latin America.

11. As part of its effort to promote the Declaration on the Rights of Indigenous Peoples, OHCHR helped organize 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 contains recommendations on, inter alia, the role of parliamentarians in following up the implementation of recommendations from special procedures mandate holders and United Nations human rights treaty bodies, as well as raising awareness about the Declaration.

12. Following the above conference, OHCHR joined the secretariat of the Permanent Forum, IPU and UNDP to develop a handbook for parliamentarians on the Declaration on the Rights of Indigenous Peoples. An advisory board of prominent indigenous experts and

parliamentarians was set up and the drafting process has begun. A final version of the handbook is expected by December 2011.

13. Another area of promoting the Declaration was in the work of the Office with national human rights institutions. OHCHR organized a consultation in partnership with the New Zealand Human Rights Commission on the operationalization of the United Nations 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 across the world. The consultation was held in Auckland, New Zealand, from 1 to 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.

14. In addition to the development of tools to promote the Declaration, OHCHR continues to contribute to the work of the Inter-Agency Support Group on Indigenous Peoples' Issues, a mechanism for international cooperation on indigenous issues working closely with the Permanent Forum on Indigenous Issues. On 16 and 17 September 2010, the World Health Organization (WHO) hosted the annual meeting of the Support Group at its headquarters in Geneva on the theme of indigenous peoples' health. In addition, the OHCHR Regional Office for Central America also participated in a meeting of the Regional Inter-Agency Working Group on Indigenous Peoples, which comprises 10 regional members of the United Nations.

15. In order for the Declaration to yield concrete results, there is a need to build capacity and expertise at the national level. The indigenous fellowship programme run by OHCHR is one important tool to build such capacity in civil society. Since April 2010, 26 fellows have received extensive training from OHCHR and its partners at Headquarters in Geneva through the English-, Spanish-, French- and Russian-language fellowship programmes. In addition, 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 joined OHCHR in May 2011 for a period of three months. OHCHR has also sought to place some of its fellows into its field offices.

B. Regional initiatives

16. During 2010, the OHCHR Regional Office for Central America implemented a project to draft an assessment of the situation of indigenous peoples' human rights with a view to developing a plan of action. The Regional Office facilitated the creation of a regional consultative mechanism with members of indigenous peoples from five countries in Central America. This mechanism has played an instrumental role in improving knowledge and awareness of the impact of violations of indigenous peoples' rights, including a gendered understanding. The mechanism has also drawn attention to the right to land and the duty to be consulted, as well as free and informed consent. On the basis of the findings, the Regional Office also conducted a participatory session with the United Nations system, State officials and indigenous peoples' organizations to design a plan of action, which will allow the Office to implement a three-year project on selected areas of concern.

17. In Asia, the OHCHR Regional Office for South-East Asia continued to cooperate with United Nations agencies at the regional level for the promotion and protection of the rights of indigenous peoples. The Office organized a host of meetings with the UNDP Regional Initiative on Indigenous Peoples, with a focus on (a) a rights-based approach to development; (b) natural resources and livelihoods; and (c) follow-up to United Nations human rights mechanisms and processes. In July 2010, the Regional Office also attended a

strategy planning workshop of the Association of Southeast Asian Nations (ASEAN) Indigenous People's Task Force, organized by the Asian Indigenous Peoples Pact and Forum Asia. The workshop focused on the recognition of indigenous peoples within ASEAN.

18. In Africa, the OHCHR Central Africa Regional Office (United Nations Centre for Human Rights and Democracy in Central Africa) contributed to the organization of a subregional seminar on the application of international norms and principles relating to the rights of indigenous peoples. The seminar, organized by the Indigenous Peoples and Minorities Section of OHCHR in collaboration with the ILO Regional Office for Central Africa, from 26 to 28 May 2010 in Yaoundé, was aimed at examining ways for better including the norms and principles related to the rights of indigenous peoples in the implementation of national programmes and policies in the subregion. The event brought together representatives of Governments, civil society organizations and indigenous representatives.

C. Country engagements

1. Monitoring activities

19. Activities carried out in relation to indigenous issues at the country level included monitoring, support for legal reform, technical cooperation and capacity-building initiatives, as well as awareness-raising. In Latin America, OHCHR field presences monitored a host of concerns on indigenous peoples' rights, including processes of consultation relating to development and extractive industries, situations of unrest and conflict, and the protection of indigenous peoples.

20. The Office in Bolivia (Plurinational State of) received complaints from representatives of various indigenous peoples on either the lack of or poor implementation by State institutions of their duty to consult on legal measures, infrastructure and extractive projects. OHCHR received complaints relating to this issue particularly on extractive industry projects, which have an impact on the lives of indigenous communities. It also continued to monitor the lack of consultation by State institutions with indigenous peoples affected by potential infrastructure projects, such as road projects that would cross the Isiboro Secure Park and Madidi Park. In addition, the Office received information regarding environmental pollution in the territories of some indigenous communities owing to toxic contamination generated by extractive industries in the Chaco region and in the vicinity of the Poopó Lake.

21. During the period under review, OHCHR Colombia continued to fulfil its mandate to monitor violations of the human rights of indigenous peoples. This included monitoring judicial proceedings aimed at investigating the massacre of at least seven members of the Awá people. Special attention was also paid to cases of arbitrary detention of indigenous leaders, threats against their personal integrity, and confinement of indigenous peoples during internal armed conflict.

22. OHCHR Colombia currently participates in a review process of the protection mechanisms established for the Embera Katío from the Alto Sinu on the basis of a decision of the Inter-American Commission on Human Rights in 2001. The process is being conducted in cooperation with civil society organizations, the Embera Katío authorities and Government officials. Participation includes field visits to the community concerned and meetings with relevant Government officials.

23. The Office in Guatemala monitored the forced eviction of 12 indigenous communities in Valle del Polochic, Alta Verapaz. In the context of increasing social

conflicts relating to the exploitation of natural resources and access to land, special attention was paid to cases of arbitrary detentions of indigenous leaders, threats against their personal integrity and the killing of four indigenous leaders in Quebrada Seca, Izabal.

24. In Mexico, the Office conducted a number of monitoring missions related to the rights of indigenous peoples and on threats to human rights defenders. They included a mission to Oaxaca to interview authorities and indigenous leaders on the killing of two human rights defenders working on indigenous peoples' rights, and the monitoring of a trial of an indigenous human rights defender in Guerrero, who was eventually released free of all charges.

25. The Office also conducted a monitoring mission to Chiapas to assess the impact on human rights of mining activities and to assess the consultation of indigenous peoples in the development of the Sustainable Rural Towns initiative, which aims to provide access to education and health. During a field visit to the community of Paso La Reina, OHCHR looked at the issue of consultation of indigenous peoples in the context of construction of a hydroelectric dam.

26. In Asia, OHCHR country offices monitored cases of land concessions, protests, and bonded labour issues affecting indigenous communities. OHCHR Cambodia continued to monitor the impact of economic land concessions and land-grabbing for agro-industrial purposes, such as rubber and cassava plantations, and mining and oil activities that affect indigenous peoples. In some cases, concessions have been granted without respecting the duty to consult with indigenous communities, thereby threatening their livelihood, culture, traditions, burial grounds and forests. Some contentious land cases have resulted in violence against land rights activists as well as members of communities disputing their eviction. OHCHR Cambodia has, in certain cases, sought to facilitate dialogue between members of Government, representatives of private enterprises, civil society organizations and leaders of indigenous communities with a view to encouraging respect for human rights in the context of land disputes.

27. In a current programme, OHCHR Cambodia is assisting communities to undertake a process of self-identification as indigenous peoples and registration with the Ministry of Land Management so that they are entitled to apply for collective land title. The process is mandated by the Land Law of 2001, which recognizes indigenous communities as legal entities prior to securing legal tenure. Current efforts of the Office are focused on assisting the Phnong peoples of Bousra Commune, Mondulkiri province, to protect their rights in the light of the economic land concessions of 2008 that threaten to affect more than 800 families. Efforts by OHCHR in this regard focus on (a) accelerating registration of indigenous communities who are not yet recognized as legal entities; and (b) assisting with the provision of communal land ownership to indigenous communities to ensure that they have security of tenure.

28. In Nepal, the Office continued to monitor protests and demonstrations organized by indigenous peoples across the country to demand self-determination and the creation of autonomous States in the proposed federal system of Nepal. By monitoring various cases, OHCHR played a preventive role in areas characterized by a volatile political situation. The Office in Nepal also continued to monitor the implementation of the Supreme Court decision of 2006 ordering the Government to implement existing laws prohibiting child exploitation, including the Kamalari practice.¹ Through its work with local organizations

¹ The Kamalari practice is a form of bonded labour where children belonging to the Tharu indigenous group are sent to work with wealthy families, and often subjected to physical abuse and sexual exploitation.

focused on the rescue and rehabilitation of Kamalari children, district and regional advocacy networks have been established.

2. Technical cooperation and capacity-building activities

29. The Office supported Governments on indigenous issues by means of a range of technical cooperation activities. OHCHR in Bolivia (Plurinational State of) continued to support actions aimed at changing patterns of discrimination and exclusion of indigenous peoples. Several of these actions were part of legislative and institutional developments concerning the implementation of constitutional provisions. The Office provided various round tables that drafted the bill against racism and all forms of discrimination with technical support, including legal analysis. Together with support from Headquarters, OHCHR provided support through a workshop to the Vice Ministry of Decolonization, which is responsible for addressing racism and racial discrimination through a plan of action.

30. OHCHR also provided the Vice Ministry of Indigenous Justice with support for the process of consultation on a bill on jurisdictional boundaries. This was done through dissemination of information on the bill, organizing a series of workshops and training sessions on indigenous peoples' rights, with a focus on consultation within the framework of the United Nations Declaration on the Rights of Indigenous Peoples, monitoring the consultations as such, and participating in the round-table discussions that incorporated inputs collected during the consultation process into the draft bill. During the consultation, representatives of indigenous peoples expressed their support for the draft bill; however, the final text of the bill, as adopted on 29 December 2010, contains a number of amendments that do not reflect the comments made by indigenous peoples during the consultation process. While the Constitution of Bolivia (Plurinational State of) provides for the right to consultation with indigenous peoples, and Law 3760 of 2007 incorporates the United Nations Declaration on the Rights of Indigenous Peoples as a national law, to date, internal legislation to regulate consultation has only been adopted for the exploitation of hydrocarbons.

31. In Colombia, the Office provides ongoing support for the implementation of a plan to protect the Awa indigenous people, as ordered by the Constitutional Court of Colombia in 2009. Support efforts include hosting and working with a national consultant financed by the Department of Economic and Social Affairs to help implement the plan. Together with UNDP and the Office of the Resident Coordinator, OHCHR Colombia provided technical advice to support the creation of a high-level commission to make public policy recommendations for the protection of indigenous peoples.

32. OHCHR Colombia provided Government officials and members of parliament with technical advice during the discussion of a draft law for victims of the internal armed conflict and land restitution. The draft law includes the duty of the State to consult with ethnic groups with a view to obtain their consent. The Office also launched an initiative aimed at carrying out broad national participatory processes with ethnic communities to discuss their visions, aspirations, concerns, comments and experiences on the principle of free, prior and informed consultation and consent, with the potential of it becoming a legally binding instrument. In July 2010, the first phase of the project was carried out with expert assistance from the Special Rapporteur on the rights of indigenous peoples.

33. OHCHR Guatemala carried out workshops on the duty to consult with Government officials, indigenous authorities, civil society organizations, journalists and the private sector to contribute to the understanding of this duty in compliance with international standards. The Office also participated in meetings with a governmental commission in charge of drafting a regulation on the duty of States to consult. The Office highlighted the

fact that this legal instrument should comply with international human rights standards and be based on broad consultations with indigenous communities and organizations.

34. During the reporting period, OHCHR Guatemala concluded the implementation of the project entitled “Contributing to the eradication of racism and ethnic and gender discrimination, particularly against indigenous women”, jointly with the Presidential Commission against Racism and Discrimination against Indigenous Peoples and the Indigenous Women’s Defenders Office. The Office worked on strengthening the legal units of both organizations, and workshops were also held with prosecutors from across the country to strengthen investigation and the prosecution of cases of discrimination.

35. The Office in Guatemala has also facilitated dialogue between State authorities and representatives of the Garifuna indigenous peoples, encouraging their inclusion and participation of the Garifuna in Government institutions that have a mandate to address racism and discrimination.

36. In Mexico, the Office participated in an expert panel at the Congress of the Union for the discussion of a draft law on indigenous peoples’ right to consultation, entitled “Anteproyecto de la Ley General de Consulta a los Pueblos y Comunidades Indigenas”, and discussed its harmonization with international standards, in particular the United Nations Declaration on the Rights of Indigenous Peoples.

37. At the request of the Judicial Academy of Peru for technical assistance, the Regional Office for South America organized a training session for public prosecutors and judges from the Academy on the direct applicability and interpretative effect of international human rights treaties in domestic courts. The course included a focus on international instruments for indigenous peoples and subjects such as legal pluralism. The two-month course involved (a) two weeks of compulsory attendance (20-24 September and 11-15 October 2010) in Lima; (b) three levels of evaluation; and (c) online follow-up. The first week involved the expert participation of a judge from the Constitutional Court of Colombia, a legal official from the Inter-American Court of Human Rights, ILO legal officers and the regional and deputy regional representatives of OHCHR. The course was attended by 55 public prosecutors and judges, and broadcast live, including in the indigenous regions of Peru.

38. In Asia, the Office worked to address the complexities of the legal framework and accompanying procedural requirements in Cambodia that have put indigenous communities at risk of land grabbing and loss of livelihoods. OHCHR Cambodia supports Government networks (Ministry of Rural Development, Land Management and the Interior), the United Nations, civil society and indigenous communities in strengthening the capacity of indigenous peoples and their partners in the domestic legal framework and its implementation for security of land tenure. Support is provided through technical advice, training sessions and workshops.

39. The OHCHR Central Africa Regional Office joined the Governments of Cameroon and of the Congo in the commemoration of the International Day of Indigenous Peoples on 9 August 2010, in Ngambe Tikar (Cameroon) and Brazzaville (Congo) respectively, to raise awareness of Government and indigenous representatives on the rights of indigenous peoples contained in the Declaration. More specifically, the Regional Office, in cooperation with United Nations system partners, supported the Government of the Congo during a week of public awareness-raising and outreach activities, including a press briefing, an exhibition and a conference debate on 9 August 2010. The activities facilitated an important dialogue between indigenous peoples’ representatives and the Government at the national level, and raised awareness further on the importance of adopting and promulgating the national law on indigenous peoples’ rights.

40. In order to facilitate the adoption of the national law on indigenous peoples' rights in the Congo, the OHCHR Central Africa Regional Office also joined the United Nations system and other partners on advocacy initiatives. The law was adopted on 30 December 2010 by Parliament and the Senate in Brazzaville shortly after the visit of the Special Rapporteur on the rights of indigenous peoples. The law is the first of its kind in Africa and marks a significant step in the recognition and protection of the rights of marginalized indigenous peoples of the country, including such groups as the Baaka, Mbendjele, Mikaya, Luma, Gyeli, Twa and Babongo peoples.

41. Furthermore, the Regional Office conducted bilateral meetings with Cameroon, various diplomatic missions and the Ministry of External Relations in Cameroon to inform them of the establishment of the United Nations Indigenous Peoples Partnership in an effort to garner support and contributions for the Partnership as a tool to enhance technical cooperation and capacity-building. The Regional Office also indicated its willingness to contribute to the validation phase of a research study by the Ministry of External Relations on the definition of indigenous peoples in Cameroon with a view to prepare a draft law on the protection of indigenous peoples in Cameroon.

42. The Regional Office for Southern Africa hosted an indigenous fellow from Namibia for a period of four months. The fellow recently completed the annual OHCHR Indigenous Fellowship Programme in Geneva, and is part of the efforts made by OHCHR Headquarters to create national fellowship opportunities and provide "on-the-job" training in country offices.

43. OHCHR in Moscow has also supported the indigenous fellowship programme by hosting an indigenous fellow for three months. In addition, it has focused on capacity-building and enhancing knowledge of indigenous peoples who engage with United Nations human rights mechanisms. In 2010, as part of the OHCHR indigenous fellowship programme, the Office facilitated training sessions in Moscow and Geneva attended by eight representatives of indigenous communities, in collaboration with the Peoples' Friendship University of the Russian Federation, United Nations agencies and non-governmental organizations. The Office in the Russian Federation also facilitated the translation and printing of the Universal Declaration for Human Rights in the Komi-Permian language. This concluded a series of translations of the Universal Declaration into 10 languages of indigenous communities.

44. In Latin America, OHCHR in Bolivia (Plurinational State of) provided capacity-building assistance to civil society organizations for their participation in the seventy-eighth session of the Committee on the Elimination of Racial Discrimination, where they held a dialogue with Committee experts. This participation, together with the Government, allowed the Committee to attain a holistic understanding of the situation in the country. At the request of the Guaraní People's Assembly, training sessions were organized for 100 Guaraní leaders on the topics of participation and the rights of indigenous women in Bolivia (Plurinational State of). The Office also supported meetings of the Guaraní people during the ninth and tenth sessions of the Permanent Forum on Indigenous Issues in New York.

45. A three-day training session was conducted in Cochabamba by OHCHR in Bolivia (Plurinational State of) for 30 indigenous communicators. The session was the first of three focused on international human rights instruments and values. In addition, participants initiated the production of brochures on the Universal Declaration of Human Rights, translated into the languages spoken by their communities of origin.

46. OHCHR Colombia raised awareness about the content of the United Nations Declaration on the Rights of Indigenous Peoples through public speeches, technical meetings and workshops with indigenous peoples, civil society organizations and

Government officials. The Office has further distributed the Declaration and related United Nations documents to various stakeholders, including judges of the Constitutional Court, with the aim of increasing their knowledge about the protection of indigenous peoples.

47. In October 2010, OHCHR Colombia participated in a training programme for senior legal officers of the military and conducted a special session on the fundamental rights and freedoms of indigenous peoples. In this context, the Office addressed specific concerns with respect to military actions and the rights of indigenous peoples, with a particular focus on the use of lands, territories and natural resources, and the principle of free, prior and informed consent. Issues raised also included the risks of forced displacement due to military presence and actions, restrictions to freedom of movement and protection of indigenous peoples from illegal armed groups.

48. In the context of the Maya programme, OHCHR Guatemala concluded the first phase of the technical training programme for strategic human rights litigation for indigenous peoples' rights, which was attended by 32 students and 24 representatives of indigenous peoples' organizations. A total of 12 technical programmes for strategic litigation (on consultation, natural resources, land, non-discrimination and cultural rights) were designed and completed by students. Training programmes have been initiated for the second group.

49. OHCHR Guatemala also organized a two-day workshop with 54 indigenous leaders from the Latin America region to exchange experiences about the protection of indigenous peoples' collective rights in the context of exploitation of natural resources.

50. The Office in Mexico organized a regional forum on the theme, "Rights to consultation: the impact of development projects on rights to lands, territories and natural resources" on 27 and 28 May 2010, in Oaxaca de Juárez. Indigenous peoples' organizations from the States of Oaxaca, Guerrero, Chiapas and Veracruz shared their experiences on defending their rights in the context of large-scale development projects. The Office made presentations on international standards, with a specific focus on the United Nations Declaration on the Rights of Indigenous Peoples.

51. The OHCHR Regional Office for Central America supported the National Coordination Organization, which represents seven indigenous peoples in Panama in their advocacy to seek ratification of ILO Convention No. 169 by providing capacity-building training in several provinces and indigenous territories on the content of the Convention. As a result, the Ministry of the Interior assembled a working group to study the matter; during the universal periodic review, the Government of Panama made a voluntary pledge to consider adhering to ILO Convention No. 169.

52. The Regional Office for Central America also initiated training activities to facilitate the use of human rights bodies by indigenous peoples' and organizations. With support from OHCHR Headquarters, the Office designed a programme to strengthen the capacities of Coordinadora Nacional de Mujeres Indígenas de Panamá on the basis of a methodology designed for trainers on the international human rights framework (the Declaration, the Convention on the Elimination of All Forms of Discrimination against Women and other international human rights instruments) to enhance interaction with United Nations human rights mechanisms. The Office also worked in close coordination with the United Nations country teams in Panama and El Salvador to ensure that indigenous peoples' concerns were taken into account during the elaboration of the Common Country Assessment and the United Nations Development Assistance Framework.

53. On 4 and 5 May 2010, the Regional Office for South America participated in an international seminar in Lima on the theme, "The duty of States to consult with indigenous peoples in Peru and Latin America", organized by a group of indigenous peoples' organizations, the national human rights coordinator, Oxfam and Agencia Española de

Cooperación Internacional para el Desarrollo. The Regional Office gave the inaugural keynote address and made closing comments, which highlighted the role of international instruments and the importance of consultation with indigenous peoples. The seminar was attended by more than 200 participants and drew broad media attention in Peru. On 19 May 2010, Congress adopted a law regulating the content, principles and procedure of the duty to consult with indigenous peoples, the first of its kind in the Latin America and the Caribbean region; the law is now pending Presidential enactment. Parliament adopted the law after 10 months of intense negotiations among Government officials, indigenous peoples' organizations and human rights non-governmental organizations, national human rights institution and other stakeholders. Following adoption, the Regional Office organized follow-up actions with indigenous peoples' organizations, human rights lawyers and the ILO Regional Office. Five weeks after adoption of the law by Congress, the President of Peru vetoed it. At the end of the reporting period, the law had still not taken effect.

54. On 26 November 2010, the Regional Office for South America conducted a training session on United Nations mechanisms dealing with indigenous peoples for 30 young indigenous leaders from Chile. The activity was organized by the Human Rights Department of the Ministry of Foreign Affairs in Santiago. The session included the dissemination of books and materials on indigenous peoples for participants.

55. The Central Africa Regional Office conducted a training session on the United Nations Declaration on the Rights of Indigenous Peoples at a workshop for technical focal points from 10 ministerial departments, including social affairs, agriculture, justice and external relations, jointly organized by ILO and Plan International, in Cameroon on 28 September 2010. It also produced a series of outreach materials to raise awareness on indigenous peoples' rights, and contributed to a better understanding of the Declaration, as well as the full application of its provisions. The outreach materials included a public information kit, with the support of UNICEF Congo, UNFPA Congo, the European Union and the Ministry of Social Affairs of the Congo. The kit included 1,000 booklets on questions and answers on indigenous peoples and human rights in Central Africa, 600 copies of the fact sheet on the Expert Mechanism on the Rights of Indigenous Peoples, and several hundred copies of posters produced by indigenous peoples in the Congo.

56. In line with its regular engagement to enhance the capacity of indigenous activists on human rights mechanisms, OHCHR Nepal conducted a training session for trainers jointly with a national indigenous organisation. The session was held in November 2010 with the objective of helping participants to advocate for the inclusion of indigenous peoples' rights in the new Constitution of Nepal in accordance with international standards.

III. Human rights bodies and mechanisms

A. Expert Mechanism on the Rights of Indigenous Peoples

57. The Expert Mechanism on the Rights of Indigenous Peoples held its third session in July 2010. In addition to discussing the implementation of the Declaration on the Rights of Indigenous Peoples, the Expert Mechanism adopted a progress report on its study on indigenous peoples and the right to participate in decision-making. On 9 and 10 March, the Office hosted an expert workshop on the right to participate in decision-making for the Expert Mechanism. The main objective of the workshop was to obtain additional substantive input to the final thematic study of the Expert Mechanism, particularly on (a) good practices of indigenous peoples' participation in decision-making; and (b) recommendations for the implementation of the right to participate with a focus on the principle of free, prior and informed consent. Following the workshop, the study was

finalized and submitted for adoption by the Expert Mechanism, together with advice No. 2, at its Fourth Session in July 2011.²

B. Special procedures and treaty bodies

1. Special procedures

58. The Special Rapporteur on the rights of indigenous peoples carried out visits to several countries, including New Zealand, Guatemala, Congo, New Caledonia (France), Suriname and Costa Rica. As an example, OHCHR Guatemala supported the visit of the Special Rapporteur on the rights of indigenous peoples which focused on the duty to consult. The visit generated a wide discussion on the subject of consultation within the country, increased awareness in the private sector and prompted an initiative by the Government to regulate this right. Further details on the activities of the Special Rapporteur will be presented in his report to the Human Rights Council at its eighteenth session (A/HRC/18/35).

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

60. During the reporting period, other special procedures mandate holders also looked into the situation of indigenous peoples within their respective mandates. Thematic mandate holders addressed the issue in various forms, such as in the recent report submitted by the Special Rapporteur on violence against women, its causes and consequences (A/HRC/17/26) to the Human Rights Council, with a focus on multiple forms of discrimination, including against indigenous women. In his report submitted to the General Assembly at its sixty-fifth session (A/65/281), the Special Rapporteur on the right to food explored threats posed by increasing pressures on land, paying particular attention to indigenous peoples. In the report, the Special Rapporteur explored how States and the international community could better respect, protect and fulfil the right to food by giving increased recognition to land as a human right.

61. Some thematic mandate holders also addressed indigenous rights during their country visits. On the basis of her mission to Brazil in November 2010, the independent expert in the field of cultural rights examined, inter alia, the cultural rights of indigenous peoples (A/HRC/17/38/Add.1). The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism highlighted the fact that atrocities committed during the internal armed conflict in Peru affected indigenous communities and peasants and the lack of an inclusive policy with regard to indigenous peoples (A/HRC/16/51/Add.3). The Special Rapporteur also highlighted the importance of the collective reparations programme in Peru, which is an important means of addressing the distinct needs of indigenous peoples affected by the internal armed conflict. In her end of mission statement on 21 January 2011 in India, the Special Rapporteur on the situation of human rights defenders expressed concern for those working for, inter alia, the rights of *Adivasis* (tribal peoples).

2. Treaty bodies

(a) Committee on the Elimination of Racial Discrimination

² A/HRC/EMRIP/2011/2.

62. The Committee on the Elimination of Racial Discrimination continued to pay particular attention to the situation of indigenous peoples in the concluding observations adopted after the consideration of reports submitted by States parties, as well as during the consideration of situations under its early warning and urgent action procedure. In some concluding observations, the Committee recalled its general recommendation No. 23 (1997) on the rights of indigenous peoples. During the period under review, concluding observations relating to indigenous peoples issues were addressed to eight State parties.

63. The Committee regretted the absence of information from a number of State parties on the ethnic and linguistic make-up of the population, including indigenous peoples, which would enable both the Committee and the State party to better assess the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination at the national level. In this regard, the Committee reiterated its recommendation according to which State parties should adopt measures or appropriate statistical tools to ensure that self-identification is the primary means for determining whether people are indigenous or not. The Committee also addressed the issue of lack of legal recognition of indigenous peoples by some State parties, including recognition of collective rights to indigenous peoples, in particular the right to ancestral land.

64. The Committee continued to pay attention to activities carried out by transitional corporations that may have a negative impact on the traditional lifestyle of indigenous peoples. It continued to address the issue of effective participation and representation of indigenous peoples in public and political affairs, as well as in decision-making bodies. It also continued to address the issue of full enjoyment of economic, social and cultural rights by indigenous peoples. The Committee remained concerned about the issues of effective access to justice and of judicial and administrative remedies for indigenous peoples.

65. Under its early warning and urgent action procedure, the Committee issued letters of concerns and recommendations regarding the situation of indigenous peoples in 14 countries. In particular, it expressed great concern about the lack of consultation with indigenous peoples prior to granting land concessions, including the absence of seeking their prior, free and informed consent before carrying out mining activities or other projects on their traditional lands that may affect their lifestyle. The Committee recommended that State parties should consult with indigenous peoples before carry out mining activities or other projects in order to obtain their prior, free and informed consent. In a number of situations under its early warning and urgent action procedure, the Committee addressed the negative impact of mining activities on the environment and recommended that State parties should carry out independent impact assessments of such activities.

(b) Human Rights Committee

66. At its one-hundredth session, the Human Rights Committee examined a State party report and expressed its particular concern at the situation of women and girls performing domestic work, which primarily affects rural and indigenous women and girls. Under articles 3 and 26 of the International Covenant on Civil and Political Rights, the Committee noted that they were subject to particularly harsh working conditions, excessive work hours and were either unpaid or poorly paid for their work.

(c) Committee on Economic, Social and Cultural Rights

67. During the forty-fourth session of the Committee on Economic, Social and Cultural Rights, concluding observations regarding the rights of indigenous peoples were addressed to a number of States parties. Recommendations included the recognition of an indigenous official language; the establishment of concrete measures to review processes concerning infrastructure, development and mining projects and full implementation decisions of the Constitutional Court; the adoption of legislation in consultation with and the participation of, inter alia, indigenous peoples, that clearly established the right to free, prior and

informed consent, in conformity with ILO Convention No. 169 concerning Indigenous and Tribal Peoples and relevant decisions of the Constitutional Court; the design of specific strategies to generate employment opportunities; the registration of newborn indigenous children; and protecting the rights of indigenous women displaced by internal armed conflict.

68. At its forty-fifth session, the Committee addressed indigenous concerns to one State party. It recommended that the State party should ensure that the indigenous community could return to and remain undisturbed on the lands from which they were evicted. It recommended the establishment of an authority for the representation of the community for consultation and consent, as well as State party consideration to ratify ILO Convention No. 169.

(d) Committee against Torture

69. In consideration of a State party report, the Committee against Torture noted that arrest warrants were often insufficiently substantiated by evidence and that arrests were used as a means of stigmatizing certain groups, inter alia, indigenous people (Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 2). The Committee recommended that the State party should take steps to eradicate preventive administrative detention and mass arrests, and act on the recommendations made by the Working Group on Arbitrary Detention. It also expressed concern about threats against victims of forced displacement who had asked for the return of their land. It noted that those mainly affected were, inter alia, indigenous peoples. The Committee was concerned under article 14 of the Convention that land belonging to displaced persons had been seized by illegal armed groups and, in some cases, sold to third parties for mono-cultivation and the exploitation of natural resources. It therefore urged the State party to take effective measures to ensure the return of land to victims of displacement and respect the land ownership of, inter alia, indigenous peoples.

(e) Committee on the Elimination of Discrimination against Women

70. The Committee also took note of information from the State party on the preparation of a draft bill on cooperation and coordination between the indigenous and ordinary justice systems, setting out, in articles 4 and 19, the principle of reviews for constitutionality. It expressed concern that neither the periodic report nor the answers given by the delegation of the State party provided sufficient information on how conflicts of jurisdiction between the two systems would be resolved (articles 2 and 16). It therefore recommended that the State party should take the steps necessary to ensure that conflicts of jurisdiction between ordinary and indigenous justice systems are resolved through a procedure laid down by law.

71. The Committee on the Elimination of Discrimination against Women expressed concern about the lack of effective access to the justice system for indigenous women. In relevant concluding observations, the Committee requested State parties to take all appropriate measures to remove impediments that women may face in gaining access to justice and to put in place measures to ensure women's access to justice. It specifically recommended that States parties should enhance women's awareness of their rights through legal literacy programmes and legal assistance, and ensure that judges, lawyers, prosecutors and public defenders are familiar with the rights of women, including indigenous women, as well as with the obligations of States parties under the Convention.

72. During the period under review, the Committee continued to pay particular attention to the lack of access to health care for indigenous women, and recommended that State parties should close the existing gaps in the infant and maternal mortality rates between indigenous and non-indigenous populations.

73. The Committee remained concerned about the lack of temporary special measures in the form of compulsory targets and quotas to address the underrepresentation of indigenous women in decision-making positions in political and public life. In this regard, the Committee reiterated its recommendation that State parties should adopt temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation No. 25.

(f) Committee on the Rights of the Child

74. A number of State parties were considered by the Committee on the Rights of the Child at its fifty-fourth session; some were also reviewed under the Optional Protocol of the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the Optional Protocol on the involvement of children in armed conflict. Concluding observations on indigenous peoples regarded, inter alia, taking all appropriate measures in the light of articles 3 and 4 of the Convention, to the maximum extent of available resources; ensuring sufficient budgetary allocations for services for children, with a particular focus on the protection of the rights of children belonging to disadvantaged provinces and groups, including indigenous children; the translation of the Convention and the optional protocols thereto into indigenous languages; and the implementation of a birth registration strategy for indigenous children.

75. At its fifty-fifth session, the Committee considered 11 State parties (10 under both optional protocols and one under the Optional Protocol on the involvement of children in armed conflict). Concluding observations on indigenous peoples regarded, inter alia, the State party taking measures under article 4 of the protocol to eliminate the root causes of recruitment of persons under the age of 18 years by armed groups distinct from the State, with special attention paid to preventing the recruitment of, inter alia, indigenous children, and to ensuring that these measures were developed in consultation with affected communities; addressing the situation of racism and discrimination against specific indigenous communities; and establishing culturally sensitive health care for indigenous women and children. The Committee also drew attention to its general comment no. 11 on indigenous children.

76. At the fifty-sixth session, the Committee considered nine State parties under both optional protocols. Concluding observations on indigenous peoples regarded, inter alia, upholding the identity of a particular indigenous community capable of vindicating traditional rights in accordance with international norms; improving the situation of children belonging to indigenous groups and recognition of treaty rights; and guaranteeing the right of indigenous children to enjoy their own culture.

C. Universal periodic review

77. Issues concerning indigenous peoples were frequently raised in the context of the universal periodic review, including in reviews concerning Australia, Guyana, Kenya, the Lao People's Democratic Republic, Nepal, Panama and Sweden. Recommendations concerned, inter alia, the ratification of ILO Convention No. 169; the implementation of recommendations by the Special Rapporteur on the rights of indigenous peoples; harmonizing domestic legal frameworks with international human rights standards; the implementation of recommendations by the African Commission on Human and Peoples' Rights; and measures for effective political participation.

78. OHCHR Nepal supported the meaningful participation of indigenous peoples' organizations in the universal periodic review. During preparation for the review, OHCHR Nepal organized awareness-raising initiatives on advocacy opportunities that the review provides. It also facilitated discussion and advocacy on indigenous peoples' issues

and recommendations among such key stakeholders as national human rights institutions, the international community and civil society. OHCHR Nepal also supported the participation of indigenous peoples in the preparation of the State report submitted for the review.

IV. Conclusions

79. **During the period under review, OHCHR further strengthened its work to advance the rights of indigenous peoples at the country level and increased its efforts to clarify concepts contained in the United Nations Declaration on the Rights of Indigenous Peoples. The work facilitated consultative processes in Bolivia (Plurinational State of) and elsewhere, as well as the adoption of new legislation, including the law on indigenous peoples in the Congo.**

80. **Through various activities with the United Nations country teams, Governments and civil society, OHCHR also built the capacity of indigenous communities to advance their rights.**

81. **Furthermore, OHCHR promoted cooperation and coordination within the United Nations system and among the three United Nations mandates dedicated to indigenous issues. A key development was the launch of the United Nations Indigenous Peoples Partnership, which endeavours to advance the implementation of the Declaration as “one United Nations” in partnership with indigenous peoples and States.**

82. **In addition to the work of the United Nations mechanisms devoted to the rights of indigenous peoples, human rights treaty bodies and the universal periodic review process frequently highlighted gaps and recommended measures to advance the rights of indigenous peoples in line with the Declaration. The extension of the mandate of the Voluntary Fund for Indigenous Populations will now allow an increasing number of indigenous peoples to attend the sessions of treaty bodies and the Human Rights Council to give greater visibility to their issues.**

83. **During the period under review, the United Nations Declaration on the Rights of Indigenous Peoples received further endorsements by Member States, and confirmed its role as a global tool for advancing these rights. OHCHR and various human rights mechanisms also pursued a broad range of activities and initiatives to help Member States, indigenous peoples and others concerned to make sure that the principles of the Declaration are reflected in laws, policies and practices.**
