

doCip

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Editorial

As announced in our previous issue, you are holding in your hands the new version of the Update, which has been completely redesigned in terms of content and graphics in response to the requests of indigenous delegates during Docip's consultations at the Permanent Forum and at the Expert Mechanism in 2014.

The Update no longer features a summary of previous conferences, but rather, thematic reports organised into four separate sections: "Focus", which provides in-depth coverage of a single topic (the current issue addresses "good governance", special theme of the 13th Session of the Permanent Forum); "What's New", an update on themes or processes presented in previous issues of the newsletter (the current issue covers the follow-up of the World Conference on Indigenous Peoples); "Ongoing Processes", a section discussing preparations for future events (the current issue features the struggle of indigenous peoples in the negotiations on sustainable development goals); and, as a wrap-up, some "Brief Notes".

Apart from the Update, Docip is preparing to reform several of its activities to meet the needs expressed by indigenous peoples for improving their work at the international level. Beginning in 2016, a new strategic plan will guide Docip's objectives and activities. Without altering the core principles of the organisation, which include neutrality and impartiality, it will improve the impact of our activities on the ground for all indigenous organisations using our services.

However, these changes are occurring at a time of some unwelcome news regarding long-term support for our organisation. The Swiss Agency for Development and Cooperation (SDC) has decided to discontinue its subsidy to Docip, as well as its subsidy to the Swiss Fund for Indigenous Peoples, preferring to redirect their funding towards projects on the ground. Docip is currently negotiating with the Swiss authorities to draw their attention to the challenges involved in the activities of our organisations for the participation of indigenous peoples in international processes and for the use, in national and local policies, of standards and principles developed at the international level. We hope to find a solution before the end of this year to ensure the sustainability of Docip's activities, whose relevance and effectiveness were repeatedly confirmed in our 2014 consultations by various representatives of indigenous peoples from around the world.

Finally, we wish to warmly thank our graphic designer, who conceived the new design for the Update. We especially appreciate her contribution in these difficult times since it allows us to provide quality information in terms of both content and presentation.

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FOCUS

Principles of Good Governance and the Rights of Indigenous Peoples

At the 13th session of the Permanent Forum on Indigenous Issues, in May 2014, the special theme was "Principles of Good Governance consistent with the UN Declaration on the Rights of Indigenous Peoples, articles 3 through 6 and article 46". Discussions highlighted two different ways in which good governance is understood in the context of indigenous peoples. On the one hand, good governance encompasses, in fact depends on, indigenous peoples' own principles of governance, and on the other it refers to what states' governments should do, or not do, in relation to indigenous peoples' self-determination, self-government and autonomy. The two understandings are not necessarily in conflict with each other, but implementation of the Declaration will require finding the common ground that joins them.

Dalee Sambo Dorough, Chairperson of the 13th session of the UN Permanent Forum on Indigenous Issues (PF), indicates that the PF's purpose in discussing this theme is to illustrate for States what the principles of good governance mean in IPs' contexts. By giving full effect to the principles of good governance, States and IPs can work towards implementation of the Declaration.

What are the principles of good governance?

Governance usually refers to how power is exercised and how decisions are made on issues of public concern. **Dalee Sambo Dorough** adds that good governance refers to a set of inter-related and mutually reinforcing principles including transparency, responsiveness, effectiveness and accountability of States' governments with respect to the interests, needs and human rights of indigenous peoples (IPs). For IPs good governance must acknowledge and actively foster their fundamental rights to self-determination and to freely determine their political status and freely pursue their economic, social and cultural development. Moreover, good governance encompasses IPs' right to participate in decision-making in all matters that impact them. It is founded on consultation and consent, and requires the recognition of IPs' forms of self-governance, as well as of customary governance systems over lands, territories and natural resources. Good governance needs to ensure equality and non-discrimination, and to be consistent with the UN Declaration on the Rights of Indigenous Peoples (the Declaration).

Pedro García Hierro, Director of the Public Policies and Indigenous Peoples' Rights Programme of EQUIDAD in Peru, highlights elements of good governance inherited from previous generations that the current generation of IPs, in the Amazon region, considers as indispensable for the good governance of their territories: a self-defined, integral territory recognized by all other nations and societies; inter-generational transmission of territorial knowledge; the collective control of decision-making related to the territories; food security and sovereignty based on self-sufficiency; control of an education system based on the peoples' own value system; and the collective rights recognized in international instruments. These six aspects are a good starting point to work towards IPs' territorial governance – a concept that relates to IPs' autonomy and self-government, their territorial control and self-determined destiny, and ability to establish cooperative relationships with other societies.

According to **Robert Joseph**, from Te Mata Hautū Taketake – the Maori and Indigenous Governance Centre, University of Waikato in New Zealand, specific universal good governance principles include transparency; responsiveness; consensus; equity, non-discrimination and inclusiveness; effectiveness and efficiency; accountability; participation; consultation and consent; human rights; and the rule of law. Universally recognized principles for good governance must be applied and realized by States and IPs. However, there is no single world-wide model for good governance: the emphasis given to different aspects of governance will vary in different settings because societies value process, form and outcomes differently. Some societies may see economic growth as their primary goal while others accord more importance to environmental sustainability and social justice.

ECUADOR notes that within the UN context, good governance is understood as the result of pluralistic democracy in the framework of the rule of law, through institutions and processes that promote equitable, participatory, inclusive, responsible and fair societies.

Good governance drives economic development. **IPACC** underscores that in Africa, improved governance is crucial in ensuring that sustainable economic growth can contribute to alleviating poverty.

Several statements by indigenous organisations also insist on what good governance is for IPs. **PAGTP-2014** note that good governance must provide the opportunities for IPs to participate in legislation and policy making.

It needs to be inclusive and ensure equality and justice for IPs to achieve their collective aspirations and well-being.

As **CECA** underscore, articles 3 to 6 of the Declaration emphasize the inalienable right of all IPs to self-determination in their ancestral lands and to pursue their autonomous cultural, political and economic development, the right to strengthen the veracity of their distinct political, legal, economic and social institutions, and the right to exercise their nationhood as IPs in occupied lands (also **PAGTP-2014**).

As emphasized by **GCC/AFNQL/CFSC/FSIN/QNW/FPHRC/IWA/ICC/KAIROS/NKIKLH/NWAC/UBCIC**, the relevance of good governance to the Declaration is affirmed in article 46(3), which states that every provision in the Declaration shall be interpreted in accordance with good governance as well as justice, democracy, respect for human rights, equality, non-discrimination and good faith.

PF member **Maria Eugenia Choque** adds that for IPs, the theme of governance encompasses issues of identity, customs and usages, spirituality and rituals, political and territorial structures, management of resources and conflict resolution. Indigenous governance must therefore be incorporated in the wider debate on the recognition and realization of collective rights, including free prior and informed consent and IPs' effective participation in decision-making. Systems and practices of indigenous governance vary across the world, as they have been developed in relation to particular contexts and experiences. However, they were all developed by IPs who were free and independent, and have then been subjected under colonial domination, which has denied the IPs their own forms of governance and social organisation.

HC stress that the Haudenosaunee, also known as the Six Nations Iroquois Confederacy, is a constitutional democracy, born over a thousand years ago on the shores of Onondaga Lake, in present day central New York State. The Haudenosaunee are governed by an ancient constitution known as the Great Law of Peace, complete with a sophisticated system of checks and balances. As affirmed in article 3 of the Declaration, the Haudenosaunee continue to maintain their traditional governance structure and have never relinquished their lands or right to self-determination. It is the duty of their chiefs to deal with international relations: they have been involved in dialogue with the UN over decades and with the League of Nations before the UN existed. They have maintained these relationships on an equal footing with other nations, as an active expression of their self-determination.

In relation to the specific situation of Aboriginal and Torres Strait Islander peoples **ATSISJC/AHRC** highlight key points as to effective indigenous governance and how governments can support this in line with the Declaration. Self-determination is a critical element of governance and its exercise can only be achieved with good community governance. The key human rights principles set out in the Declaration (self-determination, participation in decision-making, respect for and protection of culture, and equality and non-discrimination) provide a solid framework to facilitate effective and culturally relevant governance for IPs; governments, non-indigenous organisations and businesses that work in and for indigenous communities need to respect the Declaration's principles.

Realizing indigenous good governance

Under-Secretary-General for Economic and Social Affairs **Wu Hongbo**, highlights that good governance must focus on how any given current governance structure is advancing the rights of IPs, in order to identify necessary reforms towards full implementation of the Declaration. IPs' governance institutions and systems, built on experience, respect and reciprocity, must be taken into account.

Reducing disadvantages and vulnerability: delivering services or empowering indigenous peoples?

IPs' history of exclusion and discrimination by economic and political elites has driven them to organize and fight for their rights and claims, says **Jaime Martínez Veloz**, Mexico's Commissioner for dialogue with IPs.

Likewise, **ECUADOR** acknowledges this history of oppression and poverty. To reduce the resulting disadvantages, it promotes public policies based on equality and non-discrimination. Democratic reforms undertaken to guarantee "Good Living" for all Ecuadorian citizens were difficult as they required dismissal of historically racist and excluding social structures, and to confront powerful elites. To strengthen these political changes it is necessary to guarantee access to bilingual intercultural education at all levels for IPs' new generations.

In **NEPAL**, the Ministry of Federal Affairs and Local Development is responsible for country-wide coordination of indigenous issues, including the governmental programme for development of marginalized people, coordinated and monitored at district level. Reaffirming its commitment to the rule of law, good governance and human rights, Nepal draws attention to the development challenges it faces, in view of the effects of climate change and biodiversity loss that particularly affect indigenous communities, who are dependent on one of the world's most fragile ecosystems.

CANADA emphasizes its long history of working with Aboriginal partners on practical solutions to improve the social well-being and economic prosperity of IPs in a spirit of reconciliation. Good governance contributes to better economic and social outcomes of both state interventions on economic and social conditions of Aboriginal people, and of the First Nations communities who embrace good governance. In response to a governmental diagnosis attributing lack of progress in living conditions of First Nations on reserves to inadequate governance and legislative frameworks, legislation is being developed to ensure financial transparency and accountability of First Nations governments, through requirements of public disclosure of expenses and audited consolidated financial statements. Canada also reports on introduction, with the support of the Assembly of First Nations, of the First Nations Control of First Nations Education Act.

AUSTRALIA says responsibility for indigenous policy, programmes and services at the national level was transferred to the Department of the Prime Minister and Cabinet to improve effectiveness and coordination, both among governmental agencies and with governments at the state and territory level, which deliver most of the programmes under the Closing the Gap initiative. The Empowered Communities Initiative is being developed by the Government as a model for engaging with indigenous Australians in order to build strong and prosperous communities – ensuring children attend school, adults have real jobs and communities are safe with the rule of law applying.

PF member **Megan Davis** enquires whether the Australian policy of Empowered Communities is only about service delivery, or about governance and self-determination?

AUSTRALIA responds that the Empowered Communities Initiative, led by indigenous communities in eight regions across Australia and supported by the Australian Government in 2013, aims at more coordinated governmental action, better targeted investment, and greater involvement of local indigenous leaders over what happens in their communities. The initiative is in its early stages. Guiding principles include indigenous responsibility; participation on an opt-in basis; programmes allowing for a community's specificities; funding based on outcomes with flexibility to innovate; and inclusion of corporate support to build indigenous Australians' capabilities.

ATSISJC/AHRC say IPs in Australia have governed themselves since time immemorial according to traditional laws and customs. However, a number of challenges have hindered their capacity for self-determination, self-governance and autonomy: long-term application of the doctrine of *terra nullius*; the absence of a treaty recognizing their sovereignty to their lands, territories and resources; and the lingering effects of colonisation, including forced removal to missions and reserves, which disrupted indigenous communities' ability to govern and organise themselves. After more than 200 years of colonisation, indigenous governance in Australia is no longer in its pre-colonial state. Rather, contemporary indigenous governance needs to bring together traditional governance with the requirement to effectively respond to the wider governance environment. IPs continue to live in a challenging and complex operating environment, both according to their customs and traditions, and in the modern reality. Non-indigenous governance predominantly seeks to manage economic risk, but the primary focus for IPs is trying to maintain their cultures and identities while managing the risk of people dying early because of the levels of disadvantage, and securing their future.

Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Declaration, article 3

Combating discrimination and seeking recognition, inclusion and participation

CUBA recalls that despite positive progress in standard setting, violations of IPs' human rights continue on a daily basis, including violence, marginalisation, and denial of their rights to lands and ancestral territories. Cuba calls on the international community to effectively recognize IPs' right to self-determination, without discrimination.

The **United Nations Development Programme (UNDP)** underscores that robust, responsive and inclusive state institutions are a fundamental pillar for human rights. An important feature of inclusiveness is the recognition of IPs' rights to self-determination, autonomy and self-government, and to participate in governance and decision-making processes. This is particularly crucial in relation to IPs' collective rights to land, territories and natural resources. In the context of the post-2015 development agenda, UNDP notes a growing international advocacy for more effective systems of governance and accountability, and for tackling exclusion and inequalities. Further research is thus needed to explore synergies between indigenous systems of governance and mainstream notions of governance. As proactive and positive actors, IPs and their institutions can also play a vital role in implementing and monitoring development initiatives in their communities, and should therefore be provided the means to strengthen their own governance capacities.

SOUTH AFRICA says its Constitution is based on the principle of non-discrimination and prohibits marginalisation of its citizens, including IPs. In exploring the difficult notion of 'indigenous peoples', the South African Human Rights Commission maintains that "reference to indigenous peoples in South Africa should refer to those indigenous peoples whose rights in relation to other African indigenous peoples are not adequately addressed".

GUYANA reports on establishment of the Ministry of Amerindian Affairs, mandated to support the enhancement of the quality of life of Amerindian people through policies and programmes consistent with free prior and informed consent, and enabling their full inclusion and participation, respectful of their cultural, social and economic development.

COLOMBIA recognizes and protects IPs' cultural and linguistic diversity, their individual and collective rights, their self-government forms and their authorities' jurisdiction in their own territories. Its presidential programme to formulate strategies and actions for IPs' integral development, advises public institutions at all levels of government as to their engagement with IPs. Outcomes of this collaboration include a procedure for prior consultation, which has already made possible agreements on projects with over 400 ethnic communities. In 2014, four pilot projects were launched on the exercise of the right to political and administrative autonomy in indigenous territories based on the communities' own living plans.

In 2010, the Government of EL SALVADOR stated before the first ever national indigenous congress its firm commitment to end the policy of invisibility of IPs and to work towards moral redress. A consultation and dialogue mechanism brings together indigenous organisations from various territories and representatives of several ministries. Awareness-raising and public information campaigns on IPs' ancestral cultures and human rights are directed to civil society and sectors of the State, including the army and police. Several initiatives aim to safeguard and strengthen IPs' tangible and intangible heritage through networking and encouraging indigenous elders to share and transmit their traditional knowledge and language with the younger generations, after decades of forced silence. Consultations are being held on ratification of ILO Convention 169 and on constitutional recognition of IPs.

FINLAND underscores protection of IPs' linguistic rights to ensure transparency and accessibility of information, an essential component of good governance. The Sámi Language Act regulates the right of the Sámi to use their own language before courts and other authorities.

A representative of **Maya ancestral authorities** in Guatemala says indigenous ancestral authorities seek peace, harmony, development, and achieve lower rates of violence. They have worked hard to promote the Maya ancestral justice system, which seeks to guarantee peace without causing damage to any of the parties, based on conciliation, redress for damage, and orientation from within the community. UN agencies and bodies need to urge Guatemala to increase opportunities for the participation of indigenous ancestral authorities, and to sensitize their own representatives in Guatemala on IPs' traditional governing institutions.

An **indigenous parliamentarian from Guatemala** reports on a recent process to strengthen interculturalism in public and private sectors, based on a dialogue mechanism for cultural affairs that soon became a meeting point for indigenous voices and the business community. However, this process will only be possible with a much broader base and increased inclusion of indigenous communities' ancestral authorities.

The **Amazigh** IPs' delegation from the North African region say that before colonization, they had an effective traditional governance system allowing for natural resource management in harmony with nature. Most North African States, at the time of independence, failed to recognize IPs and their governance systems. This is now evolving in Morocco, with the constitutional recognition of the Amazigh identity and language, even though effects remain limited. In Algeria, Tunisia, and other countries in Sahel, good governance still appears to be a long way ahead.

TF/AIWN note that IPs have a long experience with poor governance, characterized by discriminatory, exclusionary and unjust power relationships and policy decisions, leading to land dispossession, environmental degradation, and undermining of their traditional governance systems. Even today, IPs find themselves excluded from policy making, budget discussions, and program implementation. Governance at all levels must be consistent with the Declaration, ILO Convention 169 and other human rights standards recognizing IPs as bearers of individual and collective rights. IPs must be ensured full and equal participation in all relevant global policy processes so their views and concerns are taken into account. National legislations and constitutions must fully recognize IPs' collective rights, including to territories and to self-determined development. Moreover, States must be proactive and accountable in eliminating discrimination and promoting recognition of IPs' cultures, languages, traditional knowledge and practices. States and IPs must also collaborate in creating spaces for communication, information and public education on IPs' issues.

KKSC/FPP denounce that Costa Rica keeps imposing on IPs a governance standard foreign to their traditional decision-making ways, thus undermining their rights to self-government and to their territories and resources. The "associations for integral development" (ADIs) represent the State, rule IPs' territories, hold their territorial

titles and their legal status under domestic law. However, the ADIs have no legal obligation to ensure inclusiveness and representation of the IPs in the territory. This leads to decisions that are contrary to IPs' interests, including transfer of more than 40 percent of the country's indigenous lands to non-indigenous owners. IPs have opposed the imposition and functioning of the ADIs in their territories; prepared a bill that has been before parliament for the last 20 years; and taken legal action, but courts do not rule in favour of their rights.

NCARSM denounce that, despite prohibition in the Declaration of discrimination against IPs, professional sports and media persist in using IPs as derogatory names and mascots that immeasurably damage the self-perception of indigenous children and their equal place in society, by experiencing prejudice or ridicule.

Presenting the "Study on the impacts of the Doctrine of Discovery on IPs, including mechanisms, processes and instruments of redress" [E/C.19/2014/3], PF member **Edward John** says the reach of the colonial Doctrine of Discovery is global, with real and continuing impacts among IPs. However, this doctrine is not well known and often seen as belonging to the past. This study seeks to pursue dialogue on the historic ramifications of this doctrine, to understand its current impacts and to determine ways in which it could be fully addressed and redressed (the **North American Indigenous Caucus** recommend further study of these issues). In Indian Residential Schools, the children were the instruments of extinction of their languages and cultures, which were deemed to be inferior. This was part of a deliberate policy of government, together with the taking of indigenous lands, outlawing spiritual and cultural practices, and creating systems of Indian reserves under the government's control. The colonial-based Doctrine of Discovery must be replaced with contemporary human rights standards, as well as just and collaborative processes of redress, for which the Declaration provides a principled framework (also **GCC/AFNQL/CFSC/FSIN/QNW/FPHRC/IWA/ICC/KAIROS/NKIKLH/NWAC/UBCIC**). The study further discusses and makes recommendations on the need to make jurisdictional space in existing States for indigenous sovereignty and self-determination, including operation of distinct indigenous legal orders over their territories; effective remedies for infringement of IPs' rights also by business enterprises and other third parties; and understanding the truth about the Doctrine of Discovery and its uses, to identify lingering effects and prevent repetition.

Both the **Global Indigenous Peoples Caucus** and the **Global Indigenous Women's Caucus** underscore that, before IPs are ready to begin discussions on redress and reconciliation, States must admit culpability. Together with **GCC/AFNQL/CFSC/FSIN/QNW/FPHRC/IWA/ICC/KAIROS/NKIKLH/NWAC/UBCIC** and the **Oglala Lakota Nation**, they urge the UN and States to wholly repudiate colonial and other discriminatory doctrines.

The **African Indigenous Caucus** say the Doctrine of Discovery continues to negatively impact IPs in Africa, as the foundation of national policies causing disintegration of pastoralist and hunter-gatherer traditions and livelihoods. Actions and decisions of the African Commission on Human and Peoples Rights are helping reverse the doctrine's negative impacts, but States are reluctant to implement these decisions, while other bodies such as the African Development Bank are still stuck in old ways of thinking. African Universities should undertake studies on the Doctrine of Discovery and its continued impacts on IPs in Africa to better inform regional processes.

PF member **Raja Devasish Roy** underscores a manifestation of the Doctrine of Discovery in South and Southeast Asia, where several governments continue with colonial forest laws that totally undermine the rights of the dwellers and users of such lands, particularly IPs. Most of these laws retain supreme authority upon the government to delineate and declare lands as "forests", "national parks", "eco parks", etc. and to evict communities or otherwise violate their rights.

HC say the philosophy of boarding schools - "kill the Indian and save the man" - would be considered brain washing by today's standards, and as a public policy it has yet to be addressed by the US Government. As a result, children suffered injustices, violations and persecutions. This still has effects on indigenous youth today, including high rates of youth suicides, the removal of indigenous children from their families, and poor access to education.

The **Oglala Lakota Nation** denounce that the USA, utilizing the Doctrine of Discovery, grabbed and continues to occupy the lands, territories and resources of the Lakota Nation, including their most sacred ceremonial areas. US refusal to engage in resolving the land disputes over these illegally occupied territories, in violation of their Treaties, has led to the theft of huge amounts of lands and natural resources, thus destroying Lakota ability to decide on and achieve their economic development.

FSIN/SBFN/NWAC/AGIM/Incomindios/FOEI denounce that the Government of Canada widely uses the Doctrine of Discovery to deny IPs' land rights, international standards, the Declaration, and treaty relationships through adversarial policies that continue to strip the IPs of languages, livelihoods, existences and identities. The recent First Nations Control of First Nations Education Act does not fulfil IPs' requirements and rights, and violates the Declaration itself. Together with **SNGRT** and **GCC/AFNQL/CFSC/FSIN/QNW/FPHRC/IWA/ICC/KAIROS/NKIKLH/NWAC/UBCIC** they object that the principles of free prior and informed

consent and of participation in decision making were not fully implemented for all affected IPs in elaborating this piece of legislation.

GCC/AFNQL/CFSC/FSIN/QNW/FPHRC/IWA/ICC/KAIROS/NKIKLH/NWAC/UBCIC underscore the Doctrine of Discovery as a root cause of debilitating dispossessions and other human rights abuses, as colonizing powers claimed to unilaterally extinguish IPs' pre-existing sovereignty and establish their own jurisdiction over IPs' lands, territories and resources (**HC** underscore that this violate article 7(2) of the Declaration). Such racism and discrimination is the antithesis of good governance, which is a condition to respecting human rights. States must work towards decolonization processes, in conjunction with the IPs concerned, that encourage peace and cooperative relations.

The provisions set forth in this Declaration shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith.

Declaration, article 46(3)

Achieving conditions for indigenous peoples' good governance

PF Chairperson **Dalee Sambo Dorough** urges both States' governments and IPs to really put the principles of good governance to work, especially concerning lands, resources and territories, and free prior and informed consent.

Indigenous youth commit to ensuring that their peoples and nations will thrive, through asserting their rights to self-determination and to free prior and informed consent. The **Global Indigenous Youth Caucus** urge States to maintain relations and carry out negotiations with IPs under the principles of good governance in order to ensure enforcement of the Declaration.

Robert Joseph, of the Māori and Indigenous Governance Centre, says that to have constructive dialogue between IPs and States, different governance institutions and traditions must be acknowledged and understood. IPs and States should apply good governance principles in formal governance institutions, in local communities, and in relationships among States and IPs. States must respect and recognize IPs' right to self-determination so as to protect their individual and collective human rights.

PF member **Joan Carling** calls for an enabling social, political and economic environment that ensures accountability, equity and legal pluralism as part of the rule of law, to allow for IPs' exercise of self-governance. Accountability is also about making States and other actors accountable for violations of IPs' rights. Equity should involve the review of discriminatory laws and programmes that further disempower IPs. Access to justice is also an issue for good governance, especially in relation to violations of IPs' rights to their lands, territories and resources, and to violence against women. The rule of law also involves the recognition of legal pluralism, which is the exercise of customary laws and their integration into national legal systems.

ATSISJC/AHRC recommend urging all States: to acknowledge that effective indigenous governance is central to IPs' self-determination and sustainable development; to commit to building their own cultural competency and capacity to enable effective indigenous governance; to properly resource and support indigenous communities to strengthen their contemporary governance structures; and to work in partnership with, and seek the free, prior and informed consent of IPs, their communities and organisations on any reforms that may impact their governance. Three intricately connected components of effective governance were identified in Aboriginal and Torres Strait Islander communities: community governance, where people decide what they want to achieve and how to organise to achieve it; organisational governance, where organisations are enabled to achieve what they have identified; and the governance of governments and other external influences, emphasising that governments' role is to support and enable IPs' empowerment, by facilitating self-determination, removing barriers to effective governance, ensuring that government processes build IPs' capacity, and supporting their decision-making processes. Governments' lack of understanding of this role represents an obstacle to indigenous governance.

The **North American Indigenous Caucus** recommend that an accurate and appropriate nation-to-nation relationship be established with IPs in accordance with article 19 of the Declaration, on free prior and informed consent; and call on the PF to conduct a study on the indigenous rule of law in accordance with article 27.

NICARAGUA says the most important progresses since the creation, 26 years ago, of the Autonomous Caribbean Regions have been the increasing awareness of cultural diversity, IPs' strengthened identity and the opening of significant spaces for political dialogue. These include cooperation agreements and institutional developments in the legislative, executive and judicial branches of the State, as well as institutional strengthening of local and regional autonomous governments; and concluding the demarcation and titling of indigenous territories. However, all branches of the State need further structural transformation to truly become multi-ethnic and

multicultural. Administrative capacities of the regional governments must be further strengthened, and their jurisdiction extended to more indigenous territories.

YATAMA recall that creation of the Autonomous Caribbean Regions in Nicaragua enabled IPs to participate in regional legislative elections based on their own form of organisation. After a reform to the electoral law in 2000, YATAMA was forced to take on the structure of a political party. The Inter-American Court of Human Rights in 2005 ruled that the current electoral system in Nicaragua violates IPs' civil and political rights, and ordered a reform to allow for election of indigenous representatives and authorities based on their own usages. Meanwhile, YATAMA continue to struggle with huge disadvantages in comparison to the dominant parties both in regional and municipal elections in the autonomous regions. They warn that the FSLN political party, currently in government, is manoeuvring to impose its own structure and control upon both Autonomous Caribbean Regions by displacing IPs' own governing structures and authorities. Moreover, as demarcation and titling of IPs' territories remains unfinished, insufficient protection has led to increasing invasions by settlers since 2007, alongside the plundering of resources – timber, grazing lands, gold – with the alleged complicity of supporters of the FSLN present in IPs' own local structures of authority and in indigenous governments. Furthermore, the Managua-based Secretariat for Development of the Caribbean Regions, supposedly created to assist the autonomous regional governments, has taken increased control over their decision-making processes and institutions. The Government is now planning large infrastructure projects in the Caribbean Autonomous Regions, without seeking IPs' free prior and informed consent even though their territories and means of subsistence are bound to be affected.

CANADA underscores negotiation of self-government agreements with Aboriginal groups as a way to give them greater control and law-making authority over a comprehensive range of jurisdictions. These agreements introduce a transparent, responsive and accountable governance regime, leading to improved living conditions for members and creating a favourable climate for investment and economic development. Canada then reports on collaboration with regional First Nations organisations to develop a better election system: the First Nations Elections Act provides a modern election system for willing First Nations, promoting accountability and transparency.

GCC/AFNQL/CFSC/FSIN/QNW/FPHRC/IWA/ICC/KAIROS/NKIKLH/NWAC/UBCIC recall the consensus affirmation by the General Assembly (GA) that democracy, good governance and the rule of law are essential for sustainable development; and that IPs' own governance structures must be respected and strengthened in the process of development. Good governance by States necessarily implies full and effective implementation of IPs' inherent human rights. However, the Canadian Government refuses to consistently address the issue of disappeared and murdered indigenous women and girls, even though the national police evidenced that they face a much higher homicide rate than other women. Good governance also demands that States engage in good faith with IPs on any legislative or policy development that affects IPs' rights, whereas a one-sided arrangement perpetuates colonial abuse of power.

SOUTH AFRICA says its Department of Traditional Affairs, the national custodian of the rights of the indigenous people, bases its action on indigenous leadership, governance, culture, administration of justice, and socio-cultural and economic development. The Traditional Affairs Bill, intended to affirm the rights of indigenous people, was developed in 2010, and widely consulted, in order to ensure free prior and informed consent. It will soon be re-submitted to Parliament. The National Khoi and San Council (NKC) represents each of the five Khoi and San communities, and interfaces with Government on issues of development. Indigenous people and relevant government officials are being further informed and empowered on the promotion, protection and practical enjoyment of the indigenous rights, also to deepen understanding of Africa's approach to the rights of IPs.

PF member **Kara-Kys Arakchaa** reports on examples of self-government of IPs in the Russian Federation. There will always be problems because States and IPs are living mechanisms, but solutions can be found.

MEXICO notes that to make possible the creation of mechanisms for IPs' participation and consultation in policy-making, both governments and IPs face the significant challenge of strengthening a relationship based on political, economic, social and cultural equality, in order to achieve good governance. Mexico's National Commission for the Development of IPs works with IPs' communities, fully respecting their own forms of social and political organisation, in order to foster community planning and management of development actions. The current governmental policies for IPs were designed in consultation with them and focus on: indigenous rights and access to justice, social development, economic development, participation of indigenous society, and safeguarding IPs' culture.

The PHILIPPINES says its Indigenous Peoples Rights Act (IPRA) recognizes IPs' inherent rights, and is being strengthened by continued dialogue with IPs. The Philippines calls on all governments to continue dialogue with IPs, as recognition of their rights and aspirations will go a long way towards national unity and inclusive development.

GUYANA says its Amerindian Act of 2006 provides for the recognition and protection of the collective rights of Amerindians, including land rights; and outlines the principles of good governance and self-determination at the local village level, through the establishment of village councils, entitled to freely determine the village social, economic and cultural development. As regards the right to a nationality, Guyana has established an effective system to ensure birth registry, even in the most remote Amerindian villages and communities.

The USA reports on its now annual White House Tribal Nations Conference, which gathers tribal leaders and senior US officials for discussions, including on priority topics identified by tribal leaders, such as self-determination and self-governance, healthcare, economic and infrastructure development, education, protecting natural and cultural resources, climate change, natural disaster mitigation, and law enforcement and public safety.

ECUADOR notes that for the first time, the country has indigenous diplomats, and an indigenous judge was incorporated into the national court of justice.

EL SALVADOR refers to its draft public policy for IPs, elaborated in consultation among indigenous organisations and state institutions, with strategies for social, economic, cultural and environmental development and governmental management with a multi-ethnic approach.

The mission of the **Inter-Parliamentary Union (IPU)** is to strengthen democracies through more representative, accessible, transparent, accountable and effective parliaments. IPs' right to self-determination can be guaranteed only with political institutions founded on these democratic principles. Parliaments play a significant role in ensuring self-determination of IPs through their law-making and oversight functions. Self-determination requires that IPs be included in policy making. Under-representation of IPs in parliaments therefore indicates a weakness of the democratic structure.

Robert Joseph of the Māori and Indigenous Governance Centre says the traditional Māori principles are always interpreted and diversely applied in particular contexts, giving ample scope for choice and innovation. If anything can be identified as handed down from the pre-European Māori ancestors, it is the principle of creative adaptation itself. The capacity for cultural production is what needs to be preserved for future generations. However, what is critical with cultural adaptation, good governance, human rights, the rule of law and updating traditional governance practices is that IPs should be controlling the processes rather than being controlled by government policy, legislation and other external factors. IPs have survived dramatic changes of colonisation, urbanisation and now globalisation, individually and collectively, by deploying their capacity for adaptation: on the one hand modifying traditional forms to serve new functions and on the other creatively adapting introduced forms to their own ends. Aligning indigenous governance with human rights and the rule of law includes, inter alia, the role of women, elders, youth, children, as well as appropriate dispute resolution mechanisms.

ECMIA underscore that in both indigenous and non-indigenous governance, indigenous women continue to face barriers such as non-recognition of their own merits, insufficient experience in the management of public affairs, and persistence of discriminatory attitudes. However, both for indigenous and non-indigenous governance, strengthening the participation of indigenous women is of crucial importance, for their role as main custodians of the social, cultural and natural environment and in strengthening the cultural identity of indigenous children and young people – key factors to IPs' self-determination (also **TF/AIWN**). ECMIA recommend developing affirmative action mechanisms to promote the full exercise of indigenous women's civil rights.

PF member **Joan Carling** underscores that for IPs, the continuing violations of rights, particularly to self-determination and to their lands, territories and resources, are key elements for which good governance, particularly in the form of territorial governance, should be further respected. In certain countries there are obvious discrepancies between what governments and IPs are saying. There is a lack of mechanisms for grievance and redress, as well as for full and effective participation of IPs in decision-making, which is a critical element of good governance.

PF member **Gervais Nzoa** insists on the need for member States and the PF to maintain closer communication in order to monitor the recommendations put forward by IPs regarding reforms States should realize, in the short and the long term, to implement the Declaration.

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

Declaration, article 4

Issues of peace and security are also relevant to governance in relation to the rights of IPs. The **North American Indigenous Caucus** express concern about increasing criminalization of IPs for exercising their right of self-determination. The PF should call for a study on the scope of this and identify remedies to protect IPs' right to

freely defend their peoples and lands. With regard to increased militarization, its destructive impacts and how this affects IPs' capacity to assert self-determination, States must be reminded to respect the International Covenant on Civil and Political Rights.

IPACC are very concerned at the vulnerability of IPs within civil unrests in various parts of Africa. UN agencies should coordinate more with IPs to design and implement early warning systems to better ensure peace and security across the continent. The Declaration, which Africa overwhelmingly supports, provides a framework for such collaboration.

PF member **Mariam Wallet Aboubakrine** recommends that UN agencies and States intervening in humanitarian catastrophes must involve, in conflict resolution, the indigenous victims - including widows, who usually remain in charge of the entire family structure while simultaneously being displaced on alien lands where they lose their points of reference.

In the context of the current armed conflict, **FRSCIP** warn that Crimea is the native land of three IPs: Crimean Tatars, Karays (Karaites) and Krymchaks, which are very vulnerable in view of current militarization – also because both Ukraine and the Russian Federation abstained from approving the adoption of the Declaration and have not changed their position. The PF must urge Ukraine and the Russian Federation to end their military presence and refrain from involving IPs in that conflict; officially support the Declaration and use it as a guide in their relationships with Crimean IPs; stop persecuting and threatening defenders of IPs' rights; and recognize the right of persons belonging to Crimean IPs to decide over their citizenship without any negative consequences for their rights.

PF member **Oliver Loode** agrees that the situation of the IPs of Crimea is a most pressing issue of human and civil rights. Those Crimean Tatar people who choose not to take up Russian citizenship are required to apply for a residence permit in order to live in their own land. This violates the spirit of the Declaration, including article 10 prohibiting forced removal.

AaidS say self-determination is vital for the Assyrian IPs of Iraq. Civil unrest, religious intolerance and extremism harm their human rights, pushing them to leave their homeland, which in turn endangers preservation of their language, culture and nationality. Iraq must make possible the return of displaced Assyrian people to a suitable environment. AaidS acknowledge recent progress by the Iraqi Government in legally recognizing the Syriac language, and now call for concrete governmental measures to protect that language, an essential part of Assyrian peoples' self-determination.

IRAQ has worked hard to establish a democratic country based on equality. It will fight terrorist attempts to undermine these efforts.

CECA denounce that the construction of the security wall on the Texas-Mexico colonial border, under the guise of preventing entry of alleged terrorists and drug traffickers, has cut into the lands of several IPs who have lived there since time immemorial. Lawsuits challenging the imposition of border lines running across indigenous lands in Texas are in process, and are generally difficult to win because the USA refuses to accord primacy of rights to indigenous ancestral lands. Non-recognition by the USA of several IPs on Turtle Island is an unacceptable violation of their rights of self-determination and self-identification.

FIPAC warn that articles 3 to 6 of the Declaration are not realised in States where IPs are enslaved by other people, while the States fail to recognize their identity and deny their rights.

GCC/AFNQL/CFSC/FSIN/QNW/FPHRC/IWA/ICC/KAIROS/NKIKLH/NWAC/UBCIC urge reminding States that good governance includes taking effective measures to ensure freedom from violence, particularly for indigenous women and girls.

Presenting the report of the international expert group meeting on sexual health and reproductive rights [E/C.19/2014/8], PF member **Maria Eugenia Choque** emphasizes that the remarkable progress achieved in the last 20 years regarding sexual and reproductive health and rights has led to little change for IPs, who remain invisible in data on sexual and reproductive health and rights. This tends to deny their distinct cultural identity and traditional governance systems. Absence of civil registration systems – or their lack of sensitivity to IPs' culture – remains a major impediment to ensuring IPs' access to basic social services and the ability to claim rights (also **FIPAC** for Central Africa). Development models based on the extraction of natural resources have serious impacts on the health, safety and lives of IPs (also the **Global Indigenous Peoples Caucus**), including environmental pollution, and exposure of indigenous women and girls to sexual violence and HIV. The theme of sexual health and reproductive rights should also be approached from a traditional knowledge perspective, both as regards protecting traditional medical knowledge and access to medicinal plants, and promoting the use of traditional knowledge in relation to intercultural sexual and reproductive healthcare services.

The **UN Population Fund** (UNFPA) works to overcome all types of barriers preventing access by IPs to sexual and reproductive health services. These barriers are of a legal, political, social, economic and cultural nature and are often compounded by persistent patterns of discrimination and exclusion. UNFPA notes recent progress,

mostly in Latin American countries, of policies and programmes that better reflect IPs' claim for culturally appropriate sexual and reproductive health services. The active engagement with IPs in the design of policies and programmes as well as in implementing community-based interventions has contributed to increased access to sexual and reproductive health services in rural and underserved areas.

Alexei Tsykarev, on behalf of the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP), says the EMRIP has examined the issue of sexual and reproductive health and rights in relation to participation in decision-making and access to justice. To protect the sexual and reproductive health and rights of indigenous individuals, fundamental aspects are non-discrimination and equality, namely as to access and quality of sexual and reproductive health care, as well as addressing structural barriers, including the legacy of colonization. In its Follow-up Study on access to justice, the EMRIP is addressing access to effective legal remedies for violations of sexual and reproductive rights (NYSHN suggest addressing sexual and reproductive health rights of indigenous youth and adults in detention).

NYSHN reaffirm that IPs' self-determination and free, prior and informed consent also apply to sexual and reproductive health and rights. IPs' right to self-determined development applies to setting health priorities and managing health systems. ILO Convention 169 and the Declaration are fundamental instruments addressing the underlying determinants of sexual and reproductive health. NYSHN refer to various issues of reproductive health and rights to be addressed by IPs, in collaboration with relevant UN bodies and/or States: comprehensive guidelines for culturally-sensitive safe sex education best practices for indigenous youth, which would also serve as effective violence prevention (also the **Global Indigenous Peoples Caucus** and the USA); supporting indigenous youth in their right to self-determine their own gender and sexual identities without fear of discrimination; and effective participation of indigenous youth involved in sex work and street economies, in policies and measures to address heightened violence, stigma, discrimination, and criminalization.

The **Global Indigenous Peoples Caucus** urge States to work to put an end to practices affecting the health of women, and to guarantee indigenous women's right to decide.

IITC underscore environmental violence and the resulting human rights violations impacting IPs' sexual and reproductive health, including reproductive impacts of environmental contamination; sexual violence linked to industrial activities in indigenous communities; and manufacture and export of banned pesticides from countries that prohibit their use in their own country - a practice permitted by the UN Rotterdam Convention on free prior and informed consent procedure for certain hazardous chemicals and pesticide in international trade. Resulting health damages are a matter of life and death for many IPs.

The **Global Indigenous Women's Caucus** and **IITC** support recommendations on a legal review of UN chemical conventions, in particular the Rotterdam Convention, to ensure conformity with international human rights standards, including the Declaration; an end to the export and import of banned and unregistered pesticides from countries that prohibit their use in their own country; and a UN study, in partnership with IPs' organizations, documenting the linkage between environmental violence and the sexual and reproductive health of IPs.

The **Caucus of Indigenous Persons with Disabilities** recommend that measures be taken to ensure equal enjoyment of their rights by indigenous women with disabilities, in particular as to sexual and reproductive rights, including availability and accessibility of healthcare services, and clear explication of diagnostics and treatments in maternal languages. Indigenous women with disabilities are usually not consulted about their sexual and reproductive health, which violates their human rights, and are particularly exposed to forced sterilization programmes, all the more if they have an intellectual or psychosocial disability.

The USA call for continued efforts to promote universal access to sexual and reproductive health, including methods of contraception as life-saving interventions essential for promoting health, economic growth, development across the globe, and ensuring that all women are able to exercise their reproductive rights. The participation of indigenous youth is crucial in policy making on matters that affect their lives and the future.

DENMARK and GREENLAND, also on behalf of FINLAND and SWEDEN, underscore that in policies addressing inequalities in the exercise of sexual and reproductive health and rights, namely for IPs, it is important to keep in mind the application of the principle of free, prior and informed consent.

Ensuring the rights of indigenous peoples

Asserting self-determination

PF Chairperson **Dalee Sambo Dorough** recalls that to genuinely exercise the right of self-determination, IPs need to exercise all the rights embraced by the Declaration.

CSUTCB/CNMCIQB-BS/CSCIB/CIDOB/CONAMAQ call on States to affirm, in reference to the UN Charter, the International Human Rights Covenants and the Vienna Declaration and Programme of Action, the

fundamental importance of the right of all peoples to self-determination, so as to guarantee that IPs are able to freely determine their political condition and pursue their economic, social and cultural development.

HC state that the Haudenosaunee continue to operate under their own set of laws. During elaboration of the Declaration and deliberations for its adoption, the Haudenosaunee fought very hard for inclusion of article 3 with the language of common article 1 of both International Human Rights Covenants. Indeed, the Universal Declaration on Human Rights did not apply to IPs, as they were not considered a 'peoples', even though they are human beings. Article 4, 5 and 6 correspond to the system in place under the Constitution of the Haudenosaunee, regarding their traditional governance structure, the way they have always conducted themselves, and their final determination of who belongs to their nations.

The **North American Indigenous Caucus** recall that what drove IPs to come to the UN in the first place, was to have the right to self-determination apply to them as peoples. Any further discussion on IPs' self-determination must take into consideration existing work of other UN bodies, and the PF should facilitate a comprehensive dialogue with the Human Rights Committee on the application of common article 1 of the International Human Rights Covenants in relation to IPs.

Pedro García Hierro, of EQUIDAD in Peru, notes that the Declaration recognizes that IPs are holders of the right to self-determination as enshrined in the International Human Rights Covenants. Therefore, the Declaration grants a fundamental support to facilitate IPs' governance. Indeed, article by article, it clearly develops a complete programme to implement IPs' traditional territorial governance. Self-determination proposes a new situation where IPs, as collective political actors, are free to govern themselves within their traditional territories in conformity with their customs, and to manage their resources according to their development priorities.

Robert Joseph, from the Māori and Indigenous Governance Centre, recalls words of former SRIP James Anaya on self-determination as "a universe of human rights precepts concerned broadly with peoples, including IPs, and grounded in the idea that all are equally entitled to control their own destinies." The right of self-determination is a highly evolving concept and will mean different things to different people (also **ATSISJC/AHRC**). A central issue is self-government, which ought to be, as a minimum, the power and authority of IPs to govern themselves through their own governance institutions and according to universal good governance principles (also **PCJSS/BIPF/JMF**). IPs' opportunities for actualising their self-determination vary greatly with the local, cultural, political, economic and historical contexts, both theirs and those of the countries they live in. In any case, the implementation of universal good governance principles in IPs' culturally specific contexts is critical.

ATSISJC/AHRC recall that, as set out in articles 3 and 4 of the Declaration, States in co-operation with IPs must take appropriate measures, including legislative measures to achieve all the elements of self-determination. This includes good indigenous governance and good state governance. Having genuine decision-making power in the hands of communities is critical to achieving good governance, and the practical aims of IPs and of States.

NCAFP report that Australia absolutely ignores, and prevents exercise of, the rights contained in articles 3 to 6 of the Declaration. All the 50 or so formal indigenous governments that existed in 2007 have either been abolished or otherwise mainstreamed so that they no longer reflect representation and decision-making by Aboriginal and Torres Strait Islander Peoples. States have not made sufficient effort to acknowledge IPs' rights to self-determination and self-government.

As their official representative body in South Africa, **NKC** comprises 30 tribes of the Khoi-San peoples, who self-identify as the first IPs of South Africa. Twenty years after the dismantling of apartheid, they continue to struggle to obtain recognition. In 2013, the South African Government produced a National Traditional Affairs Bill which also recognizes the leadership and governance structures of the Khoi-San IPs. **NKC** welcome this Bill but express serious concern about the length of time it is taking to enact it.

Responding, **SOUTH AFRICA** wants to clarify that engagement and dialogue between **NKC** and the Government have been ongoing since 1999. The process to recognize the Khoi-San has been a long road, owing to the fact that the Khoi and San communities were not recognized under the colonial and apartheid legislation.

The elected government in the colonially occupied homeland of the **Oglala Lakota Nation** objects to the label of "legitimate" government that the US Government gives them, as the Lakota traditional form of government was deliberately impaired through colonial domination. They acknowledge and respect all Lakota authorities, organizations and people who strive for their right to self-determination, for their Treaties to be honoured and respected as binding international instruments, and for the return of their homelands from predatory corporations and governments.

KCHS recommend that Hawai'i be re-inscribed onto the list of non-self-governing territories; and that the USA be urged to incorporate the Status of Hawaiians as a nationality and recognize indigenous Hawaiians' right to freely determine their political status in an open, transparent and democratic process. The remarkable achievements of the Hawaiian nation in the 18th and early 19th centuries, including food production intensification and very rapid expansion of Hawaiian literacy, provide strong evidence of a uniquely compatible

and highly efficient Hawaiian governance system based on a Hawaiian concept of "cooperative efficiency" and ecological balance.

Every indigenous individual has the right to a nationality.

Declaration, article 6

Treaties, agreements, and constructive arrangements are an essential part of IPs' right to self-determination, and the way in which they establish who they are as sovereign peoples. The **Global Indigenous Peoples Caucus** state that for IPs, good governance means to determine their judicial systems and have their own mechanisms to defend themselves legally. It means to take control over their territories, which implies States must respect the treaties and international instruments to which they are signatory.

PCJSS/BIPF/JMF recall that in the Chittagong Hill Tracts (CHT), the CHT Peace Accord was signed in 1997 between the Government of Bangladesh and the Jumma IPs, introducing special governance arrangement with a regional council and district councils, to ensure Jumma self-government. However, this special self-government system still remains dysfunctional today, due to non-implementation of the legislation, and incomplete devolution of powers and functions to the regional council and district councils. Hence, several basic principles of good governance, including transparency, accountability and responsiveness are being impeded.

SNGRT underscore that indigenous nations in what is now Canada entered into treaties with European settlers to share their lands and resources, but never passed ownership of their lands to the Crown. These fundamental assumptions must be acknowledged before determining how First Nations are to share and benefit from their traditional lands and resources. Currently, Canada's land claims policies provide financial compensation as the only option, based on the extinguishment of the right of IPs' next generations to their lands and resources. Canada is not interested in a fair and equitable process based on the principles and intent within the Declaration. Meanwhile, governments at all levels are issuing licences enabling developments to advance on the Six Nations of The Grand River Treaty lands without their free, prior and informed consent, thus denying them any chance of building a sustainable future. Canada must address these concerns, namely by supporting agreements that enable SNGRT to establish a self-sustaining economy with the adequate land base to achieve their right to self-government; rescinding policies that extinguish indigenous children's rights to lands and resources, and addressing land rights issues through long-term Treaty relationships.

FSIN/SBFN/NWAC/AGIM/Incomindios/FOEI underscore that international experts have developed substantive international law-based opinions concerning IPs' treaties with Canada. Also, article 27 of the Vienna Convention on the Law of Treaties establishes that "a party to treaty cannot invoke the provisions of its internal law to justify failure of performing a treaty". Hence, Canada continues to deny both international law and opinions concerning treaties with IPs living within its borders.

The **Oglala Lakota Nation** make a recommendation for the GA to request, under article 96 (a) of the UN Charter, an advisory opinion from the International Court of Justice, regarding the international character and enforceability of treaties between IPs and States. The **North American Indigenous Caucus** call for designation of an appropriate UN body as the registry for indigenous treaties, as recommended by the Expert Seminar on Treaties.

Determining priorities for development

GCC/AFNQL/CFSC/FSIN/QNW/FPHRC/IWA/ICC/KAIROS/NKIKLH/NWAC/UBCIC call on the PF to affirm the vital links between good governance, development, environment, human rights and the eradication of poverty; and emphasize that good governance requires affirmation of indigenous forms of autonomy, including customary systems of governance and tenure over lands, territories and resources.

The **North American Indigenous Caucus** state they are the originally free and independent nations of Great Turtle Island, with their own laws instructing them to live in a spiritual manner with all living things. Their original self-determination is their right to exist free from all patterns of colonization and domination, patterns which States now refer to as 'good governance' and 'reconciliation'. The PF should address the violations of IPs' rights to self-determination and to full and equal participation as peoples, in the design, implementation and evaluation of regional trade agreements.

Pedro García Hierro, of EQUIDAD in Peru, notes that for IPs, successful territorial governance requires their ability to control territorial decision-making based on respect for their rights in a politically and legally stable and respectful context. However, currently the requirements of global economy are generating strong interest in the resources located in indigenous lands, and many governments are prioritizing those interests over the rights of IPs, who are seen as obstacles to such national development (also **ECMIA, CECA**). Destruction of their vital resources results in extremely difficult situations where fundamental aspects of IPs' subsistence and governance are affected (also **HC, CECA**). IPs' recently recognized rights are threatened by external decisions that place IPs

in a colonial situation again. Moreover, assistance programmes emphasize IPs' poverty, which becomes an instrument of ideological domination and of regression to paternalistic relationships. Extractive industries established in indigenous territories also tend to control, with the State's complicity, access to income and delivery of basic services, which leads to further alienation of indigenous territorial governance. Finally, States are turning their backs on implementation of IPs' rights, imposing limited applications of consultation and consent processes, now used to impose development models alien to IPs' priorities. Even though there is universal recognition of IPs' rights, colonial attitudes remain strong in terms of subordination between States and IPs.

There are several critical issues in addressing this. Current organisations of IPs, originally focused on protest actions, are not always able to carry out the tasks of territorial governance. Indigenous territories are either not recognized or secured in ways that do not reflect IPs' reality, with the involvement of too many decision-making agents. Due to uprooting, indigenous youth are losing the intergenerational knowledge indispensable to adequately enjoy their peoples' territorial resources. Basic social services and living conditions worsen as IPs surrender administration of these services to the State. The determinant role of indigenous women in maintaining territorial and cultural links is not recognized. IPs' internationally recognized rights are inadequately implemented, particularly as to self-determination, self-determined development and free prior and informed consent. States give priority to other economic agents over indigenous rights and fail to effectively control their activities as to human rights violations. Mechanisms for IPs' political participation are insufficient, resulting in protests that are increasingly criminalized.

Robert Joseph, from the Māori and Indigenous Governance Centre, reports that in Aotearoa New Zealand, interest in Maori governance has increased as significant settlements have been made under the Treaty of Waitangi, with a number of new Maori governance entities formed at the community, regional and national levels. Successful Maori corporate entities are becoming more significant players within New Zealand society. However, the Maori IPs appear to be struggling to reconcile the different philosophies that underpin tribal traditions and best commercial practice. Moreover, it remains difficult for Maori governance entities to make a positive difference in the lives and well-being of the Māori community, as demonstrated by the disadvantage that Maori continue to have in all social and economic indicators. For Maori IPs to actualise their self-determination and achieve practical effects, Maori corporate successes need thus to be incorporated within traditional governance and seek to transform Maori disadvantage.

WPIA denounce that since 1963 when Indonesia took over West Papua, IPs' human rights have never been guaranteed, which has hindered their economic and social development, and their very survival. IPs in West Papua have rejected all the successive programmes and measures taken by the Indonesian Government for development of the province, as they see no change as to the respect of their human rights and fundamental freedoms. West Papua IPs call upon the UN to organise a referendum on self-determination to determine their political status.

ECMIA insists that IPs' self-government must be understood as territorial government, because any action undertaken in IPs' habitat immediately impacts their living conditions. However, IPs have little possibility to influence these actions, due to lack of political recognition by States, and of resources to undertake sustainable, self-determined development actions. In the context of Latin America's economic growth, mainly based on extraction of natural resources mostly located in indigenous territories and resulting in growing social conflicts, ECMIA warn about the little progress in implementing international instruments that set out self-determination as a right that must enable IPs to decide over their own living conditions and systems.

FIMI's Global Leadership School of Indigenous Women underscore that accessing the main arena for political decision-making remains a challenge for indigenous women. They urge States to respect indigenous women's free prior and informed consent and their participation in order to prevent and eradicate violence, including institutional and environmental violence; and guarantee that indigenous women participate in all dialogues and decision-making processes on issues affecting them, in formal and traditional institutions and in political parties.

AFK note that if good governance is a system of governance that corresponds to principles freely determined by the people, this is not the case for the Amazigh and Tuareg IPs in Algeria. In the Amazigh regions that claim their autonomy, the regime increases repression and perpetrators enjoy full impunity. Algeria must grant autonomy to its Amazigh regions in line with the Declaration; involve IPs in the design of public policies and programmes on education, culture, health, human rights, and economic and social development; and apply the principle of free prior and informed consent in all negotiations with IPs related to the use of their lands, territories and resources.

Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

Declaration, article 5

Good governance also encompasses the issue of free prior and informed consent, as noted by PF Chairperson **Dalee Sambo Dorough**, who underscores both examples of good practices that illustrate how to operationalize free prior and informed consent, and examples of bad governance that show how the principle is not being operationalized adequately in contexts related to IPs.

Jaime Martinez Veloz, Mexico's Commissioner for dialogue with IPs, reports on Mexico's process of drafting a law implementing IPs' right to free prior and informed consultation, in relation to policies and projects that may affect them. This is new ground and progress is slow because there is a need to build shared understanding of indigenous rights among all governmental agencies. This piece of legislation will give certainty to the State and IPs, as well as to possible investors and business enterprises, who will need to understand that development and progress must respect IPs' rights.

FINLAND says a key attribute of good governance is the exercise, by groups subject to discrimination, of the right to participate in decision-making, in particular on issues that affect them. In Finland the most significant way for the Sámi IPs to participate in societal decision-making processes is based on the obligation of authorities at all levels to negotiate with the Sámi Parliament on all far-reaching and important measures which may directly and specifically affect the status of the Sámi IPs and are related to the Sámi homeland.

PF member **Joan Carling** notes references by States to laws on consultation, which is a very positive step, but asks how States are also incorporating free prior and informed consent, as part of IPs' participation as a matter of good governance.

In the context of environmental management, the **Global Indigenous Peoples Caucus** denounce, as completely contradictory to good governance, the failure of States to protect IPs' rights against environmental harms caused by industrial activities that affect the global environment, such as greenhouse gas emissions causing climate change (also the **African Indigenous Caucus, HC**), pesticides and other toxic chemicals, and extractive activities.

The **Global Indigenous Women's Caucus** and the **North American Indigenous Caucus** call upon the PF to discuss the right to water in order to initiate a close review of States' water policies that affect the rights of IPs, the health of their communities, ecosystems, and future generations, as water is crucial for bio-cultural diversity and for sustaining IPs' self-determination.

The **Secretariat of the Convention on Biological Diversity (SCBD)** emphasizes the need to pay attention, in order to ensure effective protected area systems, to issues of governance, participation, equity and benefit-sharing – and of involvement of indigenous and local communities. The relationship between people and protected areas implies striking a balance between the common good and individual rights and needs. In equitably managed protected areas, costs and benefits need to be dispersed to a variety of stakeholders based on principles of fairness, justice, social equity and ethical considerations. Governance is crucial for the achievement of protected area objectives (management effectiveness), determines the sharing of relevant cost and benefits (management equity), and is key to preventing or solving social conflicts. Governance is a powerful concept, only recently applied to protected areas. It addresses who makes the decisions and how, while management is about what is done about a given site or situation.

FIPAC say Central Africa is home to a large part of the world's biodiversity, but the benefits are not shared equally among all citizens, in particular the IPs, custodians of these natural resources. Good governance will be a reality in the region when all States uphold their commitments regarding participatory, accountable and representative management as well as partnership with IPs. IPs also need to build their own capacities to manage the natural resources found in their lands.

CECA denounce again the desecration of the San Francisco Peaks, the sacred mountains of Northern Arizona, with the piping of sewage water to make snow for a ski resort. The deforestation of the mountain and the piping of sewage water have disrupted and dislocated the sacred spirits of the peaks, inducing the dryness of the region. The Committee on the Elimination of Racial Discrimination asked for information on the outcome of the legal appeals waged on behalf of indigenous south-western nations for the violation of their right of religious and cultural self-determination.

HC recall that IPs' cultures and identities are tied to their lands. The Haudenosaunee continue to work for the clean-up of their territories – including sacred but highly contaminated Onondaga Lake and Onondaga Creek – to restore them to their pristine condition, without the support of the US Environmental Protection Agency or the industries responsible for this toxic destruction. States need to be reminded of article 29 of the Declaration,

which establishes IPs' right to conservation and protection of their environment. For the Haudenosaunee, mandates regarding the environment are ancient laws and basic principles of respect, conservation and appreciation: other forms of life inhabit the earth and each has duties that keep the rest of creation in a reciprocal balance. Mother earth is not a resource, but a relative to be protected for the seventh generation. HC recommend that the Onondaga Nation's unilateral clean-up of Onondaga Lake and Onondaga Creek be viewed as a best practice of indigenous governance, and a possible model for other IPs in their territories; and that extractive enterprises operating in indigenous territories endorse and respect the Declaration.

Drawing from the case of the Chevron Texaco Oil Corporation, which has contaminated the Ecuadorian Amazon, ECUADOR insists that, to ensure through good governance that States protect IPs' rights, there is a need to better regulate transnational corporations.

Lands, territories and resources

IPs' historical struggle and claims are basically for land and territories, say **COINCABOL**, calling upon States to establish, with IPs' participation, mechanisms to guarantee IPs' free prior and informed consent before entering their lands and territories, in particular for extractive industries and other development activities. States must also promote collective titling of IPs' lands and territories, respect their traditional knowledge and practices, and guarantee the exercise of their territorial rights and traditional land management systems, through sustainable development plans that are in harmony with the rights of mother earth, and allow for benefit sharing.

The **African Indigenous Caucus** warn that lands and resources of Africa's IPs are under immense threat from extractive industries, agricultural expansion, and both climate change mitigation and adaptation strategies driven by state policies that do not recognize IPs' land and resource rights. This is compounded by the absence of international instruments on land.

IPACC emphasize forced displacement, deportation and occupation by armed forces that target IPs' areas, rich in natural resources, and subject them to extreme violence and human rights abuse. In Africa IPs were subjected to colonial systems of land tenure and individual property rights which have allowed dominant groups to appropriate ancestral lands of IPs, while these lack resources and legal tools to assert their rights and land tenure systems.

NKC ask for formal recognition of Khoi-San IPs' collective land and heritage rights defined in terms of their ancestral territories. They object that, despite their status as the official body representing all Khoi-San IPs, they are not given the opportunity to meaningfully participate in the land restitution structure created by the South African Government to consult with the Khoi-San peoples around their historical land claims. This violates article 18 and 19 of the Declaration.

The **North American Indigenous Caucus** note that as article 4 focuses on self-government for internal affairs, the provisions of the Declaration do not appear to cover the right to political independence. The idea of "territorial integrity of the State" traces back to symbolic acts of "possession" premised on the Doctrine of Discovery.

CANADA reports on the enactment of legislation that transfers administration and control of lands and resource to the Government of the Northwest Territories and provides for greater local control over decisions, and resource revenue sharing directly with Aboriginal Governments in the Northwest Territories. Governance over lands and resources is possible for First Nations by opting into a regime under the First Nations Land Management Act, which allows a community to develop its own approach to realizing the potential of its lands and resources.

CECA recall that the Chi Endeh peoples were there before the USA and Mexico came to their lands. The Tohono O'odham peoples, whose ancestral lands span the US-Mexico border area, have experienced consistent harassment and violence by Border Patrol agents when they need to cross the border, in particular for ceremonial and ritual purposes. These are clear violations of the constitutional rights of the USA that protect religious rites and practices, and of articles 3 to 6 and 36 of the Declaration.

NEW ZEALAND reports on its efforts to complete historic Treaty settlements with indigenous Maori claimant groups who have asserted breaches by the Crown to the Treaty of Waitangi, in order to discuss and reach an agreed position on land disputes and claims. Mechanisms to recognise Maori interests in land include recognition of cultural, spiritual, historical and traditional associations with areas or natural resources, as well as recognition of the role of Maori as guardians of the natural environment.

Linda Te Aho, from Te Piringa Faculty of Law, University of Waikato in New Zealand, agrees that the Maori settlements have, at least partially, resolved a number of significant historical grievances. However, indigenous commentators have differing views on these negotiation processes: some describe them as dynamic and powerful processes in transitional justice, while others consider them as divisive and as compromising self-determination, or as forcing claimant groups to negotiate within parameters established by the Government. There have been some innovative settlements achieved, mostly due to the IPs' resilience and creativity: new forms of ancestral title to returned, inalienable lands; a growing number of co-management and co-governance regimes in relation

to natural resources; and preserving indigenous claims to ownership of water in light of the Waitangi Tribunal's finding that indigenous rights to water are proprietary. As settlements also include cash amounts, the wealth of indigenous organisations is increasing, but IPs' well-being is not improving at the same rate. And Maori people still find themselves excluded from important decision-making, as in recent exploration for deep-sea oil drilling in tribal waters and the construction of a new dam, with little or no consultation with relevant IPs' groups.

Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States.

Declaration, article 46(1)

Presenting the “Study on Best Practices and Examples on Resolving Land Disputes and Land Claims” [E/C.19/2014/4], PF member **Raja Devasish Roy** says the study cross-references the land dispute resolution systems from the Philippines and the CHT in Bangladesh with relevant international legal provisions, highlighting their strengths and weaknesses. The study recommends that the Governments of Bangladesh and the Philippines initiate specific reforms to address the limitations in the models, including devolution of power to local level governing bodies. Other governments and IPs should study and learn from these experiences, as they are models that are actually being implemented on the ground – despite their shortcomings, both conceptual and operational. Articles 27 and 28 of the Declaration are relevant to resolution of land disputes and land claims.

TF/AIWN note that the Indigenous Peoples' Rights Act of the Philippines (IPRA) is a comprehensive law for the protection of IPs' rights, substantially based on the Declaration. However, implementation of the IPRA by the National Commission on Indigenous Peoples (NCIP), including the titling process, involves undue procedural complexities that put a heavy burden on remote communities. Further, the NCIP interprets the IPRA in such a bureaucratic manner, that it is no longer consistent with IPs' customary laws and practices. Also, free prior and informed consent processes are frequently manipulated in ways that reflect the NCIP's self-perception as 'facilitator' for the entry of mining and other business interests into IPs' territories. (**CPA/Innabuyog/BAI/KAMP/KALUMARAN/TUMANDUK** present several concrete examples of this). Finally, the NCIP appears to be accepting that ancestral domain titles are a lesser form of title than others. IPs cannot agree to this.

CPA/Innabuyog/BAI/KAMP/KALUMARAN/TUMANDUK recall that according to the IPRA, the NCIP in the Philippines was established with the mandate to promote and protect IPs' rights and well-being. However, the NCIP has been silent regarding the abuse of IPs' collective rights and the gross violations of their basic human rights. The IPs of the Philippines now call for dissolution of the NCIP. Independence of the free prior and informed consent process must be ensured through: non-intervention by the NCIP, the company and the military; ensuring that all necessary information for proper decision-making is provided to the community; and giving primacy to the indigenous community's decision making systems.

The PHILIPPINES answers that the NCIP puts primacy on customary laws and practices, by giving recognized community leaders the primary opportunity to facilitate conflict resolution. Only when these remedies are exhausted does the NCIP use its administrative and quasi-judicial processes. Measures have been taken to ensure speedy disposition of the increasing number of cases filed with the NCIP, including simplification of procedures, establishment of regional hearing offices, and guidelines to facilitate application of customary laws and principles.

IPs in the CHT continue to lose their lands to settlers, the military and private corporations, say **BIPF/AIPP/IWGIA** also drawing attention to the violence that indigenous people face, forcing many to flee their ancestral homes. Together with **Kapaeng**, they insist that the Land Dispute Resolution Commission Act 2001, which is a guide to settling these disputes, has a number of clauses contradicting the 1997 CHT Accord. A 13-point amendment proposed by the CHT Regional Council and the Ministry of CHT Affairs to address these gaps was not properly included in the bill introduced to Parliament in 2013. If this bill is passed in its current wording, most of the land disputes will remain unresolved. Having a credible, transparent and operational land dispute resolution process in the CHT to restore IPs' land rights is the only way to end land grabbing and ethnic conflicts.

Kapaeng also report on the situation of IPs in the plains regions of Bangladesh, who face eviction and environmental degradation due to governmental plans for open-pit coal mining, or because their rights to their ancestral lands are not recognized. The Government has yet to form the promised Land Commission for the plains IPs.

BANGLADESH says it is not stalling the devolution of authority to the CHT local councils and the strengthening of the CHT Land Dispute Resolution Commission Act, arguing that in a democratic form of governance it is

crucial to hear all voices and to find solutions in the interest of the most vulnerable and affected, while avoiding creation of new tensions. **Raja Devasish Roy** argues against further delay. If the Land Commission could adequately start its work, it would diffuse a lot of tension, including ethnic conflicts, and anchor the peace process to legal remedies and the rule of law.

After initial spoliation of their lands during colonial invasion, **COICA** say Amazonian IPs' ancestral territories, considered as belonging to no one, continue to be targeted, either to be declared as protected areas without prior consultation of affected IPs, or through misappropriation to allow state-owned and private corporations to exploit natural resources with much damage for indigenous communities. REDD projects and regional infrastructure and development projects are other reasons invoked to deprive Amazonian IPs of their lands and territories. Good practices in resolving disputes and claims related to IPs' lands in the Amazon region will require full legal recognition of their territories and their right to use their traditional natural resources. A good example of this are the Plans for a Full Life that several Amazonian IPs are developing.

The **Amazigh** IPs' delegation report that in North Africa, the issue of IPs' lands and resources represents a challenge both for IPs and for governments. In Morocco, indigenous organisations have organised training sessions on land rights, which issued recommendations for the Government. Eviction of several tribes from their traditional lands is imminent. North African Governments must engage in dialogue with Amazigh IPs to resolve land issues in line with the principle of free prior and informed consent.

Referring to their own Onondaga Land Rights Action, **HC** report they recently filed a petition with the Inter-American Commission on Human Rights after having exhausted all legal remedies within the US federal judicial system, having been advised by the court that they waited too long and it is now too late for their Land Rights Action, which would be 'disruptive' to neighbours. In reality the Haudenosaunee have protested the taking of their lands since the beginning of the illegal thefts. They now ask whether it is 'too late' for a healing between peoples and for saving the birds and animals? They hope not, as they have always believed that there can be healing between their people and others.

What about the Declaration?

PF Chairperson **Dalee Sambo Dorough** underscores that good governance principles do intersect with the standards of the Declaration.

CUBA and NEPAL recall the adoption of the Declaration as a landmark in IPs' struggle to obtain recognition of their rights. They underscore its comprehensiveness, the prominence it gives to collective rights, and the work that the UN and States have to carry on, in order to apply its standards.

Jaime Martinez Veloz, Mexico's Commissioner for dialogue with IPs, says the Declaration is strong because it expresses the feelings, demands, aspirations, dreams and claims of IPs and is endorsed by the majority of States. This significance has driven several States to align their normative, legal and constitutional structures. This is a complex and a long process in Mexico, where such work is under way, in collaboration with a group of indigenous representatives with experience in legal and normative processes on indigenous issues.

BRAZIL says the Declaration, as the result of a complex and inclusive negotiation, balances out different values and interests, in particular between IPs' individual and collective rights, and the interests of States. The Declaration is therefore a coherent whole and its provisions cannot be invoked out of context. The rights to self-determination, to self-government, to their distinct institutions, and to a nationality (articles 3 through 6) have to be taken together with article 46 on respect for the UN Charter and States' territorial integrity. Paragraph 18 of the preamble, on cooperative relations between States and IPs based on principles of justice, democracy, respect for human rights, non-discrimination and good faith, is a key element in keeping this balance.

The **Global Indigenous Peoples** and **Indigenous Women's Caucuses**, and the **North American Indigenous Caucus** state that article 46, which introduces the concept of territorial integrity, must be interpreted in relation to the entire Declaration and the peremptory norm of non-discrimination. Article 46.3 establishes interpretation of the Declaration, including the right to self-determination in the context of the principle of territorial integrity, "in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith". Indeed, the **Global Indigenous Peoples** and **Indigenous Youth Caucuses**, the **North American Indigenous Caucus** and **HC** recall that IPs have their own territorial integrity, as part of their rights to self-determination and to maintain their nationalities as defined in articles 3 to 6. This territorial integrity must be respected through upholding the various treaties and agreements between IPs and States.

HC also recall that the Haudenosaunee continue to exercise their inherent right to self-determination by travelling freely through their own traditional territories, according to article 36 of the Declaration, on the rights of IPs divided by international borders. Indeed, the **Global Indigenous Peoples Caucus** stress that IPs maintain their own borders all across the globe and have been dealing with border issues for millennia (also **CECA** for IPs living in the south-west region of Turtle Island).

As underscored by both the **Global Indigenous Youth Caucus** and the **North American Indigenous Caucus**, article 46 may not be used to deny IPs' right to self-determination affirmed in article 3 of the Declaration, as well as the UN Charter and Article 1 of the International Human Rights Covenants, and should be interpreted in relation to the entire Declaration. The **Global Indigenous Women's Caucus** add that the preambular language of the Declaration states that "nothing in this Declaration may be used to deny any peoples their right to self-determination, exercised in conformity with international law." No article shall be interpreted in such a way as to contravene the overall purposes of the Declaration or undermine any article.

Referring to existing international law, the **Oglala Lakota Nation** also add that no State has the right to protect the integrity of a territory it has seized illegally from another people, and then deny the right of self-determination to the people whose homeland is under illegal occupation (also the **North American Indigenous Caucus**).

The **Global Indigenous Peoples Caucus, HC** and the **Oglala Lakota Nation** all strongly reject the claim by some States, particularly the USA, that the right to self-determination under article 3 of the Declaration is a new form of self-determination. This is discriminatory, as IPs are equal to all other peoples; inconsistent with international law, under which the right to self-determination is a unitary one that has not been sub-divided into internal and external components; and disregards the UN Charter, which states that the purposes of the UN include developing friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples. The **Oglala Lakota Nation** also note that IPs, in the drafting process of the Declaration, demanded that the international right of self-determination be applied to IPs in the same manner as to all other peoples. Indeed, there is nothing in the historical record or in the debates of the UN Working Group on Indigenous Populations that lends any legitimacy to the US's distorted interpretation of the Declaration.

NKC congratulate South Africa for voting in favour of the Declaration in 2007, but express concern about slow implementation and serious violations of some key standards. The 1996 Constitution fails to promote and protect the collective rights of IPs as set out in the Declaration, including rights to ancestral lands, to official recognition of their languages and indigenous institutions and authorities. To NKC's call to implement the recommendations issued by the SRIP Stavenhagen in 2005, SOUTH AFRICA argues that to be implementable, recommendations need to be consistent with governmental policy.

The Federation of Saskatchewan Indian Nations has adopted the Declaration for application and enforcement. **FSIN/SBFN/NWAC/AGIM/Incomindios/FOEI** denounce denial of the Declaration within the programming and legislation of colonizer governments, including Canada, which hinders and violates IPs' planning, law-making and decision-making capacities, as well as the nation-to-nation relationship guaranteed by their Treaty. Canada must reform its laws to include the Declaration immediately, and repeal all legislation that has the effect of breaching and violating international standards and IPs' rights.

EMRIP Chairperson **Wilton Littlechild** says the Santa Cruz de la Sierra Declaration, issued by the 2014 International Parliamentary Conference on Parliaments and the Rights of Indigenous Peoples, contains specific recommendations for parliamentary action that relate to articles 3 to 6 and 46 of the Declaration. First, promote IPs' political participation through sensitization campaigns, increased participation of indigenous women, and training indigenous candidates, while maximizing parliaments' oversight role to ensure effective implementation of IPs' rights. Secondly, ensure respect for the principle of free, prior and informed consent by referential incorporation into domestic legislation, ensuring IPs are involved at all levels of decision-making, and paying special attention to full implementation in relation to extractive industries. Then, adopt national action plans to implement the Declaration, with a funding mechanism as well as a baseline to be able to gauge progress. The IPU should map the presence of indigenous parliamentarians in countries, and conduct an audit of parliamentary mechanisms that address IPs' issues.

Pedro García Hierro, of EQUIDAD in Peru, suggest that the PF call on relevant UN bodies to seek constructive engagement with States to develop concrete and adequately funded plans for the effective implementation of the Declaration, article by article, in a coordinated manner and in consultation, to facilitate IPs' territorial governance. There is also a need to oppose the recent trend of suggesting that IPs be supported in negotiations through lawyers corporations, so that they might achieve economic compensation for the inevitable violations of their rights. Such a discourse implies that realizing IPs' rights is impossible, and the years of work on the UN Declaration were worthless.

Dalee Sambo Dorough expresses hope that, with member States' cooperation, and with respect for and recognition of the minimum human rights standards embraced by the Declaration, genuine good governance can become a reality. However, some States challenge the human rights quality of IPs' collective rights, despite the fact that international practice has addressed such rights within the human rights system for over 30 years. Unfortunately, States and others tend to treat international jurisprudence as simple recommendations. These are all issues that will have to be addressed in a comprehensive and substantive fashion if the rights enshrined in the Declaration are to be realized.

In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law and in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society.

Declaration, article 46(2)

For more information

Good Governance

All statements included in this summary were presented during the 13th session of the PF, in May 2014, under item 3 of the agenda. The written statements are available, in their original language, in the Docip Online Documentation database.

www.docip.org > Online Documentation > Conferences > Permanent Forum on Indigenous Issues > 2014

Doctrine of Discovery

The Doctrine of Discovery was also the special theme for the 11th session of the PF, in 2012. All statements and documents referring to this theme and gathered in the Docip Online Documentation database can be retrieved in their original languages.

www.docip.org > Online Documentation > Search > Subject: Doctrine of Discovery

Abbreviations

AaidS:	Assyrian Aid Society
AFK:	Association des femmes de Kabylie
AFNQL:	Assembly of First Nations of Quebec and Labrador
AGIM:	Aktionsgruppe Indianer und Menschenrechte
AHRC:	Australian Human Rights Commission
AIPP:	Asian Indigenous Peoples Pact
AIWN:	Asia Indigenous Women's Network
ATSISJC:	Aboriginal and Torres Straits Islander Social Justice Commissioner
BAI:	National Network of Indigenous Women's Organizations in the Philippines
BIPF:	Bangladesh Indigenous Peoples Forum
CECA:	Chi Endeh Community Alliance, Arizona
CFSC:	Canadian Friends Service Committee
CIDOB:	Confederación de Pueblos Indígenas de Bolivia
CNMCIQB-BS:	Confederación Nacional de Mujeres Campesinas, Indígenas y Originarias de Bolivia – Bartolina Sisa
COICA:	Coordinadora de las Organizaciones Indígenas de la Cuenca Amazónica
COINCABOL:	Coordinadora de Organizaciones Indígenas Campesinas de Bolivia
CONAMAQ:	Consejo Nacional de Ayllus y Markas del Qullasuyu
CPA:	Cordillera Peoples' Alliance
CSCIB:	Confederación Sindical de Comunidades Interculturales de Bolivia
CSUTCB:	Confederación Sindical Unica de Trabajadores Campesinos de Bolivia
ECMIA:	Continental Network of Indigenous Women of the Americas
EQUIDAD:	Centro de Políticas Públicas y Derechos Humanos, Perú
FIMI:	International Indigenous Women's Forum
FIPAC:	Forum international sur les peuples autochtones d'Afrique centrale
FOEI:	Friends of the Earth, International
FPHRC:	First Peoples Human Rights Coalition
FPP:	Forest Peoples Programme
FRSCIP:	Foundation for Research and Support to the Crimean Indigenous Peoples
FSIN:	Federation of Saskatchewan Indian Nations
GCC:	Grand Council of the Crees

HC:	Haudenosaunee Confederacy
ICC:	Inuit Circumpolar Council
IITC:	International Indian Treaty Council
Incomindios:	International Committee for the Indigenous of the Americas
Innabuyog:	Regional Alliance of Women's Organizations in the Cordillera, Philippines
IPACC:	Indigenous Peoples of Africa Co-ordinating Committee
IWA:	Indigenous World Association
IWGIA:	International Work Group for Indigenous Affairs
JMF:	Jumchab Metta Foundation
KAIROS:	Canadian Ecumenical Justice Initiatives
KALUMARAN:	Kusog sa Katawhang Lumad sa Mindanao
KAMP:	Kalipunan ng mga Katutubong Mamamayan ng Pilipinas - National Alliance of IPs' Organizations in the Philippines
Kapaeeng:	Kapaeeng Foundation - Human Rights Organisation for IPs of Bangladesh
KCHS:	Kamakakuokalani Center for Hawaiian Studies, University of Hawai'i
KKSC:	Kus Kura Sociedad Civil, Costa Rica
NCAFP:	National Congress of Australia's First Peoples
NCARSM:	National Coalition Against Racism in Sports and Media, USA
NKC:	National Khoi-San Council, South Africa
NKIKLH:	Na Koa Ikaika o Ka Lahui Hawaii
NWAC:	Native Women's Association of Canada
NYSHN:	Native Youth Sexual Health Network
PAGTP-2014:	Project Access Global Training Programme for Indigenous Peoples 2014
PCJSS:	Parbatya Chattargram Jana Samhati Samiti
QNW:	Quebec Native Women, Inc.
SBFN:	Star Blanket First Nation
SNGRT:	Six Nations of the Grand River Territory, Canada
TF:	Tebtebba Foundation
TUMANDUK:	Indigenous Farmers in Defense of Land and Life, Philippines
UBCIC:	Union of British Columbia Indian Chiefs
WPIA:	West Papua Interest Association
YATAMA:	Yapti Tasba Masraka Nanih Asla Takanka, Nicaragua
YM:	Yurta Mira

This list only contains the abbreviations that refer to the indigenous organisations mentioned in our summary on principles of good governance and the rights of indigenous peoples. Many other indigenous delegations took the floor during the 13th session of the Permanent Forum on Indigenous Issues in 2014. Their written statements are available, in their original language, in the Docip Online Documentation database.

www.docip.org > Online Documentation > Conferences > Permanent Forum on Indigenous Issues > 2014

WHAT'S NEW

After the World Conference on Indigenous Peoples: ensuring participation of indigenous peoples at the UN and effectiveness of the Declaration

In September 2014, some 1600 delegates of indigenous peoples, States, UN agencies and other partners, gathered in New York to attend the World Conference on Indigenous Peoples - a high level plenary meeting of the UN General Assembly. Preparations had begun four years earlier, upon decision of the General Assembly, in its Resolution 65/198, to convene this event. During all this time, indigenous peoples organized their own preparatory processes in all regions, culminating in June 2013 with the Global Indigenous Preparatory Conference celebrated in the Sámi traditional territories in Alta, Norway. There, indigenous delegates adopted the Alta Outcome Document, which sets forth IPs' priorities and recommendations for the coming years.

The Conference's Proceedings

The General Assembly High Level Plenary Meeting (HLP), known as the World Conference on Indigenous Peoples (WCIP), was celebrated on 22 and 23 September 2014 in New York. After the opening plenary meeting on September 22, the Outcome Document of the WCIP, contained in resolution A/RES/69/2, was passed by acclamation.

That same day two roundtables were held in parallel addressing both UN system action for the implementation of IPs' rights, and implementation of IPs' rights at the national and local levels. A third roundtable, on IPs' lands, territories and resources, was held the following afternoon in parallel to the **panel discussion on indigenous priorities for the post-2015 development agenda**. The roundtables' themes coincided with three of the overarching themes set out in the Alta Outcome Document, leaving out the fourth of these themes, on IPs' priorities for development with free, prior and informed consent. The roundtables and panel discussion were co-chaired by a representative of IPs and a representative of States.

Indigenous participation to the WCIP

Full, effective, direct and equal participation of IPs was a significant challenge both for States and IPs throughout all stages of the WCIP. This principle was set out in Resolution 66/296 of the General Assembly (GA) – known as the modalities resolution and adopted by consensus – based on the right of IPs to participate in decision-making on matters affecting them, a core right enshrined in the UN Declaration on the Rights of Indigenous Peoples (the Declaration), in particular article 18.

IPs' full and effective participation was generally considered a pre-requisite for a successful WCIP, as without participation of the main stakeholders, the Conference itself and its Outcome Document would have had no legitimacy. This could in turn undermine the credibility of the UN work in relation to IPs' issues.

IPs' full and effective participation was also deemed necessary to ensure that States and IPs could have productive discussions during the Conference to improve their future relationships, share perspectives and build common strategies in order to guarantee the rights of IPs. Among IPs themselves, full and effective participation was also deemed necessary to assert their right to self-determination and to ensure that the World Conference would not lead to undermining their rights.

In this challenging process, some delegates, both from States and IPs, underscored the long road that these have already walked together at the UN, making it possible to build a working relationship based on trust and mutual support, with the commitment to achieve equal rights for IPs.

However, the demand of IPs for their full and equal participation in the drafting of the Outcome Document was met with much resistance by some States and the GA President about four months before the Conference itself. This led to much uncertainty and to the North American Indigenous Peoples' Caucus withdrawing from the process and calling for cancellation of the HLP. Other IPs also expressed alarm over negotiations that were failing to be inclusive of IPs and to respect the Declaration, in particular the rights of IPs to self-determination and to participate in decision-making in matters affecting them – a pre-requisite affirmed in the Alta Outcome Document. Absence of practical conditions to make IPs' participation possible was also emphasized, including absence of a clear roadmap with timely information on upcoming steps, lack of adequate resources to enable indigenous participation, or the difficulty to obtain visas to enter the USA.

In this process, what was at stake was also the ongoing efforts to build relationships between IPs and States. Indeed, many IPs and States insisted that the World Conference should be both an opportunity to consider the

important issue of IPs' participation, as self-determined peoples, in UN forums on issues affecting them, and initiate a process towards this end; and an opportunity to replicate the open-ended and inclusive process of dialogue and negotiations among and between States and IPs, which characterized the drafting of the Declaration and its adoption in 2007. Concrete references were made to trust-building and productive working agreements achieved between IPs' and States' delegates during those negotiations. It was indeed emphasized that success depends on States and IPs working together in a constructive and flexible manner, while respecting diverse perspectives: to make this cooperation possible, a space needs to be created for the democratic participation of IPs in UN processes and mechanisms, as peoples and equal to all other peoples.

The WCIP Outcome Document

In the Outcome Document, States “reaffirm [their] solemn commitment to respect, promote and advance and in no way diminish the rights of indigenous peoples and to uphold the principles of the Declaration” (para. 4). They also reaffirm their support for the Declaration, and their commitment to “consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them, in accordance with the applicable principles of the Declaration.” (para. 3)

In relation to the crucial issue of achieving implementation of the Declaration so as to improve the living conditions of IPs on the ground, States commit to take “in consultation and cooperation with indigenous peoples, appropriate measures at the national level, including legislative, policy and administrative measures, to achieve the ends of the Declaration and to promote awareness of it among all sectors of society” (para. 7). They also commit to “cooperating with indigenous peoples, through their own representative institutions, to develop and implement national action plans, strategies or other measures, where relevant, to achieve the ends of the Declaration.” (para. 8)

As indicated in the concept note for discussion on the WCIP at the PF 2015 session, the Outcome Document also contains new recognitions and commitments by States on a range of issues: the situations and rights of indigenous persons with disabilities (para. 9); disaggregation of statistical data on IPs and utilization of holistic indicators of IPs' well-being (para. 10); reducing rates of HIV and AIDS, malaria, tuberculosis and non-communicable diseases, and ensuring access to sexual and reproductive health and rights (para. 13); empowerment, capacity building and well-being of indigenous youth (para. 15); recognition of IPs' justice systems (para. 16); empowerment of indigenous women and addressing violence against them (paras. 17 to 19); recognition of the responsibility of transnational corporations and other business enterprises to respect the Guiding Principles on Business and Human Rights (para. 24); support for IPs' occupations, traditional subsistence activities, economies, livelihoods and food security (para. 25); developing mechanisms for repatriation of ceremonial objects and human remains (para. 27).

Furthermore, as noted by Dalee Sambo Dorough in her End of Year Message included in December 2014 issue of *The Message Stick* – the newsletter of the PF Secretariat – IPs' rights to free, prior and informed consent, and to their lands, territories and resources, which are urgent issues for IPs' survival and sustainability, are referenced in the Outcome Document. Paragraphs 20 and 21 recognize commitments made by States “to consult and cooperate in good faith with the IPs concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources”; and to “establish at the national level, in conjunction with the IPs concerned, fair, independent, impartial, open and transparent processes to acknowledge, advance and adjudicate the rights of IPs pertaining to lands, territories and resources.” Paragraph 22 recognizes the important contribution of IPs' traditional knowledge, innovations and practices to biodiversity. In paragraph 23, States express their intention to address, with IPs, the impacts of major development projects, including extractive industries.

In addition, several paragraphs of the Outcome Document relate specifically to the UN system. First, the Human Rights Council is invited to review, before September 2015, “the mandates of its existing mechanisms, in particular the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP), ... with a view to modifying and improving the Expert Mechanism so that it can more effectively promote respect for the Declaration, including by better assisting member States to monitor, evaluate and improve the achievement of the ends of the Declaration.” (para. 28)

Further, the Secretary-General is requested to develop, together with the Inter-Agency Support Group on Indigenous Peoples' Issues (IASG), “a system-wide action plan to ensure a coherent approach to achieving the ends of the Declaration”; the Secretary-General is also to accord “an existing senior official of the UN system, with access to the highest levels of decision-making within the system, responsibility for coordinating the action plan, raising awareness of the rights of indigenous peoples at the highest possible level and increasing the coherence of the activities of the system in this regard” (para 31). In paragraph 33, States commit to consider, at the 70th session of the GA (September 2015-September 2016), ways to enable the participation of indigenous

peoples' representatives and institutions in UN meetings relevant to them. Finally, the Secretary-General is requested to report to the GA, at its 70th session, on implementation of the Outcome Document, including proposals on (a) using, modifying and improving existing UN mechanisms to achieve the ends of the Declaration; (b) enhancing a coherent system-wide approach to achieving the ends of the Declaration; and (c) enabling the participation of IPs' representatives and institutions at the UN. (para. 40)

Resolution 69/159 of the General Assembly

On 18 December 2014, the GA adopted its resolution 69/159 entitled "Rights of indigenous peoples". In relation to the WCIP, this resolution welcomes the Outcome Document and "urges Governments and the UN system, in consultation and cooperation with IPs through their representatives and institutions, to implement, when necessary, appropriate measures, concrete policies, plans, programmes, projects and other measures to realize the commitments made in the Outcome Document". (para. 2) The GA also decides to include a sub-agenda item on follow up to the Outcome Document under the agenda item on IPs at its 70th session (para. 17); and to convene, during its 71st session, a high-level event to mark the 10th anniversary of the adoption of the Declaration, in order to take stock of achievements and assess the remaining challenges for the rights of IPs (para. 5).

A call for action-oriented work at national level

In her 2014 End of Year Message as Chair of the PF, Dalee Sambo Dorrough also underscores some inconsistency between States' policy at the international level and their actions at the national level. While acknowledging their overall support to the PF, she notes that there is, too often, little support shown at national level to implement indigenous human rights norms – or even, in some extreme cases, outright violations of these norms.

In view of the enormous challenges facing IPs, ranging from killings to eviction from their lands, territories and resources, criminalization for attempts to defend their basic human rights, extreme poverty and food insecurity, to name only a few, she makes an urgent call for collective work at the national and local levels, to see on the ground, for IPs, the action-oriented work that States overwhelmingly called for in the drafting process of Outcome Document. Dalee Sambo Dorrough insists that this work must be done at home, in States' capitals and within IPs homelands, in urgent processes of dialogue held domestically with IPs.

Likewise, during a dialogue on the WCIP Outcome Document held at the PF 2015 session, Assistant Secretary-General for Economic Development Lenni Montiel also emphasizes that in order to influence any negotiation among States at the UN, IPs must seek engagement with the States at national level, because the States will be the ones making the decisions.

Within the UN system

The System-wide action plan on indigenous issues

As regards paragraph 31 of the Outcome Document, in October 2014 the Secretary-General designated Mr. Wu Hongbo, Under-Secretary-General for Economic and Social Affairs, as the Senior Official responsible for coordinating the system-wide action plan, raising awareness on IPs' rights at the highest possible level, and increasing coherence of the UN system in this regard.

Under his guidance, the IASG has begun development of the draft system-wide action plan, which must serve as a tool facilitating UN efforts while ensuring better coordination among UN agencies involved. The IASG will draw upon experience gained with existing system-wide action plans and in national level strategic planning. Indeed, as States remain the principal duty bearers for the protection and promotion of IPs' rights, an important goal of the action plan must be to provide support to States to better achieve the objectives of the Declaration.

This action plan is to be developed in close consultation and cooperation with IPs and States. In this regard, as well as to prepare the report of the Secretary-General referred to in paragraph 40 of the Outcome Document, the UN Department of Economic and Social Affairs disseminated in March 2015, a questionnaire to States and IPs to gather their feedback on follow up to the WCIP, especially with respect to (a) using, modifying and improving existing UN mechanisms to achieve the ends of the Declaration; (b) enhancing a coherent system-wide approach to achieving the ends of the Declaration; and (c) enabling the participation of IPs representatives and institutions at the UN. The progress report of the Secretary-General will be presented to the ECOSOC in July 2015 and to the GA at its 70th session, starting in September 2015.

During the PF 2015 session, several speakers raise concerns on how to concretely ensure the full and effective participation of IPs, and particularly women, in UN work on the Outcome Document, including elaboration of the system-wide action plan. They emphasize the need for timely planning and information, outreach efforts, communication in indigenous languages, and setting up mechanisms for IPs who actively defend their rights on the ground, to engage with the UN regarding the Outcome Document, which repeatedly calls for collaboration with IPs. In response to these concerns, Lenni Montiel encourages the use of existing coordination and

communication mechanisms, such as the IASG and the PF Secretariat, noting also that in adopting the Outcome Document, member States did not allocate additional resources for its implementation.

Improving monitoring of the Declaration's implementation by States

In March 2015, in an open-ended meeting hosted in Geneva by the Asian Indigenous Peoples Pact (AIPP), the International Indian Treaty Council (IITC), the National Congress of Australia's First Peoples (NCAFP) and the Sámi Parliament of Norway, an ad-hoc group of representatives of IPs' organizations from all seven regions held informal discussions on follow-up of the WCIP, to put forth proposals for further discussion.

In reference to paragraph 28, on improving the mandate of the EMRIP, IPs' representatives attending the meeting recommended that the review process by the Human Rights Council regarding this mandate ensure IPs' full and effective participation. An improved EMRIP mandate should complement those of the PF and the Special Rapporteur on the Rights of Indigenous Peoples to achieve the ends of the Declaration.

A series of concrete recommendations was made as to an improved mandate, covering areas such as facilitation of direct dialogue between IPs and States; provision of technical assistance and advice to IPs and States, and possibly the private sector, as to overcoming obstacles and monitoring concrete measures towards implementation of the Declaration; gathering and considering information from all sources, preparing and disseminating reports as well as recommendations and general observations on IPs' individual and collective rights; seeking and receiving information on specific cases of concern for the rights enshrined in the Declaration; building the capacity of IPs to engage effectively with States and the UN; contributing to the work of the Universal Periodic Review and the treaty bodies; preparing studies and following-up on previous studies by the EMRIP and the former Working Group on Indigenous Populations, and providing expert advice to the Human Rights Council based on these studies; as well as providing input to Working Group on Human Rights, Transnational Corporations and other Business Enterprises and other UN mechanisms and bodies regarding IPs' rights.

The provisional agenda of the EMRIP's upcoming session in July includes discussion on follow-up to the WCIP, including the review of the EMRIP's mandate.

Indigenous peoples' full and effective participation

Regarding paragraph 33 of the Outcome Document, participants to the March 2015 meeting hosted by AIPP, IITC, NCAFP and the Sámi Parliament in Norway also discussed indigenous participation. In accordance with the right to self-determination, they recommend broad, full and effective participation of IPs' representatives in all UN bodies, with IPs' representative institutions themselves determining which issues under discussion in which bodies would affect their rights. Further, they recall that the Report of the Secretary-General on ways and means to promote participation of IPs' representatives at the UN [A/HRC/21/24], notes that to date, IPs' participation at the UN has been a positive experience allowing for work in partnership among States and IPs to advance indigenous issues and rights, based on a process of mutual trust building.

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

Declaration, article 18

Towards a special status for indigenous peoples at the UN?

Participants to the March 2015 meeting also note that current rules for engagement are deficient for ensuring full and effective participation of IPs' representative institutions in UN processes. The primary purpose of paragraph 33 of the Outcome Document is to find ways and means for these representative bodies to function under a new status allowing them to participate fully and effectively, in line with paragraph 10 of theme 2 in the Alta Outcome Document, which calls for "at a minimum, permanent observer status within the UN system enabling our direct participation through our own governments and parliaments."

Proposals for further discussion are that a new category of permanent observer status should be created at the UN for IPs' representatives chosen by their own peoples. There should be a new process and body for accrediting IPs' representative institutions, created by the GA with full and effective participation of IPs of all regions. Further, participation of IPs' representative institutions should include attending UN meetings and conferences, submitting written statements, making oral statements and proposing agenda items; priority in regard to seating and order of speaking; and the same ability as States to submit written and oral statements and participate in the drafting of resolutions. Finally, indigenous participation should be permitted in all bodies and agencies relevant to indigenous interests, as determined by IPs' representative institutions.

On IPs' participation at the UN, the States will be the ones to make the decision, as recalled by Assistant Secretary-General Lenni Montiel. Discussions are to take place at the ECOSOC substantive session in July 2015 and during the 70th session of the GA.

For more information

World Conference on Indigenous Peoples

The Docip Online Documentation database contains many documents related to the WCIP, in their original languages, with translations where available:

- > resolutions of the GA (including the WCIP Outcome Document) and other UN documents related to the process
- > documentation on IPs' preparatory processes and the Alta Global Indigenous Preparatory Conference
- > IPs' resolutions and declarations
- > documentation on the high level plenary meeting itself, including UN summaries and minutes of the plenary meetings
- > a comparative chart of the WCIP Outcome Document, prepared by Docip

www.docip.org > Online Documentation > Conferences > World Conference on Indigenous Peoples

ONGOING PROCESSES

Sustainable Development Goals and the post-2015 development agenda: Indigenous peoples' fight not to be left behind

The United Nations summit for the adoption of the post-2015 development agenda will be held on 25-27 September 2015 in New York. For the past two years, indigenous peoples have engaged in the process, including the drafting of 17 sustainable development goals aimed at ending poverty, transforming all lives and protecting the planet. However, despite their strong involvement in this process, indigenous peoples are not being heard by member States, reluctant to make any reference to their rights established by the 2007 Declaration on the Rights of Indigenous Peoples and reasserted in the 2014 World Conference on Indigenous Peoples' Outcome Document.

The sustainable development goals (SDGs) and the post-2015 development agenda constitute a long and complicated process. Before presenting the involvement of indigenous peoples (IPs) in this international negotiation, it appears necessary to introduce its key steps and elements.

One of the main outcomes of the United Nations (UN) Conference on Sustainable Development (Rio+20) held in Rio de Janeiro, Brazil, in June 2012, was the agreement by UN member States to establish an intergovernmental process to develop a set of action-oriented, concise and easily communicated sustainable development goals to help drive the implementation of sustainable development. The SDGs are the basis for the UN post-2015 development agenda.

From March 2013 to July 2014, a 30-member Open Working Group (OWG) of the General Assembly was tasked with preparing a proposal on the SDGs, guided by the Rio+20 outcome document "The future we want" and its commitments to respect principles of the Universal Declaration on Human Rights, as well as other international instruments relating to human rights and international law. These 13 sessions of the OWG hosted long and harsh negotiations between member States of the African Group (11 countries), the Asia-Pacific Group (21), the Latin American and Caribbean Group (14), the Western European and Others Group (15), the Eastern European Group (9), and all other stakeholders, including IPs' representatives.

After the presentation of the OWG's proposal for the SDGs to the UN General Assembly in September 2014, high level discussions have continued since February 2015 on the subject of the summit declaration, the SDGs' goals and targets (March), the means of implementation and global partnership for sustainable development (April), as well as on the aspects of follow-up and review (May). Informal interactive hearings with civil society took place on 26-27 May, while the last intergovernmental negotiations on the outcome document - including the SDGs - are being conducted in June and July. Finally, the UN summit for the adoption of the post-2015 development agenda will be held in New York - convened as a high-level plenary meeting of the 70th session of the UN General Assembly - on 25-27 September 2015.

Indigenous peoples and the drafting of the SDGs

Since the start of the negotiations, IPs have been actively involved in the SDGs and post-2015 development agenda process to ensure that their concerns are reflected and their rights protected. Indeed, they are one of the nine Major Groups identified in the 1992 Earth Summit's outcome document "Agenda 21", which include also women; children and youth; non-governmental organizations; local authorities; workers and trade unions; business and industry; scientific and technological community; and farmers. As a Major Group, IPs contribute directly to the OWG discussions, particularly lobbying for recognition of culture as a pillar of sustainable development and for the post-2015 development agenda to be addressed consistent with the minimum standards established by the Declaration on the Rights of Indigenous Peoples (Declaration).

The Indigenous Peoples Major Group (IPMG) nominated Organizing Partners (OPs) to serve as facilitators - currently Tebtebba (Indigenous Peoples International Centre for Policy research and Education) and International Indian Treaty Council (IITC). The IPMG also includes regional organizing partner focal points and maintains a global list-serve and regional list-serves. This insures that IPs share information, feedback and recommendations with the OPs for consideration on proposals and position papers submitted by the IPMG to the SDGs and post-2015 development agenda processes. However, it is important to stress that the decision-making process towards defining SDGs constitutes an enormous challenge for IPs, as most of the decision-making and participation forums happen in places inaccessible to them geographically, linguistically and financially.

The regular sessions of the UN Permanent Forum on Indigenous Issues (PF), Expert Mechanism on the Rights of Indigenous Peoples (EMRIP), Human Rights Council (HRC), as well as the World Conference on Indigenous

Peoples (WCIP), have also hosted exchanges on the ongoing negotiations between the IPMG and IPs' delegates and organisations across the world.

In the first half of 2014, the IPMG identified the following key priorities for the SDGs:

- a rights-based approach, incorporating international human rights standards including the Declaration;
- ensuring recognition and respect for IPs' rights to land, water, seeds and other resources, self-determination, treaty rights and free, prior and informed consent;
- respecting and protecting traditional and local livelihoods, food sovereignty and subsistence practices;
- recognition of culture as an essential component of sustainable development; and
- full participation of IPs in decision making in sustainable development programs and policies at all stages and on all levels.

IPs lumped together with marginalized or vulnerable groups

However, from the early stages of its drafting, the OWG document on the SDGs failed to recognise the distinct identity of IPs, as well as their multi-faceted issues and rights, including them in the categories of “marginalized” or “vulnerable groups”. In May 2014, PF member Mohammad Hassani Nejad Pirkouhi (Iran) warned that IPs must be “recognized and supported as distinct stakeholders in the emerging development agenda, both because of the unique opportunities they offer and the special challenges they are confronting”.

“... the SDGs and post-2015 development agenda should make separate reference to indigenous peoples, and not lumped up with marginalized or vulnerable groups. We have distinct identities as indigenous peoples and we have a legal instrument, the Declaration, which protect our identity and rights. With over 370 million people who identify themselves as indigenous, it is important for indigenous peoples to have a specific recognition within the SDGs and post-2015 development agenda. We do not want to face the same mistake of the Millennium Development Goals, where indigenous peoples were invisible. We want to contribute and be active partners in defining and in the achievement of the SDGs and the post-2015 development agenda”.

Grace Balawag, on behalf of the Asian Indigenous Caucus and Asian Indigenous Women's Network (AIWN), PF 2014, agenda item 7 on post-2015 development agenda

Other matters of concern included especially the failure of early versions of the text to address human rights as a framework for sustainable development; to recognise non-monetary forms of income, such as subsistence resources, which make up for 90 % of IPs' livelihoods; to include culture, in particular the respect and protection of cultural diversity; and to provide IPs with tools, like the free, prior and informed consent, to keep their ancestral lands free from industrial developments, in particular extractive activities.

In the framework of the 2014 PF, Julius Daguitan (Asia Pacific Indigenous Youth Network) emphasized that if genuine development is to happen for IPs, basic development principles must be followed, such as “people's participation, respect for indigenous peoples' self determination rights over their land and territories, gender equality, social justice, self-reliance and sustainability”. This development would begin at the village level, “guided by our traditional values and systems of cooperation and solidarity” and would promote “our indigenous values on the nurture and management of resources...”

At the WCIP interactive panel on the SDGs, in September 2014, Andrea Carmen (IITC) spoke about the status of IPs in the SDG drafting process. Noting that the Declaration “is the international minimum standard for the survival, dignity and well-being of the world's indigenous peoples,” she expressed “shock and dismay” at the total deletion of what had initially been several references to IPs as peoples, by the time the June 30th draft was presented for debate at the 13th and final session. Indeed, the zero draft released by the OWG made only one reference to 'indigenous', down from four mentions in the previous draft version. The word 'indigenous' appeared in Goal 16 on access to justice, target 16.4 regarding consent and participation in decision-making. “We are deeply concerned that the word 'peoples' after the word 'indigenous' and 'free' before 'prior and informed consent' have been omitted completely in this draft”, explained Andrea Carmen at the EMRIP 7th session. “The current language references only 'prior and informed consent' and 'indigenous and local communities'. (...) the word 'peoples' is now omitted completely, representing a major and significant step backwards from internationally-accepted minimum standards”.

Two mentions of “indigenous peoples” in the SDGs

In the final OWG 13th session of July 2014, the IPMG hoped to focus on the inclusion of key priorities for IPs in the post-2015 sustainable development agenda. These included culture as the fourth pillar of sustainable development and provisions to safeguard rights to lands and resources, food sovereignty, treaty rights and free, prior and informed consent. Instead, the basic and fundamental recognition of IPs as peoples in the text remained

in question into the final hours of that session. “Indigenous Peoples” were finally included in two paragraphs of the zero draft pertaining to food security and education. Andrea Carmen (IITC) regretted that “the core issues of rights to land and resources, self-determination and free, prior and informed consent were watered down or completely eliminated”.

The OWG presented its drafted SDGs to the UN General Assembly in September 2014. The 17 goals include 169 targets, among which two mention “indigenous peoples”:

- Goal 2 on hunger and food security: target 2.3: By 2030, double the agricultural productivity and incomes of small-scale food producers, in particular women, **indigenous peoples**, family farmers, pastoralists and fishers, including through secure and equal access to land, other productive resources and inputs, knowledge, financial services, markets and opportunities for value addition and non-farm employment
- Goal 4 on inclusive and equitable education: target 4.5: By 2030, eliminate gender disparities in education and ensure equal access to all levels of education and vocational training for the vulnerable, including persons with disabilities, **indigenous peoples** and children in vulnerable situations

Sustainable Development Goals presented to the UN General Assembly in September 2014

Goal 1: End poverty in all its forms everywhere

Goal 2: End hunger, achieve food security and improved nutrition and promote sustainable agriculture

Goal 3: Ensure healthy lives and promote well-being for all at all ages

Goal 4: Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all

Goal 5: Achieve gender equality and empower all women and girls

Goal 6: Ensure availability and sustainable management of water and sanitation for all

Goal 7: Ensure access to affordable, reliable, sustainable and modern energy for all

Goal 8: Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all

Goal 9: Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation

Goal 10: Reduce inequality within and among countries

Goal 11: Make cities and human settlements inclusive, safe, resilient and sustainable

Goal 12: Ensure sustainable consumption and production patterns

Goal 13: Take urgent action to combat climate change and its impacts

Goal 14: Conserve and sustainably use the oceans, seas and marine resources for sustainable development

Goal 15: Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss

Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels

Goal 17: Strengthen the means of implementation and revitalize the global partnership for sustainable development

Chance would have it that the 69th session of the UN General Assembly in September 2014 also convened the WCIP, held in New York as a high-level plenary meeting. IPs took this opportunity to remind member States of the commitments they had just expressed in the WCIP Outcome Document, among which their firm and unqualified commitment in paragraph 4 to “respect, promote and advance and in no way diminish the rights of indigenous peoples and to uphold the principles of the Declaration”.

Paragraphs 3 and 20 further reaffirm the commitment of States to obtain free, prior and informed consent before adopting administrative and legislative measures and prior to the approval of projects affecting indigenous lands and resources. Paragraph 37 also reads: “We note that indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In this regard, we commit ourselves to giving due consideration to all the rights of indigenous peoples in the elaboration of the post-2015 development agenda”.

In her address to the General Assembly, Andrea Carmen (IITC) interprets the adoption of the WCIP Outcome Document as a commitment made in good faith by the member States to include the rights, concerns and perspectives of IPs in the post-2015 SDGs outcome document. However, as noted by Jannie Lasimbang, co-chair of the panel discussion on indigenous priorities for the SDGs, despite this commitment the post-2015 development agenda and SDGs process shows thus far that implementation of IPs' rights remains an issue for many States.

Targets and indicators addressing IPs' distinct needs

In March 2015, the IPMG issued a policy brief containing IPs' specific proposals for targets and indicators in line with the commitments of States in relation to the WCIP and the Declaration. The challenge of the SDGs is to uphold universality while recognizing and addressing the needs of specific peoples and persons, including IPs: "To achieve the universality of the goals requires appropriate special measures in order to address indigenous peoples' distinct needs and to overcome historic disadvantages and continuing human rights violations". Examples of "special measures" include access to culturally appropriate, bi-lingual education leading to the ability to read and speak in mother tongue, targeted interventions to overcome poverty, capacity building for indigenous women, combating child labour, and protecting traditional livelihoods and health practices.

On poverty (Goal 1), the IPMG stressed that different peoples and societies have diverse cultural and spiritual views of sustainability, including conceptualizations of poverty, well-being and sustainable development, requiring culturally relevant indicators: "Non-economic and non-monetary measures of well-being are important in promoting a holistic understanding of sustainable development". They further note that a mere financial measures such as \$1.25/day for extreme poverty "is inappropriate for IPs, for whom security of rights to lands, territories and resources is essential for poverty eradication".

Legal recognition of collective rights

In relation to poverty, target 1.4. reads: "By 2030, ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources, appropriate new technology and financial services, including microfinance". The IPMG recommended including in this target language that provides legal recognition of collective land rights of IPs and local communities. It also recalled that "forests, rangelands, bodies of water, and related natural resources worldwide are often held and managed by indigenous peoples whose rights are recognized by international human rights law and instruments, including the Declaration and the ILO Convention N° 169".

The IPMG also pushed for the inclusion of a specific target under Goal 17 on means of implementation "to consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources", in reference to paragraph 20 of the WCIP Outcome Document.

"For indigenous peoples, the aspiration of the post-2015 SDGs of "leaving no one behind" means the full respect, recognition and fulfilment of our collective rights. These are not privileges or special rights but will ensure equality and non-discrimination; and accord us with our dignity, well-being and self-determined development. We expect nothing less than this if the UN will indeed be a home to the millions of indigenous peoples".

IPMG, Roberto Borrero for Joan Carling, interactive dialogue with Major Groups and other stakeholders, 25 March 2015

While following the drafting of the SDGs and their targets, IPs also turned their attention and advocacy work to the monitoring and review process. The Bureau of the UN Statistical Commission issued a technical report on an indicator framework for goals and targets of the SDGs. However, during the interactive dialogues, Roberto Borrero, on behalf of the IPMG, noted that despite two SDGs' targets that specifically refer to "indigenous peoples", that report "does not refer to IPs and embraces the use of the terms 'vulnerable' and 'marginalized groups' without clearly identifying who these groups are or acknowledging that these terms fail to recognize the distinct cultural identities and political status of indigenous peoples who are rights-holders and agents of change".

Agnes Leina Ntikaampi (Illaramatak Community Concerns), in an IPMG statement on monitoring and review, stressed the importance of data disaggregation also on the basis of ethnic origin and indigenous status: "Imagine you are a young indigenous woman with a disability living in poverty and in a rural far away settlement with no access to clean water, basic education and health services?" This is not a hypothetical situation, as IPs make for 15% of the world's poorest and face multiple discrimination – and indigenous women and girls are the most

disadvantaged and discriminated against. “Therefore,” she continued, “it is crucial to extrapolate data in order to uncover the true situation with indigenous peoples across the globe so governments can allocate appropriate resources to tackle those issues”.

The IPMG also pushed for recognition and inclusion of community-based monitoring data collection with full respect for free, prior and informed consent in reports by the UN and national governments. However, IPs are concerned that on the national level, some States may refuse to include targets and indicators relating to IPs, including the need for disaggregated data based on ethnicity and indigenous status, on the grounds IPs are not legally recognized.

Intergovernmental negotiations and the UN summit

After a last round of informal interactive hearings on the post-2015 development agenda on 26-27 May 2015, it is now governments who are negotiating the post-2015 development agenda and the SDGs, which will be adopted by Head of States during the 70th session of the General Assembly in September 2015. At the time of writing, it is expected that the zero draft of the summit outcome document will be issued by the beginning of June 2015. From then on, intergovernmental negotiations on the outcome document take place on 22-25 June, 20-24 July and 27-31 July 2015.

In September 2015, the UN summit for the adoption of the post-2015 development agenda will host the following interactive dialogues under the overarching theme “Transforming the world: realizing the post-2015 development agenda”:

- Ending poverty and hunger
- Tackling inequalities, empowering women and girls and leaving no one behind
- Fostering sustainable economic growth, transformation and promoting sustainable consumption and production
- Protecting our planet and combating climate change
- Building effective, accountable and inclusive institutions to achieve sustainable development
- Delivering on a revitalised Global Partnership

Each dialogue will address cross-cutting issues such as gender equality and the empowerment of women and girls, prioritising the needs of all vulnerable groups including children, persons with disabilities, indigenous peoples and migrants and ensuring implementation at all levels.

Implementation of the SDGs at the national level

Once the international community has agreed upon the new development agenda, the participation of IPs in the development and implementation of action plans, policies, and programme at the national level will be of paramount importance. States will need to apply goals to national conditions. Given that IPs have mostly been included in the 'vulnerable groups' in the SDGs, instead of being referred to as 'indigenous peoples', Csaba Körösi (Hungary), co-chair of the OWG, urged IPs “to work with their governments to determine how the SDGs would be turned into action on the ground” in order to ensure that they are taken into account.

During a panel discussion on the post-2015 development agenda held at EMRIP 7th session, Joseph Itongwa Mukumo (*Programme Intégré pour le Développement du Peuple Pygmée Nord-Kivu*) explained that in the case of his country, the Democratic Republic of Congo, the Declaration was the main instrument to enable a constructive dialogue between IPs and the State to implement the SDGs, in order to offer IPs legal status at the national level and to safeguard and guarantee security of IPs' territories.

Financing the SDGs and post-2015 development agenda

In a paper published in *Global Views*, Paul Quintos noted that “one of the most critical discussions haunting the post-2015 agenda had to do with the question of “how”: how can such an ambitious plan be financed? Where will resources come from?” In July 2015, governments will negotiate the outcome of the Third International Conference on Financing for Development (FFD) in Addis Ababa (Ethiopia). These negotiations will be critical for the means of implementation component of the final post-2015 outcome document.

Indeed, according to the journalist, there appears to be a strong trend toward “outsourcing” government responsibilities for the means of implementation of sustainable development to the business sector. His reference: the document “From Billions to Trillions: Transforming Development Finance. Post-2015 Financing for Development: Multilateral Development Finance,” a paper jointly prepared by the African Development Bank, Asian Development Bank, European Bank for Reconstruction and Development, European Investment Bank, Inter-American Development Bank, International Monetary Fund and World Bank Group. According to this document, “the global community needs to move the discussion from ‘billions’ in official development

assistance to ‘trillions’ in investments of all kinds: public and private, national and global, in both capital and capacity.” It notes that “the most substantial development spending happens at the national level in the form of public resources, while the largest potential is from private sector business, finance and investment”.

Paul Quintos is of the opinion that allowing and encouraging private finance to ‘invest’ in development projects such as large infrastructure projects or social services “would intensify pressures for cost-recovery schemes and greater commercialization if not downright privatization of public services.” Investments are likely to go to profitable sectors and areas instead of giving priority to the needs of impoverished and marginalized groups. The journalist fears “there would be more aggressive implementation of massive infrastructure projects that are often associated with land grabbing and human rights violations affecting indigenous peoples and rural communities”.

For his part, Julius Daguitan (Asia Pacific Indigenous Youth Network) expressed deep concern during the PF 2014 with the ongoing emphasis on private sector and corporate bodies to lead and take centre stage for development in the post-2015 development agenda: “Private sector involvement is afflicted with human rights challenges in North East India, the Cordillera region of Philippines, etc., ranging from exclusive decision making, faulty prioritization, misinformation, limited appraisal impacts, ecosystem devastations, [and] lack of accountability”. While the OHCHR insisted on its website that “the accountability of private sector should be ensured in line with the UN Guiding Principles on Business and Human Rights”, IPs continue to follow the final negotiations of the SDGs and the post-2015 development agenda with great attention, so as not to be left behind.

Links

Sustainable Development Knowledge Platform: <https://sustainabledevelopment.un.org/>

Sustainable Development Knowledge Platform, Major Groups, Indigenous Peoples: <http://sustainabledevelopment.un.org/index.php?menu=165>

IITC website: <http://www.iitc.org/program-areas/environmental-health/sustainable-development-and-the-rights-of-indigenous-peoples/post-2015-sustainable-development-goals-sdgs/>

Open Working Group Sustainable Development Goals: <https://sustainabledevelopment.un.org/focussdgs.html>

List of aggregated countries in the Open Working Group: <https://sustainabledevelopment.un.org/index.php?menu=1549>

For more information

SDGs and the post-2015 development agenda

The present article refers to declarations gathered – in their original language – in the Docip Online Documentation database and submitted by indigenous delegates, organisations, and caucuses, during the following conferences:

- > Permanent Forum on Indigenous Issues, 2014 & 2015 sessions, including documents prepared by the PF Secretariat
- > Interactive hearings on the World Conference on Indigenous Peoples, June 2014: Interactive discussion on IPs' priorities for SDGs and the post-2015 development agenda
- > Expert Mechanism on the Rights of Indigenous Peoples, 2014: Panel discussion on the post-2015 development agenda
- > World Conference on Indigenous Peoples 2014: Panel discussion on indigenous priorities for the post-2015 sustainable development agenda

For their part, declarations and position papers by the Indigenous Peoples Major Group (IPMG) are found in the Sustainable Development Platform, Major Groups, Indigenous Peoples, as indicated in the links references.

www.docip.org > Online Documentation > Search > Subjects: Post-2015 UN Development Agenda

BRIEF NOTES**UN Voluntary Fund for Indigenous Peoples**

The UN Voluntary Fund for Indigenous Peoples is mandated to facilitate the participation of representatives of IPs' communities and organisations in sessions of the Permanent Forum on Indigenous Issues, the Expert Mechanism on the Rights of Indigenous Peoples, the Human Rights Council and human rights Treaty Bodies, by providing them with financial assistance.

> To attend all sessions of the Human Rights Council, its Universal Periodic Review, and the Treaty Bodies between January and March 2016, applications will be accepted **from 1 September to 25 October 2015**.

> To attend the 15th session of the Permanent Forum on Indigenous Issues and the 9th session of the **Expert Mechanism on the Rights of Indigenous Peoples in 2016, applications will be accepted from 14 September to 30 November 2015**.

> To attend all sessions of the Human Rights Council, its Universal Periodic Review, and the Treaty Bodies between April and June 2016, applications will be accepted **from 1 December 2015 to 10 January 2016**.

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<http://www.ohchr.org/EN/Issues/IPeoples/IPeoplesFund/Pages/IPeoplesFundIndex.aspx>

40'000 participants expected in Paris for COP21 on Climate Change

The 21st session of the Conference of the Parties to the United Nations Framework Convention on Climate Change (UNFCCC), or COP21, will be held from 30 November to 11 December 2015 in Paris. This event is expected to bring together around 40,000 participants in total, among which Parties and observer States, representatives of UN bodies and agencies, as well as observer organisations, including intergovernmental organisations such as the OECD, and NGOs.

Indigenous peoples are taking an active part in meetings relating to Climate Change process as observers of the UNFCCC. The website of the Forest Peoples Programme (see below) offers valuable background information on IPs and climate change.

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Focal points for Indigenous Peoples Organizations

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More information

Forest Peoples Programme's web page on climate and forests:

<http://www.forestpeoples.org/topics/climate-forests>

COP 21 in Paris: <http://www.cop21.gouv.fr/en>

Docip at the EU

Indigenous representatives have repeatedly insisted on the need to reinforce the collaboration with the European institutions. In fact, the European Union (EU) is a major actor on the international scene. Its influence greatly exceeds the diplomatic framework as it imposes to its partners (state or private) to act in the respect of human rights (corporate social responsibility, human rights clauses in bilateral agreements, monitoring of trade agreements...). The mechanisms for promoting human rights set up by the EU give the possibility to indigenous peoples to make their voices heard within the EU.

After having extended its work to Brussels by recruiting a representative to the EU (March 2015) and facing the strong interest of the EU regarding indigenous peoples' issues, Docip is pleased to inform you that it has recruited a second representative in Brussels.

Our team will follow-up and inform you about the important developments in the 14 Committees of the European Parliament competent on subjects impacting potentially indigenous peoples; they will inform you on the scope for action (notably during the consultations with civil society on trade agreements in DG TRADE); and they will assist you during your visits in Brussels.

Please contact us for further information : eu@docip.org

International Conferences for Indigenous Peoples

Our updated Agenda of International Conferences for Indigenous Peoples is available on our website at the following address: http://bit.ly/agenda_en (or www.docip.org > Docip at the UN > Agenda). We mail hard copies of the updated Agenda twice a year to indigenous organizations and individuals – and to other interested organizations or individuals, upon request.

If you have comments and suggestions about this Update, please do not hesitate to share them with us:

- by e-mail at: docip@docip.org (Subject: Update)
- by mail at: doCip, 106 route de Ferney, CH-1202 Genève

Thanks!

INFORM US OF YOUR CHANGE OF ADDRESS

Please inform us each time you change your e-mail/postal address, or phone/fax number so that we may keep our address book up to date. Send an email to docip@docip.org, subject: "Change of Address". Many thanks !

The outstanding achievement of the Declaration on the Rights of Indigenous Peoples was not to define human rights – that has been determined through the Universal Bill of Rights – but to identify the collective rights that have been historically denied to indigenous peoples, e.g. our rights to our lands, our territories, our resources and our institutions and systems.

13th session of the PFII, Intervention by Les Malezer of the Butchulla/Gubbi Gubbi peoples of Australia, National Congress of Australia's First Peoples, 13 May 2014

It is important to recognise that, for the Post 2015 Development Agenda to be relevant to indigenous peoples, the UN Declaration on the Rights of Indigenous Peoples must be integrated into all its aspects. The commitments made in the WCIP Outcome Document provides the impetus for the Declaration to be integrated in the Post 2015 Development Agenda.

WCIP, Panel Discussion on Indigenous Priorities for the Post 2015 Sustainable Development Agenda, Opening Remarks by Co-chair, Jannie Lasimbang of the Kadazan People of Malaysia, 23 September 2014

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The Sámediggi (The Sámi Parliament) in Norway

Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

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