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INFORMING ABOUT THE RIGHTS OF INDIGENOUS PEOPLES

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Docip is pleased to present to you its latest edition of the Update. This year, Docip Publications renewed its commitment towards providing more information on indigenous peoples' rights by preparing a Summary Notes on the United Nations Permanent Forum on Indigenous Issues (UNPFII) and a video to explain the difference between the Summary Notes and the Update – all available on our website. To this end, the Update, the stronger of the feedback received by the indigenous delegates, once more presents its section of Regional News and Docip's Activities, with a new section on the Agenda 2018. It includes tentative dates on the most important conferences and deadlines on indigenous peoples' rights for the year to come. This edition of the Update is of particular importance since it makes an assessment of the tenth anniversary of the United Nations Declaration on Indigenous Peoples' Rights (UNDRIP) for the Focus. It turns the spotlight on the process of the adoption of the Declaration, presenting a summary of the main developments that occurred this year during the UNPFII and Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) sessions.

Update

ESPAÑOL РУССКИЙ – FRANÇAIS – ENGLISH

The Focus ends with the presentation of a comparative version of the UNDRIP first draft introduced by Ms. Erica Irene Daes in 1994 and the final text adopted by consensus in 2007. The Ongoing Processes section analyses indigenous peoples' land rights as receiving less space in the international discussions, by looking at the processes of the World Property Organization (WIPO), Conference of the Parties (COP) of the United Nations Framework Convention on Climate Change (UNFCCC), the right to life of indigenous rights defenders, which is put at greater risk each time, and the need for increasing space to be given to indigenous issues within the European Union system. The latest news provides an insight into the new possibilities for advocating for indigenous rights through the new EMRIP mandate and also aims at informing on the latest developments

for indigenous peoples in the regions of the Russian Federation, Transcaucasia, Eastern Europe and Central Asia and Asia. Docip's Activities section presents the services we are offering to indigenous delegates, and the 2018 Agenda.

I sincerely hope you will enjoy reading this latest issue, and I am always happy to receive any comment on it.

Yours truly,

*Claire Moretto
Docip Publications Manager
claire@docip.org*



TEN YEARS OF THE UNITED DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES: FROM HISTORY TO PRACTICE

A BRIEF HISTORY OF UNDRIP

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) has come a long way through the years, with the first notable episode concerning Deskaheh, Chief of the Iroquois League, representing Six Nations of the Iroquois Confederacy from Canada – namely the Mohawk, the Oneida, the Onondaga, the Cayuga, the Seneca and the Tuscarora – in 1923. Before then, the Society of the Nations (now the United Nations) was closed to him. In 1971, indigenous peoples' claims found better ground in making their way to the United Nations. As an illustration, resolution 1589 adopted by the Economic and Social Council in 1971 states as follow¹:

"7. Authorizes the Sub-Commission on Prevention of Discrimination and Protection of Minorities to make a complete and comprehensive study of the problem of discrimination against indigenous populations and to suggest the necessary national and international measures for eliminating such discrimination, in cooperation with the other organs and bodies of the United Nations and with the competent international organizations."

(adopted during the 1771st plenary meeting the 21st May 1971)

This Sub-commission assigned José Martínez Cobo of Ecuador, to carry out this study and appointed him as Special Rapporteur. During the late 1970's, indigenous populations were getting more organized

in making their way to the United Nations, and two conferences were organized that allowed their participation. The first one was in 1977, and addressed the issue of discrimination against indigenous populations of the Americas. The second one, in 1978, was dedicated to the fight against racism and racial discrimination and concluded with some States recognizing the linguistic, cultural, economic and territorial rights of indigenous peoples. The 1981 Conference on "Indigenous Peoples and Land", which took place in Geneva, reiterated the 1977 proposal to create a UN Working Group on indigenous peoples. Due to the intensification of the indigenous movement internationally, in 1982 the Sub-commission created the Working Group on Indigenous Populations, which was mandated to monitor the issues of recognition and protection of the rights and freedoms of indigenous peoples. Indigenous delegates from various regions participated, along with various civil society actors. In addition, José Martínez Cobo issued a report, which was completed during this decade (published in 1986-1987), acknowledging the fundamental problems affecting indigenous peoples in various areas, such as health, education, housing, land management and territory. To this day, this report remains important for indigenous advocacy at the international level, especially since, for the first time, it introduces a definition of "indigenous peoples"². For its part, the Working Group on Indigenous Populations recommended: (1) the adoption of a United Nations Declaration on the Rights of Indigenous Peoples; (2) the organization of an international year dedicated to indigenous peoples; (3) the revision of International Labour Organization (ILO)

Convention 107 (Convention on Indigenous and Tribal Populations). Long criticized for its integrationist approach, this Convention takes little account of indigenous-specific issues and instead focuses more on their integration into national society. Thus, in 1989, the ILO adopted the Convention on Indigenous and Tribal Peoples (Convention No. 169), an influential international legal instrument for the promotion and defense of indigenous peoples' rights, notable for its binding force and the international standards found within it. The process of pursuing the recognition of indigenous peoples' rights at the international level continued into the 1970s and 1980s. In 1985, the Working Group began to prepare a draft on a United Nations Declaration on the Rights of Indigenous Peoples. The Vienna Declaration and Programme of Action³, adopted in 1993 following the World Conference on Human Rights, played an important role in the recognition of the need to further elaborate on a draft declaration on indigenous peoples. This Conference not only fostered the creation of the International Decade on the World's Indigenous Peoples (1994 – 2004) but also originated the idea of the creation of a Permanent Forum on Indigenous Issues (UNPFII). It further proposed creating a voluntary trust fund, which is currently the Voluntary Fund on Indigenous Peoples. It also began the battle for recognition of indigenous communities as peoples. Indeed, considering English linguistics, the 's' is of

1| [E5044](#), p.16

2| [E/CN.4/Sub.2/1986/7](#), paragraphs 379-382

3| [A/CONF.157/23](#)

vital importance if we look at the expression 'indigenous peoples' instead of 'indigenous people'. It means that they are recognized as sovereign groups of people and do not represent a unique category of 'indigenous people'. It has implications for the recognition of their rights, providing a different status for the regime of rights they can hope to have on an international scale. Such controversy underlines the complexity for the international community of valuing collective rights claimed by indigenous peoples for their cultural specificities rather than the individual approach of human rights defended by them. Thus, the Vienna Conference left an open door for a possible adoption or further examination of the draft of a Declaration on the Rights of Indigenous Peoples. The Sub-Commission on Prevention of Discrimination and Protection of Minorities, in its resolution 1994/45⁴, adopted the proposed draft Declaration, a work that was led by the Rapporteur Ms. Erica-Irene Daes. This draft was then submitted to the former Commission on Human Rights – now the Human Rights Council –, which decided, upon the request of the States, to establish a Working Group on the draft Declaration on the Rights of Indigenous Peoples. Even though this new Working Group assumed the work realized by the prior body, States considered that the Declaration could not be adopted as presented since it was an expert-led work and not an intergovernmental one. This new process took more than twenty years to reach consensus, with negotiations held between 1995 and 2007. One of the most important points of opposition between indigenous peoples and States has been the recognition of the right to self-determination. As this right is present in the first common article of the International Covenant on Civil and Political Rights (ICCPR), and of the International Covenant on Economic, Social and Cultural Rights (ICESCR), it was necessary to find a balance for a recognition of such rights by States. Indeed, the recognition of the right to self-determination for indigenous communities, does not necessarily mean loss of territorial integrity but recognition of indigenous communities as sovereign peoples. This point was particularly an issue for the group of States called CAZUS, and composed of Canada, New-Zealand, Australia and United States. They were the States that proposed the most amendments to the draft Declaration which were not acceptable since they did not fit indigenous peoples' expectations. However, through the years, the States changed strategy and through the creation of new alliances, the group of CAZUS lost its leadership. The process was

mainly led by the group of Latin American States, especially by Mexico, and was also supported by the group of Arctic States and the European Union. However, the positions of the Asian countries and the African group were uncertain.

Very important advocacy work has been done with government representatives by the Caucus and its regional focal points to reach consensus, by making difficult compromises regarding the rights expressed in the text that has been amended once more. In total, the Working Group held eleven sessions to adopt a text that would include all positions. During the eleventh and last session, the President, Mr. Luis Chávez, offered to gather all of the articles that reached consensus and to consider all of the different expressions and views for the submission of the final text to the Human Rights Commission in its first session⁵. The text was approved for submission to the General Assembly later in this same year 2006, and before approval to the Assembly itself, it had to be approved by a Third Committee that dealt with Human Rights issues. During the session of the Third Committee, the African group proposed delaying the vote at the General Assembly of the text that finally found consensus to further analyze its content. The reaction of human rights organizations, which was made up of various indigenous positions⁶, was the following:

“The debate in the Third Committee [of the United Nations General Assembly] was marred by unfounded and alarmist claims about the potential impact of the Declaration. Statements by Australia, Canada, New Zealand and the USA that the Declaration would jeopardize the rights and interests of other sectors of society willfully ignored the fact that the Declaration can only be interpreted in relation to the full range of existing human rights protections and state obligations. This is explicitly acknowledged in the Declaration itself.”

Finally, after ultimately nine amendments made to the text and the consensus reached with the African group and other States, the Declaration was adopted by the General Assembly on the 13th of September 2007 during its sixty-first regular session. At that time, the vote was the following: 143 votes in favor, 11 abstentions - Azerbaijan, Bangladesh, Bhutan, Burundi, Colombia, Georgia, Kenya, Nigeria, the Russian Federation, Samoa and Ukraine – and 4 votes against – Canada,

United States, New Zealand and Australia. However, Samoa, Colombia, Canada, United States, Ukraine, New Zealand and Australia revised their positions, in consideration of the global acceptance and recognition of the text, and are now supporters of the United Declaration on the Rights of Indigenous Peoples. Such recognition had a very important effect on the international community and on the 370 million indigenous peoples' lives worldwide.

CHALLENGES AND SUCCESSES

Following the UNDRIP adoption, in 2010, the General Assembly of the United Nations decided to organize a World Conference on Indigenous Peoples in order to share perspec-

“Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.”

UNDRIP, article 1

tives and best practices on the realization of the rights of indigenous peoples, including pursuing the objectives of the Declaration. During this event, not only did the States reiterate their commitment⁷ towards achieving the ends of the Declaration, but they also committed to an outcome document⁸, which further indicates the coming priorities and the establishment of the different indigenous mechanisms within the United

4 | <http://bit.ly/2xkrmtj>

5 | [E/CN.4/2006/79](http://www.unhcr.org/refugees/4/2006/79)

6 | The statement made by the representative of Amnesty International on behalf of Canadian Friends Service Committee (Quakers), International Service for Human Rights, International Work Group for Indigenous Affairs (IWGIA), Kairos: Canadian Ecumenical Justice Initiatives, Netherlands Centre for Indigenous Peoples (NCIV) and Rights and Democracy during UNGA Third Committee, 61st Session. 16 October 2006.

7 | The WCIP has been the opportunity for the States member of the United Nations system to engage with the ends of the Declaration. As States members of the UN system committed to the outcome document, which acknowledges UNDRIP and the objective to ensure indigenous peoples' rights worldwide, they commit also as one voice to UNDRIP.

8 | [A/RES/69/2](http://www.unhcr.org/refugees/4/2006/79)

Nations system. This document has been important in assessing a further recognition of the UNDRIP and acknowledging the progress made to a certain extent during the last years. During the current year of 2017, both

“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.”

at the global level and a better engagement with States to work jointly with indigenous communities. Furthermore, the adoption of the UNDRIP created advocacy at the international, regional, and national levels. To cite some concrete examples, the Working Group on Indigenous Populations/Communities of the African Human Rights Commission adopted the Yaoundé Declaration in December 2015 to implement at the regional level the WCIP outcome document: last year the Organization of American States adopted a regional instrument on the American Declaration on the Rights of Indigenous

UNDRIP, article 3

sessions of the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) and the United Nations Permanent Forum on Indigenous Issues (UNPFII), celebrated the tenth anniversary of the Declaration as their main focus. The Special Rapporteur on the Rights of Indigenous Peoples, Ms. Victoria Tauli-Corpuz, also made statements all the year in support of the tenth anniversary of the Declaration. In her statement at the occasion of the seventy-first General Assembly, in 2016, she noted the following:

“As the coming year will mark the tenth anniversary of UNDRIP, I will continue to pay particular attention to the application of its wide-ranging provisions as a matter of priority. Closing the gap between the recognition of indigenous peoples’ rights at the international level and the actual implementation on the ground remains my main pre-occupation and I reiterate my commitment in my role as Special Rapporteur to monitor closely how States and the United Nations are implementing the Declaration and the Outcome Document of the World Conference.”

Statement of Ms. Tauli-Corpuz on the 17th of October 2016, UNGA 71

In January 2017, an international expert group meeting⁹ was held to assess the role of the different United Nations mechanisms related to the implementation of the Declaration, as stated in the report of the fifteenth session of the UNPFII¹⁰. The objective of this meeting was to establish lines of policy and strategies for a better implementation of the UNDRIP in the short, medium and long-term perspectives. Both mechanisms presented reports on the ten years of the implementation of the Declaration^{11,12}. In a nutshell, UNDRIP allowed a wider recognition of indigenous peoples’ rights

Peoples and more recently the governments of Sweden, Norway and Finland have finally come to an agreement on the Sámi Convention. However, the report¹³ of the expert group meeting held in January warns the following:

“A pattern of selective endorsement [of the UNDRIP] was pointed out, since these endorsements included important qualifiers and exclusions as to how the Declaration should be interpreted in domestic law. A related concept of “over-compliance”, whereby a Member State takes constitutional, legal and/or policy actions that recognize specific rights or a category of rights that go beyond that State’s international human rights treaty obligations or its normative commitments, could also be applied to these four countries, all of which demonstrate moderate to strong levels of legal, constitutional and policy practices in the implementation of indigenous rights but are reluctant to make a high-level commitment to indigenous rights instruments.”

E/C.19/2017/10, para 14.

Even though the Declaration is a non-binding instrument, it has had positive impacts for indigenous peoples, especially in terms of policy making and advocacy for the governments to implement better indigenous rights. As of that date, the adoption of the Declaration allowed a meaningful participation of indigenous peoples into the drafting of the Sustainable Development Goals process¹⁴ as much as in the climate change negotiations. Nonetheless, many challenges are faced by indigenous communities, especially in terms of the

implementation of the UNDRIP. Those challenges could be summarized by the following paragraph¹⁵:

“In the last 10 years, regional human rights bodies, such as the African and inter-American human rights systems have been active in developing and interpreting the rights of indigenous peoples, including citing the Declaration. (...) It is disappointing that such persuasive jurisprudence remains poorly implemented.”

This resonated with the many statements made by indigenous organizations during the tenth EMRIP session, for the agenda item dedicated to the tenth anniversary of UNDRIP. In total, more than forty-one indigenous organizations¹⁶ expressed their concerns regarding the lack of concrete implementation of UNDRIP standards and the improvement that this should imply for the well-being of their communities. The rights that are most at stake concern land, territories and natural resources and lack of respect of free, prior and informed consent.

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

International Covenant on Civil and Political Right.

Even though the adoption of the UNDRIP is recognized as a wide success, many gaps are observed in terms of access to public services, such as health care, education, recognition

9 | The indigenous experts present to this meeting were: the SRRIP, Victoria Tauli-Corpuz: from UNPFII: Mariam Wallet Aboubakrine, Aisa Mukabenova, Robert Leslie Malezer, Brian Keane: from EMRIP: Albert Barume, Alexey Tsykarev, Wilton Littlechild: and the following invited experts: Hindou Oumarou Ibrahim (Africa), Lars-Anders Baer (Arctic), Shankar Limbu (Asia), Max Ooft (Central and South America and the Caribbean), Anatolii Sleptcov (Eastern Europe, Russian Federation, Central Asia and Transcaucasia), Sheryl Lightfoot (North America) and Claire Charters (Pacific).

10 | E/2016/43-E/C.19/2016/11

11 | From EMRIP: [A/HRC/EMRIP/2017/CRP.2](#)

12 | From UNPFII: [E/C.19/2017/4](#)

13 | [E/C.19/2017/10](#), para 14

14 | See Update n°III, Focus: the SDGs, new challenge for indigenous peoples’ rights

15 | [A/HRC/EMRIP/2017/CRP.2](#), para 24

16 | See [Docip Summary Notes n°5 on the 10th session of the EMRIP](#)

of cultures. The concrete implementation of the right to self-determination is limited by the current fear of States that this would still mean an attempt to the territorial integrity of the country, while it is a claim based on culture recognition and self-governance. Many indigenous peoples put their lives at risk when they wish to achieve the ends of the Declaration at home, suffering violence, discrimination, and harassment. On that point, the current Chair of the UNPFII, Ms. Mariam Wallet-Aboubakrine, in her statement to celebrate the tenth UNDRIP anniversary on the 13th of September 2017, summarized many indigenous concerns as followed:

“However, much more needs to be done. Despite good intentions, good laws and progressive human rights instruments, there remains a gap between words and actions. Indigenous peoples continue to face marginalization, discrimination and violations to their rights. While there has progress, it has been slow, uneven and not able to make a difference in the lives of many indigenous peoples. In all corners of the world, indigenous peoples are increasingly being displaced and challenged by major investment and development projects that are encroaching on their lands, territories and resources. When indigenous peoples stand up to protect their lands, they are faced with harassment, violence

“We [the States] also recognize commitments made by States, with regard to the Declaration, to establish at the national level, in conjunction with the indigenous peoples concerned, fair, independent, impartial, open and transparent processes to acknowledge, advance and adjudicate the rights of indigenous peoples pertaining to lands, territories and resources.”

World Conference on the Rights of Indigenous Peoples outcome document, 2014. Para 21.

and assassination. Over the past two years, we have seen an alarming rise in the killings of indigenous human rights defenders. In many ways, indigenous peoples are facing even greater struggles and rights violations than they did 10 years ago.”

This paragraph relates to the numerous indigenous voices heard during the conferences this year on the implementation of UNDRIP: the gap between the words and the actions remain too important, even ten years later.

WHAT'S NEXT ?

Even though there is a gap, there is some hope regarding the implementation of the UNDRIP by governments, even at local levels. Good practices have been noticed in those countries¹⁷, by region:

- ▶ Latin America: Mexico, Ecuador, Bolivia, Chile, Costa Rica, El Salvador, Nicaragua, Colombia
- ▶ North America: Canada
- ▶ the Arctic: Finland, Sweden, Norway
- ▶ the Pacific: New Zealand, Australia
- ▶ Asia: the Philippines, Indonesia, Nepal, Malaysia, Japan
- ▶ Africa: Kenya, the Democratic Republic of the Congo, Central African Republic, Morocco, Chad
- ▶ the Russian Federation, Transcaucasia, Eastern Europe and Central Asia: the Russian Federation.

This list is encouraging, and there is hope that over the next ten years, UNDRIP will create even more policies on indigenous peoples' rights. Good willingness from States is also foreseen through the EMRIP revised mandate¹⁸ which one of the core objectives is to ensure the rightfulness implementation of the Declaration by States. During the past

few years, there has been a positive tendency for the acceptance for indigenous peoples and their rights to self-determination and culture. However, the tendency is reversed when it comes to land rights and to the issue of the protection of indigenous traditional knowledge – which is a burning issue currently under discussion in Geneva¹⁹. This is of greater concern, since during the last two years, indigenous rights defenders lost their lives by trying to protect their

territories from development projects, mining, exploitation of forests and soils. Many opportunities for engaging with indigenous peoples exist through the UNDRIP. Many options also exist for indigenous peoples to act directly at their local level with the Declaration. For instance, the right to free, prior, and informed consent, guaranteed by the article 10 of UNDRIP, also figures in ILO Convention n°169, at the article 16 (2). One of the core priorities for indigenous delegates nowadays is the creation of disaggregated data on indigenous peoples to

assess their lack of access to public services, and the recognition of their participation to the preservation of the ecosystems. The Declaration, after ten years of existence, gave opportunities for States to show their good will. Nevertheless, it also underlines the fact that despite the engagement and dialogue that exist between indigenous peoples and other institutions, indigenous peoples still too often suffer from the lack of engagement by States to deal with the Declaration effectively. As many statements made by indigenous peoples claimed, one of the most relevant recent examples is the inter-governmental process to enhance indigenous peoples' participation in the United Nations system on meetings and issues that affect them, with a resolution adopted by the General Assembly (without a vote) on the 8th of September 2017 that does not meet indigenous peoples' claims²⁰. The Declaration then is not only an instrument that has to be used by governments to recognize indigenous peoples' rights, but above all an instrument to be used by indigenous peoples to make their governments realize that they are sovereign in their rights.

COMPARATIVE VERSIONS OF THE 1ST DRAFT AND UNDRIP FINAL VERSION

This tabled version aims at showing the changes undergone by the UNDRIP between the first draft created by the experts of the Working Group under the lead of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (1994) and the work led by the Working Group on the draft Declaration on the Rights of Indigenous Peoples under the Human Rights Commission (2007). Such changes allow us to properly see where consensus has been the most difficult to achieve and what were, on the contrary, the points that garnered the most consensus. The text from the original draft is signified by being crossed, while the text of the final appears underlined.

¹⁷ Compilation made of the several gatherings in the reports of the UNPFII, EMRIP and the expert group meeting with regards to the tenth anniversary of the Declaration.

¹⁸ [A/HRC/RES/33/25](#)

¹⁹ On this please refer to the next article of this Update under the section Ongoing Processes.

²⁰ [A/71/L.82](#)

~~DRAFT UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES~~ UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, and good faith in the fulfilment of the obligations assumed by States in accordance with the Charter,

Affirming that indigenous peoples are equal in dignity and rights to all other peoples, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such,

Affirming also that all peoples contribute to the diversity and richness of civilizations and cultures, which constitute the common heritage of humankind,

Affirming further that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin, or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust,

Reaffirming also that indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind,

Concerned that indigenous peoples have been deprived of their human rights and fundamental freedoms, resulting suffered from historic injustices as a result of, inter alia, in their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests,

Recognizing the urgent need to respect and promote the inherent rights and characteristics of indigenous peoples, especially their rights to their lands, territories and resources, which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources,

Recognizing also the urgent need to respect and promote the rights of indigenous peoples affirmed in treaties, agreements and other constructive arrangements with States,

Welcoming the fact that indigenous peoples are organizing themselves for political, eco-

nomical, social and cultural enhancement and in order to bring to an end to all forms of discrimination and oppression wherever they occur,

Convinced that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs,

Recognizing also that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment,

Emphasizing the need for contribution of the demilitarization of the lands and territories of indigenous peoples, which will contribute to peace, economic and social progress and development, understanding and friendly relations among nations and peoples of the world,

Recognizing in particular the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, Recognizing also that indigenous peoples have the right freely to determine their relationships with States in a spirit of coexistence, mutual benefit and full respect, consistent with the rights of the child,

Considering that the rights affirmed in treaties, agreements and other constructive arrangements between States and indigenous peoples are properly, in some situations, matters of international concern and, interest, responsibility, and character,

Considering also that treaties, agreements and other constructive arrangements, and the relationship they represent, are the basis for a strengthened partnership between indigenous peoples and States,

Acknowledging that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, as well as the Vienna Declaration and Programme of Action, affirm the fundamental importance of the right of to self-determination of all peoples, by virtue of which they freely

determine their political status and freely pursue their economic, social and cultural development,

Bearing in mind that nothing in this Declaration may be used to deny any peoples their right of to self-determination, exercised in conformity with international law,

Convinced that the recognition of the rights of indigenous peoples in this Declaration will enhance harmonious and cooperative relations between the State and indigenous peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith,

Encouraging States to comply with and effectively implement all their obligations as they apply to indigenous peoples under international instruments, in particular those related to human rights, as they apply to indigenous peoples, in consultation and cooperation with the peoples concerned,

Emphasizing that the United Nations has an important and continuing role to play in promoting and protecting the rights of indigenous peoples,

Believing that this Declaration is a further important step forward for the recognition, promotion and protection of the rights and freedoms of indigenous peoples and in the development of relevant activities of the United Nations system in this field,

Recognizing and reaffirming that indigenous individuals are entitled without discrimination to all human rights recognized in international law, and that indigenous peoples possess collective rights which are indispensable for their existence, well-being and integral development as peoples,

Recognizing that the situation of indigenous peoples varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration,

Solemnly proclaims the following United Nations Declaration on the Rights of Indigenous Peoples: as a standard of achievement to be pursued in a spirit of partnership and mutual respect:

Article 1

Indigenous peoples have the right to the full and effective enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.

Article 2

Indigenous peoples and individuals and peoples are free and equal to all other peoples and individuals and peoples in dignity and rights, and have the right to be free from any kind of adverse discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.

Article 3

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

Article 4

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.

Article 5

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

Article 5 6

Every indigenous individual has the right to a nationality.

Article 6 7

1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.

2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to full guarantees against any act of genocide or any other act of violence, including the removal of indigenous forcibly removing children from their families and communities under any pretext. In addition, they have the individual rights of the group to life, physical and mental integrity, liberty and security of person: another group.

Article 7 8

1. Indigenous peoples and individuals have the collective and individual right not to be subjected to ethnocide and cultural genocide, including forced assimilation or destruction of their culture.

2. States shall provide effective mechanisms for prevention of, and redress for:

a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities:

b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources:

c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights:

d) Any form of forced assimilation or integration by other cultures or ways of life imposed on them by legislative, administrative or other measures:

e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

Article 8

~~Indigenous peoples have the collective and individual right to maintain and develop their distinct identities and characteristics, including the right to identify themselves as indigenous and to be recognized as such.~~

Article 9

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No disadvantage discrimination of any kind may arise from the exercise of such a right.

Article 10

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

Article 11

~~Indigenous peoples have the right to special protection and security in periods of armed conflict. States shall observe international standards, in particular the Fourth Geneva Convention of 1949, for the protection of civilian populations in circumstances of emergency and armed conflict, and shall not:~~

a) Recruit indigenous individuals against their will into the armed forces and, in particular, for use against other indigenous peoples:

b) Recruit indigenous children into the armed forces under any circumstances:

c) Force indigenous individuals to abandon their lands, territories or means of subsistence, or relocate them in special centres for military purposes:

d) Force indigenous individuals to work for military purposes under any discriminatory conditions.

Article 12

Indigenous peoples

1. Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature, as well as the right to the:

2. States shall provide redress through effective mechanisms, which may include restitution of, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

Article 13 12

1. Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies: the right to maintain, protect, and have access in privacy to their religious and cultural sites: the right to the use and control of their ceremonial objects: and the right to the repatriation of their human remains.

2. States shall take seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective measures, mechanisms developed in conjunction with the indigenous peoples concerned, to ensure that indigenous sacred places, including burial sites, be preserved, respected and protected.

Article 14 13

1. Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.

2. States shall take effective measures, whenever any right of indigenous peoples may be threatened, to ensure that this right is protected and also to ensure that they indigenous peoples can understand and be understood in political, legal and administrative

proceedings, where necessary through the provision of interpretation or by other appropriate means.

Article 14

Indigenous children have the right to all levels and forms of education of the State. All 1. Indigenous peoples also have this right and the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.

2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.

3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have the right to be provided access, when possible, to an education in their own culture and provided in their own language. States shall take effective measures to provide appropriate resources for these purposes.

Article 15

1. Indigenous peoples have the right to have the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in all forms of education and public information.

2. States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to eliminate combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.

Article 16

1. Indigenous peoples have the right to establish their own media in their own languages. They also and to have the right to equal access to all forms of non-indigenous media: without discrimination.

2. States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. States, without prejudice to ensuring full freedom of expression, should encourage privately owned media to adequately reflect indigenous cultural diversity.

Article 17

1. Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law and national labour legislation.

2. States shall in consultation and cooperation with indigenous peoples take specific

measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.

3. Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary.

Article 18

Indigenous peoples have the right to participate fully, if they so choose, at all levels of in decision-making in matters which may affect their rights, lives and destinies through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

Article 19

States shall consult and cooperate in good faith with the indigenous peoples have the right to participate fully, if they so choose, concerned through procedures determined by them, in devising 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. States shall obtain the free and informed consent of the peoples concerned before adopting and implementing such measures.

Article 20

1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.

2. Indigenous peoples who have been deprived of their means of subsistence and development are entitled to just and fair compensation: redress.

Article 21

1. Indigenous peoples have the right, without discrimination, to special measures for the immediate, effective and continuing the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.

2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their

economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

Article 22

1. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and disabled persons: with disabilities in the implementation of this Declaration.

2. States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

Article 23

Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to determine be actively involved in developing and develop all determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

Article 24

1. Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the right to the protection conservation of their vital medicinal plants, animals and minerals. They Indigenous individuals also have the right to access, without any discrimination, to all medical institutions, social and health services and medical care.

2. Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.

Article 25

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual and material relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources which they have traditionally owned or otherwise occupied or used, and and to uphold their responsibilities to future generations in this regard.

Article 26

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

Article 27

States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

Article 28

1. Indigenous peoples have the right to own, develop, control redress, by means that can include restitution or, when this is not possible, just, fair and use equitable compensation, for the lands and territories, including the total environment of the lands, air, waters, coastal seas, sea-ice, flora and fauna and other and resources which they have traditionally owned or otherwise occupied or used. This includes the right to the full recognition of their laws, traditions and customs, land tenure systems and institutions for the development and management of resources, and the right to effective measures by States to prevent any interference with, alienation of or encroachment upon these rights.

Article 27

Indigenous peoples have the right to the restitution of the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent. Where this is not possible, they have the right to just and fair compensation.

2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status: or of monetary compensation or other appropriate redress.

Article 28 29

1. Indigenous peoples have the right to the conservation, restoration and protection of the total environment and the productive capacity of their lands; or territories and resources, as well as to assistance for this purpose from States shall establish and through international cooperation implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.

2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.

3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

Article 30

1. Military activities shall not take place in the lands and or territories of indigenous peoples, unless justified by a relevant public interest or otherwise freely agreed upon with or requested by the indigenous peoples concerned.

2. States shall under take effective measures to ensure that no storage or disposal of hazardous materials shall take place in consultations with the indigenous peoples concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands and or territories of indigenous peoples. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of military activities.

Article 31

1. Indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

Article 29

Indigenous peoples are entitled to the recognition of the full ownership, control and protection of their cultural and intellectual property. They have the right to special measures to maintain, control, protect and develop and protect their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultural manifestations cultures, including human and other genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and

visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

2. In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.

Article 30 32

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands; or territories and other resources, including,

2. States shall consult and cooperate in good faith with the right indigenous peoples concerned through their own representative institutions in order to require that States obtain their free and informed consent prior to the approval of any project affecting their lands; or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources. Pursuant to agreement with the indigenous peoples concerned,

3. States shall provide effective mechanisms for just and fair compensation shall be provided redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

Article 31 33

1. Indigenous peoples, as a specific form of exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, including culture, religion, education, information, media, health, housing, employment, social welfare, economic activities, land and resources management, environment and entry by non-members, as well as ways and means for financing these autonomous functions.

Article 32

Indigenous peoples have the collective right to determine their own citizenship identity or membership in accordance with their customs and traditions. Indigenous citizenship This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live.

2. Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

Article 33 34

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive juridical customs, spirituality, traditions, procedures and,

practices and, in the cases where they exist, juridical systems or customs, in accordance with internationally recognized international human rights standards.

Article 34 35

Indigenous peoples have the collective right to determine the responsibilities of individuals to their communities.

Article 35 36

1. Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders.
2. States, in consultation and cooperation with indigenous peoples, shall take effective measures to ensure facilitate the exercise of and ensure the implementation of this right.

Article 36 37

1. Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors, according to their original spirit and intent, and to have States honour and respect such treaties, agreements and other constructive arrangements. Conflicts
2. Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and disputes which cannot otherwise be settled should be submitted to competent international bodies agreed to by all parties concerned. other constructive arrangements.

Article 37 38

States in consultation and cooperation with indigenous peoples, shall take effective and the appropriate measures, including legislative measures, in consultation with to achieve the indigenous peoples concerned, to give full effect to the provisions ends of this Declaration.

The rights recognized herein shall be adopted and included in national legislation in such a manner that indigenous peoples can avail themselves of such rights in practice.

Article 38 39

Indigenous peoples have the right to have access to adequate financial and technical assistance, from States and through international cooperation, to pursue freely their political, economic, social, cultural and spiritual development and for the enjoyment of the rights and freedoms recognized contained in this Declaration.

Article 39 40

Indigenous peoples have the right to have access to and prompt decision through mutually acceptable just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall take into give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned; and international human rights.

Article 40 41

The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilization, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established.

Article 41 42

The United Nations shall ~~take the necessary steps to ensure the implementation of this Declaration, its bodies, including the creation of a body Permanent Forum on Indigenous Issues, and specialized agencies, including at the highest country level with special competence in this field and with the direct participation of indigenous peoples. All United Nations bodies , and States shall promote respect for and full application of the provisions of this Declaration; and follow up the effectiveness of this Declaration.~~

Article 42 43

The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.

Article 43 44

All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals.

Article 44 45

Nothing in this Declaration may be construed as diminishing or extinguishing ~~existing or future~~ the rights indigenous peoples have now or may have or acquire; in the future.

Article 45 46

1. 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; 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.

2. 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.

3. 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.

FOR MORE INFORMATION

Available in the Docip website :

Summary Notes n°4 on the 16th session of the UNPFII

Summary Notes n°5 on the 10th session of the EMRIP

Update n°32-33 (2000), n°37 (2001), n°50 (2003), n°56 (2004), n°61-62 (2005), n°67 (2006) and n°76 (2007)

INDIGENOUS PEOPLES' RIGHTS TO LAND AND NATURAL RESOURCES ARE SHRINKING IN THE INTERNATIONAL ARENA

INDIGENOUS PEOPLES' TRADITIONAL KNOWLEDGE IN THE DISCUSSIONS

Indigenous peoples' traditional knowledge is a core issue in international discussions. It is the very font of the cultural heritage and identity of indigenous peoples' worldwide. It can be either misused by the international intellectual property system, which does not currently protect indigenous peoples' traditional knowledge and traditional cultural expressions, or disregarded in the realm of the climate change negotiations, where indigenous peoples' traditional knowledge has actually proven to be a positive impact on preservation of ecosystems.

The intellectual property system assumed the responsibility of the protection of indigenous peoples' traditional knowledge and cultural expressions under the process known as the World Intellectual Property Organization (WIPO) Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC). As a reminder, the WIPO IGC process was begun in 2001, with the aim of establishing binding instruments to protect the rights of indigenous peoples and local communities in such issues. Two documents have been under discussion during this process: the first one concerns the Protection of Traditional Knowledge²¹, and the second one relates to the Protection of Traditional Cultural Expressions²². Thanks to a generous contribution from Australia this year, to the WIPO Voluntary Fund to enable indigenous peoples' participation, more indi-

genous delegates were able to participate in the latest WIPO IGC session. The IGC remains a unique space within which indigenous peoples have a direct say in the development and evolution of international intellectual property policies. However, the States are still reluctant to provide fundamental rights recognized by UNDRIP in the framework of these discussions. The best example is the remarks made by James Anaya, in the technical review of the two drafts that WIPO Secretariat enquired²³:

“In any event, with its reliance on a defensive mechanism of disclosure, the draft instrument does not go so far as to provide or require affirmative recognition of or specific measures of protection for indigenous peoples' rights in genetic resources or associated traditional knowledge. Such recognition and protection are largely left to the domestic legal systems of the countries of origin, with States not being specifically obligated in this regard beyond the obligation to impose on patent applicants the disclosure of origin requirement. The preamble does refer to ensuring the rights of indigenous peoples over genetic resources and traditional knowledge as an objective of the instrument, and one of the alternative formulations of “misappropriation” in the glossary refers to the absence of consent by holders of genetic resources and associated knowledge, implying that indigenous peoples are among such holders. But affirmation of these rights and the corresponding obligations of States do not explicitly make their way into the draft instrument's operative provisions.”

Furthermore, the mention of the word 'peoples', followed by the word 'indigenous', is continuously put into brackets in both versions of the texts on traditional knowledge

and genetic resources and traditional cultural expressions. As such, and as Anaya keeps noting in his paper, both texts are notable for the disconnection between indigenous peoples' human rights regime and the intellectual property rights one, the States being reluctant to fully recognize such rights, primarily taking into consideration the economic value they imply in this framework of discussions. During the last session of IGC34, the positions that pushed back on the Indigenous Peoples' Caucus proposals were Canada, the United States, Indonesia and the European Union. On the other hand, during this last session Colombia, Ecuador and Bolivia kept defending indigenous peoples' rights to their traditional knowledge and cultural expressions. The Indigenous Peoples' Caucus, in its closing statement, noted the following as means for States to increase their relation between human rights and the intellectual property policies approach:

“The international instruments being developed by the IGC cannot just contain a measures-based approach and cannot solely draw from within the intellectual property system. An approach that ensures mutual reinforcement between rights and measures would need to be in place to fill in the gaps that have been identified on protection of GR, TK and TCEs. These rights can be drawn from the UN Declaration on the Rights of Indigenous Peoples and other relevant instruments, and this should be reflected in the Mandate of the IGC.”

21| [WIPO/GRTKF/IC/34/5](#)

22| [WIPO/GRTKF/IC/34/6](#)

23| [WIPO/GRTKF/IC/34/INF/8](#)

Even though the future of the WIPO IGC discussions were endangered, in its latest General Assembly held in October 2017, WIPO finally renewed the mandate of the WIPO IGC for the next two years. Other meetings on this process will take place, and the WIPO Voluntary Fund, which enables indigenous peoples' participation, will allow more indigenous delegates to have the opportunity to contribute to this debate. All the requirements are on their website²⁴.

However, this debate is not the only framework in which indigenous peoples' traditional knowledge is at stake. In 1992, the Earth Summit was held in Rio de Janeiro, at which time the UN Framework Convention on Climate Change (UNFCCC) was created. It entered into force in 1994, and it relates to the adoption of international agreements during the Conference of the Parties (COP), which takes place each year. In 2015, the Parties to the Convention adopted the Paris Agreement²⁵, which is currently open to signatures by the Parties as a further commitment to efforts to reduce climate change and implement mitigation measures. The Subsidiary Body for Implementation of the UNFCCC adopted a report²⁶ in 2004 to enhance indigenous peoples' participation in the COP process. It has evolved over time,

“Parties acknowledge that adaptation action should follow a country-driven, gender-responsive, participatory and fully transparent approach, taking into consideration vulnerable groups, communities and ecosystems, and should be based on and guided by the best available science and, as appropriate, traditional knowledge, knowledge of indigenous peoples and local knowledge systems, with a view to integrating adaptation into relevant socio-economic and environmental policies and actions, where appropriate”

*Paris Agreement,
article 7 (5), 2015*

mainly thanks to the several recommendations realized through the UN Permanent Forum on Indigenous Issues (UNPFII), as well as to lobbying efforts conducted by indigenous peoples' representatives themselves during the conferences. Indigenous peoples' organizations that already have ECOSOC status now have observer status during the COP. The negotiations held during the COP are very important since most of

the discussions concern land management and natural resources management. One of the core initiatives of the Parties has been the Reducing Emissions from Deforestation and Forest Degradation (REDD) initiative, which aims at increased protection of forests through financial aid to projects that would preserve natural areas. This mechanism is controversial with respect to considering indigenous peoples' rights in its implementation. Ultimately, REDD became REDD+, which is a mechanism that:

“creates a financial value for the carbon stored in forests by offering incentives for developing countries to reduce emissions from forested lands and to invest in low-carbon paths to sustainable development. Developing countries would receive results-based payments for results-based actions. REDD+ goes beyond mere deforestation and forest degradation, and it includes the role of conservation, sustainable management of forests and enhancement of forest carbon stocks.”²⁷

In the context of the adoption of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), indigenous peoples decided to put in place through their Global Indigenous Caucus a Platform for the COP called the International Indigenous Peoples Forum on Climate Change (IIPFCC). One of the most important outcomes of the IIPFCC concerns participation at the COP21 in Paris, with the establishment of the first Indigenous Pavilion, which served as a civil society zone for indigenous peoples' side events, workshops and meetings, and which included the presence of numerous indigenous delegates. According to the Paris Agreement, indigenous peoples' traditional knowledge is recognized in Article 7(5), and the text also further defines the establishment of a platform for the exchange of experiences in recognition of indigenous peoples' actions to respond to climate change. The COP22 held in Marrakech last year was considered the Action COP, in that it involved taking concrete steps towards the full implementation of the Paris Agreement, which, at the end, included discussions on the establishment of the platform. This indigenous peoples' platform on traditional knowledge is defined by the UNFCCC Secretariat as

“[having] the aim for indigenous peoples to

make benefit organizations of their traditional knowledge for resilience projects and climate change side effects”. COP22 finally reports on the decision to effectively establish the platform. Its operationalization is currently under discussion, and the latest developments in the COP23 preparatory meeting in Bonn dedicated an expert workshop to this theme. Some of the main outcomes of the debate were held in Bonn earlier this year, during the Subsidiary Body for Scientific and Technological Advice (SBSTA) under the UNFCCC, during its forty-sixth session. Submissions by the various organizations were submitted until late March of this year, and some indigenous organizations raised their voices²⁸. The report²⁹ of this session presents the different conclusions of the multi-stakeholder dialogue held to gather views on the operationalization of the platform, the conclusions of which are the following:

“53. The submissions and the dialogue acknowledged that the platform should have three main interlinked functions:

a) Knowledge: the platform should provide a space for documenting and sharing experience and best practices, respecting the unique nature of and need to safeguard indigenous and local community knowledge systems:

b) Climate change policies and actions: the platform should facilitate the integration of traditional, indigenous and local knowledge systems as well as the engagement of indigenous peoples and local communities in relevant climate change related decisions and interventions, actions, programmes and policies in countries at multiple levels of governance:

c) Capacity for engagement: the platform should build the capacities of indigenous peoples and local communities to enable their engagement in the UNFCCC process, including the implementation of the Paris Agreement, and other climate change related processes.

²⁴ | <http://www.wipo.int/tk/en/igc/participation.html>

²⁵ | [FCCC/CP/2015/L.9/Rev.1](https://www.unfccc.int/kyoto_protocol/items/2830.php)

²⁶ | [FCCC/SBI/2004/10](https://www.unfccc.int/kyoto_protocol/items/2830.php), pp. 105-109

²⁷ | For more information, see <http://www.unredd.net/>

²⁸ | The indigenous organizations that submitted views on the operationalization of the platform were: Assembly of First Nations (North America), Affiliated Tribes of Northwest Indians (North America), Indigenous Peoples of Africa Coordinating Committee (Africa), a submission has been made on behalf of 'Indigenous regions of the Arctic, Latin America and the Caribbean and the Pacific', International Indigenous Peoples' Forum on Climate Change (IIPFCC) and Tebtebba (Asia).

²⁹ | [FCCC/SBSTA/2017/6](https://www.unfccc.int/kyoto_protocol/items/2830.php)

54. *The overarching considerations, which could provide the basis on which the platform would be developed, are that the platform should:*

- a) *Be flexible and follow an incremental approach, allowing it to evolve over time as experience from the initial stages guides how the content and structure can be enhanced:*
- b) *Be conducive to a constructive and mutually beneficial dialogue between Parties and local communities and indigenous peoples:*
- c) *Enhance the participation and engagement of indigenous peoples and local communities in climate change policies and actions at multiple levels:*
- d) *Be inclusive, taking into account the organization of indigenous peoples and local communities in representative institutions and regions, and strive to ensure regional representation and gender balance for indigenous peoples, as well as represent the interests of indigenous youth:*
- e) *Focus on ways to develop strategic linkages, synergies and coordination with stakeholders, entities and mechanisms both under and outside the UNFCCC process:*
- f) *Take into account resource implications in its operationalization”.*

However, those proposals were not final, and another meeting on the modalities of the platform will take place during the next COP23, in Bonn, between the 6th and the 17th of November 2017.

It is still important to note that indigenous peoples' traditional knowledge is increasing in international discussions, and so far, benefits from positive developments. The WIPO IGC process still needs to fill the gaps between the rights obtained under the human rights framework and the intellectual property policies and mentality, while the COP and climate change processes already include a legal recognition of the importance of indigenous traditional knowledge and how other societies could learn from such knowledge. Unfortunately, this knowledge is at risk, as many defenders of indigenous peoples' rights are risking their lives in the field to make their voices heard.

THE RIGHT TO LIFE: DEFENDERS OF INDIGENOUS PEOPLES' RIGHTS AT RISK

For the last two years, many indigenous organizations as well as other UN mechanisms are raising their voices in the inter-

national arena to claim their right to life. Indeed, defenders of indigenous peoples' rights were the most at risk during the past two years, with several international reports, notably of the Special Rapporteur on the situation of Human Rights Defenders and the Special Rapporteur on Human Rights and the Environment. The Special Rapporteur on the Rights of Indigenous Peoples (SRRIP) largely contributed to the work of those two past reports, and this will be the theme of her next thematic report to be presented in 2018. According to the research realized by the NGO Global Witness³⁰, 200 persons have been killed in 2016 trying to protect the environment, among which more than 40% were indigenous – this is among the documented cases, which supposes that many others have occurred without being documented. The countries in which environmental rights defenders are the most at risk are the following:

Brazil - 49 people killed, Colombia - 37, Philippines - 28, India - 16, Honduras - 14, Nicaragua - 11, Democratic Republic of the Congo - 10, Bangladesh - 7, Guatemala - 6, Iran - 3, Mexico - 3, Myanmar - 2, South Africa - 2, Peru - 2, Pakistan - 1, Malaysia - 1, Ireland - 1, China - 1, Thailand - 1, Uganda - 1, Viet Nam - 1, Zimbabwe - 1, Cameroon - 1, Tanzania - 1.

Article 7 of the UNDRIP claims the right to life, physical and mental integrity, liberty and security of person of indigenous individuals. Unfortunately, the above numbers show that most environmental rights defenders are indigenous individuals, without proper access to a remedy when it comes to seeking justice for the actions committed. This has been recognized by the High Commissioner for Human Rights himself in his opening statement during the fifth session of the Forum Business and Human Rights³¹.

In this regard, the Special Rapporteur on the situation of Human Rights Defenders, M. Michel Forst, edited a report in 2016 on environmental rights defenders³² which forms a big part of the situation of indigenous peoples in the field and the challenges they face in that regard. Herewith are the most relevant parts of this report, for its relevance and importance related to indigenous peoples and the situation they face on the ground:

“4. *Protecting environmental human rights defenders is crucial to the protection of the environment and the human rights that depend on it. In 2015, the international community reached a consensus on the 2030 Agenda for Sustainable Development, with a*

set of new goals as a road map for a more sustainable, prosperous and equitable future. A number of those goals are directly or indirectly related to the environment and land use. Such a future, and those goals, are doomed to failure if the individuals and groups on the front-line of defending sustainable development are not protected at the national, regional and international levels. (...)

31. *Reports also indicate that most individuals and groups facing threats are those who oppose land grabbing, extractive industries, the industrial timber trade and large-scale development projects. Indigenous communities and ethnic and racial minorities are particularly vulnerable (see A/HRC/24/41 and A/71/291). They are the most affected because the resources exploited are usually located in their lands: they lack legal protection while exerting strong and vocal opposition: many indigenous communities do not hold formal title over the land they inhabit: and their access to justice is limited. (...)*

48. *Recent reports have pointed to a growing opposition between what could be considered a commodity-based approach, prioritizing economic growth and midterm profits, and rights-based approaches, favouring populations' interests and sustainability. Communities protesting against projects that threaten their very livelihood and existence have often faced stigmatization and attacks from States and corporations, which label them “anti-development”. Yet, these defenders often seek to preserve natural resources and to ensure a holistic and long-term approach to development where land, water, air and forests are not reduced to mere marketable goods. The commodification and financialization of nature often lead to simplifying the real “value” of the environment, ignoring the social or cultural dimensions and the complex interactions of elements within and between ecosystems. (...)*

51. *The Special Rapporteur is extremely concerned about the lack of independent and prompt investigations into attacks perpetrated against environmental human rights defenders, which is often linked to a lack of resources, corruption and collusion between perpetrators. States have nearly always failed to ensure that perpetrators are brought to justice and sanctioned. This has been the case*

30| <https://www.globalwitness.org/en/campaigns/environmental-activists/defenders-earth/>

31| See [Docip Summary Notes n°3 on COP22 and the FBHR5](#)

32| [A/71/281](#)

in countries such as Brazil, Guatemala, Honduras and the Philippines, and this situation can perpetuate the climate of impunity, sending the message that environmental human rights defenders cannot trust the justice system to seek remedy for violations. (...)

56. Indigenous communities also face multiple forms of aggression and violence. In specific situations, oppression against them is encouraged by institutionalized racism and stigmatization that deny the rights of these communities. Private actors such as agribusinesses and extractive industries as well as law enforcement agencies have been regularly observed to commit violations against environmental human rights defenders from indigenous communities. National development strategies often fail to include specific approaches and processes for indigenous communities that would ensure the conservation of their ancestral lands and recognize their rights to their livelihoods and environment. Linguistic barriers, countless obstacles to accessing basic social services and the imposition of unfavourable models of consultation aggravate the vulnerability of indigenous environmental human rights defenders.”

In addition to these elements, and in close collaboration with him, the Special Rapporteur on Human Rights and the Environment, M. John H. Knox, also edited a report on the situation on environmental rights defenders, and came to the same assessment³³. Furthermore, he is also currently working on Draft Guidelines on Human Rights and the Environment, in which indigenous peoples' rights appear in the current draft text – which has been sent in Newsletter N°25 of the Special Rapporteur:

“OBLIGATIONS IN RELATION TO THOSE WHO ARE MOST VULNERABLE TO ENVIRONMENTAL HARM

13. Every State has an obligation to identify those within its jurisdiction who are most vulnerable to different types of environmental harm, who may include women, children, indigenous peoples, older persons, persons with disabilities, and the extremely poor, among others.

14. Every State has heightened obligations to protect those who are most vulnerable to environmental harm, taking into account their specific needs, capacities and risks. These obligations include:

a) assessing the environmental impacts of proposed actions on them:

b) facilitating their access to environmental information, including information on the specific effects of environmental harm on them:

c) facilitating their equitable and effective participation in environmental decision-making:

d) facilitating their access to effective remedies for violations and abuses of their rights: and

e) ensuring that normative frameworks prevent, reduce and remedy environmental harm that interferes with the full enjoyment of their rights.

15. Every State has obligations to indigenous peoples and local communities, which include:

a) ensuring the legal recognition and protection of their rights to the lands, territories and natural resources that they have traditionally occupied or used:

b) consulting with them and obtaining their free, prior and informed consent before relocating them or approving measures that may affect their lands, territories or natural resources: and

c) ensuring that they receive a fair and equitable share of the benefits from development activities that affect their lands, territories or natural resources.”

To go back to the mechanisms dedicated to indigenous peoples' rights, in its fifteenth session in 2016, the Permanent Forum on Indigenous Issues noted in one of its recommendations³⁴ that the key message of the session was the need to combat pervasive violations against indigenous human rights defenders, including criminalization, persecution, violence, imprisonment and murder. Since then, this has been present in the agenda, formally or informally. This year, UNPFII dedicated a day of interactive dialogue with the SRRIP and the Chair of the Expert Mechanism on the issue of indigenous peoples' rights defenders. In a nutshell³⁵, the major challenges noted by the SRRIP and indigenous peoples' organizations concern the rights over land, natural resources and the right to free, prior and informed consent. The States that claimed defending indigenous peoples' rights and making efforts to protect them

were the United States, Mexico, Guatemala, Norway on behalf of the Nordic countries, Bangladesh, South Africa, Chile, the Russian Federation and the European Union. During the tenth EMRIP session, even though this topic was not integrated in the work programme work, the issue has been raised many times by indigenous organizations, and EMRIP members decided to dedicate the next annual half-day discussion on the rights of indigenous peoples to the Human Rights Council on this issue³⁶. Lastly, but most importantly, the Special Rapporteur

“Human rights defenders from indigenous communities are among the most at risk groups of defenders working on economic, social and cultural rights. The situation of indigenous human rights is extremely worrying and those who defend the rights of these communities face increased risks. [...] Community leaders, land and environmental rights defenders who oppose large-scale projects face violence from individuals who are connected to companies participating in those projects, which often goes unpunished with tacit or explicit support of local authorities. According to reports received, human rights defenders are pressured to desist from their activities through the use of the criminal justice system to prosecute indigenous leaders, farmers and opposing environmentalists for ordinary crimes. I have received numerous testimonies of cases when indigenous and environmental rights defenders have been targeted in relation to their work”

End of mission statement by the United Nations Special Rapporteur on the situation of human rights defenders, Michel Forst on his visit to Mexico from 16 to 24 January 2017

conducted decisive work related to those issues, firstly by contributing to the previous reports of the Special Rapporteur on the situation of Human Rights Defenders and the Special Rapporteur on Human Rights and the Environment, and by herself issuing warnings on many occasions regarding the situation faced by indigenous peoples on the

33] This report has been edited by the NGO Universal Rights Group and is available on their website: <http://www.universal-rights.org/wp-content/uploads/2017/03/EHRDs.pdf>

34] E/2016/43-E/C.19/2016/11

35] The detailed content of this interactive dialogue can be found in *Docip' Summary Notes n°4, on the 16th session of the UNPFII*

36] See the Agenda 2018 section of this Update

ground during her country visits. In her latest statement, on the occasion of the seventy-second session to the General Assembly on the 12th October 2017, she addressed the following message to the Member States:

"I am particularly concerned by the escalating number of direct attacks against indigenous leaders and community members who seek to defend their land rights. Indigenous peoples defending their fundamental human rights are being threatened, arrested and prosecuted and in the worst situations, they become the victims of extrajudicial executions. Only in the past year, I have sent communications expressing concerns over these kinds of attacks inter alia in Brazil, Colombia, Ecuador, Guatemala, Honduras, Paraguay, Peru, Ethiopia, Kenya, Tanzania, India, Indonesia, the Philippines and the United States of America. Much more efforts and resources must be dedicated to prevent such violations and to bring the perpetrators to justice. I intend to scrutinise this disconcerting negative development in a forthcoming thematic report next year".

Faced with these threats, indigenous leaders can appeal to organizations that would help them to provide advice and means of protection. Among these is ProtectDefenders.eu³⁷, which provides 24hr support to human rights defenders facing immediate risk, via the emergency helpline run by Front Line Defenders. They also administer an emergency grant programme for a specific response to support human rights defenders at risk, to ensure that they can access and implement urgent security measures to protect themselves, their family and their work. This shows the increasing importance that indigenous issues are gathering within the European Union system.

INCREASING THE SCOPE OF INDIGENOUS PEOPLES IN THE EUROPEAN UNION SYSTEM

Over the last few years, the European Union (EU) has been increasing the space given to indigenous issues within its framework of development and human rights policies. As the European system is quite specific, an overview of the functioning of its institutions and relevance for indigenous peoples is required. Each service and institutions in the EU operates on all the subjects according to

their means of action. Therefore for an action undertaken under the EU process to be the most successful, it is necessary to have a coordinated action with the different relevant institutions. In this sense, four main European actors can be identified: the European Parliament, the European Commission, the Council of the European Union and the European External Action Service (EEAS). The European Parliament has, with the Council of the EU, legislative authority in the EU. The Members of the European Parliament, acting in the realm of the European Parliament, have many tools at their disposal to act on these processes, whether it is in a formal or informal way, but do not have the power of legislative initiative. They can decide to propose a modification of the reports, directives or regulations under preparation and can adopt urgent resolutions to report violations quickly. Regarding the European Commission, it is the executive body of the European Union that proposes legislation and implements the Union's policies and budget. The Commission is divided into several "directorate-generals" and services which have a mandate that is either thematic or geographical³⁸.

The Council of the European Union negotiates and adopts legislative acts with the European Parliament and coordinates the policies of the Member States, in particular in the economic, cultural, and social domains. It is responsible for the EU foreign policy that it defines and implements and it also enters into international agreements. Finally, EEAS works in close cooperation with the Council of the European Union, being an institutional body of the EU. It is composed of civil servants in charge of specific themes and geographical specialists, with one unit exclusively devoted to the protection of human rights. EEAS operates with 139 delegations and offices worldwide, to coordinate the external actions and policies of the EU on the ground.

Since 1998, a few documents adopted by the different European Union institutions have been related to indigenous peoples. For example, the European Commission Working Document of May 1998 entitled "On support for indigenous peoples in the development co-operation of the Community and Member States³⁹" established the objectives of supporting indigenous peoples' rights. It further integrates the concern for indigenous peoples as a cross-cutting aspect of human empowerment and development cooperation, and advocates for the full and free participation of indigenous peoples in all stages of the project cycle and that their participation in development activities should include elements such as

prior consultation, their consent to envisaged activities, their control over activities affecting their lives and land, and the identification of their own priorities for development. This document has been confirmed by the Council of the European Union, which adopted a resolution on this issue⁴⁰. The Council further states that development cooperation should contribute to enhancing the rights and capacity of indigenous peoples to their "self-development". It equally confirms that this includes the right to object to projects, in particular on indigenous peoples' traditional areas, and compensation where projects negatively affect the livelihoods of indigenous peoples.

In the report from the European Commission to the European Council of the 11th of June 2002⁴¹, indigenous peoples' issues were to be mainstreamed into the EU policies, practice and work methods. This includes a call for the inclusion of an analysis of their political, social, economic and cultural situation within partner countries in Country Strategy Papers and for impact assessments of EU development cooperation policies, programmes and projects on indigenous peoples. It further states that indigenous peoples should be able to fully and effectively participate at all stages of the project cycle which provides for capacity building of organisations representing indigenous peoples. The Council also decided to integrate the concerns of indigenous peoples in political dialogues with partner countries as an integral part of the human rights clauses of the different co-operation and association agreements. Following the adoption of the United Nations Declaration on the Rights of Indigenous Peoples, the European Investment Bank Statement of Environmental and Social Principles and Standards⁴², a document released in 2009, stipulates the following with regards to indigenous peoples:

37| For more information, you can reach their Hotline: +353 (0) 1 21 00 489

38| A summary of this information can be found in Docip website, available at: http://www.docip.org/fileadmin/documents/Docip/Documents_permanents/DG_Commission_europenne_EN.pdf

39| The complete name of the document is Communication from the Commission to the European Council - Partnership for integration - A strategy for Integrating Environment into EU Policies - Cardiff - June 1998

40| The November 1998 Council Resolution of Development Ministers of the European Union Member States

41| Report from the Commission to the Council - Review of progress of working with indigenous peoples

42| <http://www.eib.org/infocentre/press/news/all/eib-statement-of-environmental-and-social-principles-and-standards.htm>

“53. Where the customary rights to land and resources of indigenous peoples are affected by a project, the Bank requires the promoter to prepare an acceptable Indigenous Peoples Development Plan. The plan must reflect the principles of the UN Declaration on the Rights of Indigenous Peoples, including free, prior and informed consent to any relocation.”

The European Union continued to engage with indigenous peoples, notably through the European Consensus of Development issued in 2005 which strongly recognizes the right to free, prior and informed consent to

indigenous peoples – this document has been reemplaced by the New European Consensus on Development issued earlier this year. After that, more recently, the agreement on the Arctic was released in 2016. The 'Integrated European Union Policy for the Arctic'⁴³, which aims at developing a more coherent framework for common EU action with the Arctic countries, mainly focuses on issues related to climate change, protection of the environment, sustainable development, international cooperation and participation of local populations. In that sense, it includes a section entitled 'Dialogue with Arctic indigenous peoples',

which commits to engaging with Arctic indigenous peoples for cooperation, particularly in relation to business and human rights.

The process going through the European Union system has included indigenous peoples' participation and it has been strengthened by the establishment of Docip Office in Brussels which is at the disposal of indigenous peoples and the EU institutions. During a meeting held in June 2016, representatives from the seven indigenous regions addressed the following recommendations to the European Parliament⁴⁴:

THE INDIGENOUS DELEGATES MADE THE FOLLOWING RECOMMENDATIONS TO THE EU PARLIAMENT IN JUNE 2016

1. Align the new EU Policy on Indigenous Peoples with the UNDRIP and the WCIP Outcome Document, highlighting the free, prior and informed consent (FPIC) and self-determination of Indigenous Peoples. Indigenous delegates call the Council of the European Union to systematically include the situation of the rights of Indigenous Peoples in the Annual Report on Human Rights and Democracy in the World:
2. Ensure coherence of EU Policy commitments by uniting internal and external aspects of Indigenous Peoples' rights – within the EU and in EU development cooperation and foreign affairs, including agreements and development cooperation of individual Member States. Further, promote the ratification of ILO Convention No. 169 by Member States as well as monitor the implementation of the UNDRIP:
3. Establish mechanisms for consultation and participation with Indigenous Peoples within the EU, and establish a Forum at the highest level, with a mandate to engage in policy dialogue and monitor the implementation of EU policy, commitments and action plan on Indigenous Peoples. This Forum should ensure a regional and gender balance as well as the participation of representatives from Indigenous persons with disabilities and youth:
4. Support capacity building of Indigenous Peoples, including the adequate provision of resources for Indigenous Peoples to effectively engage with EU policies and institutions including but not limited to the European Parliament and in relation to Business and human rights:
5. Ensure that EU delegations engage into dialogue with Indigenous Peoples at national and regional levels and serve as focal points on Indigenous Peoples issues. Ensure that each member of the EU delegation be versed on Indigenous Peoples rights affirmed in the UNDRIP which represents the minimum standard for Indigenous rights within the UN system:
6. Ensure social and environmental impact assessments as well as effective monitoring of all EU programmes, in particular, investments, trade and development cooperation. It shall include human rights due diligence for ensuring consultation, participation and free, prior and informed consent (FPIC) of Indigenous Peoples:
7. Ensure the protection of Indigenous Peoples' rights to their ancestral lands and natural resources as well as of their right to free, prior and informed consent as affirmed in the UNDRIP. Take concrete and urgent measures, in conjunction with Indigenous Peoples, against notably forced eviction, environmental destruction, exploitation and lack of security on their territories:
8. Respect the Convention on Biological Diversity, in particular article 8 and support the recommendations made by Indigenous Peoples in the process of climate change, relating to the respect of their rights and welfare in measures and programmes for climate change mitigation and adaptation. Support the recommendation of Indigenous Peoples to have direct access of funds of the Green Climate Fund (GCF) for their sustainable mitigation and adaptation initiatives:
9. Recognise and promote Indigenous Peoples' rights in the implementation of the 2030 Agenda for Sustainable Development including special measures to address the specific circumstances and needs of Indigenous Peoples, as well as data-disaggregation, and appropriate indicators for Indigenous Peoples:
10. Establish a dedicated window for direct funding of Indigenous Peoples within the overall funding provided by the EU with simplified processes and criteria:
11. Ensure respect for Indigenous Peoples' rights in all EU business activities, including investments and trade agreements that affect Indigenous Peoples. These include implementation of the right of free prior and informed consent of Indigenous Peoples in business activities including access to information

and equitable benefit-sharing as appropriate, as well as respect of the UN Guiding Principles on Business and Human Rights, the OECD Guidelines for Multinational Enterprises and the ILO Tripartite Declaration on Multinational Enterprises and Social Policy.:

12. Support the three UN mechanisms related to Indigenous Peoples (UNPFII, EMRIP and the SRRIP), notably through the UN Voluntary Funds and the AJA Foundation:

13. Support the idea of international repatriation and the international mechanism to be established in order to fight against the selling of Indigenous artifacts illegally taken from Indigenous Peoples:

14. Pay particular attention to the rising count of Indigenous Peoples' Human Rights Defenders among Human Rights victims, with a special emphasis on the impact on women, and strengthen the EU support to Indigenous Human Rights Defenders,

notably through the ProtectDefenders mechanism.

15. Ensure notably the preservation of Indigenous Peoples' culture, traditions and languages by establishing capacity building programs to increase awareness about the diversity, history and rights of the Indigenous Peoples, not only for Indigenous youth but also for non-Indigenous populations in all regions to aid implementation of the UNDRIP among public education systems.

Since this meeting, a couple of policies were released that are decisive for the recognition and implementation of indigenous peoples' rights. The concern for having a rights-based approach for European external actions became stronger. It is in this same spirit that some Council Conclusions⁴⁵, released the 15th of May 2017, are directly related to indigenous peoples' rights. This document is a crucial turning point. It does not only refer to the European policy implemented within its member States, especially in relation to the trade ties that the European Union holds with other States and the several actions the EU has on the ground. Some of those Conclusions note the following:

“5. The Council notes, as the Staff Working Document (SWD) indicates, that there is room within the existing EU policy framework to enhance the EU's impact and make the EU's action more effective and more evenly applied in EU relations with its partner countries and in multilateral cooperation. In this regard, the Council underlines the importance of giving priority to:

- the discrimination and inequalities based on indigenous origin or identity in relation to ensuring the economic, social and cultural rights as well as the civil and political rights, and
- the actions taken to address the threats to and violence against indigenous peoples and individuals as well as to Human Rights defenders, in the context of land and natural resources in the protection of the environment, biodiversity and the climate. The Council recognizes that situations vary across the world and that the significance of national and regional particularities and various historical and cultural backgrounds calls for flexible approaches.

6. In this regard, the Council would in particular note that the EU's rights-based approach

to development, encompassing all human rights, should be the main vehicle in external action for integrating the support to indigenous peoples in the EU's implementation of the 2030 Agenda for Sustainable Development. Specific attention should be given to women, children and youth and persons with disabilities as well as to those in situations of forced displacement or in violent/armed conflict. Their contribution in the context of conflict prevention and peace-building should also be taken into account.”

This text further includes international indigenous peoples' rights standards into its foreign policy. One of these latest policies recalls the European Consensus on Development of 2005, but modifies sensibly its recognition of the right to free, prior and informed consent by providing a less extensive protection to indigenous rights. The document, entitled 'The new European Consensus on Development'⁴⁶, issued this year, reiterates the commitment undertaken by the European Union towards a rights-based approach and a sustainable development, in consultation with indigenous peoples in line with the Sustainable Development Goals. Furthermore, each year the European Instrument for Democracy and Human Rights (EIDHR) launches a Global Call for Proposals, which finances projects for a more inclusive democracy. Indigenous peoples' processes within the European Union have consequences not exclusively within EU borders and EU Member States, but also outside the EU, where the Member States have different interests that might affect indigenous peoples' lives on the ground. In that sense, it is very important for indigenous organizations to know about those processes and to understand how they work: our office in Brussels is always ready to provide more information⁴⁷.

43] http://eeas.europa.eu/archives/docs/arctic_region/docs/160427_joint-communication-an-integrated-europeanunion-policy-for-the-arctic_en.pdf

44] All resources are available in our Documentation centre online: <http://bit.ly/2lfkZmm>

45] [Council Conclusions on indigenous peoples of 15th May 2017](#)

46] [The new European Consensus on Development, 2017](#)

47] For the detailed action of our Docip Office in Brussels, please refer to the Docip Activities section of this Update.

FOR MORE INFORMATION

Docip Summary Notes n°3, COP22 and FBHR, December 2016

WIPO IGC website:
<http://www.wipo.int/tk/fr/igc/>

IIPFCC website:
<http://www.iipfcc.org/>

ProtectDefenders.eu website:
www.protectdefenders.eu

European legislation website:
www.eur-lex.europa.eu

Docip online Documentation Centre, Organizations and governments, EU Institutions, Indigenous Peoples' meetings at the EU

SOME GOOD PRACTICES IN THE IMPLEMENTATION OF UNDRIP

NEW OPPORTUNITIES GIVEN BY THE EMRIP MANDATE

The tenth session of the EMRIP held earlier this year was the first one since the adoption by the Human Rights Council (HRC) of the resolution 33/25 that amended the mandate in September 2016. Through the revised mandate, EMRIP members are now representing the seven different socio-economic indigenous regions, with the following experts:

- ▶ Mr. Albert Barumé from the Democratic Republic of the Congo for Africa (2018)
- ▶ Mr. Edtami Mansayagan from the Philippines for Asia (2020)
- ▶ Ms. Erika Yamada from Brazil for Latin America and the Caribbean (2019)
- ▶ Ms. Laila Vars from Norway for the Arctic (2020)
- ▶ Mr. Alexey Tsykarev from the Russian Federation for Russia, Eastern Europe and Transcaucasia (2019)
- ▶ Ms. Kristen Carpenter from the USA for North America (2020)
- ▶ Ms. Megan Davis from Australia for the Pacific (2019)

This new mandate provides EMRIP members with new capacities. Now on, EMRIP members have the following possibilities:

1. To promote good practices to achieve the ends of UNDRIP
2. To do country engagement upon request by the States to help to design policies on indigenous peoples' rights

3. To help States upon request to implement the recommendations made during the UPR and other treaty bodies processes that refer to indigenous peoples' rights
4. To engage with the private sector and other stakeholders to facilitate dialogue
5. EMRIP members can receive information from all relevant sources
6. To cooperate more with the other UN mechanisms on indigenous peoples' rights
7. To engage more its work with the National Human Rights Institutions (NHRIs)

Concretely, it means that EMRIP members can engage more with indigenous delegates to raise their issues at the international level and to implement a fruitful dialogue with States.

REGIONAL NEWS: RUSSIAN FEDERATION, TRANSCAUCASIA, CENTRAL ASIA AND EASTERN EUROPE AND ASIA

RUSSIAN FEDERATION, TRANSCAUCASIA, CENTRAL ASIA AND EASTERN EUROPE

With the adoption of the United Declaration on the Rights of Indigenous Peoples (UNDRIP), some development of positive policies regarding indigenous peoples'

rights came to light for this region. To name only a few, let's take as examples the Bikin Tiger Forest Carbon Project, Sakhalin Energy Indigenous Minorities Development Plan, and the Constitution of the Republic of Sakha (Yakutia). The Bikin Tiger Forest Carbon project, implemented since 2009, aims at reducing greenhouses emissions, while selling carbon and helping to the development of the indigenous communities of this area. It uses the Joint Implementation (JI) mechanism of the Kyoto Protocol under the UNFCCC processes. In other terms, it means that it puts in place financial mechanisms, which are based on generating and selling emission reduction certificates - "carbon financing" -, for the conservation of Russian natural forest habitats, considering at the same time to the development of the communities through the investments into social projects for them. According to the official project design,⁴⁸ the two main objectives of the project are: (1) to protect this area of living from any logging activities and (2) to ensure the integrity of forest and carbon stocks⁴⁹ in the project area. According to the partners of the project, "it has demonstrated that projects dealing with reducing emissions from forest degradation in terms of quality standards and finance mechanisms can also work for

⁴⁸| Joint Implementation land use, land-use change and forestry, Project Design document form – Version 01, UNFCCC, in effect as of 1 October 2006, available at <http://bit.ly/2B6dO2Y>

⁴⁹| According to the FAO's Global forest resources assessment update 2005, carbon stock is the quantity of carbon contained in a "pool", meaning a reservoir or system that has the capacity to accumulate or release carbon. Available at <http://www.fao.org/docrep/007/aer156e/aer156e00.htm>.

the benefit of local livelihoods and biodiversity in temperate/boreal forests".⁵⁰ Due to the unique characteristics of the boreal forest which lies in the Russian Far East, there are ongoing processes for it to be subscribed within the UNESCO natural and cultural heritage. This project is seen as an example for indigenous peoples living in this area, as well as to protect native forest from illegal timber logging. In that sense, most of the funds are dedicated to realize socio-economic projects to safeguard the environment and also traditional livelihoods of the Udege people living there. As good practice on the implementation of UNDRIP and some respect of the right to free, prior and informed consent of indigenous peoples, Sakhalin Energy, a global company which exploits gas and oil on indigenous peoples' land, put in place since 2006 a Sakhalin Indigenous Minorities Development Plan. This plan is being realized in collaboration with the Regional Council of representatives of the Sakhalin North indigenous peoples and the Sakhalin Oblast Government. According to the company, it aims at:

1. Improve the quality of life of the indigenous peoples of Sakhalin with the help of social development programmes suitable to the cultural characteristics of indigenous peoples;
2. Promote the development of the potential of the indigenous peoples and their active participation in the implementation of the assistance plan, as well as the development and implementation of other economic, social, and cultural programmes;
3. Assist indigenous peoples in the preparation of an independent fund for their sustainable development; and
4. To prevent or reduce the negative impact of the company's activities on indigenous peoples".

This project is based on the Performance Standard 7 on indigenous peoples⁵¹ of the International Finance Corporation and the UNDRIP principles. Such project has been noted as being a good example of tripartite collaboration between indigenous communities, local and national authorities, and the private sector. The third example that will be mentioned here concerns a juridical decision of Constitutional Court of the Republic of Sakha (Yakutia), more recently, on 21st October 2016. A deputy in the Republic's Parliament asked the Court to clarify the article 42 of the Constitution of this Republic, which states: "the Republic of Sakha (Yakutia) guarantees the preservation and rebirth of the indigenous peoples [of the

Republic] as well as of Russians and other older residents who respect the traditions, culture and customs of the native peoples [of the Republic]". The decision of the Constitutional Court recalls indigenous peoples' rights living in the Republic of Sakha (Yakutia) by recognizing through the article 42 of the Constitution the following points:

"(...) recognition of the territory of Yakutia as the native land and historical motherland of the Yakut people, the source of its economic well-being, its unique cultural and linguistic identity (...) [the protection of] the complete set of natural collective rights of the indigenous people of Yakutia on the territory of the Republic of Sakha (Yakutia) (...) [with maintenance of] its territorial unity, socioeconomic, state-legal, national-cultural and linguistic identity. [The article 42 of the Constitution is entitled to] guarantee the preservation and rebirth of the indigenous peoples of the Republic of Sakha (Yakutia) which involves all the actions taken by the organs of state power of the Republic of Sakha (Yakutia) directed at the realization of these goals under conditions of the observation of the principle of constitutional-legal equality and with regard to the numerically small indigenous peoples on the basis of the possibility of legally establishing preferential rights for their preservation and development. (...) The article 42 must be read as requiring the development of such measures for the numerically small indigenous peoples of the North and the defence and securing of their inalienable rights".

Those developments in terms of climate change mitigation benefiting to indigenous communities, example of partnership between authorities, indigenous peoples and the private sector, and juridical development with recognition of indigenous land rights show that some good developments can be realized. However, much more remains to be done to recognize and fully protect the rights of indigenous peoples in this part of the world, and opportunities are open to make it happen.

ASIA

This year, the Asia Indigenous Peoples Caucus has been very active regarding their participation to the different United Nations mechanisms on the rights of indigenous peoples. At the occasion of the sixteenth session of the UNPFII, during the High-level event at the occasion of the tenth anniversary of UNDRIP, Ms. Joan Carling, representative for the Asia region, remarks the following in her statement⁵²:

"Of the estimated 350 million indigenous peoples of the world, two-thirds are found in Asia of which the majority are poor and marginalized. Since the adoption of the UN Declaration on the Rights of Indigenous Peoples, there are positive developments in a number of countries towards the rights of indigenous peoples.

- ▶ Myanmar has adopted a Land Use Policy in 2016 towards the recognition of the customary land rights of ethnic nationalities, among others:
- ▶ Cambodia adopted a Policy on Registration and Right of Use of Land of Indigenous peoples in 2009, in line with the 2001 Law on Community Land Rights of Indigenous Peoples:
- ▶ The Constitutional Court of Indonesia affirmed that customary forest are not state forest and the President has committed to work with the parliament for the passage of a law on indigenous people's rights of the millions of masyarakat adat:
- ▶ Japan has legally recognized the Ainu as the indigenous peoples of Japan, and are thereby entitled to the protection of their language and culture:
- ▶ The Secretary of the Department of Environment and Natural Resources in the Philippines has suspended 20 mining operations – many of which are in indigenous territories – due to serious environmental and social problems, including the violation of the land rights of indigenous peoples:
- ▶ Bangladesh has amended The Chittagong Hill Tracts Land Disputes Resolution Commission Act 200 in 2016 based on the advice of the CHT Regional Council, although the Rules are yet to be framed and the logistical and manpower shortages of the commission are yet to be addressed. We also acknowledge the contributions of UN agencies, funds and programmes in promoting the rights of indigenous peoples, including the conduct of national policy dialogues, development of their own institutional policies on respecting indigenous peoples' rights, and implementation of targeted programmes and projects for indigenous peoples. However, these advances

50| Bikin Tiger Carbon Project, Russia Far East, GFA Consulting Group, 19 February 2013, available at http://www.gfa-group.de/Habitat_of_Amur_Tiger_Protected_by_REDD_Project_3628007.html.

51| IFC, Performance Standard 7, Indigenous Peoples, 2012.

52| The statement is available at: <http://bit.ly/2g1kAnz>

are overshadowed by serious setbacks and continuing wide-scale violations of indigenous peoples' rights, which paint a grim reality due to wide gaps in the implementation of the UNDRIP.

In India, while the Supreme Court upheld the constitutionality of the Forest Rights Act, and issued a positive ruling on the Vedanta case upholding the requirement for consultation and consent of Adivasi in relation to mining operations, recent administrative measures and policies by the federal state undermine the spirit and intent of this affirmative law. In Lao PDR, the indigenous peoples are now regarded as ethnic groups and the government continues to implement its programme of assimilation of ethnic groups through resettlement in towns, further worsening their impoverished condition. In Japan, the government continues to deny the Ainu and Ryukyuans/ Okinawans as indigenous peoples of Japan and are violently pushing through the construction of new military bases in their territory without their consent. In Nepal, in spite of the State's ratification of ILO Convention 169 in August 2007, the new Constitution has failed to incorporate the recognition of the collective rights of indigenous peoples, which is estimated to be 36% of the total population. Based on documented cases of human rights violations of indigenous peoples in Asia since 2010, most of the cases are largely related to the violation of the rights of indigenous peoples over their land and resources.

The requirement for the Free, Prior and Informed Consent of affected communities in relation to development and conservation projects in their territories is being disregarded. Land and resource grabs have been apparent to support large-scale agri-business, mining, infrastructures for energy, commercial tourism, and designation of national parks and/or conservation areas. These cases are happening in almost all the countries with indigenous peoples in Asia, even those with legal recognition of their land rights such as in Cambodia, Philippines, Malaysia and India. Further, there is hardly any access to justice. Indigenous women are experiencing multidimensional forms of violence from the violation of their rights to their lands and resources, in addition to prevailing discriminatory systems and

structures. Likewise, the criminalization of indigenous peoples' livelihood activities such as shifting cultivation and gathering of non-timber products is resulting to unjust detention and payment of penalties, in addition to causing hunger, undermining the practice of traditional knowledge, and increasing vulnerability to violence of indigenous women. In Indonesia, more than 200 indigenous persons remain in jail. The National Human Rights Institutions in Malaysia and Indonesia have conducted land inquiries due to the serious problems of indigenous peoples, but their recommendations are yet to be implemented.

In 2015, Global Witness recorded 185 killings related to land and environmental defenders, of which 40% are indigenous peoples, with majority of the cases happening in Southeast Asia. Furthermore, PAN Asia Pacific noted that the killings in 2016 were three times worse than the previous year, with an average of 16 killings of indigenous activists and farmers every month.¹ In Malaysia, Ms. Jannie Lasimbang, former member of the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP), continues to face legal harassment, while other indigenous leaders in other countries are facing serious threats to their security.

After 10 years of the adoption of the UNDRIP, dramatic and decisive steps are urgently needed to reverse the worsening condition of millions of indigenous peoples across Asia. Denying our legal recognition as indigenous peoples and our collective rights will not make us go away, and conflicts will certainly escalate.

States in Asia must come to terms of the existence of and the need to engage with indigenous peoples in a meaningful and constructive manner in the context of respecting our inherent rights as affirmed by the UNDRIP. We therefore call on States in Asia to demonstrate their political will to implement the Declaration with clear policy cohesion and concerted actions, with the effective participation of indigenous peoples. As States committed to "leaving no one behind" in the implementation of the 2030 Agenda for Sustainable Development, this provides the opportunity for them and others to work with indigenous peoples to ensure the respect and protection of our rights.

Without the proper implementation of the Declaration, social justice and sustainable development will not be achieved for indigenous peoples: and our exclusion, marginalization and discrimination will persist."

FOR MORE INFORMATION

EMRIP

EMRIP website : <http://www.ohchr.org/EN/Issues/IPeoples/EMRIP/Pages/EMRIPIndex.aspx>

REGIONAL NEWS

► for the Russian Federation :
Centre for Support of Indigenous

Peoples' of the North (CSIPN) website :
<http://www.csipn.ru/>

Russian Association of Indigenous Peoples of the North (RAIPON) website : <http://raipon.info/>

► for Asia

Asia Indigenous People's Pact website :
www.aipp.net

Asia Pacific Forum website :
<http://www.asiapacificforum.net/>

Docip's activities

DOCIP'S ACTIVITIES

TECHNICAL SECRETARIAT

The aim of the technical secretariats of Docip is to support the work of indigenous delegates during the various UN conferences throughout the year, such as the Permanent Forum on Indigenous Issues (UNPFII), the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP), the Human Rights Council (HRC), the Forum on Business and Human Rights and the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC).

The Technical Secretariat is the area where indigenous delegates can seek assistance for any inquiry, and it serves at first contact if you wish to network with others stakeholders throughout the year. It offers interpretation services in our four working languages – English, Spanish, French and Russian – for side-events, bilateral and informal meetings, as well as free translation services for statements or other communications in all four working languages. Moreover, its back-office offers access to computers, printers and photocopiers. Finally, once a year, Docip organizes a mobile secretariat on the request of Indigenous Peoples during a conference outside its annual agenda.

Contact : *Karen Pferfferli – karen@docip.org*

DOCUMENTATION CENTRE

Docip's Documentation Centre makes its documents available from its online database, which has just been rebuilt on the newly-released Greenstone 2.87 platform. The central core of the database is its extensive collection of statements made by Indigenous delegates, as well as NGOs, States, International Organizations and others at the UN and a range of other meetings which are connected to Indigenous issues. It also contains monographs, journal articles, regional documentation, and donated items – over 13,000 documents online. The Documentation Centre also contains 1,075 monographs in hard-copy and over 30 major files containing regional documentation in hard-copy format. The Documentation Centre also stores multimedia materials such as DVDs and CDs, most of them created by Indigenous Peoples themselves. During UN Conferences, Docip collects statements presented by all of the various stakeholders and posts them online. Going forward, Docip will continue adding useful items to its documentation collections, including audio and multimedia materials, and these will be made available via the Docip website, as well as in the Documentation Centre.

Docip is partnering with the City of Geneva for storing and presenting its archival collections, the central feature of Docip's current nomination for inclusion in UNESCO's Memory of the World programme. Docip is looking at ways of making its online and hard-copy documentation more accessible to the visually impaired in particular, as the rights of disabled Indigenous Peoples are now a key focus for Docip.

Contact : *documentation@docip.org*

ORAL HISTORY AND MEMORY PROJECT

In 2013 and 2015 two four-day Symposiums organized by Docip brought together some of the First Indigenous delegates who came before the UN in 1977/1981 and Indigenous youth from the Americas, Asia, Africa, the Arctic and the Pacific.

Laying the groundwork for a review of 36 years of the promotion of Indigenous Peoples' rights through intergenerational and interactive dialogue with a formal, symbolic and public component, the Symposiums gave rise to rich discussions and results.

During the Symposiums, the elders hoped to pass on a message to indigenous youth, representing the next generation of indigenous rights defenders, for them to continue the tradition of oral transmission, to relate not only the experience of those who first came to the UN, but also the struggles of their local communities.

A more extensive research project was launched on the transmission of oral memory among Indigenous Peoples to continue this very important work by developing additional training workshops at the local/community level.

The first 4 day Workshop was held in the North America region in South Dakota (USA) in July 2015, bringing together 12 Indigenous Youth from different communities of the USA and Canada and 6 elders. A second Workshop of 5 days was held in Buenos Aires (Argentina) in September 2016 assembling 11 Indigenous Youth from various communities of Central and South America and 6 elders. The next workshop will be held in Kenya at the beginning of December 2017.

Contact : *Fabrice Perrin*
fabrice@docip.org

DOCIP OFFICE IN BRUSSELS

To strengthen the collaboration between indigenous peoples and the relevant European institutions, the EU has launched a pilot project to establish a Docip office in Brussels. The Docip office in Brussels aims mainly at facilitating the transfer of information between indigenous peoples and the European institutions. It is at the disposal of indigenous peoples who wish to inform the EU about the local issues faced by their communities, and it facilitates contacts with EU institutions in Brussels as well as with the EU delegations around the world. The Docip office in Brussels is also dedicated to informing indigenous peoples about current EU processes so that they may contribute to the legislative process, participate in civil society consultations and respond to calls for proposals. The Docip office in Brussels focuses mainly on the following main processes :

— Business and human rights: to assist indigenous peoples in informing the EU about cases of human rights violations on the ground perpetrated by companies, in order for the EU (1) to give a response to the violations, (2) to adapt its system of Business and Human Rights to the reality on the ground and (3) to create more synergies between the EU and the UN system, notably in processes such as the Working Group on Business and Human Rights and the current negotiations for a legally binding instrument.

— Directorate General TRADE: to take part to EU trade meetings with civil society (organized by the European Commission Directorate General TRADE) in order to increase the possibility of indigenous peoples' participation in the context of Impact Assessments, Sustainability Impact Assessments, Ex-Post Evaluations and Domestic Advisory Groups. There is also the possibility of contributing to the Special Incentive Arrangement for Sustainable Development and Good Governance (GSP+) process, in collaboration with the strategic support offered by Docip during the treaty bodies process.

— Indigenous persons with disabilities: the Convention on the Rights of Persons with Disabilities (CRPD) is the only international convention that the EU is part of, and great progress has been made until the present. However, the EU lacks information about the multiple and intersectional discrimination faced by indigenous persons with disabilities and therefore does not take them into account. In this context, we will continue working - together with the EU, NGOs of indigenous and non-indigenous persons with disabilities - to include indigenous persons with disabilities in the EU system.

Contacts : *Amalia Rodriguez – amalia@docip.org*
Mathias Wuidar – mathias@docip.org

STRATEGIC SUPPORT

To orientate indigenous delegates that would need assistance among the different mechanisms, Docip offers a strategic support service. This service is divided according to the process: one person is available to assist you during the UNPFII and EMRIP processes, while another one to assist you for the treaty bodies processes.

On the one hand, during UNPFII and EMRIP processes, it is possible to request support for documentation research, legal research, funding research, the use of our database, networking – with UN agencies, Indigenous experts, Indigenous organizations, Permanent Missions –, the preparation of a communication to the Special Rapporteur on the Rights of Indigenous Peoples, etc.

On the other hand, there is an increasing number of indigenous organizations that participate at the country review sessions of the UN treaty bodies and the Universal Periodic Review (UPR) processes. Their goals are to obtain expertise and political support for their specific and thematic claims concerning indigenous peoples' rights. This year we have been working with indigenous peoples' organizations that came for the treaty bodies and/or UPR sessions of Russia, Colombia, Japan, Ecuador, Peru, Nepal, Kenya, Guatemala, Canada, Mali and Philippines. Our approach is based on tailored support, with a strong involvement of other organizations working with the specific human rights mechanisms.

This year we wish to thank the UN Voluntary Fund for Indigenous Peoples, Rainforest Foundation Norway, UPR-info, the International Disability Alliance, the International Movement against All Forms of Discrimination and Racism, IWGIA as well as other organizations for supporting this service. For 2018 we are looking forward to continuing this support, which includes a follow-up strategy, and in line with the EMRIP country engagement mandate on supporting States and indigenous peoples in the implementation of recommendations made by other human rights mechanisms.

Contacts : *Andrés Del Castillo (for the UPR and treaty bodies)*
andres@docip.org & José Daris (for the UNPFII and EMRIP)
josee@docip.org

DOCIP TRAINING

Docip provides two kinds of annual training: UN trainings and training-of-trainers (ToT). In the realm of the UN trainings, we continue to provide trainings called 'Workshops for Newcomers' alongside the sessions of the UNPFII and the EMRIP. We work closely with the board of the UN Voluntary Fund for Indigenous Peoples on these trainings and receive funding from the Fund for these. The first training is usually all about what that conference is, what it will focus on, and how indigenous delegates can effectively participate in it. The second training at each conference is usually on a thematic topic such as another UN mechanism, or, a hot topic that is a current global development, such as the SDGs.

In 2017, we organized a training on 'Using the UN Treaty Bodies to Advance the Rights of Indigenous Peoples' at the Permanent Forum, as well as a brainstorming workshop on 'The Expanded EMRIP Mandate: What It Looks Like, and What Indigenous Peoples Can Do with It' at the Expert Mechanism. To find out more about our next UN trainings, you can sign up for Docip's newsletter, check our Facebook or Twitter accounts, and/or to stop by our technical secretariat offices during the conferences. We hope to see you at our next UN trainings!

Regarding the Training of trainers, it is a three-week training in Geneva for 7 participants coming from two regions. This is part of a three-year project (2016-2018) funded by the EU and the République et Canton de Genève. We aim to provide this training each year: the first one took place last year. We also organized an internal training of the Docip staff by our partner organization, HURIDOCS. From 24-28 July, HURIDOCS trained Docip staff in Geneva on documenting human rights violations. In this way, going forward, Docip will have a greater capacity for providing information, support and training on this topic.

Contact : *Ellen Walker – ellen@docip.org*

MONITORING AND EVALUATION

Our Monitoring and Evaluation process started in 2014, with this project as a new activity in 2016. The Monitoring and Evaluation project is a result of the consultation process on our activities that took place in 2014. Through this project, we ensure that we follow our objectives as an organization, as well as the recommendations issued by indigenous delegates in 2014, 2016 and 2017. This activity allows us to identify how Docip can respond to the needs and requests of the indigenous delegates that come to the international fora. It also evaluates the impact of our activities and their outcomes.

Furthermore, we work with various tools – such as Slack, Trello, Toggl – to improve our working methods. Our Monitoring and Evaluation activity also aims to set our vision and mission as organization.

Contact : *Josée Daris – josee@docip.org*

DOCIP'S INFORMATION SERVICE

Docip's timely information service aims to inform Indigenous Peoples around the world about important international and regional meetings and events, and to support their active participation in those events. To achieve this goal, we maintain an extensive network of sources from Indigenous Peoples' organizations, NGOs, UN agencies, and the academic community.

We constantly monitor our own email and social media accounts, as well as our network's mailing lists for important news, and we disseminate relevant information in our four working languages via our information channels:

Mailing lists: <http://bit.ly/docip-subscription>

Website Newsfeed: <https://www.docip.org/en>

On-line agenda: <http://www.docip.org/en/our-services-solutions/agenda/>

Social media channels:

- **Facebook:** <http://bit.ly/docip-fb>
- **Twitter:** <http://bit.ly/docip-tw>
- **LinkedIn:** <http://bit.ly/docip-li>

Every Friday we publish a weekly newsletter to our mailing lists and on our website announcing meetings and events, deadlines and other selected information for Indigenous Peoples. For the UNPFII and EMRIP meetings we publish a daily programme on our website with the agenda of the day, side-events, documentation and other information. We also keep you informed on secretariat announcements and last minute changes to the programme through our social media accounts.

To maintain and improve our information service, we depend on you: please include our address docip@docip.org in your distribution lists, and send us feedback on your information needs.

Contact: *Pascal Angst*
pascal@docip.org

DOCIP PUBLICATIONS

The aim of the publications is to provide exhaustive, continuous, impartial and neutral information on indigenous issues at an international scale. They are edited in four languages – English, Spanish, French and Russian – to make the information as accessible as possible to indigenous communities worldwide.

Its purpose is to give to readers the keys to follow the discussions related to the recognition of indigenous peoples' issues on the international scene. There are currently two different types of Docip Publications: the Summary Notes and the *Update*. Since last year, Docip has published the *Update* once a year. It contains the last discussions held during the year regarding indigenous peoples' rights, either during the different UN mechanisms on indigenous peoples' rights, or by making reference to other processes that concern indigenous peoples.

The *Update* has been revised to provide new and updated information on what is happening at the global level, such as the forthcoming agenda for the following year, Regional News on processes regarding indigenous peoples in the various indigenous regions – two per issue are dealt with – and a new section on the activities provided by Docip. The Summary Notes are reports of the most important UN meetings on indigenous rights and are issued twice a year: so far, five have been issued.

They are only available in an electronic version and sent by email. Furthermore, Docip Publications aims at widening its network to exchange information on indigenous peoples' rights, so, for that end, do not hesitate to send your newsletter or to get in touch.

Contact: *Claire Moretto*
claire@docip.org

LIST OF ABBREVIATIONS

CAZUS *Canada, New Zealand, Australia and United States*

CERD *Committee on the Elimination of All Forms of Discrimination*

CESCR *Committee on Economic, Social and Cultural Rights*

COP *Conference of the Parties*

CRPD *Convention on the Rights of Persons with Disabilities*

CSPIN *Centre for Support of Indigenous Peoples of the North*

ECOSOC *Economic and Social Council of the United Nations*

EEAS *European External Action Service*

EIDHR *European Instrument for Democracy and Human Rights*

EMRIP *Expert Mechanism on the Rights of Indigenous Peoples*

EU *European Union*

GR *Genetical Resources*

GSP+ *Special Incentive Arrangement for Sustainable Development and Good Governance*

HRC *Human Rights Council*

ICCPR *International Covenant on Civil and Political Rights*

ICESCR *International Covenant on Civil, Economic and Cultural Rights*

IGC *Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore*

IIPFCC *International Indigenous Peoples' Forum on Climate Change*

ILO *International Labour Organization*

IWGIA *International Working Group on Indigenous Affairs*

IJ *Joint Implementation*

NCIV *Netherlands Centre for Indigenous Peoples*

NGOs *Non-Governmental Organizations*

NHRIs *National Human Rights Institutions*

OAS *Organization of American States*

OHCHR *Office for the High Commissioner on Human Rights*

RAIPON *Russian Association of Indigenous Peoples of the North*

REDD *Reducing Emissions from Deforestation and Forest Degradation*

SBSTA *Subsidiary Body for Scientific and Technological Advice*

SDGs *Sustainable Development Goals*

SRRIIP *Special Rapporteur on the Rights of Indigenous Peoples*

TCE *Traditional Cultural Expressions*

TK *Traditional Knowledge*

ToT *Training of Trainers*

UN *United Nations*

UNDRIP *United Nations Declaration on the Rights of Indigenous Peoples*

UNFCCC *United Nations Framework Convention on Climate Change*

UNGA *United Nations General Assembly*

UNPFII *United Nations Permanent Forum on Indigenous Issues*

UNVFIP *United Nations Voluntary Fund for Indigenous Peoples*

UPR *Universal Periodic Review*

USA *United States of Americas*

WCIP *World Conference on Indigenous Peoples*

WIPO *World Intellectual Property Organization*

AGENDA FOR 2018

▶ UNPFII 17th session

Location: United Nations Headquarters, New York, USA.

Date: 16-27 April 2018

Theme: Indigenous peoples' collective rights to lands, territories and resources.

▶ EMRIP 11th session

Location: Palais des Nations, Geneva, Switzerland.

Date: 09-13 July 2018

Theme of the next study: free, prior and informed consent.

▶ Forum Business and Human Rights, 7th session

Location: Palais des Nations, Geneva, Switzerland.

Date: 26-28 November 2018

▶ 39th Session Human Rights Council (September session)

Location: Palais des Nations, Geneva, Switzerland.

Date: 10-28 September 2018

(second week with the annual half-day discussion on the rights of indigenous peoples).

Theme of the next annual half-day panel discussion on the rights of indigenous peoples: Protection of human rights defenders.

▶ WIPO IGC

Location: WIPO Assembly Hall, Geneva, Switzerland.

▶ 35th session

Dates: 19-23 March 2018

▶ 36th session

Dates: 25-29 June 2018

▶ 37th session

Dates: 27-31 August 2018

▶ UPR sessions

Location: Palais des Nations, Geneva, Switzerland.

▶ 29th session

Dates: 15 -26 January 2018

Review of France, Tonga, Romania, Mali, Botswana, Bahamas, Burundi, Luxembourg, Barbados, Montenegro, United Arab Emirates, Israel, Liechtenstein, Serbia.

▶ 30th session

Dates: May 2018

Review of Turkmenistan, Burkina Faso, Cabo Verde, Colombia, Uzbekistan, Tuvalu, Germany, Djibouti, Canada, Bangladesh, Russian Federation, Azerbaijan, Cameroon, Cuba.

▶ **31st session**

Dates: October - November 2018

Deadline for the submission of the civil society reports:
22 March 2018 (tentative)

Review of Saudi Arabia, Senegal, China, Nigeria, Mexico, Mauritius, Jordan, Malaysia, Central African Republic, Monaco, Belize, Chad, Congo, Malta.

▶ **32nd session**

Dates: January - February 2019

Deadline for the submission of the civil society reports:
21 June 2018 (tentative)

Review of New Zealand, Afghanistan, Chile, Viet Nam, Uruguay, Yemen, Vanuatu, The Former Yugoslav Republic of Macedonia, Comoros, Slovakia, Eritrea, Cyprus, Dominican Republic, Cambodia.

▶ **33rd session**

Dates: April - May 2019

Deadline for the submission of the civil society reports:
20 September 2018 (tentative)

Review of Norway, Albania, Democratic Republic of the Congo, Côte d'Ivoire, Portugal, Bhutan, Dominica, Democratic People's Republic of Korea, Brunei Darussalam, Costa Rica, Equatorial Guinea, Ethiopia, Qatar, Nicaragua.

▶ **Committee on Economic, Social and Cultural Rights (CESCR)**

Location: Palais Wilson, Geneva, Switzerland.

▶ **63rd session**

Dates: 12 - 29 March 2018

States Parties reports: Bangladesh, Central African Republic, New Zealand, Niger, Spain.

▶ **64th session**

Dates: 17 September - 05 October 2018

States Parties reports: Argentina, Germany, South Africa, Turkmenistan.

▶ **Committee on the Elimination against all forms of Discrimination (CERD)**

Location: Palais Wilson, Geneva, Switzerland.

▶ **95th session of CERD**

Dates: 23 April - 11 May 2018

States Parties reports: Kyrgyzstan, Mauritania, Nepal, Peru, Saudi Arabia, Sweden.

▶ **96th session of CERD**

Dates: 06 - 31 August 2018

States Parties reports: Bosnia and Herzegovina, China, China (Hong Kong), China (Macau), Cuba, Israel, Japan, Mauritius, Mexico, Montenegro.

▶ **UNFCCC**▶ **Climate change meeting**

Location: Bonn, Germany

Dates: 30 April - 10 May 2018

▶ **COP24**

Location: Katowice, Poland

Dates: 3 - 14 December 2018

▶ **Call for applications from the United Nations Voluntary Fund for Indigenous Peoples**▶ **For treaty bodies and UPR sessions taking place between January and March 2019**

Deadline for applications: end of October / mid-november 2018 (tentative)

▶ **For treaty bodies and the session of the HRC dealing with indigenous issues between July and September 2018**

Deadline for applications: mid-may 2018 (tentative)

▶ **For attendance to the 18th session of the UNPFII and the 12th session of the EMRIP between April and July 2019**

Deadline for applications: end November 2018 (tentative)

▶ **Call for applications for the Indigenous Fellowship Program of the OHCHR, for participation in 2019: Call for applications between March and June 2018.**

A FEW WORD'S FROM OUR DIRECTOR

DOCIP AIMS TO BE A *TEAL* ORGANIZATION

Back in 2014, Docip started its Monitoring and Evaluation process, which included consultations of Indigenous Peoples at the worldwide level during the main UN conferences, as well as an internal process to improve the management and the organization of the team. Inspired by the input we received from Indigenous delegates, we tried to have a holistic approach to the changes we decided to implement in Docip. On the management side, it led us to consider new ways to manage Docip, such as a freedom-form company, a holacracy and a teal organization. Those new forms of management seem to be the closest to what we experienced and understood about how Indigenous Peoples organize themselves at the international level. For Docip, it's crucial to be as close as possible to Indigenous Peoples ways of working, including creating respectful and constructive relationships and creating a climate of confidence with all the members of our team. After considering many examples of good practices, we decided on the goal of being a Teal organization, as described by Frederic Laloux – more information is available here : <http://www.reinventingorganizations.com>. Our approach consists of being inspired by examples given by Laloux, but developing our own path to define how we would like to work together as a team to support Indigenous Peoples, rather than following pre-made recipes and being too close to a subjacent ideology which could be viewed as too western centered.

The main breakthroughs of this approach are :

- **Self-management** : We try to operate effectively with a system based on peer relationships. We set up structures and practices in which people have high autonomy in their domain, and are accountable for coordinating with others. We try to diminish hierarchical status, and managers avoid having a control function, but rather to develop a role of support, mediation, coaching, and accompaniment.
- **Wholeness** : It refers to the idea that a team member is a single person in the organization and in his private life and that we must not force him to "wear a mask", to deny his values, to lie about his personality to be accepted. We try to create an environment wherein people feel free to fully express themselves, bringing high levels of energy, passion, and creativity to work.
- **Evolutionary purpose** : We base our strategies on what we sense from Indigenous Peoples requests. Agile practices that sense and respond replace the machinery of plans, budgets, targets, and incentives. Paradoxically, by focusing less on the bottom line and money, we can reach finances and fundraising results that outpace other NGOs.

Of course, a new approach comes with new challenges. Our changes in the last years, coupled with a lessened hierarchy have inevitably led to coordination problems. We are dealing with that through our Monitoring and Evaluation officer, who is trying to increase exchanges and collaborations between our different projects. There is also the non-negligible risk of exhaustion in the team because, as we see, all of us are highly committed to our tasks and objectives. This new way to manage Docip is a never-ending journey, adjusting itself to the needs of Indigenous Peoples and the ways we would like to answer to them with a collective approach, keeping in mind that we are a team of distinct, colourful and engaged individuals.

Contact : David Matthey-Doret – david@docip.org

Disclaimer :

Please be advised that the opinions and positions expressed herein do not necessarily reflect the views of Docip, which is an organization committed to the principle of neutrality and impartiality.

This issue of the Update was compiled in OCTOBER 2017. Therefore, some of the news and information reported in the issue may have changed or been updated during the time it was being edited and translated before its publication in DECEMBER 2017. The reproduction and dissemination of information contained in the Update is welcome, provided sources are cited.

This issue, originally prepared and edited in English, is also available in Spanish, French and Russian. Online versions in all languages may be found on Docip's website. Additionally, Docip sends printed copies to indigenous organizations and to academic institutions, and copies are made available at the Docip documentation centre in Geneva and at the UN conferences that Docip attends.

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PROOF READING OF THIS ISSUE :

Mary Holihan
mkholihan@netscape.net

LAYOUT :

Zoé Russbach - www.l-artichaut.ch
& Martine Musy - Graphic Designer

da·ip

106 route de Ferney
1202 Geneva - Switzerland
www.docip.org

