



# General Assembly

Distr.: General  
5 September 2014

Original: English

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## Human Rights Council

Expert Mechanism on the Rights of Indigenous Peoples

Seventh session

7–11 July 2014

Item 7 of the provisional agenda

United Nations Declaration on the Rights of Indigenous Peoples

### **Final summary of responses to the questionnaire seeking the views of States and indigenous peoples on best practices regarding possible appropriate measures and implementation strategies to attain the goals of the United Nations Declaration on the Rights of Indigenous Peoples**

#### **Report of the Expert Mechanism on the Rights of Indigenous Peoples**

##### *Summary*

The present report contains a summary of responses from States and indigenous peoples to the questionnaires seeking their views on best practices regarding possible appropriate measures and implementation strategies to attain the goals of the United Nations Declaration on the Rights of Indigenous Peoples, as requested by the Human Rights Council in its resolution 24/10.



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## I. Introduction

1. In its resolution 18/8, the Human Rights Council requested the Expert Mechanism on the Rights of Indigenous Peoples to undertake, with the assistance of the Office of the United Nations High Commissioner for Human Rights, a questionnaire to seek the views of States on best practices regarding possible appropriate measures and implementation strategies to attain the goals of the United Nations Declaration on the Rights of Indigenous Peoples. In its resolution 24/10, the Council requested the Expert Mechanism to continue to undertake the survey to seek the views of both States and indigenous peoples, with a view to completing a final summary of responses for presentation to the Council at its twenty-seventh session. The present report builds upon the report presented to the Council at its twenty-fourth session (A/HRC/24/51) and integrates additional responses received from States and indigenous peoples.

2. The questionnaires for both States and indigenous peoples focused on the following issues: development of an overarching or national strategy; adoption of specific legal, policy or other measures to implement the Declaration; whether the Declaration had been taken into account when devising relevant laws, policies and other measures; whether steps had been taken to raise awareness of the Declaration at the community and government levels; challenges encountered when adopting measures to attain the goals of the Declaration; and views on best practices regarding appropriate measures and implementation strategies to attain the goals of the Declaration. In their responses, States and indigenous peoples were asked to consider six different thematic areas: self-determination and autonomy; participation in decision-making, including obligations to seek to obtain the free, prior and informed consent of indigenous peoples; culture and languages; non-discrimination and equality; lands, territories and resources; and treaties, agreements and other constructive arrangements with States.<sup>1</sup>

3. The Expert Mechanism thanks the States that responded to the questionnaire. Responses were received from Australia, Bolivia (Plurinational State of), Bosnia and Herzegovina, Burkina Faso, Chile, the Congo, Denmark, El Salvador, Finland, France, Germany, Guyana, Iraq, Kazakhstan, the Lao People's Democratic Republic, Mexico, Myanmar, New Zealand, Norway, Paraguay, Peru, Switzerland, Trinidad and Tobago, Venezuela (Bolivarian Republic of) and the United States of America.

4. The Expert Mechanism also thanks the indigenous peoples and indigenous peoples' organizations that responded to the questionnaire. Responses were received from Aldet Centre (Saint Lucia); Botswana Khwedom Council (Botswana); Community for the Advancement of Native Studies (United States); Comisión Jurídica para el Autodesarrollo de los Pueblos Originarios Andinos (Peru); Centro de Promoción y Desarrollo Rural Amazónico (Peru); Comunidad Emberá Purú de San Juan de Pequeni (Panama); Indigenous Bar Association (Canada); Khmers Kampuchea-Krom Federation (Viet Nam); Naga Women's Union and Naga Peoples Movement for Human Rights (India); National Khoi-San Council (South Africa); National Native Title Council (Australia); National Indian Youth Council (United States); Ogoni Indigenous Ministers Forum (Nigeria); Programme d'Intégration et de Développement du Peuple Pygmée au Kivu (Democratic Republic of the Congo); Sámi Parliament of Norway; San Support Organizations' Association of Namibia; Torres Strait Indigenous Peoples of Australia; and Yamasí People (United States).

5. All responses are available on the website of the Expert Mechanism.

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<sup>1</sup> For the full text of the questionnaires, see A/HRC/24/51, paragraphs 7–9.

6. The Expert Mechanism also thanks the Faculty of Law at the University of Manitoba, Canada, for its assistance in reviewing the responses from States.

## **II. State responses**

7. This section summarizes the responses from States to the questionnaire. It must be borne in mind that non-State actors, including indigenous peoples, may have conflicting views on the benefits of measures adopted to implement the Declaration or the ideal strategies to achieve its implementation.

### **A. National implementation strategies**

8. A number of States indicated that they had a national strategy to implement the Declaration. Guyana indicated that its implementation strategy was adumbrated in several policy documents, at least one of which was developed in consultation with the great majority of Amerindian communities. The National Development Plan of Mexico addresses indigenous peoples specifically and its Commission for the Development of Indigenous Peoples is required to assist indigenous peoples in the exercise of their self-determination. The plan of the Bolivarian Republic of Venezuela is based on normative and institutional aspects, including already existing constitutional, legislative and regulatory norms. The national plan of Peru focuses on 12 areas, including participation, intellectual property, intercultural and bilingual education, use and transmission of indigenous languages, non-discrimination, consultation, improvement in economic and social conditions, land, territories and natural resources, health, administration of justice, access to justice, first contact and isolated indigenous peoples. The Paraguayan Institute of Indigenous Affairs works towards the implementation of the Declaration along three axes: lands and territories, participation and development with an ethnic perspective.

9. Several States indicated that the principles of the Declaration are reflected in national legislation. For example, the Congo indicated that the fundamental principles of the Declaration are incorporated in its law No. 5-2011 on the promotion and protection of the rights of indigenous peoples. Some States, such as Peru and Myanmar, identified existing national laws and policies which related to specific areas of the Declaration, such as education and culture. However, it is unclear whether these laws and policies were developed specifically to implement the goals of the Declaration.

10. Some States, such as Finland, New Zealand and Norway, indicated that existing national laws and policies already conformed to the principles contained in the Declaration and therefore they had not developed additional strategies to implement the Declaration. Australia noted synergies between existing policies addressing Aboriginal peoples and the Declaration.

11. The response of the Plurinational State of Bolivia did not explicitly indicate whether it had a specific strategy to implement the Declaration. However, its national development plan, entitled “*Bolivia digna, soberana, productiva y democrática para vivir bien*”, was developed to achieve the Millennium Development Goals and the objectives of the second International Decade of Indigenous Peoples. The Chilean strategy to implement its international obligations in relation to indigenous peoples domestically is focused on five areas: culture, identity and education; land; institutional capacity; participation and consultation; and integral development. This policy was developed through dialogue with the nine indigenous peoples in the country.

12. While El Salvador does not have a specific strategy for its implementation, the Declaration is part of the normative framework for a draft policy on indigenous peoples developed in 2013.

13. Despite not having a formal strategy for implementing the Declaration, Australia cited the Apology of 2008 to Australia's indigenous peoples, and in particular to the stolen generations, as a symbolic gesture signalling its commitment to implementing the Declaration. In addition, Australia indicated that the principles of the Declaration were consistent with "Closing the gap", the Government strategy to address indigenous disadvantage. Discussions are under way for the recognition of indigenous Australians in the constitution.

14. Germany and Switzerland indicated that while they did not have indigenous peoples within their borders, their foreign development policies recognized the Declaration as a standard for indigenous peoples.

15. The majority of States did not provide details on the scope and nature of their national implementation plans in their responses. Nor did they indicate how those laws and policies were developed, or whether they had been developed in consultation with indigenous peoples.

## **B. Legal, policy or other measures adopted especially to implement the rights in the Declaration**

### **1. All the rights in the Declaration**

16. On 7 November 2007, the Plurinational State of Bolivia passed Law No. 3760 on the United Nations Declaration on the Rights of Indigenous Peoples. In its response to the questionnaire, Bolivia provided extensive information on laws and programmes that are relevant to the implementation of the Declaration, including in the areas of education and languages, communications and media, housing, economic policies, food security, land and agricultural development, justice and women's rights in the administration of justice, human rights, land, water, consultation processes, decolonization and processes to reduce patriarchy.

17. Chile also provided a comprehensive overview of measures to implement the rights set out in the Declaration, focusing on the five areas noted in paragraph 11 above. Those measures ranged from laws to policies and programmes.

18. In 2011, the Congo passed law No. 5-2011 for the promotion and protection of the rights of indigenous peoples, which incorporates the fundamental principles of the Declaration. The law addresses many areas, including consultation, the right of indigenous peoples to administer their internal affairs and have recourse to traditional customs to resolve internal conflicts, the protection of customs and traditional institutions, intellectual property relating to traditional knowledge, the protection of sacred sites, education and individual and collective property rights.

19. The National Commission for the Development of Indigenous Peoples of Mexico has as one of its principal objectives the harmonization of federal and state-level laws with respect to the rights of indigenous peoples. It has referenced the Declaration in its work in this area.

20. The "Closing the gap" strategy in Australia sets benchmarks for ending educational disadvantage for indigenous children, which Australia believes is a key priority area for the implementation of the Declaration.

21. The rights contained in the Declaration are addressed in the national constitution and the Statute on Indigenous Peoples of Paraguay. The Declaration is also used as a guiding framework in the policies and programmes of the Institute of Indigenous Affairs.

## **2. Self-determination and autonomy**

22. As a result of amendments made to the constitution in 2001, Mexico recognizes the self-determination and collective rights of indigenous peoples.

23. Several States identified legislation that recognized the right of indigenous peoples to autonomy. Most of the legislative provisions recognizing or creating indigenous autonomous areas require indigenous peoples to vote in favour of becoming autonomous. Indigenous jurisdiction over such autonomous areas varies. Some States indicated that autonomous areas used the laws and institutions of indigenous peoples.

24. The Plurinational State of Bolivia has begun a process of recognizing the autonomy of indigenous communities. Several communities have voted in favour of autonomy and have begun the process of developing a statute for autonomy, with technical support from the Ministry of Autonomy. The process recognizes the need for the equal participation of women in governance structures.

25. Burkina Faso has also begun a process of decentralization through its law No. 055-2004/AN. This law entrenches the right of territories to govern themselves and to manage their own affairs to promote their own development and reinforce local governance. This decentralization process has transferred jurisdiction in socioeconomic and cultural matters.

26. The law in the Congo guarantees indigenous peoples the right to administer their internal affairs and to have recourse to their customs to resolve internal conflicts. The law also protects the customs and traditional institutions of indigenous peoples.

27. The constitution of Guyana established its Indigenous Peoples' Commission, which is one of five commissions dealing with constitutional rights. The objective of the Commission is to "establish mechanisms to enhance the status of indigenous peoples and to respond to their legitimate demands and needs". As part of its mandate, it offers recommendations on the participation of indigenous peoples in national decision-making and other decisions that affect their lives. The Amerindian Act 2006 provides for village councils to govern their internal affairs.

28. Denmark passed the Act on Greenland Self-Government in 2009. Under the preamble, the people of Greenland are recognized as a people under international law with the right to self-determination. The current Government of Greenland is democratically elected and all the current members of parliament and of the Government are of Inuit descent.

29. The constitution of Finland recognizes the right of self-government of the Sami people and that they have linguistic and cultural self-government in their native region. The Act on the Sami Parliament regulates the implementation of the system of self-government.

## **3. Participation in decision-making, including the obligation to seek to obtain the free, prior and informed consent of indigenous peoples**

30. Most States provided information on legislative and policy measures to implement the right to participate in decision-making. There were two aspects to the information provided: participation in national decision-making and consultation on decisions affecting the rights of indigenous peoples.

31. In the Plurinational State of Bolivia, indigenous peoples are represented in legislative bodies. In Burkina Faso, there are elected Peul and Touareg representatives in parliament and ministers in the Government.
32. In the Congo, legislation ensures the participation of indigenous peoples in decision-making. Peru has also passed a law on the right to prior consultation, as recognized in International Labour Organization (ILO) Convention No. 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries, which was promulgated on 23 August 2011.
33. France indicated that in its department of French Guiana an advisory board of Amerindians and Bushinengué was established in 2010. The regional councils and the general council consult this board on any plans or proposals which may affect the environment or the cultural activities of the Amerindians and Bushinengué.
34. Chile undertook a consultation on indigenous institutions, which was modified after it received complaints from indigenous leaders about the process. The first stage of consultation is now aimed at developing consultation procedures.
35. In 2005 the Government of Norway and the Sami Parliament concluded an agreement on procedures for consultations to ensure that new measures and legal provisions were in accordance with the rights of the Sami peoples. The procedures for consultation also seek to ensure that the Sami peoples can genuinely participate in, and have a real influence on, decision-making processes that may directly affect Sami interests. By royal decree, the Government has confirmed that the agreed procedures apply to the whole central government administration. Norway states that the right to self-determination is primarily exercised through the right to participate in decision-making relating to matters only applying to the Sami and a right to participate in the public administration affecting both the Sami and the community at large. The obligation to consult arising from these rights is implemented through procedures established between the State authorities and the Sami Parliament in accordance with ILO Convention No. 169.
36. The Finnish Act on the Sami Parliament includes an obligation to negotiate with the Sami Parliament on various issues, including community planning; the management use, leasing and assignment of State lands, conservation areas and wilderness areas; applications for licences to stake mining claims; legislative or administrative changes to the occupations belonging to the Sami culture; the development of the teaching of and in the Sami language in schools and its use in the social and health services; or any other matters affecting the Sami language and culture and the status of the Sami as an indigenous people. The obligation to negotiate applies to all levels of the administration.
37. In Guyana, the titling and demarcation of Amerindian lands and territories requires their free, prior and informed consent.
38. Australia has an indigenous engagement framework which, it states, captures its aspirations to engage effectively with indigenous peoples. The National Congress of Australia's First Peoples provides a voice for Aboriginal and Torres Strait Islander peoples in strategic national matters. Australia has also established the Prime Minister's Indigenous Advisory Council, which provides advice on emerging policy issues arising in indigenous affairs. The Council is made up of indigenous and non-indigenous individuals.
39. In the United States, pursuant to executive order 13175 on "Consultation and coordination with Indian tribal governments", federal agencies are required to consult with tribal officials when making decisions that affect tribal communities.
40. The National Commission for the Development of Indigenous Peoples in Mexico has established a system for consultation with indigenous peoples which allows for their

participation in the definition, design, implementation and evaluation of programmes, projects and government actions.

41. Peru has passed a law on the right to consultation, under which the purpose of a consultation is agreement between the State and indigenous peoples. Based on this law, a methodological guide has been developed with technical assistance from ILO and the United Nations Development Programme.

#### **4. Culture and languages**

42. In the responses of States, there were examples of indigenous languages being recognized in State constitutions. However, the most common response was to highlight the importance of education in promoting and implementing the rights to culture and language of indigenous peoples. There were a few examples of indigenous languages being taught in national schools and a few States explicitly indicated that school curricula were developed in consultation with indigenous peoples. Some States indicated a need to overcome negative stereotypes of indigenous cultures and languages in order to preserve and promote their use.

43. The Bolivian education system has been undergoing changes, based on an ideology and political practice of decolonization, liberation, revolution, anti-imperialism and transformation without discrimination or exploitation. The revamped education system provides cultural education, which contributes to the affirmation and strengthening of cultural identities, recognition, assessment and development of the cultures of indigenous peoples in dialogue with other cultures and language. The Bolivian constitution provides for education to begin in the mother tongue of each region. It also provides for the creation of indigenous universities.

44. In Peru, the Declaration was explicitly invoked by the Minister of Education in connection with the creation of the National Commission on Intercultural Bilingual Education. Peru has also passed a law on intercultural bilingual education, which aims to recognize cultural diversity and promote intercultural bilingual education in regions inhabited by indigenous peoples. Peruvian law also recognizes and guarantees the right of indigenous peoples to equal educational conditions. The Minister of Education is to design and implement a national plan for intercultural bilingual education. Indigenous peoples are to participate in the formulation and implementation of these education programmes. Peru has also developed a capacity-building programme for interpreters participating in consultation processes.

45. Chile has identified programmes for the teaching and learning of indigenous languages and cultures in the nation's schools. The Constitution of Guyana provides protection of the right of indigenous peoples "to protection, preservation and promulgation of their languages, cultural heritage and way of life". The Constitution of Iraq guarantees an Iraqi individual's right to education in his or her mother tongue.

46. The Constitution of the Lao People's Democratic Republic recognizes the Lao language as the official language and dialect of the country. However, in day-to-day life each ethnic group is free to preserve and use its dialect in the family and the community for the preservation of their culture and traditions.

47. In the Congo, the law guarantees the collective and individual rights of indigenous peoples to their intellectual property relating to traditional knowledge. The law also protects cultural, religious and spiritual property.

48. The Finnish Sami Language Act regulates the right of the Sami to use their own language before the courts and other authorities. The Act also obliges the public authorities to enforce and promote the linguistic rights of the Sami.



49. In Trinidad and Tobago, in 2011 the Government approved the grant of 25 acres of land for the creation of an Amerindian heritage village to protect Amerindian culture and traditions.

50. El Salvador is currently working on a constitutional amendment to recognize indigenous peoples and adopt policies to maintain and develop ethnic and cultural identity, values and spirituality. It invests in educational initiatives for the revitalization of indigenous languages, including diplomas in intercultural bilingual education for teachers. The development and implementation of these programmes is carried out in consultation with indigenous peoples.

## **5. Non-discrimination and equality**

51. Several States, including Chile and Guyana, indicated that their constitutions provide for non-discrimination and equality.

52. Some States indicated that the principle of equality prohibited States from treating any one group differently from another group. The constitution of the Lao People's Democratic Republic stipulates that all citizens are equal before the law. According to the Government, in accordance with the principle of equality, every ethnic group is special and therefore no one is more special than any other group, which has contributed to peace and harmony and solidarity among the multi-ethnic Lao peoples.

## **6. Lands, territories and resources**

53. Several States mentioned processes under way to demarcate and provide title over the lands of indigenous peoples. A few States referenced the collective nature of those titles. Several States indicated that indigenous peoples had certain governmental authority or jurisdiction over their lands.

54. The Plurinational State of Bolivia is strengthening the process of land redistribution and community self-management. It has also published an atlas of indigenous territories. Chile has relaunched mechanisms to transfer land to indigenous peoples under transparent and objective conditions. The collective property rights of indigenous peoples in the Congo are protected by law.

55. France identified the creation of the Guiana Amazonian Park in French Guiana as providing protection to indigenous peoples in the area to maintain and preserve their subsistence practices, as well as preserving the natural resources they exploit.

56. In Guyana, the constitution of 2003 provides protection for property, including Amerindian property. Under the Amerindian Act 2006, Amerindians are granted title to their lands absolutely and for ever. Titling and demarcation of Amerindian villages must occur with their free, prior and informed consent. Those lands and resources are governed by village councils, who have rule-making powers governing "the management, use, preservation, protection and conservation of village lands and resources or any part thereof". There has been an increase in the percentage of Amerindian land which has been titled and demarcated.

57. New Zealand respects the importance of the relationship of the Maori peoples with their land and resources, but also maintains the existing legal regimes for ownership and management of land and natural resources.

58. The Peruvian constitution protects the rights to land and there is a process for the recognition and entitlement of such lands.

59. El Salvador recognizes the damage caused by the disintegration of indigenous communities stemming from changes in land use and has begun to address those issues through the Vice-Ministry of Housing and Urban Development.

**7. Treaties, agreements and other constructive arrangements with States**

60. New Zealand indicated that the Treaty of Waitangi is the foundational document for the relationship between the Government and the Maori. New Zealand is committed to settling outstanding treaty grievances by 2014. New Zealand indicated that increased resources and funding are being provided to continue the settlement process.

**C. Consideration of the Declaration when devising new laws and policies**

61. There were no responses containing information on States having passed explicit laws requiring consideration of the Declaration when new laws, policies or other measures are being devised. However, there are examples where the goals and principles of the Declaration have informed processes leading to new laws and policies.

62. Several States have formalized processes and enacted legislation requiring the participation of indigenous peoples in decision-making. Those laws generally require prior consultation when States make decisions that directly affect the rights of indigenous peoples. Some States made specific reference to the requirement of free, prior and informed consent in relevant laws and policies and many States indicated that measures requiring consultation were developed in consultation with indigenous peoples. There were a few examples of consultation occurring through the institutions and decision-making processes of indigenous peoples.

63. The law on the promotion and protection of the rights of indigenous peoples of the Congo was elaborated through a process which allowed for public participation, including governmental actors, civil society and international experts. Indigenous peoples were consulted in their localities in all departments where there is a significant concentration of indigenous peoples. Indigenous peoples also played an active role in the discussions leading to the final draft of the legislation.

64. Consultation with indigenous peoples in the Plurinational State of Bolivia forms part of the principles of openness and transparency promoted by the Government. There are several laws in place that require consultation with indigenous peoples and their participation in decision-making.

65. The Indigenous Act of Chile recognizes and safeguards indigenous peoples and their lands, as well as recognizing indigenous institutions and cultures. The Act provides special measures for the practical application of the obligations of consultation and participation. It recognizes that indigenous peoples should be consulted through their traditional organizations, as well as those communities, organizations and associations recognized under the Indigenous Act. In one instance, when indigenous peoples expressed concern about the process used for consultation, the Government adjusted the process for discussing new indigenous institutions and constitutional recognition.

66. In Guyana, the Amerindian Law 2006 requires the free, prior and informed consent of Amerindian villagers on issues that require their involvement or support in relation to land or mining, titling and demarcating lands, entry and access to Amerindian villages and use of natural resources.

67. In New Zealand, one example of Maori participation in decision-making occurs through negotiated agreements for the co-management of resources, such as conservation lands owned by the crown and national parks. Additionally, recent jurisprudence concluded

that the common law should be developed consistently with emerging human rights norms and the Treaty of Waitangi.

68. Peru has enacted a law that recognizes the right of indigenous peoples to prior consultation on legislative or administrative measures that directly affect their collective rights in the areas of physical existence, cultural identity, territory, education, health, quality of life and the development of their peoples. That law also extends to national and regional plans, programmes and development projects that directly affect the rights of indigenous peoples. The regulations of this Act are being drafted with the participation of various government agencies and representatives of indigenous peoples.

69. Several States indicated that, based on the principle of the formal equality of all citizens, there is no law that provides special recognition or processes for indigenous peoples to participate in decision-making. In Burkina Faso, the decentralization law takes into account the considerations set out in the Declaration. However, Burkina Faso does not wish to create a hierarchy among populations within the State and thus does not explicitly consider the Declaration when devising new laws and policies.

70. The “Closing the gap” strategy in Australia has been established with the long-term goal of meeting the provisions of a range of other articles in the Declaration.

71. The human rights strategy of the German Federal Ministry for Economic Cooperation and Development makes explicit reference to the Declaration and the principle of free, prior and informed consent as essential landmarks which need to be adhered to in any planning of development measures which might affect indigenous peoples.

72. In Norway there are several ministries responsible for the implementation of its human rights obligations. Those ministries must take into account relevant international obligations when laws, policies or other measures affecting indigenous peoples are being developed. The national legal framework requires the involvement of those affected when regulations are issued, amended or repealed.

#### **D. Initiatives to raise awareness of the Declaration at community and government levels**

73. The responses received from States indicated several direct measures to raise awareness of the Declaration. Some States indicated a preference for focusing awareness-raising campaigns on general human rights instruments, such as national laws or human rights treaties. Awareness-raising initiatives were aimed at both Governments and indigenous peoples. One State emphasized the importance of indigenous peoples knowing their rights and Governments knowing the Declaration. There were some examples of education and training on the rights of indigenous peoples forming part of awareness-raising initiatives.

74. The Mexican Commission for the Development of Indigenous Peoples has disseminated the Declaration within the Government and been instrumental in its translation into 18 indigenous languages. Norway has also translated the Declaration into Norwegian and North Sami. El Salvador has translated the Declaration into the Nahuatl language as part of its dictionary and grammar book. Paraguay has translated the declaration into Guaraní and has disseminated it widely, particularly among staff of the judicial branch.

75. The Congo has focused awareness-raising on national and international human rights and rights instruments for indigenous peoples. During “parliamentary days”, efforts were made to educate Congolese parliamentarians on the rights of indigenous peoples and the Declaration was explained to them.

76. The Ministry of External Relations of the Plurinational State of Bolivia developed a series of workshops with the ILO Regional Office for Latin America and the Caribbean entitled “The scope of ILO Convention 169: challenges for application and implementation and strategies for action”. Those workshops were directed at officials, public servants and indigenous peoples. Materials on collective rights have also been created and distributed.

77. Chile has a programme entitled “Strengthening national capacities for conflict prevention and intercultural management in Chile”, which includes support for activities to disseminate information and training related to the rights of indigenous peoples as recognized by international law, with an emphasis on ILO Convention No. 169.

78. France indicated that it had an ambassador for human rights and that on the International Day of the World’s Indigenous Peoples, round tables were organized and cultural events were held in French Guiana.

79. Following the enactment of the Amerindian Act in Guyana, there was a recognized need for education and awareness-raising for village councils and community members. Several training programmes have been conducted and a brochure entitled “The Amerindian Act made simple” was published and distributed to all community leaders and members. The Government of Guyana also undertakes capacity-building programmes and workshops for government employees. In addition, indigenous leaders can seek clarification of the Amerindian law during the biennial meetings of the village captains.

80. In conjunction with the National Congress of Australia’s First Peoples, the Australian Human Rights Commission, held “Declaration dialogue” meetings with indigenous communities in 2013 and 2014 to raise awareness of the Declaration. The national human rights institution of Australia developed an overview, a community guide and a poster on the Declaration, which sought to highlight practical examples of how the Declaration can benefit indigenous Australians.

81. A few States indicated that, while they were not taking action to promote the Declaration, information on the Declaration was distributed by other organizations within the State. With the announcement of support for the Declaration, there was widespread publicity for it in New Zealand. The New Zealand Human Rights Commission has translated it into *te reo Maori* and has publicized its content and significance. While various organizations in Peru have produced materials, there is no national campaign to assist understanding of the Declaration.

82. Some States expressed hesitation about directly promoting the Declaration and the rights of indigenous peoples. Burkina Faso noted that its national cultural policy promoted principles of respect, but did not indicate any measures to promote the rights of indigenous peoples.

83. The Government of Switzerland supports two non-governmental organizations (NGOs), which work to strengthen the negotiating capacity of indigenous delegates to the United Nations through training courses and knowledge transfer.

## **E. Challenges in adopting measures and implementing strategies to attain the goals of the Declaration**

84. One of the biggest challenges is the lack of awareness and knowledge of the Declaration and other international instruments on the rights of indigenous peoples. One State indicated that this lack of knowledge was exacerbated by the lack of wider civil society engagement in the rights of indigenous peoples. Moreover, the rights of indigenous peoples are often not a priority for Governments.

85. A few States indicated that one challenge they had experienced was a lack of information on how to implement the Declaration. In particular, there was an identified need to improve mechanisms for dialogue and information exchange between the State and indigenous peoples.

86. One State cited the lack of a consensus on the meaning of terms, such as self-determination, sovereignty and free, prior and informed consent, as an impediment to the practical implementation of the Declaration. One State identified the need for the implications of self-determination to be clarified, including how it could be implemented in practical policies.

87. Another main challenge identified was the cost of implementing the Declaration and the limited resources available to undertake this work. Funds would be necessary in order to implement different strategies to meet the objectives of the Declaration. Specifically, the cost of land demarcation and titling was identified. One State indicated that the remoteness of indigenous communities posed challenges to access to, and timely delivery of, goods and services, as well the prohibitive costs of delivering those goods and services. In addition, there were challenges in preserving and publishing materials in all of the many indigenous languages that might exist within a single State.

88. Another challenge identified was the need for regional variances in implementation. Specifically, the policies of each Government were not organized in the same manner. Moreover, each indigenous people had its own history, culture, needs and perspectives.

89. One State indicated that it was a challenge to develop national legislation. Further, there was a need to incorporate and implement international commitments in public policies. One State also expressed concern because there was a need to ensure that policies developed for indigenous peoples also contributed to the development of society in general.

90. One State indicated that it was a challenge to ensure consistency across the states of a federation, owing to the constitutional division of legislative powers between federal and state Governments.

91. A major challenge that was discussed was in relation to the monitoring and enforcement of laws, particularly mining and forestry laws. One State indicated that it was a challenge to prevent unethical foreign researchers and NGOs from misappropriating the intellectual property rights and traditional knowledge of indigenous peoples.

92. Some States did not identify any challenges but rather reiterated the rights enjoyed by indigenous peoples within the State.

93. One State indicated that government programmes and policies were not enough to attain the goals of the Declaration and underlined the need for the indigenous community to be more engaged.

## **F. Best practices**

94. In their responses, States indicated many measures and best practices for implementing the Declaration. To fully realize the goals of the Declaration, Governments needed to commit to an ongoing implementation process and continue building on achievements. Implementation of the Declaration would need to respond to the particularities and historical and cultural backgrounds of the indigenous peoples concerned. States that did not have indigenous peoples within their borders could use the Declaration as a framework for development assistance.

95. Where treaties, agreements and other constructive arrangements already existed, those instruments could provide the foundation for partnership, mutual respect, cooperation

and good faith between States and indigenous peoples. As stated in the response of France, the Nouméa Accord between France and the Kanaks of New Caledonia recognized the harmful effects of colonization, returned confiscated land to the indigenous peoples, provided full participation of the Kanak people in decision-making and established a consultation process.

96. Chile noted that its approach to hold regional round tables for a “historic reunion” was an example of a process to create a national plan to attain the goals of the Declaration. Government, churches, civil society organizations and indigenous representatives took part in the round tables. The goals were to build trust and identify topics of importance to indigenous peoples.

97. States used a variety of constitutional, legislative and policy measures to implement the Declaration, including drafting new legislation, amending existing legislation, creating new programmes and initiatives, and increasing involvement in international indigenous issues. This multipronged approach might include adopting a special law recognizing the rights of indigenous peoples, which had been developed with the effective participation of indigenous peoples based on the principle of free, prior and informed consent. It might also require legal recognition of indigenous peoples, including ratifying ILO Convention No. 169.

98. The Plurinational State of Bolivia, in particular, demonstrated good practices regarding gender equality by recognizing the need to ensure that programmes specifically targeted and benefited indigenous women. As part of its strategy to address violence against indigenous women, the national plan of Australia included strengthening indigenous communities through fostering the leadership of indigenous women within communities and the broader Australian society.

99. Paraguay highlighted the importance of regularizing the communal ownership of land and of supporting the access of indigenous peoples to sustainable livelihoods.

100. States could work with United Nations agencies to improve the situation of indigenous peoples substantially, especially if those agencies provided technical assistance. Chile identified the need for ongoing support by the international community in the implementation of strategies to achieve the goals of the Declaration, especially in studying and publicizing best practices to assist States in so doing. Norway demonstrated good practice by responding to the report of the Special Rapporteur on the rights of indigenous peoples (A/HRC/18/35/Add.2), indicating how the Government planned to follow up on the recommendations.

101. Many States pointed to the relationship between the Declaration and other international human rights treaties in the promotion and protection of the rights of indigenous peoples, including ILO Convention No. 169, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the European Convention for the Protection of Human Rights and Fundamental Freedoms.

102. The African Commission on Human and Peoples’ Rights and the United Nations Special Rapporteur on the rights of indigenous peoples had supported the Congo in the adoption of a special law for indigenous peoples. Technical assistance from the international community, including information and capacity-building, would, in the opinion of some States, significantly improve implementation.

103. To attain the goals of the Declaration, States had promoted capacity-building for indigenous peoples. Further, they had encouraged efforts to strengthen the institutions of indigenous peoples, NGOs and self-government structures. There was also a recognized need to provide opportunities for indigenous peoples to participate as equal partners in the

overall development process of their country. Australia pursued a policy of focusing on addressing indigenous disadvantage in areas such as education, health services, community development and community safety.

104. States also identified best practices in the area of education and promoting the languages and cultures of indigenous peoples. It was important to include indigenous languages within the education system and develop strategies for implementing bilingual and intercultural education with the participation of indigenous peoples. In addition, cultural centres could be created to promote indigenous cultures. Finally, some States recognized indigenous languages as official languages.

105. To attain the goals of the Declaration, some States indicated that a special budget for consultation with indigenous peoples had been created. Other States provided funds to address issues facing urban indigenous peoples and undertake studies on employability. To this end, States indicated that international financial institutions would need to aid developing countries throughout the implementation process.

106. Norway cited the development of more sustainable policies as a result of consultations between the Sámediggi and the Norwegian Government as a best practice.

### **III. Responses from indigenous peoples, indigenous peoples' organizations and non-governmental organizations**

#### **A. Overarching implementation strategies**

107. A number of indigenous peoples' organizations indicated that they had developed strategies to implement the Declaration. In some cases, organizations, such as the Community for the Advancement of Native Studies and the San Support Organizations' Association of Namibia, had themselves been created specifically as an implementation strategy. The Aldet Centre noted the establishment of Genetic Resources, Traditional Knowledge and Folklore International, which focused on the implementation of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization to the Convention on Biological Diversity and World Intellectual Property Organization instruments on intellectual property and genetic resources, traditional knowledge and traditional cultural expressions.

108. The Comisión Jurídica para el Autodesarrollo de los Pueblos Originarios Andinos noted that it had developed an overarching strategy to attain the goals of the Declaration, basing its activities on the rights of indigenous peoples to equality and self-determination. One activity had included promoting the creation of a parliament of Qollana Aymara and Quechua peoples across the Peruvian, Chilean and Bolivian borders to develop transborder relationships.

109. Although it had not adopted an overall written strategy for the implementation of the Declaration, the Sami Parliament of Norway reported that it had been engaged in its implementation on a daily basis since its adoption in 2007.

110. Some organizations focused on awareness-raising among indigenous communities and their leadership, the legal community, academics and the wider society. The Indigenous Bar Association had pursued this objective by hosting workshops, posting material for accessible online use and producing an article on experiences of implementation in Canada. The Association cited the Declaration in all its advocacy work. The Naga Women's Union and Naga Peoples Movement for Human Rights had developed implementation strategies to translate the Declaration into indigenous languages and awareness-raising campaigns. The

National Indian Youth Council reported on its advocacy work among urban indigenous peoples.

111. Some indigenous peoples' organizations noted that their implementation strategies included engagement with the United Nations system, in some instances bringing cases before treaty bodies and in others participating actively in international activities and mechanisms related to the rights of indigenous peoples, such as the Committee on the Elimination of Racial Discrimination, the universal periodic review and the Expert Mechanism on the Rights of Indigenous Peoples, to secure compliance with the goals of the Declaration.

112. The primary strategy of the National Native Title Council was to advocate for Governments and other organizations to reference actively the principles and goals of the Declaration. This process entailed, inter alia, the inclusion of indigenous representation in relevant legislative, policy and administrative processes, the promotion of the principle of free, prior and informed consent for traditional land owners and making agreements on issues and developments affecting traditional lands and territories.

113. Several indigenous peoples' organizations indicated that strategies to implement the Declaration were in place, but did not describe them in detail, while several others noted that they did not have specific strategies.

## **B. Specific legal, policy or other measures to implement the rights in the Declaration**

114. In some cases, indigenous peoples' organizations were not aware of any measures adopted by their respective national Governments to implement the Declaration. Several organizations noted that they had made efforts, without success, to encourage States to adopt specific measures for implementation.

115. One organization noted that the national Government was preparing legislation that would address indigenous issues and that indigenous peoples were being consulted, however, the process was considered to be inconsistent with the Declaration. The proposed bill did not mention the Declaration.

116. In terms of measures taken by indigenous Governments, while the Declaration was not mentioned specifically in the resolution of the Rosebud Sioux Tribe that created the Community for the Advancement of Native Studies, the work of the organization was intended to implement the Declaration.

### **Self-determination and autonomy**

117. The Comisión Jurídica para el Autodesarrollo de los Pueblos Originarios Andinos noted that the 15 annual assemblies of the parliament of the Qollana Aymara people of the Andes had been held in accordance with the form of self-government as envisioned under the *ayllu-marka* system. Practising traditional forms of governance provided guarantees for its continuity, even where it was not recognized by States.

### **Participation in decision-making, including the obligation to seek to obtain the free, prior and informed consent of indigenous peoples**

118. One organization noted evidence of the lack of commitment by the Government to upholding the principle of free, prior and informed consent, citing the example of the development by the State of a plan that, although set out as a strategy to attain the goals of the Declaration, was flawed. In particular, the free, prior and informed consent of



indigenous peoples was not sought for aspects of policies that would most directly impact them.

### **Culture and languages**

119. The Comisión Jurídica para el Autodesarrollo de los Pueblos Originarios Andinos noted its efforts to advance the use of Aymara language in some Chilean municipal schools to revitalize traditional culture.

### **Non-discrimination and equality**

120. The Centro de Promoción y Desarrollo Rural Amazónico noted that it was working to promote equal opportunities and non-discrimination in the hiring of indigenous health technicians by the regional health directorate of Ucayali, Peru. Its efforts to do so were consistent with the Declaration and with technical standards regarding the mainstreaming of intercultural approaches to health, particularly with regard to those health practitioners working in indigenous communities.

### **Lands, territories and resources**

121. The National Native Title Council noted its advocacy for the Government of Australia to enshrine the principles of the Declaration in the development of the Murray Darling Basin plan, especially with regard to the right of indigenous peoples to maintain and strengthen their distinctive relationship with their lands, territories, waters, coastal seas and other resources. In relation to the plan, the Council, together with its partners, was also undertaking the national cultural flows research project, which incorporated the principles of the Declaration, especially article 32, paragraph 1.

### **Treaties, agreements and other constructive arrangements with States**

122. The Comisión Jurídica para el Autodesarrollo de los Pueblos Originarios Andinos noted its sponsorship of the Awuayala Tribunal of Justice, a body whose decisions, while not binding, appealed to the conscience and reasoning of humanity. The Tribunal, hosted by the Kallawayá Nation in the Plurinational State of Bolivia, held its first hearing in June 2012 to hear the demand of the Jacha Suyu Pakajaki Nation to reclaim territories taken on the basis of the doctrine of discovery.

## **C. Consideration of the Declaration when devising new laws and policies or other measures that affect indigenous individuals**

123. Several indigenous peoples' organizations reported that the Declaration was not routinely taken into account in State efforts to devise laws, policies or other measures that affect indigenous peoples. In some cases, this was attributed to the lack of recognition of indigenous peoples in the country or the view that indigenous peoples were an impediment to development. In some cases indigenous peoples' organizations had made unsuccessful efforts to encourage States to adopt specific legal, policy and other measures to implement the Declaration.

124. A number of indigenous peoples' organizations noted their own use of the Declaration as a basis for setting standards and in advocacy. The Sami Parliament of Norway, for example, used the Declaration and other international standards on a daily basis in its work. The National Indian Youth Council incorporated the declaration systematically in its discourse and work.

125. The Community for the Advancement of Native Studies noted that its activities were aimed at working with native nations, communities and organizations in identifying, prioritizing, formulating and implementing projects in accordance with their will, priorities and concerns. Going forward, it intended to explicitly insert, whenever feasible, the Declaration into its work.

126. The Comisión Jurídica para el Autodesarrollo de los Pueblos Originarios Andinos was leading processes to rebuild traditional forms of self-government, advocate for the respect of free, prior and informed consent, adopt measures aimed at strengthening Andean cultures and intercultural education, protect traditional lands, territories and resources and collective property and open spaces for traditional justice. In this work, it explicitly cited the Declaration and ILO Convention No. 169.

127. The Naga Women's Union and Naga Peoples Movement for Human Rights stated that the Declaration was a source of strength and power to claim their rights as indigenous peoples. However, the Declaration was not especially mentioned in collective decisions of the Naga people, as collective approaches to decision-making reflected traditional practice.

128. The Native Indian Youth Council had developed a specific policy of advocating for the inclusion of urban indigenous peoples in attaining the goals of Declaration. The organization consciously cited the Declaration within its advocacy efforts.

129. The National Native Title Council followed the Declaration within its own work and practices. It noted that its policy submissions referred to principles in the Declaration, particularly those related to free, prior and informed consent and self-determination.

#### **D. Initiatives to raise awareness of the Declaration at community and government levels**

130. Indigenous peoples' organizations described a number of measures taken or under way to raise awareness regarding the Declaration. Activities focused particularly on translation and dissemination of the Declaration and on carrying out training and holding workshops. Some organizations noted financial constraints on awareness-raising activities.

131. The Aldet Centre had initiated discussions with State officials to make them more sensitive to the Declaration and had also disseminated and publicized the content of Declaration in both English and the Kwéyòl language.

132. The Botswana Khwedom Council noted its use of the Declaration as a point of reference in the workshops it organized and in discussions with the national Government.

133. The Comisión Jurídica para el Autodesarrollo de los Pueblos Originarios Andinos emphasized the importance of dissemination of the Declaration and reported that it had led workshops and seminars about it, noting that there was wide demand among indigenous peoples for such capacity-building tools. However, it expressed concerns about providing those workshops, due to a lack of financial resources. The Centro de Promoción y Desarrollo Rural Amazónico also noted that it was not able to disseminate the Declaration on a large scale due to a lack of financial resources.

134. The Community for the Advancement of Native Studies recently began efforts to raise awareness of the Declaration at various levels of the community and of government to enhance the prospects for its implementation.

135. The International Bar Association published “Understanding and implementing the UN Declaration on the Rights of Indigenous Peoples: an introductory handbook”,<sup>2</sup> which explained the Declaration in thematic clusters and concluded with information on implementation and additional resources. The handbook had been shared with national and provincial authorities, treaty relations commissions, human rights commissions and some domestic courts and had been distributed at a series of workshops conducted across Canada for lawyers, educators, community leaders and human rights workers.

136. Initiatives taken by the Naga Women’s Union and Naga Peoples Movement for Human Rights to raise awareness of the Declaration included the organization of training sessions, workshops, seminars, meetings and community consultations on the Declaration, human rights and United Nations mechanisms. That process included translation and dissemination of the Declaration.

137. The National Khoi-San Council had conducted various workshops relating to the Declaration with indigenous leaders and community representatives in different parts of South Africa, through institutions such as the Indigenous Peoples of Africa Coordinating Committee. It was also noted that the Declaration had been translated from English into Afrikaans, a language spoken widely among Khoi and San peoples.

138. The Native Indian Youth Council reported efforts to integrate the Declaration into its advocacy activities, as well its participation in efforts to raise and promote awareness of the Declaration among Navajo Nation and other tribal leaders.

139. The National Native Title Council worked to raise awareness of the Declaration by incorporating the goals and rights stated in the Declaration into submissions, interventions and recommendations presented to various levels of government and to stakeholders, both domestically and internationally. It emphasized the importance of raising awareness of the Declaration among indigenous peoples. The Council further worked to raise the awareness of Government, industry and indigenous peoples of the need for the extractive industries to engage more efficiently and effectively with indigenous peoples to realize their right to free, prior and informed consent.

140. The Programme d’Intégration et de Développement du Peuple Pygmée au Kivu reported its use of press, media, meetings and workshops to disseminate information about the Declaration. In particular, such efforts were intended to reach concerned indigenous peoples, national and local authorities, community leaders, the army, the police and civil society organizations. It further noted that the Declaration had not been translated into relevant indigenous languages, which was a key issue that should be resolved in the short term.

141. The Khmers Kampuchea-Krom Federation cited the use of websites, online radio stations and social media to raise awareness of the Declaration.

142. The Sami Parliament of Norway was a technical host for the Global Indigenous Preparatory Conference for the High-level Plenary Meeting of the General Assembly, to be known as the World Conference on Indigenous Peoples, held in Alta, Norway, from 10 to 12 June 2013, which provided an opportunity to raise awareness about the rights of indigenous peoples and the Declaration at the local and regional levels.

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<sup>2</sup> Available from [www.indigenousbar.ca/pdf/undrip\\_handbook.pdf](http://www.indigenousbar.ca/pdf/undrip_handbook.pdf).

## **E. Challenges in adopting measures and implementing strategies to attain the goals of the Declaration**

143. Several indigenous peoples' organizations noted that there was a lack of awareness of the Declaration, including on the part of indigenous organizations. In some cases, this was due to the lack of availability of the Declaration and information about it in relevant languages.

144. One organization noted that the lack of awareness in its country related also to the relevance of international law at the national level. Lack of clarity in this regard was contributed to by a government view of the Declaration as being an aspirational document. This position had influenced the views of some indigenous peoples, as well as lawyers and members of the judiciary.

145. Another challenge identified was the perceived complexity of the Declaration in addressing the traditional dichotomy between individual and collective rights in societies. This was seen as a concern in terms of making the Declaration more effective and better understood.

146. One organization noted that the costs of raising awareness regarding the Declaration, which included costly travel to remote areas with dispersed populations, often fell to indigenous peoples and their allies.

147. One of the biggest challenges identified was a lack of political will on the part of States to implement the Declaration and to consider the rights of indigenous peoples more broadly. One organization observed slow progress from its national Government in capturing the essence of the principles and goals of the Declaration. In some cases, there was also a lack of attention paid by authorities to indigenous issues or public support for the rights of indigenous peoples. Several indigenous peoples' organizations noted challenges with regard to, in particular, the implementation of free, prior and informed consent. In some cases, lack of political will also manifested itself in a lack of legislation or public policies directed to indigenous peoples. Indigenous peoples also expressed concern regarding a lack of respect for indigenous land and sea rights. One organization pointed out that they could not fully practice their customs and traditions because their lands were located within a national park.

148. The problematic interpretation of the principle of equality was stated as another challenge in implementing the Declaration. Interpretations of equality that did not take into account that human rights norms accommodated, and in some cases required, special measures, and concerns regarding special or differential treatment of indigenous peoples, were used to excuse failures to implement their rights.

149. Three indigenous peoples' organizations noted challenges relating to a lack of recognition of indigenous peoples in their own countries. Another noted that, although recognized in the country in question, indigenous peoples faced racial discrimination.

150. A number of organizations expressed concern regarding their lack of inclusion and participation in relevant State discussions, public affairs and political processes, including in processes related to laws, policies and programmes. One organization observed that the Government was perceived to be inaccessible. It was further observed that the lack of inclusion of indigenous peoples in relevant discussions resulted in an avoidance of constructive dialogue between indigenous peoples and public authorities. Moreover, in some cases, there was no dialogue with indigenous peoples, even where extractive industries were carrying out activities on indigenous lands.

151. One organization also pointed out the lack of enforcement mechanisms likely to encourage States to abide by the Declaration.

152. Another main challenge identified was the lack of sufficient funding and resources for indigenous representative organizations to function effectively and promote the Declaration. Challenges relating to poor infrastructure and communications facilities were also noted.

153. In terms of challenges within indigenous peoples' organizations or institutions, one organization noted that the many pressures facing indigenous peoples and scepticism of the potential of the Declaration to effect change presented a potential barrier to its implementation. Some indigenous peoples expressed scepticism as to how the Declaration could solve the pressing daily concerns that were common in indigenous communities.

## **F. Best practices**

154. Many indigenous peoples' organizations described measures that would constitute best practices for the implementation of the Declaration.

155. In terms of the role of those organizations, best practices could include taking initiatives to implement the Declaration by ensuring their policies, regulations and laws were in line with its provisions, to better educate all stakeholders on the Declaration and to encourage judges and lawyers to cite it in pleadings and in court. It was also noted that, where States lacked the will to implement the Declaration, indigenous peoples should take initiatives to advocate for implementation before the relevant national, regional and international mechanisms.

156. It was also proposed that best practices regarding appropriate measures and implementation strategies should include education initiatives to raise awareness of the Declaration. Best practices also included the capacity-building of indigenous peoples.

157. The United Nations system could work with indigenous peoples' organizations to provide capacity development regarding the Declaration and to support their work and participation. In this regard, the United Nations was encouraged to continue to support their participation, including through the provision of financial assistance. Several organizations observed that the United Nations could play a positive role in supporting and encouraging States to recognize indigenous peoples and to implement the Declaration.

158. Best practices could also include the strengthening of links between United Nations institutions and grassroots communities and the strengthening of the support provided by United Nations institutions for such communities. It was also proposed that the Expert Mechanism and other relevant United Nations mechanisms collaborate with NGOs to assist indigenous peoples better in proposing measures and implementation strategies to attain the goals of the Declaration.

159. Recommendations were also offered to the United Nations system, including that it evaluate in particular issues relevant to indigenous peoples during sessions of the universal periodic review. One organization called on United Nations mechanisms to further elaborate the legal principles of the Declaration.

160. The National Native Title Council noted that an intensified effort to create awareness of the Declaration among government officials and departments was necessary and could yield positive results in achieving the goals of the Declaration. As an example, the Council noted the sensitizing of the Social Justice Commissioner of Australia to the Declaration and emphasized the importance of a collaborative partnership between the Government of Australia and indigenous peoples to develop a sustainable and empowering strategy that fully realized the Declaration.

161. Indigenous peoples' organizations emphasized that best practices would include the recognition of indigenous peoples in countries where this had not yet occurred;

enforcement of the Declaration and its inclusion in public policies; engagement in consultation processes with indigenous peoples on matters affecting their lives and activities; provision of support for the work of indigenous peoples' organizations in promoting the Declaration; demilitarization; and access to justice. The Centro de Promoción y Desarrollo Rural Amazónico proposed the creation in Peru of an intercultural committee in charge of indigenous interests.

## **IV. Concluding comments**

162. The Expert Mechanism on the Rights of Indigenous Peoples very much appreciates the responses of States and of indigenous peoples, indigenous peoples' organizations and NGOs to its questionnaire, especially because the responses can provide inspiration for creative strategies to implement the Declaration.

### **A. States**

163. The majority of responses received from States provided information at a very general level. In particular, there was almost no information indicating the effectiveness of the measures taken. Most States only provided positive answers to questions. Negative answers would also provide greater understanding of the challenges States face when implementing the Declaration.

164. Many States identified national legislation that recognized and protected the rights of indigenous peoples, which the Expert Mechanism acknowledges as a significant achievement. However, States did not indicate whether there were sufficient administrative measures in place to ensure that the legal measures result in effective protection of those rights.

165. Although several States reported on sectoral initiatives to implement provisions of the Declaration, only a limited number of States had introduced comprehensive strategies or action plans for the full implementation of the Declaration. The rights contained in the Declaration are interdependent and interrelated and as such, their implementation requires comprehensive approaches and actions.

166. While not explicitly stated in the responses to the questionnaire, some States appeared to perceive a struggle to balance the recognition and implementation of the rights of indigenous peoples, as articulated in the Declaration, and the principle of equality. Equality continues to be interpreted by some States as prohibiting specialized programmes aimed at achieving the goals of the Declaration. The Expert Mechanism stresses that substantive equality may require treating indigenous peoples as distinct groups facing unique circumstances.

167. Some State responses suggested that they were vague about the definition of indigenous peoples, including in terms of distinctions between minorities and indigenous peoples. Some States also indicated that indigenous peoples constituted the numerical majority within the State and thus did not present any concern for the recognition of their rights, which, in the view of the Expert Mechanism, is not always the case. Conversely, other States indicated that no groups within the State fitted the definition of indigenous peoples.

168. One challenge raised was the attempt by a few persons and NGOs to undermine the land titling and demarcation process by advising indigenous peoples to claim more lands than they traditionally occupied, reject the process of titling and demarcation and/or to make no request for such demarcation. Such frustration indicates that a

tension may exist between States, indigenous peoples and NGOs on the best approach to achieving the goals of the Declaration. Again, additional information by States on how to work through these differences to promote harmonious relations would greatly assist other States to continue to work towards implementation.

## **B. Indigenous peoples, indigenous peoples' organizations and non-governmental organizations**

169. Many indigenous peoples' organizations detailed their approaches, which included activities at all levels, for attaining the goals of the Declaration. Most of the indigenous organizations which responded to the questionnaire were engaged in at least one of the following activities: advocacy; capacity-building, including by developing and disseminating resources and conducting training on the Declaration for communities, indigenous peoples and public authorities; conducting research regarding indigenous concerns; and translating the Declaration into indigenous languages.

170. Very few organizations proposed overarching strategies at the national level. However, some indigenous peoples' organizations were focused mainly on thematic issues and, as mentioned by many organizations, their institutional activities were generally limited due to a lack of financial resources and to a lack of will of States to cooperate with indigenous peoples. Some organizations had, however, developed articulated activities at both the national and international levels to maximize the impact of their strategies with respect to implementation of the Declaration by the State.

171. Most of the organizations that responded reported the integration of the spirit and standards of the Declaration within their internal guidelines, practices and activities. Several also noted that they were disposed to participate in local or national public processes when established in cooperation and good faith with indigenous peoples and organizations. Nevertheless, several alleged reluctance on the part of States to engage adequately or at all with indigenous peoples on matters that had an impact on them.

172. Most organizations reported a lack of attention from States in considering the Declaration and the rights of indigenous peoples, a lack of understanding of the status and legal value in domestic legal systems of the Declaration and a lack of public support for indigenous peoples. All these concerns prevented the full implementation of the Declaration.

173. Relevant best practices cited included asking United Nations mechanisms to assist indigenous peoples better in advancing implementation strategies. Nationally and locally, efforts, on the part of both States and indigenous peoples, were needed to raise awareness regarding the Declaration.