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## Human Rights Council

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

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

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

### *Summary*

The present report is submitted pursuant to resolution 21/24 of the Human Rights Council. It contains information on relevant developments of human rights bodies and mechanisms and outlines the activities undertaken by the Office of the High Commissioner for Human Rights at headquarters and in the field that contribute to the promotion and the full application of the provisions of the United Nations Declaration of the Rights of Indigenous Peoples, and follow-up on the effectiveness of the Declaration. The report covers the period between May 2012 and April 2013.

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## **I. Introduction**

1. In its resolution 21/24 concerning human rights and indigenous peoples, adopted on 28 September 2012, the Human Rights Council requested the High Commissioner for Human Rights to continue to submit to the Human Rights Council an annual report on the rights of indigenous peoples containing information on relevant developments in human rights bodies and mechanisms and activities undertaken by the Office of the High Commissioner at Headquarters and in the field that contribute to the promotion of, respect for and the full application of the provisions of the United Nations Declaration on the Rights of Indigenous Peoples.

2. The present report focuses on some illustrative examples of the OHCHR activities and initiatives undertaken at Headquarters and by field presences that contribute to the full application of the rights of indigenous peoples. These do not aim to offer an exhaustive overview of the work of OHCHR on indigenous peoples' rights, but rather to provide some examples of the action taken at country, regional and headquarters levels. The report also provides an overview of the recent developments within United Nations human rights mechanisms insofar as their work pertains to indigenous peoples.

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

3. During the period under review, the Office of the High Commissioner for Human Rights (OHCHR) continued to work in a wide range of contexts for the promotion and the full application of the United Nations Declaration on the Rights of Indigenous Peoples. The rights of indigenous peoples have continued to be a priority issue for the High Commissioner and indigenous issues figure prominently in the OHCHR Strategic Management Plan for 2012-2013.

4. The High Commissioner has regularly addressed indigenous peoples' rights in her communication with authorities and others concerned. OHCHR has also played an active role in the efforts to raise the profile of indigenous peoples in the context of the Human Rights Council, including through its support to the Expert Mechanism on the Rights of Indigenous Peoples (discussed below) and by organizing, during the twenty-first session of the Human Rights Council in September 2012, a Human Rights Council panel on indigenous peoples' issues, devoted to indigenous peoples' access to justice.

5. OHCHR has continued to play an active role in various inter-agency initiatives, including in the Inter-Agency Support Group on Indigenous Issues. IASG met at the Secretariat of the Convention on Biological Diversity in Montreal, from 28 to 30 November 2012. Twenty-seven participants from the twenty-one agencies participated in the meeting, including via video-conferencing. The participants agreed on the need for the continuation of training of United Nations country teams, governments and indigenous peoples and emphasized the importance of the national and local level implementation of the United Nations Declaration on the Rights of Indigenous Peoples. Areas for cooperation among agencies were identified to maximize coordination and avoid duplication. IASG Agencies also discussed opportunities to support indigenous peoples in preparatory processes for the World Conference on Indigenous Peoples including through the provision of funding as well as through meetings and workshops. The IASG also identified ways to advance indigenous peoples' inclusion in the development of the post-2015 development agenda and sustainable development goals.

## A. United Nations Indigenous Peoples Partnership Initiative

6. The United Nations Indigenous Peoples Partnership Initiative (UNIPP) was officially launched in New York in May 2011. This joint initiative between OHCHR, the International Labour Organization (ILO), the United Nations Children's Fund (UNICEF), the United Nations Development Assistance Framework (UNDAF) and the United Nations Development Programme (UNDP) was launched as a response to a recommendation by the Permanent Forum on Indigenous Issues to strengthen partnerships for the promotion and implementation of indigenous peoples' rights through joint country programmes.

7. OHCHR has been co-chairing the Policy Board of UNIPP and worked closely with the indigenous experts of the Board to ensure that United Nations entities involved not only combine their respective efforts and expertise but also work in true partnership with States and, crucially, with indigenous peoples. As equal partners, indigenous experts made sure that all UNIPP country programmes are not merely about indigenous peoples, but also designed and implemented with their participation.

8. UNIPP implementation started in 2012 with six United Nations joint programmes in Bolivia, Cameroon, Central African Republic, Nicaragua and Republic of Congo as well as through a regional programme in Southeast Asia. These programmes are firmly rooted in the United Nations Declaration on the Rights of Indigenous Peoples, ILO Convention No. 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries and other key standards and they reflect the findings of the Special Rapporteur on the Rights of Indigenous Peoples, treaty bodies and other human rights mechanisms.

9. The Annual Progress Report on the Implementation of the United Nations-Indigenous Peoples Partnership (UNIPP) issued in May 2013 shows that, despite its recent launch, UNIPP is already having an impact. It has increased cooperation between United Nations partners and prompted more inclusive working methods, with indigenous peoples as key partners. UNIPP has also contributed to capacity-building and to the establishment of inclusive dialogue and consultative mechanisms between governments and indigenous peoples. Moreover, it has supported the development of new national legislation to protect the rights of indigenous peoples. UNIPP has also prompted United Nations partners to come together coherently, guided by the principles set forth in the United Nations Declaration on the Rights of Indigenous Peoples and ILO Convention No. 169 (1989) concerning Indigenous and Tribal Peoples.

10. For example, in the Republic of Congo, UNIPP contributed to the development of seven Governmental decrees to facilitate the implementation of the law on indigenous peoples in July 2012. This is the first law in Africa devoted to indigenous peoples, and the decrees aim to ensure its full implementation in key thematic areas, such as the protection of traditional knowledge, cultural heritage and sacred sites of indigenous communities as well as in access to education and health services. In Nicaragua, the UNIPP programme has already created a new space for dialogue between indigenous peoples and authorities and enhanced understanding on the right of indigenous peoples to consultation through a series of capacity-building activities. The strengthening of the participation and the voice of indigenous peoples in matters that directly affect them is also at the heart of concrete advances made through the UNIPP programme in Bolivia.

11. In South-East Asia, UNIPP is implemented through a series of regional activities promoting effective strategies to protect indigenous peoples' right to their forest lands and natural resources. National consultations were held in the Philippines, Vietnam and Indonesia. In November 2012, in collaboration with the Asia Indigenous Peoples Pact, UNIPP organized the Asia Regional Preparatory meeting in preparation for the upcoming World Conference on Indigenous Peoples. The full progress report on UNIPP status of implementation is available at the MPTF Office Gateway.

## B. Capacity-building

12. During the reporting period, the Office contributed to developing the knowledge and capacity of 23 indigenous representatives from Bolivia, Canada, the Democratic Republic of Congo, Guatemala, India, Indonesia, Mali, New Caledonia, New Zealand, Panama, Peru, the Philippines, the Russian Federation, Uganda and Venezuela (Bolivarian Republic of) through its extensive annual human rights training programme – the “Indigenous Fellowship Programme” – which took place in Geneva in June-July 2012. Trained beneficiaries learned in theory and practice how to make use of human rights instruments and mechanisms to promote and protect the rights of their indigenous communities at the international level. In their final evaluations the fellows also stated how much they valued the insightful contributions by the United Nations Educational, Scientific and Cultural Organization (UNESCO), ILO, the World Intellectual Property Organization (WIPO) and UNICEF, as well as by Geneva-based human rights non-governmental organizations (NGOs) such as the Centre for Civil and Political Rights, the International Movement Against All Forms of Discrimination and Racism (IMADR), the International Service for Human Rights (ISHR), Universal Periodic Review (UPR) information, the Indigenous Peoples’ Center for Documentation, Research and Information (doCip), and Mandat International. Furthermore, the Office in Geneva welcomed a “Senior” Indigenous Fellow from Canada who undertook a four-month on-the-job training course through which he contributed to the activities of the Indigenous Peoples and Minorities Section.

13. Additionally, two indigenous fellows who had already been trained in Geneva were given the opportunity to further their knowledge by undertaking national fellowships in OHCHR field presences in the Russian Federation and Guatemala. Their active involvement and inputs to the activities of the Office in these two countries were very much appreciated and their knowledge of indigenous issues was an asset in supporting the Office’s programmes on indigenous issues.

14. The United Nations Voluntary Fund for Indigenous Populations – managed by OHCHR on the basis of advice from a Board of Trustees – continued to support the participation of indigenous organizations in the sessions of the United Nations Permanent Forum on Indigenous Issues, the Expert Mechanism on the Rights of Indigenous Peoples, the Human Rights Council, including its Universal Periodic Review mechanism, and the treaty bodies. In September 2012, the General Assembly adopted resolution 66/296, expanding the mandate of the Fund to include support for indigenous peoples to participate in the 2014 World Conference on Indigenous Peoples, as well as in the preparatory process for the conference.

15. In 2012, 54 travel grants were awarded for representatives of indigenous communities and organizations to participate in the sessions of the Permanent Forum on Indigenous Issues, the Expert Mechanism on the Rights of Indigenous Peoples, the sessions of the Human Rights Council and its UPR process, and in sessions of the Human Rights Committee, the Committee on the Rights of the Child, the Committee on the Elimination of Racial Discrimination, the Committee on Economic, Social and Cultural Rights, and the Committee against Torture.

16. The Fund also organized and funded six human rights training modules in four languages, in Geneva and New York, to increase the capacity of grantees and other indigenous representatives to effectively participate in human rights mechanisms. Additionally, follow-up mechanisms were strengthened to ensure that the participation of indigenous representatives contributes to the implementation of recommendations issued by human rights mechanisms and the national-level implementation of the Declaration on the Rights of Indigenous Peoples.

17. At its twenty-sixth session in February 2013, the Board of Trustees selected 27 representatives of indigenous communities and organizations to attend the twelfth session of the Permanent Forum on Indigenous Issues in May 2013, 20 indigenous representatives to attend the sixth session of the Expert Mechanism, 3 indigenous representatives to attend the

ninth session of the Committee on the Rights of Persons with Disabilities; four indigenous representatives to attend the sixteenth session of the Working Group of the Universal Periodic Review, and one indigenous representative to attend the twenty-third session of the Human Rights Council. Furthermore, the Board set aside USD 43,600 to allow 15 representatives of indigenous communities and organizations – to be selected at the three inter-sessional meetings held in May, August and November 2013 – to attend the sessions of the Human Rights treaty bodies, the Human Rights Council and its UPR process to take place between July 2013 and March 2014.

18. OHCHR carried out a number of training and briefing sessions as part of its efforts to promote the Declaration on the Rights of Indigenous Peoples, including briefings for OHCHR staff and for human rights treaty bodies. As part of its work to provide guidance for national human rights institutions (NHRIs) on how to advance the principles of the Declaration, OHCHR organized a training workshop, held in Swakopmund from 29 to 31 October 2012, for the staff of the Ombudsman Office in Namibia and for officials of the Ministries of Justice, Education, and Gender Equality and Child Welfare as well as representatives of indigenous communities. Participants identified the key human rights challenges severely affecting the San and Himba indigenous communities and discussed the relevance of the United Nations Declaration on the Rights of Indigenous Peoples and in particular its provisions related to the right of consultation and participation of indigenous communities in decision-making.

19. At the invitation of the Ministry of Justice and Human Rights of the Republic of Congo and within the framework of the recently launched United Nations Indigenous Peoples' Partnership project in Congo, OHCHR participated in an expert meeting held in Brazzaville from 26 to 28 July 2013. The participants discussed follow-up to Law N°5-2011 on the Promotion and Protection of the Rights of Indigenous Populations and the development of implementing decrees which have been prepared by the Government in response to key provisions of the Law. The meeting brought together 42 officials from the different Ministries, focal points on indigenous issues from the United Nations Country Team (UNCT), the Secretariat of the Human Rights Department of the Ministry of Justice, and 24 indigenous representatives from eight provinces. The participants examined seven implementing decrees to ensure that the drafts are in line with the principles of the United Nations Declaration on the Rights of Indigenous Peoples. OHCHR and members of the UNCT in Brazzaville, including UNICEF, UNDP and the United Nations Populations Fund (UNFPA), provided support and substantive expertise on the drafts. Decrees were related to the following issues: use of traditional knowledge and benefit-sharing; protection of cultural heritage and sacred sites; special measures on access to education, health services and protection of traditional medicine; procedures of consultation and participation in decision-making concerning development programmes; establishment and mandate of the Inter-ministerial Committee on the protection of indigenous populations; and citizenship.

20. OHCHR organized a seminar entitled “Strengthening partnership between indigenous peoples and States: treaties, agreements and other constructive arrangements”, which took place in Geneva from 16 to 17 July 2013. The seminar was chaired by Hon. Justice Williams, former Chair of the Waitangi Tribunal in New Zealand, and benefited from the participation of experts who introduced various examples of treaties, agreements and other constructive arrangements from different regions of the world, demonstrating that this is not an issue that is relevant in only a limited number of contexts. They also made a number of recommendations aimed at enhancing the implementation of such treaties. Several members of the United Nations Expert Mechanism on the Rights of Indigenous Peoples, the Permanent Forum on Indigenous Issues and the Committee on the Elimination of Racial Discrimination also highlighted the critical role of United Nations mechanisms in advancing the issue further and promoting implementation of treaties, agreements and other constructive agreements.

21. OHCHR has also been involved in other United Nations agencies' policy development related to the rights of indigenous peoples, including that undertaken by the Food and Agricultural Organization of the United Nations (FAO) and Global Compact.

### C. Guidance tools

22. OHCHR continued to support the role of parliamentarians in the protection of the rights of indigenous peoples. The Office has jointly authored *The United Nations Handbook for Parliamentarians: Implementing the United Nations Declaration on the Rights of Indigenous Peoples*, together with UNDP, the International Fund for Agricultural Development (IFAD), the Inter-Parliamentary Union and the Secretariat of the Permanent Forum on Indigenous Issues. The handbook aims to be a practical instrument to enable parliamentarians around the world to better understand indigenous peoples' rights and to provide practical ideas for the implementation of the Declaration.

23. OHCHR further developed its close engagement with NHRIs on indigenous issues. *The United Nations Declaration on the Rights of Indigenous Peoples: A Manual for National Human Rights Institutions* was prepared in cooperation with the Asia Pacific Forum, and circulated to NHRIs in all regions in 2012. The process of preparing the handbook, which is to be issued in 2013, has in itself helped to strengthen NHRI engagement and initiatives focusing on the human rights of indigenous peoples. The Manual introduces the background and context of the Declaration and focuses on measures which NHRIs can take at the national and international level to protect and promote indigenous peoples' rights. The Guide also presents good practices from different NHRIs to illustrate effective ways of implementing the Declaration.

24. OHCHR continued to pay special attention to the situation of indigenous peoples in voluntary isolation and issued guidelines in May 2012 on indigenous peoples in voluntary isolation and initial contact in the Amazon Basin and El Chaco, following a series of consultations in the region, aimed at supporting the formulation of national policies rooted in non-discrimination and other rights of indigenous peoples. Further to several high-level launching events in Peru, Colombia and Paraguay, a number of concrete initiatives are now being implemented, with OHCHR field presences and in cooperation with the authorities concerned, to promote this new tool and its practical implementation. It has already influenced decision-making processes at the national level and helped to ensure that legislation, policies and programmes related to indigenous peoples are in line with international human rights standards.

25. In 2012, OHCHR published *Human Rights Indicators: A Guide to Measurement and Implementation*, which aims to assist in developing quantitative and qualitative indicators to measure progress in the implementation of international human rights norms and principles. The Guide refers to the situation of indigenous peoples and provides concrete examples of indicators related to the implementation of their human rights.

26. In Ecuador, OHCHR published a training of trainers' guide on the collective rights of the peoples and nationalities of Ecuador, tailored to the judiciary, the Ombudsman's Office, the national police and the armed forces.

27. OHCHR is also working on a guidance tool for its field presences on consultation with indigenous peoples to ensure a better, shared understanding of the scope, requirements and implications of indigenous peoples' right to consultation. The tool aims to strengthen country-level capacities for implementation of indigenous peoples' right to consultation. In May 2013, the Office organized a regional seminar in Peru to share and discuss the content of the guidance note with indigenous representatives and staff from OHCHR and other relevant United Nations agencies.

## **D. Activities of field presences**

28. OHCHR field presences carried out a range of activities on indigenous peoples' rights at the regional and country level, including monitoring, support for legal reform, technical cooperation, capacity-building initiatives and awareness-raising. Some of these are highlighted above in connection with UNIPP activities, and some selected additional activities are described below. OHCHR field presences also consistently supported the work of special procedures mandate holders and provided support for the country visits of the High Commissioner.

29. During the reporting period, OHCHR in Cambodia monitored 72 ongoing and unresolved land disputes between affected communities, authorities and businesses in both rural and urban areas. Interventions by OHCHR took the form of facilitation of dialogue, court process monitoring, and legal and procedural advice. OHCHR contributed substantially to research and advocacy on the granting and management of economic and other land concessions, including those related to agro-industry, mining, hydropower dams and other large-scale infrastructure projects, and the human rights impact of concessions, especially in recognized protected areas and on indigenous peoples' land.

30. The Office has been working closely with the Ministry of Rural Development and Ministry of Interior to promote indigenous peoples' rights to land in Cambodia. In collaboration with ILO and other development partners, OHCHR monitored efforts countrywide for indigenous peoples to organize and be recognized as legal entities and apply as a community for collective land title, as recognized in the domestic legal framework.

31. OHCHR also contributed to advocacy more generally for indigenous peoples' land rights and cultural and linguistic rights with the use of the media (press statements, publications and video). In order to promote more responsible business practices in the land sector and to counter inadequate regulation and oversight of businesses operating in Cambodia, OHCHR contributed to awareness-raising and capacity-building in the area of business and human rights. OHCHR targeted civil society organizations, government, community representatives and business actors to support their increased understanding of concepts in the United Nations Guiding Principles on Business and Human Rights and their application in the Cambodian context. OHCHR gave presentations at eight seminars and consultations for civil society, reaching over 200 representatives of NGOs and indigenous communities countrywide. OHCHR assisted with the development of a picture book on business and human rights for indigenous communities, focusing on adequate consultation and compensation.

32. With respect to OHCHR work in Africa, the Sub-Regional Centre for Human Rights and Democracy in Central Africa (OHCHR Central Africa Regional Office – CARO) organized two sensitization seminars on indigenous peoples for the Government and other stakeholders in Cameroon to support the national process towards new legislation on the protection of the rights of indigenous peoples in the country

33. In 2012, the Regional Office for Central America worked closely with the Ombudsperson in Panama on the establishment of an internal mechanism to monitor the human rights situation of indigenous peoples and Afro-descendants. The proposal is the result of a baseline study of the existing procedures, capabilities and resources of the NHRI to register and monitor the human rights situation of indigenous peoples and Afro-descendants. The NHRI committed to continuing efforts to further strengthen its capacities in this area with the technical support of the Regional Office. It was agreed to draft intervention protocols for cases of racial discrimination and human rights violations against indigenous peoples and Afro-descendant communities in 2013. During the year, NHRI staff awareness of the human rights situation of indigenous and Afro-descendant populations was increased.

34. Under the auspices of the Regional Office, the NHRI organized dialogue sessions with indigenous peoples and Afro-descendants. The Office guided the discussions and contributed, through these sessions, to building confidence between the indigenous peoples and Afro-descendant populations on the one hand and the NHRI on the other. These dialogue sessions have been a key step in enhancing the credibility of the NHRI and are expected to contribute to the improvement of its action and monitoring capacities for the human rights situation of indigenous peoples and Afro-descendants in 2013. In addition, the Regional Office encouraged the Ombudsperson to appoint the members of the National Commission against Discrimination and supported the development of the Operational Annual Plan 2012, the Strategic Plan and the Internal Rules of Procedure. In order to develop the Internal Rules of Procedure, the Regional Office held several working sessions with the Commission members to clarify key concepts and definitions concerning equality and non-discrimination and to highlight how racial discrimination occurs in different areas.

35. In Bolivia, the Plurinational Constitutional Court (PCC) issued a decision regarding the right of indigenous peoples to consultation, specifically of the indigenous communities living in the Isiboro Secure National Park and Indigenous Territory (TIPNIS) in June 2012. This important decision describes the nature and scope of the right to consultation, the principles applicable, the steps to ensuring its enjoyment, and other intertwined rights, such as the right to self-determination, according to international standards. OHCHR in Bolivia played a key role in assisting the PCC to develop its doctrinal knowledge on the subject matter. The office enhanced the awareness of judges and magistrates of these issues by organizing training activities, an international seminar and other activities, with the participation of 130 judges and judicial officials from the PCC.

36. OHCHR in Bolivia also delivered several training sessions on the right to consultation and legal pluralism, including for officials from the Ministry of the Interior and parliamentarians. These activities improved the knowledge and understanding of elected authorities and civil servants of the right of indigenous peoples to consultation, with the aim of facilitating the inclusion of international standards in the forthcoming framework law on the right of indigenous peoples to consultation.

37. The Office in Guatemala provided technical assistance to the Ministry of Energy and Mining (MEM). In coordination with the Vice-Ministry of Sustainable Development, the office organized two training sessions with the staff of the MEM, on international human rights standards and the rights of indigenous peoples, particularly as regards the duty of States to consult with indigenous peoples. Following these capacity-building activities and meetings with the Vice-Ministry of Sustainable Development, the MEM is leading a discussion with other Ministries on a proposal to initiate a dialogue process with indigenous communities that would be affected by a project involving a hydroelectric plant and another related to a mining operation. The Office is also expecting that this process will open the way for a dialogue process in other cases.

38. In Ecuador, OHCHR supported the project “Watching out for racism: critical community monitoring of anti-discrimination policies in Ecuador” carried out by the Observatory on Racial Discrimination and Ethnic Exclusion. This important monitoring and evaluation mechanism has as its main objective to promote the critical observation of the implementation of public policies against racism and racial discrimination, including the national action plan against racial discrimination by indigenous and afro-Ecuadorian communities. The project generates knowledge about human rights, particularly equality and non-discrimination and anti-discriminating public policies in Ecuador among local indigenous and afro-Ecuadorian organizations.

39. In South America, the Regional Office delivered training on indigenous peoples’ rights to the United Nations Country Team in Peru and, in Temuco, Chile, focusing on the rights of indigenous children and how to present individual cases to international bodies.

### **III. Human rights bodies and mechanisms**

#### **A. Expert Mechanism on the Rights of Indigenous Peoples**

40. The Expert Mechanism on the Rights of Indigenous Peoples held its fifth session in July 2012. It discussed the Declaration on the Rights of Indigenous Peoples, including an interactive dialogue with a representative from the Permanent Forum on Indigenous Issues and the Special Rapporteur on the rights of indigenous peoples. The Expert Mechanism adopted its final report on its study on the role of languages and culture in the promotion and protection of the rights and identity of indigenous peoples, including its advice No. 3 (2012) on indigenous peoples' cultures and languages and advice No. 4 (2012) on indigenous peoples and the right to participate in decision-making, with a focus on extractive industries. The study, together with a number of proposals made by the Expert Mechanism, was presented to the Human Rights Council at its twenty-first session in September 2012, which included an interactive dialogue with representatives of the Expert Mechanism.

41. In February 2013, OHCHR organized an expert seminar on access to justice in the promotion and protection of the rights of indigenous peoples in cooperation with the Columbia University Institute for the Study of Human Rights and the International Center for Transitional Justice. The main objective of the seminar was to obtain additional substantive input to the thematic study of the Expert Mechanism on access to justice in the promotion and protection of the rights of indigenous peoples, to be discussed at the sixth session of the Expert Mechanism in July 2013.

42. The Expert Mechanism undertook a number of intersessional activities, including participation in preparatory meetings on the World Conference on Indigenous Peoples, in the Forum on Minority Issues and in the twelfth session of the United Nations Permanent Forum on Indigenous Peoples' Issues. The Expert Mechanism also briefed a number of the human rights treaty bodies on its work and especially its studies related to the rights of indigenous peoples.

43. OHCHR has also played an active role in the efforts to raise the profile of indigenous peoples in the context of the Human Rights Council, including through its support to the Expert Mechanism on the Rights of Indigenous Peoples and by organizing, during the twenty-first session of the Human Rights Council in September 2012, a Human Rights Council panel on indigenous peoples' issues, devoted to indigenous peoples' access to justice.

44. Furthermore, OHCHR provided support to the members of the Expert Mechanism on the Rights of Indigenous Peoples in their engagement with activities associated with their work throughout the year, including attendance at the African Commission on Human and Peoples Rights; the consultation by UNESCO about engagement with indigenous peoples; the Forum on Business and Human Rights, and preliminary meetings associated with the organization of the World Conference on Indigenous Peoples. Through such contributions, the Expert Mechanism helped to enhance the visibility of indigenous peoples' rights in these forums, in particular their right to participate in decision-making.

#### **B. Special procedures**

45. The various activities that the Special Rapporteur on the Rights of Indigenous Peoples has carried out in the past year fall within four areas of work: promoting good practices, thematic studies, country reports, and responding to cases of alleged human rights violations. With respect to the development of thematic studies, the Special Rapporteur has made continued progress in his ongoing study on the issue of extractive industries affecting indigenous peoples. He has attended numerous workshops to gather information and exchange

ideas with indigenous representatives, business enterprises and non-governmental organizations about the issue. The Special Rapporteur also launched an online forum for gathering inputs regarding specific cases of extractive projects affecting indigenous peoples. He will present his final report to the Human Rights Council on this issue in September 2013.

46. Between May 2012 and April 2013, the Special Rapporteur carried out country visits to the United States, El Salvador, and Namibia. In March 2012, he also held a consultation with indigenous representatives from throughout the Asia region in Kuala Lumpur, Malaysia, to gather information about concerns of indigenous peoples in Asia. Within this time frame, the Special Rapporteur has also sent numerous communications to governments regarding specific cases. In many of these cases, the Special Rapporteur has sent follow-up letters to the governments concerned with his observations on the case and recommendations for addressing the issues involved in accordance with relevant international human rights standards.

47. The Special Rapporteur continued to cooperate with the Permanent Forum on Indigenous Issues and the Expert Mechanism on the Rights of Indigenous Peoples. They met to share work agendas, identify the strengths and limitations of their respective mandates, and explore methods of channelling their work in the most effective way.

48. During the reporting period, other special procedure mandate holders also looked into the situation of indigenous peoples within their respective mandates. For example, the report of the Special Rapporteur on violence against women on gender-related killings of women addressed the extremely high levels of violence experienced by indigenous women (A/HRC/20/16). Furthermore, the Special Rapporteur on the human right to safe drinking water and sanitation referred in her thematic report to the Council on the links between stigma and the human rights framework (A/HRC/21/42) to the situation of indigenous peoples who are disproportionately excluded from access to water and sanitation and are often neglected in terms of access to services.

49. The Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes addressed indigenous peoples' issues in the report of his visit to the Marshall Islands and the United States of America (A/HRC/21/48/Add.1) in which he recommended the implementation of mechanisms that strengthen the capacity of indigenous peoples to further their own development priorities.

50. Furthermore, the Special Rapporteur on the right to food addressed indigenous peoples' issues in a number of contexts, including in the report on his visit to Canada (A/HRC/22/50/Add.1), in which he drew attention, inter alia, to the long history of political and economic marginalization that has left many indigenous peoples living in poverty with considerably lower levels of access to adequate food relative to the general population.

51. The United Nations Working Group on the issue of human rights and transnational corporations and other business enterprises called on States and businesses to address the heightened risk of vulnerability of groups, including indigenous peoples, affected by business activities. In its first report to the Human Rights Council, the Working Group recognized that some groups and individuals, including indigenous peoples, face particularly significant obstacles when seeking remedies for business-related human rights grievances. The Working Group further noted that indigenous peoples in all regions are profoundly and disproportionately affected by business-related activities, such as resource extraction and infrastructure development and the fact that they frequently face discrimination in law and social practice and are marginalized in the development of policies, laws and regulations that have a bearing on business and human rights issues that affect them. The Working Group therefore announced that it would specifically address the situation of indigenous peoples as a group vulnerable to the impact of business activities.

52. The Working Group met with indigenous experts in Copenhagen in November 2012, to discuss challenges relating to the implementation of the United Nations Guiding Principles

with regard to indigenous peoples. These challenges were also the topic of a panel discussion during the first annual Forum on Business and Human Rights in Geneva in December 2012. At its third session (26-30 November 2012), the Working Group decided to submit a thematic report to the sixty-eighth session of the General Assembly in 2013 that will focus on the situation of indigenous peoples with regard to the prevention of negative impacts of business activities on the rights of indigenous peoples, and addressing such impacts when they occur. The Working Group invited relevant stakeholders to a public consultation on this thematic report held in Geneva in February 2013.

### **C. Treaty bodies**

53. The Committee on the Elimination of Racial Discrimination continued to pay particular attention to the situation of indigenous peoples in its early warning and urgent action procedures and its consideration of the reports by State parties. It raised indigenous peoples' issues in its concluding observations on Belize, Fiji, Finland, Thailand, New Zealand and the Russian Federation. In particular, the Committee highlighted the need to establish mechanisms for constructive dialogue and participation, and to establish effective consultation processes with affected communities, according to international standards, for any project that may affect indigenous people's territory or have an impact on their livelihood. It further reiterated the importance of providing education in indigenous languages, including by training more teachers in indigenous languages. The Committee on the Elimination of Discrimination against Women raised indigenous peoples' issues in its concluding observations on Indonesia and Mexico and also commented on the situation of indigenous peoples in Chile.

54. During the period under review, the Human Rights Committee addressed the situation of indigenous peoples in its concluding observations on Kenya, Paraguay, Peru and Belize. It recommended, for example, that in planning its development and natural resource conservation projects the authorities should respect the rights of indigenous groups to their ancestral land and ensure that their traditional livelihood that is inextricably linked to their land is fully respected.

55. The Committee on Economic Social and Cultural Rights raised questions concerning indigenous peoples in the Congo, Ecuador, New Zealand and Tanzania. In particular, the Committee expressed concern about the adverse effects as a result of the extractive industries' activities on the health of indigenous peoples, in particular on the access to safe drinking water. It is also concerned that independent impact assessments on water, air and soil conditions are not always carried out prior to the granting of licences to companies. The Committee was further concerned that effective consultation and prior informed consent of indigenous peoples is not systematically sought in decision-making processes relating to the exploitation of natural resources in their traditional territories.

56. Indigenous peoples in Canada, Peru and Ecuador were addressed also in the concluding observations by the Committee against Torture. The Committee on the Rights of the Child issued conclusions and recommendations concerning indigenous peoples in Australia, Canada, Namibia and Vietnam. The Committee on the Rights of Migrant Workers raised indigenous peoples' issues in its concluding observations on Paraguay. The Committee on the Rights of Persons with Disabilities raised indigenous peoples' issues in its concluding observations on Argentina, Paraguay and Peru.

### **D. Universal Periodic Review**

57. Issues concerning indigenous peoples were frequently addressed in the context of the Universal Periodic Review. They were raised in many national reports, compilations of United

Nations information, and summaries of stakeholders' information and recommendations, including those made at the three sessions covered by the present report. For example, at the thirteenth session of the universal periodic review, from 21 May to 4 June 2012, recommendations with reference to indigenous peoples were made in respect of Brazil, Ecuador, Finland, Indonesia and the Philippines. During the fourteenth session, from 22 October to 5 November 2012, recommendations with reference to indigenous peoples were made in the context of the reviews of Argentina, Gabon, Guatemala and Peru. At the fifteenth session, from 21 January to 1 February 2013, recommendations with reference to indigenous peoples were made in respect of Botswana.

#### **IV. Conclusions**

**58. The rights of indigenous peoples have remained a priority for OHCHR. During the period under review, OHCHR further strengthened its work to advance the rights of indigenous peoples at the country level and increased its efforts to give practical guidance on the content of the provisions of the United Nations Declaration on the Rights of Indigenous Peoples to various key stakeholders ranging from Parliamentarians to national human rights institutions.**

**59. The United Nations Indigenous Peoples Partnership (UNIPP) initiative has also prompted United Nations partners to come together coherently, guided by the principles set forth in the United Nations Declaration on the Rights of Indigenous Peoples and ILO Convention No. 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries. OHCHR has worked closely with the indigenous experts and United Nations agencies involved to ensure that all UNIPP country programmes are not merely about indigenous peoples, but also designed and implemented with their participation, and implemented in true partnership with indigenous peoples and States.**

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