

4TH Volume

STATE OF THE WORLD'S INDIGENOUS PEOPLES

IMPLEMENTING THE
UNITED NATIONS DECLARATION ON
THE RIGHTS OF INDIGENOUS PEOPLES



United Nations



Department of Economic and Social Affairs
Division for Inclusive Social Development
Indigenous Peoples and Development Branch/
Secretariat of the Permanent Forum on Indigenous Issues

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Department of Economic and Social Affairs

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Contents

Acknowledgements	iv
Abbreviations used in the report.	v
FOREWORD	vii
INTRODUCTION	ix
CHAPTER 1	
IMPLEMENTATION OF THE DECLARATION:	
PROGRESS, GOOD PRACTICES AND ACHIEVEMENTS	1
Background	1
A framework for understanding and implementing the Declaration	3
Recognition of indigenous peoples' rights at the national level	8
Recognition of indigenous peoples' rights at the regional level	16
Recognition of indigenous peoples' rights at the international level	21
Impact of the Declaration on indigenous women, children and youth	31
Summary and review: progress in implementing the Declaration	38
CHAPTER 2	
INDIGENOUS PEOPLES IN OFFICIAL STATISTICS	41
The need for data disaggregation	41
The persistent invisibility of indigenous peoples	43
Indigenous peoples' perspectives.	46
Obstacles to data disaggregation and analysis	50
CHAPTER 3	
IDENTIFYING CHALLENGES AND TARGETING PRIORITIES	53
Recognition of and respect for indigenous peoples and their rights.	53
Assessments of progress made in the implementation of the Declaration	54
Awareness, information and coordinated action.	58
Practical constraints.	60
CHAPTER 4	
THE WAY FORWARD—RECOMMENDATIONS AND SUGGESTIONS	63
Strengthen and coordinate the roles of the indigenous-specific mechanisms within the United Nations.	63



Strengthen the role of the Inter-Agency Support Group on Indigenous Issues . . . 66

Ensure that Sustainable Development Goal processes focus more strongly and explicitly on indigenous peoples 67

Ensure respect for indigenous peoples' rights within the public and private sectors 69

Strengthen capacity, networking and strategizing among indigenous peoples 69

REFERENCES 72

Boxes

Box 1.1. Working Group on Indigenous Populations 2

Box 1.2. A working definition of indigenous peoples 5

Box 1.3. Women, children and youth in the United Nations Declaration on the Rights of Indigenous Peoples 8

Box 1.4. Provisions relating to education in the Declaration on the Rights of Indigenous Peoples 32

Box 2.1. Montevideo Consensus on Population and Development. 44

Box 2.2. Sustainable Development Goal targets relating to indigenous peoples 47

Box 3.1. System-wide action plan for ensuring a coherent approach to achieving the ends of the United Nations Declaration on the Rights of Indigenous Peoples*. 59

Box 4.1. Mitigating the impact of business practices on indigenous peoples 68

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Abbreviations used in the report

ADB	Asian Development Bank
BEAC	Barents Euro-Arctic Council
BRC	Barents Regional Council
CBMIS	Community-based monitoring and information systems
ECLAC	Economic Commission for Latin America and the Caribbean
EU	European Union
FAO	Food and Agriculture Organization of the United Nations
GDP	Gross Domestic Product
HIV/AIDS	human immunodeficiency virus / acquired immunodeficiency syndrome
IASG	Inter-Agency Support Group on Indigenous Issues
IDB	Inter-American Development Bank
IFAD	International Fund for Agricultural Development
ILO	International Labour Organization
IMF	International Monetary Fund
IPU	Inter-Parliamentary Union
MDGs	Millennium Development Goals
NGO	Non-governmental organization
OAS	Organization of American States
OHCHR	Office of the High Commissioner for Human Rights
SDGs	Sustainable Development Goals
SWAP	system-wide action plan
TRC	Truth and Reconciliation Commission of Canada
UN	United Nations
UNDP	United Nations Development Programme
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UN-Habitat	United Nations Human Settlements Programme
UNICEF	United Nations Children's Fund
UN-REDD Programme	United Nations Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries
UN Women	United Nations Entity for Gender Equality and the Empowerment of Women
VNR	voluntary national review
WGIP	Working Group on Indigenous Populations
WIPO	World Intellectual Property Organization

STATE OF THE WORLD'S INDIGENOUS PEOPLES: Implementing the United Nations Declaration on the Rights of Indigenous Peoples

Foreword

Mariam Wallet Aboubakrine

Chair of the Permanent Forum on Indigenous Issues

On 13 September 2007, the United Nations General Assembly adopted the United Nations Declaration on the Rights of Indigenous Peoples. The adoption of the Declaration marked the culmination of decades of struggle among indigenous peoples for a universal framework establishing minimum standards to ensure the survival, dignity and well-being of the indigenous peoples of the world.

Over a period of more than 20 years, indigenous peoples and Member States worked together to draft the Declaration, setting a precedent for cooperation and partnership between indigenous peoples and Member States. This collaboration has become an established practice and captures the principle of nothing about us without us—important to all, including indigenous peoples, as we move forward with a new global agenda premised on leaving no one behind.

Since the adoption of the Declaration, there has been progress at the international, regional and national levels towards achieving the rights of indigenous peoples. The Declaration has informed and influenced the adoption of laws, policies, judicial decisions and operational guidelines that respect and uphold the rights of indigenous peoples. However, progress has been uneven and variable within and between countries and regions.

Some countries do not recognize the rights of indigenous peoples, including their right to self-determination and to lands, territories and resources. This often results in indigenous peoples having lower standards of well-being in comparison with other groups. Too often, they have poor access to health care and education, resulting in lower life expectancy, higher poverty rates, and higher child and infant mortality rates.

Indigenous peoples suffer disproportionately from the costs of development but enjoy few of its benefits. Many indigenous peoples have been dispossessed and displaced from their traditional territories due to natural resource extraction, large-scale agriculture,

4TH VOLUME ——— **STATE OF THE WORLD'S INDIGENOUS PEOPLES:**
Implementing the United Nations Declaration on the Rights of Indigenous Peoples

infrastructure development, and conservation efforts. Over the past several years there has been an alarming rise in the killings of indigenous human rights defenders, a reflection of the increasing demand for their lands.

We still have a long way to go to effectively realize of the rights of indigenous peoples around the world.

It is through the efforts of indigenous peoples that the Declaration was adopted. Indigenous peoples are effective change makers who really do make a difference. By working together and supporting the rights and aspirations of indigenous peoples—through partnerships between indigenous peoples, Member States, the private sector, non-governmental organizations (NGOs), academics and other stakeholders—we can make the Declaration a living document and not just an empty promise.

This publication looks back at ten-plus years of the Declaration's existence—more than ten years both of implementation and progress and of unfulfilled expectations.

Looking forward, building on the lessons learned since 2007, we must take bold steps to make greater progress in implementing the Declaration. Only then can we make a real difference for indigenous peoples around the world.



Introduction

To millions of people the world over, in cities as well as in the most remote communities, 13 September 2007 marked the beginning of an era of renewed hope. On this day the United Nations General Assembly officially adopted the United Nations Declaration on the Rights of Indigenous Peoples.¹ After more than 20 years of intense dialogue, discussions, negotiations, lobbying and advocacy, the Declaration was adopted by an overwhelming majority of Member States.

The Declaration clearly and unequivocally lays out the individual and collective rights of indigenous peoples worldwide as distinct peoples. For indigenous peoples, this Declaration is the formal recognition of their existence, of their right to their own identities, of their right to self-determination, of their cultures and their heritage, and of their rights as peoples, communities and collectivities. As acknowledged and endorsed by the global assembly of Member States, indigenous peoples are not just a group of individual citizens of certain ethnicities but are peoples with distinct identities, cultures and histories, as they have always been and continue to be.

The Declaration also constitutes the framework for new, renewed, reinforced and reoriented partnerships between States (and other actors) and indigenous peoples. It provides formal guidance, once absent, on how best to respond to the demands of indigenous peoples on a range of issues that cut across diverse thematic areas including, inter alia, effective participation; free, prior and informed consent; traditional knowledge; access to genetic resources; decentralization; recognition of territorial rights; natural resource management; and development with identity. It is the first international instrument that formally recognizes indigenous peoples' right to self-determination.

The Declaration has been in place for more than a decade. Has it made a difference? What kind of impact has it had on the survival, dignity and well-being of indigenous peoples. How has it been used? What can be learned from the many ways in which it has been applied and from the obstacles encountered? What gaps and challenges still exist that may be preventing the full implementation of the Declaration? What is the way forward to realize the full potential and promise of the Declaration? These are the questions this publication seeks to explore.

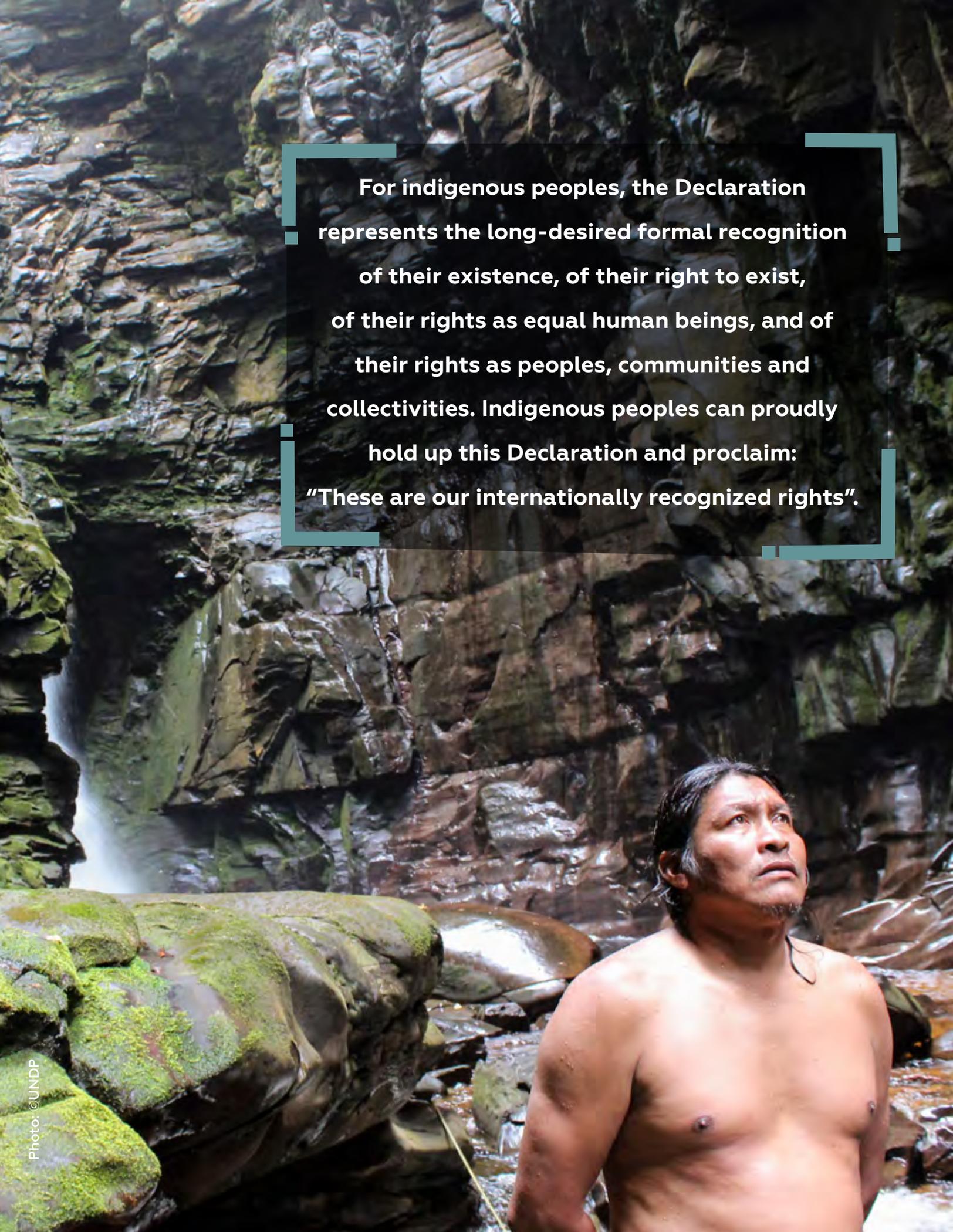
This edition of the *State of the World's Indigenous Peoples* constitutes a status report. It offers a perspective on how the Declaration has been utilized—as a formal United Nations document defining and elaborating aspirations, duties and obligations but also

¹ A/RES/61/295.

as a source of inspiration and a tool for advocacy and awareness. This report highlights trends and good practices in the application of the Declaration but also identifies gaps and challenges hindering full and effective implementation. Drawing on these trends and lessons, the publication also presents recommendations on the way forward in implementing the commitments of the Declaration in pursuit of the full realization of the rights of the millions of indigenous peoples all over the world.

State of the World's Indigenous Peoples

The *State of the World's Indigenous Peoples* represents the fulfilment of a recommendation by the United Nations Permanent Forum on Indigenous Issues that a United Nations publication be produced to analyse a broad spectrum of indigenous peoples' issues and serve as a key advocacy tool for raising awareness and promoting the rights of indigenous peoples as enshrined in the United Nations Declaration on the Rights of Indigenous Peoples and other international instruments. The first *State of the World's Indigenous Peoples* was published in 2009 and focused on poverty and well-being, culture, environment, contemporary education, health, human rights and emerging issues (United Nations, 2009). The report was well received for providing an overview of indigenous peoples throughout the world. Two additional volumes of the *State of the World's Indigenous Peoples* were published more recently, providing an overview of the main issues faced by indigenous peoples in the areas of health and education (United Nations, 2016a; 2017d).

A shirtless indigenous man with dark hair and a goatee stands in the foreground, looking upwards and to the right. He is positioned in a natural, rocky environment with a waterfall cascading down a moss-covered rock face in the background. The scene is dimly lit, emphasizing the textures of the rocks and the man's skin. A teal-colored frame surrounds the text in the upper right quadrant of the image.

For indigenous peoples, the Declaration represents the long-desired formal recognition of their existence, of their right to exist, of their rights as equal human beings, and of their rights as peoples, communities and collectivities. Indigenous peoples can proudly hold up this Declaration and proclaim: “These are our internationally recognized rights”.



UN Photo / Loey Felipe

**Chapter One:
Implementation of the Declaration:
Progress, Good Practices and
Achievements**

Implementation of the Declaration: Progress, Good Practices and Achievements

Background

The United Nations Declaration on the Rights of Indigenous Peoples was adopted by the General Assembly on 13 September 2007. The adoption of the Declaration was a milestone, laying the foundation for redefined relations, cooperation and interaction between indigenous peoples, Member States of the United Nations, and other actors and stakeholders. The Declaration clearly recognizes indigenous peoples not merely as stakeholders but as rights-holders. The impact of the Declaration at the international level, particularly within the United Nations, has been significant. The Declaration has informed legislative developments at the national and regional levels and has had considerable (though underreported) influence in various local contexts. In many countries, the Declaration has been used at the community level for purposes as diverse as education on human and indigenous peoples' rights, advocacy, and legislative, judicial and policy development processes. Its broad relevance strongly underscores its universal value and applicability.



The broad relevance and diverse utilization of the Declaration strongly underscore its universal value and applicability.

From the United Nations Working Group on Indigenous Populations to the United Nations Declaration on the Rights of Indigenous Peoples

The United Nations Working Group on Indigenous Populations, established in 1982, was the first United Nations body assigned a specific mandate to address indigenous peoples' issues. It was created as follow up to a study on discrimination against indigenous peoples by José Ricardo Martínez Cobo, an expert member of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, a subsidiary body of the United Nations Commission on Human Rights. The Working Group comprised five expert members, and Member States, indigenous peoples' organizations and representative bodies, and United Nations agencies, funds and programmes participated as observers. This inclusion of indigenous peoples was exceptional for the United Nations at that time.

With no universal standards in place to specifically address the historical injustices and current situation of indigenous peoples, the Working Group began drafting a declaration in 1985. The draft was developed over the next eight years, with input from representatives of United Nations Member States, indigenous peoples, NGOs, researchers

BOX 1.1. Working Group on Indigenous Populations

In 2017, the University of Colorado Law School, in collaboration with the United Nations Permanent Forum on Indigenous Issues, organized a workshop to commemorate the tenth anniversary of the adoption of the United Nations Declaration on the Rights of Indigenous Peoples. Participants recalled their experiences at the Working Group on Indigenous Populations (WGIP) and the avant-garde nature of the WGIP—both for the inclusion by the United Nations of indigenous peoples (the beneficiaries) for the first time and for the insights the WGIP provided on the vision and experiences of indigenous peoples around the world.

James Anaya, former United Nations Special Rapporteur on the rights of indigenous peoples and current Dean of the University of Colorado Law School, described the WGIP as the place for indigenous peoples to come together and share their stories and their problems. What emerged from this discourse was the commonality in the situations of indigenous peoples, regardless of where they lived.

Victoria Tauli-Corpuz, the present Special Rapporteur, shared her experience as a participant in the WGIP:

My organization, the Cordillera Peoples Association, sent me to the UN to tell about our people; then I found out that many indigenous peoples are suffering the same issues. It gave me a fuller picture of the situation of indigenous peoples around the world and convinced me that, indeed, a declaration should be created because the usual human rights declarations are not talking about the issues that were presented before the WGIP. The WGIP was a possibility for indigenous peoples to influence the UN to develop an instrument to protect our rights. It was a slow process. But the resulting Declaration is really a response to the issues that were presented. The process taught me that if we want to achieve something, it must be based on blood, sweat and tears.



UN Photo

Luis-Enrique Chávez of Peru, Chairperson-Rapporteur of the Commission on Human Rights ad hoc open-ended working group established to elaborate a draft declaration on the rights of indigenous peoples, highlighted the unique nature of the WGIP and its contribution to building a new way of working with and for indigenous peoples at the international level. The WGIP was the first body in the history of the United Nations in which the beneficiaries participated on equal footing with Member States in developing a set of rules that affected them. The Declaration is that set of rules—a corpus of universal rights similar to the Universal Declaration of Human Rights. The Declaration on the Rights of Indigenous Peoples represents the end of a long journey but also the beginning of a new one. It has paved the way for indigenous peoples to develop a new kind of relationship with their States and with the international legal system.

Source: United Nations, "10th anniversary of the UNDRIP at Colorado Law" (10 August), available from the Indigenous Peoples section of the United Nations website (<https://www.un.org/development/desa/indigenouspeoples/news/2017/08/10th-anniversary-of-the-undrip-at-u-colorado-law-school/>).



and academics. In 1993, the Working Group agreed on a final text for the draft declaration and submitted it to the Sub-Commission on the Prevention of Discrimination and Protection of Minorities, which in turn submitted the draft to its parent body, the United Nations Commission on Human Rights.

The Commission established an ad hoc working group on the draft declaration on the rights of indigenous peoples, and 11 sessions were held to discuss the text. Member States and indigenous peoples' organizations and entities participated actively in the ad hoc working group, following the practice of the Working Group on Indigenous Populations. The discussions and debates were intense and at times polarizing. The Human Rights Council, which succeeded the Commission on Human Rights, adopted the Declaration in June 2006 and sent it on to the United Nations General Assembly, where it was adopted in September of the following year.

A framework for understanding and implementing the Declaration

The information provided below is intended to facilitate a better understanding of the role and relative importance of the Declaration in national, regional and international contexts.

Universal support for the Declaration

The General Assembly adopted the Declaration on the Rights of Indigenous Peoples by a recorded vote of 143 in favour to 4 against (Australia, Canada, New Zealand and the United States of America), with 11 abstentions (Azerbaijan, Bangladesh, Bhutan, Burundi, Colombia, Georgia, Kenya, Nigeria, Russian Federation, Samoa and Ukraine) (United Nations, n.d.(b)). All four countries that voted against have since expressed support for the Declaration. Among the countries that abstained, Colombia and Samoa have now endorsed the Declaration.²

As observed by James Anaya (2004), the Declaration has been embraced globally as the "authoritative statement of norms concerning indigenous peoples on the basis of generally applicable human rights principles". Importantly, indigenous peoples now have an international instrument that provides them with a significant source of support in their struggle for recognition and respect of their (now formally acknowledged) rights.

² E/C.19/2017/4; see also United Nations (n.d.(b)).

The Declaration on the Rights of Indigenous Peoples, like the Universal Declaration of Human Rights (also adopted by majority vote rather than consensus),³ is both a source of relevant rules and rights and a mechanism to further their recognition and implementation.

The Declaration as a mechanism for raising awareness of indigenous peoples' rights—and influencing change

The Declaration on the Rights of Indigenous Peoples has been used extensively as a tool for promulgating information and raising awareness about human rights in general and about indigenous peoples' rights specifically. The Declaration as a whole or specific articles have been distributed in many different formats including folders, booklets, cartoons, animated films and posters. The content has been made more accessible by the translation of the Declaration into a number of national and indigenous/tribal languages, including Arowak, Aucan, Aymara, Bahasa/Indonesian, Belarusian, Bisay, Bodo (Boro), Carib, Cha'palaa, Catalan, Crimean Tatar, Degar, Dutch, Danish, Finnish, German, Greek, Greenlandic, Guaraní, Hindi, Ilokano, Innu, Italian, Japanese, Karaim, Karelian (Karjala), Khmer, Kichua, Kituba, Kuna, Kwéyòl, Komi (Komi kyv), Lingala, Livvi-Karelian (Livvi), Malay, Maori, Maya, Mapuche, Miskito, Mohawk, Náhuatl, Nanai, Norwegian, Nepali, Persian, Pilipino, Polish, Portugues, Sámi (North), Sámi (Inari), Sámi (Skolt), Thai, Trio, Turkish, Uilta, Ukrainian, Veps (Vepsä), Wajana and Wichi (United Nations, n.d.(f)). The relatively broad public use of the Declaration in multiple languages and forms is indicative of its importance, uniqueness and universality.

Identifying “indigenous peoples”

Who are indigenous peoples? This question has been the subject of ongoing discussion and debate, but the Declaration established a clear standard with regard to this concept.

The term “indigenous peoples” was not defined in the Declaration. This decision was taken intentionally by the drafters based on the rationale that the identification of an indigenous people is the right of the people itself—the right of self-identification and a fundamental element of the right to self-determination. Indigenous peoples' situations and contexts are highly variable; any single definition will not fully capture the full range and diversity of the indigenous peoples of the world. Article 33(1) of the Declaration specifies that “indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions”.

³ Available from <http://www.un.org/en/universal-declaration-human-rights/>.

José Ricardo Martínez Cobo, in his capacity as Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, addressed the identification of indigenous peoples in his groundbreaking study of the problem of discrimination against indigenous populations (Cobo, 1987).⁴

⁴ E/CN.4/Sub.2/1986/7 and Add. 1-4. The conclusions and recommendations of the study, in addendum 4, are also available as a United Nations sales publication (Sales No. E.86.XIV.3). The study was launched in 1972 and completed in 1986, making it the most voluminous study of its kind, based on 37 monographs (United Nations, Secretariat of the Permanent Forum on Indigenous Issues, 2004, footnote 1).

BOX 1.2. A working definition of indigenous peoples

José Martínez Cobo provided a working definition of indigenous peoples and groups. A number of fundamental ideas and principles were integrated to establish an intellectual framework for this effort, including the right of indigenous peoples themselves to define who is indigenous. The working definition reads as follows:

Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing on those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems.

This historical continuity may consist of the continuation, for an extended period reaching into the present, of one or more of the following factors:

- a) *Occupation of ancestral lands, or at least of part of them;*
- b) *Common ancestry with the original occupants of these lands;*
- c) *Culture in general, or in specific manifestations (such as religion, living under a tribal system, membership of an indigenous community, dress, means of livelihood, life-style, etc.);*
- d) *Language (whether used as the only language, as mother-tongue, as the habitual means of communication at home or in the family, or as the main, preferred, habitual, general or normal language);*
- e) *Residence in certain parts of the country, or in certain regions of the world;*
- f) *Other relevant factors.*

On an individual basis, an indigenous person is one who belongs to these indigenous populations through self-identification as indigenous (group consciousness) and is recognized and accepted by these populations as one of its members (acceptance by the group).

This preserves for these communities the sovereign right and power to decide who belongs to them, without external interference.

Source: José R. Martínez Cobo, *Study of the Problem of Discrimination against Indigenous Populations: Conclusions, Proposals and Recommendations*, vol. V (United Nations publication, Sales No. E.86.XIV.3), paras. 379-382 (excerpt). Available from <https://undocs.org/en/E/CN.4/Sub.2/1986/7/Add.4>.

During the many years of debate on the draft declaration within the Working Group on Indigenous Populations and the ad hoc working group of the Human Rights Commission, indigenous peoples' organizations and entities rejected the idea of a formal definition of indigenous peoples. Some State delegations agreed that it was neither desirable nor necessary to establish a universal definition of indigenous peo-

A definition of the term *indigenous peoples* is neither necessary nor useful, as no single definition can fully capture the distinctive characteristics of widely diverse indigenous populations.

ples (United Nations, Secretariat of the Permanent Forum on Indigenous Issues, 2004). At its fifteenth session, in 1997, the Working Group concluded that a global definition of indigenous peoples was not required for the adoption of the draft declaration,⁵ and a decade later, the Declaration on the Rights of Indigenous Peoples was adopted without such a definition.

Various regional perspectives emerged during the discussions leading up to the adoption of the Declaration. The African Commission on Human and Peoples' Rights asserted that a definition of the term "indigenous peoples" was neither necessary nor useful, as no universally agreed definition existed, and no single definition could fully "capture the characteristics of indigenous populations". The

African Commission argued that it would be more constructive to consider the main characteristics of distinct indigenous populations in identifying them as such (African Union, African Commission on Human and Peoples' Rights, 2007, p. 3, para. 10). In Asia, the distribution and diversity of such groups vary by country, as do the terms used to describe or identify them. Indigenous peoples in this region have, in various contexts, been referred to as "tribal peoples", "hill tribes", "scheduled tribes", "janajati", "orang asli", "masyarakat adat", "adivasis", "ethnic minorities" or "ethnic nationalities".⁶

In the course of developing international law within the United Nations system, there have been other instances of key terms not being formally defined, the most notable examples being "peoples" and "minorities". Yet the United Nations has recognized the right of peoples to self-determination⁷ and has adopted the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.⁸ The absence of a formal definition of peoples and minorities has not affected the

⁵ E/CN.4/Sub.2/1997/14, para.129; see also E/CN.4/Sub.2/1996/21, paras. 153-154.

⁶ E/C.19/2017/4, para. 7.

⁷ The right of peoples to self-determination is recognized in article 1 of the International Covenant on Economic, Social and Cultural Rights and of the International Covenant on Civil and Political Rights, both adopted by the General Assembly in 1966 and ratified by an overwhelming majority of States.

⁸ A/RES/47/135.

Organization's successes or failures in those domains or the promotion, protection or monitoring of the rights recognized for these entities (United Nations, Secretariat of the Permanent Forum on Indigenous Issues, 2004).

Similarly, the prevailing view today is that no formal universal definition of the term "indigenous peoples" is necessary. For practical purposes, the working definition provided in the aforementioned Martínez Cobo study is widely accepted.

The United Nations uses the generic term "indigenous peoples" to identify indigenous groups, communities and nations. It is acknowledged in the *United Nations Development Group Guidelines on Indigenous Peoples' Issues* that no formal universal definition is necessary for the recognition and protection of the rights of indigenous peoples, and this should "by no means constitute an obstacle" to addressing the substantial issues affecting them (United Nations, 2009, p. 8).

The application of the Declaration in judicial contexts

Various sections of the present chapter make reference to judicial decisions that have been influenced by the Declaration.

- ≡ The normative weight of the Declaration, deriving from the global consensus on the rights of indigenous peoples as reflected in existing international instruments and in the opinions of legal institutions at multiple levels;
- ≡ Process legitimacy, which attaches to the Declaration as a result of the processes that gave rise to it;
- ≡ Substance legitimacy, which is linked to the Declaration's response to historical discrimination against indigenous peoples including its acknowledgment of their right to self-determination and the remedial framework it embodies;
- ≡ The extensive and expanding application of the Declaration internationally, regionally and domestically, affirming "that it has become the standard against which State activities are assessed" at virtually all levels (Charters, 2017, pp. 6-7).

Recognition of indigenous peoples' rights at the national level

Recognition of the rights of indigenous peoples varies from country to country and from one region to another. A number of States have undertaken legal and policy measures specifically aimed at securing and protecting the rights and interests of indigenous peoples. The Declaration has provided clarity and support, fortifying such legislation and in some cases mobilizing and facilitating the development of new or revised legislation and policies.⁹ Constitutional reforms can be an essential step towards ensuring the recognition, inclusion and promotion of the rights of indigenous peoples; a number of countries in Latin America have been especially proactive in this regard. Judicial processes have also been informed by the Declaration and serve to set a precedent for protecting indigenous peoples' rights going forward.

⁹ E/C.19/2017/4.



Photo: © UNDP

Constitutional, legislative and policy measures

Since the adoption of the Declaration in 2007, a number of countries have formally recognized the identity and rights of indigenous peoples and have instituted mechanisms for their protection.¹⁰

In Latin America, the following countries took action:

- ≡ **Bolivia** took an historic step when it approved Law No. 3760 in November 2007, integrating the Declaration on the Rights of Indigenous Peoples into domestic legislation. It is as yet the only country to do so. The new Constitution, adopted in 2009, is one of the most comprehensive instruments for recognizing indigenous peoples' rights, including the right to self-determination and self-government (Aguilar and others, 2010). It also recognizes indigenous legal systems and collective ownership and autonomous management of indigenous lands, as well as the right to prior consultation by the State regarding any legislative or administrative measures that affect the country's indigenous populations, which extends to the exploitation of natural resources in their territories. In addition to Spanish, all 36 indigenous languages spoken in Bolivia are recognized as official languages.
- ≡ In 2016, **Chile** initiated an inclusive constitutional reform process. To ensure the participation of indigenous peoples in compliance with the State's obligations under International Labour Organization (ILO) Convention No. 169 (1989),¹¹ the Ministry of Social Development established a mechanism known as the indigenous constituent process (Observatory of the Chilean Constituent Process and RED Foundation: Network of Studies for the Deepening of Democracy, 2018).
- ≡ Under Law No. 1448 of 2011 (the Victims and Land Restitution Law), the Government of **Colombia** is obligated to consult with internally displaced persons—many of whom are indigenous peoples—on any relevant decisions or actions taken; follow-up legislation (Law No. 4633 of 2011) establishes reparation measures.¹²

¹⁰ Ibid.

¹¹ Officially designated Convention (No. 169) concerning indigenous and tribal peoples in independent countries (United Nations, *Treaty Series*, vol. 1650, No. I-28383) and cited by ILO as the Indigenous and Tribal Peoples Convention, 1989, this instrument is often referred to as ILO Convention No. 169 (1989).

¹² Ibid., para. 18.

- ≡ In 2014, the Legislative Assembly of **Costa Rica** approved a constitutional reform affirming the “multi-ethnic and plurinational” character of the country and guaranteeing the maintenance and cultivation of the national indigenous languages (Freedom House, 2015).
- ≡ The Constitution of **Ecuador**, adopted in 2008, establishes an intercultural, plurinational and plurilingual State and recognizes 21 collective rights for indigenous peoples,¹³ including communal ownership of their lands and autonomy in governing indigenous territorial constituencies; political participation in official bodies through indigenous representatives; and the right of free, prior and informed consent with regard to plans and programmes governing the disposition of resources located on their traditionally occupied lands, the right to participate in the profits earned from related projects, and the right to receive compensation for any social, cultural and environmental damages caused. The Constitution also guarantees indigenous peoples’ right to learn in their own language and cultural environment¹⁴ through an intercultural bilingual education system.¹⁵ Importantly, in article 11, the Constitution of Ecuador recognizes that the human rights established in international instruments, including not only treaties but also the Declaration on the Rights of Indigenous Peoples, are directly applicable and enforceable.¹⁶
- ≡ **El Salvador** amended its Constitution in 2014 to recognize indigenous peoples and committed to adopting public policies aimed at maintaining and developing indigenous identity.¹⁷
- ≡ The Political Constitution of the United Mexican States, adopted in 1917, was amended in 2011 and 2016 to incorporate several references to the rights of indigenous peoples, including the right to self-determination through the autonomous exercise of internal government in accordance with their traditional rules, procedures and customs, and the right to elect indigenous representatives for the town council in municipalities with indigenous populations.¹⁸ The authorities in **Mexico** are constitutionally obligated to consult indigenous peoples when preparing national, state and local devel-

¹³ See A/69/271, para. 12, regarding arts. 56 and 57 of the Constitution of Ecuador (2008).

¹⁴ See the Constitution of Ecuador (2008), arts. 27 and 29.

¹⁵ E/C.19/2017/4.

¹⁶ A/HRC/36/56.

¹⁷ A/69/271, para. 12.

¹⁸ Available from <http://www.diputados.gob.mx/LeyesBiblio/htm/1.htm>.

opment plans, and to incorporate their recommendations and proposals if appropriate. The Constitution also recognizes the importance of intercultural bilingual education.

- ≡ The 2014 reform of the Constitution of **Nicaragua** introduced provisions recognizing the political-administrative, social and cultural autonomy of the indigenous peoples and ethnic communities of the Atlantic coast and guaranteeing the preservation of their cultures, languages, religions and customs. The Constitution also guarantees indigenous peoples the right to benefit from their natural resources, the effectiveness of their collective rights to property, and the freedom to elect their own authorities and representatives.¹⁹

Several countries in Africa officially supported the adoption of the United Nations Declaration on the Rights of Indigenous Peoples. Some have implemented national legislation and policies to operationalize their commitment (Ibrahim, 2017).

- ≡ In 2010, the **Central African Republic** ratified ILO Convention No. 169 (1989) and remains the only country in Africa to have done so (ILO, 2010).
- ≡ In 2011, **Congo** promulgated Act No. 5-2011 on the Promotion and Protection of the Rights of Indigenous Peoples (Library of Congress, 2011).²⁰
- ≡ The 2006 Constitution of the **Democratic Republic of the Congo** includes membership in a cultural or linguistic minority as a basis for non-discrimination,²¹ and in 2009 the Ministry of Environment, Nature Conservation and Tourism suggested that a new legal framework (an indigenous peoples act) be created (International Work Group for Indigenous Affairs, 2012).
- ≡ The Constitution of **Kenya**, in its 2010 revision, makes explicit reference to minorities and to marginalized groups and communities (International Work Group for Indigenous Affairs, 2011). Although the Constitution does not include specific provisions relating to indigenous peoples, it defines marginalized communities as inclusive of traditional communities, indigenous communities that have maintained a traditional hunter-gather lifestyle and livelihood, and nomadic and settled pastoral communities. It also provides

¹⁹ Constitution of Nicaragua, art. 180.

²⁰ E/C.19/2017/4, para. 20.

²¹ See arts. 11-13 of the 2006 Constitution.

for a range of civil, political, socioeconomic and collective rights that have relevance to indigenous peoples.²²

- ≡ In its 2011 Constitution, **Morocco** recognizes the Amazigh (Berber) indigenous language, Tamazight, as an official language of the country (United Nations, Committee on Economic, Social and Cultural Rights, 2015).
- ≡ **Namibia** has prepared a white paper that incorporates key elements of the Declaration to guide its work with indigenous peoples (Office of the Ombudsman of Namibia, 2014).
- ≡ **Niger** and **Chad** have each developed a pastoral code (laws to protect pastoralists) (Touré and others, 2012), and in Chad institutions have been created to meet the educational and health needs of nomadic, island and hard-to-reach children (ILO and African Commission on Human and Peoples' Rights, 2009).

In the Arctic region, the traditional territories of the Sámi and the Inuit peoples are situated in a number of different countries (Baer, 2017). The Sámi are recognized as indigenous peoples in Finland, Norway, Sweden, and the Kola Peninsula in the north-western part of the Russian Federation.

- ≡ In June 2009, the Act on Greenland Self-Government (or Self-Government Act) entered into force. This instrument replaces the Greenland Home Rule Arrangement established 30 years earlier. The Danish Constitution and the Self-Government Act together comprise Greenland's constitutional position in the Unity of the Realm. Two members of the Folketing (Danish Parliament) are elected in **Greenland** in accordance with the terms of the Danish Constitution (Greenland, Statsministeriet [Prime Minister's Office], n.d.).
- ≡ In **Finland, Norway** and **Sweden**, Sámi autonomy and self-government are exercised through the respective Sámi parliaments (Sámi Parliamentary Council, 2015). Sámi Parliament members are elected by and among the Sámi in the countries in which they reside. To strengthen their capacity to address cross-border issues affecting the Sámi people, the three Sámi parliaments established a joint cooperative body, the Sami Parliamentary Council, in 2000. The Sámi in the **Russian Federation** are permanent participants in the Sami Parliamentary Council.

²² A/69/271, para. 12; see also the Constitution of Kenya (2010 revision), art. 260, available from <http://www.kenyaembassydc.org/pdfs/The%20Constitution%20of%20Kenya.pdf>.

- ≡ A reform of the Instrument of Government (Constitution) of **Sweden** entered into force on 1 January 2011, stipulating, inter alia, that the Government shall encourage opportunities for the Sámi people and for the other ethnic, linguistic and religious minorities in Sweden to preserve and develop their own culture and community life. It is now clearly stated in the Constitution that the Sámi in Sweden are recognized as “peoples” and as such have the right to self-determination (Baer, 2017).

Eastern Europe, Russian Federation, Central Asia and Transcaucasia

- ≡ Article 69 of the Constitution of the **Russian Federation** guarantees provisions of the Declaration (including articles 1, 2, 6, 7 and others) concerning the implementation of human rights and fundamental freedoms, equality with others, and citizenship rights. Provisions in articles 5, 8, 11, 12, 15, 31 and others in the Declaration relating to indigenous peoples’ rights to maintain and develop various aspects of their culture are reflected in article 72 of the Constitution, which guarantees the protection of the natural environment and traditional way of life of small ethnic communities. This provision is specifically referenced in the federal law on guarantees of the rights of indigenous peoples in the Russian Federation, which supports the distinctive social, economic and cultural development of the country’s indigenous small-numbered peoples and establishes a legal framework for the protection of their natural environment, traditional way of life, livelihoods and crafts. There are also federal laws on wildlife, protected areas, education, culture and native languages (Sleptcov, 2017, p. 3).

Many Governments in Asia supported the United Nations Declaration on the Rights of Indigenous Peoples when it was adopted by the United Nations General Assembly in 2007. Indigenous populations are identified as distinct peoples within their respective countries even though some Asian countries articulated different interpretations of the term “indigenous” during the discussions leading up to the adoption of the Declaration.

- ≡ Indigenous peoples are identified (using distinctive terminology) in the Constitution of **Nepal**, in laws promulgated in **Cambodia** and **Japan**, in the 1997 Indigenous Peoples Rights Act in the **Philippines**, in policy instruments in **Thailand**, and through existing legislation and an agreement/treaty in **Bangladesh** (Limbu, 2017).
- ≡ The 2008 Constitution of the Republic of the Union of **Myanmar** makes no explicit reference to indigenous peoples but does grant certain rights to “national races”, some of which have used the term “indigenous” to define

themselves. Recent developments, including democratic elections, ongoing reforms and peace negotiations, signal opportunities for progress. A 2015 law protecting ethnic rights (Pyidaungsu Hluttaw Law No. 8/2015) expands the rights of ethnic nationalities and led to the establishment of the Ministry for Ethnic Affairs.²³

- ≡ In 2007 **Nepal** ratified ILO Convention No. 169 (1989) and was the first country in Asia to do so. In its third three-year interim plan (2013-2016), the Government included sections related to the implementation of the Declaration on the Rights of Indigenous Peoples (Nepal, National Planning Commission, 2013). Nepal adopted a new Constitution in 2015, but some of its provisions are being criticized by civil society organizations such as the Lawyers Association for the Human Rights of Nepalese Indigenous Peoples for their incompatibility with the Declaration and ILO Convention No. 169, as they are seen as discriminatory against indigenous peoples (International Work Group for Indigenous Affairs, n.d.).
- ≡ In 2008, the Government of **Japan** recognized the Ainu people as indigenous people of Hokkaido.²⁴

Countries in Northern America and the Pacific have also announced decisions or taken action intended to address the situation of indigenous peoples.

- ≡ **Australia** and **New Zealand**, among others, have publicly expressed their intention to consider constitutional changes that recognize indigenous peoples (see, for example, Australia, Department of the Prime Minister and Cabinet, 2015).
- ≡ In May 2016, the Government of **Canada** announced its unqualified support for the Declaration, and in February 2017, the Prime Minister announced the formation of a Working Group of Ministers on the review of laws and policies related to indigenous peoples. In November 2017, during the Symposium on Implementing the UN Declaration on the Rights of Indigenous Peoples: Priorities, Partnerships and Next Steps, the Minister of Justice and the Attorney General of Canada announced their country's support of Private Member's Bill C-262. Sent to the Senate for consideration in the fall of 2018, Bill C-262 would ensure that all laws in Canada are consistent with the Declaration and

²³ E/C.19/2017/4.

²⁴ Ibid., para. 19.

calls for the creation of a “national action plan” to ensure implementation across jurisdictions (Union of BC Indian Chiefs, 2017; Tasker, 2017).

Judicial actions at the national level

Various national courts—in Belize, Botswana, Canada, Chile, Colombia, Guatemala, Kenya, Mexico, the Russian Federation and other countries—have cited the Declaration in their decisions on cases involving indigenous peoples or have issued rulings aligned with the provisions of the Declaration.²⁵

- ≡ In 2016 the High-Risk Court of **Guatemala**—the first court in the world to rule on sexual slavery and violence during armed conflict—issued a landmark decision through which reparations were provided to compensate indigenous communities in Sepur Zarco for past denials of the right to health, education and access to land. Among other things, the decision required the State Government to “install a health centre in Sepur Zarco, improve primary school infrastructure, construct a secondary school and provide scholarships for women, girls and the entire community”. It also requested that the Government reopen land restitution cases (UN Women, 2017).
- ≡ In 2012 the Supreme Court of **Sweden** delivered its ruling in the landmark Nordmaling case, which addressed Sámi land rights. The Court determined that “the communities had established property rights to an extensive land-area. The ruling sets a fundamental precedent, as it indicates that Sámi reindeer herding communities hold property rights to all the Sámi traditional territory in Sweden” (Baer, 2017). In 2016, rendering a decision on a case filed in May 2009, the District Court of Gällivare granted the Sámi village of Girjas exclusive rights to control hunting and fishing in the disputed area (ibid.). The Government of Sweden appealed to the Appeals Court for Upper Norrland, which decided that the indigenous residents of Girjas had a “‘better right’ to fishing and hunting rights in its reindeer-grazing area” than did the Swedish State (which was determined to have no such rights in that area). The Court also noted, however, “that Girjas’s right was not exclusive and the continued licensing of hunting and fishing ... by the Swedish State did not violate the Swedish Constitution” (Hofverberg, 2018).

²⁵ For more detailed information, see A/HRC/36/56; see also A/HRC/EMRIP/2017/CRP.2, para. 36.

Support from national human rights institutions

The role of national human rights institutions in upholding the rights of indigenous peoples has been significant. National human rights institutions (including ombudsman offices) in countries such as Indonesia, Malaysia, Namibia, parts of the Russian Federation, and the United States of America, for example, “use the Declaration as a framework for monitoring the implementation of indigenous peoples’ rights at the national level.”²⁶ Given the challenges faced by indigenous peoples in accessing the national court systems, human rights institutions are frequently seen as more accessible and approachable in terms of problem resolution. Australia and New Zealand have indigenous rights commissioners who specialize in addressing relevant issues and in so doing facilitate and reinforce the implementation of the Declaration.²⁷

Recognition of indigenous peoples’ rights at the regional level

Regional organizations and instruments

The Declaration has contributed to increased regional cooperation leading to the creation and elaboration of regional instruments dealing with indigenous peoples’ rights.

European Union

In October 2016, the European Union produced a Joint Staff Working Document entitled *Implementing EU External Policy on Indigenous Peoples*, which focuses on development cooperation and related policy execution (European Commission, High Representative of the Union for Foreign Affairs and Security Policy, 2016). The paper identifies ways to maximize the impact of action taken for the benefit of indigenous peoples; a key strategy is to systematically include indigenous peoples’ issues—with the Declaration as a frame of reference—in all political and human rights dialogue with countries and regional organizations where the issue is relevant, particularly in Africa and Asia. The document also recommends the use of the rights-based approach to development as the primary methodology for integrating the rights and issues of

²⁶ A/HRC/36/56, para. 69.

²⁷ Ibid.

indigenous peoples in the European Union's implementation of the 2030 Agenda for Sustainable Development, notably by ensuring their full participation and free, prior and informed consent in a meaningful and systematic way in programmes and projects funded by the European Union (Baer, 2017).

In May 2017, the Council of the European Union adopted the Council Conclusions on Indigenous Peoples (European Union, General Secretariat of the Council, 2017), recalling the support of the European Union for the adoption of the United Nations Declaration on the Rights of Indigenous Peoples for the 2014 outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples (European Union, General Secretariat of the Council, 2017).²⁸ The Council noted that there was room within the existing policy framework to enhance the impact of the European Union through action that was both more effective and more evenly and consistently applied in relations with partner countries and in multilateral cooperation.

Organization of American States

In 2016, the Organization of American States (OAS) approved the American Declaration on the Rights of Indigenous Peoples. Importantly, the OAS Declaration recognizes the fundamental rights of indigenous peoples to self-determination, to their ancestral territories, and to consultation and free, prior and informed consent. It also recognizes the principle of non-forced contact with those indigenous peoples living in isolation. Some fear that, in certain respects, the OAS Declaration may fall short of meeting the standards already set in other international instruments and those developed by regional human rights institutions. It is thus recommended that it be read in conjunction with other international instruments such as the United Nations Declaration on the Rights of Indigenous Peoples and ILO Convention No. 169.²⁹

Nordic/Euro-Arctic cooperation

In the Barents Euro-Arctic region, formal cooperation was launched in 1993 on two levels—intergovernmentally through the Barents Euro-Arctic Council (BEAC) and inter-regionally through the Barents Regional Council (BRC)—with sustainable development as the overall objective. BEAC members include Denmark, Finland, Iceland, Norway, the Russian Federation, Sweden and the European Commission. More than a dozen counties or similar sub-national entities constitute the BRC. Representatives of the Sámi peoples, Nenets and Vepsians collaborate in the Working Group of Indigenous Peoples,

²⁸ A/RES/69/2.

²⁹ Ibid., para. 75.

which has an advisory role in the BEAC and BRC (Barents Euro-Arctic Cooperation, n.d.).

In January 2017, a group of representatives of the Governments of Finland, Norway and Sweden and the three Sámi parliaments of those countries finalized negotiations on a draft Nordic Sámi convention. The draft convention incorporates joint Nordic approaches to safeguarding and strengthening Sámi rights to self-determination, including rights to lands and resources, Sámi traditional livelihoods, language, culture and education, and confirms that the Sámi people should have their own representative political bodies. The agreement has been criticized by legal experts and Sámi organizations and is currently under review and consideration by the Sami parliaments of the three countries and the national parliaments. All parties must give their consent to the convention before it can enter into force (International Work Group for Indigenous Affairs, 2017). This convention may be of interest to indigenous peoples worldwide, especially those dispersed among several countries—such as the Maya, who live in Belize, Guatemala and Mexico.³⁰

Regional human rights entities in Africa

The African Commission On Human and People's Rights contributes to achieving the goals of the Declaration in a number of ways, including through resolutions on climate change and World Heritage sites in Africa; participation in the World Conference on Indigenous Peoples; and active involvement in reviewing the World Bank Environmental and Social Framework.³¹

Judicial actions at the regional level

Inter-American Human Rights System

Over the past decade, the Inter-American Court of Human Rights has, in all relevant cases, drawn substantially on various articles from the Declaration in its analyses of and rulings on the rights of the indigenous peoples involved. These cases include, inter alia, *Saramaka People v. Suriname* (2007) (Inter-American Court of Human Rights, 2007),³² *Xakmok Kásek Indigenous Community v. Paraguay* (2010), *Kichwa Indigenous People of Sarayaku v. Ecuador* (2012), *Norín Catrimán et al. (Leaders, Members and Activist [sic] of*

³⁰ A/HR/36/56., para. 76.

³¹ Ibid., para. 38.

³² See also Baldwin and Morel (2007); and Brysk and Stohl (2017), p. 68.

the Mapuche Indigenous People) v. Chile (2014), *Kuna Indigenous People of Madungandí and the Emberá Indigenous People of Bayano and Their Members v. Panama* (2014), and *Kaliña and Lokono Peoples v. Suriname* (2015). In the *Kaliña and Lokono* case, the Inter-American Court of Human Rights extensively referenced and incorporated provisions of the Declaration in its interpretation of State obligations in the American Convention on Human Rights (MacKay, 2018).³³

There is evidence that the Declaration is influencing the development of standards within the Inter-American System³⁴ (and beyond, given the influence of Inter-American Court of Human Rights jurisprudence in the African and Caribbean systems),³⁵ blurring the distinction between “soft” and “binding” law, and intensifying the interrelationship of indigenous rights in universal and regional human rights law (MacKay, 2018).

African system

The African Commission on Human and Peoples’ Rights and the African Court on Human and Peoples’ Rights are leading the way in implementing the Declaration in Africa.³⁶ Both entities have issued landmark decisions on the rights of indigenous peoples, with most cases relating to cultural rights and the rights to lands, territories and resources. Two leading land-rights cases from the African system—popularly known as the *Endorois* and *Ogiek* cases—are illustrated below.

In the *Endorois Welfare Council v. Kenya* decision adopted by the African Union on 2 February 2010, the African Commission on Human and Peoples’ Rights declared that the expulsion of the *Endorois* from their ancestral lands violated a number of the human rights provisions of the African Charter on Human and People’s Rights, including rights to property, culture, disposal of wealth and natural resources (Human Rights Watch, 2010a). The Commission ordered the Government of Kenya “to restore the *Endorois* to their historic land and to compensate them” (Human Rights Watch, 2010b). This marked the first time African indigenous peoples’ rights with regard to traditionally owned land had been legally recognized and “the first ruling of an international tribunal to find a violation of the right to development” (Human Rights Watch, 2010b). In its judgment, the African Commission drew on articles 8(2)(b), 10 and 25-27 of the Declaration as

³³ MacKay (2018, footnote 29) provides detailed information on the convergence between the *Kaliña and Lokono Peoples* case and the United Nations Declaration on the Rights of Indigenous Peoples.

³⁴ The Inter-American System comprises the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights.

³⁵ See, for example, African Commission on Human and People’s Rights (2010).

³⁶ See A/HRC/36/56.

well as the *Saramaka v. Suriname* case from the Inter-American Court of Human Rights (Human Rights Watch, 2010a, paras. 204 and 205, footnotes 108 and 109).

In the *African Commission on Human and Peoples' Rights v. Republic of Kenya* (Ogiek) case,³⁷ which also related to expulsions, the 26 May 2017 ruling of the African Court on Human and Peoples' Rights found violations by Kenya similar to those in the Endorois case. This was one of the Court's first cases—and its first decision—on the rights of indigenous peoples. In its judgment, the Court drew on articles 8 and 26 of the Declaration and on general comment No. 21 (2009) of the Committee on Economic, Social and Cultural Rights on the right of everyone to take part in cultural life.

³⁷ For more information on this case, see African Union, African Court on Human and Peoples' Rights (2012); for information on the subsequent ruling, see Minority Rights Group International (2017).



Photo: © UNDP

Caribbean system

In its ruling on *The Maya Leaders Alliance and the Toledo Alcaldes Association v. the Attorney General of Belize*, the Caribbean Court of Justice affirmed the rights of the Maya indigenous communities over their traditional lands³⁸ and indicated that no concessions should be granted for the exploitation of natural resources without the consent of the indigenous peoples concerned. In its decision, the Court referred to articles 26-28 of the Declaration, indicating that, while not binding, the Declaration was relevant in interpreting the Constitution of Belize as it related to indigenous rights.³⁹ The Caribbean Court of Justice accorded great weight to the Inter-American Commission on Human Rights' and Inter-American Court of Human Rights' jurisprudence, and its judgment, citing the Declaration and other global standards, "upheld Maya customary land tenure rights as constitutionally protected property". The Court affirmed that this decision was informed by the rule of law, on the basis of which the State was obligated to recognize and protect indigenous peoples' rights. The Court noted that "today, it is beyond dispute that international law recognizes and protects the rights of indigenous peoples" (MacKay, 2018).

Recognition of indigenous peoples' rights at the international level

The adoption of the Declaration on the Rights of Indigenous Peoples has spurred developments not only at the national and regional levels but also at the international level. For more than a decade, the Declaration has been used to set guidelines and standards and to establish legal obligations. It is cited as a reference, serves as a source of information and inspiration, and constitutes incontrovertible proof of the rights and duties of indigenous peoples.

United Nations system and other intergovernmental organizations

The United Nations is mainstreaming the application of the Declaration on the Rights of Indigenous Peoples. Under article 41 of the Declaration, the organs and specialized agencies of the United Nations system and other intergovernmental bodies are required to contribute to the full realization of its provisions through the mobilization

³⁸ The appeal document is available at www.elaw.org/system/files/bz.mayaleaders_0.pdf.

³⁹ A/HRC/36/56.

of financial cooperation and technical assistance. Article 42 states that “the United Nations, including the Permanent Forum on Indigenous Issues, and specialized agencies ... shall promote respect for and full application of the provisions of the Declaration and follow up ... [its] effectiveness.”

Since work commenced on the drafting of the Declaration, various United Nations entities and intergovernmental organizations have revised policies and guidelines relevant to their work with indigenous peoples, developed strategic frameworks and guiding principles, and implemented targeted programmes, projects and other initiatives that respect the cultural and linguistic diversity and development priorities of indigenous peoples (United Nations, 2015a). Some notable outputs and achievements since the adoption of the Declaration are provided below.

Mainstreaming

In February 2008 the United Nations Development Group approved the *Guidelines on Indigenous Peoples' Issues*. The *Guidelines* are designed to help the United Nations system mainstream and integrate indigenous peoples' issues into processes and programmes at the country level (United Nations, 2009).

Engagement

The following organizations have developed policies and/or guidelines on engagement with indigenous peoples:

- ≡ Food and Agriculture Organization of the United Nations (FAO)—Policy on Indigenous and Tribal Peoples (2010);
- ≡ International Fund for Agricultural Development (IFAD)—Policy on Engagement with Indigenous Peoples (2009);
- ≡ FAO, United Nations Development Programme (UNDP), and United Nations Environment Programme (UNEP): United Nations Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries (UN-REDD Programme)—Operational Guidance: Engagement of Indigenous Peoples and Other Forest-Dependent Communities (2009);
- ≡ UN-REDD Programme—Guidelines on Free, Prior and Informed Consent (2013);

- ≡ UN-REDD and World Bank—Harmonized Guidelines on Stakeholder Engagement in REDD+ Readiness with a Focus on the Participation of Indigenous Peoples and other Forest-Dependent Communities (2012);
- ≡ UNDP—Guidance Note: UNDP Social and Environmental Standards—Standard 6: Indigenous Peoples (updated January 2017);
- ≡ UNEP and Indigenous Peoples: A Partnership in Caring for the Environment Policy Guidance, November 2012;
- ≡ United Nations Human Settlements Programme (UN-Habitat)—*Housing Indigenous People in Cities: Urban Policy Guides for Indigenous Peoples* (2008);
- ≡ World Bank Operational Policy 4.10—Indigenous Peoples (2005; revised 2013);
- ≡ World Bank Environmental and Social Framework including a specific environmental and social safeguard, ESS7, on Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities (2016);
- ≡ Inter-American Development Bank (IDB)—Operational Policy on Indigenous Peoples and Strategy for Indigenous Development (OP-765 and GN-2387-5) (2006);
- ≡ Asian Development Bank (ADB) Policy on Indigenous Peoples (1998); later superseded by the ADB Safeguard Policy Statement (2009);
- ≡ European Bank for Reconstruction and Development—Performance Requirement 7: Indigenous Peoples (2014);
- ≡ Secretariat of the Convention on Biological Diversity—The Tkarihwaí:ri Code of Ethical Conduct to Ensure Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities (2010);
- ≡ Global Environment Facility—Principles and Guidelines for Engagement with Indigenous Peoples (2012);
- ≡ United Nations Educational, Scientific and Cultural Organization (UNESCO)—Policy on Engaging with Indigenous Peoples (2017).

Cultural protection

The World Intellectual Property Organization (WIPO) Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore is engaged in negotiations to secure agreement on international legal instruments designed to protect traditional knowledge, traditional cultural expression, and genetic resources.⁴⁰

Mitigating the impact of business practices on indigenous peoples

Various United Nations agencies, programmes and related institutions have addressed indigenous peoples' rights as they relate to business practices or commercial activity. In 2011, the United Nations Human Rights Council endorsed the Guiding Principles on Business and Human Rights (United Nations, OHCHR, 2011).⁴¹ As noted by K. Win (2006), "the Guiding Principles seek to provide [an] authoritative global standard for preventing and addressing the risk of adverse human rights impact linked to business activity". These Principles formed the basis for the establishment of the Working Group on the issue of human rights and transnational corporations and other business enterprises (commonly known as the Working Group on Business and Human Rights). Indigenous peoples' organizations have developed their own sets of guiding principles related to the Guiding Principles on Business and Human Rights (Rohr and Aylwin, 2014) and have shared personal experiences in an effort to raise awareness about relevant issues (Doyle, 2015).

The impact of business practices on the rights of indigenous peoples has been addressed by a number of United Nations mechanisms, including the Permanent Forum on Indigenous Issues,⁴² the Expert Mechanism on the Rights of Indigenous Peoples,⁴³

⁴⁰ For more information on the work of this Committee, see <https://www.wipo.int/tk/en/igc/>.

⁴¹ A/HRC/17/31.

⁴² See Saúl Vicente Vásquez, "Study on the extractive industries in Mexico and the situation of indigenous peoples in the territories in which those industries are located" (E/C.19/2013/11); Saúl Vicente Vásquez, "Consolidated report on extractive industries and their impact on indigenous peoples" (E/C.19/2013/16); Megan Davis, "Study on the impact of the mining boom upon indigenous communities in Australia" (E/C.19/2013/20); Paimaneh Hasteh, "An analysis on the duty of the State to protect indigenous peoples affected by transnational corporations and other business enterprises" (E/C.19/2012/3); Elisa Canqui Mollo, Carlos Mamani Condori and Pavel Sulyandziga, "Study on indigenous peoples and corporations to examine the existing mechanisms and policies related to corporations and indigenous peoples and to identify good practices" (E/C.19/2011/12); and Pavel Sulyandziga, "Report on corporations and indigenous peoples" (E/C.19/2010/CRP.1).

⁴³ See A/HRC/21/55.

the Special Rapporteur on the rights of indigenous peoples,⁴⁴ and United Nations treaty bodies.⁴⁵

The United Nations Global Compact, a principle-based framework for business focusing on human rights, labour, the environment and anti-corruption,⁴⁶ published *A Business Reference Guide: United Nations Declaration on the Rights of Indigenous Peoples* in 2013 (United Nations Global Compact, 2013).⁴⁷

The Working Group on Business and Human Rights has produced two reports that address corporate activity and indigenous peoples.⁴⁸ The 2013 report of the Working Group is particularly relevant, as it explores the challenges faced in addressing the adverse impact of business-related activities on the rights of indigenous peoples through the lens of the United Nations Guiding Principles on Business and Human Rights. Its focus is on how the Guiding Principles can clarify the roles and responsibilities of States, business enterprises and indigenous peoples in addressing issues of concern.

Parliamentary guidelines

The *Handbook for Parliamentarians*, published in 2014, was the product of collaboration between the United Nations Department for Economic and Social Affairs, the Office of the High Commissioner for Human Rights (OHCHR), IFAD, UNDP, and the Inter-Parliamentary Union (IPU). The *Handbook* is a practical instrument that enables parliamentarians around the world to better understand indigenous peoples' rights and provides pragmatic ideas for the implementation of the United Nations Declaration on

⁴⁴ See A/HRC/24/41.

⁴⁵ See Committee on Economic, Social and Cultural Rights, general comment No. 7 (1997) on the right to adequate housing (art. 11.1 of the Covenant): forced evictions, para. 10 (E/1998/22); Committee on Economic, Social and Cultural Rights, general comment No. 15 (2002) on the right to water, paras. 7 and 16 (E/C.12/2002/11); Committee on the Rights of the Child, general comment No. 11 (2009) on indigenous children and their rights under the Convention, para. 16 (CRC/C/GC/11); and Committee on the Rights of the Child, general comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights (CR/C/GC/16).

⁴⁶ For more information, see <https://www.unglobalcompact.org/what-is-gc>.

⁴⁷ A practical supplement to the *Business Reference Guide* was published in 2014 and updated in 2015 (United Nations Global Compact, 2015).

⁴⁸ The 2013 report of the Working Group on the issue of human rights and transnational corporations and other business enterprises focuses on the gaps and challenges faced in addressing the adverse impacts of business-related activities on the rights of indigenous peoples and offers recommendations based on the Guiding Principles (A/68/279); the 2016 report addresses the human rights impacts of agro-industrial operations on indigenous and local communities and the role of the State and business enterprises in mitigating those impacts (A/71/291).

the Rights of Indigenous Peoples, which defines the minimum standards for ensuring the survival, dignity and well-being of indigenous peoples globally. The *Handbook* presents good practices relating to the recognition and exercise of indigenous peoples' rights in different regions of the world (IPU and others, 2014).

International support for indigenous peoples Other global entities, including international environmental organizations and various development agencies and funds, have also adopted policies, procedures and guidelines that derive from or incorporate provisions of the Declaration (see MacKay, 2015; 2017). The examples provided above represent a small sample of the prominent agencies and organizations that now have policies and guidelines on the rights of indigenous peoples—clearly demonstrating the important standard-setting role of the Declaration despite its relatively short existence.

Indigenous-specific mechanisms of the United Nations

Three targeted mechanisms of the United Nations have specific roles in the implementation of the United Nations Declaration on the Rights of Indigenous Peoples.

Permanent Forum on Indigenous Issues

The Permanent Forum on Indigenous Issues, established in 2000, has a mandate to promote the implementation of the United Nations Declaration on the Rights of Indigenous Peoples—and within that frame of reference to provide advice and recommendations to the Economic and Social Council and to programmes, funds and agencies within the United Nations system; to promote the coordination of activities related to indigenous peoples within this system; and to prepare and disseminate information on indigenous peoples (United Nations, n.d.(c)). Article 42 of the Declaration includes direct reference to this mechanism: “The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.”

Special Rapporteur on the rights of indigenous peoples

In 2001, the United Nations Commission on Human Rights appointed the first Special Rapporteur on the rights of indigenous peoples, and the Rapporteur's mandate has been renewed periodically since that time (United Nations, OHCHR, n.d.(e)). The Special Rapporteur is tasked with promoting best practices, reporting on the human rights situation of indigenous peoples in targeted areas, addressing possible violations of indigenous peoples' rights, and conducting or contributing to “thematic studies on

topics of special importance”.⁴⁹ The Rapporteur is also responsible for following up on recommendations made by previous Special Rapporteurs and must report to the Human Rights Council and to the UN General Assembly on an annual basis.

Expert Mechanism on the Rights of Indigenous Peoples

The Expert Mechanism on the Rights of Indigenous Peoples, established in 2007 and comprising seven independent experts, “disseminates and promotes good practices and lessons learned regarding the efforts to achieve the ends of the United Nations Declaration on the Rights of Indigenous Peoples, including through reports to the Human Rights Council”. The Expert Mechanism also helps Member States, at their request, to achieve the objectives embodied in the Declaration “through the promotion, protection and fulfilment of the rights of indigenous peoples” (United Nations, OHCHR, n.d.(c)).⁵⁰

The three indigenous-specific mechanisms and their relationship to the Declaration on the Rights of Indigenous Peoples are described in greater detail in chapter three of the present publication.

United Nations treaty bodies

The Declaration on the Rights of Indigenous Peoples has compelled treaty bodies to give increased consideration, in their monitoring of human rights treaties, to the situation of indigenous peoples. Most treaty bodies address wide-ranging issues that are also important or relevant to indigenous groups, but some treaties make explicit reference to indigenous peoples’ rights.⁵¹ Such rights may be addressed under general non-discrimination articles or through comments or observations. The Human Rights Committee⁵² has dealt specifically with “access to social services, representation in public offices, negative stereotypes, hate speech, domestic violence, police violence, disappearance, overrepresentation in prison and many other such issues as they relate to indigenous peoples”, and has also considered indigenous peoples’ rights within the

⁴⁹ For more information on the mandate of the Special Rapporteur on the rights of indigenous persons, see <http://www.ohchr.org/EN/Issues/IPeoples/SRIndigenousPeoples/Pages/Mandate.aspx>.

⁵⁰ For more information on the mandate of the Expert Mechanism on the Rights of Indigenous Peoples, see <https://www.ohchr.org/EN/Issues/IPeoples/EMRIP/Pages/Reviewofthemandate.aspx>.

⁵¹ A/HRC/36/56, para. 11.

⁵² The Human Rights Committee is a body of independent experts monitoring the implementation of the International Covenant on Civil and Political Rights (see <https://www.ohchr.org/en/hrbodies/ccpr/pages/ccprindex.aspx>).

context of broader human rights violations relating to human trafficking, birth registration, personal security, and the protection of activists.⁵³

Treaty bodies deal with civil, political, economic, social and cultural rights relevant to indigenous peoples; common themes include issues or concerns relating to “self-identification; ... access to justice; ... lack of consultation and free, prior and informed consent, including indigenous women, and often with respect to large-scale projects; ... failure to safeguard the environment; and ... access to and protection of lands, territories and resources”. In recent years, special priority has been given to encouraging national Governments to “ensure respect by companies of the rights of indigenous peoples, even when acting outside the State,⁵⁴ ... self-determination for indigenous peoples;⁵⁵ and the review of indigenous institutions for compatibility with human rights norms”.^{56 57}

Some treaty bodies address indigenous peoples’ issues on the basis of specific treaty articles or through the adoption of general recommendations, as exemplified by the following:

- ≡ *Committee on the Rights of the Child*. Article 30 of the Convention on the Rights of the Child refers directly to indigenous children. In addition, the Committee on the Rights of the Child issued General Comment No. 11 (2009) on Indigenous children and their rights under the Convention

- ≡ *Human Rights Committee*. Article 27 of the International Covenant on Civil and Political Rights relates to minority rights⁵⁸ and is referenced in the Committee’s efforts to address “the impact of development projects and evictions on land rights and the welfare of indigenous peoples” (based on the “principle of free, prior and informed consent as the guiding norm for compliance with a State’s duty to consult”).⁵⁹ In individual countries, article 27 has also informed recent issues relating to “(a) the need for prompt demarcation of indigenous lands; (b) encouraging legislation recognizing indigenous land rights; (c) conferral of title recognition on a group as an indigenous people; (d) active protection of language; (e) effective access to land restoration

⁵³ A/HRC/36/56, para. 14.

⁵⁴ See CERD/C/NOR/CO/21-22, para. 24; and A/HRC/17/31.

⁵⁵ See CCPR/C/SWE/CO/7, para. 38.

⁵⁶ See CCPR/C/ECU/CO/6, paras. 37-38.

⁵⁷ A/HRC/36/56, para. 17.

⁵⁸ See CCPR/C/21/Rev.1/Add.5 (general comment No. 23(50) (art. 27) on the rights of minorities).

⁵⁹ A/HRC/36/56, para. 15.

processes; (f) the provision of adequate resources to indigenous representative bodies; (g) effective access to justice; (h) length of negotiations; (i) strengthening indigenous education and child and family services; (j) the protection of sacred areas; and (l) participation in law-making”.⁶⁰

- ≡ *Committee on the Elimination of Racial Discrimination*. In 1997, this Committee adopted an important general recommendation (No. 23) on the rights of indigenous peoples (United Nations, OHCHR, n.d.(a)). This Committee has been particularly active since the adoption of the Declaration; under the treaty reporting procedures, the Committee on the Elimination of Racial Discrimination made the highest number of recommendations relating to indigenous peoples during the period 2007-2017.⁶¹

World Conference on Indigenous Peoples

In September 2014, the United Nations General Assembly held a high-level plenary meeting known as the World Conference on Indigenous Peoples to focus attention on and mobilize action towards the implementation of the Declaration on the Rights of Indigenous Peoples.⁶² In alignment with the guiding principles of the Declaration, indigenous peoples and Member States worked together on the preparation and execution of all aspects of the event, embracing the collaborative model established during the drafting of the Declaration. An important milestone was the appointment of advisers—representatives of indigenous peoples and of Member States—on a parity basis to assist the President of the General Assembly in the organization and conduct of the World Conference.

⁶⁰ Ibid., para. 16.

⁶¹ The respective treaty committees made the following number of recommendations relating to indigenous peoples between 2007 and 2017: Committee on the Elimination of Racial Discrimination (470), Committee on the Rights of the Child (232), Committee on Economic, Social and Cultural Rights (172), Committee on the Elimination of Discrimination against Women (143), Human Rights Committee (74), Committee on the Rights of Persons with Disabilities (29), Committee against Torture (23), Committee on Migrant Workers (2), and Committee on Enforced Disappearances (1). “The number of recommendations made by the treaty bodies relates, inter alia, to the extent to which indigenous rights are specifically mentioned in the treaties or drawn from other articles; the number of States that have ratified the treaty and have indigenous peoples; and the extent to which indigenous peoples ... [have contributed to] the treaty body process” (A/HRC/36/56, para. 12). It should be noted that the Committee on Enforced Disappearances “has also considered indigenous issues under its urgent action procedure, including the cases of an indigenous leader of the Yaqui nation and the leader of the Organización campesina de los pueblos indígenas de Ayutla. The Subcommittee on Prevention of Torture also brings up indigenous issues in its reports following monitoring visits to places of detention” (ibid., footnote 9).

⁶² For more information, see the World Conference on Indigenous Peoples website (<http://www.un.org/en/ga/69/meetings/indigenous/#&panel1-1>).

The Declaration on the Rights of Indigenous Peoples greatly influenced the World Conference in terms of both substance and process. In the outcome document for the meeting,⁶³ States reaffirmed their support for the Declaration and committed to implementing its provisions. Member States also reiterated their commitment to consult and cooperate in good faith with the indigenous peoples through their own representative institutions to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that might affect them and to develop and implement national action plans, strategies or other measures to achieve the ends articulated in the Declaration. More broadly, States reaffirmed their commitment to respect, promote, advance, and not diminish the rights of indigenous peoples and to uphold the principles of the Declaration.⁶⁴

The World Conference also called for a United Nations system-wide action plan to raise awareness of the rights of indigenous peoples at the highest levels and thereby increase the coherence of United Nations activities relating to them. This action plan is explored in more detail in chapters three and four of the present report.⁶⁵

⁶³ A/RES/69/2.

⁶⁴ Ibid.

⁶⁵ E/C.19/2016/5.



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Impact of the Declaration on indigenous women, children and youth

Indigenous women, children and youth are of particular interest in analysing the impact and influence of the United Nations Declaration on the Rights of Indigenous Peoples. Progress has been slow, and in some countries—even those in which legal and policy measures are in place—the situation on the ground is grave. However, as illustrated below, action is being taken to address their needs.

The Declaration makes direct reference to the rights of women, children and youth (see boxes 1.3 and 1.4). In addition, in the outcome document of the 2014 World Conference on Indigenous Peoples,⁶⁶ States commit to working with indigenous peoples to disaggregate data, to ensure that they have access to high-quality education and health care, and to afford indigenous children the right to enjoy their own culture and speak their own language. States also pledge to intensify efforts to eliminate violence, especially against indigenous women, and to support the empowerment of indigenous youth.⁶⁷

⁶⁶ A/RES/69/2.

⁶⁷ E/C.19/2017/4.

BOX 1.3. Women, children and youth in the United Nations Declaration on the Rights of Indigenous Peoples

Article 17

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

Article 21

2. *States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.*

Article 22

1. *Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.*
2. *States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.*

BOX 1.1. Provisions relating to education in the Declaration on the Rights of Indigenous Peoples

Article 14

1. *Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.*
2. *Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.*
3. *States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.*

Indigenous children and youth

Action within the United Nations

The Global Indigenous Youth Caucus was established in 2006 by indigenous youth who participated at the annual session of the Permanent Forum on Indigenous Issues. The Caucus is convened each year during the Forum and presents joint statements. UNICEF, the Secretariat of the Permanent Forum on Indigenous Issues, and the Global Indigenous Youth Caucus developed a youth-friendly version of the United Nations Declaration on the Rights of Indigenous Peoples, translated into different languages to make it more accessible to youth in different parts of the world (Global Indigenous Youth Caucus, Secretariat of the United Nations Permanent Forum on Indigenous Issues and UNICEF, 2013). FAO held a meeting with the Caucus in April 2017 to exchange information and incorporate the concerns of indigenous peoples and youth into the work of FAO, particularly in relation to food security and agriculture; rights to land, territories and resources; and the preservation of traditional knowledge. The meeting participants adopted the Rome Statement on the Contribution of Indigenous Youth towards a World without Hunger, which incorporates a significant number of recommendations linked to the Declaration and the Sustainable Development Goals (FAO, n.d.).

Action at the national level

Various States have implemented specific measures targeting indigenous children and youth. The Ministry of Education in **Bolivia** provides annual scholarships to students with limited financial resources, including indigenous children and youth, and there are special quotas for indigenous students in the universities. Indigenous children and

young people in **Chile** can apply for a grant programme set up to assist indigenous students. In 2012, the Government of **El Salvador** adopted a general law on youth that reflected the need to raise awareness and expand knowledge of the rights of indigenous children and adolescents and to provide training to those working with and for them. In **Finland**, the Ministry of Education and Culture has taken long-term measures to support the activities of young Sámi people as part of the country's overall youth policy, including the establishment of the Advisory Council for Youth Affairs in 2010.

Other national measures focus on specific risks and challenges affecting indigenous children and youth. In 2009, **Paraguay** established a support unit to address the situation of street children and youth. **Australia** funds diversionary programmes for indigenous children to help them avoid incarceration and to deal with the relatively high incidence of petrol sniffing in remote indigenous communities. Indigenous youth worldwide experience much higher rates of suicide and self-harm than do other youth⁶⁸. In response to the high rate of suicide in **Greenland**, the Government and various national and international organizations have developed preventive measures and implemented new initiatives—including a new national strategy for suicide prevention for the period 2013-2019 that incorporates continuing education for local communities and for professionals such as teachers, social workers and physicians.⁶⁹

In 2008, the Prime Minister of **Canada** stood before the House of Commons and issued a formal public apology to the former students of the Indian residential schools that had operated across the country in the nineteenth and twentieth centuries. In his apology, the Prime Minister expressed regret over the forcible removal of First Nations, Métis and Inuit children and their treatment in the schools. The Truth and Reconciliation Commission of Canada (TRC) conducted an extensive study of the church-run, government-funded Indian residential school system to reveal the truth about the programme and its long-term impact on indigenous peoples, and to make recommendations on measures to facilitate healing. The TRC incorporated 94 "calls to action" in its 2015 report. Central to these recommendations was a request for all levels of government to fully adopt and implement the United Nations Declaration on the Rights of Indigenous Peoples as the framework for reconciliation in Canada, supported by a national action plan for implementation. Prime Minister Justin Trudeau, elected in October 2015, included in his mandate letters to ministers, directives to implement the recommendations of the TRC including implementation of the Declaration (Lightfoot, 2017). In February 2018, the Prime Minister announced that the Government would develop a "recognition and implementation of indigenous rights framework" in full partnership with indigenous peoples in Canada (Canada, 2018).

⁶⁸ E/C.19/2017/4

⁶⁹ E/C.19/2016/6.

Indigenous women

Action within the United Nations

Indigenous women were actively involved in the negotiations to develop the United Nations Declaration on the Rights of Indigenous Peoples. The Declaration protects the rights of indigenous women; article 22 calls for “particular attention ... to their rights and special needs, and calls upon States to take measures to ensure that indigenous women enjoy the full protection and guarantees against all forms of violence and discrimination”.⁷⁰ This has led to the incorporation of their issues in the agenda of the United Nations Commission on the Status of Women (a functional commission of the Economic and Social Council).

The outcome document of the 2014 World Conference on Indigenous Peoples, which reaffirms the support of Member States for the United Nations Declaration on the Rights of Indigenous Peoples, makes direct reference to indigenous women in paragraphs 10 (disaggregated data), 17 (participation and capacity-building), 18 (eliminating all forms of violence and discrimination), and 19 (inviting the Human Rights Council to examine the causes and consequences of violence against indigenous women and requesting the Commission on the Status of Women to consider the empowerment of indigenous women as a theme at a future session).⁷¹

At its sixty-first session in 2017, the Commission on the Status of Women identified “the empowerment of indigenous women” as an emerging issue/focus area and held a half-day session during its high-level week to discuss relevant priorities. Indigenous women, members of the Permanent Forum on Indigenous Issues, and the Special Rapporteur on the rights of indigenous peoples were invited to speak during this session (United Nations, 2018a). The Commission Chair’s summary provides an overview of the discussion on key messages such as empowering indigenous women as an opportunity, indigenous women’s participation in decision-making processes, violence against indigenous women and girls, indigenous women’s economic opportunities, and the impact of climate change on the empowerment of indigenous women and their responses.⁷²

The Commission on the Status of Women identified “challenges and opportunities in achieving gender equality and the empowerment of rural women and girls” as the priority theme of its sixty-second session in 2018 and included this theme in its annual programme of work (UN Women, n.d.).⁷³ Ministers and high-level officials from

⁷⁰ E/C.19/2015/2, para. 5.

⁷¹ A/RES/69/2.

⁷² E/CN.6/2017/12.

⁷³ This topic was identified as the priority theme for the sixty-second session (see E/RES/2016/3 and UN WOMEN (n.d.)).

14 Member States, nine invited speakers, and eight representatives from NGOs and the United Nations system contributed to the dialogue. Participants emphasized that indigenous women and girls should not be portrayed as victims, even though they face discrimination and serious challenges. The core topics of the dialogue derived from the key priorities discussed at the 2017 half-day (emerging issue/focus area) session and reviewed in the Commission Chair's summary.⁷⁴

The Commission on the Status of Women adopted two resolutions relating to indigenous women. Resolution 56/4, entitled "Indigenous women: key actors in poverty and hunger eradication", was adopted in 2012 and represented a landmark achievement in terms of the recognition of the role of indigenous women in eliminating poverty. Resolution 49/7, entitled "Indigenous women: beyond the ten-year review of the Beijing Declaration and Platform for Action", was adopted in 2005.⁷⁵

UN Women made an important contribution to addressing the situation of indigenous women with the preparation of the Strategy for Inclusion and Visibility of Indigenous Women in 2016,⁷⁶ and that same year produced a research brief on indigenous women and the women and peace and security agenda.⁷⁷ Country programmes have allocated resources towards activities targeting indigenous women in a number of countries including Bolivia, Brazil, Chile, Colombia, El Salvador, Guatemala, Mexico, Nepal, Paraguay and the Philippines.⁷⁸ At the national level, UN Women has collaborated with indigenous women on outreach and events in many of these same countries, as well as in India, Uganda and Viet Nam.⁷⁹

The OHCHR office in Guatemala, together with the United Nations Voluntary Fund for Victims of Torture, provided support to indigenous women in the aforementioned 2016 landmark case relating to the abuse and exploitation they had suffered in the village of Sepur Zarco during the internal armed conflict in the 1980s.⁸⁰

The 2015 report of the Special Rapporteur on the rights of indigenous peoples focused on violence against indigenous women. The Special Rapporteur noted the following:

The endemic violations of collective, civil and political, and economic, social and cultural rights can be seen as constituting a form of structural

⁷⁴ E/CN.6/2017/12.

⁷⁵ See E/2012/27-E/CN.6/2012/16 and E/2005/27-E/CN.6/2005/11.

⁷⁶ E/C.19/2017/2, citing UN Women (2016b).

⁷⁷ E/C.19/2017/2, para. 15, citing UN Women (2016a).

⁷⁸ E/C.19/2017/2, para. 55; see also UN Women (2016a).

⁷⁹ E/C.19/2017/2, para. 15.

⁸⁰ A/HRC/36/56, para. 44; see also UN Women (2017).

violence against indigenous women and girls. Structural violence results in women being victimized by the realities of the circumstances of their everyday life and routinely excluded from the rights and resources otherwise guaranteed to citizens. Structural violence is interlinked and mutually reinforcing with other forms of violence,⁸¹ [including sexual violence, gender-based killings, violence in the context of conflict, violence in the name of tradition, domestic violence, and trafficking].⁸²

Action at the national level

In keeping with their commitment to implement the Declaration, some Member States have taken steps to address the situation of indigenous women.

In 2011, **El Salvador** adopted a law on equality, equity and the eradication of discrimination against women. The law guarantees the rights of women and prohibits discrimination against women based on their socioeconomic circumstances or their ethnic, cultural or political background. In 2012, the Special Comprehensive Law for a Life Free of Violence for Women entered into force. In 2016, **Honduras** adopted a policy against racism and racial discrimination to facilitate the comprehensive development of indigenous and Afro-Honduran peoples. The policy addresses social and political participation, gender equality and the empowerment of indigenous women and girls, intercultural education and health, lands and natural resources, and access to justice. In October 2015, to promote the participation of indigenous women in **Peru**, the Ministry of Culture's Working Group on Indigenous Policies introduced a new component for the mainstreaming of a gender approach in its work.⁸³

Guatemala is also setting an example. Thirty-four years after the rape and enslavement of the indigenous Q'eqchi' women of Sepur Zarco, the High-Risk Court of Guatemala convicted former military officers of crimes against humanity. This marked the first instance of a national court anywhere in the world ruling "on charges of sexual slavery during an armed conflict" and was the first step for indigenous women seeking access to justice. The survivors and their communities are now receiving reparations (UN Women, 2017).

A number of developed countries have taken steps to address the violence and discrimination to which indigenous women and children are particularly vulnerable. The following examples are excerpted from the "Twenty-year review of the Beijing

⁸¹ A/HRC/30/41, para. 46.

⁸² Ibid., paras. 47-60.

⁸³ E/C.19/2016/6.

Declaration and Platform for Action and beyond: a framework to advance indigenous women's issues".⁸⁴

Australia has adopted a National Plan to Reduce Violence against Women and their Children (2010-2022), through which [it] has reportedly implemented local solutions to prevent and respond to violence. Furthermore, the "respectful relationship education" projects, aimed at violence prevention, have reached over 32,000 participants across the country, including over 8,100 young people from indigenous backgrounds. ... In 2012 and 2013, Aboriginal legal services provided assistance to 61,373 women in urban, regional and remote areas. (para. 48)

New Zealand stated that Māori women are twice as likely to experience violence as other women. Its efforts to address the high levels of violence against women and girls includes the E Tu Whānau programme of action for addressing family violence (2013 to 2018), which provides a Māori conceptual framework for addressing this subject. It also provides a five-year framework within which Māori communities and the Government can continue to work together to address issues of violence. In addition, the New Zealand parliamentary committee on social services is undertaking an inquiry into the funding provided for social services in relation to sexual violence, which includes a review of whether such services for Māori peoples are accessible, culturally appropriate and sustainable. (para. 55)

Finland reported that the national anti-discrimination campaign, "Equality is Priority", was implemented in 2011 with the aim of promoting equality in education. The campaign included the preparation of specific teaching materials on the Sámi people. Finland recognizes the importance of paying particular attention to intersectional and multiple forms of discrimination based on gender and for other reasons, and it has also recognized that there is not enough sex-disaggregated research data available on the status, living conditions or political participation of the Sámi peoples to support decision-making. (paras. 25 and 82)

⁸⁴ E/C.19/2015/2.

Summary and review: progress in implementing the Declaration

The process of developing and negotiating the Declaration on the Rights of Indigenous Peoples was regarded as open and participatory, which contributed greatly to the broad acceptance of the final Declaration. The reversals among States that initially voted against the Declaration and the support among States that abstained speak to the global legitimacy of the Declaration. The growing support for this instrument promotes the acceptance of universal human rights standards and mechanisms more generally, represents a strong demonstration of goodwill and positive intent, and strengthens the foundation for partnerships.

Some examples of how the Declaration has been applied—or should be applied—to achieve best practice in various contexts are as follows:

- ≡ Requiring the organs and specialized agencies of the United Nations system and other intergovernmental organizations to promote and contribute to the full realization of the Declaration (as set out in articles 41 and 42) has proven to be a powerful tool for facilitating the progressive operationalization of the Declaration;
- ≡ Following from this obligation, the development, adoption and implementation of the system-wide action plan for United Nations entities will ensure coordinated and synergetic action on the rights of indigenous peoples (SWAP);
- ≡ The organization of high-level segments of the General Assembly such as the World Conference on Indigenous Peoples (September 2014) has created the necessary space for renewing commitments and adopting more concrete, action-oriented decisions;
- ≡ The worldwide celebration of International Day of the World's Indigenous Peoples draws attention to the issues of indigenous peoples, as intended, and contributes to solidarity within, with, and between indigenous peoples;
- ≡ The translation of the Declaration into national and indigenous languages provides increased opportunities for raising awareness and facilitates the application of its provisions at the local, State and regional levels;
- ≡ The use of the Declaration as a tool for advocacy and awareness at all levels and in multiple contexts is a good practice. Increased awareness of indigenous

peoples' rights and obligations can contribute to mutual acceptance and understanding, to dignity and empowerment, and to decreased discrimination and stigmatization;

- ✦ Incorporating the provisions of the Declaration in other agreements and policies and endorsing the Declaration as an applicable standard, is a good practice for preserving the universality of human rights, ensuring cross-thematic compliance with universal standards, reinforcing a human rights-based approach, and securing sustainable support for agreements and policies advancing indigenous peoples' rights;
- ✦ The use of the Declaration by national and regional courts and judicial systems is particularly noteworthy, as this represents an important contribution to human rights standard setting and enforcement. The legal decisions issued within this context have affirmed that the Declaration is the normative instrument it was intended to be. Such use of the Declaration effectively sets precedents and establishes jurisprudence;

An important lesson learned from the negotiation process for the Declaration and the outcome document of the 2014 World Conference on Indigenous Peoples⁸⁵ is that the exercise of participatory rights and substantive outcomes are inextricably intertwined. These experiences demonstrate that the inclusion of indigenous peoples—beyond indigenous NGOs—can lead to exceptionally positive results when the aims and purposes of the participants are in accord with the spirit, purposes and principles of the United Nations (Baer, 2017). This was demonstrated by the participation of indigenous peoples in the processes leading to the adoption of the 2030 Agenda for Sustainable Development and the 2015 Paris Agreement (under the United Nations Framework Convention on Climate Change). As a result of indigenous peoples' engagement in the process of preparing the 2030 Agenda, the final resolution refers to indigenous peoples six times—three times in the political declaration (paras. 23, 25 and 52); twice within the Sustainable Development Goals (target 2.3 under Goal 2 on zero hunger and target 4.5 under Goal 4 on education); and in the section on follow-up and review calling for indigenous peoples' participation (para. 79).

The inclusion of indigenous peoples ... can lead to exceptionally positive results when the aims and purposes of the participants are in accord with the spirit, purposes and principles of the United Nations (Baer, 2017).

⁸⁵ A/RES/69/2.



**Chapter Two:
Indigenous Peoples
in Official Statistics**

Indigenous Peoples in Official Statistics

The need for data disaggregation

Many countries lack concrete disaggregated data on the situation of indigenous peoples.⁸⁶ The limited data that are available, however, indicate that indigenous peoples worldwide suffer from high levels of poverty and lag behind in many development indicators (see, for example, World Bank and IMF, 2011; United Nations, 2013; Hall and Patrinos, 2012).

The international community has acknowledged the need to address gaps in data. There is a consensus that policy development and implementation should be driven by robust, evidence-based data, as such data provide greater assurance that there is appropriate planning and monitoring of progress towards achieving the Sustainable Development Goals and ensuring that no one is left behind. Without such data, some groups remain “invisible” in national statistical analyses. For example, a high national literacy rate may obscure low literacy rates in indigenous communities that would become apparent with disaggregated data. Detailed data must be collected, analysed and published so that policymakers can take action to identify and address disparities and ensure that indigenous and other vulnerable communities are not left behind. A 2011 World Bank/IMF study noted that even in middle-income countries that were on track to achieve the Millennium Development Goals, indigenous and socially excluded groups were still very poor and often well behind in reaching the Goals. Such groups frequently experience social and economic discrimination and government neglect. Therefore, more complex interventions may be required for indigenous peoples than for the general population (World Bank and IMF, 2011).

A significant number of international human rights instruments call for the collection and analysis of disaggregated data to monitor inequalities and discrimination (Fasel,

⁸⁶ As mentioned previously, there is no internationally agreed definition of the term indigenous peoples. In terms of statistical analysis, the lack of a universal definition is problematic, as diverse national definitions may be difficult to compare at the regional and international levels.

2016). As part of a human rights-based approach,⁸⁷ data disaggregation permits dynamic human rights monitoring.

Various United Nations entities have agreed to act on the urgent need for disaggregated data on indigenous peoples and other disadvantaged and vulnerable groups. In his foreword to *The Sustainable Development Goals 2017*, United Nations Secretary-General

Children living outside of family care, persons with disabilities and older persons, for example, have largely fallen off the statistical “map”. While innovative approaches for bringing these hidden populations into focus have begun to emerge, more resources and capacity-building efforts are needed to ensure that vulnerable groups receive their long-overdue place in the development agenda.

— Wu Hongbo,
Under-Secretary-General for
Economic and Social Affairs
(United Nations, 2017a)

António Guterres underscores “the need for reliable, timely, accessible and disaggregated data to measure progress, inform decision-making and ensure that everyone is counted”. The Under-Secretary-General for Economic and Social Affairs notes in the same report that “the lack of sound disaggregated data for many of these vulnerable groups—including children, youth, persons with disabilities, people living with HIV, older persons, indigenous peoples, migrants, refugees and those internally displaced— exacerbates vulnerabilities by masking the extent of deprivation and disparities”. He further notes that because the “lack of rigorous evidence and comprehensive data has long compromised the ability of Governments and the international community to accurately document the discrimination faced by various groups, ... planning and budgeting for necessary services along with effective policymaking have suffered” (United Nations, 2017e, p. 13).

The United Nations Statistics Division has recommended that more data be collected on indigenous peoples in order to strengthen their socio-economic participation in the development process.

Comprehensive, accurate and reliable data can help indigenous communities undertake an objective assessment of their living conditions and can provide them with the information they need to advocate for and participate in the development of programmes and policies affecting their communities, including those relating to health-care systems, models of economic production, environmental management, and social

⁸⁷ UNICEF (2016) defines the human rights-based approach as “a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights. It seeks to analyze inequalities which lie at the heart of development problems and redress discriminatory practices and unjust distributions of power that impede development progress”.



organization. The development of indicators relevant to the indigenous population and the monitoring of such indicators through the collection and analysis of pertinent data can be used to measure human development progress among indigenous populations (United Nations, 2017c).

There is a clear global mandate—expressed most urgently within the framework of the Sustainable Development Goals—to collect disaggregated data on population groups, to identify development gaps, and to leave no one behind. However, ensuring that data are appropriately disaggregated, comprehensive, timely, reliable, transparent and accessible remains a serious challenge. There is growing support for more localized data gathering and dissemination (supplementary self-reporting), but insufficient resource support and the lack of political will at the national, regional and global levels effectively prevent indigenous peoples from producing useful complementary data that would likely fill many of the information gaps that presently exist.

The persistent invisibility of indigenous peoples

Indigenous peoples are often not identified as such in national statistics. In a 2011 study, national census questionnaires were examined for data on indigenous populations, but only 43 (23.1 per cent) of the 184 countries and areas in the study had attempted to collect statistical information on some or all of the indigenous groups living within their borders; most of the countries collecting relevant data were in the Americas and Oceania (Peters, 2011). It was noted in the study that even though roughly three quarters of the world's indigenous peoples live in Asia, States in that region have been reluctant to identify groups as indigenous (*ibid.*); with few exceptions, indigenous populations do not feature in the statistical details published by most countries in Asia (Dhir, 2015).

Among the countries that do gather data on indigenous populations, the methodology and terminology used vary. The authors of the 2011 study observed that “indigenous” was a separate category in some censuses, but in most censuses indigenous peoples were categorized under ethnic groups or race, and in three cases they were otherwise identified (as a cultural or population group, for example) (Peters, 2011). Data on ethnicity are mainly found in population censuses; they are less often incorporated in household surveys, and there is an evident gap in longitudinal records, at least in vital statistics and health information (Del Popolo and Schkolnik, 2013).

Limitations such as those described above effectively render indigenous peoples invisible in most population and household surveys; at best, an analysis of results could be

based on ethnicity or race. It is generally acknowledged that health, education, income, and other existing and potential indicators for indigenous peoples are often below national averages but developing targeted policies to address these deficits is difficult without reliable disaggregated data to drive the process and measure progress. Several provisions and indicators specific to indigenous peoples have been incorporated in the 2030 Agenda for Sustainable Development and associated indicator framework, but the lack of disaggregated data makes it impossible to monitor whether progress is being made. The inability to access targeted data that could drive beneficial policy decisions and actions increases the risk that statistically invisible population groups such as these will be left behind.

Fortunately, an increasing number of countries are now including indigenous status—or at least ethnicity—in their census and household surveys, recognizing that the collection of such data is crucial for effective policymaking. In Latin America, for example, only two censuses included self-identification criteria in the 1990 round, but by the 2010 round such criteria were present in 21 of them (United Nations, ECLAC, 2016).

BOX 2.1. Montevideo Consensus on Population and Development

In 2013, States in Latin America and the Caribbean adopted the Montevideo Consensus on Population and Development, which includes a significant number of provisions relating directly or indirectly to indigenous peoples. Those that make direct reference to demographic or statistical issues relevant to indigenous populations include the following:

The representatives of the countries participating in the first session of the Regional Conference on Population and Development in Latin America and the Caribbean, held in Montevideo from 12 to 15 August 2013,

(...)

Underscoring that the preparation of public statistics by State agencies must be consistent with an inclusive approach which encompasses the broad range of rights under public policy and that the information generated on Afro-descendent populations, indigenous populations, persons with disabilities, lesbian, gay, bisexual and transgender persons, gender, social inequalities and gaps, ageing and other issues constitutes a basic input for public policy formulation and is vital for monitoring the objectives established in national and regional agendas,

(...)

Considering that health gaps are still wide in the region and that average statistics usually mask the high levels of maternal mortality, sexually transmitted infections, HIV/AIDS infection and the unmet need for contraception among the population living in poverty and in rural areas, among indigenous peoples and Afro-descendants

continues

Box 2.1 continued from previous page

and vulnerable groups, such as women, adolescents and young people and persons with disabilities,

(...)

Agree to

(...)

86. Consider the special demographic dynamic of indigenous peoples in public policy design, with special emphasis on indigenous peoples threatened with extinction, those who have no contact with the outside world, those living in voluntary isolation or that are in a phase of initial contact, and respect their right to self-determination;

(...)

90. Guarantee indigenous peoples' right to communication and information, ensuring that national statistics respect the principle of self-identification, as well as the generation of knowledge and reliable and timely information on indigenous peoples through participatory processes, with reference to their requirements and international recommendations relating to these issues;

(...)

94. Consider the special demographic and sociocultural dynamics of Afro-descendent populations in the design and implementation of public policies, ensuring their full participation and the development of disaggregated statistics;

(...)

Follow-up recommendations:

(...)

110. Request the secretariat, within the framework of the existing links between population and development, to continue to give priority to the following issues from a gender perspective: determinants and consequences of demographic trends; sociodemographic inequities; maternal and child mortality; sexual health and reproductive health; youth; ageing and older persons; indigenous peoples and Afro-descendent populations in Latin America and the Caribbean; international and internal migration; sources of sociodemographic information (population censuses and vital statistics), and human resources training in the fields of demography and population and development;

111. Request also the secretariat to continue providing support for countries in affording statistical visibility to the indigenous peoples and Afro-descendent populations of Latin America and the Caribbean by seeking to develop specific and innovative indicators, including the exchange of best practices, and providing accessible training opportunities for national personnel, and to continue to monitor regionally the issues relating to these population groups in Latin America and the Caribbean.

Source: United Nations, Economic Commission for Latin America and the Caribbean (2013). Montevideo Consensus on Population and Development. September. LC/L.3697. Available from <https://www.cepal.org/en/publications/21860-montevideo-consensus-population-and-development>.

Indigenous peoples' perspectives

From the Millennium Development Goals to the Sustainable Development Goals

The Millennium Development Goals were developed with little participation from indigenous peoples and failed to reflect the indigenous vision of development. Indigenous peoples' issues were largely unaddressed in the Millennium Development Goals and were seldom included in national action plans. According to a study undertaken in 2010, a common challenge countries faced in the context of the Millennium Development Goals related to "addressing the development needs of indigenous peoples who constitute[d] a minority population ... [as it was] perhaps tempting to marginalize them further when implementing development policies" (Foley, 2010, p. 38).

A 2013 study undertaken in Colombia on indigenous peoples and the Millennium Development Goals identified the protection of indigenous peoples' territories, self-determination, a holistic view of well-being, consultation and consent, and the reform of State institutions as crucial for development (UNDP Colombia, n.d.). The main measure of progress in many economic models is gross domestic product (GDP), but this parameter fails to capture key factors contributing to development and well-being. Damage to ecosystems, the loss of biological diversity, and the erosion of cultural and linguistic diversity—all of which could arguably be linked to the failure of the economic model—are socially destructive factors not reflected in GDP balance sheets.⁸⁸

The Indigenous Peoples' Major Group for Sustainable Development, which participated in the development of the Sustainable Development Goals, noted the following in a policy brief:

The failure to recognize indigenous peoples as distinct groups under the MDGs resulted in the absence of targeted measures to address their specific situations related to poverty and severely limited the realization of favourable outcomes. Furthermore, culturally blind implementation of the MDGs resulted in inappropriate development programmes for indigenous peoples including discriminatory actions related to education, health and basic services. If the world community truly aspires to leave no one behind, it is critical that these gaps be recognized and addressed moving forward. (United Nations, 2015b, p. 1)

⁸⁸ E/C.19/2014/6.

**BOX 2.2. Sustainable Development Goal targets relating to indigenous peoples****Target 2.3**

By 2030, double the agricultural productivity and incomes of small-scale food producers, in particular women, indigenous peoples, family farmers, pastoralists and fishers, including through secure and equal access to land, other productive resources and inputs, knowledge, financial services, markets and opportunities for value addition and non-farm employment.

Target 4.5

By 2030, eliminate gender disparities in education and ensure equal access to all levels of education and vocational training for the vulnerable, including persons with disabilities, indigenous peoples and children in vulnerable situations.

Having been largely overlooked in the Millennium Development Goal process, indigenous peoples advocated for a more inclusive approach to the 2030 Agenda for Sustainable Development.⁸⁹ Although their involvement was somewhat limited, indigenous peoples did contribute to the development of certain aspects of the Sustainable Development Goals, targets and accompanying indicators, ensuring that their perspectives were incorporated in the new global development framework. The 2030 Agenda makes six direct references to indigenous peoples, and the Agenda's overall framework derives from the principles of human rights, equality, non-discrimination, sustainability, and the participation of rights-holders—all of which are essential for indigenous peoples. The two targets that include indigenous peoples call for the doubling of agricultural output and incomes among indigenous small-scale farmers (target 2.3) and ensuring equal access to education for indigenous children (target 4.5). There is also a strong commitment in the Agenda to empower and engage indigenous peoples in implementing the Sustainable Development Goals and reviewing progress towards their achievement. State Governments are encouraged to include the contributions of indigenous peoples in their annual voluntary national reviews (VNRs), which constitute an important follow-up and review mechanism linked to the implementation of the Sustainable Development Goals, the achievement of related targets, and the measurement of associated indicators.

A global indicator framework was developed by the Inter-Agency and Expert Group on SDG Indicators to monitor the achievement of the Goals and targets of the 2030

⁸⁹ Adopted within the framework of A/RES/70/1.

Agenda.⁹⁰ The list, which presently includes 232 indicators,⁹¹ is periodically updated and refined. The indicators constitute a point of reference for the global monitoring of the Goals and can also serve as a source of guidance for the development of national indicator frameworks for reviewing progress towards sustainable development.

Among the Sustainable Development Goal indicators are several that warrant monitoring for indigenous peoples, including indicator 2.3.2, which measures the income of small-scale food producers (by sex and indigenous status), and indicator 4.5.1 on indigenous peoples' access to education. The indicators relating to secure land rights (1.4.2 and 5.a.1) refer to "type of tenure"; within this framework, collective land rights represent a distinct category for which disaggregated data can be analysed, making it possible to measure indigenous peoples' communal proprietorship of lands, territories and resources. Of particular relevance are the indicators on peoples' perceptions of having been discriminated against based on "a ground of discrimination prohibited under international human rights law" (indicators 10.3.1 and 16.b.1), which may be used to monitor both the prevalence of discrimination against indigenous peoples and any progress made in addressing this issue.⁹²

General Assembly resolution 72/155 on the rights of indigenous peoples includes the following recommendations:

The General Assembly ... encourages States to consider including in their voluntary national reviews for the high-level political forum on sustainable development and their national and global reports information related to indigenous peoples on the progress made and challenges in the implementation of the 2030 Agenda, bearing in mind paragraphs 78 and 79 of the 2030 Agenda, and also encourages States to compile disaggregated data to measure progress and to ensure that no one is left behind;⁹³ [it also] encourages the Secretary-General to include information pertinent to indigenous peoples in the forthcoming annual reports on progress towards the Sustainable Development Goals.⁹⁴

⁹⁰ The Inter-Agency and Expert Group on SDG Indicators is a subgroup of the United Nations Statistical Commission.

⁹¹ See the global indicator framework adopted by the General Assembly (A/RES/71/313), as well as the most recent refinements (E/CN.3/2018/2, annex II).

⁹² See the 2017 update on indigenous peoples and the 2030 Agenda (E/C.19/2017/5); a 2018 update is also available (E/C.19/2018/2).

⁹³ A/RES/72/155, para. 14.

⁹⁴ *Ibid.*, para. 15; see also E/2017/66.

The United Nations high-level political forum for sustainable development is the primary platform for monitoring and reviewing the implementation of the 2030 Agenda and convenes annually; within this framework, indigenous peoples' issues have received some attention. The sessions typically conclude with a three-day ministerial meeting, and the outcome documents for 2017 and 2018 both include references to indigenous peoples in the context of poverty eradication and the importance of providing them with access to social protection systems, the vulnerability of indigenous peoples as small-scale food producers, their vulnerability to extreme weather conditions resulting from climate change and land degradation, and the need to support the empowerment and participation of indigenous peoples in decision-making.⁹⁵

Since the 2017 session of the high-level political forum, VNRs have been presented by a number of Member States as part of the follow-up process.⁹⁶ Synthesis reports prepared by the United Nations Department of Economic and Social Affairs in 2017 and 2018 include examples of good practices among Member States in mainstreaming indigenous issues in the implementation of the Sustainable Development Goals at the national level (United Nations, 2017f; 2018b). The Government of Canada, for example, "recognizes that for indigenous peoples, the Canadian reality is not, and never has been, equitable or fair". Its VNR indicates that "Canada is developing—in full partnership with First Nations, Inuit and Métis—a Recognition and Implementation of Rights Framework". The Government of Paraguay notes that has conducted several rounds of consultations with indigenous communities and it is putting together a national plan for indigenous peoples (Plan Nacional de Pueblos Indígenas). The VNR for Ecuador "highlights the need to provide incentives to indigenous peoples who voluntarily commit themselves to food production, conservation and the protection of native forests, thereby protecting ecosystems important for biodiversity and food security". The VNR for Mexico, where more than 7 in 10 indigenous peoples are considered poor or extremely poor, provides information on action taken to improve their situation through such initiatives as the Indigenous Infrastructure Program (United Nations, 2018b, p. 29).

⁹⁵ See the ministerial declaration of the high-level segment of the 2017 session of the Economic and Social Council on the annual theme "Eradicating poverty in all its forms and dimensions through promoting sustainable development, expanding opportunities and addressing related challenges" (E/HLS/2017/1) and the ministerial declaration of the high-level segment of the 2018 session of the Economic and Social Council on the annual theme "From global to local: supporting sustainable and resilient societies in urban and rural communities" (E/HLS/2018/1).

⁹⁶ For more information, see <https://sustainabledevelopment.un.org/vnrs/>.

Integrating indigenous perspectives in national statistics

Even before their participation in Sustainable Development Goal processes, indigenous peoples' organizations had developed and implemented their own community-based participatory monitoring and evaluation systems, and these are still in use today. These systems include disaggregated baseline data and information relating to their lands and territories, human rights, poverty levels, traditional knowledge and governance systems, land tenure, and other priorities. This is important because community-based monitoring and information systems (CBMIS) can provide targeted data that directly and dynamically represent the unique perspectives of indigenous peoples and fill gaps in official data and information (Balawag, 2016). It is recommended that national statistical offices and indigenous peoples' organizations and communities cooperate and work to ensure that community-based data are effectively integrated into national statistics. Collaborative relationships should be established with partners such as the Indigenous Navigator project,⁹⁷ which provides data reflecting indigenous communities' subjective and objective assessments of their access to the rights set out in the United Nations Declaration on the Rights of Indigenous Peoples. The project also addresses essential aspects of the Sustainable Development Goals from the perspective of indigenous peoples on the ground, and the valuable information they collect—often overlooked in official data sets—could supplement and enrich official national statistics on indigenous issues.⁹⁸ In 2015, the United Nations Expert Group Meeting on Indigenous Peoples and the 2030 Agenda emphasized the importance of ensuring that the Agenda not be seen to represent the *only* development paradigm—in the sense that it should not obscure other priorities. It is important not to lose sight of development priorities for indigenous peoples that are not explicitly referenced in the text or to limit global action related to indigenous peoples to merely addressing outcome gaps.⁹⁹

Obstacles to data disaggregation and analysis

With the urgent call for disaggregated data, countries and institutions are developing and implementing strategies and methodologies for adapting their census and other vital statistics processes—and the attendant challenges are becoming increasingly apparent.

⁹⁷ For more information, see the Indigenous Navigator website at www.indigenousnavigator.org.

⁹⁸ See the updates on indigenous peoples and the 2030 Agenda (E/C.19/2017/5; E/C.19/2018/2).

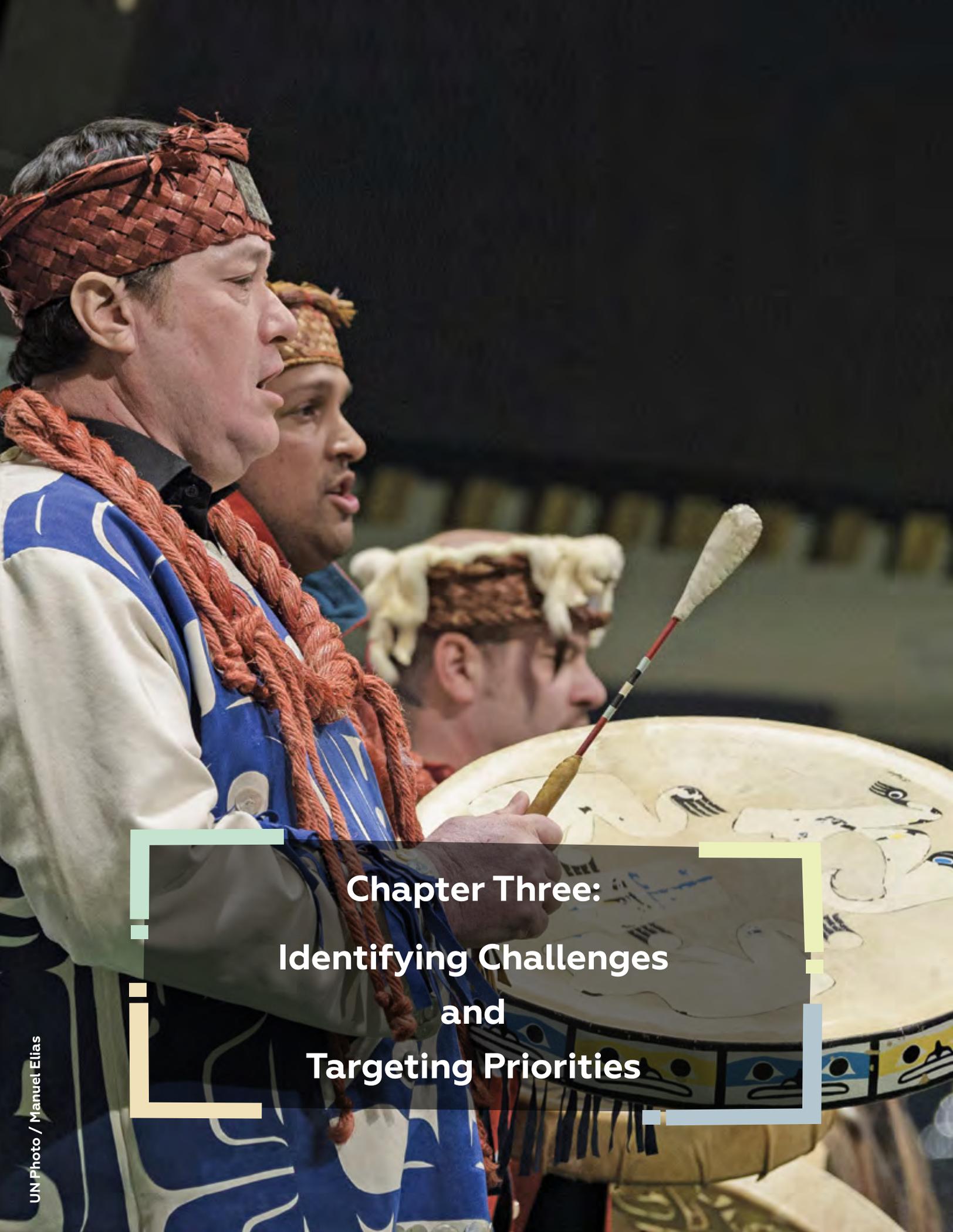
⁹⁹ E/C.19/2016/2.

A fundamental step would be for census offices to incorporate survey questions that make it possible to determine the size of indigenous populations and assess their situations. As noted previously, a number of countries do not recognize indigenous peoples as such, so they are not enumerated in many national censuses. Some countries do not officially recognize indigenous peoples but identify different population groups according to characteristics such as ethnicity, cultural affiliation or language. Challenges in this regard may relate to the way questions are framed; for example, there may or may not be the option of self-identification, and pre-defined answers may or may not cover all possibilities. Further study of these two areas—the decisions of Governments to identify and count indigenous peoples or not and the variability in the phrasing, terminology and selection of survey questions—would be beneficial.

The third revision of the United Nations *Principles and Recommendations for Population and Housing Censuses* notes that “questions on indigenous identity should abide by the principle of self-identification” (United Nations, 2017c, para. 4.190) and recommends the “involvement of the indigenous community in the data development and data collection processes” both to enable capacity-building and to “ensure the relevance and accuracy of the data collection on indigenous peoples” (ibid., para. 4.192).

Comparing data between countries using different approaches is virtually impossible. The widely varying terms and question forms used in contemporary census surveys constitute one issue, but an even more complex problem relates to indigenous peoples’ heterogeneity and their variable relationships with their respective States—factors that may indeed make it impossible to develop census questions that provide a reliable basis for comparison between countries. Nonetheless, greater uniformity in question formats might improve the capability to explore variations in indigenous experiences in different countries. There is also “a need to address in more depth the significant question of whether census categories adequately reflect indigenous peoples’ perspectives about who they are and what their needs are in census enumerations” (Peters, 2011, pp. 85-86).

The development agenda is very broad, and there is a need for data that are not only disaggregated but also timely, robust and reliable. Methodological work is also required to develop better and more consistent standards, measurement tools and protocols. In order to identify and address the issues affecting indigenous peoples, more targets and indicators, increased specificity, and faster, deeper and wider data are needed in national data censuses and household surveys. Eventually, the demand for multidimensional disaggregation will increase, and greater disaggregation of already disaggregated data (for example, the incidence or prevalence of child labour in the poorest quintile in urban areas) will be needed to facilitate better targeting (Peters, 2011).



**Chapter Three:
Identifying Challenges
and
Targeting Priorities**

Identifying Challenges and Targeting Priorities

In the years since its adoption, the Declaration on the Rights of Indigenous Peoples has had a significant impact. However, a number of gaps and challenges must be addressed before full implementation can be achieved. Areas requiring priority attention include the following:

- ≡ Recognition of and respect for indigenous peoples and their rights;
- ≡ Assessments of progress made in the implementation of the Declaration;
- ≡ Awareness, information and coordinated action;
- ≡ Practical constraints.

Recognition of and respect for indigenous peoples and their rights

Member States adopted the United Nations Declaration on the Rights of Indigenous Peoples in September 2007, and at the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples, held in September 2014, Member States were unanimous in renewing their commitment to the full and effective implementation of the Declaration.

In the many countries in which indigenous peoples are still not officially acknowledged as such, their rights are not explicitly recognized or protected by legislation or policies. The lack of legal protection has contributed to the loss of lands, territories and resources and threats to the cultures, languages, and ways of life of indigenous peoples—to the extent that their very existence has been endangered in some cases. Many in indigenous communities have been subjected to violent attacks and threats, enforced disappearances, illegal surveillance and travel bans. Women, persons with disabilities, and other vulnerable or marginalized groups within indigenous populations face particular challenges. The number of indigenous human rights defenders who die every year while attempting to defend their rights under the Declaration is on the rise. There is a growing trend towards criminalizing indigenous activists, organizations and movements, often engendered by conflicts over investment projects in indigenous territories.¹⁰⁰

¹⁰⁰ A/HRC/36/56.

The failure of some States to assign indigenous status to those who self-identify as indigenous often derives from the argument that it is difficult or impossible to define who indigenous peoples are in specific national contexts and/or that all citizens are indigenous. As unequivocally stated in the Declaration, self-definition is the fundamental criterion for the identification of indigenous peoples. As noted previously, the Declaration was adopted without an internationally agreed definition of indigenous peoples, and this should be not an obstacle to addressing the serious issues affecting them (United Nations, 2009).

The continued denial of the individual and collective rights of specific populations within States—including their right to exist as distinct peoples—is one of the major obstacles to the realization of the Declaration. In order to strengthen recognition of and respect for indigenous peoples' rights, it is essential that indigenous peoples themselves become fully aware of their rights and work together to demand the implementation of the Declaration.

Although much remains to be done, there is cause for optimism. States approved the Declaration in 2007 and renewed their commitment in 2014, and the widespread application of the Declaration's provisions in national and regional legislation and other contexts points to a growing commitment among Governments to the principles espoused therein.

Assessments of progress made in the implementation of the Declaration

United Nations mechanisms supporting indigenous peoples' rights: roles and challenges

As previously noted, three indigenous-specific mechanisms have been established within the United Nations system. The Permanent Forum on Indigenous Issues was established in 2000 as a subsidiary body of the Economic and Social Council. The Special Rapporteur on the rights of indigenous peoples was first appointed in 2001 as part of the thematic Special Procedures system, with a renewed mandate in 2004 and 2007. The Expert Mechanism on the Rights of Indigenous Peoples was established in 2007 by the Human Rights Council.

Each of these mechanisms has a specific mandate to promote indigenous peoples' rights around the world by raising awareness of and fostering respect for the Declaration, facilitating and monitoring its implementation, and highlighting areas of need.



Operating within the broader mandate of the Economic and Social Council, the Permanent Forum on Indigenous Issues focuses primarily on economic and social development, culture, the environment, education, health and human rights. It provides advice to the Council and others within the United Nations system and prepares and disseminates relevant information on indigenous issues. The Permanent Forum is identified in article 42 of the Declaration as one of the United Nations bodies responsible for promoting respect for and full application of the provisions of the Declaration and following up its effectiveness. Indigenous peoples from all over the world attend the annual Permanent Forum sessions held at the United Nations Secretariat in New York, as this is the entry point within the United Nations system most open to indigenous peoples and is their only opportunity to have their voices heard directly by a United Nations expert body. The issues and concerns raised by indigenous peoples at the Forum are often remarkably similar, indicating that they face common challenges in securing and protecting their rights. The reports of the Permanent Forum can be a powerful tool for making issues known to the world and within the United Nations system itself. The unique character of the yearly Permanent Forum sessions also offers opportunities to better mainstream indigenous issues and rights in the work of the United Nations and at the national level.

UN Photo / Kim Haughton



United Nations agencies, funds and programmes, other organizations and institutions, and individual countries have adopted regulations, guidelines, processes and procedures to safeguard respect for the rights of indigenous peoples as set out the Declaration. Such efforts will likely increase over time and progressively strengthen compliance with the Declaration's provisions. The Permanent Forum receives annual updates from the United Nations system on activities undertaken to promote the implementation of the Declaration and uses this information to formulate recommendations for further action; the challenge, as always, relates to the implementation of these recommendations.¹⁰¹

The Expert Mechanism on the Rights of Indigenous Peoples initially had a mandate to provide thematic expertise to the Human Rights Council through studies and research-based advice aimed at catalysing discussions and legislative and policy changes. Under its revised mandate of 2016—an outcome of the 2014 World Conference—the Expert Mechanism is tasked with producing an annual report on the status of the rights of indigenous peoples worldwide. This report represents a substantial contribution to assessing the status of the implementation of the Declaration. Furthermore, the Expert Mechanism can (upon request) help identify the need for and provide technical advice to Member States, indigenous peoples and the private sector regarding the development of domestic legislation and policies relating to the rights of indigenous peoples.¹⁰² This mandate—which covers the annual report, the dissemination of information on good practices and lessons learned, the provision of technical advice, and the facilitation of dialogue—greatly strengthens the role of the Expert Mechanism in implementing the Declaration.¹⁰³

The mandate of the Special Rapporteur on the rights of indigenous peoples includes examining ways and means of overcoming obstacles to the protection of indigenous peoples' rights and undertaking country visits as needed. The reports resulting from such visits offer analysis and specific recommendations directly related to one or more provisions of the Declaration. These reports represent a key component of the monitoring and reporting of the implementation of the Declaration in specific countries and circumstances. In addition, the Special Rapporteur prepares annual reports for the Human Rights Council and the General Assembly that address a specific theme within the framework of the Declaration on the Rights of Indigenous Peoples. These reports contain analyses and specific recommendations for action. The Special Rapporteur

¹⁰¹ See the background analysis prepared for the development of a system-wide action plan on indigenous peoples, based on information provided by Member States and United Nations programmes, funds and agencies between 2011 and 2015 (United Nations, n.d.(e)).

¹⁰² A/71/53/Add.1, resolution 33/25, para. 1.

¹⁰³ E/C.19/2017/4.



also receives allegations of human rights violations affecting indigenous peoples and communicates with Member States on these, supporting States in identifying their obligations as stated in the Declaration.

The three indigenous-specific mechanisms described above play an important role in promoting the Declaration and facilitating its implementation. It is important that their respective mandates are supported and recommendations implemented in strengthening the application of the UN Declaration at all levels.

Additional challenges

From the perspective of indigenous peoples—who deal with violations of their rights and threats to their identity and security on a daily basis—one of the major challenges is that the United Nations processes established to support and address the rights of indigenous peoples may not have an immediate impact on their lives or specific situations.

There are also challenges linked to the enforcement of existing standards and instruments. However, considering how jurisprudence and practice is developing in this context, it is expected that the Declaration will continue to have a standard-setting influence at the national and international levels. In addition, many of the organizations that have adopted operational procedures and guidelines for the implementation of the Declaration have their own enforcement procedures that can be utilized more intensively.

A very serious challenge is the intimidation, threats and violence experienced by indigenous peoples and by indigenous rights defenders who stand up and speak out for indigenous communities while monitoring the implementation and enforcement of the Declaration and other human right instruments. Their struggles are very often related to intrusion and land grabbing within indigenous peoples' territories, the exploitation of natural resources and its negative impact on local communities, and other development or private sector initiatives that are not respectful of the rights and interests of indigenous peoples. Violations from all over the world are reported to various national, regional and international human rights mechanisms, though many cases of rights infringement go unnoticed or are not reported.¹⁰⁴ Drawing on information provided at its 2018 session, the Permanent Forum on Indigenous Issues reports that there has been a marked increase in intimidation and threats against indigenous right defenders. There are calls for solidarity and support for indigenous rights defenders and for coordinated, high-level prevention and defense mechanisms to guarantee their safety and security and the freedom to lawfully defend indigenous rights.

¹⁰⁴ E/2018/43, para. 13.

Awareness, information and coordinated action

A fundamental problem is that indigenous peoples cannot demand and defend their rights if they are unaware of those rights and the global protection mechanisms in place to support them. Although the Declaration has been translated into many indigenous languages, it is not readily accessible to large numbers of indigenous peoples for a multitude of reasons, including their wide cultural and linguistic diversity, geographic factors (remoteness and wide dispersion), sociopolitical and educational marginalization, and limited access to telecommunications and other information resources. At the local or community level, indigenous peoples may not be sufficiently aware of their rights as outlined in the Declaration or how to demand the observance of those rights.

Awareness-raising and advocacy should not be limited to action at the community level. Many other actors need to be educated about the provisions, reach and implications of the Declaration. Even if the rights of indigenous peoples have not yet been fully integrated into national legislation, Governments should be held accountable for complying with universal human rights standards including those incorporated in the Declaration.

With the progressive development of standards within specific bodies, organizations and thematic processes, growing numbers of actors are becoming aware of the principles set out in the Declaration. The right to free, prior and informed consent, for example, has gained significant ground worldwide over the past few years. However, even gains such as these come with challenges, such as maintaining a holistic approach and recognizing the indivisible and mutually supportive nature of human rights and indigenous peoples' rights while focusing on a single aspect or issue.

One important practical challenge is achieving coordination between United Nations, private sector and other development actors for the realization of indigenous peoples' rights and support for their development at the national and regional levels. The United Nations Inter-Agency Support Group on Indigenous Issues, prepared the *United Nations Development Group Guidelines on Indigenous Peoples' Issues*, adopted in 2008. The *Guidelines* are intended to help the United Nations system mainstream and integrate indigenous peoples' issues in operational activities and programmes at the country level. They establish a broad normative, policy and operational framework for implementing a human rights-based and culturally sensitive approach to development for and with indigenous peoples. They provide lines of action for planning, implementing and evaluating programmes involving indigenous peoples and also afford a framework for integrating the principles of cultural diversity into United Nations country programmes.

The United Nations has also developed a system-wide action plan to strengthen cooperation and coherence in action taken to support the implementation of the Declaration and the rights of indigenous peoples (see box 3.1).

BOX 3.1. System-wide action plan for ensuring a coherent approach to achieving the ends of the United Nations Declaration on the Rights of Indigenous Peoples*

In the outcome document of the 2014 high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples (A/RES/69/2), the Assembly requested the Secretary-General to develop, within existing resources, a system-wide action plan to ensure a coherent approach to achieving the ends of the United Nations Declaration on the Rights of Indigenous Peoples. The system-wide action plan was developed following consultations with indigenous peoples and Member States by the Inter-Agency Support Group on Indigenous Peoples' Issues under the leadership of the Under-Secretary-General for Economic and Social Affairs.

Based on the feedback received, the plan focuses on the following action areas:

- (a) raise awareness on the United Nations Declaration on the Rights of Indigenous Peoples and indigenous issues;*
- (b) support the implementation of the Declaration, particularly at the country level;*
- (c) support the attainment of indigenous peoples' rights in the implementation and review of the 2030 Agenda for Sustainable Development;*
- (d) conduct an exercise to map existing policies, standards, guidelines, activities, resources and capacities within the United Nations and the multilateral system to identify opportunities and gaps;*
- (e) develop the capacities of States, indigenous peoples, civil society and United Nations personnel at all levels; and*
- (f) support the participation of indigenous peoples in processes that affect them. The primary aim of this action plan is to increase United Nations system coherence in addressing the rights and well-being of indigenous peoples in its work, including in support of Member States, with the ultimate goal of implementing, with the effective participation of indigenous peoples, the Declaration on the Rights of Indigenous Peoples at all levels.*

Source: Excerpted from E/C.19/2016/5, summary and para. 4.

* Commonly referred to as the system-wide action plan on the rights of indigenous peoples (SWAP).

The system-wide action plan was formally launched by the Secretary-General at the opening session of the Permanent Forum on Indigenous Issues in April 2016. The challenge now for the Inter-Agency Support Group on Indigenous Issues is to successfully implement the action plan at the national and regional levels.

Practical constraints

Indigenous peoples, Governments, and United Nations entities and other organizations and institutions face a range of practical challenges in their efforts to support and facilitate the full and effective implementation of the Declaration. Among those challenges are the following:

- ≡ The lack of political will to implement the Declaration;
- ≡ Difficulty in securing the effective participation of indigenous peoples in national legislative, implementation, enforcement, monitoring, reporting, census/survey, and other policy processes;
- ≡ Insufficient or weak partnerships at the local level (between indigenous peoples and local governments, for example);
- ≡ Limited capacity within indigenous communities and indigenous organizations for effective advocacy and action—with “capacity” defined as encompassing a range of factors including financial resources, human resources, access to information (legislative options but also examples of appropriate strategies and lessons learned from other indigenous peoples), opportunities to strategize internally (involving all relevant actors, communities and organizations), and opportunities to implement advocacy strategies in a consistent manner (rather than in a piecemeal fashion depending on available project financing);
- ≡ The limited national and international funding to support indigenous peoples’ efforts to raise awareness and to monitor and enforce the implementation of the Declaration;



- ≡ Underutilization of the media for awareness-raising—and insufficient involvement of indigenous peoples in developing media strategies that accurately reflect their priorities;
- ≡ Conflicting power and economic interests of influential third parties that impede or delay effective recognition of and respect for indigenous peoples' rights, particularly with regard to their lands, territories and resources;
- ≡ Threats against or the criminal prosecution of indigenous activists and indigenous rights defenders;
- ≡ Inadequate consultations and lack of free, prior and informed consent processes involving indigenous stakeholders;
- ≡ The lack of capacity in terms of legal processes and access to justice (including indigenous legal experts and the capacity to initiate and sustain legal actions);
- ≡ The slow or inadequate enforcement of judicial decisions made in support of indigenous peoples' rights;



**Chapter Four:
The Way Forward —
Recommendations and
Suggestions**

The Way Forward—Recommendations and Suggestions

The Declaration on the Rights of Indigenous Peoples has been the impetus for positive change for more than a decade, yet much remains to be done. The pertinent question going forward is not so much what needs to be done as how it needs to be done. Below are a number of recommendations aimed at making the Declaration more effective and strengthening its implementation.

Strengthen and coordinate the roles of the indigenous-specific mechanisms within the United Nations

All three indigenous-specific mechanisms have a mandate to promote the full implementation of the Declaration. Article 42 of the Declaration mentions the Permanent Forum on Indigenous Issues by name and includes all entities within the United Nations system in this mandate. Each of the three mechanisms has its own strengths and areas of focus, but their functions are designed to be complementary, and with strategic, concerted action they can have a synergetic impact that extends beyond their individual mandates.

With the annual participation of almost 2,000 representatives of indigenous peoples, NGOs, Member States, United Nations entities, funding institutions and other stakeholders, the Permanent Forum on Indigenous Issues provides a unique opportunity for strategizing and advocacy, exchanging experiences, and presenting new programmes, tools and methodologies. The Forum facilitates networking and strategizing at the global level but also—through the sharing of experiences and lessons learned—produces key messages and information for improved advocacy and action at the local level. The event also draws substantial media coverage, which contributes to greater awareness of indigenous peoples' issues within the public sphere.

The Permanent Forum sessions constitute a learning environment for indigenous peoples as well as for Governments and other actors who have requested more concrete guidance and information. The Forum is, at its core, a platform for making the United

Nations and the rest of the world aware of the situation of indigenous peoples worldwide and for bringing together best practices for the effective implementation of the Declaration.

Since the adoption of the Declaration, the Forum has structured its sessions to highlight issues that best support the full and effective implementation of the Declaration. This has helped to focus attention on the principles and vision of the Declaration, with experiences shared and lessons learned at the local, national and international levels providing the analytical framework for the discussions.

In addition, the Forum also plays a key role in drawing attention to the need to take action on the rights and priorities of indigenous peoples in the context of the 2030 Development Agenda, and its promise to leave no one behind. The Forum provides input to the review and implementation of the Agenda through its reports and includes the Sustainable Development Goals in its annual deliberations.

Under its revised mandate, the Expert Mechanism on the Rights of Indigenous Peoples is responsible for producing an annual report on the status of the rights of indigenous peoples worldwide. This report represents an important component of the monitoring and reporting system for the implementation of the Declaration. The impact of such a report on the situation of indigenous peoples in individual countries will depend on a multitude of factors, including the participation of States, indigenous peoples and other actors in providing relevant information for the report, as well as the strategic utilization of its findings. The same is likely to apply for other reports and studies the Expert Mechanism is mandated to undertake. An aspect of the work of the Expert Mechanism that is likely to contribute significantly to its impact is its engagement with individual countries at the request of their respective Governments and/or indigenous peoples. The modalities for such engagement were developed in 2017 (United Nations, OHCHR, n.d.(b)), and the experiences from this will carry greater significance as the Expert Mechanism continues its work in this area. With such opportunities for interaction, there is enormous potential for capacity-building and the direct promotion of Declaration-based standards on the ground, as well as for global comparative analyses and peer learning.

The work of the Expert Mechanism must become more visible, particularly in the countries and with regard to the situations on which it has reported. This will heighten public interest and increase the pressure on Governments to undertake action against specific forms of injustice.

The mandate of the Special Rapporteur on the rights of indigenous peoples is broad, as is that of the other indigenous-specific mechanisms. The Human Rights Council has strongly encouraged all Governments to respond favourably to requests for country

visits from the Special Rapporteur, as such visits provide the Special Rapporteur with opportunities to engage with indigenous peoples, Governments and other actors to address the situation of indigenous peoples in specific contexts.

These complementary and mutually reinforcing mandates provide opportunities to continue advancing the implementation of the UN Declaration.

Within the United Nations, the system-wide action plan on the rights of indigenous peoples is becoming an increasingly important component in the implementation of the Declaration. During an expert group meeting organized by the United Nations Department of Economic and Social Affairs to commemorate the ten-year anniversary of the Declaration (United Nations, 2017b), various recommendations were made for short-, medium- and long-term strategies to advance the implementation of the Declaration. For the short term, emphasis was placed on the development of a programmatic approach and the establishment of priorities, goals, timelines and baselines—with the system-wide action plan and the 2030 Agenda for Sustainable Development serving as the framework for this short-term (three-year) strategy.

A medium-term strategy for implementation could be formulated within the time frame of the 2030 Agenda for Sustainable Development. Elements of the strategy could include (a) follow-up on the Goals and targets that specifically mention indigenous peoples, in particular those relating to education and poverty, as well as other Goals and targets of particular relevance to indigenous peoples; (b) the dissemination of joint messages by the three indigenous-specific mechanisms; (c) an increased focus on development from indigenous peoples' perspectives, taking into account the situation of indigenous peoples in developed, developing and least developed countries; and (d) the establishment and utilization of a tripartite information-gathering mechanism with input from Member States, United Nations entities and indigenous peoples. During the aforementioned expert group meeting, mention was made of the need for adequate data on the socioeconomic situation of indigenous peoples in countries at all levels of development, in line with the relevant provisions of the 2030 Agenda. Participants asserted that a medium-term strategy would also need to include continued efforts to raise awareness of the importance of including the rights of indigenous peoples in the realization of the Sustainable Development Goals, as well as continued analysis of the impact of the Goals on indigenous peoples.

Recommendations linked to long-term strategies focused on, inter alia, increasing the visibility of the Declaration and its provisions at the national level and strengthening data collection and analysis. Other long-term priorities identified at the meeting included capacity-building for all sectors (including by indigenous peoples themselves); education at the primary, secondary and university levels; and a sustained focus on

core rights linked to key issues such as control over lands, territories and resources, self-determination, and access to justice.

Strengthen the role of the Inter-Agency Support Group on Indigenous Issues

As noted in chapter three of this report, the Inter-Agency Support Group on Indigenous Issues has already begun working on improving coordination within the United Nations system in the implementation of the Declaration and the protection of indigenous peoples' rights. This Group— which evolved out of the informal gatherings of United Nations agencies at the sessions of the Working Group on Indigenous Populations and was formally established in 2002 to support and promote the mandate of the United Nations Permanent Forum on Indigenous Issues—now comprises more than 40 members including major regional development banks and non-United Nations partners. Members of this Group are provided with an exceptionally strong opportunity for enhanced coordination in mainstreaming and promoting the Declaration throughout their work. Action is being taken on this front with the development of the system-wide action plan (informally referred to as the SWAP) to facilitate a coherent approach within the United Nations to activating the provisions of the United Nations Declaration on the Rights of Indigenous Peoples. Work is already under way; for example, the United Nations Department for Global Communications “is leading an IASG working group on SWAP Action Element 1 related to awareness raising on the rights of indigenous peoples” (United Nations, n.d.(d)).

It is important that the Inter-Agency Support Group continue to implement the system-wide action plan and to monitor and document tangible results at the country level. The Group provides yearly reports to the Permanent Forum on Indigenous Issues, on how the action plan and the actions of individual agencies through their respective planning and programming mechanisms have brought about beneficial changes for indigenous peoples in their respective countries. The Permanent Forum, as the main platform for the discussion of annual progress reports from United Nations entities contribute to this implementation and accountability mechanism by strengthening dialogue and cooperation among stakeholders—including indigenous peoples, Governments, and other actors at the national level.



Ensure that Sustainable Development Goal processes focus more strongly and explicitly on indigenous peoples

The 2030 Agenda and other development processes must reflect the perspectives and aspirations and include the effective participation of indigenous peoples in order to ensure that no one is left behind. Steps should be taken at the national level to facilitate such inclusion and to strengthen the capacity of indigenous peoples in key areas. Indigenous peoples should be actively involved in census and household survey design, data collection and monitoring, decisions relating to the disaggregation of relevant data, and work relating to Sustainable Development Goal indicator processes.

In its resolution 72/155, the General Assembly provides a clear mandate and recommendations for action to maximize indigenous peoples' participation in Sustainable Development Goal processes. States are encouraged "to give due consideration to all the rights of indigenous peoples in fulfilling the commitments undertaken in the 2030 Agenda for Sustainable Development and in the elaboration of national programmes"



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(para. 14) and are also encouraged “to compile disaggregated data to measure progress and to ensure that no one is left behind” (para. 15). States and United Nations entities are requested “to mainstream the promotion and protection of the rights of indigenous peoples into development policies and programmes at the national, regional and international levels, and ... to give due consideration to the rights of indigenous peoples in achieving the goals of the 2030 Agenda (para. 17). The three indigenous-specific mechanisms are invited “to give due consideration, within their mandates, to the rights of indigenous peoples as related to the implementation of the 2030 Agenda” (para. 19). Regular reporting contributes to a greater focus on indigenous peoples’ issues within the framework of Sustainable Development Goal implementation.

BOX 4.1. Mitigating the impact of business practices on indigenous peoples

The Permanent Forum on Indigenous Issues, in the reports of its annual sessions, has issued a number of specific recommendations relating to business and indigenous peoples.

- ≡ In 2011, the Permanent Forum welcomed a “study on indigenous peoples and corporations that examined existing mechanisms and policies related to corporations and indigenous peoples and identified good practices ... [and recommended] that best practices of the application of the right of free, prior and informed consent regarding corporations and indigenous peoples be documented and shared” (E/2011/43-E/C.19/2011/14, para. 32).
- ≡ In 2013, the Permanent Forum encouraged “international financial institutions to establish policy mechanisms and programme frameworks requiring corporations to comply with the Guiding Principles on Business and Human Rights, which were unanimously endorsed by the Human Rights Council in 2011, in addition to the United Nations Declaration on the Rights of Indigenous Peoples, International Labour Organization Convention No. 169, the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women” (E/2013/43-E/C.19/2013/25, para. 66).
- ≡ In 2017, the Permanent Forum expressed its concern over “cases where it appears that the interests of investors are better protected than the rights of indigenous peoples”. The Forum reiterated “that States and the private sector must respect the human rights of indigenous peoples by ensuring the effective implementation of the United Nations Declaration on the Rights of Indigenous Peoples and the Guiding Principles on Business and Human Rights” (E/2017/43-E/C.19/2017/11, para. 73). The Forum further recommended “that national and transnational corporations adhere to the United Nations Guiding Principles on Business and Human Rights in order to ensure protection of the rights of indigenous human rights defenders” (E/2017/43-E/C.19/2017/11, para. 77).



Ensure respect for indigenous peoples' rights within the public and private sectors

Although support from international organizations is important, little progress will be made in the implementation of the Declaration unless Governments and private sector actors fully understand and respect the rights of indigenous peoples. As concluded by the Working Group on Business and Human Rights, States should safeguard the rights of indigenous peoples as part of the broader public mandate to identify and address human rights abuses, and business enterprises should do so as part of their civic and corporate responsibility to respect human rights. Further research and action are needed to identify, implement and enforce judicial and non-judicial mechanisms to protect indigenous peoples, including mediation and remediation structures for business and commercial activities affecting them.¹⁰⁵

Strengthen capacity, networking and strategizing among indigenous peoples

Indigenous peoples are characterized by great diversity but face very similar challenges. It is essential that they actively engage in external networking and the development of joint strategies so that they can support and learn from one another. Existing indigenous peoples' networks tend to be limited in coverage and scope; the participation of indigenous communities in a more comprehensive global network would allow the respective groups to identify shared priorities and engage in worldwide advocacy for their rights.

The participation of indigenous peoples in indigenous networks, forums and other collaborative platforms and mechanisms will allow them to learn from each other and draw from the broader indigenous experience in formulating local and national strategies. Indigenous peoples in one country, for example, may benefit from knowing which key factors have contributed to the successful strategies employed by indigenous peoples in other countries to achieve policy and legislative changes. All stakeholders—including indigenous peoples themselves and the entities supporting their development and the realization of their rights—should work together to facilitate networking and the

¹⁰⁵ A/68/279, para. 54.

dissemination of key information through various means including email, social media, clearinghouse mechanisms, and other exchange platforms. The use of traditional national and international media to raise awareness of indigenous peoples' issues can also contribute to capacity-building.

In virtually every country, indigenous peoples continue to face “structural and legal barriers to their full, equal and effective participation in political, economic, social and cultural life”.¹⁰⁶ It is essential that priority be given—in the form of organizational and resource support—to ensuring that indigenous peoples are directly and proactively involved in the decisions affecting them, and that their right to determine and develop their own priorities and strategies for the development or use of their lands, territories and resources is fully recognized and applied, as enshrined in the United Nations Declaration on the Rights of Indigenous Peoples.¹⁰⁷

¹⁰⁶ A/RES/72/155, para. 21.

¹⁰⁷ Art. 32.



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