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

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

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

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

*Summary*

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

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## Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction.....	1-6	3
II. State responses.....	7-106	4
A. National implementation strategies.....	8-15	4
B. Legal, policy or other measures adopted especially to implement the rights in the Declaration.....	16-60	5
C. Consideration of the Declaration when devising new laws and policies.....	61-72	10
D. Initiatives to raise awareness of the Declaration at community and government levels.....	73-83	11
E. Challenges in adopting measures and implementing strategies to attain the goals of the Declaration.....	84-93	12
F. Best practices.....	94-106	13
III. Responses from indigenous peoples, indigenous peoples' organizations and non-governmental organizations.....	107-161	15
A. Overarching implementation strategies.....	107-113	15
B. Specific legal, policy or other measures to implement the rights in the Declaration.....	114-122	16
C. Consideration of the Declaration when devising new laws and policies or other measures that affect indigenous individuals.....	123-129	17
D. Initiatives to raise awareness of the Declaration at community and government levels.....	130-142	18
E. Challenges in adopting measures and implementing strategies to attain the goals of the Declaration.....	143-153	19
F. Best practices.....	154-161	20
IV. Concluding comments.....	162-173	21
A. General.....	162	21
B. States.....	163-168	21
C. Indigenous peoples, indigenous peoples' organizations and non-governmental organizations.....	169-173	22

## I. Introduction

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

2. The questionnaires for both States and indigenous peoples focused on the following issues: development of an overarching or national strategy; adoption of specific legal, policy or other measures to implement the Declaration; whether the Declaration has been taken into account when devising relevant laws, policies and other measures; whether steps have been taken to raise awareness of the Declaration at the community and Government levels; challenges encountered when adopting measures to attain the goals of the Declaration; and views on best practices regarding appropriate measures and implementation strategies to attain the goals of the Declaration. In their responses, States and indigenous peoples were asked to consider six different thematic areas: self-determination and autonomy; participation in decision-making, including obligations to seek to obtain indigenous peoples' free, prior and informed consent; culture and languages; non-discrimination and equality; lands, territories and resources; and treaties, agreements and other constructive arrangements with States. For the full text of the questionnaires, please refer to A/HRC/24/51, paragraphs 7-9.

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

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

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

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

## **II. State responses**

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

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

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

9. Several States indicated that the principles of the Declaration are reflected in national legislation. For example, the Republic of the Congo indicated that the fundamental principles of the Declaration are incorporated in its Loi No. 5-2011, "Promotion et protection des droits des populations autochtones". Some States, for example Peru and Myanmar, identified existing national laws and policies which relate to specific areas of the Declaration such as education and culture. However, it is unclear whether these laws and policies were developed specifically to implement the goals of the Declaration.

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

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

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

13. Australia, despite not having a formal strategy for implementing the Declaration, cited its 2009 National Apology to Australia's indigenous peoples, and in particular to the stolen generations, as a symbolic gesture signalling its commitment to implementing the Declaration. In addition, Australia indicated that the principles of the Declaration are consistent with the Government's Closing the Gap policy, a national strategy to address indigenous disadvantage. There are ongoing discussions for the recognition of Indigenous Australians in the Constitution.

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

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

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

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

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

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

18. In 2011, the Republic of the Congo passed a law for the promotion and protection of the rights of indigenous peoples, which incorporates the fundamental principles of the Declaration. The law addresses many areas, including consultation, administration of internal affairs and recourse to customs to resolve internal conflicts, protection of customs and traditional institutions, intellectual property relating to traditional knowledge, protection of sacred sites, education, and individual and collective property rights.

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

20. Australia's Closing the Gap policy sets benchmarks for ending disadvantage in education between indigenous and non-indigenous children, which Australia believes is a key priority area for the implementation of the Declaration.

21. The rights contained in the Declaration are addressed in Paraguay's National Constitution and Statute on Indigenous Peoples. The Declaration is also used as a guiding framework in the policies and programmes of the Paraguayan Indigenous Institute (INDI).

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

22. The Constitution of Mexico, as a result of amendments in 2001, recognizes indigenous peoples' self-determination and their collective rights.

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

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

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

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

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

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

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

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

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

31. In the Plurinational State of Bolivia, indigenous peoples are represented in legislative bodies. In the Parliament of Burkina Faso there are Peulh and Tourareg elected representatives and ministers of the Government.

32. In the Republic of the Congo, legislation ensures the participation of indigenous peoples in decision-making. Peru has also passed a law on the right to prior consultation as recognized in International Labour Organization Convention No. 169, which was promulgated on 23 August 2011.

33. France indicated that in its department of French Guiana an advisory board of Amerindians and Bushinengué was established in 2010. The regional councils and the general council consult this board on any plans or proposals which may affect the environment or the cultural activities of the Amerindians and Bushinengué.

34. Chile undertook a consultation on indigenous institutions, which was modified after receiving complaints from indigenous leaders on the process. The first stage of consultation is now aimed at a consultation on developing consultation procedures.

35. In 2005 the Government of Norway and the Sami Parliament concluded an agreement on procedures for consultations to ensure that new measures and legal provisions are in accordance with the Sami peoples' rights. The Procedures for Consultations also seek to ensure that the Sami peoples can genuinely participate in and have a real influence on decision-making processes that may directly affect Sami interests. The Government has by Royal Decree confirmed that the agreed procedures apply to the whole central Government administration. Norway states that the right to self-determination is primarily exercised through the right to participate in decision-making relating to matters only applying to the Sami, and also a right to participation in public administration affecting both the Sami and the community at large. The consultation obligation arising from these rights is implemented through consultation procedures between the State authorities and Sámediggi in accordance with ILO Convention No. 169.

36. The Finnish Act on the Sami Parliament includes an obligation to negotiate with the Sami Parliament on various issues, including: community planning; the management use, leasing and assignment of State lands, conservation areas and wilderness areas; applications for licenses to stake mine claims; legislative or administrative changes to the occupations belonging to the Sami culture; the development of the teaching of and in the Sami language in schools, as well as the social and health services; or any other matters affecting the Sami language and culture and the status of the Sami as an indigenous people. The obligation to negotiate applies to all levels of administration.

37. In Guyana, titling and demarcation of Amerindian lands and territories requires their free, prior and informed consent.

38. Australia has an indigenous engagement framework which, it states, captures its aspirations to engage effectively with indigenous peoples. The National Congress of Australia's First Peoples is a vehicle to provide a voice for Aboriginal and Torres Strait Islander peoples in strategic national matters. Australia has also established the Prime Minister's Indigenous Advisory Council, which provides advice on emerging policy issues arising in indigenous affairs. The Council is made up of indigenous and non-indigenous individuals.

39. In the United States of America, pursuant to Executive Order 13175 on "Consultation and Coordination with Indian Tribal Governments", federal agencies are required to consult with tribal officials when making decisions that affect tribal communities.

40. The Mexican Commission for the Development of Indigenous Peoples has established a system for consultation with indigenous peoples which allows for their participation in the definition, design, implementation and evaluation of programmes, projects and Government actions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

56. In Guyana, the 2003 Constitution provides protection over property, including Amerindian property. Under the Amerindian Act 2006, Amerindians are granted title to their lands absolutely and forever. Titling and demarcation of Amerindian villages must occur with Amerindians' free, prior and informed consent. These lands and resources are governed by Village Councils, who have rule-making powers governing "the management, use, preservation, protection and conservation of village lands and resources or any part thereof". To date, there has been an increase in the percentage of Amerindian land titled and demarcated.

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

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

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

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

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

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

61. No responses contained information on State having passed explicit laws requiring the Declaration to be considered when devising new laws, policies or other measures. However, there are examples where the goals and principles of the Declaration inform processes leading to new laws and policies.

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

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

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

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

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

67. In New Zealand, one example of Maori participation in decision-making occurs through negotiated agreements for the co-management of resources, such as Crown-owned conservation lands and National Parks. Additionally, recent jurisprudence concluded that the common law is to be developed consistently with emerging human rights norms and the Treaty of Waitangi.

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

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

70. Australia's Closing the Gap policy with respect to Education, has been established with the long-term goal of meeting a range of other articles in the Declaration.

71. The Human Rights Strategy of Germany's Federal Ministry for Economic Cooperation and Development (BMZ) makes explicit reference to the Declaration and the principle of free, prior and informed consent as essential landmarks which need to be adhered to in any planning of development measures which might affect indigenous peoples.

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

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

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

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

75. The Republic of the Congo has focused awareness-raising on national and international human rights and indigenous peoples' rights instruments. During "Parliamentary days" there were efforts taken to educate Congolese parliamentarians on the rights of indigenous peoples and the Declaration was explained to the parliamentarians.

76. The Ministry of External Relations of the Plurinational State of Bolivia, with the ILO South America Regional Office, developed a series of workshops on "The scope of the

ILO Convention 169: Challenges for application and implementation and strategies for action”. These workshops were directed at various officials in Bolivia, public servants and indigenous peoples. Bolivia has also created and distributed materials (books, pamphlets and audiovisual material) on collective rights.

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

78. France indicated that it has an ambassador for human rights and that on the International Day of Indigenous People, round tables were organized as well as cultural events held in Guyana.

79. Following the enactment of the Amerindian Act in Guyana, there was a recognized need for education and awareness for the Village Councils and community members. Several training programmes have been conducted and an “Amerindian Act Made Simple” brochure was published and distributed to all leaders and community members, which provided a non-technical explanation of the law. The Government of Guyana also executes capacity-building programmes and workshops for government employees. As well, indigenous leaders can seek clarification of the Amerindian law during their biennial meetings.

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

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

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

83. The Government of Switzerland supports two NGOs, which work to strengthen the negotiating capacity of indigenous delegates to the UN through training courses and knowledge transfer.

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

84. One of the biggest challenges identified is the lack of awareness and knowledge of the Declaration and other international instruments on the rights of indigenous peoples to ensure the respect for these rights. One State indicated that this lack of knowledge is exacerbated by a lack of larger civil society engagement in indigenous peoples’ rights. Moreover, the rights of indigenous peoples are often not priorities.

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

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

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

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

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

90. One State indicated that it is a challenge to ensure consistency across states due to the constitutional division of legislative powers between federal and state governments.

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

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

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

## **F. Best practices**

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

95. Where treaties, agreements and other constructive arrangements already exist, these instruments can provide the foundation for partnership, mutual respect, cooperation and good faith between States and indigenous peoples. As stated in France's response, the

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

96. Chile notes that its approach to hold regional round tables for a “historic reunion” is an example of a process to create a national plan to attain the goals of the Declaration. Government, churches, civil society organizations, and indigenous representatives participated in these roundtables. The goals were to build trust and identify topics that are important to indigenous peoples.

97. Many States set out a multi-pronged approach to implementing the rights in the Declaration. Some States used constitutional, legislative and policy measures to implement the Declaration. Some States drafted new legislation, amended existing legislation, created new programmes and initiatives, and increased involvement in international indigenous issues. This multi-pronged approach can include a special law recognizing the rights of indigenous peoples, which is developed with the effective participation of indigenous peoples based on the principle of free, prior and informed consent. This may also require legal recognition of indigenous peoples, including ratifying ILO Convention 169.

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

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

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

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

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

103. To attain the goals of the Declaration, States promoted capacity-building for indigenous peoples. Further, States encouraged efforts to strengthen indigenous peoples’ institutions, non-governmental organizations and self-government structures. There was also a recognized need to provide opportunities for indigenous peoples to participate as equal partners in the development process of the entire country. Australia pursues a policy

of focusing on addressing indigenous disadvantage in areas such as education, health services, community development and community safety.

104. States also identified best practices in the area of education and promoting indigenous peoples' languages and cultures. It is important to include indigenous languages within the education system. This includes developing strategies for implementing bilingual and intercultural education, which includes indigenous peoples' participation. In addition, cultural centres can be created to promote indigenous cultures. Finally, some States recognized indigenous languages as official languages.

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

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

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

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

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

108. CAPAJ noted that it had developed an overarching strategy to attain the Declaration's goals, basing its activities on indigenous peoples' rights to equality and self-determination. One activity had included promoting the creation of a Parliament of Qollana Aymara and Quechua peoples across the Peruvian, Chilean and Bolivian borders to develop transborder relationships.

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

110. Some indigenous peoples' organizations focused on awareness-raising among indigenous communities and their leadership, the legal community and academics, as well as broader society. IBA has pursued this objective by hosting workshops, posting material for accessible online use and producing an article on the implementation experiences in Canada. IBA cites the Declaration in all its advocacy work. NWU and NPMHR have developed implementation strategies to translate the Declaration into indigenous languages and awareness-raising campaigns. The NIYC informed on its advocacy work among urban indigenous peoples.

111. Some indigenous peoples' organizations noted that their implementation strategies included engagement with the United Nations system, in some instances bringing cases

before treaty bodies and, in others, participating actively in international activities and mechanisms related to indigenous peoples' rights, such as the Committee on the Elimination of Racial Discrimination, the Universal Periodic Review and the Expert Mechanism on the Rights of Indigenous Peoples, to secure compliance with the goals of the Declaration.

112. The primary strategy of the NNTC is to advocate for governments and other organizations to actively reference the principles and goals of the Declaration. This process entails, *inter alia*, the inclusion of indigenous representation in relevant legislative, policy and administrative processes, the promotion of the principle of free, prior and informed consent for traditional land owners, and agreement-making on issues and developments affecting traditional lands and territories.

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

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

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

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

116. In terms of measures taken by indigenous governments, while the Declaration was not mentioned specifically in the resolution of the Rosebud Sioux Tribe that created CANS, the organization's work was intended to implement the Declaration.

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

117. CAPAJ noted that the 15 annual assemblies of the Parliament of the Qollana Aymara People of the Andes had been held in accordance with the form of self-government as envisioned under the *ayllu-marka* system. Practicing traditional forms of governance provided guarantees for its continuity, even where not recognized by States.

### **2. Participation in decision-making, including obligations to seek to obtain indigenous peoples' free, prior and informed consent**

118. One organization noted evidence of the lack of commitment by the Government to upholding the principle of free, prior and informed consent, citing the example of the development by the State of a plan that, although set out as a strategy to attain the goals of the Declaration, was flawed. In particular, indigenous peoples' free, prior and informed consent was not sought for aspects of the policies that would most directly impact them.

### **3. Culture and languages**

119. CAPAJ noted its efforts to advance the use of Aymara language in some Chilean municipal schools to revitalize traditional culture.

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

120. CEPODRA noted that it was working to promote equal opportunities and non-discrimination in the hiring of indigenous health technicians by the Regional Health Directorate of Ucayali, Peru. Its efforts to do so were consistent with the Declaration, and with technical standards regarding the mainstreaming of intercultural approaches to health, particularly with regard to those health practitioners working in indigenous communities.

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

121. NNTC noted its advocacy for the Government of Australia to enshrine the principles of the Declaration in the development of the Murray Darling Basin plan, especially with regard to the right of indigenous peoples to maintain and strengthen their distinctive relationship with their lands, territories, waters and coastal seas and other resources. In relation to the Basin plan, NNTC, together with partners, is also currently undertaking the National Cultural Flows Research Project, which incorporates the principles of the Declaration, especially article 32, paragraph 1.

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

122. CAPAJ noted its sponsorship of the Awuayala Tribunal of Justice (TOAJ), a body whose decisions, while not binding, appeal to the conscience and reason of humanity. TOAJ, hosted by the Kallawayá Nation in the Plurinational State of Bolivia, held its first hearing in June 2012 to hear the demand of the Jacha Suyu Pakajaki Nation to reclaim territories taken on the basis of the doctrine of discovery.

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

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

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

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

126. CAPAJ is leading processes to rebuild traditional forms of self-government, to advocate for the respect of free, prior and informed consent, to adopt measures aimed at strengthening Andean cultures and intercultural education, to protect traditional lands, territories and resources and collective property, and to open spaces for traditional justice. In this work, CAPAJ explicitly cites the Declaration and ILO Convention No. 169.

127. NWU and NPMHR expressed that the Declaration is a source of strength and power to claim their rights as indigenous peoples. The Declaration is not especially mentioned in

collective decisions of the Naga people, as collective approaches to decision-making reflect traditional practice.

128. The NIYC has developed a specific policy of advocating for the inclusion of urban indigenous peoples in attaining the goals of Declaration. The organization consciously cites the Declaration within its advocacy efforts.

129. NNTC follows the Declaration within its own work and practices. It noted that its policy submissions refer to principles in the Declaration, particularly those related to free, prior and informed consent and self-determination.

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

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

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

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

133. CAPAJ emphasized the importance of dissemination of the Declaration and reported that it had led workshops and seminars about the Declaration, noting that there was wide demand among indigenous peoples for such capacity-building tools. However, CAPAJ expressed concerns about providing these workshops, due to a lack financial resources. CEPODRA also noted that it was not able to disseminate the Declaration on a large scale due to very few financial resources.

134. CANS recently began efforts to raise awareness about the Declaration at various levels of the community and governance to enhance prospects of its implementation.

135. IBA published *Understanding and Implementing the UN Declaration on the Rights of Indigenous Peoples: An Introductory Handbook*,<sup>1</sup> which explains the Declaration in thematic clusters and concludes with information on implementation and additional resources. The handbook has been shared with national and provincial authorities, treaty relations commissions, human rights commissions and some domestic courts and was distributed at a series of workshops conducted across Canada for lawyers, educators, community leaders and human rights workers.

136. Initiatives taken by NWU and NPMHR to raise awareness about the Declaration include the organization of trainings, workshops, seminars, meetings and community consultations on the Declaration, human rights and United Nations mechanisms. This process included translation and dissemination of the Declaration.

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

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<sup>1</sup> Available from [www.indigenousbar.ca/pdf/undrip\\_handbook.pdf](http://www.indigenousbar.ca/pdf/undrip_handbook.pdf).

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

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

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

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

142. The Sami Parliament of Norway was a technical host for the Global Indigenous Peoples Conference, held in Alta, Norway in 2013, which provided an opportunity to raise awareness about indigenous peoples' rights and the Declaration at the local and regional level.

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

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

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

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

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

147. One of the biggest challenges identified was a lack of political will on the part of the States to implement the Declaration and to consider indigenous peoples' rights more broadly. One organization observed slow progress from the national Government in capturing the essence of the principles and goals of the Declaration. In some cases, there is also a lack of attention paid by authorities to indigenous issues or public support for indigenous peoples' rights. Several indigenous peoples' organizations noted challenges with regard to, in particular, the implementation of free, prior and informed consent. In some cases, lack of political will also manifests itself in a lack of legislation or public

policies directed to indigenous peoples. Indigenous peoples also expressed concern regarding a lack of respect for indigenous land and sea rights. One organization pointed out that they could not fully practice their customs and traditions because their lands were located within a national park.

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

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

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

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

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

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

## **F. Best practices**

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

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

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

157. The United Nations system can work with indigenous peoples' organizations to provide capacity development regarding the Declaration, and to support their work and

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

158. Best practices could also include the strengthening of links between United Nations institutions and grassroots communities, as well as the strengthening of support provided by United Nations institutions for such communities. It was also proposed that the Expert Mechanism on the Rights of Indigenous Peoples and relevant United Nations mechanisms collaborate with non-governmental organizations to better assist indigenous peoples in proposing measures and implementations strategies to attain the goals of the Declaration.

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

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

161. Indigenous peoples' organizations emphasized that best practices would include the recognition of indigenous peoples in countries where this has not yet occurred; enforcement of the Declaration and its inclusion in public policies; engagement in consultation processes with indigenous peoples on matters affecting their lives and activities; provision of support for the work of indigenous peoples organizations to promote the Declaration; demilitarization; and access to justice. CEPODRA proposed the creation in Peru of an intercultural committee in charge of indigenous interests.

## **IV. Concluding comments**

### **A. General**

162. **The Expert Mechanism on the Rights of Indigenous Peoples very much appreciates the responses of States and of indigenous peoples, indigenous peoples' organizations and non-governmental organizations to its questionnaire, especially because the responses can provide inspiration to creatively devise strategies to implement the Declaration.**

### **B. States**

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

164. **Many States identified national legislation that recognizes and protects indigenous peoples' rights, which the Expert Mechanism acknowledges as a**

significant achievement. However, States did not indicate whether there were sufficient administrative measures in place to ensure that the legal measures result in effective protection of the rights.

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

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

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

168. One challenge raised was “attempts by a few persons and NGOs to undermine the land titling and demarcation process by advising Indigenous peoples to claim more lands than they traditionally occupy, reject the process of titling and demarcation and or to make no request for such demarcation”. Such frustration indicates that a tension may exist between States and indigenous peoples and non-governmental organizations on the best approach to achieving the goals of the Declaration. Again, additional information by States on how to work through these differences to promote harmonious relations would greatly assist other States to continue to work towards implementation.

### **C. Indigenous peoples, indigenous peoples’ organizations and non-governmental organizations**

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

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

171. Most of the responding indigenous peoples’ organizations reported the integration of the Declaration’s spirit and standards within their internal guidelines,

practices and activities. Several also noted that they are disposed to participate in local or national public processes when established in cooperation and good faith with indigenous peoples and organizations. Nevertheless, several alleged reluctance on the part of States to engage adequately or at all with indigenous peoples in matters that had impacts on them.

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

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

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