**Public call for submission**

**‘Indigenous justice systems and harmonisation with the ordinary justice system’**

**SR IP Report to the Human Rights Council 2019**

Indigenous peoples’ own systems of justice is a subject which has recurrently been addressed by the Special Rapporteur’s mandate, including through country visits, communications, and in seminars and conferences. The main concerns which have been raised by indigenous peoples are the lack of effective recognition of, and support for, their systems of justice by local, regional and national level authorities; ongoing discriminatory and prejudicial attitudes against indigenous peoples and their systems of justice; and the lack of effective methods of coordination between their justice systems and the State ordinary justice authorities. The observance of international human rights standards by both the ordinary and indigenous justice systems, particularly regarding the rights of women, children and persons with disabilities is also a concern that deserves due consideration.

**The Special Rapporteur has therefore decided to devote particular attention to this issue through the elaboration of a thematic report which will be presented to the Human Rights Council in September 2019.** She intends to address these issues through an examination of international standards regarding indigenous customary justice, access to justice and the right to a fair trial as well as lessons learned from domestic legislation and judicial decisions addressing indigenous customary justice, as well as observations and recommendations made by international human rights bodies.

The United Nations Declaration on the Rights of Indigenous Peoples (2007) asserts the right of indigenous peoples to maintain and strengthen their political, legal, economic, social and cultural institutions (Article 5) and to promote, develop and maintain their institutional structures, including their juridical systems or customs in accordance with international human rights standards (Article 34). These are important elements of their right to self-determination. The Declaration furthermore affirms the right of indigenous peoples to ‘access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights’ which should give due consideration ‘to the customs, traditional, rules and legal systems of the indigenous peoples concerned and international human rights’ (Article 40).

**In order to develop the report based on an assessment of progress made in this area, the Special Rapporteur would appreciate receiving information, including on the following:**

*Indigenous justice systems and coordination with the ordinary justice system*

1. Please describe the significance of indigenous justice systems for indigenous peoples and their exercise of collective rights, including self-determination, culture, customs and spiritual traditions.
2. What national legal provisions establish recognition of indigenous justice systems?
3. Are there restrictions on the exercise of indigenous jurisdiction and if so, which are these restrictions? Can indigenous jurisdiction be exercised over non-indigenous individuals?
4. Please provide examples of how jurisprudence of the ordinary justice system has referred to matters relating to the indigenous justice systems.
5. How do the jurisdictions between the ordinary justice system and the indigenous justice systems cooperate and coordinate and how is this regulated?
6. Are the decisions by indigenous justice systems subject to appeals in, and review by, the ordinary justice system?
7. What measures are in place to strengthen cooperation and coordination between the ordinary and indigenous justice systems? Is there any joint entity consisting of both ordinary and indigenous justice representatives?
8. How is it ensured that the accused are not tried in both the customary and ordinary justice system (double jeopardy)?
9. What financial and technical assistance is provided by the State to the administration of indigenous justice systems?

Are there measures in place to ensure that indigenous justice systems are in line with international human rights standards and respect the rights of women, children, persons with disabilities and LGBT persons?

*Indigenous peoples in the ordinary justice system*

1. What are the main challenges faced by indigenous peoples in terms of accessing the ordinary justice system?
2. Please describe how legal aid and the right to interpretation are provided in the ordinary justice system for indigenous victims, witnesses and those accused of having committed a crime.
3. Are indigenous or non-indigenous experts called to give testimony during court proceedings involving indigenous persons in the ordinary justice system? Please give examples.
4. In relation to indigenous persons facing criminal penalties in the ordinary justice system, how are their economic, social and cultural characteristics taken into account and how is preference given to methods of punishment other than prison?
5. Are indigenous peoples overrepresented in pre-trial detention and prisons compared to the non-indigenous population?
6. What measures are in place to ensure that places of detention respect cultural and religious practices and culturally adequate health services?
7. Please indicate and give examples of how the ordinary justice has provided remedies and reparation for successful indigenous petitioners.

**The Special Rapporteur would appreciate receiving information no later than 10 May 2019 in order to consider it in the preparation of the report**.

**Please send submissions to the email: indigenous@ohchr.org**

Kindly indicate "**Justice Report 2019**" in the subject heading of the email submission.