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## Annual report of the Expert Mechanism on the Rights of Indigenous Peoples\*

*Chair-Rapporteur:* Kristen Carpenter

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\* Agreement was reached to publish the present report after the standard publication date owing to circumstances beyond the submitter's control.

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## I. Introduction

1. In its resolution 6/36, the Human Rights Council established the Expert Mechanism on the Rights of Indigenous Peoples as a subsidiary body to assist the Council in the implementation of its mandate by providing it with thematic expertise on the rights of indigenous peoples, as requested by the Council. In the resolution, the Council established that the thematic expertise would focus mainly on studies and research-based advice, and that the Expert Mechanism might put forward proposals to the Council for its consideration and approval.
2. In September 2016, the Human Rights Council adopted resolution 33/25 amending the mandate of the Expert Mechanism to provide the Council with expertise and advice on the rights of indigenous peoples as set out in the United Nations Declaration on the Rights of Indigenous Peoples and to assist Member States, upon request, in achieving the ends of the Declaration through the promotion, protection and fulfilment of the rights of indigenous peoples. The specific elements of the new mandate are set out in the resolution.
3. The Expert Mechanism held its twelfth session in Geneva from 15 to 19 July 2019. The summary of the discussions set out in sections V to XI below is not intended to be a verbatim record, but rather an overview of the main points raised by expert members and other participants. The individual contributions of all participants can be viewed on the webcast of the session.<sup>1</sup>
4. The Expert Mechanism suspended its meeting at 3 p.m. on Monday 15 July to allow the Human Rights Council to hold an intersessional dialogue on ways to enhance the participation of the representatives and institutions of indigenous peoples in meetings of the Human Rights Council on issues affecting them (pursuant to paragraph 11 of Council resolution 39/13). The Expert Mechanism resumed its session at 5 p.m. on 15 July.

## II. Intersessional activities

5. Since its eleventh session, held in July 2018, the Expert Mechanism has undertaken several official intersessional activities. In September 2018, it held an interactive dialogue with the Human Rights Council at the thirty-ninth session of the Council, as part of the process of submission of its study on the theme of free, prior and informed consent: a human rights-based approach (A/HRC/39/62). On 19 September 2018, the Chair of the Expert Mechanism served as moderator of the annual half-day discussion on the rights of indigenous peoples held by the Human Rights Council, which focused on the participation of indigenous peoples in the development and implementation of strategies and projects in the context of the 2030 Agenda for Sustainable Development. In January 2019, the Expert Mechanism took part in an expert meeting on conservation and the rights of indigenous peoples convened by the United Nations Permanent Forum on Indigenous Issues. Since 1 May 2019, the focal points on the Steering Committee for the International Year of Languages, Alexey Tsykarev and Kristen Carpenter, have engaged in various activities.
6. The Expert Mechanism held its intersessional meeting in Chiang Mai, Thailand, in November 2018. The meeting comprised a two-day expert seminar on indigenous rights in the context of borders, migration and displacement and a three-day private working meeting of the Expert Mechanism. The Expert Mechanism is grateful to Chiang Mai University for co-organizing and hosting the expert seminar, whose main objective was to obtain substantive input to its study on borders, migration and displacement. The seminar brought together approximately 40 participants, including members of the Expert Mechanism, practitioners from several regions, indigenous human rights advocates, academics and staff of the Office of the United Nations High Commissioner for Human Rights (OHCHR).
7. The Expert Mechanism took part in the eighteenth session of the Permanent Forum on Indigenous Issues. In addition, several members of the Mechanism engaged with United

<sup>1</sup> Available at <http://webtv.un.org>.

Nations agencies, regional human rights mechanisms, Member States and civil society organizations at the country level, including through activities related to capacity-building.

8. The Expert Mechanism undertook a country engagement mission to New Zealand under its new mandate from 8 to 13 April. For more information on the mission, see section VI below.

### **III. Adoption of studies, reports and proposals**

#### **A. Adoption of studies and reports**

9. During its twelfth session, the Expert Mechanism adopted its study and advice on the rights of indigenous peoples in the context of borders, migration and displacement (A/HRC/EMRIP/2019/2), under paragraph 2 (a) of Human Rights Council resolution 33/25.

10. The Expert Mechanism also adopted its report on the theme of efforts to implement the United Nations Declaration on the Rights of Indigenous Peoples: recognition, reparation and reconciliation (A/HRC/EMRIP/2019/3), under paragraph 2 (b) of Human Rights Council resolution 33/25.

11. The Expert Mechanism agreed that, in consultation with the other members, the Chair-Rapporteur could make revisions to the two documents mentioned above in the light of the discussions at its twelfth session and agreed to submit them to the Council at its forty-second session.

#### **B. Proposals**

##### **Proposal 1: Participation of indigenous peoples in the Human Rights Council**

12. The Expert Mechanism proposes that the Human Rights Council, in consultation with indigenous peoples, make further efforts to enhance the participation in the Council of representatives of indigenous peoples and their representative institutions, in accordance with the United Nations Declaration on the Rights of Indigenous Peoples. That would include all meetings relevant to the rights of indigenous peoples, including the interactive dialogue with the Mechanism and the Special Rapporteur on the rights of indigenous peoples, the annual half-day discussion on the rights of indigenous peoples and sessions of the Working Group on the Universal Periodic Review.

13. For that purpose, the Expert Mechanism proposes that the Human Rights Council hold a technical workshop on modalities for the enhanced participation of indigenous peoples. The workshop should ensure representation from all seven indigenous socioeconomic regions and build on the outcomes of the intersessional interactive dialogue held on 15 July 2019, at which many indigenous representatives stressed the importance of a transparent and inclusive consultation process with Member States and the need for a specific status, reflecting the representative institutions of indigenous peoples.

14. The Expert Mechanism puts forward the present proposal without prejudice to the ongoing consultative process referred to in General Assembly resolution 71/321, aimed at enhancing the participation of the representatives and institutions of indigenous peoples in United Nations meetings.

##### **Proposal 2: International decade on indigenous languages**

15. The Expert Mechanism proposes to the Human Rights Council that it support the proclamation of an international decade of indigenous languages, in the light of the progress, outcomes and lessons learned from the International Year of Indigenous Languages 2019, through the activities led by the United Nations Educational, Scientific and Cultural Organization (UNESCO). In making this proposal, the Expert Mechanism would like to stress the critical nature of their languages to the rights of indigenous peoples, as well as the ongoing discrimination against indigenous peoples who speak their languages and the threat of extinction of indigenous languages.

16. The Expert Mechanism informs the Human Rights Council that the proposal for an international decade of indigenous languages has also been put forward by the Permanent Forum on Indigenous Issues and the Special Rapporteur on the rights of indigenous peoples, and is supported by the Board of Trustees of the United Nations Voluntary Fund for Indigenous Peoples, the International Steering Committee for the International Year of Indigenous Languages, which consists of representatives of indigenous peoples and Member States, and OHCHR.

**Proposal 3: Increased engagement of Member States and coordination between the mechanisms of indigenous peoples and the treaty bodies with the Expert Mechanism**

17. The Expert Mechanism proposes that the Human Rights Council urge States to engage more actively with its activities and in particular to attend and participate in its annual sessions, with a view to taking part in dialogue as a core element of its amended mandate.

18. The Expert Mechanism also proposes to the Human Rights Council that it encourage States to make use of its mandate to provide technical assistance for and facilitation of dialogue, including for the implementation of recommendations pertaining to indigenous peoples from the universal periodic review, the treaty bodies and the special procedures.

19. In that regard, the Expert Mechanism further proposes that the Human Rights Council recognize the coordination efforts between the mechanisms working on the rights of indigenous peoples and the treaty bodies, including the Committee on the Elimination of Discrimination against Women, the Committee on the Elimination of Racial Discrimination and the Human Rights Committee, which are increasingly using the Declaration on the Rights of Indigenous Peoples to inform their work and their application of treaties in the context of indigenous peoples.

20. The Expert Mechanism also proposes to the Human Rights Council that it acknowledge the establishment of the new mechanism on indigenous peoples and climate change under the United Nations Framework Convention on Climate Change.

**Proposal 4: Promotion of the country engagement mandate of the Expert Mechanism**

21. The Expert Mechanism proposes to the Human Rights Council that it encourage States and indigenous peoples to engage more proactively with it under its amended mandate, pursuant to Council resolution 33/25, including by submitting requests for technical assistance and dialogue facilitation. States should also be encouraged to respond positively to requests made by indigenous peoples under paragraphs 2 (c) and (e) of the resolution and seize the opportunity for dialogue provided by such requests.

22. The Expert Mechanism further proposes to the Human Rights Council that it acknowledge States and indigenous peoples that have already engaged with it under its amended mandate and made progress toward the realization of the aims of the Declaration on the Rights of Indigenous Peoples.

**Proposal 5: Protection of human rights defenders**

23. The Expert Mechanism urges the Human Rights Council to call upon States to ensure that indigenous human rights defenders are guaranteed a safe working environment and security, and to review laws that criminalize the work of indigenous human rights defenders, in compliance with the Declaration on the Rights of Indigenous Peoples and other international standards. In the light of the information set out in its report on good practices and lessons learned on the tenth anniversary of the Declaration on the Rights of Indigenous Peoples (A/HRC/36/56), the Mechanism proposes that the Council request States to ensure that all human rights violations against indigenous communities and human rights defenders, including indigenous women, are investigated and the perpetrators brought to justice.

**Proposal 6: Reprisals against human rights defenders, mandate holders and indigenous leaders**

24. Pursuant to resolution 36/21, the Expert Mechanism calls on the Human Rights Council to address all allegations and condemn all reprisals against indigenous human rights defenders, including United Nations mandate holders working on the rights of indigenous peoples and representatives of indigenous peoples attending its sessions.

**Proposal 7: Global Compact for Safe, Orderly and Regular Migration**

25. The Expert Mechanism proposes to the Human Rights Council that it call upon States, in the process of implementing the Global Compact for Safe, Orderly and Regular Migration and in all situations involving migration, both internally and across international borders, to recognize and respect the rights of indigenous peoples under the Declaration on the Rights of Indigenous Peoples and other international standards. The Expert Mechanism encourages States and United Nations agencies to refer to its study on the rights of indigenous peoples in the context of borders, migrations and displacement as guidance in this regard.

**Proposal 8: International repatriation of indigenous peoples' sacred items and human remains**

26. Recalling paragraph 27 of the outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples, articles 11 and 12 of the Declaration on the Rights of Indigenous Peoples and recommendations of the Permanent Forum on Indigenous Issues, the Expert Mechanism proposes that the Human Rights Council encourage the development of a mechanism to facilitate the international repatriation of indigenous peoples' sacred items and human remains.

**Proposal 9: National action plans and legislation to achieve the ends of the Declaration on the Rights of Indigenous Peoples**

27. The Expert Mechanism proposes to the Human Rights Council that it remind States of the commitment undertaken in the outcome document of the World Conference on Indigenous Peoples to cooperate with indigenous peoples to develop and implement national action plans, legislation or other measures to achieve the ends of the Declaration on the Rights of Indigenous Peoples. In that regard, it proposes that the action plans be used as a tool to implement the recommendations of international human rights mechanisms, including the universal periodic review, the treaty bodies and the special procedures, and that States consider seeking the collaboration and support of their national human rights institutions and the Mechanism in the elaboration of those action plans. Inspired by the panel on indigenous women in power, at its twelfth session, the Mechanism proposes that the Council commend and promote the work of indigenous parliamentarians and others in positions of leadership, particularly indigenous women, in the promotion of the Declaration.

**Proposal 10: United Nations Voluntary Fund for Indigenous Peoples**

28. The Expert Mechanism proposes that the Human Rights Council continue urging States to contribute to the United Nations Voluntary Fund for Indigenous Peoples. The Mechanism also proposes that the Council urge Member States to support the expansion of the mandate of the United Nations Voluntary Fund for Indigenous Peoples to support grantees who put forward effective initiatives to implement recommendations of United Nations human rights mechanisms; the participation of indigenous peoples in the Forum on Business and Human Rights and in United Nations climate change processes; and the participation of indigenous peoples in the pre-sessions of the Working Group on the Universal Periodic Review.

**Proposal 11: Collaboration with the universal periodic review process**

29. The Expert Mechanism reiterates its proposal that the Human Rights Council and Member States continue to draw increasingly on the Declaration on the Rights of

Indigenous Peoples in the universal periodic review process. It also reiterates its proposal that, in future universal periodic review cycles, the Declaration be explicitly included in the list of standards on which the universal periodic review process is based.

**Proposal 12: Acknowledgement of the thirtieth anniversary of the Indigenous and Tribal Peoples Convention**

30. The Expert Mechanism proposes that the Human Rights Council acknowledge the thirtieth anniversary of the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169) and continue to call upon States that have not yet ratified or acceded to the Convention to consider doing so.

## **IV. Organization of the session**

### **A. Attendance**

31. The Expert Mechanism held its twelfth session in Geneva from 15 to 19 July 2019. All seven members, Kristen Carpenter (United States of America, Chair-Rapporteur), Megan Davis (Australia), Belkacem Lounes (Algeria), Edtami Mansayagan (Philippines), Rodion Sulyandziga (Russian Federation), Laila Susanne Vars (Norway) and Erika M. Yamada (Brazil), attended the session.

32. Representatives of States, parliaments, indigenous peoples, United Nations programmes, bodies and specialized agencies, national and regional human rights institutions, non-governmental organizations (NGOs) and academic institutions took part in the session as observers.

33. Also taking part in the session were member of the Board of Trustees of the United Nations Voluntary Fund for Indigenous Peoples, Myrna Cunningham, the Special Rapporteur on the rights of indigenous peoples and the Chair of the Permanent Forum on Indigenous Issues.

34. A total of 24 side events were held during the session on a broad array of themes relating to the rights of indigenous peoples. A full listing is available on the webpage of the Mechanism.<sup>2</sup>

### **B. Opening of the session and adoption of the agenda**

35. Sergio Joel Rojas, from the Qom Community in Chaco, Argentina, performed a traditional song and Mohawk Chief Howard Thompson from North America conducted a ceremonial opening prayer, after which Erika Yamada, the outgoing Chair of the Expert Mechanism, opened the twelfth session and welcomed the Chief of the Rule of Law, Equality and Non-Discrimination Branch, OHCHR, and the President of the Human Rights Council. The agenda of the session was adopted (A/HRC/EMRIP/2019/1).

36. The President of the Human Rights Council warmly welcomed the Expert Mechanism proposal concerning future efforts to facilitate the participation of indigenous peoples in the work of the Council. In that regard, he recalled that during the twelfth session of the Expert Mechanism the Council would hold an intersessional interactive dialogue on ways to strengthen the participation of indigenous peoples and institutions in meetings of the Council on issues affecting them. He also welcomed the decision by the General Assembly to declare 2019 the International Year of Indigenous Languages. Finally, he highlighted the amended mandate of the Expert Mechanism as a means to promote respect for the Declaration and cooperation of the Council with the Expert Mechanism more effectively.

<sup>2</sup> See [www.ohchr.org/EN/Issues/IPeoples/EMRIP/Pages/Session12.aspx](http://www.ohchr.org/EN/Issues/IPeoples/EMRIP/Pages/Session12.aspx).

37. The Chief of the Rule of Law, Equality and Non-Discrimination Branch highlighted the following issues: the proposal for an international decade of indigenous languages as supported by the United Nations system, including UNESCO and OHCHR; the importance of the right to life in the context of a dignified life with regard to indigenous peoples; and the study on recognition, reparation and reconciliation as an indication of many examples of how dignity has been upheld. In addition, she referred to the country mandate of the Expert Mechanism as a valuable opportunity to bring States and indigenous peoples together in dignity and rights, and to resolve issues of mutual importance. Finally, she encouraged indigenous peoples and States to accept future country engagement missions so that the Mechanism could fully achieve its new mandate and objectives.

### **C. Election of officers**

38. The outgoing Chair of the Expert Mechanism, Ms. Yamada, invited the members of the Mechanism to nominate a Chair-Rapporteur and Vice-Chairs for the period 2019–2020. Ms. Vars nominated Ms. Carpenter as Chair-Rapporteur and Ms. Davis and Mr. Mansayagan as Vice-Chairs. All three were appointed by acclamation.

## **V. Study on indigenous peoples in the context of borders, migration and displacement**

39. On opening agenda item 3, the Chair-Rapporteur stated that the Expert Mechanism looked forward to receiving the views of indigenous peoples, States and United Nations mechanisms and agencies on the draft study on borders, migration and displacement. She welcomed the recommendations of indigenous peoples and other stakeholders as essential to completing the study.

40. The Chair-Rapporteur introduced the draft study. She reported that the Expert Mechanism had received over 50 submissions from indigenous peoples' organizations, Member States, academics, United Nations agencies and other stakeholders for the completion of the study.

41. The Chair-Rapporteur noted that the study addressed the challenges that indigenous peoples faced when they migrated, both voluntarily and involuntarily, and called attention to the various articles of the Declaration on Indigenous Peoples that call for the protection of the rights of indigenous peoples in those contexts. Historically, voluntary migration has long been a part of the traditional ways of life of certain indigenous peoples for subsistence and cultural reasons. While those patterns of movement had become more difficult with the introduction of borders between States, article 36 of the Declaration recognized that indigenous peoples had the right to maintain and develop contacts, relations and cooperation across borders for various purposes, and that States must take effective measures to ensure the implementation of that right.

42. The Chair-Rapporteur noted that the study also identified the socioeconomic factors that led to migration in other circumstances, such as disproportionate rates of poverty, a lack of land and structural factors, including inequality and access to health, education and housing. The different forms of forced movement, caused by non-recognition of indigenous peoples were additional challenges examined in the study. As for movement across international borders, the detention of indigenous peoples and the separation of children from their parents was a major challenge. Border authorities often lacked understanding of indigenous peoples, a situation which could create distrust and conflict between the authorities and indigenous migrants. Furthermore, the often vulnerable situation of women, children, persons with disabilities and lesbian, gay, bisexual, transsexual and intersex persons was stressed, including their exposure to multiple and intersecting forms of discrimination in the context of migration and border issues.

43. A number of participants focused on preventive measures to minimize forced migration and create the conditions for indigenous peoples to remain on their lands in line with the Declaration on the Rights of Indigenous Peoples, including the rights to self-

determination, land and culture. Others focused on the need to protect indigenous peoples from forced migration caused by conflict, climate change, development, conservation and other challenges, and to support them for safe return or resettlement on other lands.

44. The need to adopt and implement legislative measures that uphold the rights to life, to physical and mental integrity, to liberty and to the security of indigenous peoples was stressed by participants as an essential preventive measure required by article 7 of the Declaration on the Rights of Indigenous Peoples and other human rights instruments. Ensuring legal recognition of the traditional land tenure and resource management systems of indigenous peoples and protecting their land territories and resources by guaranteeing their free, prior and informed consent under articles 10, 28, 29 and 32 of the Declaration was also essential. Participants also emphasized the need to avoid State military interventions in indigenous territories and for States to provide adequate, accessible, affordable, appropriate and culturally sensitive social services and basic infrastructure to improve the well-being of indigenous communities and prevent forced displacement. Several participants suggested that border authorities be trained, in consultation with indigenous peoples, regarding their identities, languages and cultures, so as to facilitate translation services, when necessary and the transmission of cultural objects across borders, consistent with articles 11, 13 and 33, among others, of the Declaration.

45. In addition, different examples of good practices were provided in terms of effective cross-border movements and cooperation. For instance, the Pascua Yaqui Tribe of Arizona, United States, became the first indigenous nation to develop and issue an enhanced tribal identification card in partnership with State authorities to facilitate border crossings by Yaqui people whose territory is now divided by the United States-Mexico border. The Sami people who live in Finland, Norway, Sweden and Russia promote the coherent standards of the Sami language and develop new terminology across borders and thus advocate for the fulfilment of the rights of the Sami as one people living in four States. Australia shares a common maritime border with Papua New Guinea and has signed a treaty that allows free movement across the border without a passport or visa, albeit with certain formal requirements. In the treaty, indigenous rights and the participation of indigenous peoples in the management of the shared border areas are actively promoted. The communities within the protected zone of the treaty have maintained traditional connections.

## **VI. Coordination meeting of United Nations indigenous rights mechanisms**

46. Under agenda item 4, the members of the Expert Mechanism held a private meeting with the Chair of the Permanent Forum on Indigenous Issues, the Special Rapporteur on the rights of indigenous peoples and a representative of the Board of Trustees of the United Nations Voluntary Fund for Indigenous Peoples. Participants considered the following issues: updates on planned joint activities for the period 2019–2020; selection and coordination of thematic studies; coordination of country engagement; and the International Year of Indigenous Languages.

## **VII. Intersessional activities and follow-up to thematic studies and advice**

47. As Vice-Chair of the Expert Mechanism, Mr. Mansayagan explained that the agenda item on intersessional activities and follow-up to thematic studies and advice would be devoted to the discussion of updates relevant to past thematic studies of the Expert Mechanism. The purpose of considering follow-up to its previous studies was to identify good practices in applying the Mechanism's studies and advice for the implementation of the Declaration on the Rights of Indigenous Peoples.

48. Mr. Mansayagan emphasized that the studies and advice of the Mechanism were meant to provide a better understanding of the provisions of the Declaration and to propose concrete actions that States, indigenous peoples, civil society, international organizations, national human rights institutions and others could take, in order to further its

implementation. He conveyed the Mechanism's hope that its studies would become living documents that were used in the daily work and advocacy of stakeholders for the promotion and protection of the rights of indigenous peoples.

49. States, indigenous peoples and other participants commented on the previous studies undertaken by the Expert Mechanism, in particular the follow-up study on access to justice (A/HRC/27/65) and the study on free, prior, and informed consent (A/HRC/39/62). In regard to the former, participants highlighted the increasing criminalization of indigenous persons with disabilities, the disproportionate risk of indigenous persons with disabilities experiencing all forms of violence and the frequent discrimination they suffered. In regard to the latter, it was stressed that free, prior and informed consent was a manifestation of the right of indigenous peoples to self-determination of their political, social, economic, and cultural priorities. Free, prior, and informed consent was also interpreted within the field of the inherent dignity of peoples, including in the case of peoples living in voluntary isolation.

## **VIII. Country engagement**

50. Member of the Expert Mechanism Ms. Vars opened agenda item 6, explaining the country engagement aspects of the Mechanism's amended mandate. Under the new mandate, she indicated that the Mechanism was charged with assisting States and indigenous peoples to realize the aims of the Declaration on Indigenous Peoples, including by providing technical advice and facilitating dialogue at the request of Member States or indigenous peoples. The Mechanism could also support States in the implementation of recommendations made by other human rights mechanisms in relation to the human rights of indigenous peoples, and provide a deeper analysis of the practical implementation of those recommendations. She was joined on the panel by representatives of States and indigenous peoples who had participated in recent country engagements, as described below.

51. Representatives of New Zealand and Maori participated as panellists during the discussion of agenda item 6. The Expert Mechanism undertook a mission to New Zealand from 8 to 13 April 2019, in response to a request from the Aotearoa Independent Monitoring Mechanism on behalf of the National Iwi Chairs Forum and the New Zealand Human Rights Commission. Two members of the Mechanism, Ms. Vars, Vice-Chair and Head of Mission and Mr. Mansayagan, as well as staff of the OHCHR secretariat, participated in the mission. In accordance with the methods of work of the Mechanism, terms of reference were drawn up in consultation with the parties in advance of the country engagement. The purpose, as agreed upon by both parties, was to provide advice on the drafting of a national action plan on achieving the ends of the Declaration on the Rights of Indigenous Peoples in New Zealand, with a particular focus on identifying how Maori would partner in the process of planning, developing and implementing the action plan. Following the mission, the Expert Mechanism transmitted a written advisory note to the parties. The note is a public record of the mission and can be found on the webpage of the Mechanism for the twelfth session. Representatives from New Zealand and Maori spoke to agenda item 6, highlighting the positive engagement with the Expert Mechanism and their appreciation of the advisory note which would assist them in the process of developing a plan of action.

52. Representatives from Finland and the Sami parliament also took part in the meeting on agenda item 6 as a follow-up to the mission undertaken by the Expert Mechanism to Finland in 2018. The aim of that mission was to facilitate dialogue between the Government of Finland and the Sami Parliament, and to advise on the revision of the act on the Sami Parliament. The negotiations over the draft Act are ongoing and will be affected by decisions this year of the Human Rights Committee, which found violations by Finland with respect to, inter alia, the right of the Sami to political participation in conjunction with their right to self-determination (see, for example, CCPR/C/124/D/2668/2015).

53. Members of the Mechanism also referenced the recent mission to Mexico City regarding implementation of the incorporation into the new Constitution of the Declaration on the Rights of Indigenous Peoples.

54. In response to questions from the floor regarding advice on how to improve the implementation of the rights of indigenous peoples, several participants pointed to the need to persist with open and inclusive dialogue between States and indigenous peoples. Indigenous representatives from the Yaqui people of the United States and Mexico and the Sami Parliament of Sweden welcomed a possible country engagement regarding repatriation of a sacred object. A significant number of possible country engagement requests then came from the floor, which were welcomed by the experts, with the advice that they should be put in writing.

55. The requests so far received by the Expert Mechanism have addressed a broad range of issues, including implementation of recommendations from the universal periodic review, the repatriation of spiritual objects, child protection issues, conservation impacts and the creation and implementation of legislation on the rights of indigenous peoples. Although different in nature, in each request the point was made that country visits by the Expert Mechanism and the technical support it provided could contribute to establishing a new and improved relationship between States and indigenous peoples, rooted in mutual respect.

## **IX. Panel discussion on indigenous women in power**

56. Inspired by the recent election of indigenous women to public office in several parts of the world, the Expert Mechanism decided to hold a panel discussion on the theme of indigenous women in power. The panel assembled a group of indigenous women currently serving or having previously served in parliament or government, from several of the indigenous sociocultural regions.<sup>3</sup>

57. The objectives of the panel discussion were:

(a) To discuss the motivation behind indigenous women pursuing a political career in mainstream politics: how was their journey and how did they get to their positions of political power?

(b) For indigenous women to share experiences in their current positions and describe what it meant to them to be indigenous women in national parliaments or in government;

(c) To examine the challenges and barriers to the participation of indigenous women in mainstream politics;

(d) To discuss how the United Nations and the Declaration on the Rights of Indigenous Peoples could support indigenous women in office in their political role.

58. As Vice-Chair of the Mechanism, Ms. Davis opened the discussion on item 7 and introduced the moderator, Carolyn Rodrigues Birkett, Director of the Liaison Office of the Food and Agriculture Organization of the United Nations in Geneva and formerly a minister and parliamentarian in Guyana. Ms. Rodrigues Birkett provided an introduction, reflecting on her own experiences and then introduced the panellists:

- Ethel Blondin Andrew, the first indigenous woman to serve as a Member of Parliament in Canada and former Minister for Children and Youth
- Jannie Lasimbang, Assistant Minister of Law and Native Affairs, Sabah State, Malaysia
- Sara Olsvig, head of the programme in Greenland for the United Nations Children's Fund, Denmark, and former member of the parliament in Denmark and Greenland

<sup>3</sup> The concept note for the panel is available at [www.ohchr.org/Documents/Issues/IPeoples/EMRIP/Session12/CN\\_IndigenousWomenPowerPanel.pdf](http://www.ohchr.org/Documents/Issues/IPeoples/EMRIP/Session12/CN_IndigenousWomenPowerPanel.pdf).

- Anna Otke, member of the Federation Council, Russian Federation
- Zakiyatou Oualette Halatine, former Minister of Tourism and Crafts, Mali
- Joenia Wapichana, the first indigenous woman to be elected as a federal deputy in Brazil.

59. The panellists shared their personal stories and reflected on their journeys from their indigenous communities to their positions in public office, as well as their main motivations for entering politics and the challenges that they faced. Several panellists emphasized the compound discrimination they faced as women and as indigenous persons. They all expressed a motivation to represent their communities and fight for the promotion and respect of their rights, with many of them focusing on health, education, cultural rights, land rights and the rights of indigenous children and youth.

60. Following the opening statements, the moderator opened the floor for questions. Participants were unified in celebrating the achievements and positive contributions of the panellists, as well as the positive developments that had recently taken place in several regions, allowing indigenous women greater representation in positions of political power. The positive contributions indigenous women made to society through their particular perspective were also emphasized. Participants stressed the importance of engaging with indigenous women in public office, especially with respect to implementing the Declaration on the Rights of Indigenous Peoples.

61. Notwithstanding the progress for indigenous women in recent years, critical challenges for the effective realization of their rights remained in place. Prominent among these challenges was violence against women, experienced disproportionately by indigenous women around the world. Even women in positions of power, including parliamentarians, were subjected to offline and online violence and harassment, which in turn threatened democracy by discouraging the full participation and representation of women in political and civic life. Indigenous women were also more likely to experience discrimination, physical and sexual violence, and limitations within their homes and communities. Many indigenous women worldwide remained voiceless and vulnerable, both in the public and private spheres. Additional barriers included compound discrimination, gender inequality, lack of access to education and the socioeconomic imbalance between women and men.

62. The panel and participants made several recommendations regarding women in power. The full participation of women in leadership and decision-making was identified as a fundamental element of democratic societies that are genuinely inclusive, representative and sustainable. Participants and panellists also stressed the need to address violence against women globally and to support initiatives that aimed to prevent and counter such a pervasive issue. Enabling access to education and health services, including sexual and reproductive health, was also considered fundamental in giving women more dignified conditions in life and empowering them to make their own decisions freely. The protection of the rights of indigenous women played a key role in manifesting the rights of indigenous peoples to participate in decision-making in matters that affected them. Not only States but also indigenous peoples themselves played a key role in ensuring the full and equal participation of all women and girls.

## **X. United Nations Declaration on the Rights of Indigenous Peoples, including the study on recognition, reparation and reconciliation**

63. On opening agenda item 8, Ms. Yamada, stated that the Expert Mechanism looked forward to receiving the views of indigenous peoples, States and United Nations mechanisms and agencies on the report on recognition, reparation, and reconciliation, focusing on initiatives undertaken since the adoption of the Declaration in 2007 (A/HRC/EMRIP/2019/3). She welcomed the recommendations of indigenous peoples and other stakeholders as essential to completing the report.

64. Ms. Yamada introduced the draft study on recognition, reparation and reconciliation. She indicated that the Expert Mechanism had received over 20 submissions from indigenous peoples' organizations, Member States, academics, United Nations agencies and other stakeholders for the completion of the study.

65. Ms. Yamada noted that the study set out four guiding principles on recognition, reparation, and reconciliation:

(a) The recognition of indigenous peoples, as well as reparation and reconciliation relating to past and current injustices, as essential elements for the effective implementation of the Declaration on the Rights of Indigenous Peoples and the central role of the Declaration as an instrument to pursue recognition, reparations and reconciliation;

(b) The need to approach any process of reparation and reconciliation from an indigenous perspective, taking into account cultural specificities, including the spiritual connection of indigenous peoples to their lands, their traditions related to identifying and healing injuries and their right to participate fully and effectively in decision-making;

(c) Recognition, reparation and reconciliation as a means of addressing colonization and its long-term effects, and of overcoming challenges with deep historical roots;

(d) Recognition of the rights of indigenous peoples to self-determination (including free, prior and informed consent), their rights to autonomy and political participation, their claims to their lands and the recognition of indigenous juridical systems and customary laws should be considered an essential part of recognition, reparation and reconciliation.

66. Ms. Yamada added that the concepts of reparation and reconciliation should be seen from an intergenerational and collective point of view and stressed that apologies and other measures of satisfaction were worthy of note, but that they should then be transferred into tangible change when it came to respecting and protecting the rights of indigenous peoples. Any process for truth-telling, as well as remedies for past violations of the rights of indigenous peoples, must be undertaken with their full participation, consultation and consent, and with attention to their own laws, traditions and protocols regarding narrative, justice and healing.

67. Following Ms. Yamada's introduction of the report, participants provided comments. Some participants emphasized the urgent need for full and effective participation of the indigenous peoples concerned and their representative institutions in the initiatives for recognition, reparation and reconciliation. It was emphasized that those initiatives needed to be aligned with international standards on the rights of indigenous peoples, particularly the Declaration on the Rights of Indigenous Peoples. Furthermore, it was suggested that truth-telling initiatives could assist in identifying measures to give full effect to the right to self-determination and address the long-term effects of genocide and colonization. States were also encouraged to implement national awareness-raising measures that adequately explained the basis for and benefit of full recognition of the rights of indigenous peoples.

68. Specific recommendations were made by State representatives, indigenous peoples and NGOs, including more robust legal recognition of indigenous peoples, protection of the archives of truth-telling forums for future generations and the promulgation of an international decade of the world's indigenous languages, given the crucial role of languages in reparation and reconciliation.

## **XI. Dialogue on implementation of the United Nations Declaration on the Rights of Indigenous Peoples**

69. Member of the Expert Mechanism Rodion Sulyandziga led the discussions on item 8, which consisted of a dialogue with the Special Rapporteur on the rights of indigenous peoples, the Chair of the Permanent Forum on Indigenous Issues, the Chair of the Board of Trustees of the Voluntary Fund for Indigenous Peoples, member of the Human Rights

Committee, Ilze Brands Kehris, and member of the Committee on the Elimination of Discrimination against Women, Gladys Acosta Vargas.

70. The panellists referred to the implementation of the Declaration on the Rights of Indigenous Peoples from different perspectives. The Special Rapporteur, for example, mentioned the interrelatedness of the questions of recognition, remedy and reconciliation; indigenous justice systems; and the right of indigenous peoples to self-determination. She indicated that access to justice was a key element for reparation, while the realization of the right to self-determination of indigenous peoples depended on adequate recognition of indigenous peoples as the subject of collective and individual rights, which in turn was the only way to achieve redress and full reconciliation.

71. The Chair of the Permanent Forum noted the efforts made by the Forum to promote the implementation of the Declaration by producing reports related to the rights of indigenous peoples. She informed the participants that during the nineteenth session of the Forum in 2020, three reports would be presented: one on best practices in the protection of the lands, territories and resources of indigenous peoples; a second entitled “Indigenous peoples autonomies: experiences and perspectives”;<sup>4</sup> and a third on the development of standards and redress mechanisms for protecting the rights of indigenous peoples in conservation measures. She also mentioned that the secretariat of the Forum was working on projects to support Member States in developing national action plans at both national and local levels to recognize and implement the rights of indigenous peoples in accordance with the Declaration.

72. Ms. Acosta Vargas introduced the work done by the Committee on the Elimination of Discrimination on the implementation of the Declaration. She particularly stressed the importance of the conceptual note that the Committee had adopted on the rights of indigenous women for the purpose of developing a general recommendation on the rights of indigenous women and announced that informal consultations with different organizations had been held in that regard, and that the formal launch of the process would commence soon. Ms. Brands Kehris updated the participants on the work of the Human Rights Committee relating to the Declaration, including its new general comment No. 36 (2018) on the right to life and its importance for indigenous peoples, and on the decisions taken under its individual complaints procedure relating to the right to political participation. She also indicated seven States about which the Committee had expressed concerns in its concluding observations on indigenous rights, including with respect to free, prior and informed consent. All panellists noted the importance of the Declaration as a standard-setting document and the importance of using it in their work to apply treaties in the context of indigenous peoples.

73. Under Item 8, the Expert Mechanism also held a private meeting on free, prior and informed consent with members of the ILO Committee of Experts on the Application of Conventions and Recommendations, the Special Rapporteur on the rights of indigenous peoples, the Chair of the Permanent Forum on Indigenous Issues and the Vice-Chair of the Human Rights Committee.

## **XII. Future work of the Expert Mechanism, including focus of future thematic studies**

74. Member of the Expert Mechanism Mr. Lounes led the discussion on agenda item 9, during which participants suggested different thematic studies the Expert Mechanism could carry out, including on violence against indigenous women; missing and murdered indigenous women; climate change and its repercussions on the rights of indigenous peoples; the right to housing of indigenous peoples; the forced removal of indigenous children; the right to media and communications; the rights of indigenous persons with disabilities; the rights of indigenous peoples in the context of water; and the criminalization

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<sup>4</sup> See E/2019/43, para. 141.

and protection of indigenous rights defenders. The Expert Mechanism took note of the proposals.

75. The Expert Mechanism decided that its next annual study on the status of the rights of indigenous peoples worldwide in the achievement of the ends of the Declaration, mandated by resolution 33/25, paragraph 2 (a), would focus on the theme of the rights of indigenous peoples to lands, territories and resources.

76. The Expert Mechanism also decided to prepare a report for the Human Rights Council on good practices and lessons learned regarding efforts to achieve the ends of the Declaration on the Rights of Indigenous Peoples, as authorized in resolution 33/25, paragraph 2 (b). The report will be presented to the Council at its forty-eighth session in September 2021 and will focus on the right to self-determination.

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