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Study and advice on the rights of the indigenous child

under the United Nations Declaration on the Rights of Indigenous Peoples

Rights of the indigenous child under the United Nations Declaration on the Rights of Indigenous Peoples

Draft study of the Expert Mechanism on the Rights of Indigenous Peoples

Summary

The Expert Mechanism on the Rights of Indigenous Peoples has prepared the present draft study pursuant to Human Rights Council resolution 33/25.

The draft study, which concludes with Expert Mechanism advice No. 14 on the rights of the indigenous child (see annex) will be considered at the fourteenth session of the Expert Mechanism, to be held in July 2021, and will be finalized for submission to the Human Rights Council at its forty-eighth session, to be held from 13 September to 1 October 2021.



I. Introduction

1. Pursuant to Human Rights Council resolution 33/25, the Expert Mechanism on the Rights of Indigenous Peoples decided, at its thirteenth session, to prepare a study on the rights of the indigenous child. For this purpose, the Expert Mechanism held a virtual seminar on 16 and 17 November 2020 with the collaboration of the Centre for Children, Youth and Family Research of the University of Greenland. The study was informed by the presentations made at that seminar and the submissions of Member States, indigenous peoples, national human rights institutions, academics and others.¹ The Expert Mechanism encouraged children and those representing or working with them to make submissions and presentations.

2. The Expert Mechanism sees the study as an opportunity to integrate a human and children's rights-based approach into the interpretation of the rights of indigenous children under the United Nations Declaration on the Rights of Indigenous Peoples. In the study, both the individual and collective rights of indigenous children and the interplay between them are examined. The study incorporates the seminal principle of the best interests of the child in the context of indigenous children. As the Declaration does not provide a definition of the child, the Expert Mechanism has used the definition from the Convention on the Rights of the Child: "a child means any human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier" (art. 1).

3. The capacity of indigenous peoples to meet their children's needs depends on their ability to exercise their right to self-determination and is essential when considering existing gaps in areas such as education and child welfare. That critical link was made by Australian Aboriginal and Torres Strait Islanders in the Uluru Statement from the Heart, in which they stated "When we have power over our destiny our children will flourish." Ties to traditional territories are also central to the ability of indigenous children to reach their potential and exercise the full panoply of their rights, including cultural rights and the right to health, which itself includes the conservation of vital medicinal plants, animals and minerals.

4. Globally, indigenous peoples, including children, have been disproportionately impacted by the coronavirus disease (COVID-19) pandemic and accompanying containment measures.² That has been particularly acute for those with intersecting vulnerabilities, including girls and children with disabilities, and there is a real risk that in the wake of COVID-19 indigenous children will be left even further behind.

II. Legal framework

A. General international human rights law

1. Convention on the Rights of the Child

5. The Convention on the Rights of the Child and its protocols are the pillars of children's rights and guarantee all children the rights enshrined therein. The Convention emphasizes the active role of children in promoting and protecting their rights. Four of the enumerated rights are also understood as overarching principles required for the full enjoyment of all other rights; non-discrimination (art. 2), the best interests of the child (art. 3), the right to life, survival and development (art. 6) and the right to express their views (art. 12).

6. The principle of the best interests of the child is integral for the enjoyment of all other rights and should be a primary consideration in all matters concerning children. It aims to ensure full enjoyment of all rights, as well as physical, mental, spiritual, moral, psychological and social development, integrity and the human dignity of the child.³ In its general comments No. 11 (2009) and No. 14 (2013), the Committee on the Rights of the Child noted that the

¹ Submissions will be available on the web page of the Expert Mechanism at www.ohchr.org/en/issues/ipeoples/emrip/pages/emripindex.aspx.

² See A/HRC/46/72.

³ Committee on the Rights of the Child, general comment No. 14 (2013), paras. 4–5.

principle exists with regard to both collective and individual rights, and that for indigenous children consideration must be given to how it relates to collective cultural rights. The principle must be applied in accordance with indigenous children specifically, while this may differ from the approach used for non-indigenous children in a State, and their culture, lifestyle and the collective nature of indigenous peoples must be taken into consideration. It must be applied specifically to the child in question and cannot be disregarded in favour of the best interests of the indigenous collective.

7. Article 30 of the Convention guarantees the rights of indigenous children to enjoy their own culture, profess and practice their own religion and use their language. In its seminal general comment No. 11 (2009) on indigenous children, the Committee on the Rights of the Child confirmed that under this article, States have an obligation to protect those rights and to take special measures in consultation with indigenous communities, including the participation of children in that process. An integral part of article 30 is that it contemplates the child within its community, thereby recognizing the individual rights of the child within his or her community, including rights to the enjoyment of his or her own culture, religion and language. The rights of indigenous children are also explicitly contemplated in article 17 (d) with regard to access to media in indigenous languages and in article 29 (d) on the aims of education.

2. Other key instruments

8. In addition to their rights as children under the Convention, indigenous children have the full gamut of human rights enshrined in all relevant international instruments, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities, as well as regional instruments, including those specifically dealing with children such as the African Charter on the Rights and Welfare of the Child.

9. Although not referred to specifically, indigenous peoples are understood to fall under article 27 of the International Covenant on Civil and Political Rights as ethnic, religious or linguistic minorities, which guarantees their rights to enjoy their cultures, religions and languages in community with others of their group.

B. Collective rights of indigenous peoples under international law

10. In addition to their individual rights, indigenous peoples have collective rights under international law, as guaranteed by the United Nations Declaration on the Rights of Indigenous Peoples and the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169), as well as regional and domestic instruments, such as the American Declaration on the Rights of Indigenous Peoples, which includes several references to children.⁴

1. United Nations Declaration on the Rights of Indigenous Peoples

11. The United Nations Declaration on the Rights of Indigenous Peoples outlines the collective rights of indigenous peoples and constitutes minimum standards for the survival, dignity and well-being of all indigenous peoples (art. 43). The first mention of the rights of indigenous children is in the preamble regarding the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child. Article 7 deals with a key issue in the history of indigenous children, namely the collective right of indigenous peoples not to be subjected to any act of genocide or any other act of violence, including the forcible removal of children of one group to another group. Article 14 confirms the collective rights to education of indigenous peoples, including the establishment and control over educational

⁴ Articles VII, XV, XVII, XXVII, XXX.

systems and institutions, using culturally appropriate methods, in their own languages, without discrimination.

12. The Declaration sets out the need for particular attention to be paid to several groups, including children, in relation to the right of indigenous peoples to the continuing improvement of their economic and social conditions (art. 21). It also refers to special measures that States should take, in consultation with indigenous peoples, to protect indigenous children from economic exploitation, including any work that is likely to interfere with their education or be otherwise harmful to them (art. 17). Article 22 calls for special attention to be paid to the rights and needs of certain groups, including children, and measures to guarantee protection against all forms of violence and discrimination, thereby recognizing the intersectional discrimination they face.

13. In addition to the articles that explicitly reference children's rights, they are also cross-cutting throughout the Declaration. The rights to self-determination (art. 3) and traditional lands, resources and territories (arts. 25–28) are closely linked with their ability to fully enjoy all other rights, including for example the rights to health (art. 24) and cultural rights (*inter alia*, arts. 11, 13, 31 and 34). There continues to be a gap between the rights provided for in the Declaration and the implementation at national level, particularly regarding the rights of indigenous children.

III. Status of the rights of the indigenous child worldwide

14. Indigenous children face barriers to their rights, including marginalization, racism and structural discrimination, inadequate housing, poor health and education outcomes, vulnerability to suicide, increased interactions with State care and justice systems, violence, forced displacement, the impact of extractive industries, militarization of their territories and lack of registration and recognition. Indigenous children are also impacted by the challenges facing their families and communities, such as high unemployment rates, and are more likely to live in poverty or extreme poverty than non-indigenous children. While there is a lack of comprehensive disaggregated data on their situation in each country, from the information available it is clear that this is their overall status worldwide.

15. Challenges to the rights of children vary depending on region and their individual situations, and may be compounded by intersecting vulnerabilities, including for girls, lesbian, gay, bisexual, transgender and intersex and two-spirit children, children with disabilities and those in remote or nomadic settlements or urban settings. Indigenous girls experience additional barriers, including to their rights to education and health, and disproportionately high rates of teenage pregnancy, which is often attributed to underlying causes, including lower education rates and harmful practices such as child marriage.⁵

A. Non-discrimination

16. All children have the right to be free from discrimination. In addition to article 21 of the Declaration, article 2 of the Convention on the Rights of the Child obliges States parties to ensure the rights provided therein without discrimination of any kind. Article 44 of the Declaration reiterates that the rights therein are equally guaranteed for female and male indigenous individuals. In its general comment No. 11, the Committee on the Rights of the Child found that indigenous children were among those requiring positive measures to counter discriminatory attitudes and practices, including racism, and ensure the full enjoyment of their rights, including special measures relating to the provision of culturally appropriate health care, education, housing and sanitation, and in the juvenile justice system.

17. Indigenous children often experience discrimination regarding access to services. Greenlanders living in Denmark face discrimination and stigmatization from employers and in accessing health care, education and other social services.⁶ Although often lacking,

⁵ A/HRC/33/57, para. 61 and A/HRC/30/41, paras. 24–28, 33–37, 54 and 56.

⁶ Intervention by Sara Olsvig, Human Rights Council of Greenland.

disaggregated data is crucial for identifying gaps and developing appropriate policies to counter the discrimination faced by indigenous children.

18. New Zealand has introduced measures to monitor the disparities between indigenous and non-indigenous children within its child welfare system, which have demonstrated a decline in the number of Maori children in State care in recent years.⁷ Guatemala has introduced a system to bring visibility to indicators related to indigenous peoples⁸ and Ecuador incorporates self-identification into its information intake in its health-care system.⁹ In Canada, First Nations brought legal cases regarding discrimination in health-care access, leading to the adoption of legislation known as Jordan's Principle to reduce jurisdictional barriers and provide support and funding for indigenous children seeking social services.

B. Participation, consultation and the right to be heard

19. Indigenous peoples have rights to participate in decision-making and to consultation. In its 2011 study on the right to participate in decision-making, the Expert Mechanism emphasized the importance of involving indigenous women and youth in decision-making processes.¹⁰ Children, who often make up a large percentage of indigenous populations, should be included in these processes in a meaningful way and solutions can be found in listening to them.

20. Article 12 of the Convention on the Rights of the Child holds that the views of children should be given due weight in all matters affecting them, according to their age and maturity. That is not limited to seemingly child-specific issues, such as education or alternative care, but in all areas that affect their lives, for example health care or issues concerning their traditional territories and environment. In its general comment No. 11, the Committee on the Rights of the Child confirmed that States play an integral role in the participation of indigenous children and must ensure that they are consulted on matters affecting them. It recommended working with indigenous children and communities to that end.

21. With regard to free, prior and informed consent, in its 2018 study, the Expert Mechanism reiterated the importance of consulting with women, children, youth and persons with disabilities, and considering the specific impacts of decisions on them.¹¹ However, indigenous peoples report Governments not consulting them on policies that affect indigenous children, including policies relating specifically to children.¹²

C. Registration and nationality

22. Article 6 of the Declaration reiterates the right of indigenous peoples to a nationality, which is also enshrined specifically with regard to children in article 24 (3) of the International Covenant on Civil and Political Rights and in article 7 of the Convention on the Rights of the Child. Lack of registration at birth is linked to the right to nationality, as unregistered children do not have the required documentation, such as birth certificates, to access national identity documents. That leaves them at risk of statelessness and is exacerbated in countries where indigenous peoples are not recognized as such. Lack of registration impacts their ability to access basic public services, including education and health care, and leaves them at greater risk of trafficking, particularly for girls.¹³

23. Indigenous children are often at high risk of non-registration. In its general comment No. 2 on article 6 of the African Charter on the Rights and Welfare of the Child, the African Committee of Experts on the Rights and Welfare of the Child highlighted the increased risk

⁷ Submission by New Zealand.

⁸ Submission by Guatemala.

⁹ Submission by Ecuador.

¹⁰ See A/HRC/18/42.

¹¹ A/HRC/39/62, annex, para. 11.

¹² Submission by Comisión Nacional de Mujeres Indígenas de Colombia.

¹³ A/HRC/EMRIP/2019/2/Rev.1, para. 73, A/HRC/30/41, para. 66 and Committee on the Rights of the Child, general comment No. 11 (2009), para. 72.

for indigenous children in Africa where, for example, those from the eastern part of the Democratic Republic of the Congo are not registered and are considered stateless.¹⁴ Children whose communities span national borders and those in nomadic communities are often impacted, as are those in remote areas, such as in Mexico,¹⁵ where they remain at risk of not being registered.

24. Guatemala has made efforts to increase the registration of indigenous children, including through mobile registration days in remote areas and preregistration initiatives.¹⁶ The Public Defender in Paraguay has carried out registration in indigenous communities so that indigenous children can get access to essential services.

D. Right to life, physical and mental integrity, liberty and security of person

25. Article 7 (1) of the Declaration reiterates the rights to life, liberty and security of person guaranteed under international law. The right to life is further developed by the Convention on the Rights of the Child, which includes State obligations to ensure the survival and development of the child to the maximum extent possible (art. 6 (2)). That is also an overarching principle of the Convention that is tied to, and reliant upon, the right to an adequate standard of living (art. 27).

26. Indigenous children often have higher mortality rates than non-indigenous children, as is the case with Maori children in New Zealand.¹⁷ The infant mortality rate in the Chittagong Hill Tracts, home to indigenous peoples of Bangladesh, is more than double the national average.¹⁸ Indigenous children are at heightened risk of violence, exclusion, discrimination and bullying, and often lack State protection.

Violence, including abuse

27. Indigenous children are at a higher risk of violence than non-indigenous children, owing to conditions such as poverty and migration, in particular to urban centres, leaving them at risk of sexual exploitation and trafficking. In Greenland, many indigenous children grow up in homes where there is domestic violence and substance abuse. They are often victims of sexual abuse, which goes largely unreported, even for generations.¹⁹ The underreporting demonstrates the friction between collective and individual rights, as in many communities reporting may be seen as a threat against the collective and fear of exclusion may hinder reporting in communities where people are interdependent. Indigenous children have experienced increased domestic violence during the pandemic and report the need to create safe spaces that do not affect traditional ways of life.

State and non-State actors

28. Indigenous children experience threats of violence from State and non-State actors. They often express fear of law enforcement, for example Mapuche children who have been exposed to violence during police raids, during which police enter houses with high-calibre weapons.²⁰ Indigenous children in Australia report being targeted and subject to verbal and

¹⁴ Submission by Innovation pour la défense et la protection des ressources naturelles.

¹⁵ Submission by the Mexican National Human Rights Commission.

¹⁶ Submission by Guatemala.

¹⁷ Child and Youth Mortality Review Committee, *14th Data Report 2013–17* (Wellington, Health Quality & Safety Commission, 2019).

¹⁸ Submission by Maleya Foundation. See also United Nations Children’s Fund (UNICEF) Bangladesh, “Many tracts one community” (August 2019).

¹⁹ Intervention and submission by MIO (National Advocacy Centre), Greenland. See also submission by the Human Rights Council of Greenland and the Inuit Circumpolar Council.

²⁰ Submissions by Human Rights Watch and Red por la Defensa de la Infancia Mapuche.

physical abuse by the police, with girls reticent to seek assistance and reporting sexual exploitation by the police.²¹

29. Indigenous children, particularly in Asia, Africa and South America, are impacted by armed conflicts and the presence of armed actors on their land. The risk of violence increases when they are displaced, as was the case for Kel-Tamasheq children living in refugee camps owing to armed conflicts in the Sahel, some of whom have been recruited as child soldiers by militias.

Heightened violence against girls

30. While protection from violence and discrimination is enshrined in the Declaration, indigenous women and girls experience disproportionate rates of all types of violence, including sexual, domestic, gender and conflict-based violence, and those with disabilities are at even greater risk. Indigenous girls are frequently victims of sexual violence, as is the case for Emberá girls in Colombia, and most perpetrators enjoy immunity for their crimes.²² Indigenous girls also continue to experience violence through practices such as female genital mutilation. They are also particularly vulnerable to sexual exploitation and trafficking, including in South America and Asia. States are taking measures to counter this phenomenon, including Canada, which held a national inquiry into missing and murdered indigenous women and girls with the aim of decreasing the levels of violence against them.

E. Impact of development activities including the extractive industries

31. Indigenous peoples, including children, are disproportionately affected by development and business activities. Indigenous children often suffer irreparable harm, which gets worse when they are displaced. Such projects often arrive at a critical stage in children's development, resulting in environmental damage and causing health problems, impacting their rights to education and family life and affecting their traditional territories and enjoyment of their cultural rights.

32. Indigenous peoples have been displaced from their lands for development activities, such as the establishment of national parks or cultural heritage sites. Forced displacement affects all areas of the lives of indigenous children, who lose the connection with their lands and by extension their cultures, with impacts on their language, education and health. That was the case when indigenous peoples in the eastern part of the Democratic Republic of the Congo were forced from their traditional territories for the establishment of the Kahuzi Biega National Park in 1975, which had a disproportionate impact on those who were children then and on their children today.²³

33. Extractive industries affect the full spectrum of the rights of indigenous children. The arrival of mining in indigenous territories has led to deforestation, limited access to traditional lands, contamination of the environment and water sources, and devastating impacts on health, livestock and crops. Contamination from toxic substances affects the rights to health and a healthy environment, with substances such as mercury and other heavy metals seeping into water sources causing severe health impacts for children and serious damage to fetuses in utero.

34. Guji peoples living near the Lega Dembi mine in Ethiopia reported suffering increased miscarriages and stillbirths, higher rates of infant mortality and congenital disabilities since the establishment of the mine. Children have experienced chronic health issues, such as vision and skin problems, and have been born with deformed limbs, reportedly due to contamination from the mine. They subsequently lack the necessary support and educational

²¹ Wiyi Yani U Thangani (Women's Voices), *Securing Our Rights, Securing Our Future* (Sydney, Australian National Human Rights Commission, 2020), p. 190.

²² Intervention by Dali Angel, Fondo para el Desarrollo de los Pueblos Indígenas de América Latina y el Caribe.

²³ Submission by Innovation pour la défense et la protection des ressources naturelles.

opportunities. Families have reported contamination of water sources, loss of crops and livestock and an overall inability to carry on their traditional way of life.²⁴

35. Ipili indigenous communities in Papua New Guinea have reported similar violations related to the establishment of the Porgera gold mine in their traditional territories: environmental degradation and exposure to chemicals that led to birth defects in children and violence. Indigenous girls and women experience differentiated impacts of the presence of extractive industries. In Porgera, many were raped, often when searching for gold in dump areas after losing their ability to subsist on agriculture, traditionally the role of girls and women in their communities.²⁵

F. Alternative care and forced removals

36. While the forcible removal of children from indigenous groups is prohibited under article 7 (2) of the Declaration and article 8 prohibits forced assimilation or destruction of their culture, assimilationist and discriminatory policies have often led to the removal of indigenous children from their communities and subsequent institutionalization. Such removals impact many of their rights, including their collective rights to their traditional lands, to belong to an indigenous community, to practice their spiritual and religious traditions, and to their languages and culture.

1. Current alternative care

37. Indigenous children are more likely to find themselves in alternative care and in more frequent contact with criminal justice systems than non-indigenous children. Alternative care and the criminal justice system are linked, with many children going from the former to the latter, or back and forth between the two. Indigenous children often end up in institutions owing to cycles of trauma and loss. They are frequently removed for neglect or emotional abuse while a higher threshold, namely abuse, is used for non-indigenous children.

38. Aboriginal and Torres Strait Islander children are reportedly 9.7 times more likely to be removed from their parents than non-indigenous children in Australia.²⁶ That includes babies, for reasons such as the young age or mental health of the mother.²⁷

39. Representing only 7.7 per cent of children under 14 years of age in Canada, indigenous children make up 52.2 per cent of children in alternative care.²⁸ Involvement and decision-making by indigenous peoples in child welfare is critical to improving this disparity. There have been efforts by First Nations to regain authority for child services since the passing of the Act respecting First Nations, Inuit and Métis children, youth and families on 1 January 2020. The Act integrates the principle of the best interests of the child through the lens of the Declaration, with a focus on keeping indigenous children in, or bringing them back to, their communities.

40. Amendments were made to the Oranga Tamariki Act, the New Zealand child welfare act, aimed at improving the situation of children, including Maori children. It includes greater recognition of the child within the family, incorporation of international children's rights instruments and establishes basic minimum standards for every child aimed at reducing disparity in care and increasing a child's connection to his or her cultural identity.²⁹

²⁴ Submission by Ethiopian non-governmental organizations Girja Integrated Rural Development Association and Development by Unity and Brotherly Action for the Future and Northwestern University Center for International Human Rights.

²⁵ Submission by the Porgera Red Wara Women's Association.

²⁶ National Voice for our Children, the Family Matters Campaign, University of Melbourne, Griffith University and Monash University, *The Family Matters Report 2020. Measuring Trends to Turn the Tide on the Over-representation of Aboriginal and Torres Strait Islander Children in Out-of-home Care in Australia*.

²⁷ Hannah McGlade, "My journey into 'child protection' and Aboriginal family led decision making", p. 5.

²⁸ Census 2016 data on reducing the number of indigenous children in care.

²⁹ Submission by New Zealand.

2. Residential schools, adoption and redress

41. Various countries, including Australia, Canada, the Russian Federation and the United State of America have historically sent indigenous children to boarding schools far from their families and communities, where they were usually unable to use their languages and were exclusively taught the dominant religion and culture. Many experienced physical, psychological and sexual abuse. They were alienated from their communities and cultures, often lost their language and consequently experienced mental, physical and spiritual trauma. The impact of such assimilationist policies went beyond the individual, resulting in intergenerational trauma and a loss of traditional knowledge, by breaking cycles of transmission of information to children.

42. Two notable commissions related to the rights of indigenous children were held in North America in recent years: the Truth and Reconciliation Commission of Canada (2008–2015) and the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission (2013–2015). The Canadian commission was established to work towards reconciliation for the intergenerational trauma suffered from its historical residential schools and ended in 94 calls to action to provide redress to survivors, families and communities and prevent recurrence, including concrete recommendations regarding child welfare and the legacy of residential schools.

43. The Maine-Wabanaki Commission was a collaborative commission between the State of Maine and the Wabanaki peoples that aimed to improve child welfare practices regarding indigenous children in the State and establish an accurate history of those practices. It found that between 2000 and 2013 Wabanaki children entered alternative care five times more frequently than non-indigenous children.³⁰

44. While many children in North America were taken to residential schools, others were adopted out, including in Canada in what was known as the Sixties Scoop. In the United States, the federal Indian Child Welfare Act (1978) was enacted to address the large number of indigenous children who had been adopted out of their communities, often due to underlying discrimination as opposed to neglect or abuse. While the Act recognizes the rights of indigenous children, families and tribes, it suffers from ongoing non-compliance by states and local officials.³¹ Efforts led by indigenous people in the United States of America include tribal foster care programmes, including in the Cherokee Nation, to enable indigenous children to remain in their communities.³²

45. An important part of reparation lies in improving the situation. In Australia, there has been continued removal of indigenous children from their homes and communities since the Government apologized in 2008 for earlier removals, known as the “stolen generations”, and a reported increase in removals since the national inquiry and report on the subject.³³ The Government has pledged to reduce the number of indigenous children in care by 5 per cent per year from 2021 onwards.³⁴ In 2021, the State of Victoria established the Yoo-rook Justice Commission, becoming the first Australian state to establish a truth-telling commission for wrongs committed against its Aboriginal peoples.

G. Access to justice and interactions with child justice systems

46. While there is often a focus on criminal justice, children interact with all types of justice systems. In Africa, indigenous children interact more with informal justice systems, such as community- and religion-based processes. Formal justice systems are often inaccessible owing to a lack of legal aid or exclusive use of dominant languages.³⁵ Guatemala has taken measures to support indigenous children in its justice system, including the

³⁰ A/HRC/EMRIP/2019/3/Rev.1, para. 51.

³¹ Intervention by lawyer Angel Smith intervention.

³² Information provided by member of the Expert Mechanism, Kristen Carpenter.

³³ Hannah McGlade, “My journey into ‘child protection’ and Aboriginal family led decision making”, p. 4.

³⁴ Intervention by the Vice-Chair of the Expert Mechanism, Megan Davis.

³⁵ Intervention by Nkatha Murungi, Pretoria University.

provision of interpretation in indigenous languages and specialized bodies dealing with trafficking, which affects many indigenous children.³⁶

47. Indigenous children and youth are often overrepresented in detention centres. This can be due to a lack of alternatives; for example a lack of non-custodial programmes for girls in remote areas may lead to disproportionate incarceration rates of indigenous girls.³⁷ The Committee on the Rights of the Child has expressed concern regarding disproportionate rates of incarceration of indigenous children and reiterated that the arrest and detention of children should be a last resort.³⁸

48. While Aboriginal and Torres Strait Islanders make up only 3 per cent of the population of Australia, their children and youth represent 50 per cent of those in detention and are more than 20 times more likely to find themselves in custody than their non-indigenous counterparts.³⁹ Indigenous children in detention have often been impacted by domestic violence or suffer from mental health challenges.⁴⁰ Reports on indigenous children in the Australian child justice system include the use of solitary confinement and the detention of children with disabilities, including cognitive impairments.⁴¹ Indigenous children have reported being harassed, followed and stopped by police officers. That is supported by research regarding the New South Wales suspect target management programme, which reportedly targets children as young as 10, disproportionately Aboriginal, who are deemed to be at future risk of offending.⁴²

49. There are programmes that are aimed at improving the experience of indigenous children in the Australian child justice system, including the Koori court programme which creates transition plans for children once they leave detention. Other efforts involving and being led by indigenous communities are based on restorative justice and circle sentencing. The Rangatahi courts in New Zealand have helped Maori youth connect and engage more actively with their community and cultural identity. Traditional restorative justice practices, such as circle sentencing and focus on mutual forgiveness, have been reintroduced in parts of the Canada and the United States, the former having incorporated them into its youth criminal justice system.

H. Economic, social and cultural rights

50. Indigenous children face marginalization and multiple disparities in the enjoyment of their economic, social and cultural rights, frequently due to structural discrimination and colonial legacies. They more often live in poverty than non-indigenous children, leaving them more vulnerable to involvement with care and justice systems. They also experience disproportionate rates of preventable childhood diseases.

51. These disparities occur in rich and lesser developed countries. Maori children experience higher poverty rates and more food insecurity than non-indigenous children in New Zealand. While poverty is widely experienced by children in Latin America, it is more common for indigenous children, particularly those in rural areas. Despite efforts made by the State, corruption by service providers is a barrier to accessing water, school meals and health services aimed at benefiting Wayuu children in the department of Guajira, Colombia. In the Guajira, access to water is limited, childhood malnutrition rates are high and COVID-19 containment measures have decreased the ability of the population to access food and medical attention.⁴³

³⁶ Submission by Guatemala.

³⁷ Submission by the Office of the Special Representative of the Secretary-General on Violence Against Children.

³⁸ General comment No. 11, paras. 74–75. See also Committee on the Rights of the Child, general comment No. 24 (2019).

³⁹ Submissions by the Queensland Human Rights Commission and Human Rights Watch.

⁴⁰ Submission by the Queensland Human Rights Commission.

⁴¹ Submission by Human Rights Watch.

⁴² Wiyi Yani U Thangani (Women's Voices), *Securing Our Rights, Securing Our Future*, p. 193.

⁴³ Submission by Human Rights Watch.

52. In her report of 2019, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context found that even in rich countries, indigenous peoples often live in abhorrent conditions in grossly inadequate housing lacking even basic amenities such as water and toilets.⁴⁴ Poor housing conditions, such as mould and damp, have been linked to increased respiratory health problems in indigenous children, including Maori children.⁴⁵

53. Indigenous peoples are also affected by homelessness, including in the Arctic. There is a trend towards urbanization in many countries, including Canada, where the majority of urban indigenous peoples are children and youth and most indigenous children live in urban areas. Indigenous children leave their territories for many reasons, including lack of opportunities or adequate infrastructure, lack of acceptance of lesbian, gay, bisexual, transgender or intersex and two-spirit persons, or, particularly for women, to escape domestic violence.⁴⁶ Some are displaced because of the extractive industries, militarization or the presence of organized crime in their territories, or because of natural disasters. Others remain in cities after leaving State care programmes and some are born there. They often face additional challenges to exercising their rights, particularly regarding access to culturally appropriate education, services, media and their languages.

54. Many indigenous children are forced to work out of economic necessity. Urban indigenous children are often out of school and working at young ages, and girls are sent to do domestic work in cities. Some undertake dangerous work such as mining, as is the case with some Amazigh children in Algeria. In the Colombian Amazon, there are also reports of armed actors related to the drug trade using indigenous children as forced labour.⁴⁷

I. Right to education

55. The right to education is fundamental to the exercise of many other rights. Article 28 of the Convention on the Rights of the Child recognizes the right to education with a view to the progressive realization of the right on the basis of equal opportunity. Article 29 of the Convention includes as an aim of education, the preparation of children “for responsible life in a free society in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin”. In its general comment No. 1 (2001), the Committee on the Rights of the Child stated that school environments must reflect this spirit of understanding and noted that the promotion of values and policies conducive to human rights was needed in both schools and the broader community (para. 6). Article 29 (c) of the Convention also highlights the importance of respect for the child’s own cultural identity, language and values.

56. Article 14 of the Declaration reiterates the right of indigenous children to education without discrimination and confirms the right of indigenous peoples to “establish and control” their own educational systems in their own languages. It also obliges States, together with indigenous peoples, to take measures to ensure access to education in their own languages and cultures when possible. Article 15 confirms the right of indigenous peoples to have their cultures appropriately reflected in education. The Indigenous and Tribal Peoples Convention (No. 169) guarantees the right of indigenous children to learn in their own languages, as well as to learn dominant languages (article 28). It also includes the promotion of the participation of indigenous children in their communities and larger society as an educational aim (article 29).

57. Education is not only a foundational element for the individual development of indigenous children, but also of the community as a whole and is integral to their participation in society. In its 2009 study on the right to education, the Expert Mechanism reiterated that

⁴⁴ A/74/183, para. 1.

⁴⁵ Submission by Royal Australasian College of Physicians, *Indigenous Child Health in Australia and Aotearoa New Zealand* (December 2020) and Tristram Ingham and others, “Damp mouldy housing and early childhood hospital admissions for acute respiratory infection: a case control study”, *Thorax*, vol. 74, No. 9.

⁴⁶ Submission by the National Association of Friendship Centres.

⁴⁷ Submission by Comisión Nacional de Mujeres Indígenas de Colombia.

States must ensure access to high quality, culturally appropriate education for all indigenous children, including those in remote and nomadic communities, with particular attention paid to indigenous girls.⁴⁸

1. Access to education

58. The ability of indigenous peoples to control and implement their own education systems is an exercise of their right to self-determination. Indigenous educational systems are holistic and incorporate nature, and learning is considered a lifelong endeavour.⁴⁹ Indigenous languages and education are inextricably linked (see paras. 66–69 below).

59. In its 2009 study on the right to education, the Expert Mechanism found that lack of access to quality education was a major factor contributing to the disadvantaged position of indigenous peoples. Underlying structural and cultural issues often create challenges to the ability of indigenous children to fully enjoy their right to education and they face various barriers owing to remote locations or nomadic traditions and lack of access to electricity and the Internet.

60. Mainstream educational curricula often depict indigenous peoples in a discriminatory and derogatory manner, using stereotypes and not accurately reflecting history. Racism in public school systems can drive indigenous children to abandon their studies or leave their culture behind as a survival mechanism. Indigenous children, including Sami, report being bullied for being indigenous. It is essential that States ensure that learning materials do not negatively impact indigenous peoples, including through the removal of all harmful stereotypes and outdated language.

61. Indigenous children suffer disproportionately high illiteracy rates and are less likely to attend or finish school than non-indigenous children.⁵⁰ Indigenous peoples in Asia often have a high school dropout rate⁵¹ and Maya Ixil youth report having to drop out of school to work in agriculture from a young age.⁵²

62. Indigenous girls face additional barriers to education, often resulting in their dropping out of school, owing to domestic and care responsibilities, harmful practices such as child marriage, pregnancies and the risk of sexual violence during transit and at school. In addition, in some cultures families prioritize the schooling of boys. Indigenous girls with disabilities face even more discrimination, often remaining hidden at home. Indigenous children with disabilities do not have equal access to education and schools in indigenous communities are often not equipped with accessible software or methodologies.⁵³ Such challenges may cause indigenous families to leave their communities, or the child may be separated from family and community in order to seek the support required.

63. Indigenous children in remote settlements often lack access to adequate education in their communities. Some still attend boarding schools away from their communities being taught in dominant languages. They include Sami children,⁵⁴ indigenous children in the Russian Federation⁵⁵ and Adivasi children in India.⁵⁶ Boarding schools far from traditional territories create further barriers to the enjoyment of cultural rights, for example when children are not able to participate in important traditional festivals. Where possible, indigenous children should have the opportunity to be educated in their own communities and, to the extent possible, by indigenous teachers.

⁴⁸ A/HRC/12/33, annex, para. 3.

⁴⁹ Intervention by the Special Rapporteur on the rights of indigenous peoples.

⁵⁰ Committee on the Rights of the Child, general comment No. 11, para. 59.

⁵¹ Intervention by member of the Expert Mechanism, Binota Moy Dhamai.

⁵² Intervention by Fondo para el Desarrollo de los Pueblos Indígenas de América Latina y El Caribe.

⁵³ Submission by Indigenous Persons with Disabilities Global Network and International Disability Alliance.

⁵⁴ Intervention by the Chair of the Expert Mechanism, Laila Vars.

⁵⁵ Intervention by Nadezhda Bulatova, Russian Academy of Sciences.

⁵⁶ Submission by Survival International.

64. In the Russian Federation, measures have been taken to accommodate indigenous children, including establishing nomadic and semi-permanent schools in the north,⁵⁷ where teachers may come to the students so they may remain with their communities. In the Khanty-Mansi Autonomous District-Yugra, so-called camping schools and kindergartens combine distance learning with preservation of the nomadic lifestyle, allowing children to remain in their communities.⁵⁸ Also in this region, students are provided with State support when studying indigenous cultures and languages, or traditional occupations, thereby enabling indigenous youth to return to their communities.⁵⁹

65. The participation of indigenous peoples, including children, in the planning of educational systems and curricula is essential. Children's voices should be incorporated at all stages of research, as is being done at the University of Greenland, where children report security, mutual respect and caring as central elements to a good learning environment. The indigenous communities of Greenland are establishing educational programmes based on their world view. They emphasize indigenous learning methods, such as dialogue, and are community-centred. They also integrate modern technology. For example, in Napasoq, Inuit pupils learn English through speaking with an elder in an English-speaking country. It is also critical that indigenous children are aware of their rights and the National Human Rights Commission of Mexico has organized workshops and training sessions and published workbooks for children, parents and teachers on children's rights.

2. Access to education in indigenous languages

66. Many indigenous children have no or limited access to education in their own languages. They continue to be taught in dominant languages and frequently do not have access to educational materials in their own languages. Language and education are inextricably linked and early mother tongue education has proven critical to the ability of indigenous children to learn in any language and increased the time they remain in school. Indigenous children with disabilities generally learn in a dominant language as materials in accessible formats are not available in their own languages.

67. Lack of education in an indigenous language can lead to a total lack of access to education. Indigenous children in remote areas of Bangladesh traditionally had challenges accessing education as they did not speak the language of instruction. Since the signing of the Chittagong Hill Tracts accord in 1997, their right to primary education in their mother tongue has been recognized by national law. Indigenous peoples' organizations have developed learning materials but the steps taken by the Government towards implementation of strategies and programmes will be essential for their full enjoyment of that right.⁶⁰

68. Age and location are often the determinants of whether an indigenous child has access to schooling in their own language. Learning in one's own language at primary levels provides a solid foundation, even if a student is educated in another language in later years. In Morocco and Algeria, Amazigh children are taught primarily in Arabic, later in French and only have the option to learn in Amazigh in some regions from the age of 10. Indigenous peoples have also reported on the impact of religious schools where dominant religions are imposed in place of traditional beliefs. In Greenland, Inuit children have access to instruction in the Kalaallisut language, but they must be fluent in Danish or English to continue with higher education.

69. Availability of education in indigenous languages is important at all ages and States should make efforts to establish learning opportunities in indigenous languages whenever possible. Norway has incorporated the Sami language into its Education Act, which guarantees teaching in Sami for primary levels in Sami districts. However, for Sami children at the same level living outside delineated Sami districts, mother tongue education is only guaranteed when there are a specified number of students wishing to be taught in Sami. The

⁵⁷ Submission by the Russian Federation.

⁵⁸ Submission by (Association of Ethnocultural Centres and Heritage Organizations) ECHO.

⁵⁹ Submission by the Russian Federation.

⁶⁰ Intervention by Zabarang Kalyan Samity.

right to learn the Sami language is guaranteed to all Sami children in primary levels regardless of district.⁶¹

3. Impact of COVID-19 on the right to education

70. The digital environment is becoming an essential part of children's lives, including their education. However, indigenous children often have less good access to education owing to the digital divide, which has been exacerbated during the pandemic. Indigenous communities, particularly remote ones, frequently have less good Internet access rates than non-indigenous communities, or no access at all, which has meant many indigenous children have had no schooling since the start of the pandemic. Indigenous children with disabilities have faced even greater barriers, with difficulties in obtaining accessible formats, particularly in their own languages.

71. Indigenous students and teachers report challenges related to Internet access or not having a computer at home, as is the case for Amazigh children. Indigenous homes often include extended families, with children having to share a computer or not having a quiet place to learn during the pandemic. Some indigenous children have been doing their schoolwork by mobile phone, often travelling to get a signal. Some have faced additional complications, such as children from Pueblo de Jemez, New Mexico, who learn in the unwritten Towa language so have not been able to carry out written assignments remotely. Others, including some indigenous students in Alaska, received assignments but they were in English instead of their Yup'ik language. In New Zealand, television programmes, supported by the Ministry of Education, have offered educational programming in the Maori language during the pandemic.

J. Right to health

72. The right to health is recognized in article 24 of the Convention on the Rights of the Child and the right to health, including the determinants of the right to health, are reflected throughout the Declaration. Article 24 of the Declaration includes the right to traditional medicines and health practices, including the conservation of medicinal plants, animals and minerals. It also reflects the highest attainable standard of mental and physical health, as provided for in article 12 of the International Covenant on Economic, Social and Cultural Rights, including the critical principles of non-discrimination and equal treatment. Health is also referred to in article 21 of the Declaration regarding the right to the improvement of economic and social conditions for indigenous peoples and in article 23 regarding the right to be involved in developing and determining economic and social programmes, including health programmes. The rights of indigenous peoples to health are also guaranteed in article 25 of the Indigenous and Tribal Peoples Convention (No. 169) and article XVII of the American Declaration on the Rights of Indigenous Peoples.

73. In its general comment No. 14 (2000), the Committee on Economic, Social and Cultural Rights referred to the rights of indigenous peoples to specific measures to improve access to culturally appropriate health care that takes traditional practices and medicines into account. The Committee also recognized the collective dimension of the health of indigenous peoples, noting that an individual's health is often linked to the health of the community as a whole. The Committee on the Rights of the Child has clarified that children's right to health includes their right to grow, develop to their full potential and live in conditions enabling them to attain the highest standard of health.⁶²

74. Indigenous peoples, including children, often have unequal access to health care, including in Africa, Latin America and the Arctic. Poverty has an impact on health. That link has been made in New Zealand, where Maori children, who are more likely to live in poverty, also experience more health issues, are less likely to access health care, more likely to be

⁶¹ Norwegian Education Act (1998), Section 6.

⁶² General comment No. 15 (2013), para. 2.

admitted to hospital with preventable illnesses and twice as likely to die from treatable conditions than non-indigenous children.⁶³

75. Unequal access is particularly stark in remote areas, including for Inuit children in smaller settlements in Greenland who often do not have access to a doctor or dentist. Consequently, health professionals have encountered children with symptoms of sexual abuse long after the event and evidence is lost, leaving accountability and recovery even less likely.⁶⁴

76. Lack of access to health care has a disproportionate impact on indigenous girls, with little access to sexual and reproductive health services, including contraception. Indigenous women often do not access prenatal care and give birth at home. In Africa, indigenous babies may not receive regular vaccination doses, as is the case for some from the Democratic Republic of the Congo.⁶⁵ The Russian Federation has taken measures to support health during pregnancy, childbirth and the postnatal period in the Yamalo-Nenets Autonomous District, including the provision of air ambulances and the introduction of telemedicine.⁶⁶ One key element for ensuring equal and appropriate access to health care is ensuring, as Ecuador has done, that there are indigenous staff members in health-care systems, including as cultural liaisons and interpreters.

77. As the Expert Mechanism has recently produced a report focusing on the impact of COVID-19 on indigenous peoples, the present study does not report on that issue. However, it reiterates the disproportionate impact of the disease and containment measures on the health of indigenous peoples, including children. COVID-19 has compounded already existing challenges to accessing adequate health care and potable water, and led to the diversion of resources from other health needs. It has since been reported that indigenous children with disabilities suffered when rehabilitation abruptly stopped due to the pandemic.⁶⁷

Mental health

78. While there is a lack of comprehensive disaggregated data, the information available indicates that indigenous children are vulnerable to substance abuse and depression and at greater risk of suicide than non-indigenous children. Removal from their community is detrimental to their mental health, causing a sense of detachment, intergenerational trauma and difficult reintegration.⁶⁸

79. American Indian and Alaskan native children and youth reported higher depression rates than any other ethnic group in the United States. In Greenland, many Inuit children have suffered psychological trauma and subsequently experienced learning difficulties. The number of Greenlanders aged under 20 committing suicide has increased in recent years.⁶⁹ Studies also show Maori youth suicide rates rising, with increasingly challenging underlying issues, including discrimination, poverty and lack of access to health care.⁷⁰ Ecuador has begun suicide intervention programmes in indigenous communities and has trained 53 indigenous leaders and medical professionals in the traditional territories of the Waorani people, who have a high suicide rate.⁷¹

⁶³ Submission by Aotearoa New Zealand Centre for Indigenous Peoples and the Law.

⁶⁴ Intervention by Aviaja Lyngé, MIO.

⁶⁵ Intervention by Ms. Murungi and submission by Innovation pour la défense et la protection des ressources naturelles.

⁶⁶ Submission by the Russian Federation.

⁶⁷ Submission by Indigenous Persons with Disabilities Global Network and International Disability Alliance.

⁶⁸ Submission by the Office of the Special Representative of the Secretary-General on Violence against Children.

⁶⁹ Intervention and submission by the Human Rights Council of Greenland and submission by the Inuit Circumpolar Council.

⁷⁰ Submission by Aotearoa New Zealand Centre for Indigenous Peoples and the Law.

⁷¹ Submission by Ecuador.

Right to a healthy environment

80. Article 24 (2) of the Convention on the Rights of the Child makes specific reference to clean drinking water and the risks of environmental pollution, and the Committee on the Rights of the Child has interpreted article 6 (2), guaranteeing the survival and development of the child to the maximum extent, as including climate change and environmental pollution. The Declaration includes the rights of indigenous peoples to conservation and protection of the environment (article 29) in addition to including conservation of vital medicinal plants, animals and minerals in the right to traditional medicines (article 24).

81. Children's rights are indivisible and interdependent and many, such as the rights to health and a healthy environment, are critical to the enjoyment of all other rights. The impacts of climate change and environmental degradation have, and will increasingly have, an impact on indigenous children. Indigenous peoples are disproportionately impacted by climate change and the rights of the children, who will remain on the planet longer than adults, will be increasingly affected as the impacts worsen, as is already the case in areas such as the Pacific islands.⁷²

82. Guatemala has recognized the increased vulnerability of its indigenous children to climate change, including as regards their food security and possible displacement, and has taken a series of measures to educate the public. They include programmes for children and youth to become "eco guardians" and translating educational materials on climate change into indigenous languages.⁷³

K. Cultural and language rights

83. Indigenous peoples face discrimination for using their languages, wearing their traditional dress and participating in cultural activities. Language is the principal mode of transmission of traditional knowledge and is a foundational element of indigenous cultures and identity. Indigenous children learning and using their languages are key to preserving indigenous cultures, historical memory and worldview, as well as to ensuring political participation, economic development and environmental sustainability. Learning indigenous languages is essential for the full enjoyment of the educational and cultural rights of indigenous peoples as learning is often done orally and language is often required in order to carry out cultural practices.

84. Indigenous children often do not learn their languages and are often not fluent in them, even though their communities and families use those languages. Rural or isolated indigenous populations, including children, tend to have higher rates of knowledge of indigenous languages. Assimilationist policies, such as the use of residential schools and adoption for indigenous children, has had harmful effects on the maintenance of indigenous cultures and languages, at times leading to the endangerment and near extinction of indigenous languages. The United Nations Educational, Scientific and Cultural Organization has recognized that social factors may contribute to decreased transmission of languages, including possible discrimination against indigenous language speakers, particularly children.⁷⁴

85. Aymara youth report the maintenance of indigenous languages as a priority, particularly as the legacy of their elders.⁷⁵ In addition to the rights regarding language use and education, States are also obliged to promote indigenous languages and encourage regard for the linguistic needs of indigenous children in the media.⁷⁶

⁷² Submission by member of the Committee on the Rights of the Child, Clarence Nelson.

⁷³ Submission by Guatemala.

⁷⁴ *Ibid.*, para. 40.

⁷⁵ Intervention by Ms. Angel, Fondo para el Desarrollo de los Pueblos Indígenas de América Latina y El Caribe.

⁷⁶ See Convention on the Rights of the Child, articles 17 (d) and 30; International Covenant on Civil and Political Rights, article 27; United Nations Declaration on the Rights of Indigenous Peoples, articles 13, 14 and 16; and Indigenous and Tribal Peoples Convention (No. 169), article 28.

Harmful practices against indigenous girls

86. Harmful practices, such as female genital mutilation, breast ironing and child marriage, continue to exist, including in indigenous communities. In its general comment No. 11, the Committee on the Rights of the Child reiterated that cultural practices must be in accordance with the Convention, and are in no circumstances allowable if they are prejudicial to a child's dignity, health and development.⁷⁷

87. In some indigenous cultures, including in South Kivu in the Democratic Republic of the Congo, girls may be married at 12 or 13 years of age. This impacts various rights including those to education, life and health, and brings additional care and household duties that lead to unequal enjoyment of their rights. It also puts them at risk of further violations, increasing their vulnerability to violence, including sexual violence.⁷⁸

88. The Expert Mechanism reaffirms what the Committee on the Rights of the Child asserted in its general comment No. 11 (para. 22), namely that indigenous communities and States must work together to eradicate those types of traditional cultural or religious practices that place a child's health, dignity or development at risk. States and indigenous peoples should work together on finding ways to preserve culture without harm, in line with the best interests of the child and must engage on the particular vulnerabilities experienced by indigenous girls.

IV. COVID-19, moving forward

89. The COVID-19 pandemic will most likely have devastating consequences for indigenous children. Political will is essential to ensure that they are not left behind and States must ensure that there is no erosion of children's pre-existing degree of enjoyment of their rights during such times of crisis.

90. Children's voices are key and their participation and consultation on decisions related to them is more critical than ever. They should be supported as agents of change and be engaged in solutions for overcoming the barriers they face in accessing their rights.

91. While the pandemic has exacerbated the pre-existing challenges faced by indigenous children, it is also an opportunity to build back better in a way that reflects the Sustainable Development Goals and prioritizes vulnerable groups such as indigenous children, including through national implementation plans on the Declaration, in line with the commitments States have made to achieve its ends.

⁷⁷ See also joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2014).

⁷⁸ A/HRC/30/41, para. 56.

Annex

Advice No. 14 on the rights of the indigenous child under the United Nations Declaration on the Rights of Indigenous Peoples

1. States should increase and ensure the enjoyment by indigenous children of their individual and collective rights, including by ratifying the Convention on the Rights of the Child and its optional protocols, the Indigenous and Tribal Peoples Convention, 1989 (No. 169) and other key human rights treaties, and signing the United Nations Declaration on the Rights of Indigenous Peoples. States should incorporate those instruments into national law including through national implementation plans, with the participation of, and in consultation with, indigenous peoples, including children.
2. States and indigenous peoples should ensure the meaningful participation and consultation of indigenous children in decision-making processes and use the Declaration and the best interests of the child as a framework for all decisions that may impact them.
3. Indigenous peoples, with the support of States, should invest in the leadership of women and girls in indigenous communities, particularly in decision-making structures.
4. States should ratify and implement the Paris Agreement on Climate Change, including through concrete actions to mitigate the effects of climate change, with the aim of fostering the highest attainable standard of health for indigenous children and their right to a healthy environment.
5. States and indigenous peoples should make all efforts to protect the medicinal plants, animals and minerals necessary for the health of indigenous peoples and protect their traditional territories to ensure both present and future enjoyment of the rights of indigenous children, including through their symbiotic relationship with their lands, territories and resources.
6. States should take measures to ensure free and equitable access to social services for all indigenous children, paying particular attention to the rights and special needs of girls, lesbian, gay, bisexual, transgender, intersex and two-spirit children, children with disabilities and those in remote or nomadic settlements and urban settings, and take measures to address discrimination against them, including through public information campaigns.
7. States should take measures to improve birth registration processes and remove registration as a precondition for accessing health-care services.
8. States should take measures to support indigenous families, including urban and homeless indigenous children, ensuring minimum standards, such as heating, electricity, water and sanitation, are met.
9. States should support and provide, to the best of their ability, indigenous and community-led childcare systems.
10. States should take concrete measures to reduce the overrepresentation of indigenous children in alternative care and justice systems, and provide training on the rights and cultures of indigenous children for relevant actors, including law enforcement and prison officials, judges and social workers. They should also provide adequate support, including psychosocial support, for those who have been removed from their communities and/or are in State institutions to enable them to lead an independent life in their communities when they return to them.
11. States should ensure the meaningful participation and consultation of indigenous peoples, including children, in all child welfare and adoption systems, with the aim of establishing indigenous-led child welfare systems for indigenous children.
12. States should take steps to redress intergenerational trauma and the impact of removing children from their communities, and take immediate measures to reduce and aim

to eradicate the continued removal of indigenous children from their families and communities, and to reunite all families separated by migration.

13. States should support the development of traditional restorative justice systems, in consultation with indigenous peoples, and make use of them to the extent possible for indigenous children accused of wrongdoing.

14. States should take all appropriate measures to ensure the realization of the highest attainable standard of health for indigenous children, including measures to eliminate discrimination in the provision of health care. They should ensure that all indigenous peoples, including those living in remote and urban settings, have access to holistic health care that incorporates traditional knowledge and medicines, including those relating to physical, mental, spiritual and environmental health. States should ensure adequate provision of culturally appropriate health care for indigenous girls, including sexual and reproductive health-care services.

15. States, in consultation and cooperation with indigenous peoples, should immediately take steps to reduce the suicide rate of indigenous children, including the provision of adequate resources for culturally appropriate prevention programmes.

16. States should ensure that every indigenous child has access to high-quality, culturally appropriate primary and secondary education, including in their traditional languages when possible, and take urgent measures to overcome the additional barriers faced by indigenous girls. Special measures should be taken to ensure access to adequate education in remote and nomadic communities, including through providing resources for improved Internet and radio connections and the delivery of education remotely, and to accessible formats for indigenous children with disabilities.

17. States should take measures to ensure the inclusion of accurate representations of the history of indigenous peoples in school curricula, including through the removal of stereotypes. They should support capacity-building programmes to ensure culturally appropriate provision of services, including through the recruitment of indigenous teachers and staff and should support indigenous-led education efforts. States should also ensure that indigenous educational traditions and knowledge are respected in national standards.

18. In accordance with General Assembly resolution 74/135, States, in partnership with indigenous peoples, should consider establishing national mechanisms with adequate funding to implement the International Decade of Indigenous Languages (2022–2032).

19. States should take the necessary measures to protect indigenous children, particularly girls, against violence and combat the immunity of perpetrators, ensuring accountability. They should work with indigenous peoples to ensure coordination between authorities to develop and implement action plans to support indigenous families and protect children against neglect, violence and sexual abuse, and ensure that victims are provided with all the necessary support, including psychosocial support.

20. States and indigenous peoples should work together to find innovative ways to maintain cultures without practices that harm children; engage against harmful practices, particularly those carried out against indigenous girls; and ensure that cultural practices are undertaken with the best interests of the child in mind, including through awareness-raising campaigns and legislation.

21. States should ensure that all development activities that are contemplated, including in the extractive industries, which may impact indigenous peoples, are undertaken according to the principle of free, prior and informed consent. States should ensure that they consult with indigenous peoples, including children and women, and carry out development activities in line with the United Nations Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework, with the infrastructure in place to ensure that indigenous children are not negatively impacted.

22. States should, in consultation with indigenous peoples, take specific measures to protect indigenous children from economic exploitation, including work that is likely to be hazardous, interfere with their education or be harmful to their physical, mental or spiritual health or development.

23. States should ensure the effective collection, publication and use of disaggregated data and indicators related to indigenous peoples, including those for identifying and remedying gaps in protection for indigenous children.

24. COVID-19 recovery plans should include provision for the additional barriers to the enjoyment by indigenous children of their rights, including those related to their physical, mental and spiritual health, education and protection.
