



Economic and Social Council

Distr.: General
5 February 2019

Original: English

Permanent Forum on Indigenous Issues

Eighteenth session

New York, 22 April–3 May 2019

Item 4 of the provisional agenda*

Implementation of the six mandated areas of the Permanent Forum with reference to the United Nations Declaration on the Rights of Indigenous Peoples

Update on the promotion and application of the United Nations Declaration on the Rights of Indigenous Peoples

Note by the Secretariat

Summary

The present report provides an update on the implementation of the United Nations Declaration on the Rights of Indigenous Peoples. The report focuses on advances and challenges related to the following issues: (a) indigenous governance; (b) international processes; (c) information and communications technology; (d) indigenous women and girls; (e) indigenous human rights defenders; (f) national human rights institutions; (g) conflict, peace and security; and (h) indigenous peoples and businesses. The report provides an overview and is not exhaustive.

The present report incorporates analysis and recommendations of the Permanent Forum on Indigenous Issues, the Special Rapporteur on the rights of indigenous peoples and the Expert Mechanism on the Rights of Indigenous Peoples, as well as examples of good practices.

* [E/C.19/2019/1](#).



I. Introduction

1. Since the adoption of the United Nations Declaration on the Rights of Indigenous Peoples by the General Assembly in 2007, the Declaration has served as a catalyst to generate greater attention and action to address the challenges in the recognition of the rights of indigenous peoples.

2. The Declaration is the most comprehensive international instrument on the rights and social development of indigenous peoples. Elaborating on existing standards, it comprises the minimum standards for the survival, dignity and well-being of indigenous peoples around the world (art. 43).

3. In the years since its adoption, the Declaration has triggered action at the national, regional and international level that has strengthened the recognition and exercise of the rights of indigenous peoples. For example, institutions have been created, constitutions and laws have been amended, and policies have been adopted. While, in some cases, the recognition of indigenous peoples is still contested, overall there has been greater recognition of indigenous peoples' rights. However, the gap between official recognition and the actual exercise of those rights remains a challenge.

4. At the global level, the three United Nations mechanisms focused on indigenous peoples, the Permanent Forum on Indigenous Issues, the Expert Mechanism on the Rights of Indigenous Peoples and the Special Rapporteur on the rights of indigenous peoples, have actively exercised their mandates and capacities to promote the recognition and exercise of the rights of indigenous peoples as outlined in the Declaration.

5. In 2014, the General Assembly held the first World Conference on Indigenous Peoples. This high-level meeting was an opportunity to share perspectives and best practices on the realization of the rights of indigenous peoples, including the pursuit of the objectives of the Declaration.

6. In the outcome document of the World Conference, the Secretary-General was requested to develop a system-wide action plan to ensure a coherent approach to achieving the ends of the Declaration. The action plan (E/C.19/2016/5), now in effect, ensures stronger linkages between the normative and operational work of the United Nations and increases coordination and coherence in addressing the rights of indigenous peoples.

7. The present report provides an update on the implementation of the Declaration, focusing on advances and challenges related to the following select issues: (a) indigenous governance; (b) international processes; (c) information and communications technology; (d) indigenous women and girls; (e) indigenous human rights defenders; (f) national human rights institutions; (g) conflict, peace and security; and (h) indigenous peoples and businesses.

8. The present report provides an overview and is not exhaustive.

II. Indigenous governance

9. Indigenous peoples often share the experience of colonization that undermined their identity, culture and traditional ways of life. Post-colonial governance systems and policies have often perpetuated this approach.

10. Indigenous peoples seek to revive and strengthen their governance systems and institutions as an integral part of their right to self-determination, as enshrined in the Declaration. By virtue of that right, indigenous peoples may freely determine their

political status and pursue their economic, social and cultural development. Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions (arts. 3 and 4 of the Declaration).

11. In her report to the General Assembly on the rights of indigenous peoples of 2018 (A/73/176), the Special Rapporteur on the rights of indigenous peoples noted that:

In spite of efforts to eliminate indigenous governance systems, many indigenous peoples continued to assert their rights to define and determine their relationships with the colonial and post-colonial Governments. Today, several of those indigenous governance systems continue to exist and function. The diversity of such systems is a result of the different historical contexts and experiences that indigenous peoples have undergone and the strength and persistence of their struggles for self-determination (para. 32).

12. Indigenous governance can include self-governance, autonomy, parliaments and other institutions and entities. For example, in New Zealand, the Treaty of Waitangi, first signed on 6 February 1840 by representatives of the British Crown and Maori chiefs, recognizes Maori ownership of their lands, forests and other possessions, and gave the Maori the rights of British subjects. In 2017, eight iwi (nations) in the Taranaki region signed a record of understanding with the British Crown providing for collective cultural redress in respect of Taranaki Maunga (Mount Taranaki). The record provided Taranaki Maunga with its own legal personality, with local iwi and the Government of New Zealand sharing joint responsibility for its governance.¹

13. In Bolivia, in the light of the Framework Law on Autonomy and Decentralization, No. 031 of 22 July 2010, a number of indigenous peoples are now forming their own self-governments. A total of 36 indigenous autonomies have commenced the process of achieving self-government, 21 by means of municipal conversion and 15 by territorial means or indigenous native peasant territories. Three of those autonomies, the Charagua Iyambae, the Uru-Chipaya and the Raqaypampa in Cochabamba, have already achieved self-government, and another five have achieved autonomous status through a declaration of constitutionality.²

14. The Wampis peoples of Peru declared themselves a self-governing community in November 2015. In May 2017, they approached the Government of Peru seeking formal recognition of their autonomy to protect themselves and their land from exploitation. The Wampis statute was built on the obligations of the State of Peru to respect the rights and autonomy of indigenous peoples and nations. Among other principles, the statute provides that any activity that could affect Wampis territory requires the free, prior and informed consent of the Wampis nation.³

15. In Canada, the right to self-government is regarded as an existing inherent aboriginal right under section 35 of the Constitution Act of 1982. Under this framework, the self-government provisions are negotiated in treaties or land claim agreements between the federal Government of Canada, the provincial governments and the First Nations, Inuit or Métis peoples concerned, and their jurisdictions can cover areas such as social and economic development, lands and resources and treaty settlement processes. However, most First Nations do not enjoy this level of authority, as they have not yet concluded negotiations on treaties or land claim agreements (A/73/176, para. 71). As long as these have not been negotiated, in accordance with

¹ Pamela Jacquelin-Andersen, ed., *The Indigenous World 2018* (Copenhagen, International Work Group for Indigenous Affairs, 2018), p. 236.

² *Ibid.*, p. 181.

³ International Work Group for Indigenous Affairs, "Indigenous peoples in Peru". Available at www.iwgia.org/en/peru/3265-wampis-nation-peru.

the Indian Act, almost all decisions made by a First Nations government are subject to the approval of the Minister responsible for indigenous relations in the Government of Canada (A/HRC/27/52/Add.2, para. 39).

16. Greenland is an autonomous constituent country of Denmark. The indigenous peoples of Greenland are Inuit and make up the majority of the population.⁴ On 21 June 2009, the Act on Greenland Self-Government came into force. The Act recognizes the right of the people of Greenland to self-determination under international law and is based on an agreement between the Government of Greenland and the Government of Denmark as equal partners. The Greenlandic self-government authorities comprise a democratically elected assembly, *Inatsisartut* (the Parliament of Greenland), and an administration led by *Naalakkersuisut* (the Government of Greenland). The Greenlandic authorities have the right to assume new fields of responsibility. *Naalakkersuisut* also has three representatives of Greenland abroad, in Belgium (to the European Union), Iceland and the United States of America.⁵

17. The Sami indigenous peoples inhabit large parts of Finland, Norway, Sweden and the Kola peninsula in the Russian Federation. In Finland, Norway and Sweden, Sami autonomy and self-government are implemented through the respective Sami parliaments, which are officially recognized in national legislation.⁶ The members of the Sami parliaments are elected by and among the Sami in each country. To address cross-border and global issues affecting the Sami people, the three Sami parliaments established a joint cooperative body, the Sami Parliamentary Council, in 2000. The Sami in the Russian Federation are permanent participants in the Council.

18. A peace accord was reached on 2 December 1997 between the Government of Bangladesh and the Parbatya Chattagram Jana Sanghati Samiti, ending a protracted civil conflict. With the signing of the accord, a partially autonomous self-government system was re-established in the Chittagong Hill Tracts, and the region has been officially recognized as a “tribal inhabited area”. The accord established the Chittagong Hill Tracts Regional Council, strengthened Hill District Councils and formally recognized local “customs, practices and usages” for the purposes of the resolution of land-related disputes by the Chittagong Hill Tracts Land Disputes Resolution Commission. Moreover, the office of the Chair of the regional and district councils has been legally reserved exclusively for “tribals”.⁷ In addition, a traditional governance system with chiefs/rajas is already in place.

19. In Malaysia, Sabah and Sarawak are governed by land laws that are separate from the National Land Code, which governs Peninsular Malaysia.⁸

III. International processes

20. The United Nations Declaration on the Rights of Indigenous Peoples enshrines the right of indigenous peoples “to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures” (art. 18).

⁴ International Work Group for Indigenous Affairs, “Indigenous peoples in Greenland”. Available at www.iwgia.org/en/greenland.

⁵ Denmark, Prime Minister’s Office, “The Greenland self-government arrangement”.

⁶ Finland, Act on the Sami Parliament No. 974/1995; and Sami Parliament of Finland, “The Sámi Parliament – the representative self-government body of the Sámi”, available at www.samediggi.fi.

⁷ Raja Devasish Roy, “Challenges for judicial pluralism and customary laws of indigenous peoples: the case of the Chittagong Hill Tracts, Bangladesh”, *Arizona Journal of International and Comparative Law*, vol. 21, No. 1 (2004), p. 122.

⁸ Straits Times, “What restoring MA63 rights means”, 18 September 2018.

21. The increasing number of international conventions and agreements that have an impact on the lives of indigenous peoples demands their attention and input. The States, international organizations and businesses that negotiate such frameworks seldom prioritize the views of indigenous peoples. This underscores the need for the establishment of consultation mechanisms with indigenous peoples, as well as for legislation and policies that safeguard the interests of the affected peoples.

22. At the same time, there has also been an increase in the number of platforms in which indigenous leaders play an active role in decision-making. For example, in relation to climate change, to which indigenous peoples are particularly vulnerable owing to their strong traditional ties with their lands and natural resources, indigenous peoples have been engaged in climate action, for example, as active participants at the United Nations climate change conferences.

23. At the twenty-third session of the Conference of the Parties to the United Nations Framework Convention on Climate Change, held in November 2017, indigenous representatives engaged, inter alia, under the motto of “nothing about us without us”, highlighting that indigenous peoples are the best observers of and key actors in effectively combating climate hazards. At the Conference, it was decided to establish the local communities and indigenous peoples platform, lauded by many as a step forward in enhancing the engagement of indigenous peoples in the Convention process. However, others considered it insufficient to ensure that indigenous peoples could negotiate or influence decision-making on an equal footing.⁹

24. During the twenty-fourth session of the Conference of the Parties to the United Nations Framework Convention on Climate Change, in 2018, States and indigenous peoples adopted a text to operationalize the local communities and indigenous peoples platform through the facilitative working group, which included seven indigenous peoples’ representatives appointed by indigenous peoples, through their focal points. To advance the participation of indigenous peoples, the Permanent Forum, at its sixteenth session, urged Member States to support the operationalization of the platform in accordance with the provisions of the Declaration ([E/2017/43-E/C.19/2017/11](#), para. 99).

25. The Indigenous Peoples Policy was adopted by the board of the Green Climate Fund during its nineteenth meeting, from 26 February to 1 March 2018. The policy is based on consultations with and inputs from indigenous peoples and board members. The policy’s objective is to ensure adequate safeguards for and the participation and free, prior and informed consent of indigenous peoples.¹⁰

26. At its seventeenth session, the Permanent Forum welcomed the adoption of the Indigenous Peoples Policy and encouraged the Green Climate Fund to support specific capacity-building programmes for indigenous peoples to ensure their full and effective engagement with the Fund at all levels and in all activities ([E/2018/43-E/C.19/2018/11](#), para. 113).

27. In May 2017, the Council of the European Union adopted conclusions on indigenous peoples, in which the Council reaffirmed the support of the European Union for the adoption of the United Nations Declaration on the Rights of Indigenous Peoples and the joint staff working document “Implementing European Union external policy on indigenous peoples” by the High Representative of the European Union for Foreign Affairs and Security Policy and the European Commission. In the conclusions, the Council underscored “the crucial importance of further enhancing opportunities for dialogue and consultation with indigenous peoples at all levels of European Union cooperation, including in European Union-funded programmes and

⁹ Pamela Jacquelin-Andersen, ed., *The Indigenous World 2018*, p. 17.

¹⁰ Ibid.

projects under all aid modalities to secure their full participation and their free, prior and informed consent in a meaningful and systematic way, and to inform and underpin European Union external action policy and its implementation worldwide”.

28. On 23 May 2018, the Agreement on Enhancing International Arctic Scientific Cooperation between the eight members of the Arctic Council, Canada, Denmark, Finland, Iceland, Norway, the Russian Federation, Sweden and the United States, entered into force. An important element of the agreement for indigenous peoples is the inclusion of a specific article on the use of traditional and local knowledge. The article states that the parties shall encourage: participants to utilize traditional and local knowledge; communication between holders of traditional and local knowledge and participants conducting scientific activities; and holders of traditional and local knowledge to participate in scientific activities as appropriate.

29. In its resolution [72/249](#), the General Assembly decided to convene an intergovernmental conference to elaborate the text of an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

30. While indigenous peoples are seldom involved in industries in waters beyond national jurisdiction, some are reliant on such waters. In a study by the Nippon Foundation Nereus Programme, based at the University of British Columbia, researchers found that coastal indigenous populations consumed 165 pounds of fish per person per year, compared with the 44 pounds per person consumed in the rest of the world.¹¹ As a response to the decision of the General Assembly in its resolution [72/249](#), the Permanent Forum called upon the United Nations bodies and Member States to ensure that indigenous peoples have a voice equal to States in the development of and negotiations on the international agreement to address marine biodiversity in areas beyond national jurisdiction and to guarantee that the agreement upholds and respects indigenous peoples’ role in governing the oceans and the rights set out in the United Nations Declaration on the Rights of Indigenous Peoples ([E/2017/43-E/C.19/2017/11](#), para. 38).

31. Among indigenous peoples, there is general agreement that increasing participation at the international and multilateral levels is a priority issue. This was emphasized in the Alta outcome document (see [A/67/994](#), annex),¹² which calls for the recognition of indigenous peoples at the national level and their direct participation through their own Governments and parliaments.

32. In response to these calls for increased recognition and participation, the General Assembly has considered the enhanced participation of indigenous peoples at the United Nations. In 2017, following more than two years of consultations, the Assembly decided, in its resolution [71/321](#), to continue its consideration of the participation of indigenous peoples at the United Nations at its seventy-fifth session, in 2020. In the same resolution, the Assembly requested the President of the General Assembly to organize interactive hearings with indigenous peoples on the margins of the sessions of the Permanent Forum and the Secretary-General to prepare a report containing concrete recommendations on this matter, to be submitted to the Assembly at its seventy-fifth session.

¹¹ Andrés M. Cisneros-Montemayor and others, “A global estimate of seafood consumption by coastal indigenous peoples”, *PLOS ONE*, 5 December 2016.

¹² A document prepared by indigenous peoples’ representatives in preparation for the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples.

IV. Information and communications technology

33. In the United Nations Declaration on the Rights of Indigenous Peoples, no specific reference is made to indigenous information and communications technology. However, the Declaration guarantees the right of indigenous peoples to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures.

34. The term “digital divide” is often applied to describe disparities and exclusion in relation to access to information and communications technology. Indigenous peoples around the world are aware of this gap, often finding themselves socially, economically and digitally disadvantaged. As access to information and communications technology is increasingly linked to social, economic and political opportunity, existing inequalities can be perpetuated or exacerbated by digital disadvantage.

35. Obstacles to connectivity are widespread, including poor or absent basic infrastructure (such as electricity and hardware), high costs, inadequate bandwidth and poor, unreliable service. At its seventeenth session, the Permanent Forum urged Member States and donors to support community-based monitoring and information systems, citizen science and the democratization of information technologies, as complementary to national and global statistical and information systems, and to prioritize capacity-building and funding for such initiatives ([E/2018/43-E/C.19/2018/11](#), para. 108).

36. However, increased access to information and communications technology among indigenous peoples can also reinforce and accelerate the dominance of non-traditional and indigenous modes of thought, culture and learning strategies, challenging the maintenance of traditional cultural diversity. Some indigenous peoples have chosen to live in voluntary, partial or complete isolation. Direct or indirect contact might pose the greatest risk to their lives, and it should be remembered that increased information and communications technology infrastructure should be developed only upon the request of the peoples.¹³

37. Despite such challenges, indigenous peoples in general welcome technological development and equitable participation in the information society. In the study on indigenous peoples and the information society by the United Nations Educational, Scientific and Cultural Organization, it is noted that, in general, indigenous peoples are demanding either initiatives that are to be undertaken alongside indigenous peoples’ communities or innovative efforts relating to processes, new products and business models that are devised by indigenous peoples themselves in relation to their own self-defined needs and wishes.

38. Indigenous or community participatory mapping through geospatial methodologies is a good example of information and communications technology that empowers indigenous peoples to address a variety of issues, such as land rights and tenure. For example, the Inter-Ethnic Association for the Development of the Peruvian Rainforest and Oxfam partnered to deploy drones to indigenous communities in the Peruvian Amazon facing infringements of their land rights. The

¹³ Inter-American Commission on Human Rights, *Indigenous Peoples in Voluntary Isolation and Initial Contact in the Americas: Recommendations for the Full Respect of their Human Rights* (Inter-American Commission on Human Rights, 30 December 2013), p. 1.

Peruvian Amazon has lost more than 1 million hectares of forest in the past 15 years, while water has become more polluted and scarce.¹⁴

39. New technologies, such as big data analytics and machine learning technologies, can be leveraged in a positive way to analyse the drivers behind conflicts in indigenous communities. For instance, indicators identifying points of tension can be established to activate early warning systems. Technologies such as remote sensing can be applied to map out and illustrate how land is being used and to map out indigenous peoples' settlements and their natural resources. A project developed by scholars at Columbia University, Data Analytics for Sustainable Herding, seeks to establish a methodology to decipher complex interactions between climate change, human mobility and violent conflicts using big data analytics and artificial intelligence.¹⁵

40. Applications for smartphones have been developed to promote and preserve indigenous languages. Approximately 3,000 of the world's 6,000–7,000 languages are estimated to be in danger,¹⁶ and most of these are indigenous languages. Applications can help indigenous languages to go from merely spoken languages to written languages, used for text messages and in other digital ways. In Australia, for example, artificial intelligence is being used in a language-learning project with models for 12 Australian indigenous languages. As part of the project, a robot has been developed to tell stories in the indigenous languages and produce memory games that can promote language learning.¹⁷

41. For digital initiatives such as applications, e-health, and e-learning, a major current and future challenge is how to increase the accessibility and affordability of the Internet in the most remote areas, where many indigenous peoples reside. A large proportion of indigenous peoples' communities have small populations and limited infrastructure, with no service providers. As the markets are limited, companies have little economic incentive to offer their services in those communities.

42. The First Mile Connectivity Consortium is a non-profit organization in Canada for First Nations telecommunications organizations that serve remote and rural communities. The organization primarily develops evidence-based policy related to broadband infrastructure, digital services and technology adoption in remote and rural communities and supports initiatives for First Nations control and ownership of broadband infrastructure and information and communications technology.

43. To bridge the digital divide, it is important to build capacity for indigenous peoples to enable them to create a digital future on their own terms. Since digital illiteracy delays the possibilities to use information and communications technology to preserve culture and traditions, increased physical and financial access to digital communication and technical tools is urgently needed for the development and preservation of culture in indigenous peoples' communities. The United Nations Educational, Scientific and Cultural Organization concluded in its report on indigenous peoples and the information society: "It is no coincidence that emerging uses of information and communications technologies among indigenous peoples are running alongside the recognition of rights and efforts to assert more local control over development, access and deployment. Long-range synergies, real-time implementation

¹⁴ Eillie Anzilotti, "Indigenous people in the Amazon are using drones to save their land", *Fast Company*, 7 June 2018.

¹⁵ Jessica Arnold and others, "Data analytics for sustainable herding: using big data and artificial intelligence to prevent climate-driven violent conflict in the Sahel", Columbia University, 2018.

¹⁶ Christopher Moseley, ed., *Atlas of the World's Languages in Danger* (United Nations Educational, Scientific and Cultural Organization (UNESCO), 2010).

¹⁷ Abbie O'Brien, "How AI is helping preserve indigenous languages", *SBS News*, 31 May 2018.

and political will, however, are still needed to secure the full, effective and meaningful participation of indigenous peoples in the information society.”

V. Indigenous women and girls

44. Indigenous women face significant challenges to the full enjoyment of their human rights. Indigenous women experience multiple forms of discrimination, often lack access to education, health care and ancestral lands, face disproportionately high rates of poverty and are subjected to violence, such as domestic violence and sexual abuse, including in the contexts of trafficking and armed conflict.¹⁸

45. In the United Nations Declaration on the Rights of Indigenous Peoples, States are called upon to take measures, in conjunction with indigenous peoples, to ensure that indigenous women and girls enjoy the full protection and guarantees against all forms of violence and discrimination (art. 22, para. 2). Although many Member States have sought to implement measures to combat such violence, there is still a long way to go towards its eradication.

46. Violence against indigenous women and girls is a phenomenon that cannot be separated from the wider contexts of discrimination and exclusion to which indigenous peoples are often exposed in social, economic, cultural and political life.¹⁹ In many countries, they still face alarmingly high levels of violence and often lack access to justice, health care and social services.²⁰

47. Indigenous women living in developed countries are not excluded from this phenomenon. For instance, researchers found that more than 84 per cent of Alaska Native and American Indian women had experienced some form of violence in their lifetimes: 66 per cent had experienced psychological violence, 56 per cent sexual violence, 55 per cent physical violence from an intimate partner and 49 per cent stalking. Despite the grave need for support and protection from such violence, 38 per cent of Alaska Native and American Indian female victims were unable to obtain access to legal, medical and other services. Among the women who reported experiencing violence in their lifetimes, 97 per cent of victims had experienced violence by a perpetrator who was not American Indian or Alaska Native.²¹

48. To address this pandemic against indigenous women and girls, various intergovernmental bodies within the United Nations system have been addressing the issue. For instance, in the outcome document of the World Conference on Indigenous Peoples, Member States committed themselves to intensifying their efforts, in cooperation with indigenous peoples, to prevent and eliminate all forms of violence and discrimination against indigenous peoples and individuals, in particular women, children, youth, older persons and persons with disabilities, by strengthening legal, policy and institutional frameworks (General Assembly resolution 69/2, para. 18).

¹⁸ Office of the Special Adviser on Gender Issues and Advancement of Women and the secretariat of the Permanent Forum on Indigenous Issues, “Gender and indigenous peoples”, February 2010, briefing note No.1, p. 1.

¹⁹ United Nations Children’s Fund (UNICEF), United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), United Nations Population Fund, International Labour Organization and Office of the Special Representative of the Secretary-General on Violence against Children, *Breaking the Silence on Violence against Indigenous Girls, Adolescents and Young Women* (New York, United States of America, UNICEF, 2013), p. 3.

²⁰ Carrie Bettinger-Lopez, “Violence against indigenous women and girls: commitment from the North American leaders summit”, *White House: President Barack Obama*, 28 July 2016.

²¹ André B. Rosay, *Violence Against American Indian and Alaska Native Women and Men*, National Institute of Justice research report (Washington, D.C., United States Department of Justice, 2016), p. 19.

49. Member States also invited the Human Rights Council to consider examining the causes and consequences of violence against indigenous women and girls, in consultation with the Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur on the rights of indigenous peoples and other special procedures mandate holders within their respective mandates. They also invited the Commission on the Status of Women to consider the issue of the empowerment of indigenous women at a future session (*ibid.*, para. 19).

50. In response, the Human Rights Council adopted resolution 32/19, entitled “Accelerating efforts to eliminate violence against women: preventing and responding to violence against women and girls, including indigenous women and girls”, in which the Council called upon States to take effective action to prevent violence against indigenous women and girls by, among other things: (a) developing, reviewing and strengthening inclusive policies; (b) abolishing practices and legislation that discriminate against indigenous women and girls; (c) taking measures to empower women; and (d) removing gender bias and other forms of discrimination from the administration of justice.

51. The Commission on the Status of Women, at its sixty-first session, held an interactive dialogue on the focus area “Empowerment of indigenous women”, with presentations and statements reflected in a Chair’s summary (E/CN.6/2017/12). The issue of indigenous women was discussed for the first time at an official meeting of the Commission. The issues highlighted at the discussion were: participation in decision-making processes; violence against women and girls; economic opportunities of indigenous women; and the impact of climate change on the empowerment of indigenous women and their responses.

52. The Special Rapporteur on the rights of indigenous peoples has reported on the rights of indigenous women and girls, focusing on the multiple forms of violence against them, including sexual violence, gender-based killings, violence in the context of conflict, violence in the name of tradition, domestic violence and trafficking (A/HRC/30/41, paras. 46–60). She concluded that, despite the severity and regularity of violations of the rights of indigenous women, the attention of much of the United Nations human rights and development policy architecture has been limited. To protect the rights of indigenous women, both a paradigm shift and the development of a multidimensional approach is needed (*ibid.*, paras. 74–75).

53. The Inter-American Commission on Human Rights has noted seven different manifestations of violence against indigenous women, namely: violence in the context of armed conflict; violence in the context of development, investment and extractive projects; violence related to the militarization of indigenous lands; domestic violence; violence in the exercise of economic, social and cultural rights; violence against indigenous women human rights defenders and defenders of indigenous women’s rights; and violence in urban settings and during displacement and migratory processes.²²

54. The Department of Economic and Social Affairs organized an expert group meeting on combating violence against indigenous women and girls in response to recommendations of the Permanent Forum. The conclusions and recommendations contained in the report of the meeting (E/C.19/2012/6) were subsequently endorsed by the Permanent Forum (E/2012/43-E/C.19/2012/13, para. 20).

55. The system-wide action plan for ensuring a coherent approach to achieving the ends of the United Nations Declaration on the Rights of Indigenous Peoples takes into account the principle of gender equality. The plan encourages the evaluation of the

²² Inter-American Commission on Human Rights, *Indigenous Women and Their Human Rights in the Americas* (Washington, D.C., Inter-American Commission on Human Rights, 17 April 2017).

differential impacts of policies and programmes on women and men and girls and boys and, in particular, helps to ensure that the multiple forms of discrimination that indigenous girls, adolescents and women experience are addressed through appropriate means identified in consultation with them and that such measures advance their empowerment (E/C.19/2016/5, para. 15).

56. In December 2016, the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) issued its strategy for the inclusion and visibility of indigenous women, which is guided by the six elements of the system-wide action plan.

VI. Indigenous human rights defenders

57. In the United Nations Declaration on the Rights of Indigenous Peoples, States, in conjunction with indigenous peoples, are requested to take effective measures to recognize and protect the exercise of the rights enshrined in the Declaration (art. 31, para. 2).

58. The situation of indigenous human rights defenders was a key area of focus for the Permanent Forum in 2018. Owing to the nature of their work, indigenous human rights defenders often become targets of both State and non-State actors who seek to discourage, discredit and disrupt their activities.²³

59. In its *Stop the Killings* report of 2018, Front Line Defenders reported the killing of 312 human rights defenders in 27 countries, though the true figure is certainly higher. Two thirds of those killed were working on the environment, land rights and indigenous peoples' rights, often in remote rural areas.²⁴

60. The Special Rapporteur on the rights of indigenous peoples reported that a crucial underlying cause of the current intensified attacks against indigenous peoples is the lack of respect for indigenous peoples' collective land rights and the failure to provide indigenous communities with secure land tenure (A/HRC/39/17, para. 30). Furthermore, indigenous peoples' ways of life and subsistence are often deemed illegal or incompatible with conservation policies, leading to the prohibition of indigenous traditional livelihoods and the arrest, detention, forced eviction and violations of other human rights of indigenous peoples (ibid., para. 28).

61. On 3 July 2018, the European Parliament adopted a resolution on violations of the rights of indigenous peoples worldwide, including land grabbing, in which it denounced the continuing criminalization of those who defend the rights of indigenous peoples and the right to land throughout the world, and called on all States, including the European Union and its member States, to prevent impunity for any crime committed against defenders of the human rights of indigenous peoples through due investigation and prosecution.

62. The situation of indigenous rights defenders continues to be raised at the annual sessions of the Permanent Forum. In 2018, the Forum drew attention to the number of reports, from around the world, of acts of intimidation and reprisal, including restrictions on the ability of representatives of indigenous peoples to attend the Forum's sessions (E/2018/43-E/C.19/2018/11, para. 13).

63. The issue has also received attention from the United Nations system, with the appointment by the Secretary-General of Andrew Gilmour as Assistant Secretary-

²³ Permanent Forum on Indigenous Issues, "Indigenous human rights defenders". Available at www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2016/08/Indigenous-Human-Rights-Defenders.pdf.

²⁴ Front Line Defenders, *Stop the Killings* (Dublin, Front Line Defenders, 2018), p. 5.

General for Human Rights to lead the efforts within the United Nations system to put a stop to all intimidation and reprisals against those cooperating with the Organization on human rights.²⁵

64. The Assistant Secretary-General addressed the Forum during its seventeenth session, in April 2018, and highlighted the widespread intimidation and reprisals against indigenous peoples, including those who cooperate with the United Nations.

VII. National human rights institutions

65. National human rights institutions play an important role in applying international human rights law, such as the United Nations Declaration on the Rights of Indigenous Peoples, at the national level. This happens in a variety of ways, including through integrating international and domestic laws into the investigation and resolution of complaints, using the Declaration when interpreting how national legislation applies in specific situations, using the Declaration as a good practice, proposing national legislation in accordance with the Declaration and considering the Declaration in the preparation of national action plans.²⁶

66. The Office of the United Nations High Commissioner for Human Rights manual for national human rights institutions on the United Nations Declaration on the Rights of Indigenous Peoples provides a broad overview of the legal nature of the rights it contains, as well as the relevant obligations of States to ensure that indigenous peoples' rights are fully realized.

67. National human rights institutions have participated actively during sessions of the Permanent Forum, making presentations, organizing side events and sharing their experiences and work on indigenous peoples' rights. The Forum has recommended that national human rights institutions promote the rights of indigenous peoples and monitor the implementation of the Declaration, and ensure that the international standards on indigenous peoples' rights are translated into national laws ([E/2008/43-E/C.19/2008/13](#), para. 145).

68. Many national human rights institutions have worked on the promotion and protection of indigenous peoples' rights, as established in the Declaration.²⁷ In addition to recognizing the customary institutions, national human rights institutions have used the Declaration as the primary legal framework to monitor the human rights situation of indigenous peoples.

69. For instance, in 2013, the Human Rights Commission of Malaysia commissioned a national inquiry into the land rights of indigenous peoples and published a comprehensive report thereon. The Commission made significant recommendations emphasizing free, prior and informed consent in relation to indigenous peoples' lands rights as enshrined in Declaration.

70. In 2014, the National Human Rights Commission of Indonesia conducted its first national inquiry into violations of indigenous peoples' land rights. The Commission made various recommendations, including improving the licensing system for natural resource exploitation on the basis of the principles of transparency,

²⁵ International Service for Human Rights, "Ban Ki-moon appoints high-ranking official to combat reprisals against human rights defenders", 4 October 2016.

²⁶ Brenda L. Gunn, "Engaging national human rights institutions in implementing the UN Declaration on the Rights of Indigenous Peoples", Centre for International Governance Innovation papers, No. 171 (Canada, April 2018), p. 8.

²⁷ *Ibid.*, pp. 8–16.

participation and accountability, including the principle of free, prior and informed consent.²⁸

71. Similarly, the National Human Rights Commission of Nepal established the Collective Rights Division and the Gender and Social Inclusion Division. The Commission has made recommendations to implement the United Nations Declaration on the Rights of Indigenous Peoples and the Indigenous and Tribal Peoples Convention, 1989 (No. 169), of the International Labour Organization and is working towards the adoption of a national action plan on their implementation.²⁹

72. Raising public awareness of the United Nations Declaration on the Rights of Indigenous Peoples has been one of the key actions taken by the Human Rights Commission of New Zealand. In June 2017, the Commission released an article in which it described the implementation gap between the recognition of the rights in the Declaration and their realization on the ground.³⁰

73. The National Human Rights Commission of Mexico made reference to the Declaration as a framework for its recommendations in individual petitions. For instance, on 27 February 2018, the Commission issued a recommendation related to the indigenous peoples of the State of Morelos in a case of non-compliance with the principle of free, prior and informed consent as enshrined in the Declaration.³¹

VIII. Conflict, peace and security

74. In the United Nations Declaration on the Rights of Indigenous Peoples, it is stated that indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples (art. 7, para. 2). It is also stated that military activities shall not take place in territories of indigenous peoples, unless justified by relevant public interest or requested by indigenous peoples concerned. States are to undertake effective consultations with the indigenous peoples concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands for military activities (art. 30).

75. The Permanent Forum dedicated its fifteenth session, in 2016, to the theme “Indigenous peoples: conflict, peace and resolution”. During that session, the Forum noted that:

Indigenous peoples often find themselves involved in situations of conflict, mostly relating to their lands, territories and resources or their civil, political, cultural, social and economic rights. During violent conflicts, indigenous peoples are often among the most vulnerable groups as a result of the situations of poverty, political marginalization and systematic discrimination that many still face today. In nearly every region of the world, indigenous peoples are being displaced and severely affected by violence on their lands and territories. In some countries, indigenous peoples are victims of massacres carried out by the army or paramilitary groups during conflicts. ... Indigenous children are

²⁸ Business and Human Rights Resource Centre, “Indonesia: Human Rights Commission’s first national inquiry into abuses of indigenous peoples’ land rights”.

²⁹ Shankar Limbu, “UNDRIP impact on Asia: 10 years on”, paper prepared for the international expert group meeting on the theme “Implementation of the United Nations Declaration on the Rights of Indigenous Peoples: the role of the Permanent Forum on Indigenous Issues and other indigenous-specific mechanisms (article 42)”, New York, January 2017.

³⁰ Human Rights Commission of New Zealand, “More work on putting UNDRIP into action needed”, 1 June 2017.

³¹ National Human Rights Commission of Mexico, Recommendation No. 3/2018, 27 February 2018. Available at www.cndh.org.mx/sites/all/doc/Recomendaciones/2018/Rec_2018_003.pdf.

sometimes forcibly recruited to participate in armed conflicts, leaving behind their homes and their childhood (E/2016/43-E/C.19/2016/11, para. 49).

76. The Economic and Social Council and the Peacebuilding Commission have been working together in the context of the peace and development agenda and in particular in the context of the implementation of the 2030 Agenda. For example, the Council and the Commission held joint meetings on the situation in the Sahel, in June 2017, and on the topic “Linkages between climate change and challenges to peacebuilding and sustaining peace in the Sahel”, in 2018. These issues are of key importance to indigenous peoples, and the Chair of the Permanent Forum expressed the commitment of the Forum to continue to work on the links between peace and development in support of the work of the Council in this area.

77. The Declaration recognizes that indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development (art. 23). Control by indigenous peoples over their lands, territories and resources is fundamental to securing their development and to preventing and avoiding conflicts.

78. This matter is raised at the annual sessions of the Permanent Forum by indigenous peoples who are affected, both directly and indirectly, by conflicts that take place either in or around their lands and territories.

79. Although some steps have been taken to raise the visibility of this issue, the situation on the ground in most areas remains of great concern. The Permanent Forum will continue to address the issue of conflict, peace and security in order to enhance and facilitate dialogue and concerted action between indigenous peoples and States, with support from the United Nations system, with the aim of finding durable solutions.

IX. Indigenous peoples and businesses

80. Historically, businesses, both private and public, have been involved in the extraction and use of natural resources to promote development and the creation of wealth. This has therefore led to the need to explore new territories, including those of indigenous peoples.

81. Businesses in general and extractive industries in particular have often had a negative impact on the rights and development of indigenous peoples, who, on many occasions, have not been adequately consulted on the development of such projects. This is particularly true in the context of extractive industries, such as mineral, oil and gas extraction.

82. Extractive industry projects often have grave impacts on the rights and well-being of indigenous peoples, resulting in abuses of indigenous peoples’ rights, including the rights to self-determination, lands, territories and resources, health, culture, food and water, as well as displacement and violations of the most basic civil and political rights, such as arbitrary arrests and detention, torture, enforced disappearances and killings.³² In some cases, these alleged abuses are perpetrated by security forces associated with the businesses, the police or the army.

83. Women and girls are often in a particularly vulnerable position with regard to the impacts of extractive industries, in some cases experiencing loss of livelihoods, violence and impacts on their health and well-being.³³ For instance, mining and

³² Declaration of the International Conference on Extractive Industries and Indigenous Peoples, Manila, 23–25 March 2009.

³³ Report of the international expert group meeting on extractive industries, indigenous peoples’ rights and corporate social responsibility, para. 8.

drilling camps tend to attract large numbers of mostly male workers, and there are numerous instances where this has led to sex crimes, sex trade and violence against women.³⁴

84. Indigenous peoples sometimes participate in consultation processes related to the activities to be carried out by businesses in their territories and, in some cases, enter agreements with businesses. In such instances, it is critical that indigenous peoples are provided with all necessary information about the social and environmental impact of the project. However, this does not always happen.

85. The United Nations system has worked broadly in the intersection between business and human rights. On 16 June 2011, the Human Rights Council endorsed the Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework ([A/HRC/17/31](#)), which seek to provide an authoritative global standard for preventing and addressing the risk of adverse human rights impacts linked to business activity.

86. The issue of business-related impacts on the rights of indigenous peoples has been addressed by a number of United Nations mechanisms, including the Permanent Forum,³⁵ the Expert Mechanism on the Rights of Indigenous Peoples (see [A/HRC/21/55](#)), the Special Rapporteur on the rights of indigenous peoples (see [A/HRC/24/41](#)) and other United Nations treaty bodies.³⁶

87. The United Nations Global Compact, a framework for businesses based on principles in the areas of human rights, labour, the environment and anti-corruption, developed a business reference guide on the United Nations Declaration on the Rights of Indigenous Peoples.

88. The Working Group on the issue of human rights and transnational corporations and other business enterprises has produced two reports on corporations and indigenous peoples ([A/68/279](#) and [A/71/291](#)). The report contained in document [A/68/279](#) is particularly relevant, as it explores the challenges faced in addressing the adverse impacts of business-related activities on the rights of indigenous peoples through the lens of the Guiding Principles on Business and Human Rights.

89. The Special Rapporteur on the rights of indigenous peoples stated that the general rule in the case of extractive projects within the territories of indigenous peoples is that the free, prior and informed consent of indigenous peoples is required. Indigenous consent may also be required when extractive activities otherwise affect indigenous peoples (outside their territories), depending on the nature and potential impact of the proposed activities on their rights ([A/HRC/24/41](#), paras. 27–28). The Expert Mechanism on the Rights of Indigenous Peoples produced, in 2018, an important report on free, prior and informed consent ([A/HRC/39/62](#)), in which it discussed the scope and operationalization of free, prior and informed consent, reviewed free, prior and informed consent practices and set out its advice No. 11 on indigenous peoples and free, prior and informed consent.

³⁴ Rebecca Adamson, “Vulnerabilities of women in extractive industries”, *Indian Journal of Women and Social Change*, vol. 2, No. 1 (June 2017), p. 24.

³⁵ See [E/C.19/2011/12](#), [E/C.19/2012/3](#), [E/C.19/2013/11](#), [E/C.19/2013/16](#) and [E/C.19/2013/20](#); and Pavel Sulyandziga, report on corporations and indigenous peoples, paper prepared for the ninth session of the Permanent Forum, New York, 19–30 April 2010.

³⁶ Committee on Economic, Social and Cultural Rights, general comments No. 7 (1997) on forced evictions, para. 10, and No. 15 (2002) on the right to water, paras. 7 and 16; Committee on the Rights of the Child, general comments No. 11 (2009) on indigenous children and their rights under the Convention on the Rights of the Child, para. 16, and No. 16 (2013) on State obligations regarding the impact of the business sector on children’s rights.

90. Many challenges remain in tackling the impact of businesses on indigenous peoples. The full and effective participation of indigenous peoples in decisions affecting them, as well as the full recognition and application of their right to determine and develop their own priorities and strategies for the development or use of their lands or territories and other resources, as enshrined in article 32 of the United Nations Declaration on the Rights of Indigenous Peoples, are pending issues in many States.
