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Right of peoples to self-determination

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Report of the Secretary-General

Summary

In its resolution [71/183](#), the General Assembly requested the Secretary-General to submit a report to the Assembly at its seventy-second session on the universal realization of the right of peoples to self-determination. The present report is submitted in accordance with that request.

The report provides a summary of the main developments relating to the realization of the right to self-determination within the framework of the activities of the main organs of the United Nations since the submission of the previous report on the question ([A/71/326](#)).

* [A/72/150](#).



I. Introduction

1. The General Assembly, in paragraph 1 of its resolution [71/183](#), reaffirmed that the universal realization of the right to self-determination was a fundamental condition for the effective guarantee and observance of human rights and for the preservation and promotion of such rights.
2. The present report is submitted in accordance with paragraph 6 of resolution [71/183](#), in which the General Assembly requested the Secretary-General to report to it on the question at its seventy-second session.
3. The report provides a summary of the main developments relating to the realization of the right to self-determination within the framework of the activities of the main organs of the United Nations since the submission of the previous report ([A/71/326](#)).
4. The report also includes reference to the consideration of the issue within the framework of the Human Rights Council, both in its resolutions and in the reports submitted to the Council by special procedures mandate holders and the Expert Mechanism on the Rights of Indigenous Peoples.
5. In addition, it includes reference to concluding observations issued by the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, which are based on their consideration of periodic reports submitted by the States parties to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights in respect of the implementation of the right of all peoples to self-determination guaranteed in common article 1 of the two Covenants.

II. Security Council

6. In accordance with Security Council resolution [2285 \(2016\)](#), the Secretary-General submitted to the Council a report on the situation concerning Western Sahara ([S/2017/307](#)). The report covered developments since the previous report dated 19 April 2016 ([S/2016/355](#)) and provided a description of the situation on the ground, the status and progress of the political negotiations on Western Sahara, the implementation of Security Council resolution [2285 \(2016\)](#) and the existing challenges to the operations of the United Nations Mission for the Referendum in Western Sahara and steps taken to address them. The Secretary-General noted that in resolutions adopted since 2007, the Security Council has directed the Secretary-General to facilitate direct negotiations between the parties to reach “a mutually acceptable political solution, which will provide for the self-determination of the people of Western Sahara” (see [S/2017/307](#), para. 81).
7. Having considered the aforementioned report of the Secretary-General, the Security Council adopted its resolution [2351 \(2017\)](#). In paragraph 8 of the resolution, the Council called upon the parties to resume negotiations under the auspices of the Secretary-General without preconditions and in good faith, taking into account the efforts made since 2006 and subsequent developments, with a view to achieving a just, lasting, and mutually acceptable political solution, which will provide for the self-determination of the people of Western Sahara in the context of arrangements consistent with the principles and purposes of the Charter of the United Nations, and noted the role and responsibilities of the parties in this respect.

III. General Assembly

8. During the reporting period, in addition to its resolution on the universal realization of the right of peoples to self-determination (resolution 71/183), the General Assembly adopted a number of resolutions in which it addressed the issue of self-determination. The resolutions concern Non-Self-Governing Territories, the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, and the right of the Palestinian people to self-determination. In addition, in paragraph 6 (a) of its resolution 71/190, the Assembly affirmed that a democratic and equitable international order requires, inter alia, the realization of the right of all peoples to self-determination, by virtue of which they can freely determine their political status and freely pursue their economic, social and cultural development.

A. Non-Self-Governing Territories

9. In its resolution 71/103, the General Assembly reaffirmed the right of the peoples of Non-Self-Governing Territories to self-determination and their right to the enjoyment of their natural resources and to dispose of those resources in their best interest. It affirmed the value of foreign economic investment undertaken in collaboration with the peoples of the Non-Self-Governing Territories and in accordance with their wishes in order to make a valid contribution to the socioeconomic development of the Territories, especially during times of economic and financial crisis. It reaffirmed the responsibility of the administering Powers under the Charter to promote the political, economic, social and educational advancement of the Non-Self-Governing Territories and reaffirmed the legitimate rights of their peoples over their natural resources. The Assembly reaffirmed its concern about any activities aimed at the exploitation of the natural resources that are the heritage of the peoples of the Non-Self-Governing Territories, including the indigenous populations, in the Caribbean, the Pacific and other regions, and of their human resources, to the detriment of their interests, and in such a way as to deprive them of their right to dispose of those resources. It reaffirmed the need to avoid any economic and other activities that adversely affected the interests of the peoples of the Non-Self-Governing Territories, and reminded the administering Powers of their responsibility and accountability vis-à-vis any detriment to the interests of the peoples of those Territories. The Assembly invited all Governments and organizations of the United Nations system to take all possible measures to ensure that the permanent sovereignty of the peoples of the Non-Self-Governing Territories over their natural resources was fully respected and safeguarded. It urged the administering Powers concerned to take effective measures to safeguard and guarantee the inalienable right of the peoples of the Non-Self-Governing Territories to their natural resources and to establish and maintain control over the future development of those resources, and requested the administering Powers to take all steps necessary to protect the property rights of the peoples of those Territories. It also called upon the administering Powers concerned to ensure that no discriminatory working conditions prevailed in the Territories under their administration and to promote in each Territory a fair system of wages applicable to all the inhabitants without any discrimination.

10. In its resolution 71/104, the General Assembly reaffirmed that the recognition by the General Assembly, the Security Council and other United Nations organs of the legitimacy of the aspirations of the peoples of the Non-Self-Governing Territories to exercise their right to self-determination entailed, as a corollary, the extension of all appropriate assistance to those peoples. In its resolution 71/105, the

Assembly invited all States to make or continue to make offers of study and training facilities to the inhabitants of those Territories that had not yet attained self-government or independence and, wherever possible, to provide travel funds to prospective students.

11. In its resolution [71/106](#) on the question of Western Sahara, the General Assembly expressed support for the process of negotiations initiated by the Security Council to achieve a just, lasting and mutually acceptable political solution, which would provide for the self-determination of the people of Western Sahara, and commended the efforts undertaken by the Secretary-General and his Personal Envoy for Western Sahara in that respect. It welcomed the commitment of the parties to continue to show political will and work in an atmosphere propitious for dialogue, in order to enter into a more intensive phase of negotiations, in good faith and without preconditions.

12. In its resolution [71/107](#) on the question of Tokelau, the General Assembly acknowledged the decision of the General Fono in 2008 that consideration of any future act of self-determination by Tokelau would be deferred. It noted the intention of Tokelau to further review its National Strategic Plan in order to determine development and other priorities beyond 2015 and to include consideration of the issue of self-determination and how the Territory would address a possible referendum on self-determination in cooperation with the administering Power.

13. In its resolution [71/108](#) on the question of American Samoa, the General Assembly reaffirmed the inalienable right of the people of American Samoa to self-determination, and also reaffirmed that it was ultimately for the people of American Samoa to determine freely their future political status. In that connection, the Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster awareness among the people of their right to self-determination. It welcomed the work of the territorial Government with respect to moving forward on political status, local autonomy and self-governance issues with a view to making political and economic progress, and also welcomed the establishment in April 2016 of the Office of Political Status, Constitutional Review and Federal Relations.

14. In its resolution [71/109](#) on the question of Anguilla, the General Assembly reaffirmed the inalienable right of the people of Anguilla to self-determination, and also reaffirmed that it was ultimately for the people of Anguilla to determine freely their future political status. In that connection, the Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster awareness among the people of their right to self-determination.

15. In its resolution [71/110](#) on the question of Bermuda, the General Assembly reaffirmed the inalienable right of the people of Bermuda to self-determination, and also reaffirmed that it was ultimately for the people of Bermuda to determine freely their future political status. In that connection, the Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster awareness among the people of their right to self-determination.

16. In its resolution [71/111](#) on the question of the British Virgin Islands, the General Assembly reaffirmed the inalienable right of the people of the British Virgin Islands to self-determination, and also reaffirmed that it was ultimately for the people of the British Virgin Islands to determine freely their future political status.

In that connection, the Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster awareness among the people of their right to self-determination.

17. In its resolution [71/112](#) on the question of the Cayman Islands, the General Assembly reaffirmed the inalienable right of the people of the Cayman Islands to self-determination, and also reaffirmed that it was ultimately for the people of the Cayman Islands to determine freely their future political status. In that connection, the Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster awareness among the people of their right to self-determination.

18. In its resolution [71/113](#) on the question of Guam, the General Assembly reaffirmed the inalienable right of the people of Guam to self-determination, and also reaffirmed that it was ultimately for the people of Guam to determine freely their future political status. In that connection, the Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster awareness among the people of their right to self-determination. It called once again on the administering Power to take into consideration the expressed will of the Chamorro people as supported by Guam voters in the referendum of 1987 and as subsequently provided for in Guam law regarding Chamorro self-determination efforts, encouraged the administering Power and the territorial Government to enter into negotiations on the matter, and stressed the need for continued close monitoring of the overall situation in the Territory.

19. In its resolution [71/114](#) on the question of Montserrat, the General Assembly reaffirmed the inalienable right of the people of Montserrat to self-determination, and also reaffirmed that it was ultimately for the people of Montserrat to determine freely their future political status. In that connection, the Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster awareness among the people of their right to self-determination.

20. In its resolution [71/115](#) on the question of Pitcairn, the General Assembly reaffirmed the inalienable right of the people of Pitcairn to self-determination, and also reaffirmed that it was ultimately for the people of Pitcairn to determine freely their future political status. In that connection the Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster awareness among the people of their right to self-determination. It welcomed all efforts by the administering Power and the territorial Government that would further devolve operational responsibilities to the Territory, with a view to gradually expanding self-government, including through the training of local personnel.

21. In its resolution [71/116](#) on the question of Saint Helena, the General Assembly reaffirmed the inalienable right of the people of Saint Helena to self-determination, and also reaffirmed that it was ultimately for the people of Saint Helena to determine freely their future political status. In that connection, the Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster awareness among the people of their right to self-determination.

22. In its resolution [71/117](#) on the question of the Turks and Caicos Islands, the General Assembly reaffirmed the inalienable right of the people of the Turks and Caicos Islands to self-determination, and further reaffirmed that it was ultimately for the people of the Turks and Caicos Islands to determine freely their future political status. In that connection, the Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster awareness among the people of their right to self-determination.

23. In its resolution [71/118](#) on the question of the United States Virgin Islands, the General Assembly reaffirmed the inalienable right of the people of the United States Virgin Islands to self-determination, and further reaffirmed that it was ultimately for the people of the United States Virgin Islands to determine freely their future political status. In that connection, the Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster awareness among the people of their right to self-determination.

24. In its resolution [71/119](#) on the question of New Caledonia, the General Assembly reaffirmed that it was ultimately for the people of New Caledonia to determine freely and fairly their future political status, and called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster an awareness among the people of their right to self-determination in conformity with the legitimate political status options. The Assembly expressed the view that adequate measures for conducting the upcoming consultations on access to full sovereignty, including a just, fair, credible and transparent electoral roll, as provided in the Nouméa Accord, were essential for the conduct of a free, fair and genuine act of self-determination consistent with the Charter and United Nations principles and practices. In that respect, it welcomed the continuous dialogue undertaken by the parties in the framework of the Committee of Signatories to the Nouméa Accord to establish the parameters for the conduct of a conclusive act of self-determination, including the setting of an electoral roll, as provided in the Accord. It called upon the administering Power to consider developing an education programme to inform the people of New Caledonia about the nature of self-determination so that they may be better prepared to face a future decision on the matter. The Assembly urged all the parties involved, in the interest of the people of New Caledonia and within the framework of the Nouméa Accord, to maintain their dialogue in a spirit of harmony and mutual respect in order to continue to promote a framework for the peaceful progress of the Territory towards an act of self-determination in which all options were open and which would safeguard the rights of all sectors of the population, based on the principle that it was for the people of New Caledonia to choose how to determine their destiny.

25. In its resolution [71/120](#) on the question of French Polynesia, the General Assembly reaffirmed the inalienable right of the people of French Polynesia to self-determination, and also reaffirmed that it was ultimately for the people of French Polynesia to determine freely their future political status. The Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster an awareness among the people of French Polynesia of their right to self-determination, and to intensify its dialogue with French Polynesia in order to facilitate rapid progress towards a fair and effective self-determination process, under which the terms and timelines for an act of self-determination would be agreed.

B. Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

26. In its resolution [71/182](#), the General Assembly urged all States to exercise the utmost vigilance against the menace posed by the activities of mercenaries and to take legislative measures to ensure that their territories and other territories under their control were not used for, and that their nationals did not take part in, the recruitment, assembly, financing, training, protection or transit of mercenaries for the planning of activities designed to impede the right of peoples to self-determination, to destabilize or overthrow the Government of any State or to dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in accordance with the right of peoples to self-determination. It requested the Working Group of the Human Rights Council on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination to continue to study and identify sources and causes, emerging issues, manifestations and trends regarding mercenaries or mercenary-related activities and their impact on human rights, particularly on the right of peoples to self-determination. It also requested the Office of the United Nations High Commissioner for Human Rights to publicize the adverse effects of the activities of mercenaries on the right of peoples to self-determination and to render advisory services to States that were affected by those activities.

C. Right of the Palestinian people to self-determination

27. The right of the Palestinian people to self-determination, including the right to their independent State of Palestine, was reaffirmed by the General Assembly in its resolution [71/184](#). In the resolution, the Assembly also urged States and the specialized agencies and organizations of the United Nations system to continue to support and assist the Palestinian people in the early realization of their right to self-determination. The Assembly also called for the realization of the Palestinian people's human rights, including the right to self-determination, in its resolutions [71/23](#), [71/95](#) and [71/98](#).

28. In its resolution [71/20](#), the General Assembly, having considered the report of the Committee on the Exercise of the Inalienable Rights of the Palestinian People ([A/71/35](#)), requested the Committee, inter alia, to continue to exert all efforts to promote the realization of the inalienable rights of the Palestinian people, including their right to self-determination. The Assembly invited all Governments and organizations to extend their cooperation and support to the Committee in the performance of its tasks, recalling its repeated call for all States and the specialized agencies and organizations of the United Nations system to continue to support and assist the Palestinian people in the early realization of their right to self-determination, including the right to their independent State of Palestine.

29. The economic aspect of the right to self-determination, namely, the right of peoples to sovereignty over their natural resources, was reaffirmed by the General Assembly with regard to the Palestinian people in its resolution [71/247](#).

IV. Economic and Social Council

30. In its resolution [2016/20](#), the Economic and Social Council either recommended or requested a number of measures that specialized agencies and other organizations of the United Nations system should adopt in support of

Non-Self-Governing Territories. The Council reaffirmed that the recognition by the General Assembly, the Security Council and other United Nations organs of the legitimacy of the aspirations of the peoples of the Non-Self-Governing Territories to exercise their right to self-determination entailed, as a corollary, the extension of all appropriate assistance to those peoples, on a case-by-case basis.

V. Human Rights Council

A. Resolutions

31. At its thirty-second session, held from 13 June to 1 July and on 8 July 2016, the Human Rights Council adopted resolution 32/33 on human rights and climate change. In the resolution, the Council emphasized that the adverse effects of climate change had a range of implications, both direct and indirect, for the effective enjoyment of human rights, including for the right to self-determination.

32. At its thirty-third session, held from 13 to 30 September 2016, the Human Rights Council adopted resolution 33/4 on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination. In the resolution, the Council condemned mercenary activities, in particular in areas of conflict, and the threat they posed to the integrity of and respect for the constitutional order of countries and the exercise of the right to self-determination. It urged all States to take the necessary steps and to exercise the utmost vigilance against the threat posed by the activities of mercenaries, and to take legislative measures to ensure that their territories and other territories under their control, as well as their nationals, were not used for the recruitment, assembly, financing, training, protection and transit of mercenaries for the planning of activities designed to impede the right to self-determination, to overthrow the Government of any State or to dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the right of peoples to self-determination. It also reiterated its request to the Office of the United Nations High Commissioner for Human Rights to publicize the adverse effects of the activities of mercenaries and private companies offering military assistance, consultancy and other military and security-related services on the international market on the right of peoples to self-determination and render advisory services to States that were affected by those activities.

33. In its resolution 33/3 on the promotion of a democratic and equitable international order, adopted at the same session, the Human Rights Council reaffirmed the right of all peoples to self-determination, by virtue of which they could freely determine their political status and freely pursue their own economic, social and cultural development.

34. At its thirty-fourth session, held from 27 February to 24 March 2017, the Human Rights Council addressed the question of the realization of the right of the Palestinian people to self-determination in its resolutions 34/29, 34/30 and 34/31. In its resolution 34/29, the Council reaffirmed the inalienable, permanent and unqualified right of the Palestinian people to self-determination, including their right to live in freedom, justice and dignity and the right to their independent State of Palestine. It confirmed that the right of the Palestinian people to permanent sovereignty over their natural wealth and resources must be used in the interest of their national development, the well-being of the Palestinian people and as part of the realization of their right to self-determination, and urged all States to adopt measures, as required, to promote the realization of the right to self-determination

of the Palestinian people and to render assistance to the United Nations in carrying out the responsibilities entrusted to it by the Charter regarding the implementation of this right. In its resolution 34/30, the Council stressed the need for Israel to withdraw from the Palestinian territory occupied since 1967, including East Jerusalem, so as to enable the Palestinian people to exercise their universally recognized right to self-determination. In its resolution 34/31, the Council called upon Israel to put an end to all of the human rights violations linked to the presence of settlements, especially of the right to self-determination, and to fulfil its international obligations to provide effective remedy for victims.

B. Special procedures and the Expert Mechanism on the Rights of Indigenous Peoples

35. In her report to the General Assembly at its seventy-first session, the Special Rapporteur of the Human Rights Council on the rights of indigenous peoples provided a thematic analysis of conservation measures and their impact on indigenous peoples' rights (see [A/71/229](#)). The Special Rapporteur noted that taking stock of the standing in international law of indigenous peoples' rights in relation to conservation required consideration of the interrelatedness of self-determination and cultural and property rights (*ibid.*, para. 20). She stated that self-determination was considered an overarching right to indigenous peoples because of its cross-cutting nature and because it affirmed their right to freely pursue their economic, social and cultural development (*ibid.*, para. 22). In her report to the Council at its thirty-third session ([A/HRC/33/42](#)), she provided an analysis of the impacts of international investment agreements, including bilateral investment treaties and investment chapters of free trade agreements, on the rights of indigenous peoples. She noted that indigenous peoples were recognized as peoples vested with the right to self-determination (*ibid.*, para. 13). She recommended that investment dispute settlement bodies addressing cases having an impact on indigenous peoples' rights should promote the convergence of human rights and international investment agreements by, among other things, acknowledging the profound impacts of large-scale projects on indigenous peoples' self-determination rights and well-being (*ibid.*, para. 96). She also recommended that host States comply with their duty to regulate in relation to indigenous peoples' right to self-determination, by virtue of which indigenous peoples could determine their own social, cultural and economic development and maintain and develop their institutions, customs and decision-making processes (*ibid.*, para. 103).

36. In his report to the Human Rights Council at its thirty-third session, the Independent Expert on the promotion of a democratic and equitable international order noted that States parties to the International Covenant on Civil and Political Rights had an obligation to promote the realization of the right of self-determination and could not thwart it by entering into commercial agreements that effectively deprive peoples of their natural resources or entail land-grabbing or population displacement ([A/HRC/33/40](#), para. 19).

37. In its report to the General Assembly at its seventy-first session, the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination noted that both mercenaries and foreign fighters could exert specific influence on national self-determination ([A/71/318](#), para. 75). It observed that foreign fighters, who might fight for insurgent and revolutionary groups, often fought for national self-determination or a specific political vision of the State, and might subvert or support self-determination (*ibid.*, para. 76). The Working Group further observed in its report that the specific question of national self-determination might be less important than the fact that in

some cases the international community or significant portions thereof might support foreign fighters in their efforts to overthrow sovereign States (*ibid.*).

38. In his report to the Human Rights Council at its thirty-fourth session, the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 examined the current human rights situation in the Occupied Palestinian Territory, with a particular emphasis on the role and challenges faced by human rights defenders ([A/HRC/34/70](#)). He considered that legislation related to the legalisation of outposts suggested an ever-shrinking opportunity for Palestinians to realize their right to self-determination (*ibid.*, para. 8). In relation to Gaza, the Special Rapporteur referred to restrictions on movement and said that such restrictions negatively affected the right of Palestinians to self-determination (*ibid.*, para. 20).

39. In its report to the General Assembly at its seventy-first session, the Working Group on the issue of human rights and transnational corporations and other business enterprises acknowledged that a number of companies had recognized the ethical and practical imperatives for the commitment to respect free, prior and informed consent, and that several had made this commitment without differentiating between indigenous or non-indigenous peoples ([A/71/291](#), para. 74). The Working Group stated in its report that given the distinctive characteristics of indigenous peoples and their collective self-determination rights, the implementation of this commitment would necessarily be different in a local community that did not have its own institutional structures and customary laws and processes (*ibid.*).

40. In her report to the Human Rights Council at its thirty-fourth session, the Special Rapporteur in the field of cultural rights stated that cultural rights, understood as fully integrated within the human rights system, called for free self-determination of individuals, respect for cultural diversity, universality and equality ([A/HRC/34/56](#), para. 95).

41. The Expert Mechanism on the Rights of Indigenous Peoples presented to the Human Rights Council at its thirty-third session its summary of responses to the questionnaire seeking the views of States and indigenous peoples on best practices regarding possible appropriate measures and implementation strategies to attain the goals of the United Nations Declaration on the Rights of Indigenous Peoples ([A/HRC/33/58](#)). The summary provided details on the responses from States regarding specific legislative, policy or administrative measures relating to self-determination and autonomy (*ibid.*, paras. 16-24). At the same session, the Expert Mechanism on the Rights of Indigenous Peoples also presented to the Council the report containing the study on the right to health and indigenous peoples with a focus on children and youth ([A/HRC/33/57](#)). It was stated in the study that the right to health is, among other things, a central component of indigenous peoples' self-determination (*ibid.*, para. 18). In its advice No. 9 on the right to health and indigenous peoples, the Expert Mechanism advised indigenous peoples to strengthen advocacy efforts for the recognition of indigenous health rights and rights to self-determination (*ibid.*, annex, para. 29).

VI. Human rights treaty bodies

42. The right of all peoples to self-determination is affirmed in article 1, paragraph 1, of both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. It is in this context that the right to self-determination has been addressed by the Committee on

Economic, Social and Cultural Rights and the Human Rights Committee,¹ in their consideration of the periodic reports of States parties. The relevant concluding observations adopted during the reporting period are highlighted below.

A. Concluding observations by the Committee on Economic, Social and Cultural Rights

43. In its concluding observations on the fifth periodic report of Costa Rica ([E/C.12/CRI/CO/5](#)), adopted at its fifty-ninth session, held from 19 September to 7 October 2016, the Committee on Economic, Social and Cultural Rights was concerned about the failure to consistently respect the right of indigenous peoples to prior consultation with a view to obtaining their free, prior and informed consent in respect of decision-making processes that may affect their ability to exercise their rights, in particular their economic, social and cultural rights. The Committee was also concerned that the bill on the autonomous development of the indigenous peoples had not yet been passed into law and that, although the State had recognized indigenous territories, in practice many of those territories were occupied by non-indigenous persons, which gave rise to serious conflicts. The Committee recommended that Costa Rica ensure that indigenous peoples are regularly consulted with a view to obtaining their free, prior and informed consent in respect of decision-making processes that may affect their ability to exercise their economic, social and cultural rights; expedite discussions in the Legislative Assembly on the bill on the autonomous development of the indigenous peoples and set a specific time frame for the speedy enactment of the bill; and ensure and protect the right of indigenous peoples to own, use, develop and control the lands, territories and natural resources that they possess, including through such legal recognition and protection as may be necessary, and ensure that lands occupied by non-indigenous persons are returned to them (*ibid.*, paras. 8 and 9).

44. In its concluding observations on the combined fifth and sixth periodic reports of the Philippines (see [E/C.12/PHL/CO/5-6](#)), also adopted at its fifty-ninth session, the Committee noted the efforts made by the State party to protect the rights of indigenous peoples but was concerned at the conflicts between the protection of indigenous peoples' ancestral lands under sections 5 and 56 of the 1997 Indigenous Peoples' Rights Act and the provisions of the 1995 Mining Act and the 1974 Forestry Reform Code of the Philippines, as well as the delay in adopting the National Land Use Bill; the unsatisfactory implementation of the Indigenous Peoples' Rights Act as regards the demarcation and registration of indigenous peoples' territories; the limited mandate and capacity of the National Commission on Indigenous Peoples and the doubts that had been expressed concerning its ability to function as a truly independent body for the promotion and protection of the rights of indigenous cultural communities and indigenous peoples; the failure of the State party to uphold the right to free, prior and informed consent of indigenous peoples for any change to the use of their lands and territories and to implement the mandatory representation of indigenous peoples in local decision-making bodies; the displacement of indigenous peoples, particularly those in Mindanao, owing to the armed conflict and intertribal conflicts, as well as extractive and logging operations; and the limited access of indigenous peoples to health care, education and other basic services (*ibid.*, para. 13).

45. The Committee recommended that the Philippines should fully implement the 1997 Indigenous Peoples' Rights Act to ensure that, in accordance with the United Nations Declaration on the Rights of Indigenous Peoples, indigenous peoples' rights

¹ See also Human Rights Committee, general comment No. 12 (see [HRI/GEN/1/Rev.9 \(Vol. I\)](#)).

to their lands, territories and resources are fully recognized and protected and that their free, prior and informed consent is obtained in respect of the adoption of any legislation, policy or project affecting their lands or territories and other resources; prioritize the adoption of the National Land Use Bill and ratify the International Labour Organization Indigenous and Tribal Peoples Convention, 1989 (No. 169); strengthen the mandate and the capacity of the National Commission on Indigenous Peoples and take all measures necessary to enhance its independence and effectiveness, with a view to restoring its credibility among indigenous peoples; take the steps necessary to ensure the registration of indigenous lands, including through improving the collective land title claim process; ensure that the free, prior and informed consent of the indigenous peoples concerned is obtained before granting licences to private companies; and that indigenous peoples are represented by their own chosen representatives on local decision-making bodies, such as local mining boards and development units; adopt appropriate measures to mitigate the impact of armed conflicts, including intertribal conflicts, and natural disasters on indigenous peoples; and take all measures necessary to ensure the full access of indigenous peoples to health care, education and other basic services (*ibid.*, para. 14).

46. In its response to the concerns raised by the Committee, the Philippines provided some additional information on matters concerning indigenous peoples, specifically in relation to the consultation of indigenous peoples and the obtaining of free, prior and informed consent in relation to decision-making processes affecting their rights under the International Covenant on Economic, Social and Cultural Rights.²

B. Concluding observations by the Human Rights Committee

47. The Human Rights Committee adopted at its 118th session its concluding observations on the sixth periodic report of Morocco (CCPR/C/MAR/CO/6). The Committee took note of the Moroccan initiative for engaging in negotiations on autonomy for the Western Sahara region and the additional information provided by the State party but remained concerned about: the limited progress made in dealing with the issue of the self-determination of the people of Western Sahara; reports that the State party was not taking all necessary measures to consult the people of Western Sahara about the development of the natural resources of the Western Sahara; and the presence of the sand wall, also known as the “berm”, which limits the freedom of movement of the people of Western Sahara given the very few crossing points that are open to civilians and the presence of landmines and other explosive remnants of war along the berm that endanger the lives and safety of the communities located in the vicinity. The Committee recommended that Morocco continue and increase the efforts undertaken within the framework of negotiations concerning the status of the Western Sahara under the auspices of the Secretary-General so that the people of the Western Sahara may enjoy their right to self-determination; enhance meaningful consultations with the people of Western Sahara with a view to securing their prior, free and informed consent for development projects and resource extraction operations; and take the necessary steps to permit the people of Western Sahara to move about freely and safely on both sides of the berm, continue implementation of the demining programme along the berm and compensate victims (*ibid.*, paras. 9 and 10).

² See Philippines — Follow-up to fifth and sixth periodic reports to the Committee on Economic, Social and Cultural Rights, available at http://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/PHL/INT_CESCR_COB_PHL_26757_E.pdf.

VII. Conclusions

48. The right of peoples to self-determination is enshrined in article 1 of both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, which states that all peoples have the right of self-determination and that by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

49. During the reporting period, the main organs of the United Nations, including the Security Council, the General Assembly, and the Economic and Social Council, continued to discuss and adopt resolutions that referred to the right. The Human Rights Council, a subsidiary organ of the General Assembly, also continued to discuss and adopt resolutions that referred to the right.

50. The special procedures of the Human Rights Council and the Expert Mechanism on the Rights of Indigenous Peoples also discussed the implementation of the right to self-determination, in particular in relation to the human rights challenges faced by indigenous peoples, the interrelatedness of self-determination and cultural and property rights in this context and the right to health as a central component of indigenous peoples' self-determination.

51. The human rights treaty bodies addressed the right to self-determination through concluding observations on the periodic reports submitted by States parties to relevant treaties.

52. All States have an obligation to promote the realization of the right to self-determination and to respect that right, in conformity with the provisions of the Charter of the United Nations. In addition, as noted by the Human Rights Committee in relation to the International Covenant on Civil and Political Rights, the current 169 States parties to the Covenant should take positive action to facilitate realization of and respect for the right of peoples to self-determination.³ Such positive action must be consistent with the obligations of States under the Charter and international law. In particular, States must refrain from interfering in the internal affairs of other States and thereby adversely affecting the exercise of the right to self-determination. The effective implementation of the right to self-determination will contribute to greater enjoyment of human rights, peace and stability, and thereby prevent conflict.

³ See Human Rights Committee, general comment No. 12, para. 6 (see [HRI/GEN/1/Rev.9 \(Vol. I\)](#)); see also Committee on the Elimination of Racial Discrimination, general recommendation XXI, para. 3 (see [HRI/GEN/1/Rev.9 \(Vol. II\)](#)).