



# General Assembly

Distr.: General  
16 August 2012

Original: English

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## Human Rights Council

Twenty-first session

Agenda item 5

Human rights bodies and mechanisms

### **Summary of responses from the questionnaire seeking the views of States on best practices regarding possible appropriate measures and implementation strategies in order to attain the goals of the United Nations Declaration on the Rights of Indigenous Peoples**

#### **Report of the Expert Mechanism on the Rights of Indigenous Peoples**

##### *Summary*

This report summarizes responses from States to the questionnaire seeking their views on best practices regarding possible appropriate measures and implementation strategies in order to attain the goals of the United Nations Declaration on the Rights of Indigenous Peoples, as requested by the Human Rights Council in its resolution 18/8 of 29 September 2011.

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## I. Introduction

1. In its resolution 18/8 the Human Rights Council requested the Expert Mechanism on the Rights of Indigenous Peoples to undertake, with the assistance of the Office of the United Nations High Commissioner for Human Rights, a questionnaire to seek the views of States 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.

2. The questionnaire asked whether States had developed a national implementation strategy; whether specific legal, policy or other measures had been adopted to implement the Declaration; whether Governments take the Declaration into account when devising new laws, policies and other measures; whether steps have been taken to raise awareness of the Declaration at community and Government level; whether the Government had encountered any challenges when adopting measures to attain the goals of the Declaration; and States' views on best practices regarding appropriate measures and implementation strategies to attain the goals of the Declaration. In their responses, States were asked to consider six different thematic areas: self-determination and autonomy; participation in decision-making, including obligations to seek to obtain indigenous peoples' free, prior and informed consent; culture and languages; non-discrimination and equality; lands, territories and resources; and treaties, agreements and other constructive arrangements with States.

3. The Expert Mechanism thanks the States that responded to the questionnaire. State responses were received from Australia, Bolivia (Plurinational State of), Burkina Faso, Chile, Congo, Denmark, France, Guyana, Iraq, the Lao People's Democratic Republic, Mexico, Myanmar, New Zealand, Norway, Peru and the United States of America. The responses are available in full on the website of the Expert Mechanism.

4. The Expert Mechanism also thanks the Faculty of Law, University of Manitoba, Canada, for its technical assistance in reviewing the responses from States

## II. Questionnaire

5. The questionnaire is set out in full below:

In relation to each question, please take into account, and provide information in relation to, indigenous peoples' rights in relation to:

- Self-determination and autonomy.
- Participation in decision making, including obligations to seek to obtain indigenous peoples' free, prior and informed consent
- Culture and languages
- Non-discrimination and equality
- Lands, territories and resources
- Treaties, agreements and other constructive arrangements with states
- References to the Declaration are to the United Nations Declaration on the Rights of Indigenous Peoples.
- Measures and implementation strategies

**Does the State have an overarching national implementation strategy to attain the goals of the Declaration?**

If yes:

- Please provide details about the national implementation strategy
- Has the strategy been successful in attaining the goals of the Declaration?
- Were indigenous peoples included in the processes undertaken to establish the national implementation strategy?

If not:

- Please explain plans to develop and establish a national implementation strategy, including whether indigenous peoples will be consulted on these measures; or
- If there are no plans to establish a national implementation strategy, please explain why not

**Have specific legal, policy or other measures been adopted especially to implement any or all rights in the Declaration?**

If yes:

- Please provide detail about the measures adopted to implement the Declaration with reference to the specific rights in the Declaration, for example self-determination, participation in decision making, cultures and languages, non-discrimination and equality, lands, territories and resources and treaties, agreements and other constructive arrangements with states
- Is the Declaration explicitly mentioned in such measures?
- Have these measures been successful in attaining the goals of the Declaration?
- Were indigenous peoples included in the development of these measures?

If not:

- Please explain plans to adopt measures to implement the Declaration, including whether indigenous peoples will be consulted on these measures; or
- If there are no plans to adopt measures to implement the Declaration, please explain why not

**When devising laws, policies or other measures that affect indigenous peoples, do governmental bodies routinely take into account the Declaration (including indigenous peoples' rights to participate in decision making that affects them)?**

If yes:

- Are governmental bodies responding to an explicit and formalised law or policy making procedure that directs governmental bodies to take into account the Declaration?

If not:

- Do governmental bodies take into account the Declaration on an ad hoc basis?

- What steps, if any, are being taken to ensure governmental bodies take into account the Declaration?
- If there are no plans to ensure the Declaration is taken into account when devising laws or policies that affect indigenous peoples, why not?

**Has the Government endeavoured to raise awareness about the Declaration at various levels of the community and governance to enhance the prospects of its implementation?**

If yes:

- Please explain the initiatives the Government has undertaken
- Does this include translation of the Declaration into different languages?
- Has the Declaration been disseminated widely?

If not:

- What steps, if any, are planned to raise awareness about the Declaration?
- If there are no plans to raise awareness about the Declaration, why not?

**What are the main challenges encountered in adopting measures and implementing strategies to attain the goals of the Declaration?**

**In the light of the information provided above, what are your views on best practices regarding possible appropriate measures and implementation strategies to attain the goals of the Declaration?**

**Please also consider and, if relevant, comment on the role that can be played by international institutions, including the Expert Mechanism on the Rights of Indigenous Peoples, to assist States in adopting measures and implementation strategies to attain the goals of the Declaration**

### III. State responses

6. This section summarizes the responses from States to the questionnaire. It must be borne in mind that non-State actors, including indigenous peoples, may have conflicting views on the benefits of measures adopted to implement the Declaration or ideal strategies to achieve its implementation.

#### A. National implementation strategies

7. Many States indicated that they had a national strategy to implement the Declaration. Guyana indicated that its implementation strategy was adumbrated in several policy documents, at least one of which was developed in consultation with the great majority of Amerindian communities. Mexico's National Development Plan addresses indigenous peoples specifically and its Commission for the Development of Indigenous Peoples is required to assist indigenous peoples in their exercise of their self-determination.

8. Several States indicated that the principles of the Declaration are reflected in national legislation. For example, the Congo indicated that the fundamental principles of the Declaration are incorporated in its Loi No. 5-2011, "Promotion et protection des droits des populations autochtones". Some States, for example Peru and Myanmar, identified

existing national laws and policies which relate to specific areas of the Declaration such as education and culture. However, it is unclear whether these laws and policies were developed to specifically to implement the goals of the Declaration.

9. Some States, such as New Zealand and Norway, indicated that existing national laws and policies already conformed to the principles contained in the Declaration and therefore they have not developed additional strategies to implement the Declaration. Australia noted synergies between existing policies addressing Aboriginal peoples and the Declaration.

10. The response of the Plurinational State of Bolivia did not explicitly indicate whether it had a specific strategy to implement the Declaration. However, its national development plan, entitled “Bolivia digna, soberana, productiva y democrática para vivir bien”, was developed to achieve the Millennium Development Goals and the objectives of the second International Decade of Indigenous Peoples. Chile’s strategy to implement its international obligations in relation to indigenous peoples domestically is focused on five areas: culture, identity and education; land; institutional capacity; participation and consultation; and integral development. This policy was developed through dialogue with the nine indigenous peoples in the country.

11. Australia, despite not having a formal strategy for implementing the Declaration, cited its 2009 National Apology to Australia’s indigenous peoples, and in particular to the stolen generations, as a symbolic gesture signalling its commitment to implementing the Declaration.

12. The majority of the responses did not provide details on the scope and nature of States’ national implementation plans. Nor did State responses indicate how these laws and policies were developed or whether they were developed in consultation with indigenous peoples.

## **B. Legal, policy or other measures adopted especially to implement the rights in the Declaration**

### **1. All the rights in the Declaration**

13. The Plurinational State of Bolivia has passed Law No. 3760 of 7 November 2007, on the United Nations Declaration on the Rights of Indigenous Peoples. In its response, Bolivia provided extensive information on laws and programmes that are relevant to the implementation of the rights in the Declaration, including in the areas of education and languages, communications and media, housing, economic policies, food security, land and agricultural development, justice and women’s rights in the administration of justice in particular, human rights, land, water, consultation processes, decolonization and processes to reduce patriarchy.

14. Chile also provided a comprehensive overview (article by article) of measures to implement the rights set out in the Declaration. Its response focused on five areas: culture, identity and language; land; institutions; participation and consultation; and development. These measures ranged from laws to policies and programmes.

15. In 2011, the Congo passed a law for the promotion and protection of the rights of indigenous peoples, which incorporates the fundamental principles of the Declaration. The law addresses many areas including consultation, administration of internal affairs and recourse to customs to resolve internal conflicts, protection of customs and traditional institutions, intellectual property relating to traditional knowledge, protection of sacred sites, education, and individual and collective property rights.

16. The Mexican Commission for the Development of Indigenous Peoples has as one of its principal objectives the harmonization of federal and state-level laws with respect to the rights of indigenous peoples. It has referenced the Declaration in its work in this area.

## **2. Self-determination and autonomy**

17. Mexico's Constitution, as a result of amendments in 2001, recognizes indigenous peoples' self-determination and their collective rights.

18. Several States identified legislation that recognized indigenous peoples' right to autonomy. Most of the legislative provisions recognizing or creating indigenous autonomous areas require indigenous peoples to vote in favour of becoming autonomous. Indigenous jurisdiction over these autonomous areas varies. Some States indicated that these autonomous areas utilize indigenous peoples' own laws and institutions.

19. Bolivia has begun a process of recognizing the autonomy of indigenous communities. Several communities have voted in favour of autonomy and have begun the process of developing their statute for autonomy with technical support from the Ministry of Autonomy. The process recognizes the need for equal participation of women in the governance structure.

20. Burkina Faso has also begun a process of decentralization through its Loi LNo. 055-2004/AN. This law entrenches the right of territories to govern themselves and to manage their own affairs to promote their own development and reinforce local governance. This decentralization process has transferred jurisdiction in socio-economic and cultural matters, specifically in the areas of education, health, culture and economic development projects.

21. The law in the Congo guarantees indigenous peoples the right to administer their internal affairs and to have recourse to their customs to resolve internal conflicts. The law also protects indigenous peoples' customs and traditional institutions.

22. The Constitution of Guyana established the Indigenous Peoples' Commission, which is one of five constitutional rights commissions. The objective of the Indigenous Peoples' Commission is to "establish mechanisms to enhance the status of indigenous peoples and to respond to their legitimate demands and needs". As part of its mandate, the Indigenous Peoples' Commission offers recommendations on indigenous peoples' participation in national decision-making and other decisions that affect their lives. In Guyana, the Amerindian Act 2006 provides for Village Councils to govern internal affairs.

23. Denmark passed the Act on Greenland self-government in 2009. Under the preamble, the people of Greenland are recognized as a people under international law with the right to self-determination. The current Government of Greenland is a democratically elected public Government where all the current members of Parliament and Government are of Inuit descent.

## **3. Participation in decision-making, including obligations to seek to obtain indigenous peoples' free, prior and informed consent**

24. Most States provided information on legislative and policy measures to implement the right to participate in decision-making. There were two aspects to the information provided: participation in national decision-making and consultation on decisions affecting indigenous peoples' rights.

25. In Bolivia, indigenous peoples are represented in legislative bodies. In the Parliament of Burkina Faso there are Peulh and Tourareg elected representatives and ministers of the Government.

26. In the Congo, legislation ensures the participation of indigenous peoples in decision-making. Peru has also passed a law on the right to prior consultation as recognized in ILO Convention 169, which was promulgated on 23 August 2011.

27. France indicated that in its department of French Guiana an advisory board of Amerindians and Bushinengué was established in 2010. The regional councils and the general council consult this board on any plans or proposals which may affect the environment or the cultural activities of the Amerindians and Bushinengué.

28. Chile undertook a consultation on indigenous institutions, which was modified after receiving complaints from indigenous leaders on the process. The first stage of consultation is now aimed at a consultation on developing consultation procedures.

29. In 2005 the Government of Norway and the Sami Parliament concluded an agreement on procedures for consultations to ensure that new measures and legal provisions are in accordance with the Sami peoples' rights. The Procedures for Consultations also seek to ensure that the Sami peoples can genuinely participate in and have a real influence on decision-making processes that may directly affect Sami interests. The Government has by Royal Decree confirmed that the agreed procedures apply to the whole central Government administration.

30. In Guyana, titling and demarcation of Amerindian lands and territories requires their free, prior and informed consent.

31. Australia has an indigenous engagement framework which, it states, captures its aspirations to engage effectively with indigenous peoples. The National Congress of Australia's First Peoples is a vehicle to provide a voice for Aboriginal and Torres Strait Islander peoples in strategic national matters.

32. In the United States of America, pursuant to Executive Order 13175 on "Consultation and Coordination with Indian Tribal Governments", federal agencies are required to consult with tribal officials when making decisions that affect tribal communities.

33. Mexico's Commission for the Development of Indigenous Peoples has established a system for consultation with indigenous peoples which allows for their participation in the definition, design, implementation and evaluation of programs, projects and Government actions.

#### **4. Culture and languages**

34. There were examples of indigenous languages being recognized in State constitutions. However, the most common response was to highlight the importance of education to promote and implement indigenous peoples' rights to culture and language. There were a few examples of indigenous languages being taught in national schools. A few States explicitly indicated that curricula were developed in consultation with indigenous peoples. Some States indicated a need to overcome negative stereotypes of indigenous cultures and languages in order to preserve and promote their use.

35. The Bolivian education system has been undergoing changes, based on an ideology and political practice of decolonization, liberation, revolution, anti-imperialism and transformation without discrimination or exploitation. The revamped education system provides cultural education, which contributes to the affirmation and strengthening of cultural identities, recognition, assessment and development of indigenous peoples' culture in dialogue with other cultures and language. The Bolivian Constitution provides for education to begin in the mother tongue of each region. The Bolivian Constitution also provides for the creation of indigenous universities for indigenous youth.

36. In Peru, the Declaration was explicitly invoked by the Minister of Education in the creation of the National Commission on Intercultural Bilingual Education (CONEIB). Peru has also passed a law on Intercultural Bilingual Education, which aims to recognize cultural diversity and promote intercultural bilingual education in regions inhabited by indigenous peoples. Peruvian law also recognizes and guarantees the right of indigenous peoples to conditions of education equal to the rest of the nation. The Minister of Education is to design and implement a national plan for intercultural bilingual education. Indigenous peoples are to participate in the formulation and implementation of these education programs.

37. Chile identified programmes for the teaching and learning of indigenous languages and cultures in the nation's schools. The Constitution of Guyana provides protection of indigenous peoples right "to protection, preservation and promulgation of their languages, cultural heritage and way of life." The Constitution of Iraq guarantees an Iraqi individual's right to education in his or her mother tongue.

38. The Constitution of the Lao People's Democratic Republic recognizes the Lao language as the official language and dialect of the country. However, in day-to-day life, each ethnic group is free to preserve and use its dialect in family and community for the preservation of their culture and traditions.

39. In the Congo, the law guarantees collective and individual rights of indigenous peoples to their intellectual property relating to traditional knowledge. The law also protects cultural, religious and spiritual property.

#### **5. Non-discrimination and equality**

40. Several States indicated that their constitutions provide for non-discrimination and equality, such as the Chilean Constitution. The Guyana Constitution also prohibits discrimination on the basis of race.

41. Some States indicated that the principle of equality prohibited States from treating any one group differently from another group. The Constitution of the Lao People's Democratic Republic stipulates that all Lao citizens are equal before the law. According to the Government, in accordance with the principle of equality, every ethnic group is special and therefore no one is more special than any other group, which has contributed to peace and harmony and solidarity among Lao's multi-ethnic peoples.

#### **6. Lands, territories and resources;**

42. Several States mentioned processes under way to demarcate and title indigenous peoples' lands. A few States referenced the collective nature of these titles. Several States indicated that indigenous peoples have certain governmental authority or jurisdiction over their lands.

43. Bolivia is strengthening the process of land redistribution and community self-management. Bolivia has also published and distributed an Atlas of Indigenous Territories. Chile relaunched mechanisms to transfer land to indigenous peoples in transparent and objective conditions. The collective property rights of indigenous peoples in the Republic of Congo are protected by the law.

44. France identified the creation of the Guyana Amazonian Park in French Guiana as providing protection to indigenous peoples in the area to maintain and preserve their subsistence practices, as well as preserving the natural resources they exploit.

45. In Guyana, the 2003 Constitution provides protection over property, including Amerindian property. Under the Amerindian Act 2006, Amerindians are granted title to their lands absolutely and forever. Titling and demarcation of Amerindian villages must

occur with Amerindians' free, prior and informed consent. These lands and resources are governed by Village Councils, who have rule-making powers governing "the management, use, preservation, protection and conservation of village lands and resources or any part thereof". To date, there has been an increase in the percentage of Amerindian land titled and demarcated.

46. New Zealand respects the importance of Maori peoples' relationship with their land and resources, but also maintains the existing legal regimes for ownership and management of land and natural resources.

#### **7. Treaties, agreements and other constructive arrangements with States**

47. New Zealand indicated that the Treaty of Waitangi is the foundational document for the relationship between the Government and Maori. New Zealand is committed to settling outstanding treaty grievances by 2014. New Zealand indicated that increased resources and funding are being provided to continue the settlement process.

### **C. Consideration of the Declaration when devising new laws and policies**

48. Based on the responses, no State has passed explicit laws requiring the Declaration on the Rights of Indigenous Peoples to be considered when devising new laws, policies or other measures. However, there are examples where the goals and principles of the Declaration inform processes leading to new laws and policies.

49. Several States have formalized processes and enacted legislation requiring indigenous peoples' participation in decision-making. These laws generally require prior consultation when States make decisions that directly affect indigenous peoples' rights. Some States make specific reference to the requirement of free, prior and informed consent in relevant laws and policies. Many States indicated that measures requiring consultation were developed in consultation with indigenous peoples. There were a few examples of consultation occurring through indigenous peoples' own institutions and decision-making processes.

50. The Congo's law on the promotion and protection of the rights of indigenous peoples was elaborated through a process which allowed for public participation including governmental actors, civil society and international experts. Indigenous peoples were consulted in their localities in all departments where there is a significant concentration of indigenous peoples. Indigenous peoples also played an active role in the discussions leading to the final draft of the legislation.

51. Consultation with indigenous peoples in the Plurinational State of Bolivia is part of the principles of openness and transparency promoted by the Government. In Bolivia, there are several laws in place that require consultation with indigenous peoples and their participation in decision-making.

52. The Chilean Indigenous Act recognizes and safeguards indigenous peoples and their lands in Chile, as well as recognizes indigenous institutions and cultures. The Indigenous Act provides special measures for the practical application of the obligations of consultation and participation. This Chilean law recognizes that indigenous peoples should be consulted through their traditional organizations as well as those communities, organizations and associations recognized under the Indigenous Act. In one instance, when indigenous peoples expressed concern with the process used for consultation, the government adjusted the process for discussing new indigenous institutions and constitutional recognition.

53. In Guyana, the Amerindian Law 2006 requires free, prior and informed consent of Amerindian Villagers on issues that require their involvement or support in the areas of land or mining, titling and demarcating lands, entry and access to Amerindian villages, and use of natural resources.

54. In New Zealand, one example of Maori participation in decision-making occurs through negotiated agreements for the co-management of resources, such as Crown-owned conservation lands and National Parks. Additionally, recent jurisprudence concluded that the common law is to be developed consistently with emerging human rights norms and the Treaty of Waitangi.

55. Peru has enacted a law that recognizes the right of indigenous peoples to prior consultation on legislative or administrative measures that directly affect their collective rights in the areas of physical existence, cultural identity, territory, education, health, quality of life and development of their peoples. This law also extends to national and regional plans, programmes and development projects that directly affect indigenous peoples' rights. The regulations of this Act are being drafted with the participation of various government agencies and representatives of indigenous peoples.

56. Several States indicated that, based on principles of formal equality of all citizens, there is no law that provides special recognition or processes for indigenous peoples to participate in decision-making. In Burkina Faso, the decentralization law takes into account the considerations set out in the Declaration. However, Burkina Faso does not wish to create a hierarchy among populations within the State and thus does not explicitly consider the Declaration when devising new laws and policies.

#### **D. Initiatives to raise awareness of the Declaration at community and government levels**

57. State responses indicated several direct measures to raise awareness of the Declaration. Some States indicated a preference to focus awareness campaigns on general human rights instruments, such as national laws or human rights treaties. Awareness-raising initiatives were aimed at both Government and indigenous peoples. There were a few examples where education and training on indigenous peoples' rights was part of the awareness initiatives

58. The Mexican Commission for the Development of Indigenous Peoples has disseminated the Declaration within the Government and been instrumental in the translation of the Declaration into 18 indigenous languages.

59. The Congo has focused awareness-raising on national and international human rights and indigenous peoples' rights instruments. During "Parliamentary days" there were efforts taken to educate Congolese parliamentarians on the rights of indigenous peoples and the Declaration was explained to the parliamentarians.

60. The Ministry of External Relations of Bolivia, with the International Labour Organization South America Regional Office, developed a series of workshops on "The scope of the ILO Convention 169: Challenges for application and implementation and strategies for action". These workshops were directed at various officials in Bolivia, public servants and indigenous peoples. Bolivia has also created and distributed materials (books, pamphlets and audio-visual material) on collective rights.

61. Chile has a programme, "Strengthening national capacities for conflict prevention and intercultural management in Chile", which includes support for activities whose purpose is the dissemination of information and training related to indigenous peoples' rights recognized by international law with an emphasis on ILO Convention No 169.

62. France indicated that it has an ambassador for human rights and that on International Day of Indigenous Peoples, round tables were organized as well as cultural events held in Guyana.

63. Following the enactment of the Amerindian Act in Guyana, there was a recognized need for education and awareness for the Village Councils and community members. Several training programmes have been conducted and an “Amerindian Act Made Simple” brochure was published and distributed to all leaders and community members, which provided a non-technical explanation of the law. The Government of Guyana also executes capacity building programmes and workshops for government employees. As well, indigenous leaders can seek clarification of the Amerindian law during their biennial meetings.

64. Australia’s national human rights institution developed an overview, a community guide and a poster on the Declaration, which sought to highlight practical examples of how the Declaration can benefit indigenous Australians.

65. A few States indicated that, while they were not taking action to promote the Declaration, however, information on the Declaration is distributed by other organizations within the State. With the announcement of support for the Declaration, there was widespread publicity of the Declaration in New Zealand. The New Zealand Human Rights Commission has translated the Declaration into Te Reo Maori and has publicized the content and significance of the Declaration. While different organizations that work in Peru have produced some materials, there is no national campaign to provide understanding of the Declaration.

66. Some States expressed hesitation about directly promoting the Declaration and the rights of indigenous peoples. Burkina Faso notes that its national cultural policy promotes principles of respect, but does not indicate any measures to promote the rights of indigenous peoples.

## **E. Challenges in adopting measures and implementing strategies to attain goals of the Declaration**

67. One of the biggest challenges identified is the lack of awareness and knowledge of the Declaration and other international instruments on the rights of indigenous peoples to ensure the respect for these rights. One State indicated that this lack of knowledge is exacerbated by a lack of larger civil society engagement in indigenous peoples’ rights. Moreover, the rights of indigenous peoples are often not priorities.

68. A few States indicated that a challenge they experienced was a lack of information on how to implement the Declaration. In particular, there was an identified need to improve mechanisms for dialogue and information exchange between the State and indigenous peoples.

69. One State cited the lack of definitional consensus on the meaning of terms such as self-determination, sovereignty and free, prior and informed consent as an impediment to the practical implementation of the Declaration.

70. Another main challenge identified was the cost of implementing the Declaration and the limited resources available to undertake this work. Specifically, the cost of land demarcation and titling was identified. One State indicated that the remoteness of indigenous communities poses challenges to access to and timely delivery of goods and services, as well the inherent prohibitive costs in delivering these goods and services. In addition, there are challenges in preserving and publishing State materials in all of the many indigenous languages that may exist within a single State.

71. Another challenge identified was the need for regional variances in implementation. Specifically, each Government's policies are not organized in the same manner.

72. One State indicated that it is a challenge to develop national legislation. Further, there is a need to incorporate and implement international commitments in public policies. Also, one state expressed concern because there is a need to ensure that policies developed for indigenous peoples also contribute to the development of the national society.

73. A major challenge discussed was in relation to monitoring and enforcement of laws, particularly mining and forestry laws. One State indicated that it is a challenge to prevent unethical foreign researchers and non-governmental organizations from misappropriating indigenous peoples' intellectual property rights and traditional knowledge.

74. Some States did not identify any challenges but rather reiterated the rights enjoyed by indigenous peoples within the State.

## **F. Best practices**

75. In their responses, States indicated many measures and best practices for implementing the Declaration on the Rights of Indigenous Peoples. To fully realize the goals of the Declaration, Governments need to commit to an ongoing implementation process and continue building on achievements.

76. Where treaties, agreements and other constructive arrangements already exist, these instruments can provide the foundation for partnership, mutual respect, cooperation and good faith between States and indigenous peoples. The Nouméa Accord between France and the Kanaks of New Caledonia recognized the harmful effects of colonization, returned confiscated land to the indigenous peoples, provided full participation of Kanak people in decision-making, and established a consultation process.

77. Chile's approach to hold regional round tables for a "historic reunion" is an example of a process to create a national plan to attain the goals of the Declaration. Government, churches, civil society organizations, and indigenous representatives participated in these roundtables. The goals were to build trust and identify topics that are important to indigenous peoples.

78. Many States set out a multi-pronged approach to implementing the rights in the Declaration. Some States used constitutional, legislative and policy measures to implement the Declaration. Some States drafted new legislation, amended existing legislation, created new programs and initiatives, and increased involvement in international indigenous issues. This multi-pronged approach can include a special law recognizing the rights of indigenous peoples, which is developed with the effective participation of indigenous peoples based on the principle of free, prior and informed consent.

79. Bolivia particularly demonstrated good practices of gender equality by recognizing the need to ensure programmes specifically target and benefit indigenous women.

80. States can work with United Nations agencies to substantially improve the situation of indigenous peoples, especially with those agencies providing technical assistance. Chile identified the need for ongoing support by the international community in the implementation of strategies to achieve the Declaration, especially in the studying and publicizing best practices to assist States in achieving the goals of the Declaration.

81. The African Commission on Human and Peoples' Rights and the United Nations Special Rapporteur on the rights of indigenous peoples supported the Congo in the adoption of the special law for indigenous peoples. Technical assistance from the international

community, including information and capacity building, will, in the opinion of some States, significantly benefit and improve implementation.

82. To attain the goals of the Declaration, States promoted capacity-building for indigenous peoples. Further, States encouraged efforts to strengthen indigenous peoples' institutions, non-governmental organizations and self-government structures. There was also a recognized need to provide opportunities for indigenous peoples to participate as equal partners in the development process of the entire country. Australia pursues a policy of focusing on addressing indigenous disadvantage in areas such as education, health services, community development and community safety.

83. States also identified best practices in the area of education and promoting indigenous peoples' languages and cultures. It is important to include indigenous languages within the education system. This includes developing strategies for implementing bilingual and intercultural education, which includes indigenous peoples' participation. In addition, cultural centres can be created to promote indigenous cultures. Finally, some States recognized indigenous languages as official languages.

84. To attain the goals of the Declaration, some States indicated that a special budget for consultation with indigenous peoples was created. Other States provided funds to address issues facing urban indigenous peoples and undertake studies on employability. To this end, States indicated that international financial institutions will need to aid developing countries throughout the implementation process.

#### **IV. Concluding comments**

85. **The Expert Mechanism very much appreciates States' responses to its questionnaire, especially because the responses can provide inspiration to creatively devise strategies to implement the Declaration. However, the Expert Mechanism is disappointed with the low number of responses to its questionnaire overall and is concerned that it could reflect a broader lack of political will on the part of States to implement the Declaration. The Expert Mechanism would therefore like to request the Human Rights Council to extend the timeframe to enable states to respond to the questionnaire so that the Expert Mechanism can prepare a more comprehensive report in 2013.**

86. **The majority of responses received provided information at a very general level. In particular, there was almost no information provided indicating the effectiveness of the measures taken. Most States only provided positive answers to questions. Negative answers would also provide greater context for understanding the challenges States face when implementing the Declaration.**

87. **While not explicitly stated in the responses to the questionnaire, some States appear to perceive there to be a struggle to balance the recognition and implementation of the rights of indigenous peoples as articulated in the Declaration and the principle of equality. Equality continues to be interpreted by some States to prohibit specialized programmes aimed at achieving the goals of the Declaration. The Expert Mechanism stresses that substantive equality can require treating indigenous peoples as distinct groups facing unique circumstances**

88. **One challenge raised by Guyana was that there are "attempts by a few persons and NGOs to undermine the land titling and demarcation process by advising Indigenous peoples to claim more lands than they traditionally occupy, reject the process of titling and demarcation and or to make no request for such demarcation". Such frustration indicates that a tension may exist between States and indigenous**

**peoples and non-governmental organizations on the best approach to achieving the goals of the Declaration. Again, additional information by States on how to work through these differences to promote harmonious relations would greatly assist other States to continue to work towards implementation.**

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