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**Human rights: dialogue with the Special Rapporteur
on the situation of human rights and fundamental
freedoms of indigenous peoples**

Information received from the United Nations system and other intergovernmental organizations

Office of the United Nations High Commissioner for Human Rights

Summary

The present report is submitted pursuant to the recommendations made by the Permanent Forum on Indigenous Issues at its fifth session and addressed directly to the Office of the United Nations High Commissioner for Human Rights (OHCHR). It also refers to the activities undertaken by OHCHR in 2006 that are relevant to the work of the Permanent Forum. OHCHR draws particular attention to the report of the United Nations High Commissioner on Human Rights submitted to the Human Rights Council at its fourth session, which describes all the activities carried out under the auspices of OHCHR in 2006 to promote and protect the rights of indigenous peoples. The annex to the report contains the Santa Cruz de la Sierra Appeal, the outcome of the Regional Seminar on indigenous peoples in voluntary isolation and in initial contact of the Amazonian Basin and El Chaco, which took place from 20 to 22 November 2006 in Santa Cruz de la Sierra, Bolivia.

* E/C.19/2007/1.



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I. Introduction

1. The present report is submitted pursuant to the recommendations made by the Permanent Forum on Indigenous Issues at its fifth session and addressed directly to the Office of the United Nations High Commissioner for Human Rights (OHCHR) and to the human rights mechanisms for which the latter functions as secretariat. It also gives details of activities carried out to follow up other recommendations made by the Permanent Forum at its second, third and fourth sessions.

II. Follow-up to the recommendations of the Permanent Forum on Indigenous Issues addressed to the Human Rights Council

2. The Permanent Forum on Indigenous Issues makes a number of recommendations concerning activities to be undertaken by the Human Rights Council. Those recommendations were transmitted to the secretariat of the Human Rights Council, which took note of them for further consideration.

3. It will not be possible to address some of the recommendations (paras. 67, 72 and 79) before the mandate review, which, in accordance with General Assembly resolution 60/251 establishing the Human Rights Council, will take place during the Council's first year of operation. The Human Rights Council will consider those issues during the first half of 2007. Additional information will be submitted to the Permanent Forum on Indigenous Issues at its seventh session.*

4. Paragraph 80 contains a recommendation to the effect that, in the course of a universal periodic review, the situation of indigenous peoples of a country under consideration should also be examined. However, on the date of submission of the present report, the Human Rights Council had not yet established the relevant mechanism for conducting the aforementioned universal periodic review, and that issue will therefore be considered during the first half of 2007. At its special sessions in 2006, the Human Rights Council discussed the urgent situations in Palestine, Lebanon and the Sudan.

5. At its first session, the Human Rights Council adopted, by a large majority, resolution 12, by which it adopted the draft declaration on the rights of indigenous peoples and recommended its adoption to the General Assembly. The Council adopted the draft in accordance with the recommendation contained in paragraph 68 of the report on the fifth session of the Permanent Forum on Indigenous Issues, which stipulates that the draft declaration should be adopted without amendments. However, the final version of the draft declaration must still be adopted by the General Assembly.

A. Treaty bodies

6. In the reports on its various sessions, the Permanent Forum on Indigenous Issues has made recommendations designed to ensure that the human rights system devotes particular attention to the situation of indigenous peoples.

* E/C.19/2007/3/Add.2.

7. In recent years, the treaty bodies have mainstreamed indigenous issues into their work, and particular attention has been devoted to indigenous peoples both in recent general comments and during the periodic reviews of the situation in Member States. Accordingly, when the various committees consider the situation in States with indigenous populations, special attention is paid to their situation and specific reference is made to them. More information about the concluding comments on the various country reports can be found in the report of the High Commissioner for Human Rights submitted to the Human Rights Council at its fourth session.

8. In paragraph 77 of the report on its fifth session, the Permanent Forum recommends that human rights treaty bodies should initiate dialogue with indigenous peoples' organizations with a view to preparing general comments relevant to indigenous peoples. That recommendation was transmitted to the secretariats of the various treaty bodies, which transmitted it to their members for consideration. In 2006, the Committee on the Rights of the Child drafted a general comment on the rights of children with disabilities, which contains several references to indigenous children. The general comment on children's rights in juvenile justice, drafted in 2007, also mentions indigenous children.

9. Paragraph 75 of the report recommends examining the plight of indigenous peoples from French Polynesia, Guam and the Marshall Islands who have been victims of the effects of nuclear testing in the region. That recommendation was transmitted to the secretariats of the various treaty bodies, which transmitted it to their members.

10. Paragraph 78 recommends that the Committee on the Elimination of Racial Discrimination should elaborate a general comment on discrimination in housing, taking into account the situation of indigenous peoples. That recommendation was transmitted to the secretariat of the Committee, which, in turn, transmitted it to the Committee members. Additional information will be provided to the Permanent Forum at its seventh session.

11. Paragraph 91 of the report refers specifically to a possible general comment of the Committee on the Rights of the Child, and points to the need to involve representatives of indigenous peoples in the drafting process. The Committee is currently preparing a final draft. The subgroup on indigenous children and youth, which is composed of non-governmental organizations (NGOs) and has more than 40 members from all continents, participated in that process. The sole aim of the subgroup is to study the rights of indigenous children, and indigenous peoples' organizations take an active part in its work. Drafting the general comment is an open process, and interested individuals and institutions may contact the subgroup directly to request or provide information. OHCHR will provide relevant details to the Permanent Forum on Indigenous Issues at its seventh session.

B. Special procedures of the Office of the United Nations High Commissioner for Human Rights¹

12. In paragraph 73 of the report on its fourth session, the Permanent Forum recommended that the Special Rapporteur on the situation of human rights and

¹ For additional information on the activities carried out under the special procedures in 2006, see the OHCHR report to the Human Rights Council in 2007 and the OHCHR web page, where the reports of all the special procedures of the Human Rights Council may be found.

fundamental freedoms of indigenous peoples should pay special attention to isolated indigenous peoples.

13. The Special Rapporteur's report on his mission to Ecuador (A/HRC/4/32/Add.2) assesses the situation of the country's isolated indigenous peoples. In addition, in the thematic report of 2007, which examines the trends and challenges concerning the protection of the rights of indigenous peoples, the Special Rapporteur pays special attention to the situation of isolated peoples, endorsing many of the recommendations of the Regional Seminar on Indigenous Peoples in Voluntary Isolation and in Initial Contact of the Amazonian Basin and El Chaco.

14. Paragraph 51 of the report on the fifth session of the Permanent Forum recommends that the Special Rapporteur on violence against women and the Special Rapporteur on trafficking in persons, especially women and children, should participate in the sessions of the Permanent Forum. This recommendation was transmitted to the Special Rapporteurs, who are expected to participate in the current session of the Permanent Forum.

15. Indigenous issues have been mainstreamed into the work of many of the special procedures of the Human Rights Council. Special Rapporteurs hold meetings with indigenous organizations while on mission to countries with an indigenous population and incorporate the situation of indigenous peoples into their annual reports. For example, during his mission to Australia in 2006, the Special Rapporteur on adequate housing held consultations with the representatives of indigenous peoples' organizations and included an entire section on the situation of these communities in the mission report.

16. The Special Rapporteur on trafficking in persons, especially women and children, sent a questionnaire on forced marriage to organizations of indigenous peoples with a view to gathering information, and the annual report of the Special Rapporteur on violence against women examines the intersections between violence against women and culture. Indigenous representatives participated in the seminars preceding the reports, in accordance with the recommendation contained in paragraphs 45 and 48 of the report of the third session of the Permanent Forum. The Special Rapporteur's thematic report reproduces the discussions of those seminars and includes specific recommendations on the recognition of the rights of indigenous women in the declaration on the rights of indigenous peoples. The reports on her missions to Mexico and Guatemala also include a section entitled "Violence against indigenous women".

17. The Special Representative of the Secretary-General on the situation of human rights defenders has intervened in several cases concerning threats against or persecution of leaders of indigenous communities or their support organizations, and considers indigenous claims to be a way of defending human rights. The Special Representative's annual report to the fourth session of the Human Rights Council gives an account of specific situations concerning indigenous defenders.

C. Office of the United Nations High Commissioner for Human Rights

18. In paragraph 83 of the report on the fifth session, the Permanent Forum recommended that effective measures should be taken to protect the rights of

indigenous peoples in voluntary isolation. In paragraph 73 of the report on the fourth session, it had recommended that the situation of these peoples should be the theme of an international meeting, and this recommendation was reiterated in the report on the fifth session. A Regional Seminar on Indigenous Peoples in Voluntary Isolation and in Initial Contact of the Amazonian Basin and El Chaco was jointly organized by OHCHR, the Vice-Ministry of Lands of the Government of Bolivia, the International Working Group for Indigenous Affairs and the Confederacy of Indigenous Peoples of Bolivia and was funded by the Spanish Agency for International Cooperation, the Danish International Development Agency and the Norwegian Agency for Development Cooperation. This seminar was held in Santa Cruz de la Sierra, Bolivia, from 20 to 22 November 2006. The Santa Cruz appeal, which was agreed on by all participants in the meeting (representatives of Governments and indigenous organizations, international organizations and experts), is included in the annex to this report. In addition, the full report of this seminar contained in document E/C.19/2007/CRP.1, which includes a list of participants and the programme, will be submitted to the Permanent Forum.

19. In paragraphs 85 and 108 of the report on the fifth session, the Permanent Forum makes two recommendations to OHCHR concerning activities in Africa. OHCHR is preparing this plan of action, which will be coordinated by the African Commission on Human and Peoples' Rights and the African Commission's Working Group on Indigenous Populations/Communities in Africa. Consultations with African organizations are planned for the first half of 2007 as well as activities to promote dialogue between indigenous representatives and States with respect to the declaration on the rights of indigenous peoples. These activities also respond to the recommendation made in paragraph 93 of the report on the second session of the Permanent Forum. Additional information will be provided at the seventh session of the Permanent Forum.

20. In paragraph 112 of the report on the fifth session, the Permanent Forum recommends that the international community should pay special attention to the situation of the Batwa people and should support the San community. In 2006, OHCHR supported the Government of the Republic of the Congo in drafting a law on the promotion and protection of indigenous rights. If adopted, this law would become the standard for the rights of indigenous peoples in Africa and would benefit the country's Batwa, Baka, Baaka and Bacongo communities. In addition, three representatives of communities pejoratively known as pygmies, including one Batwa, participated in the OHCHR fellowship programme. Lastly, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples has sent communications to the Government of the Democratic Republic of the Congo and the Government of Botswana concerning allegations of violations of the rights of the Batwa and San peoples.

21. Paragraph 89 of the Permanent Forum's report on its fifth session recommends that international organizations, inter alia, should hold seminars on the implementation of the Special Rapporteur's recommendations. The OHCHR Andean Project, the United Nations Children's Fund Americas and the Caribbean Regional Office and the United Nations Development Fund for Women have started work on a regional study in Peru, Ecuador and Bolivia on follow-up of the Special Rapporteur's thematic recommendations. The results of this study will be submitted to the seventh session of the Permanent Forum. Similarly, the OHCHR Andean Project held meetings in Ecuador in 2006 and has published a booklet on the Special

Rapporteur's mandate which has been distributed among Ecuadorian indigenous organizations.

22. In paragraphs 37 and 65 of the report on its fourth session, the Permanent Forum recommended that the United Nations Human Settlements Programme (UN-HABITAT) and OHCHR should analyse the housing situation of the world's indigenous peoples and recommended the holding of an expert seminar on the rights of indigenous peoples to adequate housing. This seminar, organized by UN-HABITAT, OHCHR and the Secretariat of the Permanent Forum and funded by the Government of Canada, is to be held in March 2007, and additional information will be provided during the current session of the Permanent Forum.

23. In paragraph 62 of the report on its fourth session, the Permanent Forum recommended that the violation of the human rights of indigenous peoples and the militarization of indigenous lands should be analysed on an urgent basis. In addition, paragraph 50 of the report of the third session of the Permanent Forum recommends that studies should be undertaken on the effects of armed conflicts on indigenous peoples, especially women and children. This issue was discussed at the twenty-fourth session of the Working Group on Indigenous Populations, whose main theme was the "Utilization of indigenous peoples' lands by non-indigenous authorities, groups or individuals for military purposes". Part of the session was specifically devoted to discussing the effects on women and children in armed conflicts. OHCHR prepared a document for this meeting (E/CN.4/Sub.2/AC.4/2006/2). The report on the session is contained in document A/HRC/Sub.1/58/22.

24. In the report on its third session, the Permanent Forum recommended that OHCHR should submit an assessment of the implementation of the Durban Programme of Action with respect to indigenous peoples and indigenous women in particular to the sixth session of the Permanent Forum in 2007. OHCHR organized a regional conference of the Americas on progress and challenges in implementing the Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Brasilia from 26 to 28 July 2006. The Conference was held in follow-up to the Durban Programme of Action and gave special attention to the situation of indigenous peoples, especially indigenous women.

25. Paragraphs 20, 37 and 38 of the report on the third session of the Permanent Forum recommend, inter alia, exploring the protection, use and promotion of the rights of indigenous peoples with respect to their knowledge (including traditional knowledge) and the development of guidelines on the heritage of indigenous peoples. The Working Group on Indigenous Populations is developing guidelines on the protection and use of the heritage of indigenous peoples, including their traditional knowledge. These draft guidelines are contained in document E/CN.4/Sub.2/AC.4/2006/5.

26. In paragraph 49 of the report on its third session, the Permanent Forum called on OHCHR to elaborate technical cooperation programmes to assist in the implementation of the recommendations of the Special Rapporteur on the human rights and fundamental freedoms of indigenous peoples following his visits to Colombia, Chile and Guatemala. Regional and local OHCHR offices have taken significant steps to follow up the recommendations of the Special Rapporteur in these countries, in particular the implementation of an important project in

Guatemala and Mexico. The report of the Special Rapporteur contained in A/HRC/4/32/Add.4 offers extensive information on the activities regarding best practices carried out to implement the recommendations contained in the annual reports of the Special Rapporteur.

27. In paragraph 107 of the report on its third session, the Permanent Forum recommended that OHCHR indigenous fellows should participate in the sessions of the Forum and that they should be provided time for training at the secretariat of the Forum. Ten indigenous fellows in the English- and Spanish-speaking programmes participated in the fifth session of the Permanent Forum in 2006. The Russian- and French-speaking programmes did not participate in the session since those programmes tend to be held in the second half of the year. Thanks to collaboration with the University of Deusto, the Spanish-speaking programme conducted a training session at the secretariat of the Forum. Owing to financial limitations, the English-speaking programme could not conduct the training and requests the Permanent Forum to help fund such training in the future.

28. In paragraph 51 of the report on its second session, the Forum recommended that OHCHR organize a technical workshop on extractive industries. The principal theme of the twenty-fifth session of the Working Group on Indigenous Populations will be “The impact of private sector initiatives on indigenous peoples’ rights”, and extractive industries will undoubtedly be a central issue. The Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises convened a regional consultation in Colombia on 18 and 19 January 2007. One of the central themes of the regional consultation was the rights of indigenous peoples, and the discussions included extractive industries and their impact on indigenous peoples.

29. In the same report the Permanent Forum recommended that OHCHR organize activities in Asia and Africa. With respect to Asia, OHCHR organized training for indigenous communities in Cambodia in 2006, and in February 2007 it organized, jointly with the International Labour Organization (ILO) and the NGO Forum on Cambodia, a workshop on “Indigenous peoples and access to land in Cambodia”, in which the Special Rapporteur participated.

III. Information on other measures taken by the Office of the United Nations High Commissioner for Human Rights to protect the rights of indigenous peoples

30. In addition to its follow-up of the Permanent Forum’s recommendations, OHCHR, the human rights treaty bodies and the special procedure mandate-holders have taken a significant number of measures to protect and promote the rights of indigenous peoples. The information is available in the report of the High Commissioner for Human Rights on indigenous issues to the Human Rights Council contained in A/HRC/4/77.

IV. Information on the follow-up to the recommendations set out in the Programme of Action for the Second International Decade of the World's Indigenous People

31. Paragraphs 43-48 of the Programme of Action for the Second Decade establish the steps to be taken at the international level in the area of human rights.

32. Paragraph 43 calls for the adoption of the draft United Nations declaration on the rights of indigenous peoples. As previously mentioned, the declaration was adopted by the Human Rights Council at its first session.

33. Paragraph 44 calls for work to be focused on the implementation of existing international standards and policies. OHCHR has taken a number of measures aimed at promoting the implementation of the recommendations of the Special Rapporteur. The information is contained in annex 4 of the report of the Special Rapporteur (A/HRC/4/32/Add.4). However, future measures to promote their implementation of the recommendations are necessary.

34. Paragraph 45 calls for the establishment of a global mechanism to monitor the situation of indigenous peoples in isolation. The recommendation was transmitted to the secretariat of the Human Rights Council. However, the Regional Seminar on Indigenous Peoples in Voluntary Isolation and in Initial Contact of the Amazonian Basin and El Chaco represented progress in highlighting their situation.

35. In paragraph 46 human rights mechanisms are invited to continue or start to specifically address indigenous peoples within their mandates and to share their reports with the Permanent Forum. Human rights mechanisms, both the human rights treaty bodies and special mechanisms of the Human Rights Council, continue to examine the situation of indigenous peoples. Additional information is available in the report of the High Commissioner for Human Rights on indigenous issues to the Human Rights Council (A/HRC/4/77).

36. Paragraph 47 states, *inter alia*, the need to strengthen the Indigenous Fellowship Programme of the Office of the United Nations High Commissioner for Human Rights and to establish culturally appropriate materials. The fourth, Russian-speaking programme of the fellowship was strengthened in 2006. The OHCHR Andean programme, in collaboration with the United Nations Population Fund (UNFPA), conducted a pilot fellowship programme in which an Ecuadorian fellow from the Spanish-speaking programme was granted an additional three-month internship in the United Nations system in Ecuador. In addition, in 2006 the Human Rights Institute of the University of Deusto, a partner in the Spanish-speaking fellowship programme, published a manual on indigenous peoples' human rights, which targets the training of future fellows.

37. Finally, paragraph 48 requests cooperation from the Working Group on the Rights of Indigenous Populations/Communities in Africa of the African Commission on Human and Peoples' Rights. OHCHR is beginning to formulate a programme of activities with the Working Group. Additional information will be provided at the seventh session of the Forum.

V. Information on the special theme of the sixth session of the Forum

38. The human rights mechanisms for which OHCHR acts as secretariat have issued a number of documents that could be taken into consideration by the Permanent Forum in its deliberations. These documents include:

(a) Report on the expert seminar on indigenous peoples' permanent sovereignty over natural resources and their relationship to land (E/CN.4/Sub.2/AC.4/2006/3);

(b) Indigenous peoples' permanent sovereignty over natural resources. Final report of the Special Rapporteur, Erica-Irene A. Daes (E/CN.4/Sub.2/2004/30 and Add.1);

(c) Indigenous peoples and their relationship to land (E/CN.4/Sub.2/2001/21) dated 11 June 2001;

(d) Report of the Expert Seminar on Practical Experiences Regarding Indigenous Land Rights and Claims (Whitehorse, Canada, 24-28 March 1996) (E/CN.4/Sub.2/AC.4/1996/6 and Add.1).

39. The human rights treaty bodies have issued general comments analysing the issue of the indigenous peoples' land rights. The general comments are:

(a) Human Rights Committee: General Comment No. 27 on freedom of movement (art. 12) and General Comment No. 23 on minority rights (art. 27);

(b) Committee on the Elimination of Racial Discrimination: General Recommendation XXIII on the rights of indigenous peoples and General Recommendation XXIV concerning article 1, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination.

40. Furthermore, substantial consideration has been given to the issue of lands and territories of indigenous peoples in the treaty bodies' general observations on States' reports under human rights treaties.

Annex

Santa Cruz de la Sierra Appeal

This Seminar, held in the city of Santa Cruz de la Sierra, Bolivia, from 20 to 22 November 2006, was attended by representatives of States, international agencies, public institutions, indigenous peoples' organizations and experts. The meeting is a step forward in recognition and discussion of the indigenous peoples in isolation and in initial contact of Latin America; its purpose is to promote the application of public policies and international agreements that protect the rights of these peoples.

The issue of the nearly 200 indigenous peoples in isolation and in initial contact of the Amazonian Basin and El Chaco, divided among seven countries, has been a topic of discussion at the international and national levels in recent years. The 1971 Declaration of Barbados; the 1981 United Nations Educational, Scientific and Cultural Organization (UNESCO) Declaration on ethnocide, known as the Declaration of San José; the resolution adopted by the World Conservation Union (IUCN) in Bangkok in 2004; the 2005 and 2006 reports of the Permanent Forum on Indigenous Issues and of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples; the problem's inclusion in the most recent version (2005) of the Organization of American States (OAS) draft American declaration on the rights of indigenous peoples; and the 2005 Declaration of Belem are a significant part of consideration of the topic and reiterate the need to give priority to this question. Indigenous peoples' organizations have also played an important role by incorporating into their agendas the situation of indigenous peoples in isolation and in initial contact, implementing follow-up activities and developing proposals for their protection.

The critical situation and extreme vulnerability of indigenous peoples in isolation and in initial contact in exercising their human rights, particularly the right to life, requires the urgent adoption of measures and policies that respond effectively to their need for protection.

For all these reasons, the participants in the Santa Cruz Seminar agreed to urge States to adopt and implement specific public policies granting priority attention to indigenous peoples within the framework of the following analysis, principles and recommendations, which were adopted by consensus in plenary session.

Analysis

The issue of indigenous peoples in isolation and in initial contact is closely linked to the specific situation of each of these peoples. States have addressed this situation by taking protective measures which, although of limited scope, must be taken into consideration when developing and preparing specific policies in the future.

Particularly relevant is the experience of Brazil, which has specific regulations and institutions for the protection of indigenous peoples in isolation. Peru, for its part, recently adopted a specific law on indigenous peoples, although the corresponding regulations have not yet been drawn up. Peruvian indigenous peoples, their organizations, NGOs and experts have had serious reservations concerning the law's appropriateness to the problems of indigenous peoples in isolation and have

even taken the view that it might increase their vulnerability. Peru has also developed a set of proposed health standards for the protection and care of indigenous peoples in isolation and in initial contact. Bolivia recently granted recognition to the Toromona people's reserve, although the Confederation of Indigenous Peoples of Bolivia (CIDOB) did not participate in that process. In 1999, Ecuador created a reserve for indigenous peoples in isolation, although its boundaries have yet to be established. Venezuela has adopted legislation on the rights of indigenous peoples, particularly with regard to the demarcation of, and guarantees concerning, the habitats, lands and territories of their communities, and has established health plans and programmes in order to address the situation of indigenous peoples in initial contact. In Paraguay, there has been significant progress in setting up round tables on the issue of indigenous peoples and Ayoreo communities in isolation and in initial contact.

Indigenous peoples' organizations have also been developing proposals for promoting respect for, and protection of, the rights of indigenous peoples in isolation and in initial contact. These organizations have lobbied national Governments for the amendment of laws that affect the rights of indigenous peoples in isolation and in initial contact and have cooperated in the creation of links between the Governments of different countries; Peruvian indigenous peoples' organizations have taken such action with respect to Brazil's National Indian Foundation (FUNAI) and the Peruvian State institutions involved in addressing this issue.

In the light of this situation, and in support and follow-up to the work of indigenous peoples' organizations on this matter, the aforementioned forums have been established at the international level in order to highlight the situation of indigenous peoples in isolation and in initial contact, and proposals for their protection have been developed.¹

However, these activities have proved insufficient in addressing the special vulnerability of indigenous peoples in isolation and in initial contact. Generally speaking, there is a lack of specific national regulatory and institutional frameworks giving priority to respect for, and protection of, these peoples. States of the region have not adopted legislation that recognizes the right to self-determination of indigenous peoples in isolation; other interests still take precedence. Thus, the rights of these peoples, particularly in respect of their lands and territories, are still ignored and, as a result, extraction companies are granted the right to exploit their land and regulations that pose a serious threat to their survival are put in place.

Moreover, the few existing regulations (in Brazil and Peru) have not been fully implemented. Most countries have not established specific institutions to protect the rights of indigenous peoples in isolation and in initial contact; they have insufficient economic resources and few specialized staff able to address the situation of these peoples. In addition, most States have not established specific programmes or adequate action strategies to ensure the physical, social and territorial integrity of indigenous peoples in isolation, based on the principle that their characteristic

¹ Of particular importance is the fact that the existence of indigenous peoples in isolation and the need to protect them are recognized in the working draft of the American declaration, prepared at Guatemala City in 2005, and in the work begun by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples of the Human Rights Council and the Permanent Forum on Indigenous Issues.

lifestyles should be maintained; in some cases, States have even violated this right or allowed it to be violated.

This lack of regulations and institutions has facilitated the arrival of extraction, timber and mining companies; religious entities that seek to make contact with and to convert groups in initial contact; and other social actors in the lands of indigenous peoples in isolation and in initial contact, with consequences that threaten their existence, including epidemics and deaths. The difficulty of bringing such cases of rights violation before the courts has led to situations of impunity.

In the case of indigenous peoples in initial contact, this situation has also led to destruction of their traditional production system and consequently to changes in their eating habits, promoted a more rapid shift to a sedentary lifestyle and sped up the aggressive introduction of assistance models that totally ignore their culture and violate their right to self-determination.

At the regional and international levels, there is a general lack of policies that focus specifically on the protection of indigenous peoples in isolation and in initial contact. Of particular relevance is the lack of agreements, coordination and joint programmes between neighbouring States.

In addition, broad sectors of civil society are unaware of and uninterested in the situation of indigenous peoples in isolation and in initial contact.

Principles

In order to address this situation, the participants in this Regional Seminar on indigenous peoples in voluntary isolation and in initial contact of the Amazonian Basin and El Chaco are considering the following general principles. In the light of their vulnerable situation, the time factor must be taken into account and, for this reason, urgent measures, complemented by additional short-, medium- and long-term measures, must be taken.

In order to be effective, all these measures should:

- Specifically acknowledge the role of indigenous peoples, particularly in the development of programmes aimed specifically at the protection of indigenous peoples in isolation and in initial contact;
- Recognize the contribution of the anthropologists, experts and scientists whose work has not violated the rights of indigenous peoples in isolation and in initial contact;
- Recognize States' duty and responsibility to protect and guarantee the rights of indigenous peoples in isolation and in initial contact; and
- Affirm the importance of cooperation at all levels, in coordination with indigenous peoples' organizations that have undertaken to defend and protect indigenous peoples in isolation and in initial contact.

Furthermore, all these actions should be taken bearing fully in mind:

- Absolute respect for human rights;
- The situation of extreme urgency and emergency, and of potential genocide and ethnocide, of indigenous peoples in isolation and in initial contact;

- The “no-contact” principle; and
- Recognition that isolation is the result of indigenous peoples’ right to self-determination and, in the majority of cases, is a consequence of aggression suffered in the past.

It must be stressed that the term “indigenous peoples in isolation” is currently under discussion by experts and indigenous peoples’ organizations and that there is no consensus as to whether it adequately reflects the indigenous peoples’ situation.

Lastly, positive experiences should be highlighted and encouraged.

Recommendations

The following proposals are based on those principles.

General policy

1. State and non-State bodies must recognize and reaffirm the existence of indigenous peoples in isolation and in initial contact.
2. The protection of indigenous peoples in isolation and in initial contact must be declared a high priority issue on the agendas of States and international human rights bodies.
3. States must accept their responsibility to protect indigenous peoples in isolation and in initial contact from outside aggression.
4. All national and international legal, administrative and operational mechanisms that guarantee respect for the fundamental rights of indigenous peoples in isolation and in initial contact must be strengthened. For that purpose, there must be consultation and participation of indigenous organizations.
5. Observance of existing national and international laws guaranteeing the rights of indigenous peoples in isolation and in initial contact should be strengthened, with particular support for the adoption of the draft United Nations declaration on the rights of indigenous peoples, including the possibility of incorporating specific articles, and the OAS American Declaration on the Rights of Indigenous Peoples. Likewise, the implementation and observance of ILO Convention No. 169 Concerning Indigenous and Tribal Peoples in Independent Countries should be strengthened. It must be utilized and taken into consideration in the establishment of specific policies.
6. In order to achieve this protection, it is necessary to reinforce the recognition of such specific rights of indigenous peoples in isolation and in initial contact as the right to self-determination, to their own territory, culture and way of life and to development.
7. Legal instruments must be created (local, regional, national and international) that provide for appropriate and effective protections, especially intended to:
 - (a) Strengthen the legal recognition of indigenous peoples in isolation and in initial contact;
 - (b) Establish immediate precautionary measures to avoid current aggressions as well as the application, from the outset and in an appropriate and effective

manner, of mechanisms for immediate protection, including restrictions on use of and access to their lands;

- (c) Establish definitive measures of protection.

Contingency measures and health

8. The State sectors involved must establish measures and plans for prevention, contingency and impact mitigation, in the event of undesired contact that could affect indigenous peoples in isolation.

9. States must implement public policies and health strategies aimed at peoples in isolation which include measures for disease prevention to be applied in the populated areas surrounding their territories, post-contact emergency medical care and food security plans in cases where recently contacted populations are affected by epidemics and are unable to carry out their subsistence activities.

10. Public policies and health protection strategies aimed at peoples in initial contact must be implemented which take into account measures for disease prevention, vaccination, sanitation and environmental education.

Non-contact, lands and territories

11. States must respect and ensure respect for the principle of non-contact and prohibit undesired contact. Indigenous peoples in isolation must be the ones to decide freely and voluntarily whether or not to establish contact with members of the surrounding society.

12. Sanctions, including criminal penalties, must be established for violation of the principle of non-contact.

13. Along those lines, the criminal codes of the countries in the region must be amended for the purpose of establishing prison sentences for those who, through forced and undesired contact, endanger the territory, life and integrity of indigenous peoples in isolation and in initial contact.

14. The territories inhabited and exploited by indigenous peoples in isolation and in initial contact must be delimited and title granted to those peoples, in accordance with the respective national and international laws. The delimitation and granting of title for these lands must include all territories in which indigenous peoples live or travel and the adjacent buffer zones, and special and effective protection measures must be implemented.

15. In cases where nature and environmental conservation parks or other protected areas have been established, title to those territories/lands, in accordance with respective national legislation, should be granted to the indigenous peoples in isolation and in initial contact.

16. The inviolability of their territories must be established, understood to mean the granting of title for lands and territories to the indigenous peoples in isolation and the commitment by the State to avoid any activity of any type whatsoever that might endanger their survival, with all possible legal and political instruments available in each country and on the basis of each situation.

17. Any contracts for mining concessions superimposed on the territories of indigenous peoples in isolation and in initial contact must be prohibited and

immediately revoked, and outsiders found in those territories must be relocated to other areas.

18. Likewise, public works and colonization activities affecting the territories of isolated and initial contact indigenous peoples must be suspended.

19. Tourism programmes and initiatives that affect the physical and cultural survival of indigenous peoples in isolation and in initial contact must be suspended.

20. Missionary activities and other unsupervised activities seeking contact in the lands of indigenous peoples in isolation and in initial contact must be expressly prohibited.

21. In general, entry of outsiders into those territories must be prohibited.

22. The role of the neighbouring indigenous communities should be strengthened for the defence and protection of the territories inhabited by indigenous peoples in isolation and in initial contact.

23. Socio-economic alternatives must be created for the population resettled to other areas or affected by the special protection which should be provided for the territories of the indigenous peoples in isolation and in initial contact and the adjacent buffer zones.

24. Commissions for the monitoring and control of the territories of indigenous peoples in isolation and in initial contact must be established, with the participation of indigenous peoples' organizations.

25. Bad intervention practices in the territories of indigenous peoples in isolation and in initial contact should be identified and punished.

Institutionalization and follow-up mechanisms

26. Specific institutions for the protection of the rights of indigenous peoples in isolation and in initial contact must be established.

27. A system of follow-up must be implemented with the participation of indigenous organizations, civil society and international organizations, with a particular focus on:

(a) Dissemination of information, studying the possibility of establishing centres for collection and dissemination of information at the national and international level;

(b) Physical monitoring of the borders of the lands and territories of indigenous peoples in isolation and in initial contact;

(c) Establishment of a monitoring and early warning system for violations of their rights, from a perspective of protection of human rights;

(d) All follow-up programmes must ensure the sustainability of the measures taken.

28. The role of the Attorney-General's Office and the Ombudsman must be strengthened, with the objective of monitoring the protection of the rights of indigenous peoples in isolation and in initial contact.

29. Likewise, the establishment of pilot programmes for follow-up should be promoted in areas adjoining the territories of isolated indigenous peoples and the corresponding buffer zones.

30. A standing committee made up of the State and indigenous representatives should be established in each country, with the support of civil society, in order to set priorities for actions to be conducted in this field; indigenous organizations should play a key role in the Committee's work.

31. In order to avoid overlap among the decisions and measures implemented by different governmental bodies, coordination mechanisms should be established.

32. It is decided to establish a commission of indigenous peoples for the protection and defence of the rights of indigenous peoples in isolation and in initial contact.

Raising awareness

33. States, in cooperation with OHCHR, indigenous organizations and other relevant actors with experience in the protection of the rights of indigenous peoples in isolation and in initial contact, should provide training on the rights of such peoples to the executive, legislative and judicial branches, as well as to persons working in the field.

34. States, in cooperation with OHCHR, indigenous organizations and other relevant actors with experience in the protection of the rights of indigenous peoples in isolation and in initial contact, should establish guidelines or a list of "do's and don'ts" regarding such peoples intended for governmental actors and civil society.

35. An appeal should be channelled through United Nations mechanisms, especially the United Nations High Commissioner for Human Rights, calling on countries to carry out priority actions and to promote within the United Nations system knowledge of the situation of indigenous peoples in isolation and in initial contact and the establishment of specific measures of protection.

36. Experts are requested to issue a publication containing basic information on those peoples.

37. Awareness should be raised among the general population of the problems of indigenous peoples in isolation and in initial contact and the means to protect them, including ethno-environmental education. The communications media, both the specialized and mass media, should be used, taking care that the information presented does not violate the rights of indigenous peoples in isolation.

Activities in the international sphere

General concepts:

38. The international human rights systems should establish flexible and efficient mechanisms for the protection of indigenous peoples in isolation and in initial contact.

39. The activities of international organizations and indigenous peoples' organizations must be harmonized for adequate protection of indigenous peoples in isolation and in initial contact.

Cooperation in the regional sphere

40. Bi-national, regional and international policies must be designed to guarantee protection of the rights of indigenous peoples in isolation and in initial contact. At the bi-national level, special recognition should be given to the trans-border nature of many peoples.

41. Protection strategies for trans-border peoples must be established, with the participation of States and civil society, especially indigenous peoples' organizations.

42. The topic of indigenous peoples in isolation and in initial contact is recommended for inclusion on the agendas of such regional bodies as ACTO, CAN, OAS, MERCOSUR, etc. and projects aimed at their protection should be created with the participation of indigenous peoples.

43. Requests for precautionary measures under the inter-American human rights system should be encouraged, as in the case of Ecuador.

International agencies

44. The Permanent Forum is urged to give special attention to the problem of indigenous peoples in isolation and in initial contact in the context of land territorial rights.

45. The establishment of a specific Special Rapporteur within the United Nations system is proposed, to promote the protection of indigenous peoples in isolation and in initial contact and to combat impunity by invoking the crime of genocide.

46. It is suggested that ILO should update Convention No. 169 or incorporate an annex to it and that the Human Rights Council and the Working Group on Indigenous Populations should draft an international convention or instrument based on the principles contained herein for the protection of the rights of indigenous peoples in isolation and in initial contact.

47. The International Committee of the Red Cross should establish specific programmes to care for indigenous peoples in initial contact.

Cooperation agencies

48. Direct coordination mechanisms should be established between cooperation agencies and national organizations in every country where indigenous peoples live in order to protect indigenous peoples in isolation and in initial contact.

49. It is necessary to identify cooperation agencies for funding protection activities and establishing information mechanisms, such as databases.

Follow-up to the seminar

50. Given the urgency of the conditions in which in isolation and in initial contact indigenous peoples are living, it is suggested that the organizers should hold another meeting within approximately 12 months to follow up the initiatives identified in Santa Cruz.

All actors, in their respective roles, should cooperate in conducting these activities.