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## UPDATE N° 108

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## 1. EDITORIAL

As announced in our previous Editorial (see Update 107), Docip has undertaken a review of its activities, in particular to adapt its services to the new realities and challenges faced by indigenous peoples at the international level.

The Update itself will also change – mainly in its content, as its distribution in electronic and printed form remains relevant in light of the difficulties many indigenous communities still face at the local level to access the Internet. Of course, its publication in four languages is not in question, in order to provide the same information to all regions.

Thus, the year-end issue summarizing the September session of the Human Rights Council and the various Universal Periodic Reviews of the preceding year will not appear in 2014. This publication pause will allow the editorial team to rethink the content of the Update, returning in 2015 with an information tool that corresponds to new needs, and a publication frequency adapted to the preparation and follow-up of conferences.

This issue of Update summarizes all the statements of the 6<sup>th</sup> session of the Expert Mechanism on the Rights of Indigenous Peoples, which took place in Geneva 8-12 July 2013. That session presented and commented upon the study on access to justice in the promotion and protection of the rights of indigenous peoples. Also, the Expert Mechanism formalised the Alta Outcome Document within the UN in 2013, paving the way for this document to serve as a basis for negotiation for the World Conference on Indigenous Peoples (WCIP).

Regarding the WCIP, after a particularly difficult start of the year for the negotiations with the President of the General Assembly the process accelerated in May during the Permanent Forum on Indigenous Peoples, including the planning of the Informal Hearing on 17-18 June, one of the first steps toward preparation of the outcome document of the World Conference. A major issue, the full and effective participation of indigenous peoples in the process of the conference, has not yet been achieved at a level sufficient to fulfil the expectations of all indigenous regions. However, the negotiation process finally seems seriously underway, aimed at elaborating a final declaration of the conference that reflects the recommendations contained in the Alta Outcome Document. In fact, the WCIP must never be an occasion to weaken the Declaration on the Rights of Indigenous Peoples; on the contrary, it is an opportunity to reinforce its implementation.

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## 2. EXPERT MECHANISM ON THE RIGHTS OF INDIGENOUS PEOPLES

### Sixth session, Geneva, 8 – 12 July 2013

The sixth session of the Expert Mechanism on the Rights of Indigenous Peoples discussed the Study on the access to justice in the promotion and protection of the rights of indigenous peoples. In this regard, a panel discussion also examined issues related to truth and reconciliation processes, to access to justice for indigenous women, children and youth, and persons with disabilities, as well as to self-determination and land, territories and resources. The discussion on the World Conference on Indigenous Peoples provided the first opportunity to consider the Alta Outcome Document, adopted in June 2013 by the the Alta Global Indigenous Preparatory Conference and outlining four themes proposed for discussion at the World Conference in September 2014. The second interactive dialogue on the UN Declaration on the Rights of Indigenous Peoples focused on the role of regional human rights mechanisms in advancing indigenous peoples' rights.

#### Opening of the session <sup>1</sup>

**Marcia Kran, Director of the Research and Right to Development Division of the Office of the High Commissioner for Human Rights (OHCHR)**, highlights the importance of the study on access to justice in the promotion and protection of the rights of IPs [document A/HRC/EMRIP/2013/2] and notes the challenges faced by indigenous peoples (IPs), including violence against indigenous women and the obstacles they face when seeking justice, and non-implementation of landmark judgements obtained through IPs' struggles (also **CAPAJ, June Lorenzo/LACSE, ATH-K, PAICODEO/TANIPE, AMAN**). Implementation of the Declaration at country level will require partnership among States, IPs and the UN system (also **Wilton Littlechild**). IPs need to interact regularly with other human rights mechanisms, including the Universal Periodic Review (UPR), the treaty bodies whose jurisprudence increasingly refers to the Declaration and thematic studies of the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP), and new treaty tools such as the Optional Protocol introducing a complaint mechanism to the International Covenant on Economic, Social and Cultural Rights (also PF Chair **Paul Kanyinke Sena**).

Ambassador **Remigiusz Achilles Henczel, President of the Human Rights Council (HRC)**, says the Council devotes increasing efforts to the protection and promotion of the rights of IPs. Participation of IPs in relevant UN processes, including the UPR, is instrumental in ensuring that efforts to advance IPs' rights are successful.

International Chief **Wilton Littlechild**, elected **Chairperson-Rapporteur of the EMRIP**, emphasizes EMRIP's briefings to human rights treaty bodies (**AIRT** welcome this) for inclusion of its studies into their work. The EMRIP's sessions provide collaborative space for dialogue between States, IPs and others and thus contribute to full realization of IPs' rights and the Declaration (also **James Anaya, Paul Kanyinke Sena, AIPR, OPDP**).

**James Anaya, Special Rapporteur on the Rights of Indigenous Peoples (SRIP)**, notes that, to mutually reinforce their work, the SRIP and EMRIP could jointly develop guidelines or principles on key issues affecting IPs. Regarding the study on access to justice, he notes that in relation to external justice systems, IPs face high levels of incarceration, lack of adequate legal representation, geographical remoteness, and inadequate provision of culturally appropriate justice services, including translation services (also **UNICEF** for indigenous women and children; **CJIRA** for Argentina; **COPORWA** for the **Batwa** IPs in Rwanda). To ensure adequate respect for IPs' justice systems, States could start by assigning legal validity to customary practices that have already been carried out with significant success; and avoid both rigid jurisdictional boundaries within which indigenous justice systems are expected to operate, and the assumptions that States' own justice systems are better or that the application of indigenous systems results in inherently unfair judgements. Also, innovative flexible procedures could be developed for the review of decisions under indigenous jurisdiction. State responses that limit IPs' control and self-determination have been shown to be less effective than judicial responses that IPs themselves control (also **ATSILS/NCAFP**).

**Paul Kanyinke Sena, Chair of the Permanent Forum on Indigenous Issues (PF)**, urges all IPs to engage: in the process of the Post-2015 Development Agenda, to ensure inclusion of IPs' rights and development with culture and identity (also **IPACC, HIHR**), and to address gaps of the Millennium Development Goals (MDGs); and in the standard-setting process at the World Intellectual Property Organisation (WIPO), which is to reach an

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<sup>1</sup> This summary is based on oral and written statements collected by Docip during the session, as well as on the session's official report, UN document A/HRC/24/49.

agreement on an international legal instrument to protect traditional knowledge, traditional cultural expressions and genetic resources.

### Members of the EMRIP at its 6<sup>th</sup> session

Mr. **Wilton Littlechild** from Canada (term expiring 2014), Chairperson-Rapporteur of the 6<sup>th</sup> session  
 Mr. **Danfred Titus** from South Africa (term expiring 2015), Vice-Chairperson of the 6<sup>th</sup> session  
 Mr. **Albert Deterville** from Saint Lucia (term expiring 2016)  
 Ms. **Jannie Lasimbang** from Malaysia (term expiring 2014)  
 Mr. **Alexey Tsykarev** from the Russian Federation (term expiring 2016)

### Item 3 – World Conference on Indigenous Peoples

EMRIP Expert **Alexey Tsykarev** notes that the preparatory process for the 2014 World Conference on Indigenous Peoples (World Conference) provides an opportunity for greater analysis and monitoring of the use of the EMRIP's studies and advice, including to ensure national legislation is consistent with the Declaration (also **NEW ZEALAND**).

The **Indigenous Global Coordinating Group for the World Conference on Indigenous Peoples (GCG)** was established in response to the GA resolutions that created the High Level Plenary Meeting of the GA to be known as the World Conference on Indigenous Peoples (High Level Plenary Meeting). In June 2013 the Alta Global Indigenous Preparatory Conference adopted by consensus the Alta Outcome Document [document A/HRC/EMRIP/2013/CRP.2], which represents the collective efforts of all participants to the process and reflects specific themes and outcomes for the High Level Plenary Meeting (**Jannie Lasimbang, James Anaya, the Saami Parliament in Norway, NORWAY, BOLIVIA, FINLAND and DENMARK/GREENLAND** commend the GCG and IPs on this). The Alta Outcome Document sets out the principles by which IPs are engaging in the process for the High Level Plenary Meeting (also **IITC**): the provisions of the Declaration that affirm the inherent rights of IPs to participate fully in decision-making; refusal that anything in this process may be interpreted as diminishing or eliminating any of the rights of IPs contained in the Declaration or any other relevant international standards (also **SACS**); IPs' right to self-determination is a pre-requisite for the realization of all rights, and IPs have permanent sovereignty over their lands, territories, and resources. The Alta Outcome Document identifies four overarching themes that encapsulate issues of priority concern to IPs, accompanied by concrete recommendations for inclusion in the final outcome document of the High Level Plenary Meeting: IPs' lands, territories, resources, oceans and waters; UN system action for the implementation of the rights of IPs; implementation of the rights of IPs; and IPs' priorities for development with free, prior and informed consent. The GCG's recommendations to the EMRIP (supported by **IITC, OPDP, Saami Parliament in Norway**) are to: recommend that the themes in the Alta Outcome Document be adopted for the High Level Plenary Meeting, and used as the basis for drafting its final outcome document (also **Paul Kanyinke Sena, IPACC, IITC, IPs' Organisations Network of Australia, BOLIVIA**); recommend to the President of the 68<sup>th</sup> GA session to continue the practice to appoint a State representative and an indigenous representative to conduct inclusive informal consultations on his behalf (also **Paul Kanyinke Sena, Asian Indigenous Caucus, Saami Parliament in Norway, DENMARK/GREENLAND**); and urge all States to financially support indigenous preparatory activities in order to ensure IPs' full and effective participation in this process (also **Saami Parliament in Norway, IPs' Organisations Network of Australia, Asian Indigenous Caucus, NSWALC, NORWAY, FINLAND**).

**Wilton Littlechild** provides an overview of the EMRIP's preliminary Compilation of Recommendations, Conclusions and Advice from Studies Completed [document A/HRC/EMRIP/2013/CRP.1], which aims at ensuring that the studies and advice of the EMRIP are considered in the upcoming preparatory dialogues and negotiations on the final outcome document of the World Conference (also HRC President **Remigiusz Achilles Henczel**, EMRIP Experts **Jannie Lasimbang, Alexey Tsykarev and Albert Deterville, SACS**). This Compilation highlights aspects in the EMRIP's work that support the recommendations under each of the overarching themes of the Alta Outcome Document. Both the Alta Outcome Document and the EMRIP's work emphasize the need to continue to focus on important matters such as the right to participate in decision-making, spiritual rights of IPs (also **KKF**) and violence against indigenous women, youth and children. The EMRIP considers that the Alta Outcome Document builds upon the Declaration and calls for systemic improvements through establishment of mechanisms for overall promotion and protection of IPs' human rights.

SRIP **James Anaya** sees the World Conference as providing opportunities for development of new measures for IPs' direct participation in the UN (also **Wilton Littlechild, CMA**); help advance more concerted efforts both within the UN system, and at national and local levels, to promote IPs' rights (also **NSWALC, FINLAND, PARAGUAY, AUSTRALIA, PERU, BOLIVIA, CHILE**); and celebrate IPs and their contributions worldwide (also

**DENMARK/GREENLAND).** The Alta Outcome Document is an important normative and programmatic instrument in its own right, because of its high level of legitimacy. All relevant actors should use it in their own approaches to IPs' issues.

**Paul Kanyinke Sena** reports, namely, that the PF reaffirmed the Declaration as the normative framework for the World Conference; called upon Member States to support the effective implementation of outcomes of the World Conference in mutually agreed areas of cooperation within the framework of the Declaration; and called for regional representation of IPs, gender balance, inclusion of indigenous elders and youth, and inclusion of indigenous persons with disabilities in the World Conference (also the **Indigenous Persons with Disabilities Global Network**).

### Central and South America

**CAPAJ** call on the World Conference to urge compliance with the 2009 Human Rights Committee's decision stating that the right of States to plan their development is limited by the right of IPs to live and develop their economic activities in accordance with their cultural patterns.

**MEXICO** welcomes the Alta Outcome Document, as an essential basis to guide the discussions on the World Conference and its concise, action-oriented outcome document (also **Saami Parliament in Norway, NORWAY, DENMARK/GREENLAND**). Mexico is promoting the Alta Outcome Document's inclusion as an official document of the GA (also **Albert Deterville, IPACC, Saami Parliament in Norway, NORWAY, DENMARK/GREENLAND**).

**BOLIVIA** suggests discussion on IPs' rights, through assessment of the objectives of the Declaration and of the Second International Decade of the World's Indigenous People; on recognizing their contribution to development and to maintaining harmony with nature; and on international cooperation towards solving the problems they face.

**PARAGUAY** suggests discussion on the need for States to train their civil servants for engagement with IPs; and on successful programmes to foster the use of indigenous languages.

### North America

**HC/AILA** recall that over decades of indigenous presence and work at the UN, the **Haudenosaunee** and other traditional governments have been advocating for a proper status within all UN processes. The Alta Outcome Document calls for UN recognition of IPs based on their original free existence, inherent sovereignty and the right of self-determination established in international law, and for establishment of a permanent observer status within the UN system (also **IITC**). HC/AILA urge for this status to entail, at a minimum, to: participate in all sessions and work of international conferences convened under the auspices of the GA and in the work of other UN agencies, have communications issued and circulated as official UN documents, cosponsor resolutions, and raise points of order on indigenous issues (also **IHRAAM**). IPs cannot lock themselves into a minor position, as they are equal to all peoples and nations (also **IWA, IPNC**).

**IPNC** warn that the equal participation and self-determination of all IPs must be a pre-condition for a genuine World Conference on Indigenous Peoples. This is not realized at the High-Level Plenary Meeting or at other UN meetings, such as current negotiations under the WIPO (also **NSWALC**). Many IPs are not fully informed on these questions.

**IITC** express concern about the USA stating that IPs' right to self-determination is somewhat different from the right to self-determination as affirmed in common Article 1 of the International Human Rights Covenants (also **IWA**). In the Alta Outcome Document, IITC emphasize the recommendation for an international mechanism to monitor the implementation of Treaties, Agreements and other Constructive Arrangements between IPs and States (also **IHRAAM, NSWALC, AIRT**).

**CANADA** will review closely the Alta Outcome Document (also **AUSTRALIA, NEW ZEALAND**).

The **USA** says all IPs need to be heard during preparatory consultations. The process of admission to the World Conference should be transparent and draw upon IPs' own elected or appointed representatives. The interactive roundtables will provide a platform for IPs' meaningful participation in the World Conference, with themes to be decided upon by the GA.

### Africa

The Declaration is having a substantial impact on African human rights awareness and IPs' visibility. For the World Conference, **IPACC** recommend that the EMRIP encourage: African States' engagement; particular attention for regional human rights mechanisms to present their own views; and inclusion of efforts by multilateral development banks to establish safeguards specific to IPs.

## Asia and the Pacific

The **Asian Indigenous Caucus** call for UN agencies to follow the recommendations in the Alta Outcome Document on ensuring that their activities and programs are responsive and adapted to the particular situations of IPs, with their full and effective participation.

Even though they live in a developed country, the IPs of Australia do not enjoy the full rights set out in the Declaration, in particular as to free prior and informed consent, to participation in decision making with the extractive industry, and to protect their heritage and culture. The **IPs' Organisations Network of Australia** fully support the Alta Outcome Document.

In the lead-up to the World Conference, **NSWALC** suggest that States work, with IPs, to establish national legislative frameworks and policies for IPs' individual and collective rights, in compliance with international standards including the Declaration and ILO Convention 169.

**AUSTRALIA** welcomes the inclusion in the World Conference of a formalized model for indigenous participation in recognition of the unique nature of the Conference. Australia encourages other States to contribute to the UN Voluntary Fund for Indigenous Peoples, to ensure IPs' crucial participation (also **GCG, Asian Indigenous Caucus, Saami Parliament in Norway, NORWAY, FINLAND**).

**NEW ZEALAND** will continue to work to ensure IPs' broad participation before and during the Conference (also **AUSTRALIA, USA**).

## Middle East

**CNA-AAAO** propose, in the context of the World Conference, a resolution aiming to end the negation of all genocides, through application of the right to redress, in order to protect all IPs.

**NCFCE** draw attention to ongoing efforts by the State of Israel to displace the **Bedouin** IPs from their ancestral lands in the Negev desert, to inadequate government-planned townships. This relocation was not consulted with the Bedouin community and violates various articles of the Declaration.

## Europe, Russia and the Circumpolar

The **Saami Parliament in Norway** emphasizes positive and historical achievements in the preparatory work towards the World Conference, including the collaboration of an indigenous co-facilitator alongside a state-appointed co-facilitator (also **DENMARK/GREENLAND, PARAGUAY**).

**SACS** underscore that power imbalance is an important obstacle to often-requested inclusive and participatory processes.

In the upcoming preparations, **NORWAY** calls for good partnerships between IPs and States (also **GCG, PERU, CHILE, DENMARK/GREENLAND**). IPs' full and effective participation through all stages of the preparations, and the World Conference itself, including development of the outcome document, is imperative to its success (also HRC President **Remigiusz Achilles Henczel, Wilton Littlechild, NSWALC, FINLAND, DENMARK/GREENLAND, PARAGUAY**).

**DENMARK** and **GREENLAND** say the Alta Outcome Document's recommendations also need to be included in the discussions on the Post-2015 Development Agenda (also **AUSTRALIA, BOLIVIA**).

**FINLAND** considers it essential that the new approach introduced by the Declaration as to IPs' participation, is reflected in the World Conference. The Conference will hopefully help bridge the gaps between the Declaration and its implementation, on the basis of non-discrimination (also **Alexey Tsykarev, IITC, NSWALC**).

EMRIP Expert **Jannie Lasimbang** emphasizes the need to explore technical, financial and political support to facilitate greater participation of IPs (also **GCG, IPs' Organisations Network of Australia, NSWALC**); and urges States, national human rights institutions and NGOs, to organise locally and nationally, with IPs, preparatory activities to advance the rights of IPs, focusing on the themes identified in the Alta Outcome Document (also **Asian Indigenous Caucus**).

Emphasizing the overwhelming support for the Alta Outcome Document, the **GCG** are pleased that many States are reviewing it and look forward to working with them towards incorporation of its themes and recommendations in the outcome document of the High Level Plenary Meeting.

### The World Conference on Indigenous Peoples

In January 2014, the President of the 68<sup>th</sup> session of the General Assembly (PGA), John W. Ashe of Antigua and Barbuda, declined to re-appoint an indigenous co-facilitator to participate on an equal basis with a state co-facilitator in organizing and facilitating the World Conference. He intended to appoint two state representatives as co-facilitators, with an indigenous representative as an adviser to them. IPs and many States objected to this solution, which did not uphold the principle of full, effective, direct and equal participation of IPs, nor GA resolution 66/296 on modalities for the World Conference. Other options put forth by member States were to appoint two state and one indigenous co-facilitators, on an equal footing – however, the PGA believed that this was not in line with the UN rules of procedure; or that the PGA himself be responsible for the outcome document with the assistance of state and indigenous representatives.

Given the absence of consensus among States and IPs on any of these proposals, in February the PGA decided to assume overall responsibility for the consultations on the World Conference; appoint representatives of two States to conduct on his behalf consultations with member States; and request the IPs, through the PF, to identify appropriate representatives to undertake on his behalf consultations with the indigenous community. IPs objected that this decision failed to ensure their full, effective and equal participation and to recognize their status as affirmed in the Declaration; moreover, establishment of two parallel and separate consultation processes would not create an environment for meaningful dialogue and consensus between IPs and States, and did not comply with the resolution on modalities. The PGA also designated Mr. Crispin Gregoire, from the Commonwealth of Dominica, as the focal point for the World Conference.

Finally, on March 21, the PGA proposed a new framework: he would preside over and conduct informal consultations and, in accordance with the modalities resolution, have overall authority for the draft final document. The composition of the podium would be the PGA and four advisers (two representatives of member States and two representatives of IPs). The four advisers would be treated equally throughout the consultation process and be involved in all informal processes and discussions related to the draft text, on an equal basis.

Based on this framework, the consultation process is now continuing. Ms. Myrna Cunningham Kain, from the Miskito peoples in Nicaragua, and Mr. Les Malezer, from the Butchulla/Gubbi Gubbi peoples in Australia, are the indigenous advisers. The state advisers are Mr. Andrej Logar, Ambassador of Slovenia, and Mr. Eduardo Ulibarri-Bilbao, Ambassador of Costa Rica. Informal consultations on the outcome document of the World Conference were held on June, 3. The Informal Interactive Hearing took place on June 17-18. The High Level Plenary Meeting of the GA to be known as the World Conference on Indigenous Peoples will be held on 22 September and the afternoon of 23 September 2014 in New York. Important information can be found on the website of the PGA for the World Conference: <http://www.un.org/en/ga/president/68/events/wcip.shtml>.

For information on support for attendance of IPs' representatives through the UN Voluntary Fund for Indigenous Peoples, please consult this link to the Fund's website:

<http://www.ohchr.org/EN/Issues/IPeoples/IPeoplesFund/Pages/WCIndigenousPeoples.aspx>.

Further information on the application process will be provided in due course on this website.

### Item 4 – Follow-up to thematic studies and advice

Introducing the discussion, EMRIP Expert **Danfred Titus** encourages participants to identify positive practices and challenges to improve the implementation of the Declaration in relation to the EMRIP's previous studies.

**Paul Kanyinke Sena** reminds participants that the 2014 Expert Group Meeting of the PF is to focus on sexual health and reproductive rights of indigenous women, including impacts of extractive industries. He also urges IPs to engage more strongly in the work of the Working Group on Business and Human Rights through its indigenous member, Mr. Pavel Sulyandziga.

**CAPAJ** support the establishment of an Abya Yala Tribunal to address the **Qollana Paca Jaqui** Nation's claim against the Spanish Crown for illegal land dispossession and ethnocide, and urge the recognition of such indigenous judicial institutions.

**IWA/LACSE** object that the EMRIP's statement that extractive corporations should make their own assessments as to compliance with IPs' rights, is inconsistent with the States' obligation to ensure indigenous participation. They are also critical of indigenous representation in corporate boards because of inherent conflicts of interest.

**NYSHN/IITC** draw attention to the intersections between environmental and reproductive justice, noting that there has not been sufficient focus, in the EMRIP's reports, on the links between extractive industries and environmental violence, sexual violence and exploitation. They ask how these critical issues can be addressed and recommend that a focus on environmental violence and reproductive justice be included in any follow-up studies on the situation of extractive industries.



**CMA** deplore the aggressive attitude of the Algerian and Moroccan Governments towards their activities, leading to criminalization of the **Amazigh** movement. Given the absence of recourse at national level, they recommend the creation of an international mechanism to protect defenders of IPs' rights, and to record the States' good and bad practices in this regard, to help improve the situation.

**Tomwo-IPDI** call for implementation of recommendations in the EMRIP's report on extractive industries. Follow-up activities need to be undertaken. The relevant UN agencies should disseminate the findings and recommendations of this study at national level; facilitate regional and national dialogue forums with all stakeholders to promote the understanding of IPs' rights in the context of mining activities; and support the training of government officials on IPs' rights and participation in the context of extractive industries. Tomwo-IPDI call on all States to implement the Declaration (also **NCAFP**).

The **Asian Indigenous Caucus** call on States and UN agencies to implement the EMRIP's Advices on the central role of education, on IPs' right to participation in decision-making, and on the role of language and cultures. They urge review of laws, policies and programs on languages and culture to adapt them to IPs' needs, and development of multi-lingual curricula with IPs' participation (also **NCAFP**, **NSWALC**). The Asian Caucus insist that military presence be withdrawn from indigenous communities.

**KKF** ask the Government of Vietnam to provide financial assistance to **Khmer-Krom** students. The EMRIP should look for a solution to non-recognition of some IPs by governments of States they live in.

**NCAFP** insist on the need for educational institutions to provide non-discriminatory environments where indigenous cultures are recognised and understood (also **KKF**); and urge all States to ratify and implement the UNESCO Convention against Discrimination in Education. They deplore that free prior and informed consent over lands, territories and resources has not been given serious consideration. Governments and the corporate sector, as well as IPs themselves, need to be better informed about indigenous rights.

**NSWALC** are concerned that neither concrete measures nor specific plans have been adopted by States to ensure implementation of the EMRIP's Advice in the study on culture and language. They urge Australia and other States to ratify UNESCO's 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions, and 2003 Convention for the Safeguarding of Intangible Cultural Heritage.

**IWGIA** draw attention to the inconsistencies between the decisions of UNESCO's World Heritage Committee and the Declaration; regret that the World Heritage Committee did not encourage in its forums the reference to IPs; and deplore that some States expressed strong reservation to inclusion of IPs' issues in the context of World Heritage Sites.

**LLU** denounce the negative impacts of pipelines on indigenous territories, particularly in Ecuador. They recommend using the national Constitution to solve the conflicts arising from oil extraction, and continuing to question the utilitarian logic that drives extractive operations.

**AUSTRALIA** is committed to addressing language loss by allocating resources to maintain and revitalize Aboriginal and Torres Strait Islander languages; improve indigenous participation in decision-making; enhance their representation in electoral processes and promote future indigenous leadership.

The **RUSSIAN FEDERATION** highlights the importance of education and the development of innovative models, particularly for children of nomadic or semi-nomadic IPs; and its efforts to promote the teaching of indigenous languages and culture.

**Jannie Lasimbang** insists on the necessary presence of representatives from the business sector to the meetings related to extractive industries. Enterprises should ensure that employees have an understanding of IPs' rights (also **AIPP**). IPs could form eco-partnerships with States and business enterprises, to engage in sustainable development while ensuring that adequate environment protections are in place.

**Wilton Littlechild** states that the EMRIP welcomes the recommendation that Canada's "First Nations Education Act" be drafted together with IPs. He recalls that culture is a very fundamental pillar of the Declaration, especially for divided and post-conflict regions or communities.

## **Item 5 – Study on the access to justice in the promotion and protection of the rights of IPs**

**Wilton Littlechild** says the Study on access to justice begins with setting the context of what access to justice means for IPs and under international law: article 40 of the Declaration provides for IPs' access to justice, while several other articles address prevention of and redress for violations of IPs' rights (also **IITC/N-NABS-HC**, **LPDOC/CSIA-Nitassinan/Incomindios/AKIN/AGIM**, **PIDP/REPALEF-RDC/IPACC**, **ATSILS/NCAFP**, **NSWALC**, **KKF**, **YNM**). The study examines: regional human rights jurisprudence that have led to providing substantive justice for IPs; the relationship between access to justice and other rights of IPs, including self-determination, non-discrimination and cultural rights (also **GCC/CFSC/COO/FSIN/NWAC/UBCIC/FNS/IWA/KAİROS/FPHRC**, **NSWALC**, **LLU**, **DENMARK/GREENLAND**); key areas for advancing IPs' access to justice, including national courts, administration of criminal justice, and IPs' rights to lands, territories and resources; IPs' legal systems, their international and domestic recognition, and the ways they can be linked with

State justice systems (also **CAPAJ**); and historical wrongs and their impacts on access to justice facing IPs, focusing on the role of truth and reconciliation processes. General recommendations in Advice n°5 are: that the Declaration should be the basis to protect and promote IPs' right to access to justice (also **James Anaya, Asian Indigenous Caucus, GCC/CFSC/COO/FSIN/NWAC/UBCIC/FNS/IWA/KAIROS/FPHRC, CMA, NIWF-Nepal, MBOSCUA/SAMUSA, PAICODEO/TANIPE, ATSILS/NCAFP, NSWALC, BOLIVIA, PARAGUAY, DENMARK/GREENLAND**). Respect for the right to self-determination requires both recognition of IPs' systems and overcoming historic and contemporary factors that negatively affect IPs in state justice systems (also **Alexey Tsykarev, Albert Deterville, James Anaya, CAPAJ, PAICODEO/TANIPE, NSWALC, MEXICO**). IPs' understanding of access to justice might differ from that of States: before undertaking activities to promote and protect IPs' access to justice, common understandings of the best means should be sought (also **June Lorenzo/LACSE, ATSILS/NCAFP, NSWALC**). Finally, historical injustices contribute to contemporary disadvantages for IPs, which increase their likelihood of coming into contact with the justice system (also **LPDOC/CSIA-Nitassinan/Incomindios/AKIN/AGIM**); therefore, solutions must include measures addressing IPs' socio-economic situation (also **NSWALC, CANADA, NEW ZEALAND, PARAGUAY; AFK for Amazigh IPs in Kabylie**).

### Panel presentations

**Wilton Littlechild** reports on the International Expert Seminar on Access to Justice for Indigenous Peoples, including Truth and Reconciliation Processes. The Seminar focused on whether truth and reconciliation processes improve IPs' access to justice (also **OHCHR; KKF for the Khmer-Krom IPs in Vietnam**), and recommends that: IPs should be consulted and involved in all stages of transitional justice mechanisms (also **Global Indigenous Youth Caucus, AUSTRIA**); truth and reconciliation processes should be explicitly guided by the Declaration throughout their work, address the historical injustices experienced by IPs including failure to recognize their self-determination (also **Global Indigenous Youth Caucus, CJIRA**), be linked to larger public education efforts explaining important justice issues, and respect IPs' cultures (also **LPDOC/CSIA-Nitassinan/Incomindios/AKIN/AGIM, PAICODEO/TANIPE**).

The court-ordered mandate of the Truth and Reconciliation Commission of Canada (TRC-Canada) is to inform all Canadians on the history and on-going legacy of the Indian Residential Schools; give an opportunity to all those affected by the residential schools to participate in the telling of that history; and guide a process of healing and reconciliation within indigenous communities and between indigenous and non-indigenous peoples in Canada. The TRC-Canada has collected thousands of public and private statements. Part of its research is on the thousands of children who died at the schools or went missing (also **IITC/N-NABS-HC** emphasizing the right to truth for families of victims). Residential schools are found throughout the country; the last one closed in 1996. This system was said to be akin to child labour. It resulted in loss of a sense of belonging, of culture and self-respect. Aboriginal families had no access to justice: parents could, and many did, go to jail for protecting their children from being taken, and many turned to alcohol or other addictions to cope with the suffering. Protest was rendered impossible because IPs were not allowed to gather, even for traditional or ceremonial gatherings; their voting right was denied, as was their freedom of movement and their possibilities to take legal action. To promote reconciliation and a relationship of mutual respect, the TRC-Canada is holding private and public meetings and conferences – for example with the Council of Ministers of Education, to promote inclusion in school teachings of this darkest chapter in Canadian history.

Consultant **Celeste McKay** presents the recommendations, by both the Seminar and the EMRIP's study on access to justice, regarding the rights of indigenous women, children and youth (**BOLIVIA** acknowledges these recommendations). Access to justice is an important topic for indigenous women, youth and children, in line with articles 21 and 22(2) of the Declaration (also **Asian Indigenous Caucus, NIWF-Nepal, AUSTRIA**). Barriers to justice for indigenous women include multiple discrimination, structural violence and poverty (also **AUSTRIA**); higher rates of incarceration and of violence against them when dealing with State justice systems and when in State custody, particularly violations of their sexual and reproductive rights (also **ATSILS/NCAFP, NYSHN**); as well as violence by some tribal justice systems (also **UNICEF**). Remedies lie in ensuring equality before the law, through legal reforms and training of justice officers on indigenous women's issues; increased appointment of indigenous women to the judiciary; and ensuring their representation in truth seeking processes. Barriers faced by indigenous children and youth include their over-representation throughout the justice system, due to systemic discrimination, including application of laws that disproportionately affect them and increased likelihood to be subjected to the most punitive measures or harshest treatments (also **Global Indigenous Youth Caucus; ATSILS/NCAFP** for Australia; **NYSHN** for Canada). Remedies lie in supporting traditional restorative justice systems, and increasing the participation of youth in policy and decision-making processes, including truth-seeking processes. The Advice n°5 recommends that States work in partnership with IPs, particularly indigenous women, to determine the most effective strategies to overcome barriers to justice; and that IPs' justice systems ensure indigenous women's and children's freedom from discrimination (also **NIWF-Nepal**).

**Ellen Walker**, on behalf of the **Indigenous Persons with Disabilities Global Network** supported by the International Disability Alliance (IDA), says the situation of indigenous persons with disabilities has been left largely unaddressed by both the global disability movement and the global indigenous movement, and ignored by States and UN entities (also **IWA**). Both the Declaration and the UN Convention on the Rights of Persons with Disabilities protect indigenous persons with disabilities. The PF Study on the situation of indigenous persons with disabilities [document E/C.19/2013/6] was presented at the 12<sup>th</sup> session of the PF, which also saw the creation of the Caucus of Indigenous Persons with Disabilities (also **Paul Kanyinke Sena**). Access to justice is a serious issue for indigenous persons, and particularly women, with disabilities (also **NEW ZEALAND**). The EMRIP's study should call: on States to address the often-negative experience of indigenous persons with disabilities with the formal justice system; on all relevant stakeholders to ensure that persons with disabilities, including detainees, have access to disability-specific and general health services, and that their right to informed consent is respected. Both traditional and State justice systems should be accessible and sensitive to indigenous persons with disabilities; and staff in charge of administration of justice should receive disability awareness training, with a rights-based and intercultural approach. Furthermore, impunity for violence must be addressed and increased attention granted to supporting victims, in consultation with them; research be increased on over-representation of indigenous persons with disabilities in detention centres; and justice systems must refrain from denying their right to legal capacity.

**June Lorenzo**, on behalf of **LACSE**, addresses issues of access to justice related to self-determination and land, territories and resources (also **AMAN**). Promoting access to justice for IPs is also about preventing future wrongs through present measures, based on the peremptory norm of non-discrimination. She emphasizes the urgent necessity for IPs to make it very clear to representatives of extractive industries who try to respond to the UN Guiding Principles on Business and Human Rights: a lot of these issues exist because of fundamental differences in describing the world and relating to it. For instance, in the USA, the Indian Claims Commission process is justice to many, but for most IPs the idea of getting money for land-taking is not justice at all (also **IITC/N-NABS-HC**). The growing human rights standards on indigenous rights might help overcome the gaps about what justice is. Issues of lands, territories and resources are related to the different interpretations of free prior and informed consent between businesses and IPs (also **Asian Indigenous Caucus, AIPP**). IPs must take the lead in defining every element of free prior and informed consent, and insist that this is not an isolated concept. Because IPs have self-determination, free prior and informed consent comes into play: self-determination means IPs' right to say "no" to resource development or extractive activities, or other operations in their territories. Human rights are interdependent and interrelated. Again, culture is related to self-determination and to all other rights (also **ATSILS/NCAFP**). It is incumbent on IPs, and really critical for them, to explain how they see justice and how laws and policies impact on their access to justice (also **ATH-K** for Algeria), because solutions promoted by States usually do more harm than good.

**Jannie Lasimbang** says transitional justice processes are also very important in relation to violations of IPs' land rights (also **PIDP/REPALEF-RDC/IPACC**; **CASC-SMD&GS** for the **Amazigh** IPs in Morocco). The national enquiry on IPs' land rights conducted by the national human rights institution in Malaysia helped to unpack a lot of issues and has paved the way towards solutions for realizing justice and IPs' rights. In such contexts, IPs' organisations need to assist IPs in making their evidence strong and coherent, especially when they find it difficult to come forward during hearings.

**Paul Kanyinke Sena** suggests that the EMRIP's study look into possibilities for IPs to seek remedies in international criminal tribunals, as well as to use the principle of universal jurisdiction.

**UNICEF** reports on findings of the UN agencies' study "Breaking the Silence on Violence against Indigenous Girls, Adolescents and Young Women". To ensure that no victim of violence is denied justice, this study recommends assessing the impact of existing legal, policy and institutional reforms, and putting an end to the culture of impunity through well-resourced and funded reforms in the justice sector to enhance the ability of victims to seek redress and protection, through culturally adequate and available complaint mechanisms, legal aid, witness protection, and interpreter services.

The **Global Indigenous Youth Caucus** recommend that the EMRIP's work on access to justice be continued, with the full and effective participation of indigenous youth; urge States to implement indigenous judicial policies and frameworks created specifically by and for IPs, including involvement of indigenous youth in their traditional justice systems, so as to find ways to decrease their high incarceration rates (also **NYSHN**); urge that the recommendations regarding indigenous children and youth in the EMRIP's study be fully implemented with the free prior and informed consent of IPs and of indigenous youth; recommend that States further advance inclusive inquests surrounding sexual violence, killings and all forms of violence involving indigenous women and children (also **GCC/CFSC/COO/FSIN/NWAC/UBCIC/FNS/IWA/KAIROS/FPHRC**); and recommend that all those working on issues of justice for indigenous youth, involve in their work youth who have experience with foster care, state custody and youth detention (also **NYSHN**, particularly for the EMRIP).

## Central and South America

**MIN/AIPIN** denounce that Mexico's reviewed Constitution only recognizes indigenous populations and their right to land, not IPs and their right to territories. Mexico needs to put its legislation in line with the Declaration, in particular as regards IPs' rights to consultation, to free prior and informed consent, and to self-determination.

**CILH** denounce that the Constitution of Honduras negates IPs' material and cultural existence, and has erased their culture, ways of life and traditional forms of justice administration. The higher authorities of the **Lenca** IPs continue to resort to their traditional conflict resolution mechanisms, which are, however, prohibited by law.

**ONAG** say that to defend their rights, IPs in French Guiana must rely on their status as French citizens, which prohibits them to be considered as indigenous: access to justice in the promotion and protection of their rights is a challenge. Because of the absence of a legal framework to articulate the indigenous customary law and French common law, a significant number of **Amerindians** are incarcerated (also **CPCK** for **Kanak** IPs in New Caledonia).

**CNV** urge ensuring respect for the human dignity and rights of indigenous detainees in Venezuela, both women and men, by effectively recognizing the value of indigenous systems of justice, in order to allow to substitute detention with other, more adequate measures that fit into indigenous culture and customary standards, including restorative measures and measures for reincorporation into society (also **ONAG**, **CILH**).

**CIR** say IPs in Brazil are fighting to avoid approval of amendments that would threaten the constitutional recognition of their land rights, traded in exchange for economic interests. Laws allowing mining on indigenous territories are being issued at an accelerated rate, while IPs have been waiting for decades for the Congress to approve legislation protecting their rights. The study on access to justice needs to insist on legal pluralism.

In recent years, IPs in Ecuador have lost many of the public institutions that ensured the exercise of their rights.

**CORPUKIS** warn about trials for abusive reasons of indigenous leaders who led protests to defend natural resources or to demand respect for IPs' right to free prior and informed consent.

**CAPAJ** denounce that the States of Chile, Bolivia and Peru are struggling in litigation over marine areas that belong since time immemorial to IPs, who are unable to make their voices heard because the International Court of Justice only accepts communications by States.

In Argentina, burdensome requirements prevent indigenous communities from exercising their constitutional right to a collective legal status and to claim a territory. **CJIRA** express concerns about: failure of provincial courts to take into account international and national legislation on IPs; a proposed judicial reform that does not respect the principle of separation of powers; and serious insecurity of land tenure due to the high number of forced evictions of indigenous communities without due process.

**MEXICO** reports on its efforts to eliminate barriers to IPs' access to justice due to discrimination, language and cultural sensitivity, and to offer alternative sentences to incarceration for indigenous offenders (also **VENEZUELA**). The Supreme Court of Justice elaborated a Protocol for cases involving IPs, aiming to ensure that IPs' rights are upheld (**MIN/AIPIN** acknowledge this instrument, while emphasizing the widespread criminalization of IPs' struggles for their lands and resources).

**GUATEMALA** reports on creation of customary communal courts, appointment of interpreters and bilingual judges, establishment of the Commission for Indigenous Affairs within the Supreme Court, strengthening of the Office for the Defense of Indigenous Women, and elimination of culturally discriminatory biases in the administration of justice.

**COSTA RICA** emphasizes a mechanism for open dialogue between IPs and senior officials of the executive, legislative and judicial powers, to address both historical injustices and concrete regulation of the right to prior consultation. A special commission within the judiciary seeks concrete remedies to barriers (including linguistic and geographical ones), and raises the awareness of judicial officials regarding IPs' specific needs and rights (also **ARGENTINA**).

**VENEZUELA** recognizes IPs' right to apply their own forms of justice, in their territories and by their legitimate authorities, in matters involving only their members, within the framework of Venezuela's Constitution and international obligations (also **ECUADOR** and **BOLIVIA** for their own mechanisms). A specific indigenous jurisdiction supports remedial agreements.

Referring to its own situation, **ECUADOR** calls on the EMRIP to grant expert advice to States regarding mechanisms to articulate the indigenous and ordinary administration of justice as regards both the respect for IPs' traditions and the fight against impunity, while taking into account the complexity of traditional procedures and the jurisdictional unity of States.

**BOLIVIA** reports that in its first-ever 2008 election of magistrates of the judiciary, one of the criteria for candidates was to have exercised the mandate of communal indigenous authority, which includes the traditional administration of justice. The judiciary now comprises indigenous judges and is guided by judicial pluralism.

**ARGENTINA** emphasizes that its Council for Indigenous Participation has worked on legislation regarding intercultural bilingual education; communication media; and cadastral survey of communal lands occupied by indigenous communities. A proposed reform of the Civil Code will address indigenous communities' ownership

of their lands and consultation on resource extraction operations affecting them (**CJIRA** warn that this reform will undermine indigenous communities' collective status).

**PARAGUAY** is developing human rights indicators, including on the right to a fair trial, which aims to monitor the judiciary's competencies and independence, compliance with due process and access to justice for IPs among other vulnerable groups. A governmental body mandated to ensure compliance with international recommendations has begun to celebrate its meetings in indigenous communities when issues at hand involve these.

### North America

**GCC/CFSC/COO/FSIN/NWAC/UBCIC/FNS/IWA/KAIROS/FPHRC** denounce that the Canadian Government continues to invoke the Doctrine of Discovery in domestic courts to deny Aboriginal title to land and territories (also **IWA** for the USA); refuses to consider that IPs' collective rights are human rights and claims that the Declaration has no legal effect; insisted on the use of "indigenous and local communities" rather than "indigenous peoples and local communities" in the Nagoya Protocol; disregards treaty rights to lands and resources, and to free prior and informed consent, when issuing licenses to the industry; and does little to address disproportionate incarceration of IPs. States must take immediate and effective measures to: eliminate barriers that impede IPs' access to justice, including discriminatory laws, policies and practices; ensure that invalid doctrines of superiority are not invoked in court cases or negotiations, particularly as regards IPs' lands, territories and resources; ensure access to justice so that IPs' right to an effective remedy is fully realized; and stop causing excessive delays in judicial and administrative processes involving IPs.

**IHRAAM** warn that in Canada, IPs' criminalization will not cease until the root issue of competition for IPs' land and resources is resolved according to international human rights instruments, and not by the Government's flawed treaty-making process that promotes extinguishment of Aboriginal title in exchange for inadequate financial settlements. The EMRIP's study should refer to the illegality, according to international law, of the situation where IPs have to fill lawsuits against the State in courts that were established by the State itself and can, as a result, only be partial because they uphold the law of the State (also **IITC/N-NABS-HC**; **CILH** for Honduras). **IHRAAM** recommend: creation of a voluntary fund for IPs' legal action at international level; that States stop forcing indigenous individuals to identify as their nationals, and instead, recognize and respect their indigenous identity and the protection of their rights as IPs; and international oversight in IPs' access to justice.

**IWA** say IPs in the USA have no access to justice (also **IPNC**). They are treated as dependent indigenous nations. US citizenship was forced upon them, and their tribal governments were induced to model US style of governance (also **IPNC**). This is continuing colonial domination where IPs are relegated to play by legal and political game rules established to rule them, and cannot reclaim permanent sovereignty over lands, territories and natural resources, as the courts rule that they have no self-determination as peoples under international law (also **CILH** for Honduras). IPs' rights as recognized in the Declaration must be implemented.

Drawing attention to effects of structural and institutional discrimination regarding the intersection of justice with sexual and reproductive health and rights, **NYSHN** note that Two Spirit and transgender indigenous youth experience even more targeting by the police and overall discrimination. Criminalization of HIV creates an environment of fear and stigma that hinders effective public health efforts and endangers the lives of people living with HIV, especially women in abusive relationships, as well as detainees both women and men.

**NIYC** wish to promote and defend the moral and basic human right to clean sacred water – the most precious gift, now under assault. IPs' waters throughout North America have been and continue to be severely put at risk by a series of severe contaminations by oil spills, industrial toxic waste, fertilizers, insecticides and mercury, as well as mining operations including hydro-fracking, and commercial fisheries. IPs suffer when they lack access to traditional waters for subsistence fishing. All this abuse of water must stop, as all life is dependent on water. **NIYC** call for the implementation of measures to protect IPs' right to clean water and the monitoring of IPs' rights under the Declaration. (The **Global Indigenous Youth Caucus** support this statement.)

**IITC/N-NABS-HC** emphasize the guarantee of non-recurrence as an essential element of justice (also **NSWALC**). Assimilationist policies of forced removal of thousands of indigenous children are not only a past violation, as indigenous children in both the USA and Canada continue to be disproportionately removed from their homes through state foster care programs (also **NYSHN**; **ATSILS/NCAFP** for Australia); languages continue to be threatened as a direct result of these policies; and past violations are ongoing as long as the families are not accorded the right to truth about the fate of their relatives. Restorative justice must begin with acceptance of responsibility, opportunity for truth-telling, and the absolute guarantee of non-repetition (also **ONAG** for **Amerindians** in French Guiana). The EMRIP should provide advice regarding restorative justice in human rights violations with continuing impacts.

The USA denies the right to self-determination to Alaska, to Hawaii and to the **Lakota** IPs over the Black Hills, and fails to comply with its international obligations in relation to its treaties with IPs. **IPNC** denounce that both in Alaska and in Hawaii, justice is rendered through puppet institutions that make possible manufactured consent for large-scale development projects on indigenous territories.

**LPDOC/CSIA-Nitassinan/Incomindios/AKIN/AGIM** say States must ensure that specific security laws are not used to violate IPs' human rights and intimidate them in the context of legitimate civil protest or land claims. All cases relating to imprisoned indigenous human rights defenders should be examined, where there is evidence that the trials were politically motivated or procedurally defective, as is the case of Leonard Peltier.

**CANADA** reports on its strategies to support community-based approaches to justice, including sentencing alternatives and civil mediation services (also **USA**); ensure that Aboriginal individuals involved with the criminal justice system receive fair and culturally-sensitive treatment; and support community healing models that reduce recidivism and promote sustainable human development.

The **USA** reports on measures taken to address issues of indigenous women seeking justice for crimes committed against them, with an important legal provision enabling indigenous tribes to prosecute non-indigenous perpetrators of violence against indigenous women for acts that occur on tribal lands. Several governmental agencies provide training on IPs' rights and on domestic violence to law enforcement and judicial officials.

## Africa

In North Africa, the **Amazigh** IPs enjoy no recognition by the States and no protection under international human rights instruments on IPs' rights (also **AFK**). Measures taken by States in response to Amazigh peoples' claims for their rights are delusive: official recognition of the Tamazight language both in Algeria and Morocco has brought no concrete progress (also **AFK**). **CMA** call for an equitable access to justice for the Amazigh IPs; for the North African States to draw from international law and the Amazigh customary law as sources for domestic legislation; and for UN bodies, including the HRC, to make the North African States respect their international obligations regarding IPs (also **AFK** for Algeria).

**AFK** warn that in Algeria, the judiciary is not independent: unfair trials are frequent in particular for **Amazigh** activists and human rights defenders, while a culture of impunity prevails (also **ATH-K**). The Algerian State must put an end to harassment and arbitrary arrests of Amazigh activists, respect the self-determination and self-government of Kabylie, and introduce the use of Tamazight in public administration and the judiciary.

**ATH-K** draw attention to the issue of forced disappearances in Algeria during the 1990-1999 decade of terrorism and the 2001 Black Spring in Kabylie (also **AFK**). Perpetrators are still enjoying impunity while the State denies the right to truth to **Amazigh** victims and their families.

**Tinhinan** warn that the violations of human rights that IPs face in Africa are usually left unaddressed by local courts. Cultural values and the fear of reprisals are among factors that impede victims to denounce these abuses. The EMRIP should continue its study, with a particular focus on violence against women and on violations against IPs' rights in conflict regions.

**MBOSCUA/SAMUSA** underscore that in Africa, land tenure legislations do not recognize the customary land and natural resource tenure, and the vast legal heritage of nomadic IPs. In Cameroon, the **Mbororo** cattle-herding indigenous pastoralists enjoy poor access to the State's services. Communal lands used by them are often appropriated by commercial ranchers and land speculators. In defending these lands, MBOSCUA officials and human rights defenders continue to suffer judicial harassment, arbitrary arrests and long detention. Cameroon must put an end to this. The EMRIP should take into account the legal discrimination against mobile IPs and pastoralists as part of the institutionalized barriers to equal human rights, self-determination and access to justice (also **PAICODEO/TANIPE**).

**PIDP/REPALEF-RDC/IPACC** say the **Bambuti** IPs in the Democratic Republic of the Congo lack access to information and judicial knowledge, namely due to denial of their rights over their communal and indigenous forest territories, which they have customarily cultivated and protected, turning them into highly biodiverse ecosystems. To ensure the Bambuti IPs' access to justice, these territories now require legal recognition and judicial protection, to allow for IPs' self-determination, natural resource management, security of means of subsistence, and cultural integrity. Indeed, some of these traditional forest territories have now become protected areas, with the **Bambuti** IPs being excluded from their management.

**COPORWA** note that in Rwanda, the forest-dwelling **Batwa** IPs face marginalisation, neglect and other injustices, and are forcibly displaced from their forests. As a consequence of the 1994 genocide, the Batwa are now denied the possibility to claim their inherent and specific rights as IPs, while the Government categorically refuses all recommendations regarding them by UN treaty bodies and under the UPR.

Delays, accessibility, systemic corruption and collusion are key problems affecting Kenya's justice system.

**OPDP** recommend: appointment of legal aid experts to advise and represent IPs in both local and regional courts; strengthening media systems for their role in highlighting violations of IPs' rights (also **Tinhinan**); supporting the training of indigenous human rights defenders; and establishment of protocols to protect IPs' lands and natural resources. Kenya must revoke all title deeds issued to settlers in the Mau Forest - a customary territory of the **Ogiek** IPs from which they are being evicted - and implement the report of its Truth and Reconciliation Commission regarding land injustices.

Calling on the Government to put an end to this, **PAICODEO/TANIPE** denounce increased violations of IPs' rights in Tanzania, including forced evictions of pastoralists, land grabbing, extrajudicial killings, due to governmental development policies that do not take IPs' rights into consideration.

**ALGERIA** claims that access to justice must be considered within national contexts. National laws must be respected, including by human rights defenders. The EMRIP must not be diverted from its vocation to promote the Declaration.

### Asia and the Pacific

The **Asian Indigenous Caucus** say barriers to IPs' access to justice include costs, geographic/physical accessibility, language, legal literacy, time, absence of cultural and gender sensitivity, as well as discriminatory attitudes of legal service providers (also **DENMARK/GREENLAND**, **UEA**; **NSWALC** for Australia; **ONAG** for French Guiana; **AEC** for the **Telengit** IPs in Altai Republic; **NIWF-Nepal** and **Jannie Lasimbang** for indigenous women, as well as **BIPF** insisting on power imbalance between perpetrators and victims). Access to legal remedy for human rights violations calls for the recognition of IPs' customary justice systems, as they are dynamic and responsive to the communities' needs, comply with international human rights law, and are more accessible to indigenous women both in terms of language and proximity (also **BIPF**). States must create, with IPs' full involvement, an environment where the customary justice systems can function as a separate official system integrated under the state legal system (also **OPDP**, **New Zealand Human Rights Commission**, **MEXICO**).

**Jannie Lasimbang** shares information about the South-East Asian Consultation on Development, Access to Justice and the Human Rights of Indigenous Women, which emphasized denial of the rights of indigenous women to determine their own development (also **NIWF-Nepal**); and development projects degrading indigenous women's cultural practices, means of subsistence, and status. The limited access to justice remedies for violations arising from development projects is exacerbated by IPs' non-recognition as rights-holders with collective rights (also **Asian Indigenous Caucus**). Remedies include ensuring women's active engagement with traditional decision-making processes and customary institutions to address customary laws and practices that discriminate and perpetuate violence against women; and strengthening indigenous women's involvement in local governance.

Indigenous women in Nepal face widespread discrimination both within and outside their communities, due to discriminatory laws and a long-established patriarchal cultural system. **NIWF-Nepal** are in the process of documenting cases of violations of indigenous women's rights. UN-Women should uphold in its work the rights of indigenous women, including to access justice.

**BIPF** emphasize violence against indigenous women as one of the major issues in Bangladesh, while perpetrators enjoy total impunity due to victims' lack of access to justice. In the Chittagong Hill Tracts (CHT), the failure to implement the 1997 Accord, which provides for a framework on customary rights, local law enforcement and civil administration, is a further denial of access to justice for IPs.

**KKF** call upon Vietnam to support the teaching of their indigenous language and culture to the **Khmer-Krom** children; and combat discrimination against the Khmer-Krom monks, who transmit the language, world view and customary law to the community.

**AMAN** welcome the recent ruling by the Constitutional Court of Indonesia ensuring IPs' ownership over their customary forests, but remain deeply concerned about the escalation of agrarian conflicts resulting from IPs' lack of access to justice, and about absence of recognition of IPs' customary justice systems and institutions. **AMAN** urge Indonesia to improve its draft Act on recognition and protection of the rights of IPs, in full cooperation with IPs' representatives, and to swiftly enact it.

**WPIA** say the Indonesian law of 2001 on special autonomy to Papua has brought no significant change in IPs' life and extreme poverty conditions. They continue to face the human rights violations that were mentioned in the report of Indonesia's second UPR in May 2012. The West Papua IPs call upon the UN to respect and uphold their right to self-determination.

In New Caledonia, the scope of application of the **Kanak** IPs' customary law continues to be determined under the French common law. **CPCK** recommend establishment of an adequate capacity-building programme to train indigenous lawyers and judges; that the French State rapidly take position regarding effective application of the Declaration; improved and culturally appropriate treatment of indigenous detainees; that Kanak indigenous detainees do not lose their voting right; and that the traditional indigenous Kanak clans be recognized by New Caledonia's legal system, based on the mapping of their territories and their customary constitutions.

**ATSILS/NCAFP** warn that current State policies in Australia fail to recognise the complexity of barriers to IPs' access to justice, including distrust due to historical use of the law as a tool of dispossession and oppression (also **NSWALC**; the **New Zealand Human Rights Commission** for **Maori** IPs in New Zealand). As a result, Aboriginal and Torres Strait Islander peoples are over-represented in all contacts with the justice system (also **NSWALC**, **AUSTRALIA**). The HRC should: request the EMRIP to extend the study on access to justice to

include analysis of the International Convention on the Elimination of All Forms of Racial Discrimination in relation to addressing discrimination and obtaining free prior and informed consent; encourage States to take, in consultation with IPs, a strategic approach focused on prevention, diversion and rehabilitation, so as to reduce incarceration of IPs (also **New Zealand Human Rights Commission**); and encourage States to provide appropriate support for indigenous organisations to provide legal services as well as advice on reforms (also **NSWALC**).

**NSWALC** recommend that all States: comply with and enforce, in consultation with IPs, international human rights instruments related to IPs' human rights and access to justice, with special measures for indigenous women and youth; reform all laws and policies to rapidly reduce imprisonment rates of IPs, through measures akin to those in the Optional Protocol to the Convention Against Torture; develop culturally-based programs that address the behavioural, social and emotional needs of juveniles through indigenous engagement and by exploring alternatives to custody; and appropriately establish reparations tribunals to provide redress to IPs affected by discriminatory government policies (also **Albert Deterville**), including child removal policies.

**AIRT** say the EMRIP's study should include, among remedies to discrimination, the urgent need for States, including New Zealand, to acknowledge and address systemic discrimination (also **New Zealand Human Rights Commission**). The study should also recommend how to strengthen such mechanisms as the Waitangi Tribunal, whose recommendations are not binding on New Zealand's Government (also **New Zealand Human Rights Commission**), while resulting Treaty settlements, considered to be political matters, cannot be challenged legally (**NEW ZEALAND** deems that the current recommendatory system is balanced and constructive). Finally, in view of New Zealand's failure to discuss and address the recommendations of treaty bodies and special procedures domestically, the EMRIP should urge for governmental mechanisms to monitor implementation of the State's human rights obligations.

The **New Zealand Human Rights Commission** says the 1840 Treaty of Waitangi frames how access to justice for **Maori** IPs is to be realised, by affirming their self-determination and full participation. However, Maori traditional values, customs and law are currently marginalised in New Zealand's law and Constitution, with Maori IPs suffer significant discrimination at all levels of the justice system. Successful initiatives for recognition of Maori customs and law include various sorts of courts that incorporate the family and tribe of the offender in courts hearings (also **NEW ZEALAND**); and units in detention centres that provide opportunities for Maori prisoners to maintain contact with their culture and community. A global study must be conducted on overrepresentation of IPs in justice systems; and States must support IPs to develop programmes to collectively improve their access to justice; and review national laws to eliminate discriminatory provisions (also **Albert Deterville**; **AMAN** for Indonesia).

**AUSTRALIA** reports on its commitment to removing barriers to IPs' access to justice through support to Aboriginal and Torres Strait Islander interpreter services and legal aid services, as well as indigenous family violence prevention services.

**NEW ZEALAND** emphasizes the Treaty settlement process under the Waitangi Tribunal, whereby the Government and **Maori** tribes negotiate on claims of breaches to the Treaty of Waitangi. Settlements include acknowledgements of past wrongdoing, apologies and significant cultural, financial and commercial redress. New Zealand argues that this process provides the tribes with significant economic bases and revitalised institutions, which support the tribes' economic, social and cultural rights and autonomy, enabling them to address Maori disadvantage (the **New Zealand Human Rights Commission** argues to the contrary).

### Europe, Russia and the Circumpolar

**YNM** denounce that the judicial authorities of the Sakha Republic (Yakutia) have failed to respond to the illegal seizure of oil and gas production by profit-driven transnational private interests. This threatens the life and health of IPs, because these are strategic resources to ensure heating stability and living conditions in a very harsh climate.

**AEC** denounce a lack of direct participation and representation by the **Telengit** IPs in the judiciary, law-enforcement agencies and other public institutions in Altai Republic, even though there are young Telengit specialists who could be working in law-enforcement agencies.

The **RUSSIAN FEDERATION** notes the potential of customs as an important instrument to protect IPs' rights (also **ALGERIA**), and its own legal instruments protecting IPs' customs and traditions. Standards taking into account IPs' customs could be elaborated for corporate activity in territories of traditional nature management.

**DENMARK** and **GREENLAND** call on States to engage with IPs, based on their free prior and informed consent, to review and develop judicial mechanisms, also with a view to strengthen IPs' traditional justice mechanisms, in accordance with international human rights standards (also **James Anaya**).

The multiple, intersecting forms of discrimination that hinder IPs' access to justice need greater attention from the international community. **AUSTRIA** calls for increased cooperation among the HRC's special procedures.



**UEA** denounce the dominant use of English in the UN, including the EMRIP: basic equity should be respected in the use of all six UN languages (also **CNV** for Spanish). International use of Esperanto contributes to linguistic and cultural diversity, and represents a mark of respect for all peoples.

**LLU** emphasize that seeking remedies through international judicial processes to address damages caused by extractive operations of transnational corporations is even more difficult for IPs, who face multiple jurisdictions that do not always recognize them (also **IHRAAM**). To ensure IPs' effective access to justice, an independent, intercultural judicial body must be created within the UN (also **CAPAJ**).

**Albert Deterville** recalls that in 2001 the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance called upon States, in particular the former colonial powers, to honour the memory of IPs victims of past tragedies.

**Alexey Tsykarev** emphasizes the usefulness of indigenous ombudsmen on the rights of IPs; and insists on the importance of the activities of human rights organisations and human rights defenders in ensuring access to justice (also **GCC/CFSC/COO/FSIN/NWAC/UBCIC/FNS/IWA/KAIROS/FPHRC** for Canada).

In closing, **Jannie Lasimbang** welcomes the facts that States are no longer saying they do not understand IPs' customary legal systems. However, there is still insufficient confidence and support for such legal systems, which tend to become, rather, integrated within state systems (also **AMAN**).

## Item 6 – The UN Declaration on the Rights of Indigenous Peoples

Introducing the discussion, **Jannie Lasimbang** reports on the responses to the Questionnaire to seek the views of States and IPs on best practices regarding possible appropriate measures and implementation strategies to attain the goals of the Declaration [document A/HRC/EMRIP/2013/3]. Regretting the small number of responses received (also **TF, GCC/CFSC/IWA/UBCIC/FSIN/FNS/COO/KAIROS/FPHRC**), she however praises the rich information provided (also **Wilton Littlechild**). Noting that some States perceive a discrepancy between the Declaration's implementation and the principle of equality, she recalls that substantive equality may require treating IPs as distinct groups facing unique circumstances. Implementation requires more involvement by States, as it remains partial in most cases (also **CODINB, TARTIT, NSWALC, RLIP**). The EMRIP deplores that to date, no State has passed explicit legislation requiring the Declaration to be considered when designing new laws and policies relating to IPs. There is a need to develop awareness raising about the Declaration and provide education and training on IPs' rights (also **IHRAAM**). The EMRIP and relevant UN mechanisms should collaborate with regional NGOs to better assist IPs in proposing measures and implementation strategies to attain the goals of the Declaration.

**Alexey Tsykarev** insists on the need for States to recognise IPs according to the principle of self-determination (also **TARTIT, CONACHA, COPORWA**) and to treat all IPs equally. He insists on the necessity to preserve languages and to report on methods of language revitalization. He calls on IPs to invite EMRIP members to participate in their regional events.

The **Board of Trustees of the UN Voluntary Fund for Indigenous Peoples**, noting the expansion of the Fund's mandate to support the participation of IPs in the World Conference, express concern about the financial implications of this, while resources decrease, and call upon States to express their support by contributing to the Voluntary Fund.

### Central and South America

**CODINB** deplore a lack of respect for the Declaration's principles, noting that in all Latin American countries, governments continue to promote the interests of corporations at the expense of those of IPs, in the name of progress and development.

**CAPAJ/LLU** draw attention to the issue of IPs separated by borders (also **Alexey Tsykarev**). They report on the creation of the South-Andean Plurinational University, which is to deploy its activities in Peru, Chile and Bolivia.

The **Kolla IPs of the Salinas Grandes Basin** in Jujuy, Argentina, denounce non-respect of their free prior and informed consent by the State (also **CJIRA**) concerning extractive industries in their province. Following the conclusions of the SRIP upon his visit (also **CJIRA**), the Kolla IPs request the State to comply with the law on cadastral survey of indigenous communities, and that the EMRIP monitor the effective realization of IPs' rights and of relevant recommendations.

**CJIRA** deplore that the Declaration has not yet been incorporated into domestic law in Argentina. They alert on the high levels of pollution that affect indigenous territories due to the important rise in mining activities (also the **Kolla IPs of the Salinas Grandes Basin, KAMP**), and hydro-fracking, which is maybe the greatest concern. **CJIRA** denounce criminalization of indigenous protest, as well as harassment of lawyers that engage with indigenous struggles (also **CODINB**). The HRC must find ways to ensure that States implement the Declaration, and put in place a mechanism to monitor that process.

**CONACHA** complain that the genocide of the **Charrúa** IPs has not been recognized and no subsequent land restitution has been made in Uruguay. They recommend that the EMRIP realize a detailed study on non-recognized IPs in Latin American and Caribbean States, and the creation of a follow-up commission on this.

**MEXICO** reports on its actions in law harmonization; improved participation; promotion of IPs' rights; promotion of human rights and security for indigenous people that realize temporary migrations within the national territory. Mexico would welcome the publication of guidelines on how to implement the Declaration, both for States and indigenous organizations.

**VENEZUELA** highlights the creation of its Guaicaipuro Commission, mandated to promote, develop and carry out the Bolivarian policies intended to clear the historical debt towards IPs; emphasizes indigenous representation in the political structure of the State; and calls on the international community to fulfil the objectives and principles contained in the Declaration through programs and concrete measures.

**PERU** proposes that the EMRIP: formulate concrete recommendations to address the persistent issue of violence against indigenous women and girls, and their participation in decision making processes; and address the issue of traditional knowledge, to help IPs voice their positions so as to achieve a good system of protection against misappropriation and commercialization.

**BOLIVIA** reviews its progress in guaranteeing IPs' rights.

**ARGENTINA** gives examples of its good practices, such as legislative reforms in the area of land and access to justice.

**URUGUAY** is considering the application of ILO Convention 169, based on the definition of "indigenous peoples" in its first article. Uruguay is willing to take concrete steps to recognize the indigenous identity in the country.

**CHILE** is developing an instrument to promote IPs' free prior and informed consent and proposes the creation of an IPs' council to provide advice in the formulation of public policies. It reports on progress regarding indigenous language revitalization and intercultural health.

### North America

**GCC/CFSC/IWA/UBCIC/FSIN/FNS/COO/KAIROS/FPHRC** ask for the development of national action plans to implement the Declaration by States and IPs (also **IPs' Organisations Network of Australia, NSWALC**).

**NIYC** denounce non-recognition of urban IPs. In the USA, protection and promotion of IPs' rights applies only to IPs located in reservations, whereas the Declaration also protects the individual and collective rights of IPs that have been subjected to policies of urbanization.

In the context of indigenous child removal policies, **LIO** urge that historical information be protected from being deleted, that manipulated records be corrected and that there be no time limit to make these corrections, in order to allow survivors and their families to find each other.

### Africa

**TARTIT** alert on the worrying situation of **Tuareg** IPs in Burkina Faso, where climate change and violent land conflicts make them extremely vulnerable. Their pastoralist way of life makes it difficult for them to go to school, which hinders their access to political representation. The SRIP should visit to assess the situation of the Tuareg IPs' economical, social and cultural rights in Burkina Faso.

**SAMUSA** recommend that the UN agencies' country offices in Cameroon work together with IPs to preserve the indigenous biocultural heritage; that the Government set an office for indigenous affairs, recognize the communal and customary rights of **Mbororo** IPs over their lands, and make available employment opportunities, vocational trainings and scholarship for Mbororo youth.

**UNIPROBA** alert on the situation of the **Batwa** IPs who are marginalized, oppressed and discriminated against in Burundi.

**ASSEJEBE** press Burundi to publically recognize the **Batwa** IPs in its nation-building efforts (also **UNIPROBA**; **COPORWA** for Rwanda).

**COPORWA** recommend that the EMRIP and HRC organize a visit in Rwanda and other African countries that did not adopt the Declaration; and that States recognize and protect IPs' territories.

### Asia and the Pacific

Despite positive developments in the Philippines, Malaysia and Indonesia, the **Asian Indigenous Caucus** alert on non-recognition of IPs by some Asian governments (also **AMAN** for Indonesia; **CIP-TVN** and **KKF** for Vietnam) and ask States to engage with indigenous authorities towards their legal recognition through constitutional modifications and implementation of the Declaration in domestic laws and policies (also **COPORWA**, **AIPR**). The Asian Caucus also denounce the ASEAN Investment Plan for extractive projects,

which will adversely impact IPs' lands, territories and resources; and call on States to respect and realize IPs' right to participate in decision making in matters that affect them, as well as the principle of free prior and informed consent (also **CJIRA**, **KAMP**). They call on OHCHR to take a more active role in the Declaration's implementation process (also **Alexey Tsykarev**; **ASSEJEBA** for Burundi).

**AIPR** urge Japan to recognize the **Ryukyu** IPs' historical land rights in the Senkaku Islands as part of their traditional living sphere. (Responding, **JAPAN** asserts that the Senkaku Islands are an inherent part of the territory of Japan.)

**TF** recommend that the Philippines should properly implement the law on the demarcation and titling of IPs' lands, by providing funding and ensuring indigenous participation in the process. The National Commission on Indigenous Peoples (NCIP) should review the certificates of free prior and informed consent it has issued, and investigate allegations of irregularities. Accessible and affordable grievance and redress mechanisms should be provided, including the recognition of indigenous justice systems and institutions (also **KAMP**).

**KAMP** recommend that the Philippines repeal its Mining Act of 1995 and support the passage of the proposed new mining bill in Congress; respect and uphold mining moratoriums issued by local government; hold accountable corporations that have caused environmental and livelihood destructions, and ensure mechanisms for reparation; prohibit the involvement of military or paramilitary forces with mining activities, and stop militarization of indigenous territories, together with related human rights violations (also **AIPR**).

**NEDF** urge the Government of India to repeal the widely condemned 1958 Armed Forces Special Powers Act and stop militarization in the name of development; to fully adhere to the recommendations of the World Commission of Dams, and to the Declaration, regarding the Tipaimukh Dam, and revoke all memorandums of agreements for its construction. They urge the Governments of Manipur and India to adhere to the 2008 recommendations of the SRIP; and urge India and the Jubilant Oil and Gas Corporation to stop all oil exploration and drilling in Manipur until and unless there is free prior and informed consent of the concerned IPs.

**AVS/JHRM** draw attention to a series of concerning situations of forced displacement (also **CJIRA**) due to corporate extractive activities, and to related human rights violations and criminalization of IPs (also **KAMP**, **NEDF**, **AMAN**, **BAA**).

Sharing evidence that implementation of the Declaration has been put on hold in Vietnam, with no measure taken to disseminate it, **CIP-TVN** announce their creation to help implement the Declaration and obtain the right to self-determination for their constituencies. CIP-TVN also request the UN to inscribe their colonized homeland on the list of non-self-governing territories.

**KKF** ask the Government of Vietnam to respect IPs' religious rights, to allow the **Khmer-Krom** IPs to develop their own media, and to address the issue of confiscated farmlands.

**BAA** alert on worsening situations in Maluku and West Papua, where IPs are consistently denied their right to self-determination (also **AMAN**). They highlight the legitimacy of South Moluccas' 1950 declaration of independence. They recommend the EMRIP to identify possibilities for change and promote priorities for decolonization; and emphasize the necessity for the international community to denounce the illegitimacy of existing regimes forced upon indigenous territories.

**HIHR** give account of their use of video media to raise awareness about the Declaration's provisions. They also translated the Declaration into indigenous languages.

The **IPs' Organisations Network of Australia** call for increased consistency across countries, to overcome constitutional division of legislative powers between federal and state governments. They recommend that the EMRIP conduct a study on the status of IPs as peoples with the right of self-determination and on legal recognition of IPs by States. States must be required to report on implementation of the Declaration under the UPR (also **CPCK**).

**NSWALC** are concerned about the lack of substantive protection against racial discrimination in Australia's founding documents. They recommend that all States develop an effective process to monitor the implementation of the Declaration (also **SC**); call on the World Conference to strengthen the Declaration's status as a treaty through the creation of an optional protocol; and press all States to ratify ILO Convention 169 (also **COPORWA** for African States; **CJIRA** for Argentina).

The **New Zealand Human Rights Commission** made a poster to raise awareness about the Declaration; and underscores the need to address the increasing marginalization of indigenous persons with disabilities.

**JAPAN** recognizes the **Ainu** as IPs and lists the measures taken to promote Ainu culture, improve their living standards and consult them in policy making.

**VIETNAM** lists its actions to guarantee the rights of ethnic minorities; and emphasizes the principle of equality of all citizens as a fundamental guarantee for ethnic minorities' rights.

**AUSTRALIA** highlights the increasing autonomy of IPs in the management of their land, and the success of its "Closing the Gap" strategy. Together with NCAFP and the Australian Human Rights Commission, they are working to increase awareness on and encourage dialogue about the Declaration.

## Europe, Russia and the Circumpolar

**RLIP** are requesting assistance from the EMRIP to facilitate the Declaration's implementation.

The **Komi-Permyak** IPs are on the verge of extinction (also **COPORWA** for the **Batwa** IPs). **CEI** recommend that Russia create platforms for dialogue to allow the expression of diverse points of view, promote language diversity, communicate in indigenous languages, and prioritize IPs' social and economic development rather than the mere preservation of cultural traditions.

The **EUROPEAN UNION** is in a process of changing its policy on indigenous rights, to further develop it in line with the Declaration and in preparation for the 2014 World Conference.

**GERMANY** invites the EMRIP to focus on the role of national human rights institutions in monitoring and supporting the Declaration's implementation at regional level; and to promote an exchange of views regarding implementation and monitoring of, respectively, the Declaration and the UN Guiding Principles on Business and Human Rights.

Even though it has not adopted the Declaration, the **RUSSIAN FEDERATION** reports on positive trends in relation to the situation of IPs in Russia. Indeed, many of the Declaration's provisions have been implemented in Russian legislation and law-enforcement practice.

Reporting on a film festival that promotes films on indigenous issues, **LLU** insist on the necessity of information and comprehension to ensure the respect of IPs' rights by the general public.

**AGIM/AKIN/CSIA-Nitassinan/Incomindios** denounce the fact that some States, such as Canada, undermine the impact of the Declaration in violation of international law (also **GCC/CFSC/IWA/UBCIC/FSIN/FNS/COO/KAIRO/FPHRC**, **BAA**; **NSWALC** and the **IPs' Organisations Network of Australia** for Australia; the **Asian Indigenous Caucus** regarding the ASEAN Declaration on Human Rights). They also express concern about the situation of violence against indigenous women in Canada, reporting numerous cases of murder with perpetrators enjoying impunity. Canada must start an inquiry to document these cases and put an end to this situation. They urge the PF, the EMRIP and the SRIP to include Canada in a future country-based study on violence against indigenous women and girls.

## Interactive dialogue: the role of regional mechanisms in advancing IPs' rights

**Jannie Lasimbang** explains that this year's panel and interactive dialogue comprises the three UN mechanisms related to IPs as well as international, regional and national human rights mechanisms.

**Wilton Littlechild** recalls that the Declaration has been the framework for the EMRIP's work since its inception. **SRIP James Anaya** insists on the States' central role in operationalizing the Declaration and, thus, the need to raise State officials' awareness about the Declaration. He denounces a significant lack of awareness about the Declaration within the UN system itself, and the implications of this in UN programming at the global and country levels. Implementation of the Declaration clearly requires the active involvement of IPs, their authorities and organizations (also **Wilton Littlechild**, the **Mapuche** IPs of Neuquén), as well as a broader involvement of a range of civil society actors, including NGOs, the media, and educational institutions.

PF Chair **Paul Kanyinke Sena** notes that the PF has been good at producing recommendations but has not been effective in following up on their implementation, because of a lack of resources and to the non-legally-binding character of these recommendations. He also underscores a fall in the number of reports submitted to the PF by States and IPs' organizations. With the World Conference coming up, this is the right time for the PF and the EMRIP to consider different approaches to promoting better implementation of the Declaration.

**Albert Deterville** emphasizes article 42 of the Declaration, which will allow to clear a lot of misunderstandings as to going forward in the implementation of the Declaration.

**IITC** ask the panellists' views regarding what IPs' organizations could do to encourage implementation of the Declaration, and invite ideas from the different UN bodies about how to disseminate their recommendations and about examples of successful implementation, so that indigenous organisations that have submitted recommendations can see the resulting processes.

**LLU** inquire whether the propositions made at the EMRIP's sessions are sent to the governments so that they can act and respond.

**DENMARK** and **GREENLAND** propose to invite members of the UN Working Group on Business and Human Rights and representatives of the extractive industries to participate in future sessions of the EMRIP and the PF, to promote dialogue and understanding on the provisions of the Declaration (also **CAPAJ** for universities).

Responding, **Wilton Littlechild** and **James Anaya** agree on the importance of engaging with the Working Group on Business and Human Rights, and note that opportunities are increasing in this regard.

**Paul Kanyinke Sena** gives examples of the PF's engagement on the issue of business and human rights. Regrettably, discussions at the international level are sometimes not transmitted at the national and local levels.

However, many IPs' organizations are creating awareness on the Declaration. The PF is trying to organize country-specific trainings on the Declaration.

Continuing the panel presentations, **Francisco Cali Tzay**, from the **Committee on the Elimination of Racial Discrimination** (CERD), emphasizes the unique inclusion of IPs in the negotiations on the Declaration, which is the result of their struggles. The CERD uses the Declaration, together with all other human rights instruments, in carrying out its mandate to monitor compliance by States with the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination. He notes that many elements of the CERD's 1997 General Recommendation n°23 on IPs were later included in the Declaration.

**Rafendi Djamin**, from the **ASEAN Intergovernmental Commission on Human Rights** (AICHR) argues there is some added value to the ASEAN Human Rights Declaration, in relation to the protection of IPs. Although the consensus was not reached, during negotiations, on the adoption and use of the concept of "indigenous peoples", he notes that there was a general recognition on the specific character of these distinctive groups.

**Michael Gooda**, **Aboriginal and Torres Strait Islander Social Justice Commissioner** of the **Australian Human Rights Commission** (AHRC), has made the Declaration's implementation his priority. He insists on the role that national human rights institutions can play in providing a valuable framework for forging better communication between the States and IPs. A survey conducted by the Asia-Pacific Forum identified a strong desire among national human rights institutions members of the Forum for technical cooperation and awareness-raising tools, to assist members to better understand the Declaration and promote it at a national level. The Forum, in partnership with the OHCHR and AHRC, is producing a training tool-kit focusing on the rights of IPs. Finally, he states that the Declaration can also be used to guide relationships within indigenous communities.

A representative of the **Mapuche** IPs of Neuquén, Argentina, enquires about measures planned by the EMRIP and PF to overcome the lack of access to media and information technologies that some indigenous communities face.

**IPNC** ask the CERD and EMRIP how they can better promote IPs' right to self-determination. They are very critical of the work developed within the Working Group on Business and Human Rights, saying that this undermines IPs' right to subsistence.

A representative of **IPs in Myanmar** warns that the ASEAN Human Rights Declaration is too far below international human rights standards and does not mention IPs. He asks whether civil society and IPs' organizations can submit information on their human rights situations to the AICHR, and whether the AICHR can identify IPs' issues in its thematic studies.

**INDONESIA** highlights the importance of article 46 of the Declaration, which stipulates that the Declaration should not contravene the UN Charter, in particular the territorial integrity, political unity and national sovereignty of States.

Responding, **James Anaya** states that in terms of access to information, more efforts have to be made to help the information go back to the local level (also **Paul Kanyinke Sena**); IPs' organisations have a responsibility to assist in this and to coordinate with the UN mechanisms. He agrees with IPNC on the need to push harder for self-determination, and recalls his strong commitment to this principle, also in relation to decolonization. Thanking Indonesia for its comments, he recalls that the Declaration is an instrument of reconciliation, not of destabilization. Nevertheless, concrete action must be taken to implement the Declaration, involving legal reforms, new legislation, and programmatic reforms in governmental institutions, as well as education of the broader public. During his country visits he witnessed a lack of awareness about IPs' issues or about the Declaration itself, and often even a reluctance to use the Declaration in government decision-making: this must be seriously addressed. Regarding article 46, he states that the faithful application of the standards in the Declaration will in fact contribute to strengthening the national sovereignty of States and their political unity (also **Rafendi Djamin**, **Paul Kanyinke Sena**; **Michael Gooda** insisting on progressive implementation). Finally, the Post-2015 Development Agenda needs to include a specific focus on the rights of IPs.

**Wilton Littlechild** responds by first recalling the very strong call in the Alta Outcome Document for implementation of the rights of IPs. Concerning article 46, he stresses that the whole UN system is already about the territorial integrity of States and nothing is done to deal with the territorial integrity of IPs. In an effort to balance article 46, preamble paragraphs 16 and 17 of the Declaration were introduced in an attempt to go forward towards healing and reconciliation.

**Rafendi Djamin** responds that the AICHR can protect IPs by proposing possibilities to integrate their issues through regional cooperation. About thematic studies on IPs, there is an open list of proposals to the AICHR; a Post-MDG workshop will invite civil society in the region, including the IPs.

**Francisco Cali Tzay** responds by clarifying that the CERD does not deal with colonization and self-determination. To act, they need to receive information from the specialized agency dealing with colonization. He recommends to develop collaboration with universities, emphasizing the need for IPs to participate actively in those sectors (also **James Anaya**, **Paul Kanyinke Sena**, **Michael Gooda**).

**Paul Kanyinke Sena** responds that article 46 is important also in the African context because when the Declaration was adopted, African States were really concerned about the issue of self-determination and whether that would lead to disintegration of States. ASEAN States could learn from the African experience. Regretting the lack of involvement of the industry sector with IPs' rights, he emphasizes the positive example of environmental NGOs that started considering human rights together with environmental conservation. Regionally, the example of the Latin American Inter-Agency Support Group feeding a lot of information to the UN system in Latin America, could be emulated in Asia or Africa.

### Item 7 – Proposals to be submitted to the HRC for its consideration and approval

The **Global Indigenous Peoples Caucus** emphasize that IPs worldwide continue to face many challenges relating to access to true and restorative justice, leading to deprivation of their enjoyment of civil, political, cultural, social and economic rights. The EMRIP should propose a continuation of the current study for another year (also **Alexey Tsykarev, HIHR**), to focus on gaps and challenges identified during the current session.

**IPACC** emphasize the complementary nature of all the EMRIP's studies, which constitute a valuable body of advice on IPs' rights (also **Alexey Tsykarev, James Anaya, HIHR, ATSILS/NCAFP**). They propose a study on the theme of peace and security, which is part of the Post-2015 Development Agenda and one of the major weaknesses of the MDGs (also **Alexey Tsykarev, Asian Indigenous Caucus, HIHR, AMAN, KAMP, AIPR, PAICODEO/TANIPE**). This study could: clarify States' obligations; document examples of successful implementation of IPs' right to self-determination as a contribution to peace and security; identify examples of effective contribution by IPs in peace building and conflict resolution (also **Tinhinan**); document cases and suggest protection measures regarding the vulnerability of IPs within and outside conflict zones, with particular attention to sexual violence against indigenous women and children, and to human trafficking; provide insights into the drivers of violence against IPs, including issues of rights to resources, climate insecurity, justice and education; describe involvement of IPs in peace-building and conflict resolution processes; and analyse the institutional coherence of the UN systems of early warning for conflicts and gross human rights violations (also **Tinhinan**).

In support for such a study, the **Asian Indigenous Caucus** warn that IPs' rights to a life of peace and security are increasingly threatened by the escalation of human rights violations due to corporate operations, mostly extractive, coupled with militarization and criminalization of IPs' leaders and human rights defenders (also **AMAN, NDD**). Also, national security laws and operations in many Asian States heavily impact on IPs' peace and security, and socio-economic practices.

Likewise, **AMAN** say any efforts for establishing peace and security must go hand in hand with the protection and promotion of IPs' rights, in full accordance with international standards, including the Declaration.

**NDD** note that the marginalized IPs of Nepal lost a lot when the Constituent Assembly was dissolved without promulgating a constitution. They urge that IPs' rights to self-determination, self-government, and free prior and informed consent, be implemented effectively in the context of the State's restructuring.

**HIHR** say a study on climate change could help put a human face on the current impacts of climate change on IPs' fundamental freedoms, and emphasize resilient models of rights realization through adaptation practices developed on the basis of traditional knowledge.

Referring to the situation of the **Ryukyu** IPs since annexation by Japan, **AIPR** suggest that the EMRIP conduct a study on IPs' habitats in relation to their rights to land, seas and other territories, and to the States' related human rights obligations. Proper recognition of the existence and history of IPs is the very first step for States to effectively protect and promote their rights in full accordance with the Declaration.

The **Bubi** IPs of Bioko Island denounce serious violations of their human and indigenous rights since colonial settlement by Spain, which failed to honour their mutual agreement to respect Bubi sovereignty and self-determination, and up to the present, under the rule of Equatorial Guinea. In accordance with the Declaration, the Bubi IPs of Bioko Island want to recover their sovereignty.

The **USA** suggests that if the EMRIP pursues work on extractive industries, it should liaise with the Working Group on Business and Human Rights (also **Wilton Littlechild**), uniquely placed to develop a set of best practices with respect to IPs.

**LLU** suggest a study on the social and cultural impacts, for IPs and their rights, of Reducing Emissions from Deforestation and Forest Degradation (REDD) programmes. Continued existence of many forests is due to the customary land and resource management efforts of their indigenous dwellers: any instrument for climate change mitigation that threatens IPs' customs will also, on the long run, threaten the environment.

**F-GAIA** say the issue of IPs' cultural and sacred sites needs to be discussed with States and extractive industries, and would concern a number of thematic mandates of human rights special procedures, as well as UNESCO and the three UN indigenous mechanisms.

**Alexey Tsykarev** suggests broadening the mandate of the EMRIP to enable a more thorough and systematic analysis of the implementation of its recommendations (also **PAICODEO/TANIPE**, **Tinhinan**) through the realization of country visits focusing on such implementation (also **COPORWA** for Rwanda).

### Closing of the session

**Wilton Littlechild** pays particular tribute to outgoing member Jannie Lasimbang, as well as to James Anaya, approaching the end of his mandate as SRIP (also **Danfred Titus**). At this end of his own term, he expresses thanks to everyone for the hard work and determination in realizing the rights of IPs through participation in the work of the EMRIP (also **Jannie Lasimbang**).

**Alexey Tsykarev** calls for using the term “indigenous peoples” whenever referring to them.

**Danfred Titus** notes that the human rights of IPs are the unfinished business of human rights. He looks forward to working with the African Indigenous Caucus on strategies for the African continent.

**Jannie Lasimbang** hopes that recommendations and findings from the EMRIP's studies – the result of a collaborative work among all (acknowledged by **AIRT**) – will serve as a tool for policy and programme reforms by States and the UN system for the advancement of IPs' rights and the Declaration at all levels; and that IPs will continue to actively engage with the EMRIP, as their input is vital to its mandate (also **AIRT**). Encouraging more active participation by States, she hopes they can see the EMRIP as a venue for States and IPs to build relationships and seek peaceful solutions and reconciliation (also **Wilton Littlechild**).

### Provisional agenda of the 7<sup>th</sup> session of the EMRIP - Geneva, 7 – 11 July 2014

1. Election of officers
2. Adoption of the agenda and organization of work
3. World Conference on Indigenous Peoples
4. Follow-up on thematic studies and advice
5. Continuation of the study on the access to justice in the promotion and protection of the rights of IPs
6. Study on the promotion and protection of the rights of IPs in natural disaster risk reduction and prevention and preparedness initiatives
7. UN Declaration on the Rights of Indigenous Peoples
8. Proposals to be submitted to the HRC for its consideration and approval
9. Adoption of the report

### Proposals submitted to the HRC by the EMRIP at its sixth session and follow-up

*Resolution 24/10 of the Human Rights Council, of 26 September 2013 (see Update 106) retakes proposals 1, 2f and 3a below. It reflects only in part proposals 2c, 2e, and 2h, as well as proposal 3b and proposal 4. Resolution 24/10 reflects neither proposals 2b, 2d, and 2g, nor proposal 5.*

#### Proposal 1: Continuation of the access to justice study

The EMRIP proposes that the HRC authorize the Expert Mechanism to continue its study on access to justice in the promotion and protection of the rights of IPs, with a focus on restorative justice and indigenous juridical systems, particularly as they relate to achieving peace and reconciliation. This would include an examination of access to justice related to indigenous women, children, youth and persons with disabilities.

#### Proposal 2: World Conference on Indigenous Peoples

The EMRIP:

(a) Refers to GA resolution 65/198, wherein the GA decided to organize a high-level plenary meeting in 2014, to be known as the World Conference on Indigenous Peoples, in order to share perspectives and best practices on the realization of the rights of IPs, including the objectives of the UN Declaration on the Rights of Indigenous Peoples;

(b) Proposes that the HRC consider the themes identified in the Alta Outcome Document (A/HRC/EMRIP/2013/CRP.2) as the themes adopted for the World Conference;

(c) Proposes that the HRC support the consideration of the Alta Outcome Document in the drafting of the final outcome document of the World Conference;

(d) Proposes that the HRC recommend to the President of the 68<sup>th</sup> session of the GA that the practice of appointing a State representative and an IPs' representative to conduct informal consultations be continued. The Expert Mechanism thanks the Government of Mexico and the Sami Parliament for their involvement to date as co-facilitators in this regard in the preparations for the World Conference;

(e) Proposes that the HRC support increased financial, technical and political support for the participation of IPs in the World Conference. This would include urging States that have not yet provided financial support for indigenous preparatory activities to do so as a matter of urgency. Such preparatory activities include local and national activities aimed at raising the understanding of the issues, rights and processes of IPs leading up to the World Conference, and diverse forms of participation by IPs, through video for example. Furthermore, related documentation should be made available in formats accessible to IPs with disabilities, as proposed in the Web Content Accessibility Guidelines (WCAG);

(f) Proposes that the HRC follow up on its recommendation that the studies and advice of the Expert Mechanism be considered in the process leading up to the World Conference on Indigenous Peoples. This would include drawing on the compilation of recommendations, conclusions and advice from studies completed by the EMRIP (A/HRC/EMRIP/2013/CRP.1);

(g) Proposes that the HRC support the equal participation of the three UN mechanisms on IPs (the EMRIP, the SRIP and the PF) in the World Conference, as well as in its preparatory and follow-up processes;

(h) Proposes that the HRC support the full and effective participation of IPs, including traditional indigenous Governments, indigenous parliaments, assemblies and councils, in the World Conference.

### **Proposal 3: Implementation of the UN Declaration on the Rights of Indigenous Peoples**

The EMRIP:

(a) Proposes that the HRC urge States and IPs to report on the measures taken to implement the rights enshrined in the UN Declaration on the Rights of Indigenous Peoples, through the continuation of the Expert Mechanism's questionnaire survey;

(b) Further proposes that the HRC request States to establish, with the full and effective participation of IPs, independent mechanisms to oversee and promote the implementation of the rights contained in the Declaration, and to ensure that these mechanisms are mandated to oversee the implementation of recommendations made by the human rights treaties bodies, the HRC's special procedures, the universal periodic review and other mechanisms related to the rights of IPs. Such mechanisms should cooperate closely with regional and national human rights institutions.

Referring to Proposal 3 on strengthening IPs' participatory rights at the UN, contained in the Expert Mechanism's report on its 4<sup>th</sup> session (A/HRC/18/43) and acknowledging the efforts taken to date in that regard, including the Secretary General's report on ways and means of promoting participation at the UN of IPs' representatives on issues affecting them (A/HRC/21/24), as referenced in HRC resolution 21/24, the Expert Mechanism reiterates its proposal whereby it:

"recognizes that the UN consultative arrangements for non-State entities can prevent IPs' governance bodies and institutions, including traditional indigenous Governments, indigenous parliaments, assemblies and councils, from participating in decision-making processes at the UN, as they are not always organized as non-governmental organizations; [and] proposes that the HRC encourage the GA to adopt, as a matter of urgency, appropriate permanent measures to ensure that IPs' governance bodies and institutions, including traditional indigenous Governments, indigenous parliaments, assemblies and councils, are able to participate at the UN as observers with, at a minimum, the same participatory rights as non-governmental organizations in consultative status with the ECOSOC."

The Expert Mechanism proposes that the HRC review the language and terminology used in UN documents pertaining to the rights of IPs with a view to ensuring that they reflect the terminology contained in the UN Declaration on the Rights of Indigenous Peoples. In particular, the Expert Mechanism calls upon the HRC to propose that the GA amend the title of the UN Voluntary Fund for Indigenous Populations and rename it the UN Voluntary Fund for Indigenous Peoples. It also calls upon the UN and other international organizations to review their spelling rules with a view to using capital letters in spelling the term "Indigenous Peoples."

### **Proposal 4: Post-2015 Development Agenda**

The EMRIP proposes that the HRC support the Expert Mechanism and representatives of IPs in their efforts to ensure that the rights of IPs are firmly incorporated in the Post-2015 Development Agenda, including the participation of the Expert Mechanism in related activities.

### **Proposal 5: Universal periodic review (UPR)**

The EMRIP proposes that the HRC and Member States draw increasingly on the UN Declaration on the Rights of Indigenous Peoples and the thematic work of the Expert Mechanism in the UPR process, including through references to the Declaration, studies and advice in recommendations. The Expert Mechanism also proposes that, in future UPR cycles, the Declaration be explicitly included in the list of standards on which the UPR process is based.



**Abbreviations of indigenous peoples' organisations and NGOs**

AEC:	Association "Ere-Chuy", Altai Republic
AFK:	Association des femmes de Kabylie
AGIM:	Aktionsgruppe Indianer und Menschenrechte
AILA:	American Indian Law Alliance
AIPIN:	Agencia Internacional de Prensa India
AIPP:	Asian Indigenous Peoples Pact
AIPR:	Association of Indigenous Peoples in the Ryukyus
AIRT:	Aoteaora Indigenous Rights Trust
AKIN:	Working Circle "Indians of North America"
AMAN:	Aliansi Masyarakat Adat Nusantara
ASSEJEB:	Association Espoir pour les Jeunes Batwa, Burundi
ATH-K:	Association Culturelle ATH-Khoudhiâ, Algeria
ATSILS:	Aboriginal and Torres Strait Islander Legal Services of Australia
AVS:	Adivasi Vikash Sanstha - Society for Development of Tribals, India
BAA:	Bangsa Adat Alifuru
BIPF:	Bangladesh Indigenous Peoples Forum
CAPAJ:	Comisión Jurídica para el Autodesarrollo de los Pueblos Originarios Andinos
CASC-SMD&GS:	Coordination des Associations de la Société Civile des régions Souss Massa Derâa et Guelmim Smara, Maroc
CEI:	Civil Engagement Institute, Russian Federation
CFSC:	Canadian Friends Service Committee
CILH:	Consejo Indígena Lenca de Honduras
CIP-TVN:	The Council of Indigenous Peoples in Today's Vietnam
CIR:	Conselho Indígena de Roraima - Brazil
CJIRA:	Comisión de Juristas Indígenas de la República Argentina
CMA:	Congrès Mondial Amazigh
CNA-AAAO:	Conseil National Arménien – Assemblée des Arméniens d'Arménie Occidentale
CNV:	Cumanagoto Nation of Venezuela
CODINB:	Centro de Orientación y Desarrollo Integral Ngobe-Bugle
CONACHA:	Consejo de la Nación Charrúa, Uruguay
COO:	Chiefs of Ontario, Canada
COPORWA:	Communauté des Potiers du Rwanda
CORPUKIS:	Coordinadora de Organizaciones del Pueblo Kichwa Saraguro
CPCK:	Congrès Populaire Coutumier Kanak
CSIA-Nitassinan:	Committee in Solidarity with Indigenous Peoples of the Americas
F-GAIA:	Foundation for GAIA
FNS:	First Nations Summit, British Columbia
FPHRC:	First Peoples Human Rights Coalition
FSIN:	Federation of Saskatchewan Indian Nations
GCC:	Grand Council of the Crees
GCG:	Indigenous Global Coordinating Group for the World Conference on Indigenous Peoples
HC:	Haudenosaunee Confederacy
HIHR:	Hawai'i Institute for Human Rights
IHRAAM:	International Human Rights Association of American Minorities
IITC:	International Indian Treaty Council
Incomindios:	International Committee for the Indigenous of the Americas
IPACC:	Indigenous Peoples of Africa Co-ordinating Committee
IPNC:	Indigenous Peoples and Nations Coalition
IWA:	Indigenous World Association
IWGIA:	International Work Group for Indigenous Affairs
JHRM:	Jharkhand Human Rights Movement, India
KAIROS:	Canadian Ecumenical Justice Initiatives
KAMP:	Kalipunan ng mga Katutubong Mamamayan ng Pilipinas - National Alliance of IPs' Organizations in the Philippines
KKF:	Khmer Kampuchea-Krom Federation
LACSE:	Laguna Acoma Coalition for a Safe Environment
LIO:	Looking In Ontario, Canada

LLU:	Lueneburg Leuphana University
LPDOC:	Leonard Peltier Defense Offense Committee
MBOSCUDA:	Mbororo Social and Cultural Development Association
MIN:	Movimiento Indígena Nacional - México
NCAFP:	National Congress of Australia's First Peoples
NCFCE:	Negev Coexistence Forum for Civil Equality
NDD:	Newa Dey Daboo - Newar Indigenous Peoples' Organization, Kathmandu, Nepal
NEDF:	North East Dialogue Forum, India
NIWF-Nepal:	National Indigenous Women's Federation of Nepal
NIYC:	National Indian Youth Council, USA
N-NABS-HC:	National Native American Boarding School Healing Coalition
NSWALC:	New South Wales Aboriginal Land Council
NWAC:	Native Women's Association of Canada
NYSHN:	Native Youth Sexual Health Network
ONAG:	Organisation des Nations Autochtones de Guyane
OPDP:	Ogiek Peoples' Development Programme
PAICODEO:	Parakuiyo Pastoralists Indigenous Community Development Organisation
PIDP:	Programme d'Intégration et de Développement du Peuple Pygmée au Kivu - SHIRIKA LA BAMBUTI
REPALEF-RDC:	Réseau des populations autochtones et locales pour la gestion durable des écosystèmes forestiers – RDC
RLIP:	The Association of Russian-language Indigenous Peoples inhabiting the Territory of Modern Latvia
SACS:	Structural Analysis of Cultural Systems, Berlin Technical University
SAMUSA:	Santa Mbororo Youths Association, Cameroon
SC:	Saami Council
TANIPE:	Tanzania Network for Indigenous Pastoralists
TARTIT:	Association Tartit, Burkina Faso
TF:	Tebtebba Foundation
Tomwo-IPDI:	Tomwo Integrated Pastoralist Development Initiative, Kenya
UBCIC:	Union of British Columbia Indian Chiefs
UEA:	Universala Esperanto-Asocio
UNIPROBA:	Unissons-nous pour la promotion des Batwa
WPIA:	West Papua Interest Association
YNM:	Yakutia-Nashe Mnenie – Yakutia-Our Opinion

### 3. OTHERS

#### UN Voluntary Fund for Indigenous Peoples

► To attend all sessions of the Human Rights Council, its Universal Periodic Review, and the Treaty Bodies between January and March 2015, applications will be accepted **from 1 September to 20 October 2014**.

► To attend the 14<sup>th</sup> session of the Permanent Forum on Indigenous Issues and the 8<sup>th</sup> session of the Expert Mechanism on the Rights of Indigenous Peoples in 2015, applications will be accepted **from 15 September to 15 November 2014**.

► To attend all sessions of the Human Rights Council, its Universal Periodic Review, and the Treaty Bodies between April and June 2015, applications will be accepted **from 1 December 2014 to 12 January 2015**.

#### Contact information:

Secretariat of the UN Voluntary Fund for Indigenous Peoples  
Office of the United Nations High Commissioner for Human Rights  
CH-1211 Geneva 10 – Switzerland  
Office location: 48 Giuseppe Motta, 1202 Geneva, Switzerland  
Phone: +41 22 928 9164  
E-mail: indigenousfunds@ohchr.org

#### For applications and more information:

<http://www.ohchr.org/EN/Issues/IPeoples/IPeoplesFund/Pages/IPeoplesFundIndex.aspx>

#### OHCHR's Indigenous Fellowship Programme

The Indigenous Fellowship Programme (IFP) of the Office of the High Commissioner for Human Rights aims at providing IPs the opportunity to gain knowledge on the UN system and mechanisms dealing with human rights in general and indigenous issues in particular so they can assist their organizations and communities in protecting and promoting the rights of their people. At the end of the programme, each fellow will be capable of giving training sessions within their communities and organizations in the fields of international human rights in general, and of IPs' rights in particular, and be able to disseminate the information and knowledge gained during the programme.

The IFP is accessible in **English, French, Spanish and Russian**. The selected candidates are entitled to a return flight ticket, living expenses, and basic health insurance for the duration of the training programme. The programme – in its four linguistic version – is held annually. In 2011, a review of the IFP led to the decision to merge all the linguistic components, which were previously held at different periods of the year, into one single training programme (with simultaneous interpretation) lasting from 4 to 5 weeks in Geneva. The dates of the training programme coincide with the sessions of the Expert Mechanisms on the Rights of Indigenous Peoples, thus allowing the fellows to participate more actively in that Mechanism.

For more information on the program, the conditions for application, the selection process and the application forms, please visit the website mentioned below. The deadlines for applications to the 2015 programme have already expired.

#### Fellows of the 2014 Programme

##### English-speaking component

16 June – 11 July 2014, OHCHR, Geneva, Switzerland

- Mr. **Patrick Yepe Lombaia**, Strickland River, Papua New Guinea
- Mr. **Leonard Govin Alaza**, Kadazan, Malaysia
- Mr. **Bawi Lian Thang**, Chin, Myanmar
- Mr. **Pragati Chakma**, Chakma, Bangladesh
- Ms. **Avelina Tarrago**, Wangkamadla, Australia
- Ms. **Martha Ntoipo**, Maasai, Tanzania
- Mr. **Edward Tunyon**, Maasai, Tanzania
- Mr. **Aeoub Sofian**, Amazigh, Libya
- Ms. **Sreyneang Loek**, Bunong, Cambodia
- Ms. **Angelia Scott**, Maori, New Zealand

**Spanish-speaking component**

29 April – 13 June 2014, University of Deusto, Bilbao, Spain

16 June – 11 July 2014, OHCHR, Geneva, Switzerland

- Mr. **Marcelino Higuera Saavedra**, Marka Tarabuco, Bolivia
- Ms. **Silvia Dali Angel Pérez**, Zapoteca, Mexico
- Mr. **Miguel De Leon Ceto**, Maya-Ixil, Guatemala
- Ms. **Samantha Ro'otsitsina de Carvalho Juruna**, Xavante, Brazil
- Mr. **Carlos Gilberto Gualtero Ramirez**, Pijao, Colombia
- Mr. **Delfin Buelva Fila**, Puruhua, Ecuador
- Ms. **Ana Maria Pablo Tercero**, Maya Q'anjob'al, Guatemala
- Ms. **Kelly Jhoana Quilcué Viva**, Nasa, Colombia
- Ms. **Lilia Patricio Galvan**, Mixe Ayuujk, Mexico
- Ms. **Yamila Martha Gutierrez Callisaya**, Aymara, Bolivia

**French speaking component**

23 June – 18 July 2014, OHCHR, Geneva, Switzerland

- Ms. **Kamira Nait Sid**, Amazigh, Algeria
- Ms. **Zahra Ouhssain**, Amazigh, Morocco
- Mr. **Callixte Hategekimana**, Batwa, Rwanda
- Mr. **Yves Minani**, Batwa, Burundi
- Mr. **Simon-Pierre Ekondou-Mindou**, Aka, Central African Republic

**Russian speaking component**

June 2014, Peoples' Friendship University of Russia, Moscow, Russian Federation

23 June – 18 July 2014, OHCHR, Geneva, Switzerland

- Mr. **Shklyayev Aleksei**, Udmurt, Russian Federation
- Ms. **Savitskaia Margarita**, Nenets, Russian Federation
- Ms. **Tolstaeva Liudmila**, Shor, Russian Federation
- Ms. **Passar Irina**, Nanay, Russian Federation
- Ms. **Ogava Tatiana**, Uilta, Russian Federation
- Ms. **Gerasimova Anna**, Veps, Russian Federation
- Ms. **Popova Raisa**, Khanty, Russian Federation

**Contact:**

Indigenous Fellowship Programme

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UNOG-OHCHR

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Website: <http://www.ohchr.org/EN/Issues/IPeoples/Pages/Fellowship.aspx>

**INFORM US OF YOUR CHANGE OF ADDRESS**

Please inform us each time you change your e-mail/postal address, or phone/fax number so that we may keep our address book up to date. Send an email to [docip@docip.org](mailto:docip@docip.org), subject: "Change of Address". Many thanks !

Since 2007, Docip has been organising, in partnership with the Indigenous Peoples of Africa Co-ordinating Committee (IPACC), capacity-building programmes directed to the most marginalized French-speaking IPs' organisations of Africa. The aim is to develop their abilities in setting up and managing technical services during international conferences, in documenting human rights' violations, in fundraising, management and reporting, in networks management and in gender issues. Between 2007 and 2010, three programmes have already benefited nine representatives of indigenous organisations from the disadvantaged regions of Central and West Africa. For six months in Docip's office in Geneva, they have followed trainings in documentation, fundraising, and setting up of technical secretariats. They have been introduced to international, European and Swiss processes and bodies.

A new capacity-building programme is taking place from 2013 to 2015, focusing on training for the preparation of technical secretariats during the African Commission on Human and Peoples' Rights (ACHPR) and in documenting human rights' violations against IPs. This new programme particularly takes into account the need to guarantee that the trainees are enabled to transfer the acquired skills to the other members of their organisations. For this reason, the internship will continue during 6 months after the trainees have returned to their organisations, giving them, and especially women, the means to pursue their work in the organisation, transfer their skills to their colleagues and undertake fundraising to ensure the organisation's functioning.

#### **Trainees for 2014**

*23 June – 23 December 2014*

**Yvonne Musabyimana** is a Batwa of Rwanda. She coordinates the project on combating domestic violence against Batwa women within COPORWA (*Communauté des Potiers du Rwanda*). She graduated in Social Sciences from the Kigali Institute of Education. She completed her education with trainings on NGO management and with a workshop on freedom of expression and access to information. Yvonne's aim is to effectively participate in UN and regional mechanisms, and to seek solutions to problems that the Batwa women, youth and children face in particular, including early marriage, illiteracy and marginalisation.

**Taous Nait Sid** is an Amazigh from Algeria. Within the *Association des femmes de Kabylie*, she is a board member and is in charge of relationships with NGOs. She graduated in informatics and turned towards human rights by following a training on access and benefit sharing for genetic resources and associated traditional knowledge. Then, in 2010, she participated in indigenous fellowship programmes at the Office of the High Commissioner for Human Rights and at UNESCO. Her aim is to strengthen her skills in information management and dissemination, namely through access to new technologies, “the most effective means to access information and disseminate it while avoiding censorship”.

**Abubakar Ali Shidiki** is a Mbororo from Cameroon. For MBOSCUA (Mbororo Social and Cultural Development Association), he carried out field research on conflicts between farmers and Mbororo pastoralists over the use of natural resources in north-western Cameroon. He graduated in natural resource management from the Dschang University, and specialized in forest management. Improving his knowledge of the UN, the African Union and the African Commission on Human and Peoples' Rights, will enable him to help his peoples to come out of marginalisation by recovering access to their lands and grazing grounds.

Registrations for the 2015 training will open in November 2014 and the information will be communicated through Docip and IPACC networks.

#### **Upcoming Meetings and Events of interest for IPs**

Our updated Agenda of upcoming meetings and events of interest for IPs is available on our website at the following address: [http://bit.ly/agenda\\_en](http://bit.ly/agenda_en) (or by choosing *Agenda* in the menu *doCip at the UN*). We mail hard copies of the updated Agenda twice a year to indigenous organizations and individuals – and to other interested organizations or individuals, upon request.

If you have comments and suggestions about this Update, please do not hesitate to share them with us:

- by e-mail at: [docip@docip.org](mailto:docip@docip.org) (Subject: Update)
- by mail at: doCip, 106 route de Ferney, CH-1202 Genève

Thanks!

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*The Sámediggi (The Sámi Parliament) in Norway*

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