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**Annual report of the United Nations High Commissioner  
for Human Rights and reports of the Office of the  
High Commissioner and the Secretary-General**

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

### **Intersessional round table on ways to enhance the participation of indigenous peoples' representatives and institutions in meetings of the Human Rights Council on issues affecting them**

### **Report of the Office of the United Nations High Commissioner for Human Rights**

#### *Summary*

The present report summarizes the proceedings of the Human Rights Council intersessional round table on ways to enhance the participation of indigenous peoples' representatives and institutions in meetings of the Council on issues affecting them. The round table was held virtually on 16 July 2021 on the margins of the fourteenth session of the Expert Mechanism on the Rights of Indigenous Peoples, pursuant to Council resolutions 42/19 and 45/12. The report contains summaries of the opening statements and introductory presentations, and highlights of, and recommendations from, the interactive dialogue that followed.



## I. Introduction

1. In its resolution 42/19, the Human Rights Council decided to organize an intersessional round table on possible steps to enhance the participation of indigenous peoples' representatives and institutions in meetings of the Council on issues affecting them, to follow-up on a dialogue on the same subject that was held on 15 July 2019. Due to the coronavirus disease (COVID-19) pandemic, the round table had to be postponed. Thus, in its resolution 45/12, the Council decided to organize the round table in 2021. The intersessional round table was held virtually on 16 July 2021, on the margins of the fourteenth session of the Expert Mechanism on the Rights of Indigenous Peoples. The present report is submitted pursuant to Council resolution 42/19.

2. The aim of the round-table discussion was to examine ways to enhance the participation of indigenous peoples' representatives and institutions in meetings of the Human Rights Council on issues affecting them, and to facilitate dialogue between indigenous peoples' representatives and States to that end. The round table was co-chaired by the President of the Human Rights Council, Nazhat Shameem Khan, and Mohawk and representative of the Haudenosaunee External Relations Committee, Kenneth Deer. Opening statements were delivered by Ms. Khan and by the Chief of the Rule of Law, Equality and Non-Discrimination Branch of the Office of the United Nations High Commissioner for Human Rights (OHCHR), Mona Rishmawi.

3. The first segment of the interactive dialogue included introductory statements by representatives of Cameroon, Canada, Denmark, Ecuador, New Zealand and the Russian Federation; indigenous peoples' representatives from the seven sociocultural regions – Africa; Asia; Central and South America and the Caribbean; the Arctic; Central and Eastern Europe, the Russian Federation, Central Asia and Transcaucasia; North America; and the Pacific; and the Chair of the Expert Mechanism on the Rights of Indigenous Peoples.

4. During the second part of the dialogue, participants discussed how the participation of indigenous peoples could be enhanced. Interventions were made by representatives of Bolivia (Plurinational State of), Cameroon, Canada, Denmark, Finland, Guatemala, Indonesia, New Zealand, the United States of America and Venezuela (Bolivarian Republic of), as well as the European Union. Statements were also made by representatives of the Asia Indigenous Peoples Pact, the International Indian Treaty Council, the Saami Council, the Saami Parliament of Finland, and representatives of indigenous peoples from Australia, Brazil, Mexico, Africa, North America and the Pacific.

5. The round table was livestreamed on the Internet and was accessible to persons with disabilities.<sup>1</sup>

## II. Opening of the intersessional round table

6. Ms. Khan opened the intersessional round table. She noted that Estebancio Castro-Diaz, who had been nominated by indigenous peoples as a Co-Chair pursuant to Human Rights Council resolution 42/19, had sadly passed away since his nomination. Subsequently, she introduced the new Co-Chair, Mr. Deer, who had been nominated to replace Mr. Diaz by the temporary committee established at the second Dialogue Meeting on Enhanced Indigenous Peoples' Participation at the United Nations, held in Quito in January 2020.<sup>2</sup>

7. Ms. Khan acknowledged that the participation of indigenous peoples in United Nations processes was essential to advance their rights and noted with appreciation the balanced representation of indigenous peoples from the seven sociocultural regions at the round table. The active participation of all rights holders in the work of the Human Rights Council, without fear of intimidation or acts of reprisal, was essential to the fulfilment of its mandate. She called upon all parties to take all the necessary measures to prevent such acts

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<sup>1</sup> See <https://media.un.org/en/asset/k13/k137i4yvyf>.

<sup>2</sup> See

<http://cendoc.docip.org/collect/cendocdo/index/assoc/HASH01be/9fa830da.dir/ENG%20Quito%20Outcome%20Document%202020%25281%2529.pdf>.

and to ensure that they were promptly and seriously addressed if they did occur. She would personally address and follow up on any allegations of reprisals and intimidation in relation to the work of the Council.

8. Ms. Rishmawi, speaking on behalf of OHCHR, highlighted the unprecedented nature of the meeting, which had brought together indigenous peoples from the seven sociocultural regions and representatives of seven States as panellists, emphasizing the commitment to equal participation. The United Nations had the obligation to promote the United Nations Declaration on the Rights of Indigenous Peoples inside as well as outside of the United Nations. Article 41 of the Declaration specifically addressed the role of the United Nations in the full realization of its provisions, including by establishing ways and means of ensuring the participation of indigenous peoples on issues affecting them in the United Nations.

9. Ms. Rishmawi stressed that the issue of indigenous peoples' participation in the United Nations had been evolving since the World Conference on Indigenous Peoples in 2014, highlighting in particular General Assembly resolution 71/321, through which the Assembly had established informal interactive hearings on the topic. She also noted the Secretary-General's report of July 2020,<sup>3</sup> in which he recommended that States hold national and regional consultations in cooperation with indigenous peoples.

10. Ms. Rishmawi also highlighted a number of the United Nations mechanisms in which indigenous peoples participated in their own right, such as the Expert Mechanism on the Rights of Indigenous Peoples and the Permanent Forum on Indigenous Issues, and the treaty bodies, and how that strengthened the work of those bodies. Other United Nations bodies had followed suit, namely the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore of the World Intellectual Property Organization. The participation of indigenous peoples would undeniably support the work of the Human Rights Council, as proven by the practice of the aforementioned United Nations bodies.

### **III. Summary of the proceedings**

#### **A. Introductory statements**

11. Mr. Deer moderated the first segment of the round table, expressing the hope of having an actual dialogue and a thorough discussion.

12. Côme Damien Georges Awoumou, Minister-Counsellor of the Permanent Mission of Cameroon to the United Nations Office and other international organizations in Geneva, emphasized that Cameroon had adopted an inclusive and collaborative approach, involving both the State's public administration and indigenous peoples' representatives and institutions. The effective and efficient participation of indigenous peoples in meetings of the Human Rights Council could only be the result of groundwork initiated at the State level to advance the rights of indigenous peoples and guarantee equality through the implementation of public policies that took into account the concerns of indigenous peoples, in particular in the context of environmental, developmental and land issues. Real political will was necessary to adopt legislative and regulatory frameworks and to establish mechanisms for dialogue with indigenous peoples.

13. Mr. Awoumou provided examples of the considerable efforts Cameroon had made to put in place legislation and mechanisms for dialogue with indigenous peoples. The aim was to prevent discrimination against indigenous peoples, to preserve their human rights, to avoid harm to their communities and lands from development activities and to promote the application of their free, prior and informed consent and other guarantees enshrined by the law. The Cameroon Human Rights Commission also played a crucial role in protecting and promoting the rights of indigenous peoples, and was uniquely placed to bring together local, national, regional and international human rights bodies to ensure the legitimate and efficient

<sup>3</sup> [A/75/255](#).

participation and representation of indigenous peoples in the meetings of the Human Rights Council on issues concerning them.

14. Francois Weldon, Director General at Crown-Indigenous Relations and Northern Affairs Canada, regretted that the full and effective participation of indigenous peoples in the round table had been impeded by Human Rights Council rules, which prevented them from taking the floor in that important conversation. In line with the outcome document of the World Conference on Indigenous Peoples, Canada believed in indigenous peoples being able to participate in decisions that affected them at all levels, including at the United Nations.

15. Mr. Weldon recalled the rights set out in the United Nations Declaration on the Rights of Indigenous Peoples, including the right to self-determination, to be recognized as distinct peoples, to be free from discrimination, and to take part in decision-making. He urged the Human Rights Council and the broader United Nations family to take concrete steps to reflect the Declaration in its mechanisms by including the participation of indigenous peoples' representatives. He welcomed the decision by the General Assembly, in its resolution 71/321, to continue the consideration of possible measures to enhance the participation of indigenous peoples' representatives and institutions in meetings of relevant United Nations bodies on issues affecting them.

16. Mr. Weldon acknowledged that the United Nations mechanisms that focused on indigenous peoples, including the Expert Mechanism on the Rights of Indigenous Peoples, the Permanent Forum on Indigenous Issues, and the Special Rapporteur on the rights of indigenous peoples, were invaluable. The United Nations had to be relevant to all people, including the independent, unique voices of indigenous peoples, which should be heard throughout the United Nations system. Due to the lack of recognition of the rights of indigenous peoples in many countries, the participation of indigenous peoples in the Council was critically important.

17. Mr. Weldon expressed appreciation for indigenous representation on other United Nations bodies, such as the Local Communities and Indigenous Peoples Platform of the United Nations Framework Convention on Climate Change, in which indigenous peoples' representatives participated equally with States. Nomination of representatives by indigenous peoples was a key component of indigenous representation, and required an expanded and inclusive process, and a mechanism or procedure for indigenous peoples' accreditation based on self-determination and self-identification. Including indigenous peoples in the work of the Human Rights Council would strengthen its ability to promote and protect human rights worldwide.

18. Tuomas Aslak Juuso, representative of indigenous peoples from the Arctic sociocultural region, deemed the outcome of the previous consultation process and General Assembly resolution 71/321 disappointing, although he recognized that they were important steps towards enhancing the participation of indigenous peoples at the United Nations generally, and the Human Rights Council in particular. The process of enhancing the participation of indigenous peoples in United Nations meetings and the positive results of such participation were crucial for indigenous peoples in exercising their fundamental right to self-determination at the international level. In that regard, he urged the Council and its member States to pay careful attention to the Quito outcome document,<sup>4</sup> particularly the recommendations to the Council, including the request to the President of the Council to conduct timely, representative and transparent consultations and negotiations with States and representatives of indigenous peoples.

19. Mr. Juuso observed that it was extremely difficult to reach acceptable outcomes in multilateral decision-making processes affecting indigenous peoples without the full and effective engagement of their governance institutions. He called for an intergovernmental negotiation process under the Human Rights Council mandated to develop draft modalities for the participation of indigenous peoples in the work of the Council. He proposed that the Council organize international workshops on various themes related to indigenous peoples'

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<sup>4</sup> Available at <http://cendoc.docip.org/collect/cendocdo/index/assoc/HASH01be/9fa830da.dir/ENG%20Quito%20Outcome%20Document%202020%25281%2529.pdf>.

participation, including on the selection criteria for participation. OHCHR should then prepare, present and publish a comprehensive report on the results of the process.

20. Mr. Juuso recommended that once his proposed intergovernmental negotiation process was finalized, the Human Rights Council should adopt a resolution to enable the participation of indigenous peoples' representative institutions in meetings of the Council on issues affecting them. He referred to resolution 2005/74 of the Commission on Human Rights regarding the enhancement of the participation of national human rights institutions in its work, which granted speaking rights to those institutions with an A status under all its agenda items, and dedicated seating to them. That precedent could serve as a basis for the Council to make a similar decision with regard to indigenous peoples' participation.

21. Lars Volck Madsen, Minister-Counsellor of the Permanent Mission of Denmark to the United Nations Office and other international organizations in Geneva, noted with regret that the round table illustrated the need to continue discussions on the participation of indigenous peoples before the Human Rights Council, as many of them could not participate because they did not meet the meeting requirements. There were both procedural and substantive aspects to be considered. Procedurally, the process was moving disappointingly slowly across the United Nations system. The issue had been before the General Assembly since 2017 and had now been further delayed by the COVID-19 pandemic.

22. For Denmark, the matter should be addressed by the General Assembly, as it needed to be implemented across the United Nations system to fully fulfil the rights set out in the United Nations Declaration on the Rights of Indigenous Peoples. However, recognizing that it might take several years before the General Assembly revisited the process, progress in Geneva should be maintained. Mr. Madsen expressed the unwavering support of Denmark for indigenous peoples to enjoy their human rights, including those set out in article 18 of the United Nations Declaration on the Rights of Indigenous Peoples regarding their right to participate in decision-making in matters that affected their rights, as well as the right to self-determination.

23. Mr. Madsen highlighted some substantive questions regarding the participation of indigenous peoples at the United Nations that he believed need to be resolved. Those questions related to the definition and accreditation of indigenous peoples, including: who would decide who had the right to speak, and how would that be decided; what did participation mean in practical terms; in which specific meetings would indigenous peoples participate; and how much time would be allocated to indigenous peoples. Those matters would require long and careful discussions between States and indigenous peoples. The Human Rights Council, the United Nations body dedicated to promoting all human rights, including those of indigenous peoples, had try to lead by example on how to move forward.

24. Gam Shimray, representative of indigenous peoples from the Asia region, acknowledged the progress made to date, highlighting that participation was a necessary condition for indigenous peoples to bring their concerns to the attention of policymakers. Enhanced participation would create an opportunity to develop an understanding of how to overcome the historical injustices and continuing marginalization of and discrimination against indigenous peoples. In his view, gross and systematic violations of human rights against indigenous peoples were linked to their exclusion from decision-making processes on the issues affecting them.

25. Mr. Shimray made reference to the Charter of the United Nations, which spoke to equality and non-discrimination for all people, and the recent report of the Secretary-General to the General Assembly,<sup>5</sup> in which the Secretary-General reiterated his conclusion that participation at the United Nations was a positive experience for indigenous peoples, enabling them to work peacefully and in partnership with States on issues of concern. Further enhancement of procedures enabling the participation of indigenous peoples in all relevant work of the United Nations would improve cooperation between the parties involved. As an acknowledgment of indigenous peoples' right to self-determination, the Human Rights Council should take the initiative to convene workshops open to the equal participation of

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<sup>5</sup> [A/75/255](#), para. 10, and [A/HRC/21/24](#), para. 66.

States and indigenous peoples, and call for written submissions to identify the best possible ways of enhancing the participation of indigenous peoples in the Council.

26. Mr. Shimray noted that not only did indigenous peoples suffer from restricted participation in Human Rights Council meetings, but they suffered from gross and systematic human rights violations on the ground. Thus, he urged the Council to consider indigenous peoples as a separate entity to facilitate their effective and meaningful participation. Finally, he called upon States, particularly from Asia, the temporary committee and United Nations bodies to initiate dialogues on enhanced participation at the regional level with the full and effective participation of indigenous peoples.

27. Emilio Rafael Izquierdo Miño, Permanent Representative of Ecuador to the United Nations Office and other international organizations in Geneva, underscored the importance of promoting and strengthening the implementation of the goals of the United Nations Declaration on the Rights of Indigenous Peoples in the context of the 2030 Agenda for Sustainable Development. The participation of indigenous peoples in processes that concerned them was enshrined in the Declaration, which provided the Human Rights Council with the opportunity to better understand their unique characteristics and forms of organization, as well as the challenges and opportunities in that area.

28. Mr. Izquierdo Miño also underscored the importance of providing continuous support to the United Nations Voluntary Fund for Indigenous Peoples and other mechanisms that facilitated the presence and participation of indigenous peoples' representatives and institutions in United Nations processes and mechanisms. In addition, OHCHR should further expand the Indigenous Fellowship Programme in order to strengthen the knowledge and capacities of indigenous representatives and, consequently, to support their organizations and communities.

29. Mr. Izquierdo Miño stated that the voices of indigenous peoples had been central to the work of the Human Rights Council, as exemplified by their participation in the annual panel discussion on the rights of indigenous peoples and in the interactive dialogues with the Expert Mechanism on the Rights of Indigenous Peoples and the Special Rapporteur on the rights of indigenous peoples. It was particularly important to amplify the voices of indigenous women and indigenous persons with disabilities and to develop adequate procedures for their participation, without undermining the intergovernmental nature of the United Nations and the Council. He encouraged the coordinated effort of all States, indigenous peoples and other relevant actors to broaden the participation of indigenous peoples in the work of the Council.

30. Daria Egerev, representative of indigenous peoples from the Central and Eastern Europe, Russian Federation, Central Asia and Transcaucasia sociocultural region, highlighted the disproportionate effect that the current challenges, such as the pandemic and climate change, had on indigenous peoples, which contributed to their vulnerability. To address the acute impact of the current realities, the international community needed to take a coordinated approach. The right of indigenous peoples to participate in the decision-making process was key to achieving mutual understanding with the States concerned and was a means to combat the marginalization of indigenous peoples.

31. Ms. Egerev recalled the two meetings organized by indigenous peoples, in Bangkok in November 2016 and in Quito in January 2020, on the subject of their enhanced participation in the United Nations. Those meetings had aimed at providing indigenous peoples and experts with an opportunity to consider and consolidate their positions and strategies on the current and future processes for enhancing the participation of indigenous peoples in the United Nations and furthering their dialogues with Member States.

32. Ms. Egerev also recalled the decision taken at the Quito meeting to establish a temporary committee, with two representatives from each of the seven sociocultural regions where indigenous peoples resided, to conduct consultations and ensure cooperation between indigenous communities regarding enhancing their participation in the Human Rights Council and the General Assembly. Future processes needed to be based on the work done to date, including the protocols adopted in Bangkok and Quito and the options proposed by States and indigenous peoples on potential measures to be taken towards the enhanced participation of indigenous institutions.

33. Ms. Egerev expressed concern about statements of indigenous peace-and-justice-related institutions that referred to State authorities undermining or interfering with their activities. The exclusion of indigenous peoples from decision-making processes related to human rights, the environment, traditional land and resources. Indigenous peoples should be able to participate equally with States in negotiations, discussion and agreements with competent bodies of the United Nations system.

34. Ms. Egerev pointed out that indigenous peoples' right to self-determination, as provided for in the Charter of the United Nations, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the United Nations Declaration on the Rights of Indigenous Peoples and the recommendations from the World Conference on Indigenous Peoples, should be taken into account in considering the issue. She called upon those States that had abstained from signing and supporting the Declaration, to do so and recommended that States support indigenous peoples in all consultations and negotiations related to enhancing their participation within the United Nations system.

35. Anna Louise Duncan, Permanent Representative of New Zealand to the United Nations Office and other international organizations in Geneva, said that New Zealand firmly believed that all indigenous peoples should be able to participate and be heard in decisions that affected them at all levels, both domestically and internationally, as safeguarded in the United Nations Declaration on the Rights of Indigenous Peoples. Indigenous peoples had the right to self-determination, to be free from discrimination and to participate in decisions that affected them. New Zealand remained committed to upholding those rights and to exploring ways to enhance the participation of indigenous peoples at the United Nations, including in the Human Rights Council. Inclusive participation was particularly important given the transformative nature of involving indigenous peoples and finding solutions to problems that affected them.

36. Ms. Duncan highlighted the difficulties encountered by indigenous representatives, while registering for the round table, due to the prerequisite of obtaining non-governmental status, which illustrated the barriers that existed and the challenges that indigenous peoples continued to face in making their voices heard. Deliberations and negotiations in the Human Rights Council had the potential to touch on many aspects of the lives of indigenous peoples and their rights. She welcomed further work at the United Nations, including at the Council, to consider how indigenous participation could be enhanced, and to explore possible avenues to navigate obstacles that had prevented reaching agreement in the past.

37. Johnson Cerda, representative of indigenous peoples from the Central and South America and the Caribbean sociocultural region, underscored the importance of indigenous peoples possessing territories, and governmental and governance systems, that allowed them to develop their culture and societies. Indigenous peoples were not non-governmental organizations and should not be perceived as such. Indigenous peoples sought full and effective participation, as well as transparent and inclusive procedures. There had been some advances in the system already, such as platforms that allowed for indigenous participation, including the Permanent Forum on Indigenous Issues and the United Nations Framework Convention on Climate Change.

38. Mr. Cerda noted that the outcome document of the Quito dialogue in January 2020 allowed indigenous peoples to advance with their vision and to strengthen their participation in the system. He also highlighted other important frameworks for the process, including the provisions of the United Nations Declaration on the Rights of Indigenous Peoples on self-determination and on full and active participation, as well as the outcome document and recommendations of the World Conference on Indigenous Peoples.

39. Allen Capuyan, Chair of the National Commission on Indigenous Peoples of the Philippines, noted the comprehensive social justice law of the Philippines, which made it the first country in Asia that had legally recognized the rights of indigenous peoples. He urged the Council to ensure the representation of State or government institutions mandated to deal with indigenous issues in the present discussions. Bringing the United Nations to the indigenous communities by facilitating direct virtual dialogues with representatives and experts was a good practice to ensure indigenous peoples' representation and participation.

40. Mr. Capuyan emphasized that the Philippines had been ensuring proper consultations with indigenous peoples, so that its position in all international forums regarding the discussions pertinent to indigenous peoples duly reflected their views and interests, and facilitated their participation in various mechanisms of the United Nations. To enhance indigenous peoples' participation in the United Nations, the Philippines supported the establishment of a category in the United Nations that reflected authentic indigenous political structures, and took into account indigenous customary laws and practices. It also supported the United Nations Voluntary Fund for Indigenous Peoples.

41. Heather Whiteman Runs Him, representative of indigenous peoples from the North America sociocultural region, stressed that indigenous peoples were more than local communities, towns, cities or municipalities. They should not be considered the same as non-governmental organizations and should have priority over non-governmental organizations within United Nations forums when topics of concern to indigenous peoples were being addressed. Currently, many indigenous peoples were unable or unwilling to utilize the current framework for participation, as it was an affront to their governing institutions and to their status as peoples.

42. Ms. Whiteman Runs Him recalled that, in the World Conference on Indigenous Peoples outcome document, States had resolved to establish an appropriate and dignified status for indigenous representative institutions to participate on issues that affected them at the United Nations. Such participation, by means of indigenous representative institutions, and through representatives chosen by indigenous peoples themselves, was the right of indigenous peoples under the United Nations Declaration on the Rights of Indigenous Peoples, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and other international legal standards and norms. She expressed appreciation for the commitment of the Human Rights Council to continue the discussion on the ways and means to realize the full and effective participation of indigenous peoples on issues and matters that affected them.

43. Ms. Whiteman Runs Him noted that, in the Quito outcome document, indigenous representatives had outlined that the best way to advance the issue of participation was through a series of thematically focused workshops, which should be planned in a way to facilitate participation of indigenous peoples from all regions, both in person and virtually. Adequate advance notice should be provided on the workshops to facilitate planning, as well as sufficient funding to ensure the broadest possible representation. She concluded by urging States of the Human Rights Council to implement a process ensuring the active involvement of indigenous peoples.

44. Grigory Lukiyantsev, representative of the Russian Federation, acknowledged the importance of the participation of indigenous peoples within the United Nations system, along with the complex nature of the question, as demonstrated by the process before the General Assembly in 2017. The issue should not be approached purely from a theoretical point of view, but should also include the practical aspects of implementing possible new commitments. The Russian Federation had advocated for the enhanced participation of indigenous peoples in those United Nations bodies and venues where non-State actors, such as non-governmental organizations and national human rights institutions, already participated, including the Human Rights Council and its subsidiary bodies.

45. Mr. Lukiyantsev highlighted a number of issues that remained unresolved, including the lack of a common understanding on the different statuses of non-governmental organizations, national human rights institutions and indigenous peoples' representative institutions, particularly with regard to the different definitions of a representative body, the different forms of representative bodies (for example, congresses of peoples, councils of elders) and the different powers, modalities of work and funding of such bodies. Important questions included who would determine the representativeness of the body, how the representation procedure would work, situations where one people had more than one representative body, and cross-border realities.

46. Another major challenge Mr. Lukiyantsev pointed out was the recognition of indigenous institutions by the State. The multiplicity of legal systems of States meant that there was also a multiplicity of forms of recognition or non-recognition of such institutions.



He compared the situation with the issue of defining “indigenous peoples” and wondered what happened if the State did not recognize the concept of indigenous peoples and their existence on its territory. He also wondered about related issues, such as the process of selecting the representative institutions, conferring a special status within the United Nations system, selection criteria, and avoiding polarization and conflicts both between indigenous peoples and between States.

47. Ghazali Ohorella, representative of indigenous peoples from the Pacific sociocultural region, noted the readiness of indigenous peoples to participate, and that they had awaited the opportunity for almost a hundred years, making it long overdue. Taking into account the global climate challenges, it was urgent to move from the normative discussions on issues related to indigenous peoples to action, by ensuring their full, effective, direct and meaningful participation in the work of the United Nations at all levels, from the General Assembly to the Human Rights Council. He urged the President of the Council to conduct timely consultations and negotiations with States and representatives of indigenous peoples on the possible necessary measures, including procedural and institutional steps and selection criteria. Any consultations and negotiations had to be held when meetings could be held in person, and funding for participation had to be made available.

48. Mr. Ohorella called on the President of the Human Rights Council to appoint co-facilitators to conduct the proposed consultations – one nominated by States and one by indigenous peoples – based on the example of the co-advisers that assisted the President of the General Assembly in its process on participation. He urged the Council to consider financing participation of indigenous peoples’ organizations and representative institutions in meetings and deliberations affecting them without the need for Economic and Social Council accreditation.

49. Megan Davis, Chair of the Expert Mechanism on the Rights of Indigenous Peoples, noted that the Expert Mechanism has been a strong proponent of the enhancement of indigenous peoples’ participation in the work of the Human Rights Council. Articles 5 and 18 of the United Nations Declaration on the Rights of Indigenous Peoples explicitly defined indigenous peoples’ right to participation in decision-making on matters that related to them, including the overarching right to self-determination, as expressed in articles 3 and 4 of the Declaration.

50. She referred to the Expert Mechanism’s report on self-determination,<sup>6</sup> in which it was highlighted that the participation of indigenous peoples internationally, including the expression of indigenous peoples’ world views, lived experiences and perspectives at the United Nations, was an example of the exercise of their external self-determination and their right to determine their space in the international community based upon the right to equality.

51. Ms. Davis underlined that the participation of indigenous peoples themselves was essential in the evolution of the Expert Mechanism’s mandate. Its expanded mandate contributed positively to improving the participation of indigenous peoples, including through its country engagements, which indigenous peoples themselves could trigger. It also ensured greater independence of the Expert Mechanism, as it could choose the subject matter of its own reports.

52. Ms. Davis expressed regret that indigenous peoples and their representative institutions could only take the floor in the Human Rights Council through non-governmental organizations that had been accredited by the Economic and Social Council, as they were “the peoples”, recognized in article 1 of the United Nations Declaration on the Rights of Indigenous Peoples, and should be given formal status in the United Nations to allow them to express themselves as such. The participation of indigenous peoples at the United Nations was indispensable and crucial to informing the United Nations understanding of indigenous peoples’ human rights issues and proposing real measures to address them. For that reason, Ms. Davis proposed that the Human Rights Council establish an expert workshop with the equal participation of States, indigenous peoples and relevant institutions and organizations,

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<sup>6</sup> A/HRC/48/75, para. 17.

with the objective of proposing recommendations for possible ways to ensure the enhanced participation of indigenous peoples in the Council.

53. As Chair of the Expert Mechanism, Ms. Davis encouraged members of the Human Rights Council to consider how to facilitate the participation of indigenous peoples in its work and discussions, especially in the dialogue with the Expert Mechanism and the Special Rapporteur on the rights of indigenous peoples, which obviously required their inclusion.

54. Mariam Wallet Med Aboubakrine, representative of indigenous peoples from the Africa sociocultural region, pointed out that the round table was a major step forward towards the commitment set out in the outcome document of the World Conference on Indigenous Peoples.<sup>7</sup> The process of enhanced participation of indigenous peoples could be traced back to the 1920s, when the Deskaheh of the Haudenosaunee, Levi General, had been denied the possibility to speak in front of the League of Nations. That refusal to allow indigenous peoples' representatives to participate in United Nations meetings relevant to them had fuelled their desire for justice and helped them persist over the years in their advocacy for their rights under international law, including the right to self-determination.

55. Ms. Aboubakrine acknowledged the progress made to enhance indigenous peoples' participation at the United Nations, including the creation of advocacy spaces like the former Working Group on Indigenous Populations, the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization, the Special Rapporteur on the rights of indigenous peoples, the Permanent Forum on Indigenous Issues, the Expert Mechanism on the Rights of Indigenous Peoples and the World Conference on Indigenous Peoples. Enhanced participation would be an opportunity for partnership for a better understanding of local and international concerns and would bring diverse solutions.

56. Ms. Aboubakrine recommended that the Human Rights Council convene workshops on participation with the engagement of indigenous peoples, States, United Nations agencies, funds and programmes, and all other relevant institutions by 2023. She recalled that the Alta outcome document recommended that the United Nations recognize indigenous peoples and their Nations based on their original free existence, inherent sovereignty and the right of self-determination in international law. At a minimum, permanent observer status should be granted to indigenous peoples within the United Nations system, enabling their direct participation through their own governments and parliaments. She also called upon the Council to coordinate with the Working Group on Indigenous Populations/Communities of the African Commission on Human and Peoples' Rights and the temporary committee for enhanced participation in the United Nations to organize an African regional dialogue on participation.

## **B. Interactive dialogue**

57. Representatives of several States and indigenous peoples took the floor to make comments and proposals. States were generally supportive of indigenous peoples' participation in the Human Rights Council and expressed their commitment to strengthening that participation. States recalled the relevant provisions of the United Nations Declaration on the Rights of Indigenous Peoples, as well as of the outcome document of the World Conference on Indigenous Peoples and General Assembly resolution 71/321. Many speakers highlighted that all stakeholders should be involved and actively participate in the process to advance the agenda and ensure the full, effective and meaningful participation of indigenous peoples' representatives and institutions in the meetings on issues affecting them. Some representatives pointed out that it was fundamental to promote greater representation and participation of indigenous youth, indigenous women and girls, and indigenous persons with disabilities by promoting intergenerational dialogues and round tables.

58. Some States underscored the necessity for the Human Rights Council and related United Nation forums to facilitate participation in line with current, relevant United Nations

<sup>7</sup> General Assembly resolution 69/2, para. 33.

resolutions, to foster a more active role of indigenous peoples' representatives and organizations in the work of the United Nations.

59. Some States acknowledged the need to discuss the difficult substantive and procedural questions referred to in the introductory statements, but encouraged open-mindedness and flexibility among their fellow States to at least start the discussions that indigenous peoples had been requesting for a long time. Other representatives wanted more information from indigenous peoples to develop a full understanding of their situation and the challenges they faced. The role of the United Nations Voluntary Fund for Indigenous Peoples in supporting the participation of indigenous peoples in the different mechanisms of the United Nations was highly valued and welcomed. States were encouraged to continue contributing to the Fund.

60. In terms of specific modalities for participation, some States suggested that the selection of indigenous peoples should allow legitimate representatives to participate in the Human Rights Council through a democratic, open and transparent process. Some States requested certain parameters for the selection of experts. One State proposed that national human rights institutions could represent indigenous peoples at the Council. Other States suggested looking to see whether the Council could apply the same or similar modalities to the Permanent Forum on Indigenous Issues when there were issues under discussion that affected indigenous peoples. Others supported indigenous peoples in their calls to establish a unique category for their participation in the United Nations system and to convene dialogues with indigenous peoples locally and internationally.

61. Some States pointed to achievements they had made domestically, while tackling issues related to the modalities of participation and the identification of workable solutions. Other States directly questioned the indigenous representatives on what they could implement in the short and medium-term to improve participation. Others indicated that the Human Rights Council should strengthen good practices and accommodate indigenous peoples' participation and accreditation under their own status, without having to rely on a non-governmental organization.

62. Some States offered concrete suggestions, like considering new participation procedures for selected United Nations bodies, including the Human Rights Council. They suggested that the Council consider, from a procedural perspective, how to accord indigenous peoples' institutions a separate participatory status. It was also suggested that a new body, composed of States and indigenous representatives, could be established to provide such status, with each applicant completing a questionnaire that a new selection body would use to determine whether the applicant qualified for the status. The selection criteria would be flexible, to accommodate diverse indigenous organizational structures, and States should not be able to use an objection procedure, to prevent them from excluding indigenous institutions they did not recognize. Some emphasized that State recognition alone could not be used in countries that had no formal domestic recognition process for indigenous peoples. Others noted that applicants should be required to present additional evidence beyond self-identification, such as ancestral connections with lands or resources, shared history, indigenous language or indigenous culture and self-governance.

63. Several representatives of indigenous peoples believed that the role of the Human Rights Council in the process of enhancing their participation was critically important. They proposed that the process and outcome of enhancing their participation should be based on the rights in the United Nations Declaration on the Rights of Indigenous Peoples, with full consideration for the diversity of the forms of social organization, traditional and modern, of indigenous peoples. A number of indigenous peoples' representatives emphasized the excessive complexity of the accreditation procedure for the Council and that participating in the Expert Mechanism on the Rights of Indigenous Peoples was presently the only opportunity available to them. They acknowledged the detailed remarks made by some States and proposed to have a workshop in 2022 to allow for an in-depth discussion and consultations on the points raised. Some States, however, were uncertain about the modalities, structure and functions of such a workshop.

64. Many indigenous peoples reiterated that they should not be perceived as civil society organizations or local communities. They emphasized that indigenous peoples wished to be

involved in all the matters that affected them in the work of the Human Rights Council, in line with their right to participate in decision-making processes. Some indigenous peoples noted that there were multiple issues that they faced with access to the Internet, language barriers, precarious funding and insufficient knowledge of the Council's procedures. They called upon the members of the Council to promote efforts to strengthen indigenous participation, in close consultation with indigenous peoples, in accordance with the principle of free, prior and informed consent.

65. In addressing the requirement to have consultative status with the Economic and Social Council to participate in meetings of the Human Rights Council, certain indigenous organizations proposed the establishment of indigenous-determined accreditation processes as an opportunity to enhance their participation. The need to develop regional and global processes for indigenous-driven proposals to increase participation within the United Nations was also highlighted. It was recommended that regional meetings should be held to feed into the global dialogue, to facilitate greater indigenous input in those processes.

66. Indigenous representatives agreed with certain concerns raised by some States, such as the issue of accountability, selection and representation of genuine indigenous institutions. It was noted that indigenous peoples were well prepared for those types of concerns and had already considered the issues of selection criteria and proper representation. Some indigenous peoples' representatives called on the Human Rights Council to establish an intergovernmental negotiation process with the ultimate goal of reaching a resolution that would enable the full and effective participation of indigenous peoples in meetings of the Council on issues affecting them.

#### **IV. Concluding remarks**

67. Ms. Whiteman Runs Him thanked all of the contributors for broadly supporting and acknowledging the important role that indigenous peoples' participation played in the work of the Human Rights Council and the benefits such participation had provided where it had been facilitated and enhanced. Participation was critical to the realization of indigenous rights. In response to some of the more detailed questions about what the temporary committee members and indigenous peoples' representatives were proposing in the short and medium term, she referred to the Quito outcome document for more detail on what was envisioned as being an appropriate and helpful process going forward. She highlighted examples of recent processes that had incorporated indigenous peoples' participation, most notably the recent mandate review of the Expert Mechanism on the Rights of Indigenous Peoples. Given the significant issues and debates that had arisen in past discussions on indigenous peoples' participation in the United Nations system, she proposed a series of workshops with thematic focuses.

68. In his summary of the discussion and concluding remarks, Mr. Deer highlighted that some States had indicated support for enhanced participation, while others had raised legitimate questions about its feasibility and necessity. On the indigenous side, he noted the point that indigenous peoples were not non-governmental organizations, but actual governments with a constituency, and that in many cases they had been carrying out governance activities for centuries. He also noted that indigenous peoples did not feel that the structure, rules and regulations of the United Nations were suitable for them.

69. Mr. Deer further noted that States had brought up relevant questions about the accreditation procedure, and that indigenous peoples had proposed a series of workshops to debate those issues and had offered a timeline to the President of the Human Rights Council to consider, and hopefully to implement, that proposal. Indigenous peoples had requested to have in-person discussions with States once the COVID-19 restrictions were eased and travel restrictions were lifted, perhaps in 2022. Some States had strongly advocated for the Council to set an example to the United Nations in general, as well as in other forums, with regard to enhancing indigenous peoples' participation in meetings and deliberations. He encouraged everyone to keep in mind the three pillars of the United Nations – peace, development and human rights – which were interrelated and interconnected.

70. In conclusion, Mr. Deer paid homage to the Haudenosaunee Chief Deskaheh who had travelled to Geneva in 1923 to speak to the League of Nations and defend the right of his people to live under their own laws, on their own land, and with their own faith. Although Chief Deskaheh had not been allowed to speak and returned home in 1924, his vision had nourished the generations that followed. In 2019, the current Chief Deskaheh, Steven Jacobs, had travelled to Geneva to deliver a statement to the Human Rights Council and was similarly denied that right to speak as a Chief of his people. Mr. Deer challenged the Council to resolve that issue by 2024, 100 years after the League of Nations first refused to allow Chief Deskaheh to speak.

## V. Recommendations from the discussion

71. Bearing in mind the rights of indigenous peoples set out in the United Nations Declaration on the Rights of Indigenous Peoples, the Human Rights Council should take leadership over the process of enhancing the full and effective participation of indigenous peoples' representatives and institutions in meetings of relevant United Nations bodies on issues affecting them and thereby serve as an example for all United Nations agencies.

72. The Human Rights Council should ask OHCHR to organize an expert workshop over a number of days, on specific themes, for the purpose of commencing a discussion on the measures necessary to enhance participation of indigenous peoples in meetings of the Human Rights Council on issues affecting them, including on the procedural and institutional steps and selection criteria that should be applied for their participation, with the engagement of all stakeholders, including States, indigenous peoples, the Human Rights Council, national human rights institutions and relevant United Nations agencies. The workshop should involve a call for written submissions to identify the best possible ways of enhancing indigenous peoples' participation in the work of the Council.

73. The proposed workshop should be conducted in-person, with a virtual option for those who are not able to attend in person, whenever the epidemiological situation allows, possibly in 2022 or early 2023. The Council should ensure that the necessary funding is made available for the travel and accommodation of the expert representatives of indigenous peoples from the seven sociocultural regions to take part in the workshop. Economic and Social Council accreditation should not be a prerequisite for their involvement.

74. The President of the Human Rights Council should appoint co-facilitators, nominated by States and indigenous peoples, to conduct formal and informal consultations and negotiations in an open, inclusive and transparent manner, and to facilitate the proposed workshop.

75. A new status, not based on Economic and Social Council accreditation requirements, should be developed to allow indigenous peoples to participate in Human Rights Council meetings and to distinguish them from the representatives of civil society institutions, national human rights institutions, non-governmental organizations or local communities. This issue could be considered as a topic in the proposed workshop.

76. The modalities under which indigenous peoples participate in other United Nations mechanisms, such as the Permanent Forum on Indigenous Issues, should be assessed to see whether any aspects of those modalities could be applicable to the work of the Human Rights Council, when its work affects indigenous peoples. This issue could be considered as a topic in the proposed workshop.

77. Issues that impede the participation of indigenous peoples in the work of the Human Rights Council on issues that affect them, such as Internet access, insecure funding and language barriers encountered by indigenous peoples, should be addressed. These issues could be considered as a topic in the workshop. The participation of indigenous women and indigenous persons with disabilities should also be ensured.

78. In any future discussions in the Human Rights Council on the enhanced participation of indigenous peoples, indigenous peoples' organizations and representative institutions should be allowed to participate without Economic and Social Council accreditation.

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