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Discussion on the six mandated areas of the Permanent Forum (economic and social development, culture, environment, education, health, and human rights), with reference to the United Nations Declaration on the Rights of Indigenous Peoples, the outcome document of the World Conference on Indigenous Peoples and the 2030 Agenda for Sustainable Development

Update on the promotion and application of the United Nations Declaration on the Rights of Indigenous Peoples: Violence against children*

Note by the Secretariat

Summary

Indigenous children encounter both structural and direct violence, including structural discrimination that leads to social exclusion and a disproportionate number of indigenous children living in poverty. Some of the main causes of violence include cultural dispossession, the breakdown of community kinship systems and indigenous justice systems, systemic racism and vilification, social and economic exclusion, entrenched poverty, substance use, inherited grief and trauma, and loss of traditional roles and status. Indigenous children are also significantly overrepresented in care and justice systems in many countries. At the same time, indigenous children are increasingly organizing and raising their voices as part of the solution, not least in the context of the climate change movement but also in the context of other issues relating to social justice. The present note focuses on violence against indigenous children and its causes and consequences, including the impact on their mental health.

* The work of the Office of the Special Representative of the Secretary-General on Violence Against Children in the preparation of the present note is acknowledged.



I. Introduction

1. “In those States in which ethnic, religious or linguistic minorities or persons of indigenous origins exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.”¹ Indigenous children are at an increased risk of violence due to a confluence of factors that are associated with social exclusion, poverty, lack of housing and unemployment.²

2. Indigenous children often face structural discrimination that is rooted in subordination and exclusion stemming from policies that potentially result in far-reaching consequences. Many States have instituted laws that have systematically controlled, displaced and stigmatized indigenous peoples and denied them their rights to self-identify as indigenous peoples and to live according to their traditional practices. Over generations, this has led to the widespread loss of the transfer of indigenous knowledge and heritage to children and the further loss of indigenous identity.³

3. The United Nations Declaration on the Rights of Indigenous Peoples adopted by the General Assembly in its resolution 61/295 (annex) is the most comprehensive international instrument on the rights of indigenous peoples. It establishes a universal framework of minimum standards for the survival, dignity and well-being of indigenous peoples and elaborates on existing human rights standards and fundamental freedoms as they apply to the specific situation of indigenous peoples. In the preamble, the Assembly recognizes the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child.

4. The theme of the second session of the Permanent Forum on Indigenous Issues, held in 2003, was “Indigenous children and youth”, which was chosen to focus attention on the survival of indigenous peoples and on the physical and mental health of indigenous children, who will ensure the survival, growth and prosperity of the peoples from whom they come. At that time, the Permanent Forum was concerned with the discrimination faced by children, including in the areas of education, health, culture, poverty, mortality, incarceration, labour, trafficking, sexual exploitation of indigenous girls, and physical and psychological mistreatment (E/C.19/2003/L.1/Rev.1). While some progress has been made in reducing discrimination, those concerns still exist, and have resulted in many recommendations by the Permanent Forum for Member States and the United Nations system.

5. The present note examines violence against indigenous children, focusing on issues surrounding residential schools, poverty, deprivation of liberty, family removals, violence against indigenous girls, child labour and trafficking, armed conflict, the environment, education, birth registration and mental health. It concludes with recommendations for Member States on protecting and improving the lives of indigenous children, while also recognizing that children are a vital part of the solution.

¹ Convention on the Rights of the Child, art. 30.

² United Nations Children’s Fund (UNICEF) and others, *Breaking the Silence on Violence against Indigenous Girls, Adolescents and Young Women* (New York, UNICEF, 2013).

³ Frida Olofsson, “The reclamation of Sami identity and the traces of Swedish colonialism: a qualitative study about the formulation of Saminess and Sami identity”, Master’s Programme degree report, University of Gothenburg, Spring 2020.

II. Residential schools

6. In the United States of America and elsewhere, indigenous children were moved far from their families to residential schools, where they were forbidden to speak their native languages or to practise traditional customs. They were made to feel that their way of life was “primitive” or “sinful”, which often led to a disdain for and a disconnectedness from their communities. Stories of emotional and physical abuse are well documented.⁴

7. In article 7 of the United Nations Declaration on the Rights of Indigenous Peoples, it is stated that indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

8. The longer-term negative impact of residential schools has been demonstrated by the resulting forms of psychological distress not only for the persons who attend the schools, but also their children and succeeding generations. Physical health outcomes linked to indigenous residential school models include poorer general and self-rated health, increased rates of chronic and infectious diseases, mental distress, depression, addictive tendencies and substance misuse, stress and suicidal behaviours.⁵

9. One of the primary purposes of the residential schools was to sever links between generations to prevent the transmission of culture, knowledge, language and identity from one generation to the next. This took away peoples’ languages and identities, damaged culture and robbed generations of the ability to learn parenting skills from the preceding generation.⁶

10. The Committee on the Rights of the Child has stressed that article 8 (2) of the Convention on the Rights of the Child affirms that a child who has been illegally deprived of some or all of the elements of his or her identity shall be provided with appropriate assistance and protection in order to re-establish speedily his or her identity and that article 8 of the United Nations Declaration on the Rights of Indigenous Peoples stipulates that effective mechanisms should be provided for prevention of, and redress for, any action that deprives indigenous peoples, including children, of their ethnic identities.⁷

11. Residential schools continue to be unsafe spaces for indigenous children. In 2016, the rape and abuse of tribal girls in a residential school caused outrage in India.⁸ In 2019, several more girls in the same State suffered horrendous abuse in a school hostel.⁹ In

⁴ Cindy Blackstock and Nico Trocmé, “Community-based child welfare for aboriginal children: supporting resilience through structural change”, *Social Policy Journal of New Zealand*, No. 24 (April 2005); see also E/C.19/2009/CRP.1.

⁵ Piotr Wilk, Alana Maltby and Martin Cooke, “Residential schools and the effects on indigenous health and well-being in Canada: a scoping review”, *Public Health Reviews*, vol. 38, No. 1 (December 2017); and Inga (Rebecca Partida), “Suffering through the education system: the Sami boarding schools”, University of Texas (n.d.).

⁶ Valerie Nicholls, “Aboriginal children exposed to family violence: a discussion paper”, Native Women’s Association of Canada, 29 February 2008.

⁷ Committee on the Rights of the Child, general comment No. 11 (2009) on indigenous children and their rights under the Convention.

⁸ Renuka Bisht, “Tribal girls raped: Kokare school of horror in Maharashtra”, *The Times of India*, 6 November 2016.

⁹ Survival International, “Court case reveals shocking details of abuse in tribal residential schools in India”, 2 December 2019.

some cases, such as in Sabah, Malaysia, boarding schools have been the scenario for episodes of physical and sexual violence against indigenous girls with disabilities.¹⁰

12. There have been some efforts by certain States to acknowledge past injustices against indigenous peoples, including children, mainly through different forms of transitional justice. In Canada, in 2015, a Truth and Reconciliation Commission¹¹ produced an outcome document containing a number of calls to action to redress the legacy of residential schools and advance the process of Canadian reconciliation.¹² The Church of Sweden published a report on its own complicity in injustices against the Sami, including the segregated schooling of Sami children.¹³ In 2008, Prime Minister Kevin Rudd made a formal apology to Australia's indigenous peoples, especially to the Stolen Generations whose lives had been negatively affected by past government policies of forced child removal and indigenous assimilation.

III. Education

13. Education is both a preventive and protective factor against violence and other harmful practices; as a fundamental tool of empowerment and a vehicle through which children realize their full potential, education either delays or prevents such occurrences. In general, indigenous students have lower enrolment rates, higher dropout rates and poorer education outcomes than non-indigenous peoples, perpetuating poverty and undermining national development indicators.

14. In article 14 of the United Nations Declaration on the Rights of Indigenous Peoples, it is stated that indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination. It is also specified that States shall, in conjunction with indigenous peoples, take effective measures, for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

15. In 2021, the Expert Mechanism on the Rights of Indigenous Peoples prepared a study on the rights of the indigenous child under the Declaration ([A/HRC/48/74](#)). The report reiterated education as a foundational element for the individual development of indigenous children and their participation in society. In 2009, the Expert Mechanism conducted a study on the right to education, in which it stressed that States must ensure access to high quality, culturally appropriate education for all indigenous children ([A/HRC/12/33](#), annex, para. 3).

16. Indigenous children are disadvantaged in school by the failure in several countries to provide education in indigenous languages, despite global recognition of the importance of mother tongue-based multilingual education. In its study on the rights of the indigenous child under the Declaration, the Expert Mechanism stated that availability of education in indigenous languages is important at all ages and States should make efforts to establish learning opportunities in indigenous languages whenever possible ([A/HRC/48/74](#), para. 69).

17. To pursue studies, many indigenous adolescents from rural areas must move to educational centres located in the nearest cities, where they must adapt to urban life,

¹⁰ Isabel Inguanzo, *The Situation of Indigenous Children with Disabilities* (Publications Office of the European Union, 2017).

¹¹ See www.rcaanc-cirmac.gc.ca/eng/1450124405592/1529106060525#chp2.

¹² Truth and Reconciliation Commission of Canada, "Truth and Reconciliation Commission of Canada: calls to action", 2015.

¹³ Daniel Lindmark and Olle Sundström, eds., *The Sami and the Church of Sweden: Results from a White Paper Project* (Möklinta, Sweden, Gidlunds Förlag, 2018).

urban youth groups and their new school. Given that indigenous adolescents usually have few economic resources, urban insertion takes place in the poorest areas of the city where they can find a place to live and study. In such areas, they risk becoming involved in an urban subculture marked by the territorial control of youth gangs, who exercise violence to prevail and gain respect from the population and its adversaries.¹⁴

18. Indigenous children are also a target for bullying from other students when they attend regular schools. In a survey conducted in Australia, 11 per cent of children reported having been bullied because of their aboriginality. For 34 per cent of those children, bullying had affected their school attendance, and for 17 per cent, it had influenced their school performance.¹⁵ In all, 60 per cent of children reported that they were treated with less courtesy or respect than others during their day-to-day lives, which they connected with systemic racism and erasure.¹⁶

19. Indigenous children who identify as lesbian, gay, bisexual, transgender, queer and intersex are at even greater risk of bullying and violence. In one report from the United States, 54 per cent of gay and lesbian indigenous students reported having been subjected to physical violence because of their sexual orientation, and more than one in three said that they had missed class at least once in the previous month for fear of being bullied or harassed.¹⁷

20. The Committee on the Rights of the Child has stressed the urgent need to adopt special measures to ensure that indigenous children are able to exercise their right to education under the same conditions as all other children and has urged States to establish culturally appropriate education services and to improve access to schools in areas where indigenous children live.¹⁸

21. In the Russian Federation, efforts have been made to replace boarding schools with alternative educational methods, such as “nomadic schools”, as well as “camping schools and kindergartens” (Khanty-Mansi Autonomous Area – Yugra), which allows children to stay with their families.¹⁹

22. In Mexico, a multimedia programme was launched in 2004 as part of an education policy targeting the country’s indigenous peoples. An evaluation of the programme showed that the activities carried out had helped to generate greater appreciation for the cultural space in which indigenous children were growing up.²⁰

23. During the coronavirus disease (COVID-19) pandemic, the digital divide has meant that many indigenous children who live in rural areas with little or no access to computers and/or Internet have not been able to continue their education. In its report on its twentieth session (E/2021/43-E/C.19/2021/10), the Permanent Forum on Indigenous Issues noted the following:

Poor access to infrastructure and services has also exposed Indigenous Peoples to the indirect socioeconomic effects of the pandemic. The PFII is particularly

¹⁴ Roberto Briceño-León and Gloria Perdomo, “Violence against indigenous children and adolescents in Venezuela”, *Cadernos de Saúde Pública*, vol. 35, supplement 3 (2019).

¹⁵ Australian Bureau of Statistics, “The health and welfare of Australia’s aboriginal and Torres Strait Islander peoples”, October 2010.

¹⁶ Centre for the Native Youth at the Aspen Institute, “We are the future: a native youth narrative”, June 2021.

¹⁷ National Congress of American Indians Policy Research Centre, “A spotlight on two spirit (native LGBT) communities”, (n.d.).

¹⁸ Committee on the Rights of the Child, general comment No. 11.

¹⁹ Commissioner for the Rights of the Child in the Republic of Karelia, Association of Ethnocultural Centers and Heritage Organizations (ECHO), *Recommendations of The Expert Seminar “The Rights of the Indigenous Child: The Arctic Context”*, October 8–9, 2020.

²⁰ Economic Commission for Latin America and the Caribbean (ECLAC) and UNICEF, “The rights of indigenous children”, *Challenges*, No. 14 (September 2012).

concerned about the situation of indigenous children who have not received adequate education during the pandemic, especially in situations in which schools have been closed. The digital divide is a compounding factor that must be addressed with urgency in order to ensure that Indigenous Peoples are provided not only with access to information and communications technology but also with the necessary education and skills to be able to take advantage of that technology. Distance learning plans must include solutions that address the limited access to electricity, connectivity and the Internet.

24. In Canada, indigenous youth described how they were adapting to online learning, honing their technical skills and figuring out how best to adapt to the digital future that was developing all around them: a world of remote sensors, automated vehicles and artificial intelligence. They shared a vision of themselves as a bridge to bring digital skills, economic opportunity and prosperity to their families, peers and communities.²¹

IV. Poverty

25. Indigenous children often face structural discrimination that leads to social exclusion and a disproportionate number of indigenous children living in poverty.²² Even though indigenous peoples only represent more than 6 per cent of the world's population, they make up 18 per cent of the world's extreme poor and one third of the rural poor.²³ A study conducted by the World Bank found that not only are there more indigenous peoples than non-indigenous classified as poor, but that their poverty is also more severe and that poverty rates for indigenous peoples fall more slowly than for the non-indigenous.²⁴

26. In article 21 of the United Nations Declaration on the Rights of Indigenous Peoples, it is stipulated that indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security. Additionally, States must take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions, particularly children, among other vulnerable groups.

27. In the Latin American region, about 88 per cent of indigenous children are affected by poverty in some way, whereas the figure for all children is 63 per cent.²⁵ On average in the region, the gaps are sharper among those living in extreme poverty, with three times more indigenous children suffering severe deprivation in access to education, safe drinking water and housing than other children. In Canada, poverty among indigenous children stands at 69 per cent compared with 13 per cent for children in general.²⁶

²¹ RBC Thought Leadership, "Building bandwidth: preparing indigenous youth for a digital future", July 2021.

²² ECLAC and UNICEF, "The rights of indigenous children".

²³ DhirRishabh Kumar Dhir and others, *Implementing the ILO Indigenous and Tribal Peoples Convention No. 169: Towards an Inclusive, Sustainable and Just Future* (Geneva, International Labour Organization (ILO), 2020).

²⁴ Gillette Hall and Ariel Gandolfo, "Poverty and exclusion among indigenous peoples: the global evidence", World Bank blogs, 9 August 2016.

²⁵ ECLAC and UNICEF, "The rights of indigenous children", 2012.

²⁶ Allyson Stevenson, "Child welfare, indigenous children and children's rights in Canada", *Revista Direito e Práxis*, vol. 10, No. 2 (2019).

V. Deprivation of liberty

28. Evidence on indigenous child welfare and child justice shows the significant overrepresentation of indigenous children in some care and justice systems. In northern Australia, where indigenous peoples comprise 25 per cent of the total population, 94 per cent of children and young people in prisons are indigenous.²⁷ A study conducted in New South Wales revealed that 63 per cent of detained young people who were placed in confinement as punishment from mid-2015 until the end of 2016 were aboriginal; this is proportionally higher than the average number of aboriginal young people in juvenile justice centres, which is approximately 47 per cent.²⁸

29. In Canada, indigenous youth are overrepresented in both custody and community supervision, accounting for 50 per cent of custody admissions and 42 per cent of community supervision admissions.²⁹ Native American youth comprise 70 per cent of incarcerated youth in the United States, despite making up only 1 per cent of the overall youth population.³⁰

30. Indigenous children with disabilities are at even higher risk of being deprived of liberty. In Australia, aboriginal and Torres Strait Islander children with disabilities are overrepresented within the prison population. Inadequate disability service recognition and support increase the chances that children with an undetected disability will enter the criminal justice system³¹ and once in prison, they are often seen as “easy targets” or “weak”, exposing them to a range of abuse, including bullying, harassment and verbal, physical and sexual violence at the hands of other prisoners and staff.³²

31. In some cases, indigenous children do not speak the official language that is used in court proceedings, which significantly affects their ability to follow and understand what is going on around them.³³

32. The United Nations Global Study on Children Deprived of Liberty sets out the many negative effects that deprivation of liberty has on children’s development, but it also emphasizes the additional negative impacts on indigenous children (A/74/136). When indigenous children are removed from their communities, it creates a sense of detachment and a cultural strain, which is strongly detrimental for their mental health and reintegration back into their communities.³⁴

²⁷ See Global study on children deprived of liberty: note by the Secretary-General, document A/74/136.

²⁸ State of New South Wales through the Inspector of Custodial Services, Department of Justice, *Use of Force, Separation, Segregation and Confinement in NSW Juvenile Justice Centres* (Sydney, 2018).

²⁹ Jamil Malakieh, “Adult and youth correctional statistics in Canada, 2016–2017”, in *The Daily* (Ottawa, Statistics Canada, 2018).

³⁰ Centre for the Native Youth at the Aspen Institute, “We are the future”.

³¹ Australia, Senate Legal and Constitutional Affairs Committee, “The over-representation of disadvantaged groups within Australian prisons”, in *Value of a justice reinvestment approach to criminal justice in Australia* (2013); Australia, Steering Committee for the Review of Government Service Provision, *Report on Government Services 2013: Indigenous Compendum* (2013), pp. 8.3–8.4; Eileen Baldry, Leanne Dowse and Melissa Clarence, “People with mental and cognitive disabilities: pathways into prison”, background paper prepared for the Outlaws to Inclusion Conference, University of New South Wales School, February 2012; and Australian Medical Association, “Position statement on health and the criminal justice system”, 2012, p. 3.

³² Baldry, Dowse and Clarence, “People with mental and cognitive disabilities”, p. 16.

³³ Office of the Special Representative of the Secretary-General on Violence against Children, “Children speak about the impact of deprivation of liberty: the case of Latin America”, 2016.

³⁴ Elena Azaola, “Indigenous youth in detention in México”, International Work Group for Indigenous Affairs, 11 September 2021.

VI. Family removals

33. Family and community have traditionally been firm foundations in indigenous cultures and ways of life. From those foundations, and as a part of them, the collective community provided the caring whole into which a child was born and raised. Unfortunately, assimilationist practices, especially the residential school system, have deeply affected and changed indigenous peoples and their communities.

34. These legacies include cultural dispossession, the breakdown of community kinship systems and indigenous justice systems, systemic racism and vilification, social and economic exclusion, entrenched poverty, substance use, inherited grief and trauma, and loss of traditional roles and status. This has sometimes resulted in the intergenerational transmission of destructive learned behaviours, which includes violence against family members.³⁵

35. Evidence suggests that indigenous children continue to be removed from their families to a higher degree than non-indigenous children. In Australia, indigenous children are six times more likely to be removed from their families than other Australian children.³⁶ In Canada, 52.2 per cent of children in foster care are indigenous, but they account for only 7.7 per cent of the child population according to the census conducted in 2016.³⁷

36. Too often, the removal of indigenous children occurs within the context of very little, if any, prevention or family support, and child removal has become the only response to poverty-induced neglect in these impoverished communities.³⁸

37. The overrepresentation of indigenous children in the welfare system is caused by a complex mix of factors that are related to colonization and systemic bias but also to the real risk of harm.³⁹ On the “risk” side of this debate, it may be that indigenous and some minority families experience a higher risk of actual harm than other families owing to an overexposure to known risk factors such as poverty, discrimination, mental illness and substance abuse that increase family stress. The “bias” aspect of the risk-bias argument holds that ethnic minority children are disproportionately subject to unwarranted State interventions owing to historical and current surveillance and practitioner biases.⁴⁰

38. In the 2021 report on its twentieth session, the Permanent Forum states that Member States must urgently address violence against indigenous peoples, including State violence, gender-based violence, forced assimilation and forced child removals, discrimination in the justice system and other forms of discrimination, including discrimination based on gender, religion, disability, age and lesbian, gay, bisexual, transgender, queer and intersex identity. The Forum encouraged the Expert Mechanism, at its earliest convenience, to engage with the Governments of Australia

³⁵ Nicholls, “Aboriginal children exposed to family violence”; Briceño-León and Perdomo, “Violence against indigenous children”; and submission by the Human Rights Council of Greenland and the Inuit Circumpolar Council for the study on the rights of the indigenous child under the United Nations Declaration on the Rights of Indigenous Peoples prepared by the Expert Mechanism on the Rights of Indigenous Peoples ([A/HRC/48/74](#)).

³⁶ Janet Stanley, Adam Tomison and Julian Pocock, “Child abuse and neglect in indigenous Australian communities”, *Child Abuse Prevention Issues*, No. 19 (Spring 2003).

³⁷ See www.sac-isc.gc.ca/eng/1541187352297/1541187392851.

³⁸ Blackstock and Trocmé, “Community-based child welfare”; and Inguanzo, *The Situation of Indigenous Children with Disabilities*.

³⁹ Fiona Cram and others, “Understanding overrepresentation of indigenous children in child welfare data: an application of the Drake risk and bias models”, *Child Maltreatment*, vol. 20, No. 3 (August 2015).

⁴⁰ Emily Keddell and Ian Hyslop, “Ethnic inequalities in child welfare: the role of practitioner risk perceptions”, *Child and Family Social Work*, vol. 24, No. 4 (November 2019).

and New Zealand, and with the participation of indigenous peoples, regarding the removal of indigenous children (E/2021/43-E/C.19/2021/10, para. 31).

39. Given that indigenous peoples have a right to transmit their culture and language generation after generation, maintain their indigenous identity and participate in and learn their cultural and spiritual practices, States have a heightened responsibility to ensure that children remain in their family, extended family or community and when that is not possible, to place children within indigenous families (A/74/136).

40. According to the Committee on the Rights of the Child, the application of the principle of the best interests of the child to indigenous children requires particular attention, as specific cultural rights need to be respected, and it is therefore crucial to also involve indigenous peoples when deciding on a course of action.⁴¹ In Australia, that principle has been translated into the Children and Community Services Act 2004 (Western Australia),⁴² which provides for the protection and welfare of children in Western Australia. One of the principles is the Aboriginal and Torres Strait Islander Child Placement Principle, which expressly acknowledges the importance of aboriginal self-determination and that the aboriginal community should be allowed to participate in the protection and care of their children with as much self-determination as possible.⁴³

41. In Greenland, MIO, Greenland's National Child Rights Institution,⁴⁴ has developed an approach based on talking and listening to children and their families into a systematic working method, given that most often, it is the children and families who come up with the best solution.⁴⁵ In Norway, plans are under way to create a special "barnahus"⁴⁶ for Sami children that is compliant with the Sami language and culture.⁴⁷

VII. Violence against indigenous girls

42. Deprivations disproportionately concentrated among indigenous Peoples are often exacerbated in the case of indigenous girls owing to societal attitudes and gendered stereotyped roles and responsibilities. This leads to marginalization, inaccessibility to resources and multiple forms of discrimination based on age, sex, ethnicity and other interrelated factors that consequently increase their vulnerability

⁴¹ Committee on the Rights of the Child, general comment No. 11.

⁴² See www.wa.gov.au/organisation/department-of-communities/children-and-community-services-act-2004.

⁴³ See section 12 of the Children and Community Services Act 2004 – Western Australia – Aboriginal and Torres Strait Islander Child Placement Principle: (1) The objective of the principle in subsection (2) is to maintain a connection with family and culture for aboriginal children and Torres Strait Islander children who are the subject of placement arrangements; (2) In making a decision under this Act about the placement under a placement arrangement of an aboriginal or a Torres Strait Islander child, a principle to be observed is that any placement of the child must, so far as is consistent with the child's best interests and is otherwise practicable, be in accordance with the following order of priority: (a) placement with a member of the child's family; (b) placement with a person who is an aboriginal person or a Torres Strait Islander in the child's community in accordance with local customary practice; (c) placement with a person who is an aboriginal person or a Torres Strait Islander; (d) placement with a person who is not an aboriginal person or a Torres Strait Islander but who, in the opinion of the Chief Executive Officer, is sensitive to the needs of the child and capable of promoting the child's ongoing affiliation with the child's culture, and where possible, the child's family.

⁴⁴ See <https://mio.gl/?lang=en>.

⁴⁵ National Advocacy for Children's Rights Greenland, "The rights of the indigenous child under the UN Declaration on the Rights of Indigenous Peoples", 26 February 2021.

⁴⁶ See <https://www.barnahus.eu/en/>.

⁴⁷ Sámi Parliament, "Forslag til Statsbudsjett 2022: svakere økonomisk vekst enn forventet (Proposed Government budget 2022: weaker economic growth than expected)", October 2021.

to gender-based violence.⁴⁸ Indigenous girls experience many different forms of violence, including female genital mutilation, forced marriages, early marriages, polygamy, trafficking for prostitution or forced labour.⁴⁹

43. Studies on the indigenous peoples of West and Central Africa reveal that the typical age of marriage for girls and adolescents ranges between 12 and 16 years in some communities.⁵⁰ The Committee on the Rights of the Child expressed concern at the continued practice of child marriage among indigenous girls in the Lao People's Democratic Republic.⁵¹ In Kenya, where early marriage and female genital mutilation are intertwined, the latter practice remains far more prevalent among the Somali (98 per cent), the Kisii (96 per cent) and the Maasai (73 per cent).⁵² Approximately 13 per cent of all Cameroonian girls are married before the age of 15 years and 38 per cent before the age of 18 years; in the north, where there is a higher proportion of indigenous peoples, the percentage increases to 73 per cent.⁵³

44. Article 2 of the United Nations Declaration on the Rights of Indigenous Peoples seeks to ensure that States take measures so that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

45. Many indigenous girls, adolescents and young women lack the opportunities, protections and services required to ensure their empowerment and safe transition into adulthood. Violence and harmful practices prevent many girls from developing to their full potential, participating as equal and active members of society and playing a leading role in the transmission of ancestral and traditional knowledge, culture, identity and language on an equal footing with their male counterparts. Addressing cases of violence against the younger generation of indigenous girls is therefore central to the fulfilment of their human rights and the self-determination of indigenous peoples.

VIII. Child labour and trafficking

46. In article 17 of the United Nations Declaration on the Rights of Indigenous Peoples, it is noted that indigenous peoples have the right to enjoy fully all rights established under applicable international and domestic labour law. In addition, States must take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.

47. Indigenous children are at higher risk of both child labour and trafficking and indigenous girls are extremely vulnerable to being targeted for human trafficking.⁵⁴ In one study from Chiapas, Mexico, it was revealed that nearly 44 per cent of indigenous women victims of trafficking are younger than 20 years old and 16 per

⁴⁸ UNICEF and others, *Breaking the Silence on Violence*.

⁴⁹ Secretariat of the Permanent Forum on Indigenous Issues, "Briefing note No. 1: overview", in "Gender and indigenous peoples", February 2010.

⁵⁰ UNICEF and others, *Breaking the Silence on Violence*.

⁵¹ *Ibid.*

⁵² *Ibid.*

⁵³ Cultural Survival, "Convention on the Rights of the Child alternative report submission: violations of indigenous children's rights in Cameroon", prepared for the 75th session of the Convention, Geneva, 15 May to 2 June 2017.

⁵⁴ Briana Olson-Pitawanakwat and Cyndy Baskin, "In between the missing and the murdered: the need for indigenous-led responses to trafficking", *Affilia*, vol. 36, No. 1 (February 2021).

cent of women and girls are younger than 15 years old.⁵⁵ In Asian countries such as Cambodia, the Lao People's Democratic Republic, Mongolia, Myanmar, Nepal, Thailand and Viet Nam, indigenous women and girls are prime targets for trafficking and exploitation as beggars, sex workers, domestic workers and even child soldiers.⁵⁶

48. In Guatemala, an estimated 65 per cent of domestic workers are indigenous girls and adolescents belonging to impoverished families who often send their young female members to towns and cities, where they work an average of 14 hours per day and are often at risk of physical and psychological abuse and sexual harassment by employers and their family members, a situation worsened by the lack of commensurate remuneration and social security.⁵⁷

49. Similar situations can be found in Namibia, including cases in which no police action was taken in incidents of sexual abuse of indigenous girls in domestic work settings even after the incidents were reported. Recruitment for domestic labour of San girls and adolescents by non-San families in Namibia is often disguised as adoption, in some cases leading to trafficking to other parts of the country.⁵⁸

50. The National Statistics Institute of the Plurinational State of Bolivia and the International Programme on the Elimination of Child Labour of the International Labour Organization found that the participation rates of male and female indigenous children and adolescents in hazardous employment are more pronounced than those of their non-indigenous counterparts in both urban and rural areas. Figures for the age group of between five years and 17 years suggest that 29 per cent of male and 24 per cent of female indigenous children and adolescents in urban areas are in such forms of employment, compared with 16 per cent and 14 per cent of their non-indigenous peers, respectively.⁵⁹

51. In the Congo, inequitable social arrangements between the Bantu majority and indigenous peoples often amount to forms of serfdom or involuntary servitude, where the "Bantu 'masters' may control a number of indigenous peoples, seeing themselves as 'owning' the members of particular indigenous families from birth, and consequently having the right to the labour and loyalty of those indigenous peoples".⁶⁰

IX. Armed conflict

52. A substantial number of indigenous peoples live in conflict and post-conflict settings, including situations of armed violence such as those in Bangladesh, Colombia, Guatemala, India, Myanmar, Peru, the Philippines, the Mekong Delta in Viet Nam and the countries of the Congo Basin and Great Lakes, among others. Reports on these conflicts convey disturbing accounts of violence committed against indigenous children as manifested in acts such as rape, sexual slavery, massacre and forced recruitment as tools of war, with girls often being specifically targeted for sexual violence based upon their ethnicity.⁶¹

53. In Myanmar, there have been numerous reports of gang rape, sexual enslavement and killing of indigenous women by members of the military. In Chittagong, Bangladesh, numerous cases of rape of Jumma girls and women by settlers backed by

⁵⁵ Arunkumar Acharya and Manuel R. Barragon Codina, "Poverty and trafficking of indigenous women in Mexico: some evidence from Chiapas State", *Journal of Sustainable Society*, vol. 1, No. 3 (2012).

⁵⁶ Special Rapporteur on the rights of indigenous peoples, "General considerations on the situation of human rights and fundamental freedoms of indigenous peoples in Asia", 2007 (E/C.19/2007/CRP.11).

⁵⁷ UNICEF and others, *Breaking the Silence on Violence*.

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*

⁶⁰ UNICEF and others, *Breaking the Silence on Violence*.

⁶¹ *Ibid.*

the military have been denounced, but in many cases, investigation is hampered by inaction on the part of the military and even of health professionals. In the Philippines, the militarization of many indigenous areas has also resulted in the sexual abuse of women and girls of local indigenous communities. In India, the Armed Forces Special Powers Act has been used to justify impunity for sexual violence by members of the military against indigenous women and girls, sometimes with the argument that they support insurgent groups.⁶²

54. Once outside the conflict area, as internally displaced people or as refugees, indigenous children find it difficult to retain the identity of the group.⁶³ In the case of unaccompanied minority and indigenous children, camp authorities may be unable to locate foster families from the same ethnic group or may be ignorant of their special needs.

X. Environment

55. At a meeting organized by the Special Representative of the Secretary-General on Violence against Children, indigenous children described how they saw violence, as follows:

For us, structural violence means the contamination of the environment and of people by major agribusiness proprietors. This contamination affects the health and lives of children and adolescents and their families (peasants and indigenous peoples who are forced to leave their communities and migrate to the cities). For many years, the culture, customs, territories and ways of life of the indigenous peoples of the continent have been subjugated, and we believe that this is a form of cultural, physical and symbolic violence against the children and adolescents of the indigenous peoples. We recommend that ... types of violence, including structural and symbolic violence, are investigated, to create public policies that can reverse this situation. We demand that (...) culture, customs, traditions and dances and the restitution of the territories seized from the indigenous peoples of the Americas be respected, to guarantee development and decent living conditions for children and adolescents of this sector.⁶⁴

56. Indigenous peoples suffer disproportionately from loss of biological diversity and environmental degradation owing to their subsistence economies and spiritual connection to lands and territories (see [CRC/C/CMR/CO/3-5](#)).

57. The long-term intergenerational impact of large-scale natural resource extraction on indigenous peoples can be illustrated by the Nordic context, in which the State-owned company Vattenfall has extracted hydroelectric power for over 100 years through several power plants and hydro dams. The impacts of the loss of land and the changed landscape have affected the Sami community in several ways, including anxiety, fear, vulnerability and powerlessness, as well as resilience and transmitted grief between the generations.⁶⁵

⁶² Special Rapporteur on the rights of Indigenous Peoples, Report on Asia, 2007. E/C.19/2007/CRP.11.

⁶³ William Spindler, “Colombian conflict could wipe out indigenous groups, warns UNHCR”, Office of the United Nations High Commissioner for Refugees, 22 April 2005; and Minority Rights Group International, *No Escape from Discrimination: Minorities, Indigenous Peoples and the Crisis of Displacement* (London, 2017).

⁶⁴ Movimiento Mundial por la Infancia and Paraguay, Secretaría Nacional de la Niñez y la Adolescencia, “Hoja de ruta para contribuir a la realización del derecho de los niños, las niñas y adolescentes a la protección contra todo tipo de violencia en Sudamérica”, 28–29 April 2011.

⁶⁵ Åsa Össbo, “A constant reminder of what we had to forfeit: Swedish industrial colonialism and intergenerational effects on Sámi living conditions in the area of upper Stuur Julevädno”, *International Journal of Critical Indigenous Studies*, vol. 14, No. 1 (2021).

58. In Costa Rica, bags treated with chlorpyrifos are increasingly being used to protect banana and plantain fruits from insects and to fulfil product standards, even in populated areas. Chlorpyrifos has been detected in 30 per cent of the environmental samples taken as well as in 92 per cent of the hand/foot wash samples. For more than half of the children, the estimated intake exceeded the U.S. Environmental Protection Agency chronic population adjusted dose.⁶⁶

XI. Birth registration

59. Birth registration provides children with a legal proof of identity that can help to protect them from violence, abuse and exploitation. Without a birth certificate, children are unable to prove their age, which puts them at a much higher risk of being forced into early marriage or the labour market or recruited into the armed forces. Without a birth certificate, many children cannot get routine vaccines and other health-care services. They may be unable to attend school or register for exams. As a result, their future job opportunities become extremely limited, which makes them more likely to live in poverty. Indigenous children are less likely to be registered at birth.⁶⁷

60. In the case of the Philippines, the Committee on the Rights of the Child has noted with concern that there are 2.6 million unregistered children in the country, most of whom are Muslim and indigenous children living in Mindanao (CRC/C/PHL/CO/3-4). In Cameroon, birth registration is especially difficult for indigenous peoples, who often live in rural areas or live nomadic lifestyles and find themselves far (both in distance and culture) from hospitals and government/administrative buildings. The percentage of children registered at birth in the country on a whole is 61.4 per cent; however, in rural areas, where indigenous communities predominantly reside, the percentage drops to 47.6 per cent.

61. In Chocó, Colombia, traditional birth attendants have been provided with digital tablets linked to the National Administrative Department of Statistics to ensure that births and pregnancy-related deaths among indigenous communities that occur outside of health-care facilities are systematically registered and included in the vital statistics system.⁶⁸

XII. Mental health

62. The impact of the different forms of violence, historical and current, is clearly visible from the global statistics on the mental health of indigenous children and youth throughout the world. Historical or intergenerational trauma stems from a series of historical events perpetrated on both a collective and individual level against a group of people, including their environment, with genocidal or ethnocidal intent. Although rooted in (colonial) history, the violations of historical trauma permeate the present; it produces and reproduces trauma effects.⁶⁹

⁶⁶ Berna van Wendel de Joode and others, “Indigenous children living nearby plantations with chlorpyrifos-treated bags have elevated 3,5,6-trichloro-2-pyridinol (TCPy) urinary concentrations”, *Environmental Research*, vol. 117 (August 2012).

⁶⁷ Yamilee Mackenzie, “The campaign for universal birth registration in Latin America: ensuring all Latin American children’s inherent right to life and survival by first guaranteeing their right to a legal identity”, *Georgia Journal of International and Comparative Law*, vol. 37, No. 3 (2009).

⁶⁸ United Nations Population Fund, “Partnering with traditional birth attendants to reach Afro-descendant and indigenous women in Colombia”, 6 July 2021.

⁶⁹ Össbo, “A constant reminder of what we had to forfeit”.

63. According to the First Nations Regional Health Survey in Canada, indigenous peoples aged 15 years and over and living off-reserve are almost twice as likely as their non-indigenous counterparts to have suffered a major depressive episode in the past 12 months and a high percentage of youth report having felt sad, blue or depressed during two or more weeks in the previous year.⁷⁰ In Greenland, suicide rates are around two to 10 times higher among indigenous youth compared with their non-indigenous counterparts.

64. A report from British Columbia, Canada, warned that indigenous peoples using drugs are dying at an alarming rate, particularly young women and those using injection drugs. These deaths likely reflect complex intersections of historical and present-day injustices, substance use and barriers to care.⁷¹

65. Indigenous children living in high-income countries share many of the same risks and protective factors associated with mental health as in low-income countries. The evidence linking children's familial environment, psychological traits, alcohol and substance use and experiences of discrimination with mental health outcomes highlights key targets for more concerted efforts to develop initiatives to improve the mental health of indigenous children.⁷²

66. The historical wrongs experienced by indigenous people that have caused life-long and intergenerational impacts demand culturally grounded healing approaches. The connection with culture and the collective approach is key to healing for survivors of different forms of violence and abuse.⁷³ Strengthening cultural identity can therefore be an important factor in strengthening resilience and mental health among indigenous children and youth.⁷⁴ The importance of cultural identity was confirmed in a survey of indigenous youth in the United States in which more than 90 per cent of the participants strongly agreed or agreed that being Native American was an important part of their identity and 91 per cent sharing that being a member of their particular tribe was an important part of their identity.⁷⁵ A similar survey of Sami youth in Sweden revealed that 83 per cent were proud of being Sami and 92 per cent thought it was important to conserve and strengthen the Sami culture.⁷⁶

XIII. Children as part of the solution

67. Indigenous children and youth are increasingly organizing and raising their voices,⁷⁷ not least in the context of the climate change movement but also in the

⁷⁰ Sarah de Leeuw, Margo Greenwood and Emilie Cameron, "Deviant constructions: how governments preserve colonial narratives of addictions and poor mental health to intervene into the lives of indigenous children and families in Canada", *International Journal of Mental Health and Addiction*, vol. 8, No. 2 (April 2010).

⁷¹ Kate Jongbloed and others, "The Cedar Project: mortality among young indigenous people who use drugs in British Columbia", *CMAJ*, vol. 189, No. 44 (6 November 2017).

⁷² Christian Young and others, "Psychosocial factors associated with the mental health of indigenous children living in high income countries: a systematic review", *International Journal for Equity in Health*, art. 153 (2017).

⁷³ Carlina Black, Margarita Frederico and Muriel Bamblett, "Healing through connection: an aboriginal community designed, developed and delivered cultural healing programme for aboriginal survivors of institutional child sexual abuse", *The British Journal of Social Work*, vol. 49, No. 4 (June 2019).

⁷⁴ Lotta Omma, "Ung same i Sverige Livsvillkor, självvärdering och hälsa", PhD thesis, Umeå University, 2013.

⁷⁵ Centre for the Native Youth at the Aspen Institute, "We are the future".

⁷⁶ Omma, "Ung same i Sverige Livsvillkor".

⁷⁷ Jessica Murphy, "Canada's indigenous people raise voices as youth activism surges", *The Guardian*, 18 October 2015.

context of other issues relating to social justice.⁷⁸ In Canada, indigenous children and youth have developed innovative and holistic solutions to amplify their voices, continue cultural engagement and combat social isolation for themselves and their communities, in response to new and exacerbated challenges imposed by the COVID-19 pandemic.⁷⁹

68. Looking to the future, it is vital to recognize the critical role that indigenous children themselves have played in these achievements and that they have challenged oppressive social and cultural norms. In fact, the complex web of past and present circumstances has not prevented them from engaging in their communities, countries and globally as change agents in the pursuit of justice.

69. With increased activism, there is also an increased risk that these young activists are met with violence. In Colombia, an 11-year-old child activist who started a children's environmental activist group that releases videos calling for greater animal rights, land protection and education has received threats on his social media feed.⁸⁰

XIV. Recommendations

70. States should take concrete measures to reduce the overrepresentation of indigenous children in alternative care and justice systems and provide training on the rights and cultures of indigenous children for relevant actors, including law enforcement and prison officials, judges and social workers. They should also provide adequate support, including psychosocial support, for those who have been removed from their communities and/or are in State institutions, to enable them to lead an independent life in their communities.

71. States should support the development of traditional restorative justice systems, in consultation with indigenous peoples, and make use of them to the extent possible for indigenous children accused of wrongdoing.

72. States should ensure the meaningful participation of and consultation with indigenous peoples, including children, in all child welfare and adoption systems, with the aim of establishing indigenous-led child welfare systems for indigenous children.

73. States should take steps to redress intergenerational trauma and the impact of removing children from their communities and take immediate measures to reduce and aim to eradicate the continued removal of indigenous children from their families and communities and to reunite all families separated by migration.

74. States should take measures to ensure free and equitable access to social services for all indigenous children, paying particular attention to the rights and special needs of girls, lesbian, gay, bisexual, transgender, intersex and two-spirit children, children with disabilities and those in remote or nomadic settlements and urban settings, and take measures to address discrimination against them, including through public information campaigns.

75. States and indigenous peoples should work together to find innovative ways to maintain cultures without practices that harm children; engage against harmful practices, particularly those carried out against indigenous girls; and ensure that

⁷⁸ Jackie Menjivar, "7 young indigenous activists standing up for their communities", *Do Something* (n.d.); Michelle Cyca, "Indigenous youth are the future of climate activism", *Romper*, 26 October 2021.

⁷⁹ Carly Heck and others, "Pandemic impacts for indigenous children and youth within Canada: an ethical analysis", *Young*, vol. 29, No. 4 (2021).

⁸⁰ Joshua Collins, "Why is violence against environmental activists on the rise?", *Sierra*, 8 February 2021.

cultural practices are undertaken with the best interests of the child in mind, including through awareness-raising campaigns and legislation.

76. States should ensure that all development activities that are contemplated, including in the extractive industries, that may affect indigenous peoples, are undertaken in accordance with the principle of free, prior and informed consent. States should ensure that they consult with indigenous peoples, including children and women, and carry out development activities in line with the Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework, with the infrastructure in place to ensure that indigenous children are not negatively affected.
