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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**

Report of the United Nations High Commissioner for Human Rights on the rights of indigenous peoples

Summary

The present report is submitted pursuant to resolution 18/8 of the Human Rights Council. It contains information on relevant developments of human rights bodies and mechanisms and outlines the activities undertaken by the Office of the United Nations High Commissioner for Human Rights at Headquarters and in the field that contribute to the promotion and the full application of the provisions of the United Nations Declaration of the Rights of Indigenous Peoples, and follow-up on the effectiveness of the Declaration. The report covers the period between May 2011 and April 2012.

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I. Introduction

1. In its resolution 18/8 concerning human rights and indigenous peoples, adopted on 29 September 2011, the Human Rights Council requested the High Commissioner for Human Rights to continue to submit to the Human Rights Council an annual report on the rights of indigenous peoples containing information on relevant developments in human rights bodies and mechanisms and activities undertaken by the Office of the High Commissioner at Headquarters and in the field that contribute to the promotion of, respect for and the full application of the provisions of the United Nations Declaration on the Rights of Indigenous Peoples.

2. The present report focuses on some illustrative examples of the activities and initiatives of the Office of the United Nations High Commissioner for Human Rights (OHCHR) undertaken at Headquarters and by field presences that contribute to the full application of the rights of indigenous peoples. The aim of providing these examples is not to offer an exhaustive overview of the work of OHCHR on indigenous peoples' rights, but rather some examples of the action taken at country, regional and headquarters levels. The report also provides an overview of the recent developments within United Nations human rights mechanisms in so far as their work pertains to indigenous peoples.

II. Activities of the Office of the United Nations High Commissioner for Human Rights

3. During the period under review, OHCHR continued to work in a wide range of contexts for the promotion and the full application of the Declaration on the Rights of Indigenous Peoples. Rights of indigenous peoples have continued to be a priority issue for the High Commissioner and indigenous issues figure prominently in the OHCHR Strategic Management Plan for 2012-2013.

4. The High Commissioner has regularly addressed indigenous peoples' rights in her communication with authorities and others concerned. She has raised concerns about indigenous peoples' rights in various statements in intergovernmental and other forums, including in her media statement on the International Day of the World's Indigenous People on 9 August 2011, which focused on the issue of consultation and free, prior and informed consent with regards to extractive industries and development projects. The High Commissioner met with a large number of indigenous peoples' representatives both in Geneva and during her country visits, including to Australia in May 2011, Mexico in July 2011 and Guatemala in March 2012. The Deputy High Commissioner has also addressed indigenous peoples' rights during her visits to Chile, Paraguay and Uruguay and in other contexts.

5. OHCHR has also played an active role in the efforts to raise the profile of indigenous peoples in the context of the Human Rights Council, including through its support to the Expert Mechanism on the Rights of Indigenous Peoples (discussed below) and by organizing, during the eighteenth session of the Human Rights Council in September 2011, the first ever Human Rights Council panel on indigenous peoples' issues, devoted to indigenous peoples languages and cultures.

A. United Nations Indigenous Peoples Partnership Initiative

6. OHCHR continued to play an active role in various inter-agency initiatives, including in the Inter-Agency Support Group on Indigenous Peoples' Issues. In addition, the United Nations Indigenous Peoples Partnership Initiative became fully operational in 2011. This joint initiative

between OHCHR, the International Labour Organization (ILO), the United Nations Children's Fund (UNICEF), the United Nations Development Assistance Framework and the United Nations Development Programme (UNDP) was launched to strengthen collaboration between the United Nations agencies and indigenous peoples. It aims to advance the promotion and implementation of indigenous peoples' rights, as enshrined in the Declaration on the Rights of Indigenous Peoples and ILO Convention No. 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries, in particular through action at the country level. The initiative was formally launched in New York on 20 May 2011, with participation of the Deputy Secretary-General of the United Nations and the Chair of the Permanent Forum on Indigenous Issues as well as senior management of the agencies concerned.

7. After the launch, the United Nations partner organizations constituted a Policy Board comprised of indigenous experts and United Nations representatives at the director level. Nominations for indigenous experts were received from the Special Rapporteur on the rights of indigenous peoples, the Permanent Forum on Indigenous Issues and the Expert Mechanism on the Rights of Indigenous Peoples. OHCHR was elected as the co-Chair on behalf of participating United Nations organizations and Raja Devasish Roy was elected as co-Chair by the indigenous experts. Other indigenous expert members of the Board include Adelfo Regino Montes (Secretary of Indigenous Affairs, Government of Oaxaca, Mexico), Angela Riley (Director of American Indian Studies Center and Professor of Law at the University of California, Los Angeles, and Chief of the Supreme Court of the Citizen Potawatomi Nation, United States of America) and Hindou Oumarou Ibrahim from Chad (Coordinator of the Association des Femmes Peuples Autochtones du Tchad).

8. A number of key decisions were made at the Policy Board meeting held on 27–28 October 2011, including the finalization of the Policy Board's terms of reference and strategic framework covering 2011–2015. The Board also reviewed and approved the following six United Nations country programmes and one regional programme to be supported by the United Nations Indigenous Peoples Partnership Initiative with a total amount of USD 1,320,000. In addition to the United Nations entities listed below, all projects involve partnership with indigenous peoples and authorities in the countries concerned:

(a) The Plurinational State of Bolivia (Resident Coordinator (lead partner), OHCHR, UNDP, United Nations Population Fund (UNFPA), UNICEF and ILO) to support legislative development and implementation of the right to consultation and participation of indigenous peoples with an emphasis on highly vulnerable indigenous peoples;

(b) Cameroon (OHCHR (lead partner) and ILO) to support legal and institutional reforms in Cameroon with a view to enhancing respect for the principle of free, prior and informed consent of indigenous peoples;

(c) Central African Republic (ILO (lead partner) and UNFPA) to support Government's review of laws, policies, and services to implement ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries and provisions of the Declaration on the Rights of Indigenous Peoples;

(d) Nepal (ILO (lead partner) and OHCHR) to support the implementation of ILO Convention No. 169 and the Declaration on the Rights of Indigenous Peoples through local monitoring, planning and budgeting committees;

(e) Nicaragua (Resident Coordinator's Officer and United Nations Indigenous Consultative Mechanism) to support the strengthening of knowledge and consultative mechanisms for indigenous peoples in order to facilitate implementation of the Declaration on the Rights of Indigenous Peoples and ILO Convention No. 169;

(f) Congo (UNICEF (lead partner), ILO, UNDP, UNFPA and OHCHR) to support implementation of the national law on indigenous peoples along with advocacy for ratification of ILO Convention No. 169;

(g) South-East Asia (UNDP Asia-Pacific Regional Centre (lead partner) and OHCHR) to support the Regional Indigenous Peoples' Programme, with a focus on review of laws, and national/regional dialogues on land rights and natural resources related to indigenous peoples.

B. Capacity-building

9. Following broad consultations, OHCHR revised the format of its Indigenous Fellowship Programme. In the past, the Indigenous Fellowship Programme consisted of four distinct linguistic components (i.e. English, French, Russian and Spanish) which were held during different periods throughout the year. In 2011, the Geneva component of the fellowship was organized for the first time in one single training programme for all four linguistic groups, bringing together 25 indigenous fellows speaking English, French, Russian and Spanish for a training programme which took place from 20 June to 22 July. The new format enabled all fellows to observe and actively participate in the annual session of the Expert Mechanism on the Rights of Indigenous Peoples and it gave the fellows more opportunities to interact with indigenous representatives from other regions of the world. In the context of the reform of the Indigenous Fellowship Programme, OHCHR also introduced the Senior Indigenous Fellowship. The first senior indigenous fellow joined the OHCHR Indigenous Peoples and Minorities Section from 9 May to 29 July 2011.

10. OHCHR carried out a number of training and briefing sessions as part of its efforts to promote the Declaration on the Rights of Indigenous Peoples, including briefings for OHCHR staff and for human rights treaty bodies. OHCHR also participated in a training workshop for the United Nations Country Team in Congo on indigenous peoples' issues in November 2011. The workshop, organized by the Secretariat of the Permanent Forum on Indigenous Issues jointly with the country team office, was part of the roll-out of the United Nations Development Group Guidelines on Indigenous Peoples' Issues and focused on recommendations from the international mechanisms and the recently promulgated Law No.5-2011 to promote and protect the rights of indigenous population in Congo.

11. The United Nations Voluntary Fund for Indigenous Populations – managed by OHCHR on the basis of advice from a Board of Trustees – continued to support the participation of indigenous organizations in the sessions of the Expert Mechanism and the Permanent Forum on Indigenous Issues. The Board of Trustees of the Voluntary Fund selected 30 representatives of indigenous communities and organizations to attend the tenth session of the Permanent Forum in May 2011 and 24 indigenous applicants to attend the fourth session of the Expert Mechanism in July 2011.

12. At its twenty-fifth session in February 2012, the Board of Trustees, taking into account the substantial decrease in the voluntary contributions received, was able to select only 23 representatives of indigenous communities and organizations to attend the eleventh session of the Permanent Forum on Indigenous Issues in May 2012 and only 16 indigenous representatives to attend the fifth session of the Expert Mechanism. Furthermore, pursuant to the enlarged mandate of the Fund, the Board recommended four grants to enable indigenous representatives to attend the thirteenth session of the universal periodic review and one grant for an indigenous representative to attend the twentieth session of the Human Rights Council. Furthermore, it set aside USD 52,394 to allow 17 representatives of indigenous communities and organizations – to be selected at the three intersessional virtual meetings held in May and to be held in August and November 2012 – to attend the sessions of the Human Rights treaty bodies, the universal periodic review and Human Rights Council that will take place between

July 2012 and March 2013. The Board also held its annual meeting with donors on 9 February 2012.

C. Guidance tools

13. OHCHR developed further its close engagement with national human rights institutions (NHRIs) on indigenous issues. At a consultation meeting organized by OHCHR in Geneva in July 2011, representatives of NHRIs from Australia, Canada, El Salvador, Kenya, Malaysia, Namibia, New Zealand, Panama, Peru, Philippines, Russian Federation and South Africa shared specific examples and possible good practices in addressing the rights of indigenous peoples at the country level to promote education and awareness-raising; complaints handling; mediation and conflict resolution; public inquiries on specific rights; legislative inquiries and law reforms; engagement with international or regional mechanisms; and work in partnerships with indigenous peoples. OHCHR also partnered ILO, UNDP, UNICEF and World Health Organization (WHO) to explore how NHRIs are advancing the rights of indigenous peoples in Latin America. A meeting was organized in the Plurinational State of Bolivia in October 2011 to discuss practical examples of work that national institutions have undertaken in the region.

14. These activities with NHRIs contributed to a guide that OHCHR is developing in cooperation with the Asia Pacific Forum of National Human Rights Institutions and the Australian Human Rights Commission on how NHRIs can advance the implementation of the Declaration on the Rights of Indigenous Peoples. Much useful input and many useful comments were received during the above meetings and will be reflected in the final version of the guide, which is expected to be completed by the end of 2012.

15. In collaboration with the Secretariat of the Permanent Forum on Indigenous Issues, OHCHR organized a meeting in October 2011 in New York to review a draft of the handbook for parliamentarians on the Declaration on the Rights of Indigenous Peoples. The meeting was attended by an advisory board of experts and institutional partners, including the Inter-Parliamentary Union and UNDP. A final version of the handbook is expected by the end of 2012.

16. OHCHR continued to pay special attention to the situation of indigenous peoples in voluntary isolation and issued guidelines in May 2012 on indigenous peoples in voluntary isolation and initial contact in the Amazon Basin and El Chaco, following a series of consultations in the region, including the Plurinational State of Bolivia, Brazil, Colombia, Ecuador, Paraguay, Peru and the Bolivarian Republic of Venezuela. Several initiatives are now being implemented, with OHCHR field presences and in cooperation with the authorities concerned, to promote this new tool, which has already influenced decision-making processes at the national level.

D. Activities of field presences

17. OHCHR field presences carried out a range of activities on indigenous peoples' rights at the regional and country level, including monitoring, support for legal reform, technical cooperation and capacity-building initiatives, as well as awareness-raising. Some of them are highlighted above in connection with the activities of the United Nations Indigenous Peoples Partnership Initiative and the paragraphs below describe some selected additional activities.

18. During 2011, the OHCHR Regional Office for Central America carried out an assessment of the situation of the human rights of indigenous peoples in Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama. As a result, a plan of action to enhance the rights of indigenous peoples was developed with the participation of indigenous

peoples through a regional mechanism for consultation with indigenous peoples established by the Regional Office in 2010.

19. The Office in Guatemala continued to support the role of indigenous authorities in the protection of the right to land and territories and the right to consultation. Activities included the organization of a meeting jointly with the indigenous authorities in Totonicapan on the occasion of the International Day of the World's Indigenous People, with the participation of indigenous authorities from all over the country. The meeting aimed to discuss the indigenous peoples' current land situation and joint strategies to protect access to land and territories. In the context of the Maya Programme (funded by the Government of Norway), the Office implemented the third year of the "Technical Training Programme for Strategic Human Rights Litigation for Indigenous Peoples' Rights". Fifteen organizations have already started presenting their cases before the administrative and judicial bodies, including before the Constitutional Court of Guatemala.

20. In Ecuador, the Human Rights Adviser participated in several hearings and workshops organized by the Commission of Justice and State Structure of the National Assembly jointly with experts, academics and indigenous leaders concerning the draft law on the coordination and cooperation between ordinary and indigenous systems of justice. The Human Rights Adviser also produced jointly with the Ecuadorian Ministry of Justice, Human Rights and Cults and the Ministry of Heritage a video entitled "Living Justice", which, by depicting three real cases of indigenous justice, aims to foster informed debates about indigenous justice and its relation with the official justice system in Ecuador. It has further developed four training modules on the rights of indigenous peoples for national police, military, national human rights institution and judicial officials. Technical assistance was also provided to the magistrates of the Supreme Court of Justice and the Constitutional Court on international human rights standards on indigenous peoples.

21. In Burundi, the Human Rights and Justice Section of the United Nations Office organized a workshop to raise awareness about the human rights situation of the indigenous Batwa community. The Office also organized a series of events to mark the International Day of the World's Indigenous People in the province of Muramvya in 2011.

22. OHCHR field presences also consistently supported the work of special procedure mandate holders and provided support to the country visits of the High Commissioner. For example, the Regional Office for the Pacific provided support to the High Commissioner's visit to Australia where she welcomed the national apology and the formal recognition by Australia of the Declaration on the Rights of Indigenous Peoples, but also raised concerns regarding Aboriginal and Torres Islander indigenous peoples and called for a fundamental rethink of the measures being taken under the Northern Territory Emergency Response. The Regional Office also sought to facilitate dialogue with the Minister for Indigenous Affairs regarding the "Stronger Futures" draft legislation that is proposed to replace the Northern Territory Emergency Response legislation.

23. OHCHR also started a process to prepare guidance for its field presences on consultation with indigenous peoples by collecting practices pursued so far in various regions, ranging from the work of the Regional Office in South-East Asia and country office in Cambodia to field presences in Central and South America.

III. Human rights bodies and mechanisms

A. Expert Mechanism on the Rights of Indigenous Peoples

24. The Expert Mechanism on the Rights of Indigenous Peoples held its fourth session in July 2011. In addition to discussing the implementation of the Declaration on the Rights of Indigenous Peoples, the Expert Mechanism adopted its final report on its study on indigenous peoples and the right to participate in decision-making, including its advice No. 2 (2011) on indigenous peoples and the right to participate in decision-making. The study, together with a number of proposals made by the Expert Mechanism, was presented to the Human Rights Council at its eighteenth session in September 2011, which for the first time included an interactive dialogue with representatives of the Expert Mechanism.

25. In March 2012, OHCHR organized an expert workshop on indigenous peoples' languages and cultures in cooperation with the University of Brunel Law School. The main objective of the workshop was to obtain additional substantive input to the thematic study of the Expert Mechanism on the role of languages and culture in the promotion and protection of the rights and identity of indigenous peoples, to be discussed at the fifth session of the Expert Mechanism in July 2012.

26. The Expert Mechanism undertook a number of intersessional activities, including contributions to the African Commission on Human and Peoples' Rights, the UNESCO consultation about its engagement with indigenous peoples, the Forum on Minority Issues, preliminary meetings associated with the organization of the World Conference on Indigenous Peoples and the tenth and eleventh session of the United Nations Permanent Forum on Indigenous Peoples' Issues. Moreover, the Expert Mechanism established an informal academic friendship network with academics working on indigenous peoples' issues at the domestic and international level.

B. Special procedures and treaty bodies

27. The various activities that the Special Rapporteur on the rights of indigenous peoples has carried out in the past year fall into four areas of work: promoting good practices, country reports, responding to cases of alleged human rights violations and thematic studies. With respect to the promotion of good practices, the Special Rapporteur participated, for example in discussions with indigenous leaders and Government officials in Peru and Brazil on the development of mechanisms for consultations with indigenous peoples.

28. With respect to his examination of cases of human rights violations, the Special Rapporteur received a high number of allegations of violations of the rights of indigenous peoples in specific situations and has on numerous occasions communicated his concerns about the allegations to the Governments concerned. Over the past year, the Special Rapporteur has carried out two country visits: to Argentina in November and December 2011 and to the United States of America in April and May 2012. In terms of his thematic work, the Special Rapporteur is focusing on the issue of extractive industries operating in or near indigenous peoples' territories.

29. The Special Rapporteur continued to cooperate with the Permanent Forum on Indigenous Issues and the Expert Mechanism on the Rights of Indigenous Peoples. They met to share work agendas, identify the strengths and limitations of their respective mandates, and explore methods of channelling their work in the most effective way.

30. During the reporting period, other special procedure mandate holders also looked into the situation of indigenous peoples within their respective mandates. For example, the Special

Rapporteur on freedom of religion or belief in his report on a visit to Paraguay (A/HRC/19/60/Add.1) encouraged the Government to pay more systematic attention to the structural vulnerability of members of indigenous peoples, especially in rural areas in the context of missionary activities. Furthermore, the Special Rapporteur on the right to food addressed indigenous peoples' issues in a number of contexts, including in the report on his visit to Mexico (A/HRC/19/59/Add.2), where he drew attention, *inter alia*, to the marked differences in relevant right to food indicators between indigenous and non-indigenous populations.

C. Treaty bodies

31. Several treaty bodies addressed indigenous peoples' rights in their sessions during the reporting period, making observations on themes ranging from access to medical care to the need to respect the principle of free, prior and informed consent in connection with economic activities in indigenous peoples' traditional lands and territories.

32. For example, the Human Rights Committee held its 103rd session from 17 October to 4 November 2011 and referred to indigenous peoples in its concluding observations on Norway (CCPR/C/NOR/CO/6). The Committee on Economic Social and Cultural Rights held its forty-sixth session between 2 and 20 May 2011 and raised questions concerning indigenous peoples in the Russian Federation (E/C.12/RUS/CO/5) and at its forty-seventh session from 14 November to 2 December 2011 the Committee addressed indigenous peoples' issues in the concluding observations concerning Argentina (E/C.12/ARG/CO/3). The Committee on the Rights of the Child held its fifty-seventh session between 30 May and 17 June 2011 and issued conclusions and recommendations concerning indigenous peoples in Costa Rica (CRC/C/CRI/CO/4) and Finland (CRC/C/FIN/CO/4), and the same Committee addressed indigenous issues in Panama (CRC/C/PAN/CO/3-4) during its fifty-eighth session from 19 September to 7 October 2011. The Committee on the Elimination of Racial Discrimination held its seventy-ninth session from 8 August to 2 September in 2011 and raised indigenous peoples' issues in its concluding observations on Paraguay (CERD/C/PRY/CO/1-3). Indigenous peoples in Paraguay were addressed also in the concluding observations by the Committee against Torture during its forty-seventh session from 31 October to 25 November 2011 (CAT/C/PRY/CO/4-6) and by the Committee on the Elimination of Discrimination against Women during its fiftieth session from 3 to 21 October 2011 (CEDAW/C/PRY/CO/6). The same committee also commented on the situation of indigenous peoples in Nepal at its forty-ninth session from 11 to 29 July 2011 (CEDAW/C/NPL/CO/4-5).

D. Universal periodic review

33. Issues concerning indigenous peoples were frequently addressed in the context of the universal periodic review throughout its first cycle. They were raised in many national reports, compilations of United Nations information, summaries of stakeholders' information and recommendations, including those made at the two sessions covered by the present report. For example, at the eleventh universal periodic review session from 2 to 13 May 2011, recommendations with explicit references to indigenous peoples were made in respect of Denmark, Papua New Guinea and Surinam and during the twelfth session from 3 to 14 October 2011 recommendations with references to indigenous peoples were made in the contexts of the reviews of Uganda, the United Republic of Tanzania and the Bolivarian Republic of Venezuela.

IV. Conclusions

34. The rights of indigenous peoples have remained a priority for the OHCHR and, in pursuing this priority, the Declaration on the Rights of Indigenous Peoples was the Office's key reference and framework for action. The High Commissioner herself repeatedly invoked the standards of the Declaration in her dialogue with authorities and indigenous peoples and the role of the Declaration was central in other work touching on indigenous peoples, ranging from the fellowship programme and other capacity-building work, to providing technical advice and enhancing participation of indigenous peoples in decision-making at both international and national levels.

35. The Office also provided support to wide-ranging work of the mandates devoted to indigenous peoples, notably the Special Rapporteur on the rights of indigenous peoples and the Expert Mechanism on the Rights of Indigenous Peoples. Furthermore, the Office supported efforts to enhance the visibility of indigenous peoples' rights in the Human Rights Council's universal periodic review and in human rights treaty bodies. This was further facilitated by the recent expansion of the mandate of the Voluntary Fund on Indigenous Populations, which is now mandated to support indigenous participation both in human rights treaty bodies and the Human Rights Council.

36. Much of the work of the Office pertaining to indigenous peoples took place at the regional and country level. OHCHR provided new guidance on subregional challenges such as securing human rights of indigenous peoples living in voluntary isolation, and field presences took a range of other initiatives to advance the implementation of the Declaration and other key human rights instruments.

37. Throughout the year, OHCHR joined forces with other United Nations entities in order to ensure coherence and maximum combined impact of its work on indigenous peoples. A concrete example of this was the progress achieved under the United Nations Indigenous Peoples Partnership Initiative, with first country and regional programmes selected for implementation.
