



Permanent Forum on Indigenous Issues

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36. As a crucial dimension of the right of self-determination, the right of indigenous peoples to free, prior and informed consent is also relevant to a wide range of circumstances in addition to those referred to in the Declaration. Such consent is vital for the full realization of the rights of indigenous peoples and must be interpreted and understood in accordance with contemporary international human rights law, and recognized as a legally binding treaty obligation where States have concluded treaties, agreements and other constructive arrangements with indigenous peoples. In this regard, the Permanent Forum emphatically rejects any attempt to undermine the right of indigenous peoples to free, prior and informed consent. Furthermore, the Forum affirms that the right of indigenous peoples to such consent can never be replaced by or undermined through the notion of “consultation”.

37. Given that the right of indigenous peoples to free, prior and informed consent is recognized and affirmed in the United Nations Declaration on the Rights of Indigenous Peoples, questions have arisen concerning its implementation. In the light of such fundamental concerns, the Permanent Forum has decided to prioritize free, prior and informed consent. Therefore, in the context of future work, the Permanent Forum will explore the potential for the development of guidelines on the implementation of free, prior and informed consent. The Permanent Forum will endeavour to do so in collaboration with the Expert Mechanism on the Rights of Indigenous Peoples and the Special Rapporteur on the rights of indigenous peoples, who are specifically mandated to address the human rights of indigenous peoples. This initiative, as well as those referred to immediately below, are fully consistent with articles 38, 41 and 42 of the Declaration.

38. The Permanent Forum also notes the number of interventions by indigenous peoples alarmed at the denial of their right to free, prior and informed consent in relation to extractive industries and other forms of large- and small-scale development. Therefore, the Permanent Forum recommends that States and international financial and aid institutions systematically monitor, evaluate, assess and report on how free, prior and informed consent has or has not been recognized and applied with respect to the lands, territories and resources of the indigenous peoples concerned.

39. Given the importance of the full range of the human rights of indigenous peoples, including traditional knowledge, culturally appropriate procedures to ensure communication, information, and scheduling, the Permanent Forum calls on all United Nations agencies and intergovernmental agencies to implement policies, procedures and mechanisms that ensure the right of indigenous peoples to free, prior and informed consent consistent with their right to self-determination as reflected in common article 1 of the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, which makes reference to permanent sovereignty over natural resources.

40. The Permanent Forum confirms its intention to participate in the 35th session of the World Heritage Committee (Paris, 19 to 29 June 2011). The objective of such participation is to encourage a review of existing procedures with regard to rights-related mechanisms, norms and standards in the preparation and processing of world heritage nominations by States parties.

41. The Permanent Forum welcomes the initiative of UNESCO, the International Union for Conservation of Nature (IUCN), the International Council on Monuments and Sites (ICOMOS) and the International Centre for the Study of the Preservation

and Restoration of Cultural Property (ICCROM) to review current procedures and capacity to ensure free, prior and informed consent, and the protection of indigenous peoples' livelihoods, tangible and intangible heritage. During this review process, it would be advisable to review the inconsistency of approaches to natural world heritage and cultural world heritage. The Permanent Forum makes itself available to assist in the review and revision of UNESCO operational guidelines with regard to nominations and site assessments. The Permanent Forum further recommends that UNESCO invite indigenous peoples' representatives and experts to contribute to deliberations on and recommended changes to procedures and operational guidelines.

42. The Permanent Forum recommends that the UNESCO World Heritage Committee, and the advisory bodies IUCN, ICOMOS and ICCROM, scrutinize current World Heritage nominations to ensure they comply with international norms and standards of free, prior and informed consent.

Human rights: implementation of the United Nations Declaration on the Rights of Indigenous Peoples

43. Since the adoption of the United Nations Declaration on the Rights of Indigenous Peoples in 2007, some Governments have taken measures to incorporate into their national or domestic legislation, recognition of and respect for the human rights of indigenous peoples. However, in most regions of the world, implementation of the Declaration remains a big challenge. The Permanent Forum on Indigenous Issues welcomes the reports of States and United Nations agencies on respective initiatives to implement the Declaration, but draws attention to the serious implementation gaps.

44. Issues of violence and brutality, continuing assimilation policies, marginalization, dispossession of land, forced removal or relocation, denial of land rights, the impacts of large-scale development, abuses by military forces, armed conflict and a host of other abuses, are a reality for indigenous peoples and their communities around the world. Examples of violence and brutality have occurred in every corner of the indigenous world, often perpetrated against indigenous peoples who are defending their rights and their lands, territories and natural resources.

45. The Permanent Forum reaffirms its general comments to article 42 of the Declaration adopted previously by the Forum. The Forum welcomes the report presented by Bartolome Clavero, Lars Anders-Baer, Carsten Smith and Michael Dodson on the matter during its tenth session.

46. The Permanent Forum thanks the Government of Colombia for its support during the Forum mission to Colombia and requests that the Government, the United Nations country team and the United Nations agencies involved in the mission implement the recommendations contained in the mission report (E/C.19/2011/3) through consultation and full collaboration with the indigenous peoples concerned. The Permanent Forum intends to assess the implementation of the recommendations at its eleventh session.

47. The Permanent Forum calls upon States, in conjunction with indigenous peoples, to establish national initiatives, programmes and plans of work to implement the Declaration with clear timelines and priorities. States and indigenous