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## Permanent Forum on Indigenous Issues

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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 and the 2030 Agenda for Sustainable Development**

## Guiding principles for the implementation of Indigenous Peoples' rights to autonomy and self-government

### Note by the Secretariat

#### *Summary*

At its twenty-second session, the Permanent Forum on Indigenous Issues appointed Tove Søvndahl Gant, Suleiman Mamutov and Valentina Vyacheslavovna Sovkina, members of the Forum, to conduct a study on guiding principles for the implementation of Indigenous Peoples' rights to autonomy and self-government, to be presented to the Forum at its twenty-third session. The present note transmits the study as prepared by the members of the Forum.

The study addresses the diversity of pathways available for Indigenous Peoples to shape their futures, including their governance structures, and includes specific case studies from various regions. It proposes initial guiding principles towards Indigenous autonomy and self-governance and a recommendation that the Permanent Forum consider establishing a standing item on the topic.

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\* E/C.19/2024/1.



## I. Introduction

1. While the right of Indigenous Peoples to self-determination is established in international law, its realization is not straightforward. It is a fundamental right that is crucial for Indigenous Peoples to freely determine, shape and control their political, economic, social and cultural lives without external interference. Far from being a distant aspiration, realizing the right to self-determination requires urgent and actionable measures.

2. The adoption of the United Nations Declaration on the Rights of Indigenous Peoples in 2007 marked a turning point. In that milestone document, the right to self-determination for Indigenous Peoples was explicitly contextualized, and its organic connection to autonomy and self-government as the most effective and efficient implementing vehicle was underlined. While the Declaration prompted many nations to recognize Indigenous systems and institutions, including governance systems, the implementation of such frameworks is often uneven and challenging.

3. For Indigenous Peoples worldwide, autonomy is not just a political ideal but a necessity. They face a myriad of challenges threatening their very existence, including marginalization, criminalization, dispossession and environmental degradation. Despite such challenges, Indigenous Peoples exhibit remarkable resilience and ingenuity in asserting their rights, in particular through building autonomy and self-governance models, some, but not all, of which are rooted in their traditional or customary institutions.

4. The present study builds upon the foundational work of a former expert member of the Permanent Forum on Indigenous Issues, Jens Dahl, set out in a report entitled “Study on Indigenous Peoples’ autonomies: experiences and perspectives” (E/C.19/2020/5). Presented at the nineteenth session of the Permanent Forum, the report was focused on the experiences, backgrounds and challenges of the various Indigenous autonomies. One critical takeaway from that report was the diversity of pathways available for Indigenous Peoples to shape their futures, including governance structures. The recommendation contained therein regarding the development of guiding principles for the implementation of Indigenous Peoples’ rights to autonomy and self-government is the impetus for the present study.

5. The present study arrives at a pivotal juncture, providing a timely contribution to the ongoing dialogue on the practical implementation of Indigenous autonomy. It seeks to articulate and solidify the principles guiding Indigenous Peoples’ rights to autonomy and self-government. The principles are rooted in Indigenous Peoples’ lived experiences and aspirations, with lessons drawn from a diverse range of case studies from across the globe.

6. The primary objective of the present study is to distil and present guiding principles that can effectively support the implementation of Indigenous autonomy and self-governance. It provides a nuanced interpretation of autonomy and self-government, acknowledging their distinct meanings within Indigenous contexts. For Indigenous Peoples, autonomy encompasses more than a political facet of self-determination; it embodies a holistic framework encompassing cultural, social and economic dimensions that are crucial to their identity, survival and development.

7. For the present study, a dynamic methodology that avoids a one-size-fits-all approach was adopted. Instead, the study is positioned as a living document that adapts to the changing landscape of Indigenous Peoples’ rights. Such an approach ensures that the guiding principles are informed by real-world experiences and challenges, making them robust and relevant. In addition, an Indigenous-centred analytical framework is introduced. That perspective delves into Indigenous Peoples’ internal processes and capacities, highlighting their agency in promoting autonomy.

Whereas the above-mentioned report was focused on State responsibilities, in the present study the capabilities of Indigenous Peoples are prioritized, exploring how they can leverage their systems and capacities to achieve and sustain autonomy.

8. The present study is structured around four key issues:

(a) Identifying aspirations and building support: how do Indigenous Peoples foster internal support for autonomy, and what strategies do they employ to engage their members and build consensus?

(b) Mapping the journey: what steps have Indigenous Peoples taken in their journey towards autonomy, ensuring broad support at each stage?

(c) Navigating the spectrum of autonomy: how do Indigenous Peoples manage their affairs, and how do they prepare for potential negotiations with the State?

(d) Equipping for effective negotiations: how do Indigenous Peoples build consensus for negotiations and secure comprehensive support for negotiated outcomes?

9. Indigenous Peoples are encouraged to actively engage with the findings of the present study, applying the guiding principles within their unique contexts. Policymakers, advocates and international bodies are urged to integrate the principles into their work, thereby shaping policies and practices that respect and support Indigenous Peoples' rights to autonomy and self-government.

10. While underscoring that the authors bear the responsibility for the content of the present study, the authors wish to acknowledge and express their deep gratitude to Araceli Burgete, Nikita Bulanin, Jens Dahl, Ole Henrik Magga, Robert Hitchcock, Aluki Kotierk, Shankar Limbu, Shapiom Noningo, Alejandro Parellada, Tsamkxao =Oma and the International Work Group for Indigenous Affairs, for their invaluable time, support and contributions in the making of the present report.

## II. Case studies of Indigenous autonomies and self-governments

### A. The Wampis Nation and its path to autonomy

11. The Wampis Nation, who live along the Ecuadorian border in north-east Peru, have a unique model of Indigenous autonomy and self-governance. Their territory, which spans the Kanus and Kankaim river basins, is home to 85 communities with a total population of approximately 15,300.

12. In a historic move, the Wampis Nation declared itself autonomous in November 2015, which marked a significant step in their long-standing pursuit of self-determination. The declaration emerged from years of collective dialogue and represented a commitment to preserving their sociocultural identity, safeguarding their territories and forests and embodying the principle of *tarimat pujut* (living well). The Wampis Nation aims to recover and strengthen its traditional autonomy, which has been eroded over decades by State policies and educational models.

13. The Wampis face State and missionary-led challenges to settlement consolidation, which have resulted in resource depletion and cultural dilution. In response, the Autonomous Territorial Government of the Wampis Nation advocates reform that integrates sustainable practices and cultural continuity into the education system. The initiative is aimed at counteracting the effects of consumerism and external influences, emphasizing the importance of sustainable biobusinesses and innovative territory protection strategies.

14. The Autonomous Territorial Government has implemented a comprehensive territorial control system within its autonomy framework, in which traditional

wisdom is combined with modern monitoring tools. The system includes dynamic zoning, under which their territory is categorized on the basis of local values and knowledge. Such zoning is pivotal for managing resource use and maintaining ecological balance, and it showcases a unique blend of ancestral and contemporary approaches to territorial governance.

15. The journey of the Wampis Nation towards autonomy has been characterized by strategic efforts to gain national and global visibility. The establishment of the Autonomous Territorial Government has played a pivotal role in forging relationships at the international level, including with the International Work Group for Indigenous Affairs, the Special Rapporteur of the Human Rights Council on the rights of Indigenous Peoples and Indigenous rights experts. Such alliances have facilitated the participation of the Wampis Nation in global dialogues on Indigenous autonomy, contributing to reports and thus to the growing international discourse on the issue.

16. The vision of the Autonomous Territorial Government extends beyond local governance, seeking to influence policy and foster positive relations with the Peruvian State and civil society. Efforts to that end include advocating for the formal recognition of Indigenous autonomies at the United Nations and proposing the creation of a United Nations caucus for Indigenous autonomies. A protocol aimed at outlining the principles of positive engagement by the State authorities of Peru in respectful and constructive dialogues with the Autonomous Territorial Government and Indigenous Peoples was disseminated in 2022.<sup>1</sup> Despite achieving jurisdictional sovereignty over their territory of more than 1,300,000 ha, the Wampis continue to navigate challenges posed by extractive industries and environmental threats.

17. Looking ahead, the Autonomous Territorial Government is focused on building a sustainable future on the basis of ancestral knowledge and modern innovation. Efforts to that end include reforming educational curricula, developing sustainable biobusinesses and establishing a comprehensive territorial control system rooted in traditional teachings and modern monitoring techniques. In addition, the Autonomous Territorial Government engages in proactive dialogues with other Indigenous Peoples, aiming to unite efforts and strategies.

18. The case of the Wampis Nation exemplifies a dynamic and evolving model of Indigenous autonomy that reflects the importance of international advocacy.

### **Observations**

19. The journey of the Wampis Nation towards autonomy, as articulated by Shapiom Noningo from the Autonomous Territorial Government of the Wampis Nation, offers profound insights into strategies for and the complexities inherent in asserting Indigenous self-governance. The Wampis embarked on their autonomy journey through extensive efforts to organize internal community solidarity and global advocacy. The dual approach of cultivating internal unity and engaging with international entities, such as the Permanent Forum on Indigenous Issues, the Special Rapporteur on the rights of Indigenous Peoples and the Inter-American Commission on Human Rights, was crucial, as it allowed the Wampis to leverage international law to gain significant recognition and compel the State authorities of Peru to consider their autonomy proposal.

20. The Wampis faced significant challenges from external economic forces and internal dynamics. The allure of quick financial gains for young people, often driven

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<sup>1</sup> See Kathia Carrillo, “El gobierno territorial autónomo de la Nación Wampis publicó su protocolo de relacionamiento con el Estado Peruano”, 17 August 2022, available at <https://nacionwampis.com/el-gobierno-territorial-autonomo-de-la-nacion-wampis-publico-su-protocolo-de-relacionamiento-con-el-estado-peruano/#:~:text=El%20documento%20detalla%20nueve%20principios,y%20Principio%20de%20no%20discriminaci%C3%B3n>.

by external logging and mining activities, threatened the Wampis' cohesive governance and long-term vision. Those challenges highlighted the need for a culturally aligned education system and effective youth engagement strategies that align more closely with the Wampis' values and aspirations.

## B. Indigenous autonomies in Mexico City

21. The rights of Indigenous communities to self-determination and autonomy are recognized in the Political Constitution of Mexico City. As of 2020, the city's diverse population included a significant Indigenous presence, and 55 of the 68 Indigenous languages in Mexico were spoken there. The rich cultural diversity of the city, which has its roots in its pre-colonial societies and has been shaped by the impact of the conquest by Spain, sets the stage for its current political and cultural situation.

22. After Mexico achieved independence, Mexico City initially lacked autonomy because of its status as a Federal District. A prolonged struggle for democratic rights and self-governance ensued. The 1990s saw a resurgence of Indigenous activism as communities began asserting their rights as the city's "original peoples", which culminated in significant constitutional reforms.

23. The governance structure of Mexico City was transformed by the reform of 31 January 2017, which provided for the election of local officials and the recognition of the autonomy of Indigenous communities.<sup>2</sup> The reform, which entered into effect on 17 September 2018, empowered Indigenous communities with self-governance and control over their internal regulatory systems.

24. A registration and documentation initiative undertaken by the government of Mexico City, which resulted in the recognition of 50 Indigenous neighbourhoods and communities, led to dissatisfaction. Indigenous groups felt excluded by the criteria used to define the eligibility for rights, viewing the initiative as a form of trivialization of Indigenous Peoples as folklore. In addition, they encountered administrative hurdles from borough officials, some with alleged ties to real estate companies, which complicated the exercise of their autonomous rights.

25. Despite the above-mentioned advances, Indigenous communities continue to face challenges, particularly in relation with new municipal authorities and tensions with borough officials.

## C. Nyae Nyae Conservancy

26. In Namibia, Indigenous Peoples, including the San, Ovatombo, Ovatombo and Nama, comprise about 8 per cent of the population. The Constitution prohibits discrimination based on ethnicity but does not explicitly recognize the rights of Indigenous Peoples. Namibia has not ratified the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization (ILO) despite its support for the United Nations Declaration on the Rights of Indigenous Peoples and adherence to other international agreements that affirm the rights of Indigenous Peoples.

27. The San, who number between 28,000 and 35,000, comprise various groups including the Khwe, Hai||om, Ju|'hoansi, !Kung, Naro, and !Xóõ, each with its own

<sup>2</sup> See: "Diario de los debates de la Asamblea Constituyente" of the Constituent Assembly of Mexico City (31 January 2017), available at <https://www.congresocdmx.gob.mx/media/documentos/92b858d702a85129fbbf9878ea1558194dc4904f.pdf>; see also the Political Constitution of Mexico City (2017), available at [https://www.infocdmx.org.mx/documentospdf/constitucion\\_cdmx/Constitucion\\_%20Politica\\_CDMX.pdf](https://www.infocdmx.org.mx/documentospdf/constitucion_cdmx/Constitucion_%20Politica_CDMX.pdf).

language and distinct customs and traditions. Traditionally hunter-gatherers, many now have diversified livelihoods. Over 80 per cent have been dispossessed of their ancestral lands, making them among the most marginalized groups in Namibia.

28. The Government of Namibia prefers using the term “marginalized communities” when referring to the San, and support is channelled through the Ministry of Gender Equality, Poverty Eradication and Social Welfare. The commitment of the Government to biodiversity conservation includes community-based natural resource management, under which local conservancies are allowed in communal areas for wildlife conservation and utilization.

29. Legal battles, such as the collective action lawsuit brought by the Hai||om, highlight the ongoing struggle for land rights and recognition among these communities. Broader challenges, including the coronavirus disease pandemic (COVID-19) and global economic pressures, had a disproportionate impact on Indigenous Peoples and other marginalized communities.

### Observations

30. Tsamkxao =Oma of the Traditional Authority of the Ju|’hoansi San describes in detail the journey towards the establishment of the Traditional Authority. Formed in 1998, the roots of the Traditional Authority can be traced back to the early 1980s and the Namibian struggle for independence. The organizational effort culminated in 1998 with the creation of the Nyae Nyae Conservancy, a Ju|’hoansi reserve that was the first communal conservancy under the Nature Conservation Amendment Act and that has become the second largest in Namibia.

31. The establishment of the Traditional Authority and the Nyae Nyae Conservancy has been a multifaceted process encompassing intensive community organization, participation in national land reform meetings and engagement with international bodies, including the Permanent Forum on Indigenous Issues.

32. In managing their affairs, the Ju|’hoansi have focused on establishing legal structures that support their autonomy, such as communal conservancy. Nevertheless, they continue to face challenges, such as land incursions by pastoralists. Their response has been to seek Government support, albeit with limited success.

33. Education remains a crucial challenge; primary and secondary education dropout rates among Ju|’hoansi children are high despite the early success of a village schools programme. Ensuring consistent educational attainment and employment opportunities for young people is vital for the community’s future.

34. Emphasis has been placed on securing legal rights over traditional land through ancestral land claims. Gaining greater control over natural resources and implementing more effective poverty alleviation strategies have also been identified as areas needing improvement for the Ju|’hoansi people.

## D. Indigenous autonomies of the Tharu and Newar peoples

35. A total of 59 Indigenous Peoples of Nepal are recognized as *adivasi janajati* (Indigenous nationalities) under the National Foundation for the Development of Indigenous Nationalities Act.<sup>3</sup> In 2006, after 10 years of civil war, a ceasefire and peace agreement led to changes in the political and legal landscape that were highly important for the recognition of Indigenous Peoples and other historically disenfranchised segments of the Nepalese population, which was reflected in the

<sup>3</sup> The International Work Group for Indigenous Affairs indicates that there are 63 Indigenous Peoples in Nepal. See International Work Group for Indigenous Affairs, “Indigenous Peoples in Nepal”.

interim constitution. In 2007, Nepal ratified the Indigenous and Tribal Peoples Convention and supported the adoption of the United Nations Declaration on the Rights of Indigenous Peoples. The 2015 Constitution gives further recognition to Indigenous Peoples and includes provisions for affirmative action for the protection, empowerment and development of Indigenous Peoples and other historically marginalized population segments. In addition, the Constitution stipulates that special, protected and autonomous regions may be created for sociocultural protection or economic development according to federal law.

36. The authority to give effect to those provisions of the Constitution, however, falls to municipal governments, which have extensive legislative powers, including in relation to the protection of the customs and customary affairs of communities. The division of power between the State and municipalities is ambiguous; the act on local government operations of 2017 states that the Government of Nepal shall declare special, protected and autonomous regions.

37. In this legal and political environment, including by reference to the obligations of Nepal vis-à-vis the Indigenous and Tribal Peoples Convention and the United Nations Declaration on the Rights of Indigenous Peoples, the Indigenous Peoples of Nepal seek to carve out spaces for the recognition of their traditional and customary autonomy and self-government systems. The Tharu and the Newar peoples follow their own customary practices in organizing their communities for joint action. They conduct meetings and dialogues and form expert teams for the drafting of specific law proposals. They build alliances with municipality leaders who possess a good understanding of Indigenous communities, enabling municipal leaders to play a constructive role within the municipal system. Successful law-making processes have thus been a collaborative effort between municipal governments and the affected communities.

## 1. The *barghar* system of the Tharu people

38. The Tharu make up approximately 7 per cent of the population of Nepal. While they are spread throughout Nepal, they are concentrated primarily in the Tarai.<sup>4</sup> The traditional *barghar* system, also known as *bhalmansa* or *mahatawa*, governs their way of life, culture, society, justice system and political, social and economic development. The *barghar* system has been proven effective for interpersonal and intercommunal resolution of disputes.

39. The Tharu people's demands for recognition of the *barghar* system have been met, to date, by 14 municipalities that have passed laws recognizing the system. The recognition of the *barghar* system is proof that the Indigenous self-governing system and the State structure can coexist as complementary and reciprocal systems. The function of the *barghar* system in the delivery of justice, assisting State courts with the resolution of disputes through mediation, makes a strong case in support of that argument.

40. In their work to expand the recognition of the *barghar* system, the Tharu people have been hampered by a lack of adequate and meaningful representation in municipal governments. Other factors impeding progress on this front include a shortage of funding for advocacy efforts and the need for enhanced leadership and capacity-building and greater awareness of the State legal system.

## 2. *Guthi*: autonomous self-government system of the Newar

41. The Newar Indigenous People were recognized under the National Foundation for Development of Indigenous Nationalities Act of 2002 but that recognition is not

<sup>4</sup> The lowlands located to the south of the Himalaya foothills in Nepal and India.

included in the Constitution of 2015. They comprise approximately 5 per cent of the total population of Nepal.<sup>5</sup> Yen (Kathmandu), Yala (Lalitpur) and Khawapa (Bhaktapur), all in the Kathmandu valley, are the traditional homelands of the Newar. Newar society is strongly governed by the customary system known as *guthi*. *Guthi* is an autonomous and self-governing system that deals with social, cultural, economic (including land tenure), educational and other community affairs. *Guthi* handles social justice and political affairs to some extent. In the past, *guthi* was a sovereign system that served to govern the community.

42. The municipality of Kirtipur<sup>6</sup> enacted a Cultural Protected Area Act in 2022 that declared the lands of Kirtipur as the protected ancestral lands of the Newar. The Municipal Council is the designated supreme body for the protection of culture and heritage and for conducting economic development.

### **Observations**

43. Shankar Limbu of the Lawyers' Association for Human Rights of Nepalese Indigenous Peoples testifies that the Tharu and Newar peoples seek an avenue to avail of their right to autonomy and self-government within the existing state system by leveraging the United Nations Declaration on the Rights of Indigenous Peoples, the Indigenous and Tribal Peoples Convention, the 2015 Constitution of Nepal and the Local Government Operation Act.

44. During the process of gaining recognition of the *barghar* system, including during the drafting process for the 2015 Constitution, the Tharus were met with a requirement to have the *barghar* system entities register as non-governmental organizations under the legislation of Nepal governing such organizations. The resistance towards relegating the *barghar* system to be categorized as non-governmental organizations helped mobilize the Tharus to push for their right to autonomy and self-government and recognition by the State.

45. The agenda of political and structural change following the signature of the Comprehensive Peace Accord in 2006 created vital momentum for addressing the issues of Indigenous Peoples and other historically discriminated groups. Though there are setbacks and still ample room for progress, the self-governing systems of Indigenous Peoples and their work are recognized in the State structure to some extent.

## **E. Sami Parliament**

46. The Sami are the Indigenous Peoples residing across the national borders of four countries<sup>7</sup> (Finland, Norway, Sweden and the Kola Peninsula in the north-western part of the Russian Federation).

47. In Norway, in 1988, a specific section on Sami rights was included in the Constitution, establishing constitutional guarantees for Sami language, culture and society and obligating the State to create the conditions necessary for meeting these ends. Recognition in the Constitution led to the Sami Act being adopted by the Norwegian Parliament, in 1989, and later the same year to the establishment of the Sami Parliament.

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<sup>5</sup> According to information available at <https://www.worldatlas.com/articles/who-are-the-newar-people.html>.

<sup>6</sup> The ancient city of the Newar, neighbouring the city of Kathmandu.

<sup>7</sup> The total Sami population is estimated to be somewhere between 80,000 and 100,000 individuals, distributed as follows: Finland, 8,000; Norway, 50,000 to 70,000; Sweden, 20,000; and Russian Federation, 2,000.



48. The unification of the Sami in Norway, Finland and Sweden was a crucial part of the Sami struggle for self-determination and self-governance. In Norway, it led to the establishment of the Association of Saami Reindeer Herders in 1947. The Sami Association of Norway united all Sami regardless of occupation in 1968. It enabled an even stronger articulation of Sami culture and rights, also vis-à-vis the Government of Norway. The Sami Association of Norway and the Sami associations of Finland and Sweden, including through the Saami Council (established in 1956), were also instrumental for international inspiration, collaboration and knowledge exchange with other Indigenous Peoples worldwide.

49. The protests against establishing a hydroelectric dam in Alta in the late 1970s and the early 1980s brought cooperation among Samis to a new level and enabled effective negotiations with the Government. The outcomes of those negotiations led to the establishment of two public commissions: the Sami Rights Commission and the Sami Cultural Commission. The report of the Sami Rights Commission, adopted by the Norwegian Parliament in 1987, contained the recommendations for the constitutional recognition of Sami and the Sami Act mentioned above.

50. The Sami Parliament in Norway is an Indigenous elected assembly of 29 members. The constituency of the Sami Parliament is not territorially defined. Its constituency comprises persons registered under the electoral roll of the Sami Parliament. Anyone who perceives themselves as Sami and has Sami as their home language, or who has a parent, grandparent or great-grandparent with Sami as their home language, can register on the parliament's electoral roll. Children of individuals registered in the parliament's electoral roll can also register. There were 20,543 Sami registered in the electoral roll system of the Sami Parliament in Norway at the time of the latest election, held in 2021.

51. The functions and powers of the Sami Parliament are defined in the Sami Act and include all questions that the Sami Parliament considers relevant to the Sami people in Norway. On its own initiative, it can raise and issue statements on all questions within its mandate and raise questions before public authorities and private institutions. It also has the authority to make decisions when such authority follows legislative or administrative provisions. It should be noted that the Sami Parliament does not have competency in the area of land and land tenure rights of Sami, including those related to reindeer husbandry.<sup>8</sup>

52. Pursuant to the obligations of Norway under the terms of the Indigenous and Tribal Peoples Convention, the Sami Act was recently amended to reflect the obligations of public authorities at all levels and other public agents of Norway to consult with Sami through the Sami Parliament on all issues affecting them.

53. The Speaker of the Sami Parliament is both the presiding officer of the plenary and heads the Governing Council that forms the executive branch. The administration of the Sami Parliament has a staff of approximately 150. The core funding of the Sami Parliament comes from the State budget, with an annual allocation of approximately 560 million Norwegian kroner (\$53.1 million).

54. The Sami Parliament in Norway, together with the Sami Parliaments in Sweden and Finland, form the Sami Parliamentary Council, a political cooperation forum. All three Sami Parliaments engage actively in international forums pertaining to Indigenous Peoples' rights and issues, individually and jointly through the Sami Parliamentary Council.

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<sup>8</sup> For more information concerning land rights, see the submission of Norway to the Expert Mechanism on the Rights of Indigenous Peoples, available at <https://www.ohchr.org/sites/default/files/Documents/Issues/IPeoples/EMRIP/RightToLand/Norway.pdf>.

## Observations

55. The inaugural president of the Sami Parliament in Norway and former expert member and Chair of the Permanent Forum, Ole Henrik Magga, underlined Sami unification as a crucial factor for the achievements and the successful negotiations that led to the establishment of the Sami Parliament in Norway. He further attributes the visionary recommendations of the Sami Rights Commission to a profound understanding and clever interpretation of international human rights law and the legal obligations of Norway, and underscores how strategically placed individual experts can play key roles in this regard.

56. In recent decades, infrastructure developments and extractive industry projects on Sami traditional territories highlight the fact that the Sami Parliament in Norway needs to be vested with powers to stop unwanted developments on Sami territories. The right of the Sami Parliament to be consulted on all matters affecting Sami is not reflected coherently and comprehensively in the Norwegian legislative framework and justice system. The Government's inaction following the Supreme Court's judgment in the *Fosen* case<sup>9</sup> is deeply concerning, while showing that non-Sami vested interests, including of the State, tend to override the rights of Sami.

57. In 1997, the objective criteria for registration in the electoral roll of the Sami Parliament in Norway were expanded to include "great-grandparents" with a view to including those Sami, particularly from the southern parts of Norway, who, owing to the historic "Norwegianization" policies of the State, had lost their Sami language, but not their sense of belonging to the Sami people. Unfortunately, over the past two election cycles, the expanded criteria have been misused by some individuals to enrol with ill intentions of undermining the Sami Parliament as the autonomous institution of the Sami. The legitimate measures of the Sami Parliament to address this serious point of concern are causing a heated and hostile public debate.

## F. Nunavut

58. The establishment of Nunavut in 1999 as an autonomous Indigenous region in northern Canada marks the Inuit people's enduring quest for self-determination and stewardship over their ancestral lands. Nunavut is one of four Inuit autonomous regions.

59. The Inuit in Canada, alongside their kin in Alaska (United States of America), Chukotka (Russian Federation) and Greenland, have long sought self-determination in response to increasing restrictions and rights violations by colonial powers and non-Inuit governments. During the 1950s and 1960s, considerable socioeconomic transformations took place as the Inuit settled in sedentary communities. The Inuit grappled with a loss of autonomy, assimilationist state policies and limitations on using their ancestral lands for traditional hunting and fishing activities.

60. In 1971, in Canada, the creation of the "Eskimo Brotherhood", which later evolved into Inuit Tapiriit Kanatami, was a significant milestone. It was instrumental in fostering cohesion among the Inuit, nurturing a robust vision for self-determination and self-governance. Education played a pivotal role, equipping young Inuit leaders with bilingual skills and enhancing their mastery to effectively navigate and engage with both federal and territorial levels of the government of Canada.

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<sup>9</sup> Information about the *Fosen* case is available on the website of the Norwegian Human Rights Institute: <https://www.nhri.no/en/2023/about-the-wind-farms-on-fosen-and-the-supreme-court-judgment/>.

61. The initial proposal to the Government of Canada in 1976, which led to complex negotiations with the national and territorial authorities, formalized the journey to autonomy for the Inuit people. The Inuit Tapiriit Kanatami and later the Tunngavik Federation of Nunavut led the negotiation process, representing the Inuit in Canada. A key turning point in 1990 was the “agreement in principle” with the Government of Canada, subsequently solidified by a plebiscite determining the borders of Nunavut. The agreement received decisive support from about 70 per cent of voters in Nunavut. The Government and the Parliament of Canada ratified the Nunavut Land Claims Agreement in 1993, marking a historical achievement.

62. At present, the oversight of the Land Claims Agreement is the responsibility of Nunavut Tunngavik Incorporated, which grants voting rights to all Inuit from Nunavut above the age of 16. Government recognition of Inuit organizations as legitimate negotiating actors was a crucial success factor in achieving this agreement.

63. The autonomy of Nunavut is characterized by a two-part framework: a Nunavut Parliament and Government serving all residents regardless of ethnicity, and a Land Claims Agreement specifically benefiting the Indigenous Inuit. The Land Claims Agreement grants the Inuit fee-simple title to approximately 18 per cent of the Nunavut, guaranteeing hunting and fishing rights, with subsurface rights provided for around 10 per cent of this area.

64. In 2021, the Assembly of Nunavut Tunngavik Incorporated passed a resolution to negotiate with the Government of Canada for Inuit self-government. The decision stemmed from frustration over insufficient efforts of the Nunavut Government to improve Inuit quality of life and effectively support the preservation and promotion of Inuit language and culture. On 18 January 2024, a significant step forward was taken with the signing of the Nunavut Lands and Resources Devolution Agreement. An outcome of collaboration between the Canadian Government, the Nunavut Government and Nunavut Tunngavik Incorporated, the agreement marks one of Canada’s most significant land transfers (to be completed by April 2027). It grants the Nunavut and its residents greater control over their public lands, fresh water and non-renewable resources. This shift is a significant move that aims to promote responsible and sustainable resource management and develop the human resources necessary to oversee these new areas of governance effectively.

### **Observations**

65. Insights from Aluki Kotierk, the President of Nunavut Tunngavik Incorporated and expert member of the Permanent Forum on Indigenous Issues highlight that the Inuit’s journey towards self-governance was shaped by a response to rapid socioeconomic changes and a desire to preserve autonomy and cultural identity amid assimilationist policies. The Inuit utilized a blend of legal and political acumen and community mobilization to achieve their autonomy. Central to these efforts was the forming of such organizations as the Inuit Tapiriit Kanatami to unify the Inuit and advocate for their rights at various levels.

66. The case of Nunavut illuminates ongoing challenges, such as the decline of the Inuktitut language and the need for educational reforms to preserve the Inuit cultural identity. One reason for the decline of the Inuktitut language is that languages other than Inuktitut dominate the public sphere. The Nunavut Land Claims Agreement lacks specific provisions for the Inuktitut language. Nevertheless, under Canadian law, the Nunavut government is obliged to support Inuit language instruction in the formal education system in accordance with the rights of Indigenous Peoples to education in their own Indigenous language. Nunavut Tunngavik Incorporated disagrees with the Nunavut Government interpretation of its legal obligations related to Inuktitut education and filed a court case in October 2021 to seek further clarity.

67. The absence of specific language rights in the Nunavut Land Claims Agreement might be due to two main factors. First, the strong position of the Inuktitut language during the negotiations in the 1980s and 1990s may have precluded any anticipation of the language's erosion. Second, the agreement prioritized areas historically associated with men in Inuit society (e.g., hunting, fishing and wildlife management). Gender parity in negotiation teams can help address other crucial facets, including language preservation and education.

## **G. Analysis and takeaways from the case studies**

68. The overview of efforts towards Indigenous autonomy and self-government, as exemplified in the case studies from Peru to Canada and from urban settings in Mexico City to the traditional governance landscapes of Namibia and Nepal, offers practical insights that highlight the shared struggles and unique approaches in the quest for self-governance.

### **Securing internal and international support and unified representation**

69. Across all case studies, it can be observed that developing a unified vision was critical for internal consensus and effective negotiations with the State. Likewise, strategic alliances with national and international bodies, including with other Indigenous Peoples, were crucial in advancing autonomy and self-government. Developing a unified vision and securing support both internally and with external actors was employed by the Wampis in Peru, the Inuit of Nunavut, and to some degree by the Ju|'hoansi Traditional Authority in Namibia. It illustrates how consensus-building, both internally and on international stages, can drive the autonomy movement forward. The success of organizations such as Inuit Tapiriit Kanatami shows the importance of unified representation and adept navigation through complex legal and political terrains.

### **Addressing the implementation gap and engaging the Government**

70. The cases studies concerning Mexico City, the Inuit of Nunavut, the Samis of Norway and the Tharus of Nepal demonstrate the challenges that can persist even after constitutional recognition and the achievement of autonomy, which highlights the need for continuous efforts in implementing and enforcing legal frameworks.

### **Continuous advocacy and legal action**

71. All cases in the present study illustrate the importance of legal advocacy and precedents in enhancing Indigenous rights. Active engagement in international forums and effective media use raised awareness and supported advocacy for Indigenous rights.

### **Balancing tradition with modern challenges**

72. The urban Indigenous communities of Mexico City, who speak various native languages, showcase the critical need to preserve cultural practices and languages in a rapidly urbanizing environment. The shift towards self-governance in Mexico City also illustrates that Indigenous communities need to adapt their traditional governance structures to fit within an urban framework.

### **Complementarity of Indigenous and state systems**

73. The integration of the *barghar* and *guthi* systems within municipal governance frameworks in Nepal shows how traditional Indigenous systems can complement state structures, such as in areas of justice and resource management.

### **Financial sustainability and iterative approach**

74. Experiences of Sami people in Norway and the Inuit of Nunavut demonstrate the importance of financial self-determination and an adaptive, iterative approach to autonomy, thus ensuring resilience and flexibility in the face of evolving challenges.

75. Leveraging and invoking international human rights law in the context of Indigenous rights is a proven strategy, as illuminated in particular by the Wampis in Peru and the Sami of Norway.

76. A common area of concern across all cases is aligning the education system with Indigenous Peoples' needs, vision and values.

## **III. Guiding principles for the implementation of Indigenous Peoples' right to autonomy and self-government**

77. While State obligations are paramount for guaranteeing the enjoyment of the right to autonomy and self-government in accordance with article 4 of the United Nations Declaration on the Rights of Indigenous Peoples, strengthening Indigenous Peoples' internal structures and capabilities is equally vital. Empowering Indigenous Peoples with knowledge and insights from practical experiences enhances their capacity, positioning and preparedness in the journey towards autonomy.

78. Although Indigenous Peoples face common global challenges and obstacles, a one-size-fits-all solution to self-government and autonomy is unrealistic. Through broad yet practical strategies and steps proposed herein, Indigenous Peoples can strengthen their path to self-government and autonomy, appraising the diverse political and legal environmental contexts they navigate. Such an approach recognizes the significance of State obligations while emphasizing the proactive role Indigenous Peoples can take in shaping their destiny.

79. Crystallized as a result of case studies, sifting and representing lived experiences across various contexts, the principles and recommendations are deeply interconnected. Even if they must be tailored to unique circumstances and aspirations, they are aimed at equipping Indigenous Peoples with tools to guide their quest for self-government and autonomy.

### **Guiding principle 1 Unified vision and objectives**

80. Central to Indigenous self-government and autonomy is the development of a unified vision and common objectives, which in turn is essential for forming a broad-based internal consensus. Strategic planning can substantially foster the implementation of self-government and autonomy.

81. This may involve analysing and designating facets of self-determination that require special attention, such as the preservation of identity and language, as well as land and resources rights. Such an approach helps to build a legitimate, inclusive and representative platform, enhancing the negotiating position when engagement in dialogues and negotiations with the government commences.

82. In Nunavut and in Norway, the autonomy journey of the Inuit and the Sami involved legal and political strategies and community mobilization, highlighting the significance of consolidated representation and adaptive legal and political engagement strategies. Similarly, the Wampis of Peru demonstrated effective internal consensus-building, ensuring legitimate representation in state negotiations.

83. The path to self-government as an exercise of self-determination can span decades, underscoring the need for adaptability and inclusivity. Recognizing that even minimal autonomy can be a foundational initial step, Indigenous Peoples are encouraged to approach their autonomy building progressively, as a continuous process.

### **Guiding principle 2**

#### **Building and solidifying alliances and partnerships, awareness, international engagement and advocacy**

84. At the national level, Indigenous Peoples can benefit from forming strategic alliances and partnerships with national institutions, including political parties when relevant, while maintaining their integrity and independent platforms. Nevertheless, Indigenous Peoples must be cautious about their role in national election processes so as to avoid being instrumentalized in political rivalries.

85. Building long-term alliances with reputable national institutions and bodies, including human rights institutions, can help to maintain their institutional memory and mitigate risks from political shifts that might affect the continuity of negotiations for the recognition, self-determination and autonomy of Indigenous Peoples.

86. Strategies to raise awareness among Indigenous Peoples and the broader society can employ societal dialogue through digital media campaigns, which are also essential in combating misinformation and hate speech.

87. Indigenous Peoples are encouraged to partner with United Nations system entities and relevant mandate holders of the United Nations, such as the Human Rights Council, as well as with regional organizations and institutions at the country, regional and global levels. The case of the Wampis exemplifies the use of strategic global advocacy and community engagement. Their path to autonomy was marked by internal consensus-building and strategic international engagement, leveraging the support and framework provided by the United Nations Declaration on the Rights of Indigenous Peoples.

88. United Nations entities, as mandated by article 42 of the United Nations Declaration on the Rights of Indigenous Peoples, can significantly help promote Indigenous autonomies. The system-wide action plan for ensuring a coherent approach to achieving the ends of the United Nations Declaration on the Rights of Indigenous Peoples, which supports the implementation of the Declaration at the country level, aligns with the spirit of self-determination, self-government and autonomy. Among its action areas are capacity-building and raising awareness about the rights of Indigenous Peoples.

89. Effective advocacy and communication are essential for progressing towards self-government and autonomy. Multifaceted advocacy, communication and negotiation strategies can substantially facilitate dialogue with government bodies, broader society and international partners.

#### **Significant cross-cutting elements**

90. Including diverse groups within Indigenous Peoples is crucial at all stages of autonomy-building. It ensures comprehensive coverage of critical issues in vision and strategy development. The case of Nunavut exemplifies the fact that gender parity and inclusivity in negotiation teams are important in addressing broader facets, including language preservation and education.

91. Indigenous Peoples require consistent support not only in establishing but also in maintaining and developing their autonomies. That support spans various types of needs, including support in terms of funding, policy and legal advice to interpret and

apply international instruments. Continuous support is vital for the sustainable functioning of autonomous structures.

92. Achieving financial sustainability is a critical aspect of self-determination. Though the cases of the Sami Parliament and Nunavut show that some State governments deliver funding from their national budgets, most Indigenous Peoples often face challenges in accessing resources, including financial. Obtaining and maintaining autonomy involves costs that cannot solely depend on donor and/or government funding. Developing financial systems can help Indigenous Peoples to ensure self-reliance in conducting autonomy activities. It can also contribute to financial stability, accountability and transparency.

93. Adopting and applying these principles effectively requires a cyclical, iterative approach: continuous reflection, review, adaptation and evolution. That iterative nature acknowledges the dynamic realities – the ever-changing political, legal and societal landscapes and the significant amount of time taken for Indigenous Peoples to assert their rights – in which Indigenous Peoples assert their rights to self-determination and establish self-government and autonomy. The sharing of lessons learned, successes and challenges can provide invaluable insights and strategies for Indigenous Peoples embarking on their journey towards self-government and autonomy. The principles proposed above offer an initial living framework for Indigenous Peoples and policymakers, guiding them towards effective and sustainable strategies and approaches to self-determination and autonomy.

#### **IV. Recommendations**

94. The Permanent Forum on Indigenous Issues should establish a standing agenda item on enhancing Indigenous Peoples' right to autonomy and self-government so as to ensure, inter alia, continuous, inclusive evolution of the respective guiding principles. By engaging with Indigenous Peoples, governments, United Nations system entities, including the Expert Mechanism on the Rights of Indigenous Peoples, the Special Rapporteur on the rights of Indigenous Peoples, and regional intergovernmental organizations, the inclusion of a standing agenda item will aim at fostering dialogue and advancing Indigenous Peoples' right to autonomy and self-government.

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