**Expert Mechanism on the Rights of Indigenous Peoples**

**Concept Note**

***January 2021***

**UN Expert Virtual Seminar on Indigenous Peoples and the Right to Self-Determination**

1. Established by the United Nations Human Rights Council in 2007, the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) is a subsidiary body composed of seven independent members that provides the Council with expertise and advice on the rights of indigenous peoples as set out in the *United Nations Declaration on the Rights of Indigenous Peoples* (the UN Declaration). The seven members serve in their individual capacities.

2. In September 2016, in its resolution 33/25, the Human Rights Council amended the mandate of the Expert Mechanism, to include, *inter alia*, that the Expert Mechanism should identify, disseminate and promote good practices and lessons learned regarding efforts to achieve the ends of the UN Declaration, including through reports to the Council.

3. With the revised UN Declaration mandate, the Expert Mechanism chose to emphasise procedural aspects of the UN Declaration such as free, prior and informed consent (FPIC) and placed a particular emphasis on the participation of Indigenous peoples themselves in decisions that affect them, within the context of their right to self-determination. To date, the Expert Mechanism has developed several reports, including, for example, Indigenous peoples’ rights with respect to: R[ecognition, reparations and reconciliation (2019)](https://www.ohchr.org/EN/Issues/IPeoples/EMRIP/Pages/ReportRecognitionReparationsReconciliation.aspx) and [Business and access to financial services (2017)](https://www.ohchr.org/EN/Issues/IPeoples/EMRIP/Pages/StudyOnGoodPracticesByIndigenousPeoples.aspx). The Office of the High Commissioner for Human Rights (OHCHR) provides substantive and administrative support to the Expert Mechanism.

4. The decision to focus early on FPIC is because of concerns about the way the UN Declaration is being interpreted post-UN General Assembly adoption of the Declaration. The use and reference to FPIC has increasingly skewed discussion and elaboration of the UN Declaration toward FPIC as a procedural right fenced in by the State and other external actors such as UN bodies and corporations. To some extent it has overshadowed Article 3 and the right to self-determination. The purpose of the EMRIP reports is to anchor FPIC to the right to self-determination.

5. The purpose of this seminar is to provide EMRIP with nuanced and contextualized information about the right to self-determination post-UN General Assembly adoption of the UN Declaration in 2007.

6. During its inter-sessional meeting in 2019, the EMRIP decided to prepare a report on the right of indigenous peoples to self-determination. This report will build upon other UN studies, including those completed by Special Rapporteur James Anaya, Special Rapporteur Miguel Alfonso Martinez, Dr. Madame Irene Erika Daes and Special Rapporteur Dr. Paul Hunt.

7. The Expert Mechanism accepted an invitation to hold a virtual seminar in Treaty Six Territory **on 4 and 5 February 2021 from 21:00 to 23:00 Geneva time (14:00 to 16:00, Manitoba, Canada, and 7:00-9:00 in Sydney)** for the purpose of informing its next report on: Self-Determination under the UN Declaration on the Rights of Indigenous Peoples. This will be the first substantive report post-2007 on the right to self-determination.

8. The Expert Mechanism has often collaborated with academic institutions or Indigenous peoples in co-hosting seminars on its studies and reports. This seminar will be co-hosted by Treaty Six and the Centre for Human Rights Research, University of Manitoba.

**Objectives**

* Hold an in-depth discussion on the topic to provide an opportunity for broad input to EMRIP’s 2021 study on the UN Declaration and the right to self-determination;
* Discuss the latest related developments in the policy, legal and institutional fields, at national, regional and international levels; and
* Identify regional examples of good practices of self-determination (such as Treaties), or support for self-determination (such as constitutional recognition) as prima facieevidence of self-determination or enablers of self-determination), as well as the challenges to the achievement of self-determination from different regions.

**Participants**

The Seminar will bring together approximately 30 participants, including:

* Members of the Expert Mechanism on the Rights of Indigenous Peoples
* Representatives from First Nations, the Métis Nation and the Inuit in Canada
* Experts on Indigenous rights from different regions
* Staff of the Office of the High Commissioner for Human Rights
* Academics
* Representatives from relevant UN agencies

In addition, community members and students will be welcome to observe the proceedings of the Seminar.

**Structure of the Seminar**

The seminar will be structured along the central themes to be addressed in the Expert Mechanism’s report. It is intended that each session in the Expert Seminar will focus on key considerations, case studies, examples and other ideas for inclusion in the Study.

A preliminary list of topics to be addressed in the Study is as follows:

* The evolving international legal framework related to the right to self-determination of Indigenous peoples, particularly post-2007 adoption of the UN Declaration;
* Examples of the current exercise of jurisdiction by Indigenous peoples, including de jure and de facto self-determination as well as in decisions about lands, territories and resources; economic, social and cultural rights; and civil and political rights;
* The determination of Indigenous citizenship, and the rights and responsibilities of citizenship;
* Integration of Indigenous legal orders, protocols and traditions into self-government functions;
* The reconstitution of Indigenous Nations previously divided by state-imposed policies or borders and how self-determination may be managed or hindered, for example the deployment of incorporation statutes by the state;
* Indigenous languages, ceremony and spirituality as a form of self-determination;
* Recognition and cooperation with Indigenous self-determination from Nation states and sub-national governments, including legislative and constitutional recognition;
* Indigenous traditional sports and games as a manifestation of self-determination; and
* The exercise of Indigenous self-determination in an international context through participation in international policy fora and decision-making bodies.

……………………………………………………………………………………………….