

UN Expert Mechanism on the Rights of Indigenous Peoples¹

Proposals for the Human Rights Council

July 2020

Introduction

- The Expert Mechanism held a virtual pre-session for two hours a day from 22-24 June following the postponement of its 13th session because of the COVID-19 crisis. Its 13th session will now take place from 30 November to 4 December 2020. ² The purpose of the pre-session was to inter alia, develop proposals for submission to the Human Rights Council's 45th Session in September 2020.
- These proposals will be submitted to the Human Rights Council, through its President, so that it might take them on board during the development of the Council's annual resolution on the Human Rights of Indigenous Peoples at its session in September 2020³.

Proposal 1: Participation of indigenous peoples in the Human Rights Council

1. The Expert Mechanism invites the Human Rights Council to facilitate, in consultation with indigenous peoples, the participation of indigenous peoples' representatives and their representative institutions in the work of the Human Rights Council in accordance with the UN Declaration of the Rights of Indigenous Peoples and to commit to reducing as much as possible the barriers for online participation of indigenous peoples in the context of the pandemic.

2. The Expert Mechanism welcomes the Human Rights Council's decision in resolution A/HRC/RES/42/19 to continue to discuss further steps to facilitate the participation of indigenous peoples' representatives and their representative institutions in the work of the Human Rights Council, in particular during the dialogue with the Expert Mechanism and the Special Rapporteur on the Rights of Indigenous Peoples and in the annual half-day discussion on the rights of indigenous peoples and invites the Human Rights Council to reiterate this decision.

3. The Expert Mechanism proposes that the Human Rights Council take note of the second dialogue meeting organized by indigenous organizations and institutions on enhanced indigenous peoples' participation at the United Nations, held in Quito, Ecuador from 27 to 30 January 2020, and call on States to support ongoing efforts to provide meaningful, effective and enhanced participation of indigenous peoples in the United Nations through their own representative institutions in all meetings relevant to the rights of indigenous peoples, including meetings of the Human Rights Council on issues affecting them.

¹ The contents of this document, subject to editing, will be reproduced in the Expert Mechanism's Annual Report to be finalised after its 13th session in November/December 2020. They will not be translated prior to reproduction in the Annual Report.

² <https://www.ohchr.org/EN/Issues/IPeoples/EMRIP/Pages/Session13.aspx>

³ See the resolution adopted last year by way of example - A/HRC/RES/42/19

4. The Expert Mechanism further proposes that the Human Rights Council encourages Member States and indigenous people's representatives and representative institutions from the seven indigenous sociocultural regions to participate at the intersessional round table to be held in the margins of the Expert Mechanism's 13th session to take place from 30 November to 4 December 2020, on possible steps to be taken to enhance the participation of indigenous peoples' representatives and institutions in meetings of the Human Rights Council. The Expert Mechanism proposes that the Human Rights Council take effective measures to follow-up the outcome of this round table in close dialogue with the Expert Mechanism to ensure the continuation of the dialogue on enhanced indigenous participation.

5. The Expert Mechanism puts forward the present proposal without prejudice to the ongoing consultative process referred to in General Assembly resolution 71/321, aimed at enhancing the participation of the representatives and institutions of indigenous peoples in United Nations meetings.

Proposal 2: Indigenous Peoples situation under the global COVID-19 Pandemic

6. The Expert Mechanism proposes to the Human Rights Council to hold a panel discussion during its 48th Session (September 2021) on the human rights of indigenous peoples facing the global COVID-19 pandemic, with a special focus on land rights.

7. The Expert Mechanism proposes to the Human Rights Council that it call upon States and the World Health Organisation, in the process of addressing COVID-19, both internally, nationally, across international borders and globally, to work in collaboration with indigenous peoples' representatives and institutions, National Human Rights Institutions, and indigenous parliamentarians to recognize and respect the human rights of indigenous peoples under the UN Declaration on the Rights of Indigenous Peoples and other international standards. The Expert Mechanism proposes that the Human Rights Council encourage States and UN organisations and agencies to refer to the OHCHR guidelines⁴ and to the Special Rapporteur on the Rights of Indigenous People's report on COVID-19 on protecting the rights of indigenous peoples during this pandemic (symbol number to follow).

Proposal 3: Increased engagement of Member States and coordination between the mechanisms of indigenous peoples and the treaty bodies with the Expert Mechanism

8. The Expert Mechanism proposes that the Human Rights Council urge States to engage more actively with its activities and in particular to attend and participate in its annual sessions, and send inputs and provide oral comments on its reports and studies, as fundamental elements in the development of the Expert Mechanism's expertise and advice.

9. The Expert Mechanism proposes to the Human Rights Council that it encourage States to make use of its mandate to provide technical assistance for and facilitation of dialogue,

⁴https://www.ohchr.org/Documents/Issues/IPeoples/OHCHRGuidance_COVID19_IndigenouspeoplesRights.pdf

including for the implementation of recommendations pertaining to indigenous peoples from the universal periodic review, the treaty bodies and the special procedures.

10. The Expert Mechanism further proposes that the Human Rights Council recognize the coordination efforts between the mechanisms working on the rights of indigenous peoples and the treaty bodies, including the Committee on the Elimination of Discrimination against Women, the Committee on the Elimination of Racial Discrimination and the Human Rights Committee, which are increasingly using the Declaration on the Rights of Indigenous Peoples to inform their work and their application of treaties in the context of indigenous peoples. In this regard, the Expert Mechanism proposes that the Human Rights Council encourage further collaboration between the treaty bodies and the Expert Mechanism to ensure that indigenous peoples' human rights continue to be properly addressed.

11. The Expert Mechanism also proposes to the Human Rights Council to encourage States to continue to promote the UNDRIP and the participation of indigenous peoples within global mechanisms that may benefit from indigenous contributions in particular mechanisms dealing with issues that threaten indigenous peoples lives such as climate change, migration and COVID-19.

Proposal 4: Promotion of the country engagement mandate of the Expert Mechanism

12. The Expert Mechanism proposes to the Human Rights Council that it encourage States and indigenous peoples to engage more proactively with it under its amended mandate, pursuant to Council resolution 33/25, including by submitting requests for technical assistance and dialogue facilitation. States should also be encouraged to respond positively to requests made by indigenous peoples under paragraphs 2 (c) and (e) of the resolution and seize the opportunity for dialogue provided by such requests.

13. The Expert Mechanism further proposes to the Human Rights Council that it acknowledge States and indigenous peoples that have already engaged with it under its amended mandate and made progress towards the realization of the aims of the Declaration on the Rights of Indigenous Peoples.

Proposal 5: Protection of human rights defenders

14. The Expert Mechanism urges the Human Rights Council to call upon States to ensure that indigenous human rights defenders are guaranteed due protection during the pandemic and thereafter, including a safe working environment and security, and to review laws that criminalize the work of indigenous human rights defenders, in compliance with the Declaration on the Rights of Indigenous Peoples and other international standards. In light of the information set out in its report on good practices and lessons learned on the tenth anniversary of the Declaration on the Rights of Indigenous Peoples (A/HRC/36/56), the Mechanism proposes that the Council request States to ensure that all human rights violations against indigenous communities and human rights defenders, including indigenous women, are investigated and the perpetrators brought to justice.

Proposal 6: Reprisals against human rights defenders, mandate holders and indigenous leaders

15. The Expert Mechanism calls on the Human Rights Council to reiterate its concerns and proposed action (A/HRC/RES/42/19, paras. 27 and 28) about the rise in cases of reprisals

against indigenous human rights defenders, and to urge States to adopt emergency responses to ensure due protection of indigenous leaders and their communities further pressured by the pandemic and global economic crises and to address all allegations and condemn all reprisals against indigenous human rights defenders, including United Nations mandate holders working on the rights of indigenous peoples and representatives of indigenous peoples attending sessions of the Expert Mechanism.

Proposal 7: Indigenous peoples and the International Decade on Indigenous Languages

16. The Expert Mechanism proposes to the Human Rights Council that it notes with appreciation the UN General Assembly's proclamation of an International Decade of Indigenous Languages (A/74/396, para 24) in the light of the progress, outcomes and lessons learned from the International Year of Indigenous Languages 2019, through the activities led by the United Nations Educational, Scientific and Cultural Organization (UNESCO). It proposes that during the planning process for the Decade (2020-2022), the Human Rights Council urges UNESCO, States, and other stakeholders to ensure that indigenous peoples are able to participate in the leadership and activities of the Decade through their own representative institutions, especially urging States to provide notice and funding to indigenous peoples to ensure their participation in this process.

Proposal 8: International repatriation of indigenous peoples' sacred items and human remains

17. Recalling paragraph 27 of the outcome document of the World Conference on Indigenous Peoples, articles 11 and 12 of the Declaration on the rights of Indigenous Peoples and recommendations of the Permanent Forum on Indigenous Issues, the Expert Mechanism proposes that the Human Rights Council encourage the development of a mechanism to facilitate the international repatriation of indigenous peoples' sacred items and human remains, informed by the EMRIP Report on the Repatriation of ceremonial objects, human remains and intangible resources, under the UN Declaration on the Rights of Indigenous Peoples (A/HRC/45/35).

Proposal 9: Indigenous peoples in voluntary isolation or initial contact

18. The Expert Mechanism proposes to the Human Rights Council the development of a specific expert report on the human rights situation of indigenous peoples in voluntary isolation or initial contact, taking into account the relevant international and regional human rights standards, and including expert advice on the legislative, administrative and policy measures and actions to be adopted at all levels to ensure their protection.

Proposal 10: National action plans and legislation to achieve the ends of the Declaration on the rights of indigenous peoples

19. The Expert Mechanism proposes to the Human Rights Council that it remind States of the commitment undertaken in the outcome document of the World Conference on Indigenous Peoples to cooperate with indigenous peoples to develop and implement national action plans, legislation or other measures to achieve the ends of the Declaration on the Rights of Indigenous Peoples. In that regard, it proposes that the action plans be used as a tool to implement the recommendations of international human rights mechanisms, including the universal periodic review, the treaty bodies and the special procedures, and that States consider seeking the

collaboration and support of their national human rights institutions and the Expert Mechanism in the elaboration of these action plans.

Proposal 11: United Nations Voluntary Fund for Indigenous Peoples

20. The Expert Mechanism reiterates its proposal that the Human Rights Council continue urging States to contribute to the United Nations Voluntary Fund for Indigenous Peoples.

Proposal 12: Collaboration with the universal periodic review process

21. The Expert Mechanism reiterates its proposal that the Human Rights Council and Member States continue to draw increasingly on the Declaration on the Rights of Indigenous Peoples in the universal periodic review process. It also reiterates its proposal that, in future universal periodic review cycles, the Declaration be explicitly included in the list of standards on which the universal periodic review process is based.

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