

# **United Nations Expert Mechanism on the Rights of Indigenous Peoples**

## **2023 Proposals to the Human Rights Council**

### **Proposal 1: Participation of Indigenous Peoples in the Human Rights Council**

1. The Expert Mechanism invites the Human Rights Council to continue to facilitate, in consultation with Indigenous Peoples, the participation of representative institutions of Indigenous Peoples in the work of the Council, in accordance with the United Nations Declaration on the Rights of Indigenous Peoples and to commit to reducing the barriers, such as language barriers, for the participation of Indigenous Peoples in the work of the Council, and to promote remote and in person attendance of Indigenous representatives.
2. The Expert Mechanism welcomes Human Rights Council resolution 51/18, in which the Council decided to continue to discuss further steps to facilitate the participation of representative institutions of Indigenous Peoples in the work of the Council. The Expert Mechanism also acknowledges the Expert Workshop report A/HRC/53/44 organized by the United Nations High Commissioner for Human Rights on possible ways to enhance the participation of Indigenous Peoples in the work of the Council which provided recommendations for further steps.
3. The Expert Mechanism invites the Council to make the decision to convene four two-day expert workshops, on the themes: venues of participation, participation modalities, accreditation criteria and an accreditation mechanism, to be concluded before February 2025. These workshops will focus on possible ways to enhance the participation of Indigenous Peoples' representative institutions in the work of the Council with the participation of Member States, Indigenous Peoples, the Expert Mechanism, Special Rapporteur and the Permanent Forum on Indigenous Issues and invite written submissions.
4. Consistent with the recommendations of the Expert Workshop in November 2022 A/HRC/53/44, the Expert Mechanism encourages the Council to appoint two co-chairs for each workshop. One should be nominated by Member States and one by Indigenous Peoples, to convene each of the four two-day expert workshops.
5. As part of the preparatory process for the workshops, the Expert Mechanism invites the Council to request the co-chairs to collaborate with the Indigenous Coordinating Body to organize the four two-day workshops, ensuring the participation from the seven Indigenous socio-cultural regions, and to prepare an informal record of each workshop; and to request the co-chairs and the Office of the High Commissioner to prepare a report on the four two-day workshops, with the view to preparing a draft resolution on enhanced participation and to submit it to the Council prior to its fifty-ninth session.
6. The Expert Mechanism proposes that the Council considers the participation within the Council session and recommend that a specific arrangement for the participation of Indigenous Peoples' representative institutions in the Council Interactive Dialogue with the Special Rapporteur on the Rights of Indigenous Peoples, Interactive Dialogue with the Expert Mechanism on the Rights of Indigenous Peoples, and the half-day panel discussions of the Council.

7. The Expert Mechanism proposes that the Council suggest that the United Nations Voluntary Fund for Indigenous Peoples facilitate participation in the workshop of several representatives of Indigenous Peoples' representative institutions from each of the sociocultural regions in the expert workshop, as recommended in Council resolution 51/18 (para. 14), ensuring to the extent possible balanced regional and gender representation.
8. The Expert Mechanism takes note with appreciation the work of the Indigenous Coordinating Body and proposes that the Council encourage States and other public and/or private donors to financially support the work of the Indigenous Coordinating Body.
9. The Expert Mechanism presents this proposal without prejudice to reinforce and complement the ongoing consultative process referred to in General Assembly resolution A/77/460, aimed at enhancing the participation of representative institutions of Indigenous Peoples in United Nations meetings.

### **Proposal 2: Human Rights Council panel discussion**

10. The Expert Mechanism proposes that the Human Rights Council hold a panel discussion on laws, legislation, policies, constitutions, judicial decisions, and other outcomes concerning how States have taken measures to achieve the ends of the United Nations Declaration on the rights of Indigenous Peoples, consistent with Article 38, with an emphasis on self-determination, during its fifty-seventh session, to be held in September 2024. During its sixteenth session, the Expert Mechanism decided that its next annual study will analyse laws, legislation, policies, constitutions, judicial decisions, and other outcomes concerning how States have taken measures to achieve the ends of the United Nations Declaration on the rights of Indigenous Peoples, consistent with Article 38. This study topic will be complemented by holding a seminar with an academic institution and the Office of the High Commissioner for Human Rights for the purpose of informing the study as well as an open call for inputs to receive further contributions by rights holders and all stakeholders to maximize input to enrich the study. To that end, the Expert Mechanism will hold an expert seminar in November 2023 to inform the study.
11. The Expert Mechanism invites the Human Rights Council to take into account the recommendations put forward during the half-day panel discussion held during its fifty-first session, in September 2022, on the impact of social and economic recovery plans in the COVID-19 context on Indigenous peoples, with a special focus on food security.

### **Proposal 3: Protection of human rights defenders and Indigenous leaders.**

12. Considering the critical situation that Indigenous human rights defenders continue to face daily worldwide, especially in relation to their rights to lands, territories and natural resources, the Expert Mechanism urges the Human Rights Council to call upon States to ensure that Indigenous human rights defenders and Indigenous leaders, without any discrimination, are guaranteed a safe living and working environment, security and due protection. This includes public recognition of the key role played by Indigenous human rights defenders, the revision of laws that restrict and/or criminalize their work, abstention from any act aimed at inhibiting their activities and/or putting at risk their integrity and the adoption of appropriate measures to protect them from any form of threats, intimidation, harassment and attacks.

13. The Expert Mechanism welcomes the adoption of general recommendation No. 39 of the Committee on the Elimination of Discrimination against Women, which highlights the additional risks faced by Indigenous women human rights defenders and proposes that the Council call upon States to adopt gender-sensitive responses and culturally appropriate measures aimed at preventing and addressing any kind of attack to their physical or psychological integrity, avoiding revictimization and ensuring no repetition.
14. The Expert Mechanism also proposes that the Council request Member States to ensure prompt and effective investigation and accountability for any human rights violations against Indigenous Peoples, Indigenous human rights defenders, and Indigenous leaders, particularly against Indigenous women, to ensure effective remedies and guarantee the principle of non-repetition in the violation of their rights.

#### **Proposal 4: Reprisals against human rights defenders, mandate holders and Indigenous leaders**

15. The Expert Mechanism emphasizes and recalls that the United Nations system has committed to ensuring events where everyone can participate in an inclusive, respectful and safe environment, without fear of intimidation, harassment or reprisals of any sort, as clearly established in the Code of Conduct to Prevent Harassment, Including Sexual Harassment, at UN System Events. The Expert Mechanism urges the Human Rights Council to call upon States to behave with integrity and respect towards all participants attending or involved with any meeting of the Expert Mechanism and to ensure the highest ethical and professional standards. The Expert Mechanism urges the Human Rights Council to strongly reaffirm that any act of harassment and reprisals is inadmissible and that it will be dealt with promptly.
16. The Expert Mechanism calls upon the Human Rights Council to reiterate the concerns and proposed action set out in Council resolutions 42/19 (paras. 27–28), 48/11 (paras. 31–32) and 51/18 (paras. 27–28), including the concern about the increase in cases of reprisals against Indigenous human rights defenders, among others. It also calls upon the Council to urge States to adopt emergency responses to ensure due protection of Indigenous leaders and their communities 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 the sessions of the Expert Mechanism. The Expert Mechanism also requests the Council to urge the host countries of the United Nations and host countries of United Nations events to ensure all Indigenous persons that seek to participate in the United Nations meetings are granted visas without any discrimination or delay.

#### **Proposal 5: Increased engagement of Member States with the Expert Mechanism**

17. The Expert Mechanism proposes that the Council continue to encourage Member States to engage actively with the Expert Mechanism's activities, including submission of contributions to its studies and reports, attending and participating in its annual sessions, and providing input and oral comments on its reports and studies.
18. The Expert Mechanism proposes that the Human Rights Council strongly encourage States and Indigenous Peoples to increase their engagement with it under its amended mandate, pursuant to Council resolution 33/25, by submitting requests for technical assistance and facilitation of dialogue, including for the implementation of the recommendations and conclusions pertaining to Indigenous Peoples arising from the universal periodic review, the treaty bodies and special procedures. States should also be encouraged to respond positively to requests made by

Indigenous Peoples under paragraph 2 (c) and (e) of resolution 33/25, seize the opportunity for dialogue provided by such requests and facilitate country engagement mission arrangements to enable the Expert Mechanism to comprehensively implement its mandate.

#### **Proposal 6: Indigenous Peoples' Right to Sustainable Development**

19. Echoing the considerations and concerns expressed by Indigenous peoples during its fifteenth annual session, with regard to the specific impact faced by Indigenous women in the context of development projects on their territories, the Expert Mechanism proposes that the Human Rights Council urge States to respect and guarantee the fulfillment of the right of Indigenous Peoples to be consulted, with a view to obtaining their free, prior and informed consent as well as ensuring respect for and full implementation of agreements resulting from fair and equitable negotiations, if any. States should take all the appropriate measures, including through legislation, to ensure that business enterprises in or from their jurisdiction act with due diligence and comply with international human rights instruments as well as Guiding Principles on Business and Human Rights.
20. Having conducted a panel discussion on the right of Indigenous Peoples to engage freely in all their traditional and other economic activities, with a focus on fishing practices, the Expert Mechanism proposes that the Council urge States to contribute to enhancing and strengthening Indigenous peoples fishing rights as well as building the capacity of Indigenous Peoples' institutions and decision-making bodies involved in dialogue regarding fishing related rights, Indigenous Peoples' led approaches to marine management and related issues in connection to all waters, lakes, coastal seas, and the overall marine environment as they relate to Sustainable Development Goals 2, 3, 6, 13, and especially 14.

#### **Proposal 7: International Decade of Indigenous Languages**

21. The Expert Mechanism proposes that the Human Rights Council encourage States to engage in fruitful and sustained dialogue with Indigenous Peoples, scholars, civil society and other public and private actors to adopt and implement the Global Action Plan of the International Decade of Indigenous Languages, taking into account the broad spectrum of human rights entailed in the promotion and fulfilment of Indigenous language rights. This includes ensuring the legal recognition of Indigenous Peoples languages, the formulation of laws, legislation and programmes for social cohesion, participation and inclusion of Indigenous language speakers, and promotion of the functional usage of Indigenous languages in all public domains and services.
22. The Expert Mechanism invites the Council to encourage States and UNESCO to take concrete measures for the implementation of the Global Action Plan at local and national levels, in a culturally appropriate manner and in close consultation and cooperation with Indigenous Peoples. To that effect, States and UNESCO should allocate the appropriate funding. The Expert Mechanism proposes that UNESCO establishes an Indigenous Peoples mechanism composed of Indigenous Peoples within UNESCO, organise an annual session on the achievement of the International Decade of Indigenous Languages, ensuring the full and meaningful participation of Indigenous Peoples in the process of designing and subsequent implementation of strategies, initiatives, policies and legislation.

#### **Proposal 8: Right of Indigenous Peoples in the non-self-governing territories**

23. The Expert Mechanism welcomes the process of the Special Committee on Decolonization, established in 1961 by the General Assembly, to review the list of non-self governing territories.
24. With this in mind, the Expert Mechanism urges the Human Rights Council to call upon Member States to ensure that the rights of Indigenous Peoples within non-self governing territories, or those waiting to be inscribed on the list, are fully recognized and respected, and in particular in relation to the right to self-determination and self-government as affirmed in the United Nations Declaration on the Rights of Indigenous Peoples.

**Proposal 9: Development of national action plans, effective national and regional monitoring mechanisms and legislation for the implementation of the United Nations Declaration on the Right of Indigenous Peoples**

25. The Expert Mechanism welcomes the positive developments in a number of States that have developed or are in the process of developing national action plans and domestic legislation for the implementation of the United Nations Declaration on the Rights of Indigenous Peoples with the full and meaningful participation of Indigenous Peoples. That includes the full and effective participation of Indigenous Peoples in the implementation of the measures included in national action plans and legislative measures and the establishment of effective mechanisms for monitoring and adequately funding the measures and activities in national action plans.
26. The Expert Mechanism calls upon the Human Rights Council to encourage more States to actively take concrete measures for the development of national action plans and domestic legislation for the implementation of the United Nations Declaration on the Rights of Indigenous Peoples. EMRIP calls on the Human Rights Council to urge States to centre Indigenous Peoples in the drafting and implementation of National Action Plans in accordance with the United Nations Declaration on the Rights of Indigenous Peoples.
27. The Expert Mechanism proposes that the Human Rights Council encourage States to engage in fruitful and sustained dialogue with civil society, academia, United Nations bodies, all levels and departments of government and with Indigenous Peoples to advance the implementation of the Declaration.

**Proposal 10: Treaties, agreements and other constructive arrangements**

28. The EMRIP appreciates the recognition expressed by participants during the sixteenth session for the importance of EMRIP's 2022 Study and its Advice on Treaties, Agreements and other Constructive Arrangements between Indigenous Peoples and States, including Peace Accords and Reconciliation initiatives and their constitutional recognition.
29. The Expert Mechanism calls upon the Human Rights Council to encourage States to duly recognize, observe, and enforce the treaties, agreements and other constructive arrangements to advance and achieve the realization of the rights of Indigenous Peoples and to promote substantive and procedural approaches to engage in the conclusion of modern-day treaties, agreements and other constructive arrangements as a method for implementing the rights affirmed in the United Nations Declaration on the Rights of Indigenous Peoples

**Proposal 11: LGBTQIA+ members of Indigenous Peoples**

30. The Expert Mechanism welcomes the opportunity to discuss the issue of Indigenous Peoples' right to be free and equal to all other peoples and individuals and the right to be free from any kind of discrimination in the exercise of their rights, including to express themselves based on their Indigenous origin, gender, and identity without discrimination. This includes the important

elements informed by the forthcoming report of Mr Madrigal-Borloz, UN Independent Expert on Protection against violence and discrimination based on sexual orientation and gender identity.

31. The Expert Mechanism calls upon the Human Rights Council to encourage States to continue engaging in a dialogue on this topic, with the Expert Mechanism and United Nations Independent Expert on Protection against violence and discrimination based on sexual orientation and gender identity.

**Proposal 12: Indigenous Peoples' health and wellbeing**

32. The Expert Mechanism proposes to the Council to acknowledge, recognize, and take concrete actions on the resolution WHA76.16 of 30 May 2023 and the specific paragraphs urging member states to develop knowledge, to develop, fund and implement national health plans, strategies, and all other paragraphs in order to be responsive to the health and wellbeing of Indigenous Peoples who face dramatic disparities in contrast to their counterparts across many indicators, including in relation to epidemics and pandemics such as COVID-19.