**Maat for Peace’ submission to the Expert Mechanism on the Rights of Indigenous Peoples on "Assessment of the implementation of Article 37 of the United Nations Declaration on the Rights of Indigenous Peoples"**

* **Preamble:**

Indigenous peoples represent 6.2% of the world's population; that is more than 476 million people living in 90 countries. The lands on which they live and the lands taken from them are diverse and rich. Although they make up more than 6% of the world's population, according to the World Bank, they represent about 15% of the people living in extreme poverty. The average age of indigenous peoples is about 20 years lower than that of other persons in the same States. Without treaties, agreements and constructive arrangements between indigenous peoples and the States in which they live they will continue to be at risk of failure to achieve the goals of sustainable development.

The United Nations Declaration on the Rights of Indigenous Peoples was adopted by the General Assembly on September 13, 2007 based on Resolution 61/295. The United Nations Declaration on the Rights of Indigenous Peoples provides a framework for reconciliation and peace as well as harmonious and cooperative relations between indigenous peoples and states based on principles of justice, democracy, rule of law, respect for human rights, non-discrimination and equality.

In response to the request of the Expert Mechanism on the Rights of Indigenous Peoples for information on the assessment of the implementation of article 37 of the United Nations Declaration on the Rights of Indigenous Peoples and the structural, economic and social barriers to indigenous peoples' access to their rights to be included in the report submitted to the Human Rights Council in September 2022, Maat for Peace, Development and Human Rights presents this contribution, which focuses on two main aspects: first, States that have recognized indigenous peoples on their lands and within the framework of their geographical sovereignty and hence the need to conclude treaties with them and to find constructive arrangements based on understandings between them and States, and secondly States that have not yet recognized indigenous peoples and the resulting obstacles to their access to economic and social rights.

* **Implementation of article 37 of the United Nations Declaration on the Rights of Indigenous Peoples:**

Article 37 of the United Nations Declaration on the Rights of Indigenous Peoples states that "Indigenous peoples have the right to recognize, observe and implement treaties, agreements and other constructive arrangements with States or their successors and to have States implement and respect such treaties, agreements and other constructive arrangements. "Because the vast number of treaties and conventions between States and indigenous peoples is attributed to earlier periods, such as treaties and conventions signed between indigenous peoples and the United States of America and between indigenous peoples and between them and Canada, as well as the Treaty of Waitangi, which regulates the relationship between Government and Mäori People in New Zealand and has resulted in increased financial resources for the continuation of the settlement process between these peoples and the State, which continued beyond 2013.

In this section, Maat for Peace will focus on the “other constructive arrangements” mentioned in the text of Article 37 of the Declaration. The Special Rapporteur on the rights of indigenous peoples defined these arrangements as “any legal text or other documents that are considered evidence of the agreement of all parties to enter into a legal or quasi-legal relationship[[1]](#footnote-1).” In this context, Maat for Peace shares the view of the Special Rapporteur on the rights of indigenous peoples that the there is a necessary need for more work to ensure finding common ground between states and indigenous peoples, including the conclusion of treaties, constitutional arrangements and other constructive arrangements, and related legislative, policy and protection steps that pave the way for reconciliation between indigenous peoples and states[[2]](#footnote-2). Some states have begun to recognize the rights of indigenous peoples either by concluding agreements with them or by issuing laws that root the rights of indigenous peoples, in accordance with the United Nations Declaration on the Rights of Indigenous Peoples, including Article 37 of the Declaration.[[3]](#footnote-3) On June 21, 2021, the Canadian Parliament announced its approval of Bill No. (c-15) that strengthens Implementation of the United Nations Declaration on Indigenous Peoples in the legal framework in Canada and defines the relationship between the state and indigenous peoples .This law imposes on the Canadian government a set of obligations, including behold; take all necessary measures to ensure that Canadian laws comply with the Declaration; in addition to preparing and implementing an action plan to achieve the objectives of the Declaration, provided that the action plan is issued within two years of the law’s entry into force; and finally, an annual report on progress made in harmonizing Canadian laws with the United Nations Declaration on the Rights of Indigenous Peoples, and the implementation plan approved by law.[[4]](#footnote-4)

According to the law, the operational plan of action should include measures to address injustice, combat discrimination and curb all forms of violence against indigenous peoples. This does not only suggest the enforcement of only the UN Declaration on Indigenous Peoples but a set of other international treaties such as the Convention on the Elimination of All Forms of Racial Discrimination and the International Covenants. This basically confirms that the articles of the Declaration are an extension of the binding standards in human rights treaties as stated in the report of the Special Rapporteur on the human rights of indigenous peoples.[[5]](#footnote-5) In the context of good practices attributed to constructive arrangements between these peoples and states, Canada began in January 2022 to prepare the ground for concluding an agreement between it and the indigenous peoples who reside in them. Under this agreement, Canada will pay compensation estimated at more than $ 27 million to the families and children of the indigenous population under the Protection Program Childhood, and according to the Minister of Indigenous Services, Patti Hadjo, the agreement recognizes the surviving children and their families the grievances and exclusion they were previously subjected to at the level of funding and services, and this agreement comes to be implemented during the next five years starting from 2022, at the invitation of the Canadian Prime Minister “Justin Trudeau” in December 2021 in the context of discussing the abuses suffered by indigenous peoples in previous decades.[[6]](#footnote-6)

In July 2021, the Ukrainian Parliament adopted an Act on the Recognition of Indigenous Peoples. This Act initiated by the President of Ukraine "Volodymyr Zelensky," which on 18 May 2021 proposed an urgent Bill No. 5506 on the indigenous people of Ukraine.[[7]](#footnote-7) The Act also implements the recommendation made to Ukraine by the Committee on Economic, Social and Cultural Rights [[8]](#footnote-8)and, in accordance with the law, the indigenous peoples of Ukraine "An indigenous ethnic society formed on the territory of Ukraine with an indigenous culture and language and with special traditional, social, cultural or representative bodies"[[9]](#footnote-9) The Act also grants indigenous peoples guarantees of access to the human rights and fundamental freedoms enshrined in the Charter of the United Nations, the Universal Declaration of Human Rights and other international human rights treaties ratified by the Ukrainian Parliament, and prohibits any acts that would deprive indigenous peoples of ethnic affiliations and cultural values or any actions that would deport indigenous peoples from their lands or incite racial, racial or religious hatred against them.

The law also provides for the right of indigenous peoples to have their own domestic and international representative bodies and resources. Despite these constructive steps for the relationship between states and indigenous peoples, some states still argue about signing treaties and agreements between them and indigenous peoples, for example Australia, which is the only Commonwealth country that has not signed a treaty with its indigenous people, despite its ratification of the United Nations Declaration on Indigenous peoples in 2009 but did not begin to negotiate a treaty with these aborigines, and although government officials in previous decades apologized for policies that caused suffering to indigenous people, apologies alone are not enough to obtain indigenous peoples' rights and the indigenous peoples of Australia The residents of the Torres Islands, who make up about 3% of the population, are among the marginalized groups in the country.[[10]](#footnote-10) The refusal to conclude treaties and agreements with indigenous peoples results in the continuation of a range of violations, including, but not limited to, the tendency to own land for the purpose of establishing development projects without the prior consent of indigenous peoples and the related forced eviction of indigenous peoples, along with the denial of self-government and weak representation in structures Official institutions of the state, which undermines the formation of constructive relations based on trust, mutual respect and partnership between indigenous peoples and the countries in which they live.

* **Obstacles to realizing the economic and social rights of indigenous peoples:**

Indigenous peoples who are not recognized in their countries face disproportionate discrimination compared to the indigenous peoples recognized by states who are in their territories, and Maat for Peace believes that the failure to recognize certain groups as indigenous peoples leads to the failure of states and other actors such as transnational corporations , by applying international human rights standards, which results in the indigenous peoples’ lack of access to their political, economic and social rights, which reduces the possibility of constructive dialogue or understandings between indigenous peoples and states. In Israel, for example, the Bedouins of the Negev, who are indigenous to Israel[[11]](#footnote-11), are subject to severe discrimination in terms of political, economic and social rights. About 50% of these Bedouins live in villages that Israel does not recognize or provide the services guaranteed under the International Covenant on Economic, Social and Cultural Rights, and all other international treaties[[12]](#footnote-12), and in contravention of Article 21(2), which stipulates that states take effective measures, when necessary, with special measures. To ensure the continuous improvement of the economic and social conditions of indigenous peoples.[[13]](#footnote-13)

Despite the adoption by the Israeli government in February 2017 of a five-year plan for the social and economic development of the Bedouin communities in the Negev region, with the approaching end of time for this plan, the situation in the Negev has not undergone a fundamental change, even with the entry of the “Ra’im Muslim” party. The party that he defends the Bedouin cause in the coalition that formed the current government in Israel to end years of non-representation of the Bedouins in the Negev at the government level.[[14]](#footnote-14) Despite the agreement that was concluded in June 2021 giving special importance to the situation of the Bedouins in the Negev, in addition to settling the status of three villages, however, after the passage of more Six months after this agreement, these villages are still without basic necessities of life such as water, electricity and other social services.

In addition, the Bedouin population in the Negev has remained the poorest in Israel, suffering from poor infrastructure and good education, and the Israeli government’s refusal to recognize thirty-five Bedouin communities has forced 90,000, or about 28% of the Negev Bedouin, to live in constant fear of the demolition of their homes due to their illegal status according to the Israeli government.[[15]](#footnote-15) With regard to education, the education system in the Bedouin villages in the Negev hinders integration into the labor force, in addition to that, the rate of leaving the educational process in the Negev is the highest in Israel, approaching 31%, which exceeds the rate of leaving the educational process in the Negev. School dropouts in all other Israeli regions, where the percentage does not reach about 10%[[16]](#footnote-16). This contradicts the provisions of the UNESCO Convention against Discrimination in Education.[[17]](#footnote-17)

Maat for Peace shares the view that granting indigenous peoples the freedom to manage development programs has a more positive impact than cases where these programs are controlled by the State or other external investment institutions. Whether at the level of economic development, health-care programs or other social services, findings from a wide spectrum of independent research that has entrusted better economic growth in indigenous areas have led indigenous peoples to control internal decisions, including the management of development projects.[[18]](#footnote-18)

* **Recommendations:**

**Maat for Peace recommends the following:**

* The Expert Mechanism should recommend, in its report to the Human Rights Council, that all domestic legislation in different States be reviewed to ensure its conformity with international human rights standards relating to the rights of indigenous peoples, in particular the United Nations Declaration on Indigenous Populations.
* The Expert Mechanism should recommend that the round tables meeting between indigenous peoples and State institutions should be circulated and should result in the improvement of the lives of indigenous peoples.
* The Expert Mechanism should emphasize the need to initiate fair and appropriate procedures for consultation with indigenous peoples, based on the principle of free, prior and informed consent.
* In its report to the Human Rights Council, the Expert Mechanism should promote good practices to enforce article 37 of the United Nations Declaration on the Rights of Indigenous Peoples.

1. E/CN.4/Sub.2/1999/20, Para 128, Available at the following link: <https://undocs.org/en/E/CN.4/Sub.2/1999/20> [↑](#footnote-ref-1)
2. Report of the Special Rapporteur on the rights of indigenous peoples, Victoria Tauli Corpuz, para 24, <https://undocs.org/A/HRC/27/52> [↑](#footnote-ref-2)
3. إعلان الأمم المتحدة بشأن حقوق الشعوب الأصلية، المادة 37، على الرابط التالي: <https://bit.ly/3Ib4tcO> [↑](#footnote-ref-3)
4. BILL C-15, Parliament of Canada, Available at the following link: <https://www.parl.ca/DocumentViewer/en/43-2/bill/C-15/royal-assent> [↑](#footnote-ref-4)
5. United Nations Declaration on the Rights of Indigenous Peoples Act, Department of Canada, Available at the following link: <https://www.justice.gc.ca/eng/declaration/about-apropos.pdf> [↑](#footnote-ref-5)
6. Canada Pledges $31.5 Billion to Settle Fight Over Indigenous Child Welfare System, New York times, 4 Jan 2022, Available at the following link: <https://nyti.ms/3FFklCp> [↑](#footnote-ref-6)
7. President submitted a draft law "On the indigenous peoples of Ukraine" to the Verkhovna Rada as urgent, President of Ukraine, 18 May 2021, Available at the following link: <https://bit.ly/3IadAKG> [↑](#footnote-ref-7)
8. Concluding observations on the seventh periodic report of Ukraine, Para 48, , Available at the following link: <https://bit.ly/3tvX181> [↑](#footnote-ref-8)
9. The Verkhovna Rada has adopted the law "On Indigenous Peoples of Ukraine," initiated by President Volodymyr Zelensky, Ukraine Forum, Available at the following link: <https://bit.ly/33JEj1B> [↑](#footnote-ref-9)
10. Australia is failing to improve indigenous lives, report shows, BBC, 10 February 2017, <https://bbc.in/3fuz0G7> [↑](#footnote-ref-10)
11. من هم السكان الأصليون لمنطقة الشرق الأوسط؟، بي بي سي، 10 أغسطس 2019، على الرابط التالي: <https://bbc.in/34XlV6f> [↑](#footnote-ref-11)
12. المرجع السابق [↑](#footnote-ref-12)
13. مصدر سبق ذكره، على الرابط التالي: <https://bit.ly/3Ib4tcO> [↑](#footnote-ref-13)
14. History made as Arab Israeli Ra’am party joins Bennett-Lipid coalition, The Times of ISRAEL, 3 JUNE 2021, <https://bit.ly/3FAdudD> [↑](#footnote-ref-14)
15. تجاوزوا الحد السلطات الإسرائيلية وجريمتا الفصل العنصري والاضطهاد، هيومان رايس ووتش، 27 أبريل 2021، على الرابط التالي: <https://bit.ly/3I83RVc> [↑](#footnote-ref-15)
16. Report finds Negev Bedouins remain poorest population in Israel, Al- Monitor, 30 September 2021, Available at the following link: <https://bit.ly/3FzKvqq> [↑](#footnote-ref-16)
17. Convention against Discrimination in Education, Available at the following link: <https://bit.ly/3FBpATC> [↑](#footnote-ref-17)
18. Ibid, Page 17, Available at the following link: <https://undocs.org/A/HRC/27/52> [↑](#footnote-ref-18)