**POSSIBLE WAYS TO ENHANCE THE PARTICIPATION OF INDIGENOUS PEOPLES IN THE WORK OF THE HUMAN RIGHTS COUNCIL**

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**ABSTRACT**

As part of its larger human rights agenda, the Human Rights Council discusses matters pertaining to indigenous peoples all year long. As was already mentioned, it focuses on the problems facing indigenous peoples during its interactive discussions with the Special Rapporteur on the rights of indigenous peoples and the Expert Mechanism on the Rights of Indigenous Peoples, as well as during its annual panel discussion on these issues. The Council's many agenda items, including those pertaining to its interactive discussion with the Special Rapporteur and the Expert Mechanism, are open to comments from indigenous peoples' organisations and other stakeholders.

Additionally, representatives of indigenous peoples and other non-State actors typically take part in informal discussions regarding the resolution's language that the Human Rights Council adopts each year on the topic of indigenous peoples. This resolution is significant for a variety of reasons, including the fact that it often specifies the topic for the Expert Mechanism's yearly research as well as the annual panel debate.

**INTRODUCTION**

As a result of a movement spearheaded by indigenous peoples, civil society, international organisations, and States at the national, regional, and global levels during the past three decades, the rights of indigenous peoples have emerged as a significant element of international law and policy. The United Nations human rights system—its mechanisms, laws, and policies—have been at the centre of these developments, with organisations like the United Nations Working Group on Indigenous Populations playing a pivotal role that is being continued by the Human Rights Council and its mechanisms in collaboration with other important actors like the United Nations Permanent Forum on Indigenous Issues. One of its notable accomplishments was the General Assembly's ratification of the United Nations Declaration on the Rights of Indigenous Peoples in 2007, which by 2010 had the backing of the vast majority of UN Member States and had received no opposition. It came about after years of negotiations between States and indigenous peoples, who joined forces in a spirit of collaboration to support the Indigenous Declaration. In doing so, it helps to undo the historical exclusion of indigenous peoples from the international legal order by applying human rights to them and their unique circumstances. The international discussion of indigenous peoples' issues has also been growing in regional human rights organisations like the African and Inter-American human rights systems, as well as in fields of international law and policy as various as the environment (including climate change), intellectual property, and trade.

**VENUES OF PARTICIPATION**

Possibility for participation in Human Rights Council meetings by institutions and representation of indigenous people

The General Assembly passed a resolution titled "improving the Participation of Indigenous Peoples' Representatives and Institutions in Meetings of Relevant United Nations Bodies on Issues Affecting Them" on September 8, 2017.

The World Conference on Indigenous Peoples in 2014 saw Member States make a commitment to examine indigenous peoples' participation in UN processes, which led to the creation of this resolution. Based on the General Assembly's decisions and its resolution, the process proceeds.

On July 27, 2020, the Secretary-General issued a report titled "Improving the involvement of indigenous peoples' representatives and institutions in meetings of key United Nations entities on matters affecting them."

Indigenous peoples support a variety of sustainable climate change responses. For instance, based on the life-plans produced within their own community, the Kichwa Sarayaku people of Ecuador have prepared the proposal Kawsay Sacha (Living Forest), which is an indigenous-led approach to maintain the trees and keep fossil fuels in the ground. Recent scientific research have confirmed and strengthened the efficiency of the conventional knowledge-based approaches to sustainable environmental recovery. At the 23rd Conference of the Parties (COP23) to the United Nations Framework Convention on Climate Change in Bonn, Germany, the proposal was made.

Traditional methods are essential for reducing global warming, such as rotational agriculture, which improves the general health of forest and jungle ecosystems. In the Machakos District of Kenya, the International Council for Research in Agroforestry (ICRAF) launched a project in 1981. The project's expansion in 1983 exposed research needs in fields including soil management and surviving famines/droughts. This was a direct result of indigenous women's absence from the planning and testing phases of the After their inclusion and full participation, with their traditional and gender-specific knowledge of the natural environment, an improved action research programme was constructed. This made it possible for everyone in the Machakos District to apply sustainable and efficient agroforestry expertise. project for research.

Additionally, the need for wind and solar energy is rising, which frequently puts pressure on indigenous peoples to supply the resources, such as land, for such energy endeavours. However, genuine engagement and consultation to acquire the approval of indigenous peoples are frequently overlooked in the development and application of such energy options. However, the Indigenous Peoples Major Group's 2018 Briefing Paper identifies notable instances of indigenous involvement in the conception, development, and execution of renewable energy projects. The Briefing Paper covers prosperous cases from all around South East Asia.

The dialogue with the special rapporteur on the rights of indigenous people –

“Our concept of law is different…If you want justice, you have to look at the fundamental issue of human beings, and not just tinker with institutions and law…You need to build [just] human being.

**PARTICIPATION MODALIITES**

Within the framework of the United Nations, the Human Rights Council is an intergovernmental organisation. It is in charge of promoting and defending all global human rights and is made up of 47 States.

The rights of indigenous peoples are a major concern in many of the thematic and national concerns it discusses. Additionally, the Human Rights Council concentrates on the rights of indigenous peoples, typically at its session in September, when it:

* Engages in interactive discussion with the Special Rapporteur on Indigenous Rights and the Expert Mechanism on the Rights of Indigenous Peoples;
* Assembles a panel to examine issues affecting indigenous peoples in particular; and
* Adopts its annual resolution on indigenous peoples and human rights, which typically directs the Expert Mechanism to consider particular issues, selects the topic for the Human Rights Council's annual panel on indigenous peoples' issues, and recognises the Expert Mechanism's and the Special Rapporteur's reports as well as other activities relating to indigenous peoples.

In relation to indigenous peoples, the Human Rights Council also takes the OHCHR's yearly report into account. The Human Rights Council deals with the application of human rights in a variety of ways, notably through its complaints process and universal periodic review, which are described in more depth below. It receives guidance from the Advisory Committee, a supplementary expert organisation.

For non-State actors, indigenous peoples now have unprecedented access to the United Nations human rights system, especially to the bodies that concentrate on the problems of indigenous peoples, like the Permanent Forum and the Expert Mechanism. The Working Group on Indigenous Populations established the custom of allowing them to participate in some of the UN human rights bodies and procedures as indigenous peoples' organisations without the typically required accreditation with the Economic and Social Council. At the yearly meetings of the Permanent Forum and the Expert Mechanism, which literally hundreds of indigenous people participate in, it is clear how much involvement they have in the UN. They also have the chance to discuss the specific human rights problems they are having with the Special Rapporteur face-to-face during those sessions.

As a result of an Expert Mechanism recommendation, the Human Rights Council asked the Secretary-General to draught a report in 2011 on "ways and means of promoting participation at the United Nations of recognised indigenous peoples' representatives on issues affecting them, given that they are not always organised as non-governmental organisations, and on how such participation might be structured." The Human Rights Council, a subsidiary body of which it is, established the Expert Mechanism on the Rights of Indigenous Peoples in 2007. According to resolution 6/36, it is composed of five experts on the rights of indigenous peoples, typically one from each of the five geopolitical zones of the world. The Expert Mechanism's mandate is to offer the Human Rights Council thematic expertise on the rights of indigenous peoples as requested by the Council, primarily in the form of studies and research. Within the parameters of its activity as outlined by the Council, the Expert Mechanism may also submit recommendations for the Council's evaluation and approval.

The Expert Mechanism, a significant entity in the Geneva-based UN human rights system, gives indigenous peoples a forum to discuss thematic human rights problems relevant to the annual research that the Expert Mechanism conducts. Similar to the old Working Group on Indigenous Populations, its yearly meetings feature relatively lax participation requirements, making it possible for indigenous peoples' groups and individuals to attend in most cases after being accredited. The annual meetings draw hundreds of representatives from indigenous peoples' groups, indigenous people, and non-governmental organisations.

**SELECTION MECHANISM**

Special procedures are the methods the Human Rights Council has developed (and its predecessor, the Commission on Human Rights). They "study, advise, and report on" human rights issues as well as the state of human rights in certain nations and territories. A number of specific procedures, which involve impartial specialists and working groups, handle issues important to indigenous peoples, such as housing, cultural rights, education, poverty, the right to food, health, minorities, water, and internal displacement. In 2007, the UN General Assembly approved the UNDRIP (United Nations Declaration on the Rights of Indigenous Peoples).

Two human rights mechanisms were established by the UN system with a specific purpose in mind: the UN Special Rapporteur on the Rights of Indigenous Peoples, an independent expert whose mandate was established by the UN Human Rights Commission in 2001, and the Expert Mechanism on the Rights of Indigenous Peoples, which was established in 2007 by the UN Human Rights Council and is made up of seven independent experts. In 2007, the UN General Assembly approved the UNDRIP (United Nations Declaration on the Rights of Indigenous Peoples). Two human rights mechanisms were established by the UN system with a specific purpose in mind: the UN Special Rapporteur on the Rights of Indigenous Peoples, an independent expert whose mandate was established by the UN Human Rights Commission in 2001, and the Expert Mechanism on the Rights of Indigenous Peoples, which was established in 2007 by the UN Human Rights Council and is made up of seven independent experts.

 The Human Rights Council has referred to the UNDRIP in its resolutions, the instructions it gave to its subsidiary bodies and special processes, and the reports it sought from the UN Secretary General and the Office of the UN High Commissioner for Human Rights (OHCHR). At the national level, domestic courts have defended the rights of indigenous peoples in a number of instances by either explicitly implementing the UNDRIP or by interpreting it in light of other international agreements or domestic law. The 2016 peace accords have been translated into 56 indigenous languages in Colombia, for instance, where the Constitution explicitly protects the rights of indigenous peoples. Protection of indigenous peoples' rights and UNDRIP oversight were also incorporated in the work of some national human rights organisations.

With the UNDROP's adoption in 2018, it is now necessary for human rights mechanisms to provide a comparable level of protection for the rights of peasants and other individuals employed in rural regions, as well as to incorporate UNDROP monitoring into their work.

**CONCLUSION**

A significant piece of international law pertaining to indigenous peoples is the United Nations Declaration. It also represents an advancement in the growth of the international human rights regime founded on the Universal Declaration of Human Rights. With levels of covert exclusion and timely protection, the creation of an international regime for indigenous populations has travelled a long journey. The Declaration is the first international document to acknowledge these groups as "peoples," and it draws from this recognition the entitlement to extensive collective rights (as well as to collective exercise of individual rights) and, further still, to a contextualised right to self-determination.

Actually, the Declaration still leaves some issues and doubts open. For instance, it is still unclear how the protection of individual rights would actually be adapted to the growing group authority acknowledged in the treaty. The effects of indigenous peoples' rights on the social cohesiveness of the State as a whole is another unresolved topic. How to balance the demands of other peoples and individuals inside the State with the rights of indigenous peoples (especially the political ones) is one facet of this subject. The second concern would be how to promote indigenous autonomy while also facilitating their assimilation into the larger State community.

For the Declaration to be successful, each of these questions poses a serious obstacle. The document lays out the fundamental principles, but it is obvious that the specifics of how they will be put into practise will be decided on a case-by-case basis, built on respect and dialogue, and especially with consideration for the unique characteristics of each region and each indigenous community.

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